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# **MONTANA TWENTIETH JUDICIAL DISTRICT COURT RULES**

## **LAKE AND SANDERS COUNTIES**

**Revised & Effective September 30, 2024**

### **RULE 1 - APPLICATION OF RULES**

The Twentieth Judicial District is comprised of Lake County and Sanders County. Except where otherwise indicated, these rules apply to all cases filed in either County.

These rules supplement the Montana Rules of Civil Procedure and the Montana Uniform District Court Rules. All prior rules issued by the Twentieth Judicial District Court are rescinded, and these rules substituted therefor.

### **RULE 2 – LAW AND MOTION DAYS AND SCHEDULING**

#### **Dept. # 1 - Hon. Molly E. Owen**

<u>Lake County:</u>	Each Wednesday
9:00 a.m.	Criminal Matters
10:00 a.m.	Civil Matters
1:30 p.m.	Juvenile, and Child Neglect Matters
<u>Sanders County:</u>	2nd and 4th Tuesdays each month
10:00 a.m.	Criminal, Civil, Juvenile, and Child Neglect Matters

#### **Dept. # 2 - Hon. John A. Mercer**

<u>Lake County:</u>	Each Thursday
9:00 a.m.	Criminal Matters
10:00 a.m.	Civil Matters
1:30 p.m.	Juvenile, and Child Neglect Matters
<u>Sanders County:</u>	1st and 3rd Tuesdays each month
10:00 a.m.	Criminal, Civil, Juvenile and Child Neglect Matters

Involuntary Commitment matters (DI) will be held at days/times established pursuant to Montana code sections pertaining to such matters.

**Modifying Law and Motion Schedules.** Any department may issue special orders modifying the law and motion schedules as it relates to that department. All unopposed motions to either continue or vacate a hearing on the law and motion calendar must be filed with the Clerk of Court by Noon the day before law and motion. Failure to timely file such motions will result on the matter being listed on the final law and motion calendar and the parties are required to appear on the law and motion day.

### **RULE 3 – CHIEF JUDGE**

The position of Chief Judge shall be as follows: Department 1 is the Chief Judge in odd years. Department 2 is the Chief Judge in even years.

### **RULE 4 – ASSIGNMENT OF CASES**

All cases are randomly assigned between the two Departments. However, in the efficient administration of justice, the Judges of the Twentieth Judicial District direct the Clerk of Court's Office to check for names of related cases when accepting a new case for filing. If there is a related case, the new case shall be filed in the Department that has the related case.

Additionally, for dependency/neglect matters:

- a. Wednesday – Friday removals are assigned to Department 1
- b. Weekend and Monday – Tuesday removals are assigned to Department 2.

### **RULE 5 – PLEADINGS AND BRIEFS**

#### Length

Pleadings/briefs, except initial pleadings, in all cases shall be limited to 20 pages, not including attachments. Additional pages may be filed only with leave of the Court and with good cause showing. Serial motions filed for the purpose of evading the 20-page limitation may result in summary denial of all such motions.

Filings may alternatively be limited to 6,500 words (excluding the caption, signature block, certificates of service or compliance, any tables of contents or authorities, and any appendices or exhibits) if accompanied by a certification of compliance which states the word count and the document's line spacing and states either: (1) the document is proportionately spaced, together with the typeface and point size; or (2) the document uses a monospaced typeface, together with the number of characters per inch. A party may rely on the word count of the word processing system used to prepare the brief. The certification is not included in calculating the document's length.

#### Form of Briefs

Please refer to Montana Uniform District Court Rule 1, except that the font size shall be no smaller than 11 point. Any pleading filed in any action which does not conform to Rule 1 of the Montana Uniform District Court Rules shall not be filed by the Clerk and shall be returned to the party submitting it.

