RULES OF THE WORKERS' COMPENSATION COURT

Effective March 15, 2018

The Court rules are procedural in nature and are applied uniformly to all cases regardless of the date of injury unless specifically otherwise provided. The Court's Rule Committee annually reviews and, when necessary, revises the rules of the Court.

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CHAPTER 5
Subchapter 1
Organizational Rule

24.5.101 ORGANIZATIONAL RULE (1) Organization of the Office of the Workers' Compensation Judge (Workers' Compensation Court). The 44th Legislature enacted HB 100, which established the Workers' Compensation Court, on July 1, 1975. To carry out the legislative intent, the Workers' Compensation Court is organized and functions along the lines of the district court.

(2) Functions of Workers' Compensation Court. The Workers' Compensation Court has exclusive jurisdiction over the adjudication of disputes arising under Title 39, chapter 71 and chapter 72, MCA.

(3) Information or Submissions. Persons may direct general inquiries regarding the Workers' Compensation Court to the judge or the clerk of court. Persons may direct inquiries or submissions regarding specific cases to the clerk of court, and shall include with any such inquiry or submission the number the court has assigned to the file, if any.

(4) Personnel Roster. Persons may contact the workers' compensation judge and clerk of court anytime by e-mail at dliwccfilings@mt.gov, or Monday through Friday, 8 a.m. to 5 p.m., excluding state holidays, as follows:

(a) in person at 1625 11th Avenue, Helena, Montana;

(b) by mail at P.O. Box 537, Helena, Montana 59624-0537;

(c) by phone at (406) 444-7794;

(d) by TTY at (406) 444-0532;

(e) by Montana Relay at 711;

(f) or by fax at (406) 444-7798.

(5) Chart of Workers' Compensation Court Organization. A descriptive chart of the Workers' Compensation Court is attached as follows and is incorporated in this rule. (History: 2-4-201, MCA; IMP, 2-4-201, MCA; NEW, Eff. 7/1/75; ARM Pub. 6/30/79; AMD, Eff. 9/30/87; TRANS, from Admin., 1989 MAR p. 2177, Eff. 12/22/89; AMD, 1990 MAR p. 847, Eff. 5/1/90; AMD, Eff. 1/14/94; AMD, 1998 MAR p. 1281, Eff. 5/15/98; AMD, Eff. 3/31/02; AMD, Eff. 3/15/18.)

Workers' Compensation Organizational Chart

Subchapter 2 reserved

Subchapter 3
Procedural Rules

24.5.301 PETITION FOR TRIAL (1) The petitioner shall make any request for trial before the Workers' Compensation Court in petition form. Upon request, the court provides a form that the petitioner may use as a petition. The petitioner shall ensure that the petition complies with ARM 24.5.306 and includes the following information:

(a) in the case of an injury, the date and a description of the accident, or, in the case of an occupational disease, the date the petitioner became aware of the occupational disease and a description of the condition and its occupational origin;

(b) the county where the accident occurred or the occupational disease arose;

(c) a short, plain statement of the petitioner's contentions;

(d) for accidents occurring before July 1, 1987, a statement to the effect that the parties have made an effort to resolve the dispute but have been unable to do so;

(e) for accidents occurring on or after July 1, 1987, and for occupational disease claims, a statement that the parties have complied with the mediation provisions set forth in 39-71-2411, MCA;

(f) a statement that the petitioner has freely exchanged all available pertinent medical records with the respondent pursuant to ARM 24.5.317 and shall continue to do so;

(g) a list of the petitioner's potential witnesses and a summary of the subject matter on which the petitioner expects each witness to testify; and

(h) a list of written documents relating to the claim which the petitioner may introduce as evidence.

(2) The petitioner may plead in the alternative.

(3) The petitioner shall join and plead any claim for attorney fees, costs, and/or penalty with respect to the benefits or other relief the petitioner seeks in the petition or amended petition. If the petitioner fails to join and plead a claim for attorney fees, costs, and/or penalty with respect to the benefits or other relief the petitioner seeks in the petition or amended petition, the petitioner waives this claim and may not pursue any future claim with respect to these attorney fees, costs, and/or penalty.

(4) The petitioner may only name an employer in the caption of the petition, as well as subsequent pleadings, motions, briefs, and other documents, if the petitioner seeks relief against the employer. However, whether named or not, an employer shall fulfill its duty to cooperate and assist its insurer, including any duty to assist in responding to discovery.

(5) The petitioner shall file the petition in accordance with ARM 24.5.303 and ARM 24.5.320. However, if the court receives the hard copy original of the petition after the petition deadline, it schedules the matter on the next trial docket.

(6) The petitioner shall serve the petition in accordance with ARM 24.5.303.

(7) The court may return the petition unfiled if the petitioner fails to comply with (1) and (4) of this rule. (History: 2-4-201, MCA; IMP, 2-4-201, 39-71-2901, 39-71-2905, MCA; NEW, 1983 MAR p. 1715, Eff. 11/26/83; TRANS, from ARM 2.52.301, 1989 MAR p. 2177, Eff. 12/22/89; AMD, 1990 MAR p. 847, Eff. 5/1/90; AMD, 1994 MAR p. 27, Eff. 1/14/94; AMD, 1998 MAR p. 1281, Eff. 5/15/98; AMD, 2000 MAR p. 1513, Eff. 6/16/00; AMD, 2003 MAR p. 650, Eff. 4/11/03; AMD, 2014 MAR p. 2829, Eff. 3/1/15; AMD, 2018 MAR p. 305, Eff. 3/15/18.)

24.5.302 RESPONSE TO PETITION (1) Within the time set forth in ARM 24.5.320, the respondent shall serve upon the petitioner and all other parties, and file with the court, a response to the petition. The respondent shall ensure that the response complies with ARM 24.5.306 and includes the following information:

(a) a short, plain statement of the respondent's contentions;

(b) a statement of those facts which respondent believes to be uncontested;

(c) a statement that the respondent has freely exchanged all available pertinent medical records with the petitioner pursuant to ARM 24.5.317 and shall continue to do so;

(d) a list of the respondent's potential witnesses and a summary of the subject matter on which the respondent expects each witness to testify; and

(e) a list of written documents relating to the claim that the respondent may introduce as evidence. (History: 2-4-201, MCA; IMP, 2-4-201, 39-71-2901, MCA; NEW, 1990 MAR p. 847, Eff. 5/1/90; AMD, 1994 MAR p. 27, Eff. 1/14/94; AMD, 2014 MAR p. 2829, Eff. 3/1/15; AMD, 2018 MAR p. 305, Eff. 3/15/18.)

24.5.303 SERVICE AND FILING (1) The court adheres to the following service rules:

(a) The court requires a party to make service in certain circumstances.

(i) Generally, the court makes service upon opposing parties and others, as designated in the petitioner's or third-party petitioner's instructions, by mail from Helena, Montana, with first-class postage prepaid. The petitioner or third-party petitioner shall provide the following for each party the petitioner or third-party petitioner wishes the court to serve, including the petitioner or third-party petitioner:

(A) a copy of the petition or third-party petition; and

(B) a correct name and address.

(ii) However, the party filing the petition or third-party petition shall make personal service upon the respondent or third-party respondent in accordance with the provisions of the Montana Rules of Civil Procedure regarding service of summons and complaint if the respondent or third-party respondent is an entity other than a Montana state agency, insurer doing business in Montana, self-insurer, insurance guarantee fund, or insurer qualified to do business in Montana at the time of an alleged injury or occupational disease and its successors and predecessors.

(b) The court requires that different materials be served depending on the identity of the server and whether the matter involves a third-party respondent.

(i) When the Workers' Compensation Court makes service, it serves copies of the petition, amended petition, or third-party petition.

(ii) When the party filing the petition or third-party petition makes service, the party shall serve a summons and the petition or third-party petition.

(iii) If the matter involves a third-party respondent, the court or third-party petitioner shall include all pleadings the parties have filed and orders the court has issued in the case to date with service.

(c) The court requires a certificate of service as follows:

(i) Each party shall provide the court with a certificate of service as described in M. R. Civ. P. 5 when filing a pleading after the original petition, a written motion, or any other document described in M. R. Civ. P. 5.

(ii) The court deems service complete on the date as shown on the certificate of service.

(2) The court adheres to the following filing rules:

(a) The court does not charge a filing fee.

(b) A party may accomplish filing with the court as follows:

(i) by mail to P.O. Box 537, Helena, MT 59624-0537;

(ii) by hand delivery to 1625 11th Avenue, Helena, MT;

(iii) by fax to (406) 444-7798; or

(iv) by e-mail attachment to dliwccfilings@mt.gov.

(c) The court deems filing complete upon receipt by the court. However, a party filing by fax or e-mail attachment shall ensure that the court receives a hard copy original within the time set forth in ARM 24.5.320. (History: 2-4-201, 39-71-2901, 39-71-2903, 39-71-2905, MCA; IMP, 2-4-201, 39-71-2901, 39-71-2903, 39-71-2905, MCA; NEW, 1983 MAR p. 1715, Eff. 11/26/83; TRANS, from ARM 2.52.303, 1989 MAR p. 2177, Eff. 12/22/89; AMD, 1990 MAR p. 847, Eff. 5/1/90; AMD, 1992 MAR p. 922, Eff. 5/1/92; AMD, 1994 MAR p. 27, Eff. 1/14/94; AMD, 1998 MAR p. 1281, Eff. 5/15/98; AMD, 2000 MAR p. 1513, Eff. 6/16/00; AMD, 2002 MAR p. 93, Eff. 1/18/02; AMD, 2014 MAR p. 2829, Eff. 3/1/15; AMD, 2018 MAR p. 305, Eff. 3/15/18.)

24.5.304 ALTERNATIVE PLEADING (REPEALED) (History: 2-4-201, MCA; IMP, 2-4-201, 39-71-2901, MCA; NEW, 1983 MAR p. 1715, Eff. 11/26/83; TRANS, from ARM 2.52.304, 1989 MAR p. 2177, Eff. 12/22/89; REP, 1994 MAR p. 27, Eff. 1/14/94.)

24.5.305 NATURE OF RULES (1) These rules are procedural in nature and will be applied uniformly to all cases regardless of the date of injury unless specifically otherwise provided. (History: 2-4-201, MCA; IMP, 2-4-201, 39-71-2901, MCA; NEW, 1990 MAR p. 847, Eff. 5/1/90.)

24.5.306 BREVITY IN PLEADINGS AND FORM OF PAPER PRESENTED FOR FILING (1) The court encourages brevity in pleadings and other documents. The court may return documents that in the court's opinion, are rambling or verbose with instructions to correct deficiencies.

(2) The parties shall file all documents in the form set forth below.

(a) The parties shall use standard quality opaque, unglazed, recycled, unnumbered, unlined, 8 1/2 x 11-inch paper.

(b) The parties shall legibly handwrite or typewrite all text.

(i) For typewritten or machine-printed text, the parties shall use a font size of no smaller than 12 points.

