

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

1/5

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

G. Incarcerated Defendants. A criminal defendant who is incarcerated may appear electronically. Parties seeking the personal appearance of the inmate at a hearing shall specifically request the personal appearance sufficiently in advance of the scheduled hearing to allow the Sheriff's Office to arrange for the inmate's physical presence. The party requesting an inmate's personal appearance bears the responsibility to notify the correctional facility and request transport if necessary. If the correctional facility declines to transport, the requesting party may seek an order for transport from the court.

H. **Untimely Motions for Electronic Appearance.** A party who files an untimely motion for an electronic appearance, without good cause, which results in a continuance, may be sanctioned to pay the costs of each opposing party's appearance.

1. **Special Request for Electronic Appearance.** A party/counsel requesting the use of Court equipment for electronic appearance for hearings or meetings other than Seventh Judicial District Court business shall make proper reservations for such use through the Judicial Assistant/ Court Reporter. The party/counsel shall report to the Judicial Assistant/ Court Reporter upon arriving for the electronic session and will be directed to the appropriate location for use of the equipment. Charges for the use of Court equipment may be assessed if cost is associated with connection.

J. **Electronic Appearance Guidelines.** Each party/counsel appearing electronically means shall follow the following guidelines:

a. The person arranging to use JVN for an appearance shall provide the Court's staff (i.e., Judicial Assistant or Court Reporter) with a telephone number at which the person may be reached in case of issues or problems with the electronic connection.

b. Each person appearing electronically must log in at least 5 minutes in advance of the scheduled matter and mute his or her microphone until the matter is called and the person is required to speak.

c. All risk of equipment failure shall be borne by the party whose witnesses are appearing electronically.

d. The Court record of the statements of those appearing electronically is sometimes incomplete because of audio glitches. If an accurate, complete record is important, personal appearance is recommended.

e. A party who wishes to present documentary evidence shall provide hard copies of that evidence to the Clerk of Court at least one day before the matter is heard. Last-minute emails and faxes are not acceptable.

RULE 4 - FILINGS, PLEADINGS, MOTIONS AND STIPULATIONS

A. Filing with Clerk of Court. Counsel shall file all motions and briefs with the Clerk of Court and the Clerk of Court shall present the filing to the Judge. A party who obtains an Order or Arrest Warrant directly from the Court shall present it to the Clerk of Court immediately for filing. An email to the Judge or Judicial Assistant does not constitute "filing" a document with the Clerk of Court. If a filing fee is required, counsel shall pay the required filing fee at the time of filing, or as otherwise arranged by the Clerk of Court. The Clerk of Court should not file, and the Court may strike, any papers presented for filing which do not conform to Montana Uniform District Court Rules (MUDCR) 1 and Rules 10 and 11 of the M. R. Civ. P.

When filing additional copies to be conformed, with self-addressed and stamped envelopes, such filings shall be made to the Clerk of Court and not the Judge's Office, especially when the Judge is from another district.

B. **Motions & Briefs in General.** Briefs shall be concise and to the point, but as thorough as the complexities of the issues demand. The Court may strike rambling, verbose, inflammatory, or unintelligible briefs or pleadings. The Clerk will return documents not meeting the above requirements. Those seeking an exception should request it before attempting to file a document.

In any heading or caption, each party shall indicate when the next action is due (i.e. when filing a motion, the party shall indicate when the answer brief is due; when filing the answer, the answering party shall indicate when the reply brief is due).

No party shall file attachments to pleadings that are full copies of documents that are filed earlier in the case or documents that are already part of the court record.

When requesting a hearing in any Motion, counsel filing the motion shall indicate the availability, or unavailability, of him/herself and of opposing counsel.

C. Proposed Orders & Position of Adverse Party. Each party filing a Motion shall submit a proposed Order and indicate the position of the adverse party. All proposed Orders shall omit the submitting counsel's name and address from the top left-hand corner. The Court will not act on Motions filed without proposed Orders.

D. **Shortened Briefing Schedule.** If a party submits a motion at a time that does not allow a full briefing schedule, the party filing the motion shall request a shortened briefing schedule and indicate the adverse party's position about a shortened briefing schedule.

E. **Reminder to Court.** In matters pending or taken under advisement including, but not limited to, a motion or decision in a bench trial, parties may, and are encouraged, following any period as allowed for briefing and/or additional filing, to send the Court a reminder letter containing only a brief description of the matter needing attention and the date it was fully submitted or taken under advisement.