#### Motions

All motions filed, except for contested dispositive motions (e.g., motions to dismiss and summary judgment motions), shall include a proposed order which contains a cc: at the bottom of the Order which includes the full name of each attorney/party to be served. In Lake County, prior to the implementation of e-filing, motions with

proposed orders shall include copies and self-addressed, stamped envelopes for all parties of record unless other arrangements are made with the Clerk. Unless other arrangements are made with the Clerk, if self-addressed, stamped envelopes are not included, the Clerk of Court must reject the filing. All such motions filed via e-filing shall include a proposed order that is submitted in .doc, .docx, or .pdf format and that replaces the traditional signature block with the following: “ELECTRONICALLY SIGNED AND DATED BELOW.” When e-filing, the closest/actual name of the document being e-filed will be selected by the e-filer from the drop down list in all of the prompts.

#### Notice of Submittal

When any motion has been fully briefed and oral argument has been held (if requested or Ordered by the Court), the movant may advise the Court by filing and serving a “Notice of Submittal.”

#### Copies of Court Documents

When a Montana attorney is associating with an out-of-state attorney who is appearing *pro hac vice* on a Montana case, orders/notices from the District Court will be delivered to in-state counsel only, with few exceptions.

### **RULE 6 – SETTLEMENT CONFERENCES**

**Settlement Conferences Required.** Except as provided in §40-4-301 MCA, for each civil case, there will be two settlement conferences. The first is a lawyers resolution conference and the second is a master-supervised settlement conference, the date of both shall be provided for in the Scheduling Order.

**Lawyers’ Resolution Conference.** The lawyers’ resolution conference shall be held preferably in person, and if not via Zoom or teleconference, between all parties and/or their counsel (if represented) at a place mutually agreeable to the parties. If the parties cannot agree, the Court will direct the place and manner of the conference. Within ten days after the conference, the plaintiff/petitioner or counsel for plaintiff/petitioner shall submit to the Court a certification that the lawyers’ resolution conference was held and shall advise whether or not the case was settled.

**Master-Supervised Settlement Conference.** The master-supervised settlement conference may be held on the date set forth in the Scheduling Order, or at any time upon stipulation of the parties or order of the Court. Upon request, the Court may issue a separate order governing the scheduling of the master-supervised settlement conference, the choosing of the settlement master and payment therefore, if necessary.

Counsel who will try the case and all parties must attend in person if possible, however, video conferencing via Zoom or the like is permitted. Out-of-area corporations or insurance companies must have a representative present in person or via video conferencing or speaker phone, unless personal attendance is ordered by the Court upon a showing of good cause. All participants must have requisite settlement authority. The parties shall agree upon responsibility for payment of the fees charged by the settlement

master.

**Report of the Settlement Master.** Upon completion of the master-supervised settlement conference, the settlement master shall immediately contact the Judge's Judicial Assistant to advise that the case has settled so that any action on court hearings or pending motions can be vacated and within five days file a report of the conference and its result.

## **RULE 7 – SPECIFIC TRIAL/HEARING CONDUCT**

1. Unless otherwise ordered by the Court, plaintiffs/petitioners shall use numbers to identify their exhibits, and defendants/respondents shall use letters.
2. If a party is represented by more than one attorney, only one of the attorneys may question a specific witness.
3. If a party is represented by more than one attorney, and one of these attorneys objects to a line of questioning, then only that objecting attorney may cross-examine the witness.
4. Unless it is the attorney's own witness, attorneys must request permission of the Court to approach witnesses.
5. If a document is presented during trial/hearing, copies of the document must be presented to the Judge and to opposing counsel.
6. Jury trials shall normally be scheduled to begin on Monday mornings at 9:00 a.m. in Lake County and 9:30 a.m. in Sanders County.
7. Attorneys/clients shall not keep the Court waiting but shall appear at the scheduled time ready to proceed.
8. If attorneys appear by Zoom, the attorney(s) appearing remotely shall email any exhibits to opposing counsel and that Department's Judicial Assistant two working days in advance of the hearing to ensure receipt.

## **RULE 8 – COURT RECORDS**

### Withdrawal of Files or Papers

The Clerk shall not permit any files or documents to be removed from the office except for good cause shown. The Clerk should obtain a receipt from any party removing any file or Court record.

