

Note: contact the local District Court for any exhibits or forms referred to within these pages.

matter for a period of more than sixty (60) days, the parties, individually or jointly, may send the Judge a letter requesting a ruling.

SECTION C. FILES, PLEADINGS, AND DISCOVERY

RULE 30 - CLERK OF COURT

A. The Clerk of Court is the custodian of Court files and records. The Clerk shall make such rules allowing files to be taken from her office as she shall see fit, consistent with the applicable statutes and these rules.

B. No file or Court record may be taken from the Clerk's office for more than 5 days without a written order from the Court. No document may be removed from a Court file.

RULE 31 - YOUTH COURT RECORDS

Whenever a request is made to review a Youth Court file by anyone except the County Attorney, a youth's attorney, or a probation officer, the Clerk shall first bring the file and the request to the attention of the Judge who shall review the file to determine if it contains any material which is confidential. If such confidential material is contained in the file, the Judge may direct the Clerk to remove it before the file is made available to the requesting party.

RULE 32 - PLEADINGS

A. All pleadings shall be personally delivered or mailed to the Clerk for filing. Pleadings should not be sent directly to the Judge.

B. All pleadings, orders, and other papers presented to the Clerk for filing shall be clean and neat in appearance and shall be in conformance with UDCR Rule 1.

C. All pleadings and other papers to be filed shall be on letter size paper. If possible, attachments and exhibits should be reduced to letter size.

D. Pleadings may be single spaced, or double spaced. If single spaced, there shall be a double space between paragraphs. Quotes shall be single spaced and indented. Text should be printed on only one side of each page.

E. The title of all pleadings must be complete, and the complete title shall also be contained in the footer at the bottom of each page. For example, rather than titling a pleading, "Affidavit," it should be titled "Affidavit of John Smith in Support of Plaintiff's Motion for Summary Judgment."

F. Line 1 of the first page of proposed Orders, Decrees, or Judgments presented for the Judge's signature should not contain the name and address of the attorney who is submitting the document for the Court's consideration.

G. Each claim or cause of action contained in a Complaint should be identified as a separate count and should be labeled in such a manner that the nature of the claim is clear. For example:

COUNT I-BREACH OF CONTRACT; COUNT II-NEGLIGENCE.

H. A claim which alleges statutory violations must specify which statute or statutes are alleged to have been violated. It is not sufficient to refer generally to an entire Act, such as the Unfair Trade Practices and Consumer Protection Act. Complaints and Answers should be sufficiently detailed to place the opposing party and the Court on notice of what is being alleged.

I. The Clerk may refuse to file documents which do not conform to these rules.

RULE 33 - EXHIBITS

A. The Clerk is the custodian of all exhibits.

B. In order to facilitate a smooth flow in the presentation of evidence, exhibits should be exchanged between counsel prior to trial. Attorneys are encouraged to stipulate in advance to any exhibits to which there is no objection.

C. The Clerk shall mark for identification all proposed exhibits and keep a list of all exhibits and the ruling of the Court thereon. A party or the Clerk may request that a copy of an exhibit be filed in place of the original.

D. After judgment has become final, the Clerk shall notify the attorneys that all exhibits and depositions may be retrieved from the Clerk's office within 30 days. Exhibits and depositions which are not retrieved within 30 days may be destroyed by the Clerk pursuant to a Standing Order from the Court. If the exhibit has historical value, it may be offered to a

public museum for preservation. If the exhibit has more than nominal value, it shall be sold and the proceeds credited to the county general fund. Before an exhibit is made available to a museum or auctioned, however, the Clerk shall provide an additional 30 days notice of the need to retrieve the exhibit and the consequences for not doing so.

RULE 34 - DEPOSITIONS

A. Pursuant to UDCR Rule 4, depositions and other forms of discovery shall not be routinely filed. When a motion or response is filed which makes reference to deposition testimony, the party filing the motion or response shall submit a copy of the relevant deposition testimony with the motion or response.

B. An attorney who instructs a witness not to answer a question during a deposition may be required to pay the cost of retaking the deposition if the question is later determined by the Court to have been proper. An attorney who engages in bullying, coaching, interrupting, or obstructing during a deposition may be required to pay the cost of retaking the deposition if the offending tactics interfere with the deposition.