F. **Discovery Documents Not Permitted.** Except as provided in the MUDCR Rule 4, no discovery documents may be filed with the Clerk of District Court without prior leave of Court. Upon receipt of a deposition pursuant to MUDCR 4, after the Court grants leave, the Clerk shall file it in the Court file, unless otherwise ordered. If the Court orders filing of discovery documents, the Clerk shall receive those documents, note upon the register of the action and place them in a separate Court file, with file number noted. After final judgment and expiration of the time for appeal, the Clerk shall notify counsel to retrieve filed discovery documents within thirty (30) days. If counsel fails to retrieve the discovery documents, the Clerk may destroy them without any further notice.

G. **Jury Demand.** When a party demands a jury trial in a pleading, the party must indicate the jury demand on the title as well as in the body of the pleading.

H. No stapling. To facilitate scanning into the Full Court case management system, parties shall not staple documents filed with the Clerk of Court.

I. Subpoenas. When counsel wishes to have only one subpoena issued, he or she shall deliver one original subpoena and one copy of the subpoena to the Clerk of Court for issuance. When counsel wishes to have more than one subpoena issued, he or she shall present one original subpoena for each person or entity to be served and one praecipe listing the name of each person or entity for whom or which a subpoena is to be issued.

J. Time of filing. All briefs required by rule, regulation, or Court order must be filed before 5:00 p.m. on the required date. Each request for an extension of time shall be filed and served prior to the filing deadline. The Court may strike briefs not filed in a timely manner and impose other appropriate sanctions. Individual briefs may not exceed 25 pages in length, exclusive of indexes and appendices, except with leave of the Court.

K. **Form of Citation.** Parties shall comply with the most recent uniform system of citation.

L. Stipulations. In any case, the Court will not consider for any purpose any stipulation between the parties unless the stipulation is made either in open court on the record or in writing and subscribed by either the party against whom the stipulation is sought to be enforced or that party's counsel.

RULE 5 - FACSIMILE AND ELECTRONIC TRANSMISSIONS

A. **Filing and Effective Time of Filing.** A party may file a document by mail, telefax, or electronic transmission, subject to the provisions of this Rule and the Montana Rules of Civil Procedure. For filing purposes, if documents are transmitted electronically after 5:00 p.m., the date and time of filing shall be the next business day.

B. **Signatures Required.** The Clerk of Court shall not file a document that does not show necessary signatures. An attorney's stamped or electronically-generated signature shall be deemed an original signature for court-filed documents. A party submitting a telefaxed or electronically-submitted document shall, on the date of transmission, mail the document bearing the original signature to the Clerk of Court by first-class mail; and the Clerk should receive it within five days, or the telefaxed or electronically-

submitted document is subject to being stricken from the file. Simply signing /S/ on a signature line does not constitute an electronic signature.

C. Format of Filing. The required format for electronically submitted documents other than proposed orders is PDF. The required format for electronically-submitted proposed orders is Microsoft Word.

D. Electronic Copies from Clerk. To promote the electronic storage and exchange of documents and reduce redundant scanning of documents produced by the Court, the Clerk of Court may distribute copies of Court Orders and Minute Entries by email rather than by hard copy. Attorneys shall provide to the Clerk of Court's office each email address to which the Clerk is to email copies of Orders or Minute Entries.

E. Consent to Receive Electronic Documents. An attorney or *pro se* litigant who has filed documents or communicated with the Clerk electronically in this Judicial District is deemed to have provided written consent to receive documents from the Clerk electronically. 5(b)(2)(E) Mont R. Civ P.

A. Calendar is a Courtesy. The calendar the Clerk of Court provides is a courtesy to the parties. The Clerk of Court may, but is not required to, provide a courtesy calendar before 5 p.m. the day before the scheduled matter. Court Orders, not the Clerk of Court's courtesy calendar, control whether and when a matter will be heard. The Court may hear matters in a different order than listed on the Clerk of Court's courtesy calendar.

B. Deadline for Putting Matter on Calendar. Except in a legitimate emergency, a party shall ask the Court's Judicial Assistant to add a matter to the calendar by noon the day before any scheduled hearing. Such a request should be copied to the Clerk of Court. The party seeking to add a case to the calendar must submit a proposed order to set the matter, as requested, for hearing.

A. Court to Begin on Time. Barring unforeseen circumstance, Court will start on time. Counsel and the parties are expected to be prompt and present at the time scheduled for the hearing.

B. Dress. Counsel, counsel's staff, and the parties shall dress in a manner that reflects the seriousness of judicial proceedings. Counsel will dress professionally. No person, including attorneys, will be permitted to appear in Court in denim jeans, shorts, sleeveless tops, torn or dirty clothing; clothing that bears violent, racist, sexist, drug- or alcohol-related themes; clothing that promotes or advertises alcohol or drug use; or gang colors, gang clothing, sunglasses, bandanas, or hats. It is counsel's duty to advise each client, witness, and staff member what dress is inappropriate and to alert the client that he or she may be asked to change clothes, reappear, or potentially be sanctioned.