(ii) The court requests that the parties use a sans-serif font, preferably the Arial font. The court does not reject documents produced with a legible typeface as nonconforming.

(c) The parties shall single-space text, double-space between paragraphs, print on one side of the paper, and use a top margin of 1 1/2 inches and margins of 1 inch on all remaining sides.

(d) The parties shall place the title of the document and the page number as a footer at the bottom of the second and all subsequent pages.

(e) The parties shall leave lines 1 through 7 of the right one-half of page 1 blank for the use of the clerk.

(f) The parties shall two-hole punch the top of any document over 5 pages in length.

(g) The parties shall include the number the court has assigned to the file, if any.

(h) An attorney representing a party, or a party appearing without an attorney, shall place the name of the attorney or party appearing without an attorney, together with an address, phone number, fax number, and e-mail address, if available, in the upper left-hand corner of the first page.

(i) At least one attorney of record shall sign every pleading, motion, or other paper of a represented party in the attorney's individual name. A party who is not represented by an attorney shall sign the pleading, motion, or other paper. Except when a rule or statute specifically provides otherwise, a party need not verify the party's pleadings or include an affidavit with them. The court deems an attorney or party to have made the same representations by signing a document whether the attorney or party files by mail, hand delivery, fax, or e-mail attachment. The court deems an attorney's or party's signature on a pleading, motion, or other paper a certification that the party has read the pleading, motion, or other paper; that to the best of the party's knowledge, information, and belief formed after reasonable inquiry it is well grounded in fact and is warranted by existing law or good faith argument for the extension, modification, or reversal of existing law; and that the party has not interposed it for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation. If an attorney or party signs a pleading, motion, or other paper in violation of this rule, the court, upon motion or upon its own initiative, imposes upon the person who signed it, a represented party, or both, an appropriate sanction, which may include an order to pay to the other party or parties the amount of the reasonable expenses incurred because of the filing of the pleading, motion, or other paper, including a reasonable attorney fee. The court strikes unsigned pleadings, motions, or other papers unless, upon notification, the attorney or party promptly rectifies the omission. (History: 2-4-201, 39-71-2901, MCA; IMP, 2-4-201, 39-71-2901, 39-71-2905, 39-71-2914, MCA; NEW, 1994 MAR p. 27, Eff. 1/14/94; AMD, 2014 MAR p. 2829, Eff. 3/1/15; AMD, 2018 MAR p. 305, Eff. 3/15/18.)

24.5.307 THIRD-PARTY PRACTICE (1) The respondent may file a third-party petition with the court naming anyone not already a party to the action who may be liable to any named party for any or all of the claims asserted in the petition.

(a) The third-party petitioner shall ensure that the third-party petition includes a short, plain statement of the third-party petitioner's contentions with regard to the third-party respondent's liability and may incorporate allegations of the petition and/or the response to the petition.

(b) The third-party petitioner shall file the third-party petition in accordance with ARM 24.5.303 and ARM 24.5.320.

(c) The third-party petitioner shall serve the third-party petition in accordance with ARM 24.5.303.

(2) After filing a response to a petition, the respondent may only attempt to join a third party into a pending case through noticed motion in accordance with ARM 24.5.308 and ARM 24.5.320.

(3) Within the time set forth in ARM 24.5.320, the third-party respondent shall serve upon all parties, and file with the court, a response that complies with ARM 24.5.302. (History: 2-4-201, 39-71-2401, 39-71-2901, 39-71-2903, 39-71-2905, MCA; IMP, 2-4-201, 39-71-2901, MCA; NEW, 2000 MAR p. 1513, Eff. 6/16/00; AMD, 2002 MAR p. 93, Eff. 1/18/02; AMD, 2014 MAR p. 2829, Eff. 3/1/15; AMD, 2018 MAR p. 305, Eff. 3/15/18.)

24.5.307A JOINDER AND SERVICE OF ALLEGED UNINSURED EMPLOYERS (REPEALED) (History: 2-4-201, 39-71-2401, 39-71-2901, 39-71-2903, 39-71-2905, MCA; IMP, 2-4-201, 39-71-2901, MCA; NEW, 2000 MAR p. 1513, Eff. 6/16/00; AMD, 2002 MAR p. 93, Eff. 1/18/02; REP, 2014 MAR p. 2829, Eff. 3/1/15.)

24.5.308 JOINING THIRD PARTIES (1) The joinder of parties is governed where appropriate by the considerations set forth in M. R. Civ. P. 14, 19, 20, and 21.

(2) Unless otherwise permitted by order of the court, a motion to join a third party must be served within the time set forth in ARM 24.5.320. The motion must be filed and served on all parties and the proposed third party. Any party and the proposed third party shall have the time set forth in ARM 24.5.320 to serve objections to the motion. The court may, for good cause shown, grant joinder on such terms and conditions as are necessary to protect the interests of the existing parties, including the interest in a speedy remedy.

(3) If the joinder of a third party results in the trial being vacated and good cause is shown, the court may order the insurance company alleged to be at risk at the time of the accident to pay benefits pending the trial. Such insurer may seek indemnity from the responsible insurer if it is later determined that it is not liable.

(4) Within the time set forth in ARM 24.5.320, the joined party shall serve upon all parties, and file with the court, a response which complies with ARM 24.5.302. (History: 2-4-201, 39-71-2401, 39-71-2901, 39-71-2903, 39-71-2905, MCA; IMP, 2-4-201, 39-71-2901, MCA; NEW, 1983 MAR p. 1715, Eff. 11/26/83; TRANS, from ARM 2.52.308, 1989 MAR p. 2177, Eff. 12/22/89; AMD, 1990 MAR p. 847, Eff. 5/1/90; AMD, 1992 MAR p. 922, Eff. 5/1/92; AMD, 1994 MAR p. 27, Eff. 1/14/94; AMD, 2000 MAR p. 1513, Eff. 6/16/00; AMD, 2014 MAR p. 2829, Eff. 3/1/15.)

24.5.309 INTERVENTION (1) A party may intervene in a pending proceeding as set forth in M. R. Civ. P. 24(a) and (b).

(2) If the court vacates the trial because of a party's intervention and the petitioner demonstrates good cause, the court may order the insurance company alleged to be at risk at the time of the accident to pay benefits pending the trial. This insurer may seek indemnity from the responsible insurer if the court later determines that it is not liable. (History: 2-4-201, MCA; IMP, 2-4-201, 39-71-2901, MCA; NEW, 1983 MAR p. 1715, Eff. 11/26/83; TRANS, from ARM 2.52.309, 1989 MAR p. 2177, Eff. 12/22/89; AMD, 1990 MAR p. 847, Eff. 5/1/90; AMD, 1994 MAR p. 27, Eff. 1/14/94; AMD, 2014 MAR p. 2829, Eff. 3/1/15; AMD, 2018 MAR p. 305, Eff. 3/15/18.)

24.5.310 TIME AND PLACE OF TRIAL GENERALLY (1) The court has divided the state into six geographic areas. Generally, the court holds trials in the places designated in (3) except for trials in the Butte venue, which the court holds in Helena unless the parties request otherwise. Upon agreement of the parties and consent of the court, or upon order of the court, the court may hold a trial at any time and any place. The court attempts to accommodate parties' requests for special trial settings; however, the court reserves the discretion to determine the time and place of all trials.

(2) The court commences trials on Monday of the week set for trial. The court convenes in each area four times per year unless the court finds good cause to cancel a trial term. Court is in session or recess at the convenience of the court. The court regularly prepares a schedule that sets deadlines, the dates for pretrial conferences and trials, and the location of the pretrial conferences or trials in each area.

(3) The court has named each of the six areas designated for trial schedule purposes for the principal city in the counties making up the area as follows:

(a) Kalispell area:

(i) Flathead and Lincoln.

(b) Missoula area:

(i) Lake, Mineral, Missoula, Ravalli, and Sanders.

(c) Butte area:

(i) Beaverhead, Deer Lodge, Granite, Jefferson, Madison, Powell, Silver Bow, Gallatin, Park, Sweet Grass, and Wheatland.

(d) Billings area:

(i) Big Horn, Carbon, Golden Valley, Musselshell, Petroleum, Stillwater, Treasure, Yellowstone, Carter, Custer, Dawson, Fallon, McCone, Powder River, Prairie, Richland, Rosebud, Wibaux, Daniels, Garfield, Phillips, Roosevelt, Sheridan, and Valley.

(e) Great Falls area:

(i) Blaine, Cascade, Chouteau, Fergus, Glacier, Hill, Judith Basin, Liberty, Pondera, Teton, and Toole.

(f) Helena area:

(i) Broadwater, Lewis and Clark, and Meagher.

(4) Upon receipt of a petition regarding a dispute meeting the requirements of these rules, the court issues a scheduling order fixing deadlines for discovery, the filing of pretrial motions, preparation of a pretrial order and other pretrial matters; setting the date of the final pretrial conference; and setting a trial at a time that allows 75 days' notice. The court may, for good cause, hold a trial over to the next regular trial date or specially set the trial for a different time and/or place. (History: 2-4-201, MCA; IMP, 2-4-201, 39-71-2901, MCA; NEW, 1983 MAR p. 1715, Eff. 11/26/83; AMD, 1987 MAR p. 1618, Eff. 9/25/87; TRANS, from ARM 2.52.310, 1989 MAR p. 2177, Eff. 12/22/89; AMD, 1990 MAR p. 847, Eff. 5/1/90; AMD, 1994 MAR p. 27, Eff. 1/14/94; AMD, 2003 MAR p. 650, Eff. 4/11/03; AMD, 2014 MAR p. 2829, Eff. 3/1/15; AMD, 2018 MAR p. 305, Eff. 3/15/18.)

24.5.311 EMERGENCY TRIALS (1) The petitioner shall indicate any request for emergency trial in the title of the petition, and explain the facts constituting the emergency in the petition. The court may hold a trial upon less than 75 days' notice if the petitioner demonstrates good cause. The court designates these trials "emergency trials." The petitioner shall set forth facts constituting the emergency in sufficient detail for the court to determine whether an emergency exists. The petitioner shall also set forth a statement indicating the petitioner is ready to proceed to trial. If the petitioner does not demonstrate good cause for the emergency setting in the petition, the court sets the trial on its regular trial calendar. The court may find that an emergency exists if the petitioner demonstrates:

a) the potential for irreversible or serious harm resulting from inability to obtain medical care or medications;

(b) undue financial hardship constituting an inability to obtain the necessities of life such as food, shelter, clothing, or transportation; or

(c) other facts establishing an emergency.

(2) The court, on its own motion, may set a trial as an emergency trial. When the court orders an emergency trial, the court provides reasonable notice of the time and place for a pretrial conference and for the trial.

(3) If the court makes a preliminary determination that good cause exists for an emergency trial setting, the court issues a notice to the opposing party, indicating that:

(a) the petitioner filed a request for emergency trial;

(b) the court made a preliminary determination that the petitioner set forth good cause; and

(c) the opposing party may file a written objection, containing a concise statement setting forth the basis for the objection, within the time set forth in ARM 24.5.320.