RULE 35 - INTERROGATORIES AND DISCOVERY REQUESTS

A. As with depositions, interrogatories and other types of written discovery shall not be routinely filed. Whenever a motion or response is filed which makes reference to interrogatory answers or other written discovery requests or responses, the party filing the motion or response shall submit the relevant interrogatory answers or discovery requests or responses with the motion or response. In the case of a motion or response based upon a failure to respond, a copy of the unanswered discovery requests shall be filed with the motion or response.

B. Interrogatories and other forms of written discovery may be single spaced, with double spacing between each question or subpart. It is not necessary to leave space for an answer or response.

C. Parties are encouraged to cooperate in the exchange of computer disks if the interrogatories or written discovery requests are lengthy or complex.

D. The Court will sustain objections to interrogatories and other discovery requests which are not designed to discover relevant facts pertaining to the case or which are burdensome or unnecessarily complex.

E. Motions to compel responses to written discovery or for protective orders to limit or deny certain discovery will not be considered by the Court unless the motion sets forth the efforts made by the parties to resolve their differences between themselves. It should rarely be necessary for the Court to referee discovery disputes. Sanctions will be considered whenever it appears that a party is obstructing the discovery process and there is not a reasonable basis to believe the party's position is well founded in the law.

RULE 36 - TELEFAX AND/OR EMAIL FILINGS

Telefax and/or mail filings are unnecessary unless there is a deadline problem, and they are discouraged as they create extra work for the Clerk of Court's staff. If a document is telefaxed and/or emailed to the Clerk of Court for filing, the following procedure shall be observed:

A. The Clerk shall stamp the document to show the date and time of its receipt. If a document is received after hours or on a weekend or holiday, it shall be considered to have been received at 8:00 a.m. on the first business day thereafter.

B. On the same day the fax is sent, the sender shall mail the original document to the Clerk of Court by first class mail. The Clerk shall file the original (mailed) document, showing the date and time of filing as the date and time the telefax or email was received.

C. Upon receipt by the Clerk of the mailed document, the Clerk shall remove the faxed or emailed copy from the Court file, except for the first page which documents the date and time of the fax or email filing.

D. If a pleading is faxed or emailed to the Clerk, requesting immediate attention by the Judge, a copy must also be faxed or emailed to opposing counsel.

RULE 37 - DISMISSAL FOR INACTIVITY

Cases will not be continued indefinitely. A case which has been inactive for 12 months or more may be dismissed with or without prejudice by the Court after giving 20 days notice of the intended dismissal.

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RULE 38 - SIGNATURE STAMP

The Court Administrator shall maintain under lock and key a signature stamp bearing a facsimile of the Judge's signature. On occasions when the Judge is out of the jurisdiction or is otherwise unavailable, the Judge may authorize the Court Administrator to use the Judge's signature stamp on documents requiring immediate attention by the Court. It shall be necessary to secure the Judge's authorization on every occasion before his signature stamp is used, and the signature stamp shall only be used when it is not feasible to wait until the Judge returns to the jurisdiction to personally sign the document.

SECTION D. PRETRIAL AND POST-TRIAL PROCEEDINGS - CIVIL

RULE 40 - MOTIONS AND BRIEFS

A. Form of briefs and other papers.

1. Form of briefs, appendices, petitions, including petitions for writs, motions, and other papers. Briefs, appendices, petitions, motions, and other papers shall be produced by any standard printing, word processing, typewriting, or equivalent process capable of producing a clear black image on paper.

2. Typeface and text style. Either a proportionately-spaced typeface of 12 points or more, or a monospaced typeface of no more than 10.5 characters per inch may be used in a brief, appendix, petition, motion, or other paper. A proportionately-spaced typeface has characters with different widths. A monospaced typeface has characters that occupy the same horizontal space. Text shall be in roman, non-script text. Case names, headings, and signals may be underlined or in italics or in bold.

Examples: This font is a proportional typeface, Times New Roman, 12 pica. This is a monotype font, Courier New, 12 pica, the smallest in this typeface that meets the standard in these rules.

3. Paper size, margins, and line spacing.

a. All of the foregoing papers shall have pages not exceeding 8 1/2 by 11 inches with margins on the right side and left side and on the top and bottom not less than 1 inch wide, provided, however, that papers from the proceeding below (pleadings, findings of fact and conclusions of law, judgments, exhibits, and other like papers) may be:

(i) Reproduced in their original form, size, and print even though the papers exceed the foregoing size limitations; or

(ii) Reproduced in their original form, but in a reduced size and printed on pages not exceeding 8 1/2 by 11 inches even though the print thereon is less than the foregoing size limitations, provided that the print is legible.

b. Papers produced by typewriter or an equivalent process shall be single-spaced or one-and-one-half-spaced.