### Juvenile (Delinquent Youth and Youths in Need of Care), Adoption, and Sealed Matters

The records and files in juvenile and adoption actions and sealed files shall not be withdrawn, examined, or inspected by anyone except upon order of the Court. An exception would be in juvenile matters for the County Attorney, Youth Court Officer, Juvenile Probation Officer, the attorney for the juvenile, and the youth.

### Withdrawal Prohibited

No Will or undertaking shall be taken from the Clerk's office except upon order of the Court, no bond until it has been exonerated, and no judgment before it is recorded.

### Exhibits

Exhibits offered during trial may be withdrawn at any time after trial upon

stipulation of counsel. After a judgment has become final and appeal rights no longer exist, any party may withdraw any exhibit which that person has offered into evidence, unless some person has previously filed with the Clerk notice that said third person is entitled to the exhibits. Withdrawal shall then be permitted only on order of the Court.

If exhibits are not withdrawn within thirty days after the judgment has become final, the Clerk shall give ten days' notice to the party offering the exhibit of his/her intention to dispose of the same and may do so, if not then withdrawn, after obtaining a Court order to destroy the exhibit.

## **RULE 9 – CASH AND BAIL BONDS**

1. Whenever bail has been set by and furnished to a Justice of the Peace or Municipal Judge and the cause in which the bail was furnished is being transferred to the District Court, the following must be adhered to:
  - a. At the time the papers transferring the case to the District Court are filed with the Clerk of District Court, the bail must also be delivered to the Clerk of District Court. The amount and nature of the bail furnished must be endorsed upon the order whereby the Justice of the Peace or Judge transfers the case to the District Court;
  - b. If the bail furnished was cash bail, the Justice of the Peace or Municipal Judge must present a proper check, warrant or draft for the full amount of the bail. Upon receipt of the check, warrant or draft, the Clerk of District Court must issue a trust fund receipt and deliver it to the Justice of the Peace or the Municipal Judge;
  - c. If the bail furnished was a bail bond or other bail as permitted by 46-9-401, MCA, the Justice of the Peace or Municipal Judge must deliver the actual documents furnished as bail to the Clerk of District Court.
2. Whenever bail has been set by and furnished to a Justice of the Peace in an action wherein the District Court has the original trial jurisdiction and the County Attorney elects to proceed in District Court by filing a Motion for Leave to File an Information direct, the following procedure must be complied with:
  - a. The County Attorney must, contemporaneously with the filing of the motion in District Court, file a written request with the Justice of the Peace asking that the bail be transferred to the District Court;
  - b. The County Attorney must deliver to the Justice of the Peace a duplicate copy of such request;
  - c. The Justice of the Peace must forthwith endorse upon the original request and the duplicate copy the proper information regarding the nature of the bail and must forthwith transfer the bail to the District Court as provided in a. or b. above. The duplicate copy of the request must be filed with the Clerk of District Court.

## **RULE 10 – COURT SECURITY**

1. In any type of case where a party believes that a potentially violent situation might arise, that party, through counsel or *pro se*, shall notify the assigned Judge and court

bailiff sufficiently in advance so that appropriate security measures can be taken.

2. All persons are prohibited from possessing or carrying firearms or other weapons in any courtroom, the entire third floor of the County Courthouses, and in the Sanders County first floor Justice Courtroom while in session. This prohibition also extends to Youth Court Services in the Courthouse. This prohibition extends to all other persons, with or without a concealed carry permit, and whether the person is carrying the firearm or weapon in a concealed or open carry. The only exceptions to this prohibition are Court Security Officers, Sworn Law Enforcement Officers, and Officers of the Court.

#### **RULE 11 – DISMISSAL OF INACTIVE CASES**

In estate matters not closed pursuant to statute, the Court shall notify the attorney and personal representative of the expiration of two years from the filing of the estate matter. The Court may dismiss a Probate without prejudice two years after filing unless good cause is shown.