(4) The court schedules a hearing as soon as practicable after either the opposing party files a written objection or the time set forth in ARM 24.5.320 for objection to the request for emergency trial setting runs, whichever occurs first. The court may hold the hearing in person or by phone. The court conducts the hearing to determine the validity of any objections to the emergency trial setting and to confirm the parties are prepared to proceed to trial. The court issues an order granting or denying the request for an emergency trial setting within 5 business days, or as soon as practicable, after the conclusion of the hearing. The court includes a scheduling order fixing the deadlines referenced in ARM 24.5.310(4) within either the emergency or regular trial setting. (History: 2-4-201, MCA; IMP, 2-4-201, 39-71-2901, MCA; NEW, 1983 MAR p. 1715, Eff. 11/26/83; TRANS, from ARM 2.52.311, 1989 MAR p. 2177, Eff. 12/22/89; AMD, 1994 MAR p. 27, Eff. 1/14/94; AMD, 2014 MAR p. 2829, Eff. 3/1/15; AMD, 2018 MAR p. 305, Eff. 3/15/18.)

24.5.312 SETTING TIME AND PLACE OF TRIAL BY STIPULATION OR IN BEST INTERESTS OF THE COURT (REPEALED) (History: 2-4-201, MCA; IMP, 2-4-201, 39-71-2901, MCA; NEW, 1983 MAR p. 1715, Eff. 11/26/83; TRANS, from ARM 2.52.312, 1989 MAR p. 2177, Eff. 12/22/89; REP, 2003 MAR p. 650, Eff. 4/11/03.)

24.5.313 RECUSAL (REPEALED) (History: 2-4-201, MCA; IMP, 2-4-201, 39-71-2901, MCA; NEW, 1998 MAR p. 1281, Eff. 5/15/98; REP, 2014 MAR p. 2829, Eff. 3/1/15.)

24.5.314 ADJUDICATION OF INTERIM BENEFIT CLAIMS UNDER 39-71-610, MCA

(1) Appeals of determinations by the Department of Labor and Industry regarding interim benefits under 39-71-610, MCA, may be presented to the court in letter form. The court initially addresses such appeals informally through telephone conference involving all parties.

(2) If any party objects to informal resolution of a dispute under 39-71-610, MCA, the court holds a formal evidentiary hearing on an expedited basis. Such hearing may be conducted through telephone conference if all parties agree. If requested by any party, the court promptly holds an in-person hearing in Helena or, at the court's discretion, in some other venue at a date and time set by the court. (History: 2-4-201, 39-71-610, 39-71-2901, 39-71-2903, 39-71-2905, MCA; IMP, 2-4-201, 39-71-2901, MCA; NEW, 2000 MAR p. 1513, Eff. 6/16/00; AMD, 2014 MAR p. 2829, Eff. 3/1/15.)

24.5.315 PRETRIAL IDENTIFICATION OF WITNESSES AND EXHIBITS

(1) At the time set by the court, the parties shall exchange and file with the court:

(a) a list of all lay witnesses, including those the parties identified in the petition for hearing or response to petition for hearing, along with a summary of the subject matter on which the parties expect each lay witness to testify;

(b) a list of all expert witnesses, including those the parties identified in the petition for hearing or response to petition for hearing, along with a summary of the subject matter on, and the nature of the facts and opinions to, which the parties expect each expert witness to testify; and

(c) a list of all proposed exhibits, identifying the exhibit by date, author, and number of pages.

(2) If a party considers another party's disclosures inadequate, the party shall contact the other party within the time set by the court to request additional information. If the party remains dissatisfied with the information provided by the other party, the dissatisfied party may move to compel further disclosure in accordance with ARM 24.5.316 and any deadline on these motions set by the court. (History: 2-4-201, MCA; IMP, 2-4-201, 39-71-2901, MCA; NEW, 2018 MAR p. 305, Eff. 3/15/18.)

24.5.316 MOTIONS (1) The court fixes the deadline for filing a motion to amend a pleading, to dismiss, to quash, for summary judgment, to compel, for a protective order, in limine, or for other relief in a scheduling or other order, unless the court specifies a different time in these rules.

(2) The moving party shall make every motion in writing or on the record.

(a) The moving party shall state within the motion whether any other party opposes it. If the moving party is unable to contact any other party, the moving party shall certify that the moving party attempted to do so.

(b) If the moving party contacts all other parties and none oppose the motion, the moving party need not file any other documents beyond the motion. The court deems the motion ripe for decision and rules.

(c) If a party opposes the motion, or if the moving party is unable to contact any other party, the moving party shall file the motion with a supporting brief. The moving party may include supporting documents and affidavits with the briefs. A party opposing a motion shall file a response brief within the time set forth in ARM 24.5.320. The party may include appropriate documents and affidavits. Within the time set forth in ARM 24.5.320, the moving party may file a reply brief. The court may change these filing deadlines by order.

(3) In addition to the requirements set forth in this rule, a party filing a motion for summary judgment under ARM 24.5.329, as well as a party opposing that motion, shall comply with the requirements of that rule.

(4) The parties may present motions regarding discovery, procedure, and similar pretrial issues informally by phone conference. The court arranges the call and for the participation of all parties. The court may designate a hearing examiner to preside and decide the motion. The court may make an oral decision or direct the moving party to file the motion in writing and all parties to file briefs. The court confirms any oral decision thereafter by written decision.

(5) Notwithstanding anything in this rule, the parties may file or present motions or objections related to evidentiary and other matters arising at trial.

(6) A party seeking the court's leave for an extension of time shall make this request in writing. The requesting party shall state whether any other party opposes it. If the requesting party is unable to contact any other party, the requesting party shall certify that the requesting party attempted to do so. If the requesting party contacts all other parties and none oppose the request, the requesting party may make the request informally by e-mail message. If a party opposes the request, or if the requesting party is unable to contact any other party, the requesting party shall make the request by formal motion. If the court grants an ex parte extension, the requesting party shall immediately advise the party it was initially unable to contact of the new due date. The court does not grant extensions of more than 10 days from the original due date except under extraordinary circumstances. If the filing deadline has passed, the court grants extensions of time only if the requesting party demonstrates good cause.

(7) Unless the court either orders oral argument or enlarges the time, the court deems the motion submitted at the expiration of any of the applicable time limits. If the court orders oral argument, the court deems the motion submitted at the close of argument unless the court orders additional briefs, in which case the court deems the motion submitted at the deadline for filing the final brief.

(8) The court may summarily rule on the motion if any party is required, but fails, to file a brief. The court may deem the moving party's failure to file a brief with the motion an admission that the motion is without merit. The court may deem the opposing party's failure to timely file a response brief an admission that the motion is well-taken. The moving party may file a reply brief. The court does not summarily rule on the motion if the moving party fails to file a reply brief. (History: 2-4-201, MCA; IMP, 2-4-201, 39-71-2901, MCA; NEW, 1983 MAR p. 1715, Eff. 11/26/83; TRANS, from ARM 2.52.316, 1989 MAR p. 2177, Eff. 12/22/89; AMD, 1990 MAR p. 847, Eff. 5/1/90; AMD, 1992 MAR p. 921, Eff. 5/1/92; AMD, 1994 MAR p. 27, Eff. 1/14/94; AMD, 1996 MAR p. 557, Eff. 2/23/96; AMD, 2014 MAR p. 2829, Eff. 3/1/15; AMD, 2018 MAR p. 305, Eff. 3/15/18.)

24.5.317 MEDICAL RECORDS (1) "Medical records" for purposes of this rule includes all medical notes, reports, test results, correspondence, and other written records or materials regularly maintained by any medical provider as a part of the provider's records or file. "Medical records" includes all reports, correspondence, and other documents authored by any medical provider.

(2) Within the time set by the scheduling or other order of the court, the parties shall exchange all medical records in the parties' possession relevant to the claimant's work-related medical conditions, other than records of professional consultants who have not examined the claimant, will not be witnesses at trial, and whose records the party does not intend to offer into evidence. Failure to exchange any medical record by the exchange deadline precludes its use at trial except by stipulation of the parties or order of the court for good cause.

(3) Any party who intends to object to the admissibility of a medical record shall make such objection in writing. All objections to medical records must identify each medical record to which an objection is made and the particular objection to the record. The party shall serve its objections upon the adverse party within such time fixed by the scheduling or other order of the court. Failure to object to a medical record in the manner and within the time specified by this rule is deemed a waiver of any objection to the record, and constitutes an admission by the party that the record is authentic and admissible under the Montana Rules of Evidence and the rules of the Workers' Compensation Court.

(4) A party is not required to call as a witness the medical provider or the custodian of the medical record solely for the purpose of authenticating the medical record. If a party timely objects to the authenticity of a medical record, that party may call the medical provider or the custodian of the record as a witness either at trial or by deposition and may examine the witness regarding the authenticity of the medical record. (History: 2-4-201, MCA; IMP, 2-4-201, 39-71-2901, MCA; NEW, 1983 MAR p. 1715, Eff. 11/26/83; TRANS, from ARM 2.52.317, 1989 MAR p. 2177, Eff. 12/22/89; AMD, 1990 MAR p. 847, Eff. 5/1/90; AMD, 1994 MAR p. 27, Eff. 1/14/94; AMD, 2001 MAR p. 153A, Eff. 3/1/01; AMD, 2014 MAR p. 2829, Eff. 3/1/15.)

24.5.318 PRETRIAL CONFERENCE, PRETRIAL ORDER, AND EXHIBITS

(1) The court holds a pretrial conference in every case it expects to proceed to trial.

(a) Generally, the pretrial conference takes place 2 weeks before trial.

(b) The parties shall present any disputes regarding the content of the pretrial order at the pretrial conference.

(c) The court appoints a hearing examiner to conduct the pretrial conference and delegates authority to the hearing examiner to rule on all matters discussed at the pretrial conference, including pretrial motions of the parties.

(d) The court may conduct a pretrial conference by phone.

(2) The court requires a pretrial order as follows:

(a) At least one week prior to the pretrial conference, the parties shall confer to determine the contents of the pretrial order. The petitioner, or, in cases involving a pro sé petitioner, the respondent, shall include the following in the pretrial order:

(i) a statement of jurisdiction pursuant to the appropriate statutes;

(ii) a list of all pending motions;

(iii) any uncontested facts;

(iv) any stipulations between the parties;

(v) a joint statement of the issues to be determined by the court;

(vi) the parties' contentions, including contentions that the claimant argues provide a basis for a claim of unreasonableness on the part of the insurer;

(vii) a list of all exhibits to be offered by each party on an attached exhibit list;

(viii) a list of all witnesses, including the name, address, and occupation of each witness, and a summary of the subject matter on which the parties expect each witness to testify;

(ix) any unusual legal or evidentiary issues;

(x) the estimated length of trial;

(xi) a statement as to whether the parties intend to file trial briefs and/or proposed findings of fact and conclusions of law;

(xii) a statement as to whether the parties have taken or scheduled depositions; and

(xiii) the trial date, if known.