4. Calculations and length.

a. Proportionately-spaced briefs. A principal brief shall not exceed 5,000 words and a reply brief or amicus brief shall not exceed 2,500 words.

b. Monotype or typewritten briefs or petitions. A principal brief prepared in a monospaced typeface shall not exceed 15 pages and a reply brief or amicus brief shall not exceed 7 pages.

5. Exclusions. The word and page limits of this rule do not include table of contents, table of citations, certificate of service, or any appendix containing statutes, rules, regulations, and other pertinent matters.

6. Exhibits and opinions. Attached exhibits shall also be excluded from the word count limits, but parties may not attach an entire deposition or set of responses to interrogatories when only a portion of the discovery document is referred to in a brief. Parties may not in any case attach a copy of an opinion that can be cited.

7. When responding to discovery or incorporating a document in support of a brief, motion, or pleading, parties may not attach a document already on file. The party shall refer to the document by name and its location in the file, e.g., "Exhibit 3, Complaint, Doc. 1," or, "Response to Plaintiff's Interrogatories, D.C. Doc. 22 at page 4, Interrogatory 6."

B. The Clerk will return documents not meeting the above requirements. Those seeking an exception must request it before attempting to file a document.

RULE 41 - SERVICE OF PROCESS AND PAPERS

A. Whenever personal service of a pleading is required, the party who caused the service to be performed shall immediately file the proof of service as soon as it is returned by the process server.

B. Whenever the Clerk is required to mail copies of documents to parties or counsel, the party who is making such service necessary shall furnish stamped envelopes to the Clerk, addressed to the parties who must be served.

RULE 42 - SCHEDULING AND CONTINUING HEARINGS ON MOTIONS

A. Whenever possible, opposing counsel should be contacted before a hearing on a motion is scheduled. If counsel cannot agree upon a hearing date, the hearing may be scheduled for Law and Motion two Mondays or more after the motion is filed.

B. Hearings on motions may be continued by the Court on its own initiative. The parties may stipulate to continue a hearing until a later Law and Motion date, or any party may file a written motion requesting a continuance. All such motions to continue must be in writing, set forth the reason for such continuance, and state whether or not the opposing party concurs with the continuance.

RULE 43 - SCHEDULING ORDERS AND TIME LIMITATIONS

A. After all Defendants have answered, the Court will enter a scheduling order setting forth the following deadlines:

1. The date for any responsive pleadings by any party.
2. The date by which witnesses (expert and non-expert) must be identified.
3. The deadline for completion of discovery.
4. The deadline for filing and arguing pretrial motions.
5. For domestic relation cases, the deadline for participating in a settlement conference or mediation conference.
6. The date for pre-trial conference.
7. For nonjury trials, the trial date.

B. Because of the way the Court schedules jury trials, extensions of intermediate deadlines frequently means the trial will need to be moved back to the next term.

C. When a jury trial has been demanded, the exact trial setting will be established at the pretrial conference. Counsel will be expected to advise the Court at the pretrial conference of the anticipated length of trial, any dates during the term when they will be unavailable, and whether any unique circumstances exist which require a priority trial setting or a date certain trial setting.

D. The Court may impose whatever time restrictions it deems appropriate according to the needs and circumstances of the particular case.

E. Civil jury trials are generally scheduled in five-day blocks. If a trial is anticipated to require more than five days to try, the parties should advise the Court of that fact as early in the proceedings as possible so a special block of time can be set aside for the trial.

RULE 44 - PRETRIAL CONFERENCE, PRETRIAL ORDER

A. Unless otherwise ordered by the Court, a pretrial conference shall be held in all contested civil cases.

B. The pretrial order is more than a mere formality. Failure to give adequate attention to the pretrial order can create problems, both at trial and in an appeal. Counsel are expected to comply with UDCR Rule 5.

RULE 45 - BRIEFS

A. All briefs shall be filed with the Clerk, who shall stamp the date of filing on the brief and deliver all briefs on the pending motion or issue to the Judge as soon as all answer and reply briefs have been filed or the time has expired for doing so.

B. Briefs shall be concise and to the point, but as thorough as the complexities of the issues demand. The form, length, and additions to briefs shall conform to Rule 40 (H).