C. Conduct. Unless otherwise directed, counsel and parties shall stand when the Judge enters and leaves the Courtroom. All persons shall stand when addressing the Court for any reason unless otherwise directed. Counsel may not interrupt the Judge or opposing counsel and shall always conduct themselves befitting the dignity of the Court and judicial process.

D. Food & Drink. Except as previously arranged with the Court, no one shall bring food into the courtroom. Non-alcoholic liquid drinks are permitted so long as they are in suitable containers (no pop cans/bottles). No party, witness, attorney, or staff member shall chew gum during Court appearances.

E. Cellular Devices. All cellular phones or like devices will be turned off in the courtroom. Counsel is permitted to utilize computers or similar devices at Counsel table so long as the items are silenced and used only for scheduling or addressing an issue in the case presently before the court. A person may *never* use an electronic device from inside the courtroom to transmit information about anything being said or testimony being presented to someone who is outside the courtroom. Texting while in the courtroom and posting to social media while in the courtroom is not permitted.

F. Violent Situations. Potentially violent situations may arise. It is the duty of each party/counsel to advise the Court, through the assigned Judge's Judicial Assistant, sufficiently in advance of any hearing that

J. Removal. Parties or other persons in the courtroom while the Court is in session may be subject to removal for behavior or actions considered disruptive, threatening, violent, or inappropriate.

B. No person may, other than the Judge or Judge's staff, take any document from the Clerk of Court's office under any circumstances, before it is scanned into Full Court.

B. Jury Costs. If the parties fail to notify the Court and Clerk of Court that a matter will not proceed to trial and a jury is called, either or both parties may be assessed the cost of calling the jury (\$200). The Court will determine the allocation of costs under this section. If the parties indicate at the Status/Jury Confirmation hearing that the case will proceed to trial, the Clerk of Court will call a jury directly following the hearing.

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

C. Exhibits. Counsel shall make reasonable effort to pre-label all exhibits to be used at trial. In making trial exhibits, plaintiffs shall use numbers and defendants shall use letters. Multiple plaintiffs should use a different initial before numbering each exhibit, and multiple defendants should use a different initial before lettering each exhibit. Copies of all standard-size exhibits shall be made in advance for the judge, witness, and opposing counsel.

D. Jury Instructions. Counsel for the parties will exchange jury instructions pursuant to the schedule set by the Court. 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. Copies of the jury instructions must contain a citation of authority at the bottom of the instructions as well as an indication of the party on whose behalf the instruction is requested, and the number of the proposed instruction. The original jury instructions will omit the authority, the party on whose behalf the instruction is requested and the number of the proposed instruction.

E. Trial Briefs. Trial briefs will be submitted as required in the pretrial order, or prior to the first day of trial.

F. Character Witnesses. Not more than three witnesses for each side will be allowed to testify as to character in any case, civil or criminal, without prior permission of the Court.

RULE 10 - CRIMINAL MATTERS

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

B. **Guilty Plea.** If a Defendant intends to enter a plea of guilty at his/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.

C. **Plea Offer Notification.** The State shall file notice when it offers the Defendant a resolution short of trial, specifying the date on which it extended the offer. The defendant's attorney or *pro se* defendant shall file notice that the State's offer was communicated to the defendant.

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

E. Alford Plea. Counsel who intend to proffer an *Alford* plea under Sec. 46-12-212(2), MCA, must present, in writing, the reasons (mental state in question, intoxication, or otherwise) for which the Defendant is entering the plea and the State is willing to accept it. The Defendant must acknowledge, in writing, that the Defendant has reviewed the evidence against him/her; that the record contains strong evidence of guilt; and that he/she understands that he/she will be deemed guilty of each offense to which he/she enters an *Alford* plea.

F. Sentencing. Prior to sentencing, the State shall provide to the Judicial Assistant a proposed Judgment in Word format that conforms to the applicable plea agreement.

RULE 11 - HEARINGS AND TRIAL PRACTICE

A. Appearance for Negotiation Prior to Hearing. Prior to any contested hearing, especially those in Youth in Need of Care cases, counsel and the parties will be available in, or adjacent to, the Courtroom at least 30 minutes before the hearing to discuss settlement. If the parties settle any issues, counsel must inform the Court of the settlement prior to presenting any evidence, testimony or argument. In Youth in Need of Care cases, counsel for the State shall facilitate this pre-hearing meeting.