The Clerk of Court may close all causes of action without activity for two or more years unless a warrant is outstanding. The effect of this Order is administrative and/or ministerial and does not address the merits of any cause of action. The filing of any document shall automatically reactivate any given file which had previously been closed by this Order.

#### **RULE 12 – DOMESTIC PRE-TRIAL ORDERS & SUPPORT, & TOP/OP MATTERS**

In the event a party does not comply with any specific items required to be-produced, shared, and/or filed by the deadlines set forth in a Dissolution or Parenting Pre-Trial Order then the Court will rely on that party's original filing, or lack thereof, pertaining to such specific items.

Execution for Support Payments. The Clerk of Court shall not issue any execution for support or maintenance payments due under any decree of dissolution without prior approval of the Court. Executions will not be issued unless supported by an affidavit affirmatively showing that the parties have not entered into any arrangements not contemplated by the decree of dissolution, that they are not living together, that payments were required to have been made at the office of the Clerk of Court and that the payments are delinquent. Details of the delinquency must be specifically set forth therein.

Once Orders of Protection, including Temporary Orders of Protection, are filed they will immediately be delivered to County Dispatch by the Clerk of Court's office.

#### **RULE 13 – MEDIA & CELL PHONE GUIDELINES**

Within the spirit of the First Amendment, media coverage of trials and hearings shall

be permitted under the following guidelines:

CELL PHONES must be silent or on vibrate so that they do not disturb court proceedings. During jury trials, jurors are permitted to keep their cell phones for use when court is not in session but will be told/instructed not to use them to research matters concerning the trial issues on the Internet, and the Bailiff will take their cell phones from them when they go into deliberations.

TELEVISION & RADIO: Cameras are limited to local broadcast networks. They shall be located in a preselected position and operated by one camera person per camera. It will be the responsibility of each local broadcast network to pool their coverage with any affiliate. The television camera shall give no indication as to whether it is or is not operated. Unless there is prior court approval, audio shall not be recorded. All equipment must be in place at least 15 minutes before the start of the day's proceedings.

PRINT MEDIA: Members of the press are permitted to move in a nondisruptive manner in the Courtroom. No flash cameras will be permitted, and the cameras shall operate with no distracting noise.

JURY: The jury *voir dire* process shall not be televised or photographed. Jurors' faces shall not be filmed, photographed, or drawn.

ALLEGED VICTIM: No film, photographs, or drawings shall be taken of any alleged victims or the alleged victims' families.

INTERVIEWS: Until the conclusion of the trial, there will be absolutely no interviews of jurors or prospective jurors. At the conclusion of the trial, if, and only if a juror wishes to speak with a member of the press, that is permitted. With respect to witnesses, parties, or Officers of the Court (including attorneys), members of the press shall respect the wishes of the individual about his or her willingness to be interviewed.

DRESS CODE: Representatives of the media shall not be dressed in a manner which would set them apart from other spectators.

These provisions, other than the cell phone rule, apply to only members of the press. If a person is not a member of the press, they are prohibited from filming, photographing, recording, and/or drawing the proceedings.

## **RULE 14 – COURTROOM DECORUM**

The pursuit of justice is a serious undertaking and conduct during the litigation process, both within and outside the courtroom must, at all times, satisfy the appearance as well as the reality of fairness and equal treatment. Dignity, order, and decorum are indispensable to the proper administration of justice.

Counsel and the parties are expected to dress in a manner that reflects the seriousness of judicial proceedings. Counsel are responsible to advise their clients accordingly well before the day of Court. Individuals appearing in court, including via Zoom, or in a Judge's office or chambers shall conduct themselves in a manner befitting the dignity of

the court. Cellphones shall be silenced.

General Courtroom Conduct:

1. Always be prompt.
2. Stand when the Judge enters or leaves the courtroom.
3. Do not interrupt the Court or opposing counsel. Wait your turn.
4. Advise clients and witnesses of the formalities of the Court, the appropriate guidelines, and any rulings on motions *in limine*.
5. Counsel may be asked to stand when addressing the Court or making objections.

