

RULE 1: SCOPE

These Rules govern the procedure in the District Court of the Eighth Judicial District of the State of Montana. They shall be construed to secure the just, speedy and inexpensive determination of every action.

These Rules supplement the Montana Rules of Civil Procedure (M.R.Civ.P.), Uniform District Court Rules (U.Dist.Ct.R.), statutes related to Criminal Procedure and other applicable provisions of the Montana Code Annotated (MCA). All prior Rules issued by the Eighth Judicial District are superseded. In the event any Rule adopted herein is in conflict with the M.R.Civ.P., U.Dist.Ct.R., any statute or provision of the MCA, such authorities shall control.

RULE 2: DEPARTMENTS OF THE DISTRICT COURT

The District Court of the Eighth Judicial District of the State of Montana is divided into four departments:

- Department A – presided over by Judge Greg Pinski
- Department B – presided over by Judge Elizabeth Best
- Department C – presided over by Judge John Kutzman
- Department D – presided over by Judge John W. Parker

The position of Chief Judge is assumed for a calendar year by each presiding judge in the years set forth below and continuing in the same order thereafter:

- Department A – 2019
- Department B – 2020
- Department C – 2021
- Department D – 2022

The District Court Judges shall meet monthly at a regular time and place designated by the Chief Judge and at such other times as they shall agree. Decisions of the District Court regarding procedural and administrative matters are made by unanimous vote of the District Judges.

All four judges shall serve simultaneously as Youth Court Judges. The Chief Judge shall serve as Chief Youth Court Judge.

RULE 3: DIVISION OF BUSINESS

All matters filed shall be allocated among the four departments in random rotation. Depending upon the department in which the case is filed, the case designation shall

begin with the letter “A”, “B”, “C”, or “D”. If jurisdiction passes to another judge in the District, that judge’s department designation shall be included after the last number of the cause designation in parenthesis as either “(a)”, “(b)”, “(c)”, or “(d)”. Trials and hearings on contested matters shall be before the judge of the department having jurisdiction.

Pursuant to §§ 3-1-803, -804, -805, MCA, the first district judge substituted or disqualified shall call in later judges by first attempting to call in another judge of the Eighth Judicial District prior to calling in a judge from another district.

RULE 4: FILING OF PLEADINGS AND OTHER PAPERS

A. Civil Rules Applicable: Any pleadings filed in a civil action not conforming to Rule 10 or 11 of the Montana Rules of Civil Procedure may be stricken by the Court on motion or on its own initiative.

B. Form of Filings and Headings: Documents should be firmly bound with holes punched at the top for placement in the Court file. Any statutory filing fee must accompany the documents or they will not be filed. All filings in all action must conform to Rule 1, U.Dist.Ct.R., or the Clerk shall not file it and shall return it to the party submitting it. A nonconforming filing may be stricken by the Court.

The first page of any filing, in the upper left corner of the document, single-spaced, shall identify the name of the attorney or party responsible for the filing, together with complete mailing address, telephone number, and email address.

C. Necessary Copies Presented: When the Clerk is required to provide copies, parties must furnish all necessary copies of the document filed, to enable the Clerk to provide conformed copies. Pre-addressed, stamped envelopes, for all parties of record shall also be provided.

D. When Leave of Court Required: When leave of Court is required before a pleading can be filed, the party must file and serve a motion. An original of the pleading shall be attached to the motion. This rule does not apply to filing an Information in a criminal case.

RULE 5: COURT RECORDS

A. Withdrawal of Files or Papers. The Clerk shall not permit files or documents to be removed from the office without a court order. The Clerk shall obtain a receipt from any party removing any court record.

B. Confidential Records and Files. The following records and files shall not be withdrawn, examined, or inspected by anyone except upon court order or except as provided by statute:

- (1) Youth in need of care proceedings, exception at § 41-3-205(2), MCA;
- (2) Involuntary commitment proceedings, exception at § 53-21-103, MCA;
- (3) Formal youth court records once the records are sealed under § 41-5-216(1), MCA;
- (4) Informal youth court records once the records are sealed under § 41-5-216(7), MCA;
- (5) Conciliation court proceedings, exception at § 40-3-116, MCA;
- (6) Parentage proceedings, exception at § 40-6-120, MCA;
- (7) Adoption proceedings, exception at § 42-6-101, MCA;
- (8) Proceedings regarding the abuse or neglect of elderly persons and persons with developmental disabilities, exception at § 52-3-813, MCA;
- (9) Proceedings under parental notice of abortion act;
- (10) Guardianship and conservatorship proceedings if protected persons or counsel requests closure of proceedings, § 72-5-315(4), MCA;
- (11) Grand jury proceedings, exception at § 46-11-317, MCA; and
- (12) Investigative subpoena proceedings, exception at § 46-4-304(2), MCA.