C. Rambling, verbose, inflammatory, or unintelligible briefs or pleadings may be ordered stricken by the Court.

~ Rule Section ~ Rule Section ~ Rule Section ~ Rule Section ~ Rule Section ~ Rule Section ~ Rule Section ~ Rule Section ~ Rule Section ~

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D. The Clerk will return documents not meeting the above requirements. Those seeking an exception should request it before attempting to file a document.

RULE 46 - MOTIONS IN LIMINE

The deadline for filing motions in limine shall be governed by the Court's scheduling order as it applies to the filing of motions generally. When, however, counsel could not have anticipated the circumstances giving rise to such motion prior to the motion deadline, the Court will consider motions in limine at any stage of a trial.

RULE 47 - MEDIATION CONFERENCES

In all DR (domestic relations) cases, the Scheduling Order will contain a requirement that counsel and their clients attend a mediation conference, presided over by a third-party mediator, in an effort to settle the case without the necessity of a trial. In such cases, the following procedure shall be followed:

A. Counsel and their clients must attend in person and engage in a good faith effort to resolve the dispute. All parties necessary to effect a settlement shall attend.

B. The parties shall agree upon a mediator. If they are unable to do so, the Court will appoint one.

C. The mediator shall file a report with the Court within five days after the conference, advising the Court whether or not the parties cooperated in the mediation conference and whether or not a settlement was achieved.

D. Unless the Court orders otherwise, any expenses related to a mediation conference will be shared equally by the parties.

E. Nothing that is said or done at any conference may be used as evidence in any subsequent proceeding.

F. Failure to participate in a conference will result in the Court vacating any trial and rescheduling it after the mediation conference has been held.

RULE 48 - PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW AND JUDGEMENTS

In all matters in which the Court must enter Findings of Fact and Conclusions of Law, at least three business days prior to the scheduled trial or hearing, the parties shall file and serve proposed findings of fact and conclusions of law. Failure to file proposed findings of fact and conclusions of law in a timely manner shall be cause for appropriate sanction including removal of the case from trial calendar, dismissal or granting of a judgment, precluding the offending party from presenting evidence or objecting to evidence submitted by the other party, or such other action as the Court deems appropriate. See, DCR Rule 8. Leave to file post-trial amended and supplemental findings of fact and conclusions of law will not be freely granted.

When the parties possess the necessary equipment, they may file copies of proposed findings, orders, and judgments in digital form simultaneously with the filing and service of written documents, which must be submitted in any case. Such filing includes attaching a copy of the filed documents to electronic mail addressed to the Court, so long as a copy is simultaneously sent to the Court Administrator and to all adverse counsel or unrepresented parties. When counsel or an unrepresented party does not have the means to receive and send electronic mail, counsel may file and serve a digital copy of a proposed document with the Clerk of the Court with a compact disk or other electronic media that can be accessed, but may not use electronic mail.

Digital copies of documents must be created using Microsoft Word or a program that produces documents accessible by Word without formatting difficulties. The digital document, or a copy of it, must be subject to editing or modification by Word. Consequently, a document in Public Document Format that cannot be edited is not acceptable.

SECTION E. PRETRIAL AND POST-TRIAL PROCEEDINGS-- CRIMINAL

RULE 50 - GENERALLY

Whenever a Defendant is addressed by the Court or wishes to address the Court, he or she shall rise and speak or respond in an appropriately respectful manner.

RULE 51 - ARRAIGNMENTS

A. Prior to appearing in Court for an arraignment, a Defendant shall have reviewed the Information with his attorney. If the Defendant will be entering a plea of not guilty, he or she shall sign a document entitled, "Acknowledgment of Rights and Plea of Not Guilty." At the arraignment, the Court will determine if the information contained in the aforementioned document is true and correct, and if so, the Court will accept the plea and enter a scheduling order.

B. If a Defendant intends to enter a plea of guilty at his or her arraignment, the same procedure described above shall be followed, except the Defendant shall sign a document titled, "Acknowledgment of Rights, Waiver, and Plea of Guilty." If the Court accepts the Defendant's plea, the matter will be set for sentencing as discussed below.

C. If a Defendant has previously entered a plea of not guilty and wishes to change his or her plea, the Defendant shall sign a document entitled, "Acknowledgment of Rights, Waiver, and Change of Plea." If the Court accepts the Defendant's change of plea, the matter will be set for sentencing.