## **RULE 15 – COMMUNICATIONS WITH THE COURT**

1. The Court will not receive letters or other communication from counsel or parties that do not indicate on their face that copies have been sent to opposing counsel.
2. There will be no *ex parte* discussion with the Court of substantive issues involved in pending or anticipated cases without the presence of or notice to all opposing counsel, or without prior approval or stipulation by such counsel. A violation of this rule may result in sanctions against the offending party or attorney.
3. The same prohibition against *ex parte* contact with the judge applies to the Judge's staff. Court staff may not offer legal advice. This does not prohibit Court staff from fielding calls and visits as they may deem appropriate to assist a *pro se* party in understanding the Court's procedures.
4. Communication to the Judge will go through their Judicial Assistant or Law Clerk (eg. visit, email, or telephone call). Direct emails or telephone calls to the Judge are prohibited, unless you are responding to the Judge who emailed or telephoned you directly.

## **RULE 16 – OFFICIAL RECORD OF COURT PROCEEDINGS**

In proceedings before the Twentieth Judicial District Judges, official court reporters or monitors are responsible for taking the official record. No one may record any such proceeding without the prior approval of the assigned Judge. Court reporter transcripts submitted to the Clerk of Court are ordered filed under seal with the Clerk of Court without further order of the Court. Any complete transcripts filed as an exhibit to a brief, affidavit, or any other pleading is also filed under seal at the time of filing with the Clerk of Court.

Official court transcripts may not be attached to briefing filed by any party without prior authorization from the court reporter. Refer to MCA 3-5-604 regarding payment and copies of court transcripts.

## **RULE 17 – ABSENCE OR DISABILITY OF JUDGE**

The work of the District Court shall be interchangeable between the Judges during the absence or disability of either of them or upon the request of any Judge. During the absence of any Judge, the Judge present and presiding may enter orders and make disposition,



temporary or final, of any case or matter pending before the absent Judge. However, when any order is made for a hearing to be had thereafter, the Judge present and presiding shall make the order returnable before the assigned Judge. Thereafter, it shall be the duty of counsel or *pro se* litigant to consult with the assigned Judge to either confirm or reset the hearing date fixed.

## **RULE 18 – PLEA AGREEMENTS**

1. Financial obligations and other conditions agreed upon in a Plea Agreement constitute a contract and will not be waived by the Court. Parties, however, can agree to expressly reserve the right in a Plea Agreement to leave the issue of waiving specific fees or all fees for determination by the Court at Sentencing.
2. If a case is eligible for waiver of the Pre-Sentence Investigation, and the parties agree to seek waiver and go directly to sentencing at Change of Plea, the parties must inform the Court of that intent by providing the Judicial Assistant, via email, a copy of the Plea Agreement (in Word format) setting forth such requested waiver, or other notice of a desire to waive, no later than 24 hours prior to sentencing.

## **RULE 19 – LEAVE TO FILE INFORMATION**

In a criminal proceeding the Order for Leave to File an Information must be signed and filed within 10 days for defendants in custody and within 30 days for defendants not in custody.

## **RULE 20 – ZOOM POLICY**

Attorneys, parties, witnesses, and spectators may attend District Court proceedings in person, to the extent space is available, or remotely by Zoom. No prior permission is necessary to attend remotely, except for all trials, sentencing, pretrial conferences, or if appearing on a warrant. Prior permission is required for attorneys, parties, and witnesses for trials.

Zoom guests are expected to have practiced connecting at least 24 hours in advance of their hearing, before or after Court hours.

Zoom guests must identify themselves by first and last name, as well as organization they represent if applicable [i.e. John Doe (Probation & Parole); Jane Doe (CASA), etc.]. Zoom guests listed only by nicknames, phone numbers, or State ID numbers, etc. will be placed in the Zoom Waiting Room and will not be able to view or hear the court proceeding until they list their full name, etc. It is the responsibility of the attorneys to advise their staff, clients, and witnesses accordingly, well before the day of court. During their hearing, any person not speaking shall mute their device. Video shall be turned off until your case is called. Keep in mind you are appearing in Court, even if remotely. So, you should dress and act accordingly. Do not walk around, lie in bed, wear a hat, or eat when appearing by Zoom and your video is on.