(b) By the dates specified by the court, the petitioner, or, in cases involving a pro sé petitioner, the respondent, shall submit the proposed and final pretrial orders in the form set forth in ARM 24.5.318(2)(a)(i) through (xiii). The court considers pretrial orders submitted by fax or e-mail attachment compliant with the submission deadlines.

(c) The parties shall sign the final pretrial order at trial. Upon the judge's signature, the court files the final pretrial order, which supersedes all other pleadings and governs the trial proceedings. The court allows amendments to the final pretrial order either by stipulation of the parties or for good cause.

(3) The court adheres to the following exhibit rules:

(a) The parties shall prepare any exhibits as follows:

(i) Prior to the pretrial conference, the respondent shall provide to the petitioner sufficient copies for all parties of every exhibit that the respondent intends to offer for admission, including deposition exhibits. The respondent shall separate and number each exhibit, and number the pages within each exhibit (for example, Ex. 1-1). In the case of a pro sé petitioner, the pro sé petitioner shall provide the respondent with sufficient copies for all parties of every exhibit that the petitioner intends to offer for admission, including deposition exhibits. The pro sé petitioner shall separate and number each exhibit, and number the pages within each exhibit (for example, Ex. 1-1).

(ii) The parties may not submit duplicate exhibits unless the duplicate exhibit is imperative to the understanding of the subject records or, in the case of medical records, one provider is relying on the records of another provider.

(b) The parties shall prepare an exhibit list as follows:

(i) For each exhibit, the petitioner, or, in cases involving a pro sé petitioner, the respondent, shall set forth the following in the exhibit list:

(A) the exhibit number;

(B) a description of the exhibit;

(C) the number of pages in the exhibit;

(D) the offering party;

(E) whether any other party objects to the exhibit;

(F) the grounds upon which any objecting party bases the objection(s); and

(G) a blank column reserved for the court's decision on the admissibility of the exhibit.

(ii) The petitioner, or in cases involving a pro sé petitioner, the respondent, shall revise all copies of the exhibit list as necessary to reflect changes or additions requested by the court or agreed to by the parties at the pretrial conference.

(c) The parties shall prepare an exhibit book as follows:

(i) The petitioner, or, in cases involving a pro sé petitioner, the respondent, shall prepare the exhibit book, including:

(A) verifying that all parties' exhibits and their pages are numbered;

(B) combining and tabbing the exhibits;

(C) either binding the exhibits or placing them in a three-ring notebook; and

(D) including the exhibit list in the front of each exhibit book.

(ii) By a date specified by the court, the petitioner, or, in cases involving a pro sé petitioner, the respondent, shall:

(A) file the exhibit book by mail or hand delivery;

(B) provide conformed copies of the exhibit book to all parties at the time of filing;

(C) bring to trial a conformed exhibit book for any witness testifying live; and

(D) provide a conformed exhibit book to any witness testifying via videoconference.

(iii) The court may refuse to accept exhibits that do not meet these criteria and/or may order resubmission of the exhibits in the correct format. (History: 2-4-201, MCA; IMP, 2-4-201, 39-71-2901, MCA; NEW, 1983 MAR p. 1715, Eff. 11/26/83; TRANS, from ARM 2.52.318, 1989 MAR p. 2177, Eff. 12/22/89; AMD, 1990 MAR p. 847, Eff. 5/1/90; AMD, 1994 MAR p. 27, Eff. 1/14/94; AMD, 1996 MAR p. 557, Eff. 2/23/96; AMD, 2003 MAR p. 650, Eff. 4/11/03; AMD, 2014 MAR p. 2829, Eff. 3/1/15; AMD, 2018 MAR p. 305, Eff. 3/15/18.)

24.5.319 AMENDED PLEADINGS (1) A party may only file an amended pleading within the time period set forth in the scheduling order or by leave of court. A party shall file any required response to an amended pleading within the time set forth in ARM 24.5.320. (History: 2-4-201, MCA; IMP, 2-4-201, 39-71-2901, MCA; NEW, 2014 MAR p. 2829, Eff. 3/1/15; AMD, 2018 MAR p. 305, Eff. 3/15/18.)

24.5.320 COMPUTATION OF TIME (1) The court applies the following provisions with respect to the computation of time:

(a) In computing the time for any response as provided for in these rules, the court includes weekends and holidays. If a party's deadline falls on a weekend or holiday, the party shall file by the next workday.

(b) Whenever a party has the right or is required to do some act within a prescribed period of time after the service by mail, or by electronic means if consented to in writing, of a notice or other paper upon the party, the court adds 3 days to the prescribed period.

(c) A party filing by fax or e-mail attachment shall ensure that the court receives a hard copy original within 5 days.

(2) The court sets forth specific information regarding format and content requirements within the rule relating to each specific filing. Except as provided elsewhere within these rules, the court applies the following time limits:

COMPUTATION OF TIME

Document Type	Reference Rule	Time Limit
response to petition	24.5.302(1)	21 days after service of petition
third-party petition	24.5.307(1)(b)	21 days after service of petition
response to third-party petition	24.5.307(3)	10 days after service of third-party petition
motion to join third party	24.5.308(2)	30 days after service of petition
objection to joining third party	24.5.308(2)	10 days after service of motion to join third party
response to petition by third party	24.5.308(4)	10 days after service of order joining third party
objection to request for emergency trial setting	24.5.311(3)(c)	5 days after service of notice of request for emergency trial setting
response to motion	24.5.316(2)(c)	10 days after service of motion
response to motion for summary judgment	24.5.316(2)(c), (3)	10 days after service of motion, but no earlier than deadline for filing response to petition
reply to opposing party	24.5.316(2)(c)	5 days after service of response to motion
response to amended pleading	24.5.319(1)	10 days after service of amended pleading
witness to sign deposition	24.5.322(7)	30 days after submission to witness
cross-questions to deposition upon written questions	24.5.322(12)	10 days after service of notice and written questions
redirect questions to deposition upon written questions	24.5.322(12)	10 days after service of cross-questions
recross-questions to deposition upon written questions	24.5.322(12)	5 days after service of redirect questions

Document Type	Reference Rule	Time Limit
answers to interrogatories	24.5.323(2)	20 days after service of interrogatories
verification to interrogatories by unnatural person	24.5.323(4)	10 days after service of request
response to request for production	24.5.324(3)	20 days after service of request
request for relief from default judgment	24.5.327(5)	60 days after entry of judgment
request for hearing on motion for summary judgment	24.5.329(5)	5 days after deadline for reply to opposing party
objections to court's written findings of fact, conclusions of law, and judgment, and request for rehearing	24.5.335(1)(c)	20 days after entry of judgment
motion for reconsideration	24.5.337(2)	20 days after decision
application for taxation of costs	24.5.342(1)	10 days after entry of judgment allowing costs
objection to application for taxation of costs	24.5.342(7)(a)	10 days after service of application for taxation of costs
response to objection to application for taxation of costs	24.5.342(7)(b)	5 days after service of objection to application for taxation of costs
claim for attorney fees	24.5.343(2)(a)	20 days after expiration of appeal period or remittitur on appeal of court's final decision or 20 days after filing of court's decision
objection to claim for attorney fees	24.5.343(2)(b)	20 days after service of claim for attorney fees

Document Type	Reference Rule	Time Limit
request for attorney fee hearing	24.5.343(2)(c)	10 days after service of objection (if hearing requested by claimant's attorney) or at same time as filing of objection (if hearing requested by objecting party)
petition for new trial and/or request for amendment to findings of fact and conclusions of law	24.5.344(1)	20 days after service of order or judgment
opposition to petition for new trial and/or request for amendment to findings of fact and conclusions of law	24.5.344(2)	10 days after service of petition for new trial or request for amendment

(History: 2-4-201, MCA; IMP, 2-4-201, 39-71-2901, MCA; NEW, 2014 MAR p. 2829, Eff. 3/1/15; AMD, 2018 MAR p. 305, Eff. 3/15/18.)

Rule 24.5.321 reserved

24.5.322 DEPOSITIONS (1) A party may take the testimony of any person, including a party, by deposition upon oral examination after the court or appropriate party has served the petition. The petitioner shall obtain leave of court if the petitioner seeks to take a deposition prior to the expiration of 20 days from the date of service of the petition. If a party seeks to take a post-trial deposition, the party shall obtain leave of court. A party may compel the attendance of witnesses by subpoena as provided by ARM 24.5.331.

(2) A party seeking to take the deposition of any person upon oral examination shall give reasonable notice in writing to every other party to the proceeding and:

(a) include in the notice the time and place for taking the deposition and the name and address of each person to be examined; and

(b) if intending to serve a subpoena duces tecum on the person to be examined, attach to or include in the notice the designation of the materials to be produced as set forth in the subpoena.

(3) The court may lengthen or shorten the time for taking the deposition if a party demonstrates good cause.

(4) The parties may examine and cross-examine witnesses in the same manner that the court permits at trial. The officer before whom the deposition is to be taken shall put the witness on oath and shall personally, or by someone acting under the officer's direction and in that person's presence, stenographically record the testimony of the witness. If requested by a party, the person who recorded the testimony shall transcribe it.

(5) Unless they agree otherwise, the parties shall make all objections at the time of taking the deposition and on the record. The parties shall take evidence to which a party objects subject to the objections. The parties shall brief deposition objections. The court may deem the parties' failure to do so a withdrawal of the objections.

(6) At any time during the deposition, on motion of a party or of the deponent, and upon a showing that the officer is conducting the examination in bad faith or in a manner as unreasonably to annoy, embarrass, or oppress a party or the deponent, the parties shall suspend the taking of the deposition for the time necessary for the objecting party or deponent to move the court for an order. The court may order the officer conducting the examination to cease taking the deposition, or may limit the scope and manner of the taking of the deposition. If the court ends the examination by order, the parties may resume the deposition only upon further order of the court. The court may order the offending party to pay to the other party the amount of the reasonable expenses that the adjournment and resumption of the deposition caused that party to incur, including reasonable attorney fees, and the court may adjudge the offending party or attorney guilty of contempt.

(7) The witness shall examine any transcribed deposition either by reading it or having it read aloud. The witness shall enter any changes in form or substance that the witness desires to make upon the deposition. The witness shall then sign under oath, unless the parties and the witness waive the signing or the witness is ill, cannot be found, or refuses to sign. If the witness does not sign the deposition within the time set forth in ARM 24.5.320, the officer shall sign it and state on the record the reason, if any, that the witness has not signed the deposition. A party may then use the deposition as fully as though the witness had signed it.

(8) The parties, by written stipulation, or by stipulation entered upon the record of a deposition, may provide that they may take depositions before any person, at any time or place, upon any notice, and in any manner. The parties may use these depositions like other depositions.

(9) Any party may use the deposition of a witness or a party for any purpose, regardless of the availability of the witness or party to testify at trial, unless the court restricts the deposition's usage because it would serve the interests of justice.