D. Before accepting a plea of guilty, the Court will require that the necessary elements of the offense are established by sworn testimony from the Defendant. It will be the Defendant's attorney's responsibility to elicit the testimony necessary to satisfy the Court that the elements of the crime have been satisfied. If the Court is not satisfied that the necessary elements of the offense have been established after questioning by Defendant's attorney, the Court may question the Defendant regarding the offense.

E. If the Court is not satisfied that the Defendant is guilty of the crime or is not entering the plea voluntarily, the plea will not be accepted, and the case will be set for trial.

RULE 52 - SCHEDULING ORDERS IN CRIMINAL CASES

If a Defendant pleads not guilty at the arraignment, the Court will enter a scheduling order setting forth the following deadlines:

1. A date for the completion of discovery.
2. Deadline by which motions are to be filed and noticed for hearing.
3. Omnibus hearing date.
4. Final Pretrial Conference date.

RULE 53 - OMNIBUS HEARINGS

A. In all criminal cases in which a not guilty plea has been entered, an omnibus hearing will be conducted at a date and time specified by the Court.

B. Prior to the omnibus hearing, counsel shall complete and sign an Omnibus Hearing Disclosure Statement, which shall be presented to the Judge or special master at the omnibus hearing.

C. The Defendant is required to be present at the omnibus hearing unless otherwise ordered by the Court.

RULE 54 - FINAL PRETRIAL CONFERENCE

A. A final pretrial conference will be held in all criminal cases that remain scheduled for trial after the omnibus hearing. The final trial calendar will be established after pretrial conferences have been conducted in all pending criminal cases to be scheduled for trial during that term.

B. The Defendant is required to be present at the final pretrial conference unless otherwise ordered by the Court.

RULE 55 - SENTENCING AND PLEA AGREEMENTS

A. In most cases where there has been a conviction or a plea of guilty, a presentence investigation will be ordered from the Adult Parole and Probation Office. A presentence investigation may be waived in extraordinary circumstances.

B. Plea Agreements, and the Court's acceptance of same, shall be governed by § 46-12-211, MCA.

SECTION F. TRIAL PROCEDURES

RULE 60 - SIX-PERSON JURIES

Pursuant to § 3-15-106, MCA, in all civil actions where the relief

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sought is less than \$10,000.00, and a jury trial has been demanded, the jury shall consist of six persons. In all other civil cases, the parties may stipulate to six person juries.

RULE 61 - PROPOSED JURY INSTRUCTIONS AND VERDICTS

A. Upon request, the Court will provide any pattern jury instruction from the MPI or MCJI pattern jury instruction books. When submitting proposed jury instructions, counsel shall, at the same time, indicate which pattern instructions, if any, they wish the Court to give.

B. All proposed jury instructions and verdict forms must be delivered to the Court in duplicate (an original and one copy), and a copy served upon all opposing parties, no later than five days prior to the scheduled trial. Thereafter, additional instructions may be allowed in the Court's discretion according to the needs of the case.

C. Instructions to the jury shall be on 8½" x 11" paper. Copies of the jury instructions (but not the original) must contain a citation of authorities at the bottom of the instruction as well as an indication of the party on whose behalf the instruction is requested, and the number of the proposed instruction.

D. Proposed verdict forms must be submitted by each party at the same time they submit their proposed jury instructions.

RULE 62 - NOTE TAKING BY JURORS

Jurors will be permitted to take notes unless the Court orders otherwise. No juror shall be required to take notes. Jurors' notes shall be taken in a notebook that can be closed, and the juror's numbers shall be placed on the outside cover of the notebook. Jurors' notebooks shall be collected by the bailiff at the end of each court day and returned to the jurors at the beginning of the next day. Jurors shall be allowed to have their notes during their deliberations.

RULE 63 - VOIR DIRE

A. The length of voir dire examination shall not exceed 90 minutes per side without prior leave of Court.

B. Except by permission of the Court, only one attorney for each party will be permitted to question the prospective jurors on voir dire.

C. The only proper purpose of voir dire is to select a panel which will fairly and impartially hear the evidence presented and render a just verdict. The Court will discourage counsel from:

1. Asking questions of an individual juror that are susceptible of being asked collectively.
2. Asking questions covered by and answered in the juror questionnaire.
3. Repeating questions that have been asked and answered.
4. Using voir dire for the purpose of attempting to instruct the jury on the law.
5. Using voir dire for the purpose of arguing the case.
6. Asking a juror what his/her verdict might be under any hypothetical situation, based upon expected evidence or otherwise.