No recording, broadcasting, or videoing court proceedings is permitted, whether attending in person or remotely, without Court Order. Photography is permitted without Court Order, however, no photography is permitted of the jury, jury panel, victims, or victims' families.

Any further technical questions can be addressed by calling State ZOOM Technical Support at (406) 444-2000.

**Judge MOLLY OWEN, Department 1 ZOOM Instructions**  
**20<sup>th</sup> Judicial District Court – Lake & Sanders Counties, Montana**

Choose the method that works best for you. However, if you are an attorney or party to the case or a testifying witness, you must appear by Zoom Meeting with a camera view:

**Option A) Join ZOOM Meeting**

<https://mt-gov.zoom.us/j/96595612483?pwd=Tk1MbWw1c3hiT0RabUZka3V4ZlQ3UT09>

Meeting ID: 965 9561 2483

Password: 456211

**Option B) Dial by Telephone**

+1 646 558 8656 or +1 406 444 9999

Meeting ID: 965 9561 2483

Password: 456211

Find your local number: <https://mt-gov.zoom.us/j/96595612483?pwd=Tk1MbWw1c3hiT0RabUZka3V4ZlQ3UT09>

**Judge JOHN A. MERCER, Department 2 ZOOM Instructions**  
**20<sup>th</sup> Judicial District Court – Lake & Sanders Counties, Montana**

Choose the method that works best for you:

**Option A) Join ZOOM Meeting**

<https://mt-gov.zoom.us/j/88643491598?pwd=VDlXbWlyRm9YTmI0ZHBGNmFjQVAvUT09>

Meeting ID: 886 4349 1598

Password: 406406

**Option B) Dial by Telephone**

+1 646 558 8656 or +1 406 444 9999

Meeting ID: 886 4349 1598

Password: 406406

Find your local number: <https://mt-gov.zoom.us/j/adXzWvnBDE>

## **RULE 21 – *PRO SE* PARTIES**

All motions filed by *pro se* parties, except for contested dispositive motions (e.g., motions to dismiss and summary judgment motions), shall include a proposed order which contains a cc: at the bottom of the Order which includes the full name of each attorney/party to be served. All motions with proposed orders shall include copies of the proposed Order and self-addressed, stamped envelopes for all parties of record unless other arrangements are made with the Clerk. Unless other arrangements are made with the Clerk, if self-addressed, stamped envelopes are not included, the Clerk of Court must reject the filing.

*Pro Se* parties must provide proof of service on all documents filed with the Court. Other than documents that require personal service after filing, the Clerk shall reject any filing that does not include on the documents itself or a document filed with it, proof of service on the other parties in the matter.

### *Pro Se* Communication with the Court:

1. The Court will not receive letters or other communication from parties that do not indicate on their face that copies have been sent to counsel/parties in the matter.
2. There will be no *ex parte* discussion with the Court of substantive issues involved in pending or anticipated cases without the presence of or notice to all opposing counsel/parties, or without prior approval or stipulation. A violation of this rule may result in sanctions against the offending party.
3. The same prohibition against *ex parte* contact with the judge applies to the Judge's staff. Court staff may not offer legal advice. This does not prohibit Court staff from fielding calls and visits as they may deem appropriate to assist a *pro se* party in understanding the Court's procedures.
4. Communication to the Judge will go through their Judicial Assistant or Law Clerk (eg. visit, email, or telephone call). Direct emails or telephone calls to the Judge are prohibited, unless you are responding to the Judge who emailed or telephoned you directly.

**ORDERED** THIS 30<sup>th</sup> day of August, 2024.

/s/ **Molly Owen**

Molly Owen

District Judge, Department 1

/s/ **John A. Mercer**

John A. Mercer

District Judge, Department 2