B. **Attorney's Duty.** It is counsel's duty to advise each client or witness to speak up when testifying so that the record may accurately reflect what was said in the hearing. Attorneys have the sole responsibility of advising their clients and witnesses of appropriate dress. Attorneys will keep themselves, their parties, and their witnesses apart from the jury at all times and will instruct their parties and witnesses to not discuss their testimony with waiting witnesses. Counsel shall not obstruct the

jury view, or court view, of the witness.

C. Examination of Witnesses. During trial or any hearing before the Court, only one attorney for each party shall examine or cross-examine the same witness. Only the attorney who objects to a line of questioning may cross-examine the witness. On cross-examination of any witness or direct examination of a hostile witness, counsel shall not approach the witness without first obtaining permission of the court.

D. **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 (or names) 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.

E. Dispositional and Sentencing Hearings. The State will arrange to have a probation officer available to testify at each dispositional or sentencing hearing.

RULE 12 - TRANSCRIPTS

A. **Request for Transcript.** In the case of an appeal, a party must make a written request to the court reporter for a transcript of the proceedings and make satisfactory arrangements to pay the estimated fees to obtain the transcript.

B. **Filing of Request.** The request for transcript must be filed in the court file and served upon opposing party. Except for good cause shown, no extension of the time allowed by statute in which to prepare a transcript will be granted.

RULE 13 - MEDIATION

A. Participants with Ultimate Settlement Authority. When the Court orders mediation, each party shall have a person with ultimate settlement authority attend the mediation in person and participate in the mediation in good faith. If the person who has ultimate settlement authority is a party, then the party shall *personally* appear at the mediation.

B. Participants allowed to Attend. During the mediation session, only the party and the party's attorney or the party appearing *pro se* and a person with ultimate settlement authority, who is not a party, may attend the mediation session. No member of a party's family or any other person may attend mediation unless all parties agree to the attendance of another person.

C. **Payment Required.** Parties attending mediation will provide proof to the court that financial obligations of mediation have been satisfied before the Court will issue an Order or the Clerk will issue a Final Decree or Judgment.

RULE 14 - DISMISSAL OF INACTIVE CASES

A. Civil Cases. When no proceedings have been undertaken in any civil cause for a period of one year, the action may be dismissed with or without prejudice by the Court on its own motion after the giving of a twenty (20) day notice of such intended dismissal, unless good cause is shown.

B. Probate Cases. In estate matters not closed pursuant to statute, the Clerk shall notify the attorney of record ninety (90) days before the expiration of two years from the opening filing of the estate matter.

C. Reinstatement. Cases and parts of cases closed for lack of prosecution shall be reinstated only by court order to reinstate upon agreement of the parties or good cause shown. If an order to reinstate is not entered, no judicial action will be taken in the case or part thereof.

RULE 15 - ATTORNEY'S FEES

A. When Fees May Be Requested. Attorney's 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.

B. **Affidavit Required.** Upon a final decision on the merits or other appropriate time, a party seeking an award of attorney's fees shall file and serve an affidavit itemizing the claim. Within fourteen (14) days thereafter allowing three (3) additional days for mailing, the opposing party shall file any objection. The Court will docket the matter for hearing. In a contested proceeding, receipt of evidence pertaining to attorney's fees may be deferred until the final decision or order on the merits of the case has been issued.

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

RULE 16 - APPEALS FROM JUSTICE OR CITY COURT

A. **Scheduling.** When an appeal from Justice or City Court, civil or criminal, has been filed and the record received by the Clerk of Court, the Clerk shall present the record to the Judicial Assistant for scheduling. This provision does not apply to appeals on the record from Small Claims Court.

B. **Failure to Appear.** In any appeal from Justice or City Court, if one or both of the parties does not appear for scheduling, the Court may dispose of the matter as the ends of justice dictate, including issuance of an order dismissing the appeal.

RULE 17 - DOMESTIC ACTIONS

A. **Child Support Guidelines.** As long as application of uniform child support guidelines is required by Montana Code Annotated, parties seeking a child support determination must complete and file a guidelines worksheet and a financial affidavit, in accepted form. In non-contested cases, these documents must be filed as required by Sec. 46-30-1515 Administrative Rules of Montana. In contested cases, these documents must be offered into evidence as exhibits.

B. **Support Variance.** A party seeking support variance from the support guidelines or withholding requirements must furnish written proposed findings addressing their contention the variance is supported by clear and convincing evidence.

Notice to Child Support Enforcement Division. Any petition filed to commence proceedings involving modification of child support shall include a statement whether the requesting party has knowledge of the child's receiving or applying for public assistance and if so, petitioner shall immediately notify Montana's Child Support Enforcement Division and the State Attorney General's Office, in writing of the pending action and file proof of such notice with the Clerk of Court.

Last updated October 2020

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