RULE 64 - OPENING STATEMENTS

Counsel are reminded that opening statements are not the time to make arguments to the jury. The purpose of opening statements is to acquaint the jury with the facts as the attorneys believe the evidence will prove them to be.

RULE 65 - EXAMINATION OF WITNESSES

A. Except by permission of the Court, only one attorney on each side will be permitted to examine or cross-examine the same witness. Only the attorney who examines or cross-examines a witness will be permitted to object to questions put to that witness.

B. Objections shall be stated succinctly and without argument or discussion unless requested by the Court. Offers of proof must be made outside of the presence of the jury.

RULE 66 - DISCHARGE OF WITNESSES

A party who has subpoenaed a witness may discharge that witness before his testimony only by leave of the Court. If the adverse party desires such witness to remain, he must procure the witness's further attendance by subpoena or order of the Court and shall pay the witness's subsequent fees.

RULE 67 - CLOSING ARGUMENTS

The Court may limit the amount of time available for closing arguments according to the needs of the case. Plaintiff's final closing argument is for the purpose of rebutting the arguments of opposing counsel and may not be used to introduce new matters.

Counsel shall observe the following rules during closing arguments:

1. Counsel may not misstate the evidence or the law.
2. Counsel may not argue facts that are not in evidence.
3. Counsel may not state their personal belief as to the justice of their cause.
4. Counsel may not personally vouch for the credibility of any witness.
5. Counsel may not appeal to the passions or prejudices of the jury.
6. Counsel may not suggest the presence or absence of insurance.

SECTION G. DISSOLUTIONS

RULE 70 - OTHER RULES APPLICABLE, GENERALLY

A. Except as otherwise provided herein, the Court's procedural rules generally applicable to civil matters will also apply to dissolution actions.

B. Counsel are reminded that contested dissolution proceedings are emotional disputes, and if not handled with appropriate delicacy, they can leave permanent scars on litigants, and more important, on their children. In the heat of battle divorce clients may demand that their counsel take a position or employ a tactic that will work to the disadvantage of that client. Lawyers are expected to maintain client control and not pursue a "scorched earth" policy merely because their client is demanding such an approach.

RULE 71 - FINANCIAL AFFIDAVITS

A. In all dissolution actions in which child support or maintenance are issues, a financial affidavit must be completed and filed by the Petitioner at the time of filing the Petition or as soon thereafter as practicable. A copy of Petitioner's financial affidavit must be served upon the Respondent, who must in turn file a completed financial affidavit, with a copy to Petitioner, within 20 days thereafter. Financial affidavit forms may be obtained from the Clerk of Court.

B. After filing the required financial affidavits, counsel shall calculate the nonresidential parent's child support obligation in accordance with the Montana Child Support Guidelines and shall file a copy of a proposed interim child support order, together with a copy of the child support worksheet by which the child support figure was derived. If opposing counsel disagrees with the child support figure thus calculated, he or she may file his or her own child support worksheet and proposed interim child support order. It is important that adequate child support payments be commenced as soon as possible after a separation.

RULE 72 - TEMPORARY CHILD SUPPORT

A. The welfare of the parties' children is of paramount importance. Accordingly, parties will be expected to cooperate in making arrangements for the voluntary payment of temporary child support until a child support order can be entered.

B. If the parties are unable to agree upon the amount of temporary child support, the Court will entertain an emergency petition for a temporary child support order.

RULE 73-DOCUMENTS TO BE FILED IN DISSOLUTION CASES

A. Parties are reminded of the duty to file a preliminary disclosure of assets and liabilities pursuant to § 40-4-252, MCA, and to file a final disclosure no later than 45 days before the first assigned trial date pursuant to § 40-4-253, MCA.

B. A Proposed Parenting Plan, making provision for the items recited in § 40-4-234, MCA.

RULE 74 - PAYMENT OF CHILD SUPPORT

A. Except in cases where child support is paid through automatic withholding, child support payments must be mailed to the residential parent in care of the Clerk of Court at the following address:

~ Rule Section ~ Rule Section ~ Rule Section ~ Rule Section ~ Rule Section ~ Rule Section ~ Rule Section ~ Rule Section ~ Rule Section ~

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Clerk of District Court
Child Support Department
512 California Avenue
Libby, MT 59923

B. Child support payments shall be made payable to the residential parent.

C. Whenever a party is receiving AFDC or CSED services, counsel are reminded that § 40-5-201, MCA, et seq. contains provisions that should be reviewed with your client.