(10) If a party proposes to offer a transcribed deposition for the court's consideration, that party shall:

(a) submit it by e-mail attachment by the date specified by the court; and

(b) file the hard copy original at or before trial.

(11) Any party participating in a deposition may make a simultaneous digital recording of the deposition. A party who intends to digitally record a deposition shall notify all parties. If a party proposes to offer the digitally recorded deposition for the court's consideration, that party shall provide a copy to the court in DVD format, labeled with the name of the case and the name or names of all witnesses whose depositions are contained on the digitally recorded deposition. A party filing a digitally recorded deposition with the court shall also provide a transcript prepared by the court reporter who attended the deposition.

(12) A party may take a deposition upon written questions. The party taking the deposition shall give reasonable notice to all other parties of the name and address of the person who is to answer the questions and the name or descriptive title and address of the officer before whom the deposition is to be taken. Within the time set forth in ARM 24.5.320 after service of the notice and written questions, a party may serve cross-questions upon all other parties. Thereafter, within the time set forth in ARM 24.5.320, a party may serve redirect questions upon all other parties. Within the time set forth in ARM 24.5.320 after the service of the redirect questions, a party may serve recross-questions upon all other parties. (History: 2-4-201, MCA; IMP, 2-4-201, 39-71-2901, MCA; NEW, 1983 MAR p. 1715, Eff. 11/26/83; TRANS, from ARM 2.52.322, 1989 MAR p. 2177, Eff. 12/22/89; AMD, 1990 MAR p. 847, Eff. 5/1/90; AMD, 1994 MAR p. 675, Eff. 4/1/94; AMD, 2014 MAR p. 2829, Eff. 3/1/15; AMD, 2018 MAR p. 305, Eff. 3/15/18.)

24.5.323 INTERROGATORIES (1) A party may serve written interrogatories upon an adverse party either with the petition or at any time after the service of a petition. If a party wishes to serve interrogatories with the petition, the party shall furnish sufficient copies to the court for service with the petition.

(2) The party upon whom the interrogatories have been served shall serve a copy of the answers on the party submitting the interrogatories within the time set forth in ARM 24.5.320, unless the court lengthens or shortens the time. Answers must not be due in less than 30 days from the service of the petition.

(3) If the interrogatories are propounded upon the claimant or any other party who is a natural person, then the party shall sign the answers under oath. If the party is the insurer or other entity which is not a natural person, then the party's attorney or other representative of the party may sign the answers and such answers need not be verified. Whether or not verified, the signature of the person signing the answers constitutes a certification that the answers are complete and truthful to the best of the signor's knowledge.

(4) If the answers to interrogatories are made on behalf of an insurer or some other party which is not a natural person, the party propounding the interrogatories may, after receiving the answers, request that the answers be verified, under oath, by the person employed by the insurer or party, other than an attorney for the insurer or party, having the most knowledge of the subject matters mentioned in the interrogatories. The request must be made in writing but need not be filed with the court. Within the time set forth in ARM 24.5.320, the insurer or other party shall provide the requested verification.

(5) Proof of service of interrogatories and answers thereto must be filed with the court simultaneously with the service of discovery on the other party. Interrogatories and answers thereto must not be filed except by leave of court. When a motion is filed making reference to an interrogatory answer, the party filing the motion shall also submit the interrogatory and interrogatory answer to which reference is made. Answers to interrogatories may be used at trial to the extent allowed by the Montana Rules of Evidence and the Montana Rules of Civil Procedure.

(6) No party shall serve on any other party more than 20 interrogatories in the aggregate, inclusive of subparts. Subparts of any interrogatories must relate directly to the subject matter of the interrogatory. Any party desiring to serve additional interrogatories must file a written motion setting forth the proposed additional interrogatories and the reasons establishing the necessity for their use.

(7) Each interrogatory must be answered separately and fully in writing under oath unless it is objected to, in which event the reasons for objection must be stated in lieu of an answer. Objections may be made because of annoyance, expense, embarrassment, oppression, irrelevance, or other good cause. Objections must be signed by the party making them. The party answering the interrogatories shall set forth a verbatim recopy of each of the interrogatories, followed by the answer or objection thereto.
(8) The court will, except in extraordinary circumstances, sustain objections to numerous and complex interrogatories which are not limited to the important facts of the case and which are concerned with numerous minor details.

(9) An interrogatory is not objectionable merely because it is phrased in the form of a request for admission. (History: 2-4-201, MCA; IMP, 2-4-201, 39-71-2901, MCA; NEW, 1983 MAR p. 1715, Eff. 11/26/83; TRANS, from ARM 2.52.323, 1989 MAR p. 2177, Eff. 12/22/89; AMD, 1990 MAR p. 847, Eff. 5/1/90; AMD, 1992 MAR p. 921, Eff. 5/1/92; AMD, 1994 MAR p. 675, Eff. 4/1/94; AMD, 1998 MAR p. 1281, Eff. 5/15/98; AMD, 2014 MAR p. 2829, Eff. 3/1/15.)

24.5.324 REQUEST FOR PRODUCTION (1) A party may serve a request for production upon an adverse party either with the petition or at any time after the service of a petition. If a party wishes to serve a request for production with the petition, the party shall furnish sufficient copies to the court for service with the petition. The request may be:

(a) to produce and permit the party making the request, or the party's agent, to inspect and copy any designated documents or records, or to copy, test, or sample any tangible things, which may be relevant and which are in the possession, custody, or control of the party upon whom the request is served; or

(b) to permit entry upon designated land or other property in the possession or control of the party upon whom the request is served for the purpose of inspection and measuring, surveying, photographing, testing, or sampling the property or any designated object or operation thereon, within the limits of relevancy.

(2) Proof of service of requests for production and responses thereto must be filed with the court simultaneously with the service of discovery on the other party. Requests for production and answers thereto must not be filed except by leave of court. When a motion is filed making reference to a request for production, the party filing the motion shall also submit the request for production, the response thereto, and the documents produced pursuant to the response. Requests for production and responses thereto may be used at trial to the extent allowed by the Montana Rules of Evidence and the Montana Rules of Civil Procedure.

(3) The party upon whom a request for production is served shall serve a written response within the time set forth in ARM 24.5.320 unless the court lengthens or shortens the time. A response must not be due in less than 30 days from the service of the petition. The response must state, with respect to each item or category, that inspection and related activities will be permitted as requested, unless the request is objected to, in which event the reasons for objection must be stated. For a partial objection, the part subject to objection must be specified.

(4) If the request is for production of the file of a party and objection is made to such production on the grounds of privilege or work product, the objecting party shall produce all documents other than those specific documents which are subject to objection. Where the objection is only to part of a document, the document must be produced with the portions subject to objection redacted. The objecting party shall also provide in its response a list of documents which are subject to objections, specifically identifying:

(a) the type of document;

(b) the number of pages of the document;

(c) the general subject matter of the document;

(d) the date of the document;

(e) where the document is a communication, the author of the document, the address of the author, and the relationship of the author and the addressee;

(f) whether the objection extends to the entire document or only to portions of the document; and

(g) the specific privilege, including work product, which is being claimed as to each document.

(5) Where the objecting party asserts that this minimal information would encroach upon the attorney-client privilege or the work product doctrine, the party must state how disclosure of the information would violate the privilege or doctrine.

(6) The court rules upon objections based on claims of attorney-client privilege or work product only upon the filing of a motion to compel, at which time the following procedure applies:

(a) along with the response brief, the objecting party shall furnish the court with a copy of the original response to the request for production and the original or a copy of all documents which are identified in the motion to compel;

(b) where only parts of the document are subject to an objection, the objecting party shall identify those parts; and

(c) the court will review the documents in camera and sustain or overrule each objection.

(7) If the request is intended to obtain the production of documents which are not in the adverse party's possession but are within the adverse party's custody or control, unless otherwise ordered by the court, the adverse party may, in lieu of providing the documents, provide an authorization or a release as necessary to obtain such documents from all persons or entities physically possessing the documents. (History: 2-4-201, MCA; IMP, 2-4-201, 39-71-2901, MCA; NEW, 1983 MAR p. 1715, Eff. 11/26/83; TRANS, from ARM 2.52.324, 1989 MAR p. 2177, Eff. 12/22/89; AMD, 1990 MAR p. 847, Eff. 5/1/90; AMD, 1994 MAR p. 675, Eff. 4/1/94; AMD, 1996 MAR p. 557, Eff. 2/23/96; AMD, 2014 MAR p. 2829, Eff. 3/1/15.)

24.5.325 LIMITING DISCOVERY (1) Upon motion by a party or by the person from whom discovery is sought, and for good cause, the court may make any order that justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including one or more of the following:

(a) that the party seeking discovery may not have it;

(b) that the party seeking discovery may only have it on specified terms and conditions, including a designation of the time or place;

(c) that the party seeking discovery may only have it by a method of discovery other than that selected by the party seeking discovery;

(d) that the party seeking discovery may not inquire into certain matters, or that the party seeking discovery may have it limited to certain matters;

(e) that the party seeking discovery shall conduct it with no one present except persons designated by the court;

(f) that a party may only open a deposition the court has sealed by order by further order of the court;

(g) that a person from whom discovery is sought need not disclose a trade secret or other confidential research, development, or commercial information, or that the person need only disclose it in a designated way;

(h) that the parties shall file specified documents simultaneously or shall enclose information in sealed envelopes to be opened as directed by the court.

(2) If the court denies the motion for a protective order in whole or in part, the court may, on terms and conditions as are just, order that any party or person provide or permit discovery. (History: 2-4-201, MCA; IMP, 2-4-201, 39-71-2901, MCA; NEW, 1983 MAR p. 1715, Eff. 11/26/83; TRANS, from ARM 2.52.325, 1989 MAR p. 2177, Eff. 12/22/89; AMD, 1994 MAR p. 675, Eff. 4/1/94; AMD, 2014 MAR p. 2829, Eff. 3/1/15; AMD, 2018 MAR p. 305, Eff. 3/15/18.)

24.5.326 FAILURE TO MAKE DISCOVERY -- SANCTIONS (1) If a party fails to respond to discovery pursuant to these rules, or makes evasive or incomplete responses to discovery, or objects to discovery, the party seeking discovery may move for an order compelling responses. With respect to a motion to compel discovery, the court may, at the request of a party or upon its own motion, impose such sanctions as it deems appropriate. Such sanctions include but are not limited to awarding the prevailing party attorney fees and reasonable expenses incurred in obtaining the order or in opposing the motion. The court imposes sanctions against the non-prevailing party unless the party's position with regard to the motion to compel was substantially justified or other circumstances make sanctions unjust. If the party fails to make discovery following issuance of an order compelling responses, the court may order such sanctions as it deems just under the circumstances. Prior to any imposition of sanctions, the court provides the party who may be sanctioned with the opportunity for a hearing. (History: 2-4-201, MCA; IMP, 2-4-201, 39-71-2901, MCA; NEW, 1983 MAR p. 1715, Eff. 11/26/83; TRANS, from ARM 2.52.326, 1989 MAR p. 2177, Eff. 12/22/89; AMD, 1994 MAR p. 27, Eff. 1/14/94; AMD, 1998 MAR p. 1281, Eff. 5/15/98; AMD, 2014 MAR p. 2829, Eff. 3/1/15.)