SECTION H: ATTORNEYS

RULE 80 - REPRESENTATION AND WITHDRAWAL

A. Attorneys not admitted to practice law in Montana will not be heard unless they associate with a licensed Montana attorney.

B. No attorney may withdraw from a case, civil or criminal, except with consent of the client or by leave of Court after notice served on the parties and opposing counsel. See § 37-61-404, MCA and UDCR Rule 10.

C. Until six months after the time for appeal from a final judgment or decree, unless earlier relieved, it shall be presumed that counsel of record continue to represent the parties. Thereafter, service upon a party must be accomplished in accordance with Rule 4(D) M.R.Civ.P., provided, however, that a courtesy copy of any pleading to be served upon a formerly represented party should be mailed to the party's last counsel of record.

RULE 81 - ATTORNEY FEES

Attorney fees should not be requested unless authorized by statute, case law, or contract. In such cases, the authority for requesting an award of attorney fees should be specified. When attorney fees are recoverable and are awarded, the following procedure shall be followed:

A. If an award of attorney fees is justified under the law and deemed appropriate by the Court, the Court will recite in its Judgment, Order, or Decree that attorney fees are awarded, and the party to whom attorney fees are awarded must file an affidavit in support of the requested fees within 10 days. If no such affidavit is filed within 10 days, or there is no request for additional time in which to file the affidavit (also within 10 days), the attorney fee award shall be deemed to be waived.

B. Within 10 days after service of the affidavit in support of the attorney fee claim, the opposing party may file a written objection, setting forth in detail the items to which there is an objection and the grounds therefor. If no objection is filed within 10 days, or there is no request for additional time in which to file same (also within 10 days), any objection to the claimed fee shall be deemed to be waived.

C. If a written objection to a claimed fee is filed within the time provided, the Court will review the claim and objection and determine whether it believes a hearing on the claim and objection is necessary. If the Court determines that no hearing is necessary, the Court will issue a ruling awarding fees in the amount it deems to be appropriate. The Court may schedule a hearing on attorney fees on its own initiative, and either party may request a hearing when they file their claim or objection, although the Court reserves the right to deny such request.

RULE 82 - COURT APPOINTED COUNSEL, COMPENSATION AND EXPENSES

Whenever it is necessary for the Court to appoint legal counsel outside of the indigent defense contract, the following rules shall apply:

A. Fees shall be billed at the rate of \$50 per hour, unless otherwise ordered by the Court.

B. Counsel shall maintain time records contemporaneous with the work performed, and at the end of each month, counsel shall submit a claim to the Court Administrator, detailing whatever work has been performed on behalf of the client during the preceding month.

C. Billing statements shall be rounded off to the nearest tenth of an hour.

D. Claims for legal work performed during the month of June must be submitted before June 25th, as that is the last date on which claims for the fiscal year can be processed. Claims submitted for a fiscal year after that date are not reimbursable by the State, and will therefore not be paid.

E. Any expense which exceeds \$100.00 requires prior approval from the Court.

RULE 83 - *Ex PARTE* MOTIONS AND CONTACT WITH THE COURT

Ex parte contact between the court and counsel or a party is governed by Rule 3, Uniform District Court Rules, Rules 3.3 and 3.5, Montana Rules of Professional Conduct, and Rule 210, 2008 Montana Code of Judicial Conduct. A court may contact counsel *ex parte* to direct counsel to prepare an order or other document but may not debate or discuss the merits of the document.

In domestic matters involving children, *ex parte* motions shall be considered when authorized by § 40-4-220, MCA, particularly § 40-4-220(2), which provides in part that “although a previous parenting plan has been ordered, an emergency situation has arisen in the child’s present environment that endangers the child’s physical, mental, or emotional health and an immediate change in the parenting plan is necessary to protect the child.” Counsel will note that the section requires a hearing within 20 days of an interim parenting plan created by an *ex parte* order.

The court will not grant an *ex parte* motion of any sort unless it is sanctioned by rule or statute and, where this condition may apply, involves an emergency in the strictest sense of the word.

Amended August 27, 2019