24.5.327 DEFAULT (1) If a party required to file a responsive pleading under these rules fails to file a responsive pleading within the time specified, or otherwise fails to defend, the court at the request of the petitioner or upon its own motion issues an order providing that the party shall file a responsive pleading within the time ordered by the court. If the party fails to respond to the court's order within the time specified, the court orders the party to appear before the court at a specified date, time, and place to show cause why the court should not find the party in default and grant relief in accordance with the petition. The court serves the order by mail if upon an insurer, otherwise by certified mail or through personal service as directed by and at the discretion of the court.

(2) If the party fails to file a responsive pleading within the time provided and fails to appear at the show cause hearing, the court enters a default judgment against the party.

(3) If any party fails to comply with any order of the court, the court may, after notice and hearing, enter a default judgment against the party.

(4) If, to enable the court to enter judgment or to carry it into effect, the court deems it necessary to inquire into amounts of benefits or other matters, the court conducts a hearing into those matters.

(5) A party shall base any request for relief from default judgment upon good cause, such as mistake, inadvertence, surprise, or excusable neglect, and file it within the time set forth in ARM 24.5.320. (History: 2-4-201, 39-71-2901, 39-71-2903, 39-71-2905, MCA; IMP, 2-4-201, 39-71-2901, MCA; NEW, 2000 MAR p. 1513, Eff. 6/16/00; AMD, 2014 MAR p. 2829, Eff. 3/1/15; AMD, 2018 MAR p. 305, Eff. 3/15/18.)

Rule 24.5.328 reserved

24.5.329 SUMMARY JUDGMENT (1) Pursuant to any deadlines set by the court under ARM 24.5.316(1), a party may move for a summary judgment in the party's favor upon all or any part of a claim or defense.

(a) The court may decline to consider individual summary judgment motions if it concludes that it may resolve the issues as expeditiously by trial as by motion. The court may decline to consider a summary judgment motion that does not comply with ARM 24.5.329 or other applicable rules.

(b) If upon the filing of a motion for summary judgment, the party against whom the motion is directed believes that summary judgment is inappropriate for the reasons set forth in (1)(a) above, that party shall immediately notify the court and arrange for a phone conference between the court and counsel. The court determines after the conference whether further briefing and proceedings are appropriate.

(2) Subject to the other provisions of this rule, the court renders summary judgment forthwith if the pleadings, depositions, answers to interrogatories, and responses to requests for production, together with the affidavits, if any, show that no genuine issue exists as to any material fact and that the moving party is entitled to a judgment as a matter of law.

(3) A party filing a motion under this rule shall set forth in its brief a statement of uncontroverted facts. The party shall set forth the specific facts upon which it relies in serial fashion and not in narrative form, and refer to a specific pleading, affidavit, or other document where it found each fact. The party shall authenticate all attached exhibits. If the movant and the party opposing the motion agree that no genuine issue of any material fact exists, they may jointly file a statement of stipulated facts with the court.

(4) A party opposing a motion filed under this rule shall set forth in its brief any specific issues of material fact that it believes preclude summary judgment in favor of the moving party. The party shall set forth the specific facts upon which it relies in serial fashion and not in narrative form, and refer to a specific pleading, affidavit, or other document where it found each fact. The court deems all properly supported facts asserted by the movant to be uncontroverted for the purposes of the summary judgment motion unless specifically and properly controverted by the opposing party. If the party opposing the motion includes additional facts in its brief, it shall set forth those facts in serial fashion and not in narrative form, and refer to a specific pleading, affidavit, or other document where it found each fact. The party shall authenticate all attached exhibits.

(5) If either party desires a hearing on the motion, the party shall make the request in writing within the time set forth in ARM 24.5.320. The court may thereupon set a time and place for hearing. If no party requests a hearing, the parties waive any right to a hearing given by these rules. The court may order a hearing on its own motion.

(6) If on motion under this rule the court does not render judgment upon the whole case or for all the relief requested and deems a trial necessary, the court may on its own motion ascertain what material facts exist without substantial controversy and what material facts are in good faith controverted. The court then makes an order specifying the facts that appear without substantial controversy and directs further proceedings in the action as are just. Upon the trial of the action, the court deems the facts so specified established and conducts the trial accordingly.

(7) A party shall make any supporting or opposing affidavits on personal knowledge, set forth facts as would be admissible in evidence, and show affirmatively that the affiant is competent to testify to these matters. The party shall attach to or serve with an affidavit sworn or certified copies of all papers or parts of papers to which the affidavit refers. The court may permit a party to supplement or oppose affidavits by depositions, answers to discovery, or further affidavits. If a party makes a motion for summary judgment and supports it as provided in this rule, an opposing party may not rest upon the mere allegations or denials of the opposing party's pleading, but shall, by affidavits or as otherwise provided in this rule, set forth specific facts showing that a genuine issue exists for trial. If the opposing party does not so respond, the court may enter summary judgment against the opposing party.

(8) If it appears from the affidavits of a party opposing the motion that the party cannot for reasons stated present by affidavit facts essential to justify the party's opposition, the court may refuse the application for judgment or may order a continuance to permit the party to obtain affidavits, take depositions, or have discovery, or the court may make another order as is just.

(9) If it appears to the satisfaction of the court that a party has presented any affidavits pursuant to this rule in bad faith or solely for the purpose of delay, the court orders the party employing them to pay to the other party the amount of the reasonable expenses that the filing of the affidavits caused the other party to incur, including reasonable attorney fees, and the court may adjudge the offending party or attorney guilty of contempt. (History: 2-4-201, MCA; IMP, 2-4-201, 39-71-2901, MCA; NEW, 1996 MAR p. 557, Eff. 2/23/96; AMD, 2014 MAR p. 2829, Eff. 3/1/15; AMD, 2018 MAR p. 305, Eff. 3/15/18.)

24.5.330 REQUESTS TO VACATE, PUT IN ABEYANCE, OR RESET TRIAL (1) A party seeking the court's leave to vacate, put in abeyance, or reset a trial shall make the request in writing. The requesting party shall state whether any other party opposes it. If the requesting party is unable to contact any other party, the requesting party shall certify that the requesting party attempted to do so. If the requesting party contacts all other parties and none oppose the request, the requesting party may make the request informally by e-mail message. If a party opposes the request, or if the requesting party is unable to contact any other party, the requesting party shall make the request by formal motion and demonstrate good cause. (History: 2-4-201, MCA; IMP, 2-4-201, 39-71-2901, MCA; NEW, 1983 MAR p. 1715, Eff. 11/26/83; TRANS, from ARM 2.52.330, 1989 MAR p. 2177, Eff. 12/22/89; AMD, 1990 MAR p. 847, Eff. 5/1/90; AMD, 1998 MAR p. 1281, Eff. 5/15/98; AMD, 2014 MAR p. 2829, Eff. 3/1/15; AMD, 2018 MAR p. 305, Eff. 3/15/18.)

24.5.331 SUBPOENA (1) Every subpoena must comply with M. R. Civ. P. 45. (History: 2-4-201, MCA; IMP, 2-4-201, 39-71-2901, MCA; NEW, 1983 MAR p. 1715, Eff. 11/26/83; TRANS, from ARM 2.52.331, 1989 MAR p. 2177, Eff. 12/22/89; AMD, 1990 MAR p. 847, Eff. 5/1/90; AMD, 1994 MAR p. 675, Eff. 4/1/94; AMD, 2000 MAR p. 1513, Eff. 6/16/00; AMD, 2002 MAR p. 93, Eff. 1/18/02; AMD, 2014 MAR p. 2829, Eff. 3/1/15.)

24.5.332 CONDUCT OF TRIAL (1) Trials will be held in courtrooms when available or any other designated place.

(2) The court conducts trials in the same manner as a trial without a jury. Trials must proceed in the following order unless the court, for good cause and special reasons, otherwise directs.

(a) The party on whom rests the burden of the issues may briefly state the party's case and the evidence by which the party expects to sustain it.

(b) The adverse party may then briefly state the adverse party's defense and the evidence the adverse party expects to offer in support of it, or may wait and do this at the beginning of the adverse party's case-in-chief.

(c) The party on whom rests the burden of the issues shall produce the party's evidence; the adverse party shall then follow with the adverse party's evidence.

(d) The parties shall then be confined to rebuttal evidence, unless the court, for good reasons and in the furtherance of justice, permits either party to offer further evidence in support of its case-in-chief. (History: 2-4-201, MCA; IMP, 2-4-201, 39-71-2901, MCA; NEW, 1983 MAR p. 1715, Eff. 11/26/83; TRANS, from ARM 2.52.332, 1989 MAR p. 2177, Eff. 12/22/89; AMD, 2014 MAR p. 2829, Eff. 3/1/15.)

24.5.333 INFORMAL DISPOSITION (1) In the discretion of the court, informal disposition may be made of a dispute or controversy by stipulation, agreed settlement, consent order, or default. (History: 2-4-201, MCA; IMP, 2-4-201, 39-71-2901, MCA; NEW, 1983 MAR p. 1715, Eff. 11/26/83; TRANS, from ARM 2.52.333, 1989 MAR p. 2177, Eff. 12/22/89.)

24.5.334 SETTLEMENT CONFERENCE OR MEDIATION (1) In its discretion, the court may, either on its own motion or upon request of a party, order a settlement conference or mediation at any time before it issues a decision in any case pending before the court. The court may appoint a settlement master or mediator. If the parties use an outside settlement master or mediator, the parties shall equally share the expense of hiring this person unless they agree otherwise.

(2) The person with ultimate settlement authority for each party shall attend the settlement conference or mediation in person. Upon order of the court or agreement of the parties, the person with ultimate settlement authority may participate by phone.

(3) No party may disclose any statements or communications any participant or attendee, including the settlement master or mediator, made in connection with the settlement conference or mediation to anyone. No party may use any statements or communications any participant or attendee, including the settlement master or mediator, made during the settlement conference or mediation with regard to any aspect of the litigation. No party may subpoena or otherwise require the settlement master or mediator to testify in any future proceedings. No party may examine any participant or attendee concerning any statements or communications that person or any other participant or attendee, including the settlement master or mediator, made or allegedly made in connection with the settlement conference or mediation. However, the settlement master or mediator may disclose whether settlement was reached and the terms of the settlement. (History: 2-4-201, MCA; IMP, 2-4-201, 39-71-2901, MCA; NEW, 1983 MAR p. 1715, Eff. 11/26/83; TRANS, from ARM 2.52.334, 1989 MAR p. 2177, Eff. 12/22/89; AMD, 1994 MAR p. 27, Eff. 1/14/94; AMD, 2014 MAR p. 2829, Eff. 3/1/15; AMD, 2018 MAR p. 305, Eff. 3/15/18.)

24.5.335 BENCH RULINGS (1) The court may, in its sole discretion, issue a bench ruling following the close of the testimony in a case. If the court issues a bench ruling, the court utilizes the following procedure:

(a) The judge announces the decision to the parties in open court, outlining the factual and legal reasoning therefor.

(b) The judge may direct one of the parties, usually the prevailing party, to reduce the decision to writing by preparing written findings of fact, conclusions of law, and judgment.

(c) Following entry of the court's written findings of fact, conclusions of law, and judgment, the parties shall have the time set forth in ARM 24.5.320 in which to file objections to the court's decision and to request a rehearing pursuant to ARM 24.5.344. (History: 2-4-201, MCA; IMP, 2-4-201, 39-71-2901, MCA; NEW, 1983 MAR p. 1715, Eff. 11/26/83; TRANS, from ARM 2.52.335, 1989 MAR p. 2177, Eff. 12/22/89; AMD, 2014 MAR p. 2829, Eff. 3/1/15.)

24.5.336 TRIAL BRIEFS AND PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW (1) The court may require any or all parties to file trial briefs or proposed findings of fact and conclusions of law.

(2) Any party may file either a trial brief or proposed findings of fact and conclusions of law, or both, by the date set by the judge or hearing examiner.

(3) The court considers a trial brief or proposed findings of fact and conclusions of law filed by fax or e-mail attachment compliant with the filing deadline as long as a party ensures that the court receives the hard copy original at or before trial. Any party filing a brief or proposed findings and conclusions by fax or e-mail attachment shall further ensure that the other parties receive it the same day the party files it with the court. (History: 2-4-201, MCA; IMP, 2-4-201, 39-71-2901, MCA; NEW, 1983 MAR p. 1715, Eff. 11/26/83; TRANS, from ARM 2.52.336, 1989 MAR p. 2177, Eff. 12/22/89; AMD, 1992 MAR p. 922, Eff. 5/1/92; AMD, 1996 MAR p. 557, Eff. 2/23/96; AMD, 2014 MAR p. 2829, Eff. 3/1/15; AMD, 2018 MAR p. 305, Eff. 3/15/18.)

24.5.337 MOTION FOR RECONSIDERATION (1) A party may move for reconsideration of any decision of the Workers' Compensation Court only upon the following three grounds:

(a) that the court overlooked some fact material to the decision;

(b) that the court overlooked some issue presented by the party that would have proven decisive to the case; or

(c) that the court's decision conflicts with a statute or controlling decision not addressed by the court.

(2) A party shall file any motion for reconsideration of a decision within the time set forth in ARM 24.5.320. The court reviews the motion before any other party responds. The court denies those motions it determines have no merit and orders the other party or parties to respond to those motions it determines may have merit. If the court orders a response, it deems the motion submitted for decision upon receipt of the response or the expiration of the time for the response unless the court requests oral argument. The court does not consider reply briefs from moving parties.

(3) Within 20 days of its issuance of any decision, the court may, on its own motion, reconsider the decision.

(4) If a party seeks reconsideration of an appealable decision, the court does not deem the original decision final until and unless the court denies the motion.

(5) No party may file a brief in support of or opposition to a motion for reconsideration that exceeds 5 pages. (History: 2-4-201, MCA; IMP, 2-4-201, 39-71-2901, MCA; NEW, 1998 MAR p. 2167, Eff. 8/14/98; AMD, 2014 MAR p. 2829, Eff. 3/1/15; AMD, 2018 MAR p. 305, Eff. 3/15/18.)

Rules 24.5.338 and 24.5.339 reserved

24.5.340 MASTERS AND EXAMINERS -- PROCEDURE -- RECOMMENDATIONS FOR BENCH ORDERS (1) The court shall appoint masters or examiners when, in the judgment of the court, justice will be served.

(2) The court appoints masters pursuant to M. R. Civ. P. 53. Masters utilize the procedures set forth in M. R. Civ. P. 53 insofar as they relate to a trial without a jury.

(3) The court appoints examiners pursuant to 2-4-611, MCA. Examiners serve pursuant to 2-4-611, MCA. However, the time delays inherent in the procedures set forth in 2-4-621 and 2-4-622, MCA, are not appropriate in Workers' Compensation Court proceedings within the meaning of 39-71-2903, MCA. In lieu thereof, the court utilizes the following procedure in cases where it appoints a hearing examiner.

(a) Following submission of the case, the hearing examiner submits proposed findings of fact and conclusions of law to the judge. The court does not serve the proposed decision of the hearing examiner upon the parties until after the judge has ruled thereon. The judge decides whether to adopt the proposed findings of fact and conclusions of law of the hearing examiner based solely upon the record and pleadings made before the hearing examiner. The court does not reject or revise findings of fact made by a hearing examiner unless the court first determines from a review of the complete record, and states with particularity in the order, that the findings of fact were not based upon competent substantial evidence or that the proceedings on which the findings were based did not comply with essential requirements of law. The court may, upon its own motion, reconsider or alter conclusions of law and interpretations of statutes or rules written by a hearing examiner. Subject to the provisions of this subsection, the court enters its order and judgment adopting the decision of the hearing examiner.

(b) Any party aggrieved by a decision of a hearing examiner adopted pursuant to this rule may obtain review thereof by filing a motion pursuant to ARM 24.5.344. Upon the filing of such a motion by any party, the court, in its discretion, liberally grants the opportunity for oral argument as to whether it should: amend the decision; hear additional evidence; or grant a new trial.

(4) An examiner may, during or at the conclusion of a trial or a pretrial conference, advise the parties that an interlocutory order for payment of benefits or other relief to a party appears to be justified and promptly submit such an order for approval by the judge. (History: 2-4-201, MCA; IMP, 2-4-201, 39-71-2901, MCA; NEW, 1983 MAR p. 1715, Eff. 11/26/83; TRANS, from ARM 2.52.340, 1989 MAR p. 2117, Eff. 12/22/89; AMD, 1994 MAR p. 675, Eff. 4/1/94; AMD, 2014 MAR p. 2829, Eff. 3/1/15.)

Rule 24.5.341 reserved

24.5.342 TAXATION OF COSTS (1) Unless otherwise ordered by the court, within the time set forth in ARM 24.5.320, a prevailing claimant shall serve an application for taxation of costs on any party against whom costs are to be assessed. The claimant shall file the application with the court.

(2) The attorney for the claimant, or the claimant personally if appearing pro sé, shall sign the application for taxation of costs. The signature on the application is a certification by the person signing the application of the accuracy of the costs claimed and that the costs incurred were reasonable and necessary to the case.

(3) The court allows reasonable costs. The court judges the reasonableness of a given item of cost claimed in light of the facts and circumstances of the case and the issues upon which the claimant prevailed.

(4) The following are examples of costs that are generally found to be reasonable:

(a) deposition costs (reporter's fee and transcription cost), if the deposition is filed with the court;

(b) witness fees and mileage, as allowed by statute, for non-party fact witnesses;

(c) expert witness fees, including reasonable preparation time, for testimony either at deposition or at trial, but not at both;

(d) travel and lodging expenses of counsel for attending depositions;

(e) fees and expenses necessary for the perpetuation or presentation of evidence offered at trial, such as recording, videotaping, or photographing exhibits;

(f) documented photocopy expenses;

(g) documented long-distance telephone expenses; and

(h) documented postage expenses.

(5) The following are examples of costs that are generally found not to be reasonable:

(a) trial transcripts ordered by the parties prior to any appeal;

(b) secretarial time; and

(c) items of ordinary office overhead not typically billed to clients.

(6) Items of cost not specifically listed in this rule may be awarded by the court, in accordance with the principles in (3).

(7) If an insurer objects to any item of costs claimed:

(a) Within the time set forth in ARM 24.5.320, the insurer shall serve on the prevailing claimant written objections to specific items of costs. The insurer shall file the objections with the court.

(b) Within the time set forth in ARM 24.5.320, the prevailing claimant shall serve on the insurer a response. The claimant shall file the response with the court. No reply brief is allowed. (History: 2-4-201, MCA; IMP, 2-4-201, 39-71-2901, MCA; NEW, 1996 MAR p. 557, Eff. 2/23/96; AMD, 2014 MAR p. 2829, Eff. 3/1/15.)

24.5.343 ATTORNEY FEES (1) In those cases where the claimant is awarded attorney fees pursuant to 39-71-611 or 39-71-612, MCA, the court will indicate in its findings of fact and conclusions of law the basis for the award of reasonable attorney fees, but the court will not determine the amount of the award until after the appeal period for its final decision has passed or after affirmation of its final decision on appeal, unless pursuant to ARM 24.5.348(2), the final decision is not certified as final.

(2) The court determines and awards reasonable attorney fees in the following manner.

(a) Within the time set forth in ARM 24.5.320, following the expiration of the appeal period or remittitur on appeal of the court's final decision, or within the time set forth in ARM 24.5.320, after the filing of the court's decision which pursuant to ARM 24.5.348(2) holds that the decision is not certified as final, the claimant's attorney shall file with the court a claim for attorney fees which contains the following:

(i) a verified copy of the attorney fee agreement with the claimant;

(ii) documentation regarding the time spent by the attorney in representing the client; and

(iii) the attorney's claim concerning the attorney's hourly fee.

(b) Within the time set forth in ARM 24.5.320, following the service of a claim for attorney fees, any party to the dispute may file an objection to the fees' reasonableness, specifically identifying the objectionable portions of the claim and stating the reasons for the objection. General allegations to the effect that the award is unreasonable are not sufficient.

(c) If a party objects to the reasonableness of the attorney fee claim, any party may request an evidentiary hearing, stating the specific reasons a hearing is necessary. The request for hearing must be made at the same time an objection is filed if by the objecting party, or within the time set forth in ARM 24.5.320, of the filing of the objection if requested by the claimant's attorney.

(d) The court determines if it requires an evidentiary hearing. If the court deems a hearing necessary, the court schedules the hearing at its earliest convenience. The court issues its decision following the hearing. The court sets evidentiary hearings in Helena unless a party demonstrates good cause to the contrary. If the court determines that no hearing is necessary, the court determines attorney fees based on the claim and objections. No additional pleadings are allowed unless requested by the court.

(e) The court's determination of reasonable attorney fees is a final decision for purposes of appeal. (History: 2-4-201, MCA; IMP, 2-4-201, 39-71-2901, MCA; NEW, 1985 MAR p. 107, Eff. 2/1/85; AMD, 1986 MAR p. 774, Eff. 5/16/86; TRANS, from ARM 2.52.343, 1989 MAR p. 2177, Eff. 12/22/89; AMD, 1990 MAR p. 847, Eff. 5/1/90; AMD, 1992 MAR p. 922, Eff. 5/1/92; AMD, 1994 MAR p. 27, Eff. 1/14/94; AMD, 1996 MAR p. 557, Eff. 2/23/96; AMD, 2014 MAR p. 2829, Eff. 3/1/15.)

24.5.344 PETITION FOR NEW TRIAL AND/OR REQUEST FOR AMENDMENT TO FINDINGS OF FACT AND CONCLUSIONS OF LAW (1) After a trial, the court issues an order or findings of fact, conclusions of law, and judgment setting forth the court's determination of the disputed issues. A party to the dispute may petition for a new trial or request amendment to the court's findings of fact and conclusions of law within the time set forth in ARM 24.5.320, after the court serves the written order or judgment.

(2) If a party files a petition for a new trial or requests amendment, the party requesting the new trial or amendment shall set forth specifically and in full detail the relief requested. An opposing party shall respond within the time set forth in ARM 24.5.320, from the date of service pursuant to ARM 24.5.303.

(3) If a party files a petition for a new trial or requests amendment, the original order or judgment issued by the court is not considered the final decision of the court pending the denial or granting of the new trial or amendment.

(4) If the court grants a new trial, the matter is scheduled for trial pursuant to ARM 24.5.310. As determined by the court, the matter may be decided based on the testimony taken at the initial trial and at the new trial, or by a de novo trial. After the new trial, the court issues an order or findings of fact, conclusions of law, and judgment setting forth the court's determination of the disputed issues. (History: 2-4-201, MCA; IMP, 2-4-201, 39-71-2901, MCA; NEW, 1983 MAR p. 1715, Eff. 11/26/83; AMD, 1985 MAR p. 107, Eff. 2/1/85; AMD, 1986 MAR p. 774, Eff. 5/16/86; TRANS, from ARM 2.52.344, 1989 MAR p. 2177, Eff. 12/22/89; AMD, 1990 MAR p. 847, Eff. 5/1/90; AMD, 1992 MAR p. 922, Eff. 5/1/92; AMD, 1994 MAR p. 27, Eff. 1/14/94; AMD, 2014 MAR p. 2829, Eff. 3/1/15.)

24.5.345 WRIT OF EXECUTION (1) The procedure on execution, in proceedings supplementary to and in aid of a judgment, and in proceedings on and in aid of and supplementary to execution, must be in accordance with the statutes of the state of Montana that are applicable to executions in civil cases in district court, as set forth in Title 25, chapter 13, MCA, except that the court does not issue a writ of execution until after the time has expired for requesting a rehearing or amendment of the court's decision.

(2) In aid of the judgment or execution, the judgment creditor or a successor in interest when that interest appears of record, may examine any person, including the judgment debtor, in the manner provided in these rules for taking depositions. (History: 2-4-201, MCA; IMP, 2-4-201, 39-71-2901, MCA; NEW, 1992 MAR p. 922, Eff. 5/1/92; AMD, 2014 MAR p. 2829, Eff. 3/1/15.)

24.5.346 STAY OF JUDGMENT PENDING APPEAL (1) The party appealing a judgment of the court may request a stay of execution of the judgment or order pending resolution of the appeal. The court automatically deems a request for new trial and/or request for amendment to findings of fact and conclusions of law stayed until it rules upon the request. If the parties stipulate that no bond is required, or if it is shown to the satisfaction of the court that adequate security exists for payment of the judgment, the court may waive the bond requirement.

(2) Except as provided for herein, the procedures for requesting a stay and for posting a supersedeas bond are the same as the procedures in M. R. App. P. 22(1) and ARM 24.5.316. (History: 2-4-201, MCA; IMP, 2-4-201, 39-71-2901, MCA; NEW, 1992 MAR p. 922, Eff. 5/1/92; AMD, 1994 MAR p. 675, Eff. 4/1/95; AMD, 2014 MAR p. 2829, Eff. 3/1/15.)

Rule 24.5.347 reserved

24.5.348 CERTIFICATION OF DECISIONS, APPEALS TO SUPREME COURT (1) A party shall make any appeal from the Workers' Compensation Court as in the case of an appeal from a district court as provided in M. R. Civ. P. 72.

(2) For purposes of appeal, the court's final certification is considered a notice of entry of judgment.

(3) A party appealing from the Workers' Compensation Court shall comply with the Montana Rules of Appellate Procedure.

(4) The court certifies its decisions as final without determining the amount of reasonable costs and attorney fees, except that:

> (a) Prior to the court's issuance of the decision and certification, a party to the dispute may file a motion requesting that the court not certify the decision as final. A party filing this motion shall demonstrate good cause.

(b) The court in its discretion may grant the motion, in which case the court does not certify the judgment for purposes of appeal until it determines the amount of the attorney fees and costs.

(c) A party may petition for new trial or request amendment to the court's findings of fact and conclusions of law in accordance with ARM 24.5.344, regardless of whether the court has certified the decision as final for purposes of appeal. (History: 2-4-201, MCA; IMP, 2-4-201, 39-71-2901, 39-71-2904, MCA; NEW, 1983 MAR p. 1715, Eff. 11/26/83; AMD, 1987 MAR p. 1618, Eff. 9/25/87; TRANS, from ARM 2.52.348, 1989 MAR p. 2177, Eff. 12/22/89; AMD, 1990 MAR p. 847, Eff. 5/1/90; AMD, 1992 MAR p. 922, Eff. 5/1/92; AMD, 1996 MAR p. 557, Eff. 2/23/96; AMD, 1998 MAR p. 1281, Eff. 5/15/98; AMD, 2014 MAR p. 2829, Eff. 3/1/15; AMD, 2018 MAR p. 305, Eff. 3/15/18.)

24.5.349 RULES COMPLIANCE (1) If a party neglects or refuses to comply with the provisions of these rules, the court may dismiss a matter with or without prejudice, grant an appropriate order for a party, or take other appropriate action. However, the court may, in its discretion and in the interests of justice, waive irregularities and noncompliance with any of the provisions of these rules. (History: 2-4-201, MCA; IMP, 2-4-201, 39-71-2901, MCA; NEW, 1983 MAR p. 1715, Eff. 11/26/83; TRANS, from ARM 2.52.349, 1989 MAR p. 2177, Eff. 12/22/89; AMD, 2014 MAR p. 2829, Eff. 3/1/15.)

24.5.350 APPEALS TO WORKERS' COMPENSATION COURT UNDER TITLE 39, CHAPTERS 71 AND 72, MCA (1) An appeal from a final decision of the Department of Labor and Industry under Title 39, chapters 71 and 72, MCA, other than an appeal of a department order regarding payment of benefits pursuant to 39-71-610, MCA, must be made by filing a notice of appeal with the court. The notice of appeal must be served by mail on all other parties and the legal services division of the Department of Labor and Industry and must include:

(a) the relief to which the appellant believes the appellant is entitled; and

(b) the grounds upon which the appellant contends the appellant is entitled to that relief.

(2) The filing of the notice does not stay the department decision. However, upon application of a party, the court may order a stay upon terms which the court considers proper.

(3) Any party or the court may request a transcript of the proceeding. Upon receiving such request, the department has 30 days in which to prepare and file the transcript unless the court lengthens or shortens the time. In the alternative, the parties may agree by written stipulation to other arrangements for transcribing the hearing. The appealing party shall be responsible for the cost of preparing the transcript unless otherwise ordered by the court.

(4) Any party to an appeal may request oral argument on the matters raised in the appeal. A request for oral argument must be made by the time specified for the last brief. Failure to timely request oral argument is deemed to be a waiver of the right to an oral argument.

(5) A motion for leave to present additional evidence must be filed no later than the time set for the last brief or, if oral argument is timely requested, then no later than the day before the argument. If it is shown to the satisfaction of the court that the additional evidence is material and that good reasons exist for the offering party's failure to present it in the department proceeding, the court may remand the matter to the department and order that the additional evidence be taken before the department upon conditions determined by the court. The department may modify its findings and decision by reason of the additional evidence and shall file that evidence and any modifications, new findings, or decisions with the reviewing court.

(6) The court shall base its decision on the record.

(7) ARM 24.5.344, relating to new trials, applies to decisions under this rule. However, the decision of the court may or may not be in the form of findings of fact and conclusions of law. (History: 2-4-201, MCA; IMP, 2-4-201, 39-71-2901, MCA; NEW, 1983 MAR p. 1715, Eff. 11/26/83; TRANS, from ARM 2.52.350, 1989 MAR p. 2177, Eff. 12/22/89; AMD, 1990 MAR p. 847, Eff. 5/1/90; AMD, 1994 MAR p. 675, Eff. 4/1/94; AMD, 1996 MAR p. 557, Eff. 2/23/96; AMD, 1998 MAR p. 1281, Eff. 5/15/98; AMD, 2000 MAR p. 1513, Eff. 6/16/00; AMD, 2014 MAR p. 2829, Eff. 3/1/15.)

24.5.351 DECLARATORY RULINGS (1) Where the court has jurisdiction it can issue declaratory rulings.

(2) Proceedings for a declaratory ruling are the same as in all other disputes. (History: 2-4-201, MCA; IMP, 2-4-201, 39-71-2901, MCA; NEW, 1983 MAR p. 1715, Eff. 11/26/83; TRANS, from ARM 2.52.351, 1989 MAR p. 2177, Eff. 12/22/89; AMD, 1994 MAR p. 675, Eff. 4/1/94; AMD, 2014 MAR p. 2829, Eff. 3/1/15.)

24.5.352 REFERENCE TO MONTANA RULES OF CIVIL PROCEDURE

(1) If no express provision is made in these rules regarding a matter of procedure, the court is guided, where appropriate, by considerations and procedures set forth in the Montana Rules of Civil Procedure. (History: 2-4-201, 39-71-2901, 39-71-2903, 39-71-2905, MCA; IMP, 2-4-201, 39-71-2901, MCA; NEW, 2000 MAR p. 1513, Eff. 6/16/00; AMD, 2014 MAR p. 2829, Eff. 3/1/15.)

24.5.353 WITHDRAWAL OF ATTORNEY (1) If an attorney representing a party is removed, withdraws, or ceases to act as such, the parties shall follow the procedures set forth in M. U. Dist. Ct. R. 10 and 37-61-405, MCA. (History: 2-4-201, MCA; IMP, 2-4-201, 39-71-2901, MCA; NEW, 2018 MAR p. 305, Eff. 3/15/18.)

Rules 24.5.354 through 24.5.358 reserved

24.5.359 NOTICE OF REPRESENTATION (REPEALED) (History: 2-4-201, MCA; IMP, 2-4-201, 39-71-2901, MCA; NEW, 1983 MAR p. 1715, Eff. 11/26/83; TRANS, from 2.52.302, 1989 MAR p. 2177, Eff. 12/22/89; REP, 1990 MAR p. 847, Eff. 5/1/90.)

24.5.360 REVIEW (1) The court will annually review and when necessary revise the rules of court. (History: 2-4-201, MCA; IMP, 2-4-201, 39-71-2901, MCA; NEW, 1983 MAR p. 1715, Eff. 11/26/83; TRANS, from ARM 2.52.360, 1989 MAR p. 2177, Eff. 12/22/89.)