C. Withdrawal Prohibited. No will, bond, or undertaking shall be taken from the Clerk's office under any circumstances, and no judgment before it is recorded.

D. Exhibits. Upon stipulation of counsel, the Clerk may return exhibits in the Clerk's custody to the offering party at the offering party's expense. Exhibits may be returned only upon court order after a judgment has become final, and appeal rights no longer exist. Unless a return is requested, the Clerk shall destroy exhibits within thirty days after the judgment has become final and non-appealable.

RULE 6: UNCONTESTED CALENDAR

A. Uncontested Calendar Day. The judges shall rotate responsibility to preside over the uncontested calendar on an agreed upon basis. The uncontested calendar shall be heard at 9:00 A.M. each Wednesday except as provided by District Court order to accommodate holidays or other events.

B. What Matters May Be Heard on the Uncontested Calendar. All uncontested matters, judgments by default, probate proceedings, uncontested *ex parte* matters, and other matters designated by the presiding judge shall be heard on the uncontested calendar, except as otherwise ordered by the Court.

C. Scheduling of Uncontested Matters. Parties shall make a written request to the Clerk to place specific matters on the uncontested calendar not later than noon on the Tuesday immediately preceding the Wednesday for which a hearing is sought. Complete proposed orders in *pro se* cases shall also be lodged not later than this day.

D. Postponement of Contested Matters. Any matter set for the uncontested calendar which involves contested issues shall be postponed and set on the assigned department's contested calendar.

E. Limitations. The Clerk shall not set any matter on the uncontested calendar until the required motion, complete lodged order and all relevant supporting documents have been filed with the Clerk.

RULE 7: CONTESTED MATTERS

A. Disposition of Motions. All motions shall be subject to Rule 2, U.Dist.Ct.R., and the M.R.Civ.P.

B. Notice of Issue. When all briefs have been filed, or the time for filing briefs has expired, at least one party shall file a "Notice of Issue" stating that the motion is ready for ruling by the Court. The Notice of Issue is the only notice to the Court that a motion is pending. Until a Notice has been filed and served, the motion(s) shall not be deemed submitted. The Court is not responsible for delays caused by failure to file a Notice of Issue, including delay of the trial date.

The Notice of Issue shall include reference to all applicable docket numbers for all motion(s) and briefing at issue, including identity of the opposing party's filings.

The party filing the Notice of Issue shall provide a copy to the Court at chambers and certify that it has done so in the certificate of service. Parties are strongly encouraged, but not required, to provide courtesy copies of all motion(s), briefing (including oppositional briefing), and large attachments with the Notice of Issue served on the Court. The filing party is encouraged to contact the judge's staff to learn whether the judge prefers courtesy copies in an electronic form or by hard copy.

C. Briefs. Except with leave of Court, for good cause, and pursuant to Rule 7.L, briefs in support and response briefs are limited to 6500 words. Reply briefs are limited to 3250 words. Briefs must include a certificate of compliance with this rule stating the number of words, excluding the caption, certificates of service and compliance, signature lines, and attachments. An attorney may rely on the word count of a word-processing system used to prepare the brief. Failure to comply with this rule may result in summary denial of the motion.

D. Motion for Summary Judgment.

(1) Any party moving for summary judgment must simultaneously file a Statement of Undisputed Facts. The Statement shall:

- (a) Set forth in serial form each fact on which the party relies to support the motion;
- (b) Pinpoint cite to a specific pleading, deposition, answer to interrogatory, admission or affidavit before the Court to support each fact; and

(c) Be filed separate from the motion and brief.

(2) Any party opposing a motion for summary judgment must file a Statement of Disputed Facts simultaneously with and separate from the response brief. The Statement must:

(a) Identify each fact in the moving party's Statement that is "disputed," and provide a pinpoint cite to a specific pleading, deposition, answer to interrogatory, admission or affidavit before the Court to oppose such disputed fact; and

(b) Set forth in serial form:

(i) Each additional fact on which the party relies to oppose the motion;

(ii) Pinpoint cite a specific pleading, deposition, answer to interrogatory, admission or affidavit before the Court to support each additional fact.

(3) The movant and the opposing party may file a Statement of Stipulated Facts if the parties agree there are no material disputed facts.

(4) Where the parties do not stipulate pursuant to (3) above, failure to file a Statement of Undisputed Facts will be deemed an admission that material facts are in dispute. Failure to file a Statement of Disputed Facts will be deemed an admission that no material facts are in dispute.

E. Requests for Oral Argument. When counsel desire oral argument on a motion, other than a motion in which oral arguments are mandatory unless waived by all parties, counsel shall state with their Notice of Issue or in a separate request for oral argument their reasons in support of oral argument and why the written briefs are inadequate to fully and satisfactorily articulate their position. The party requesting oral argument shall notify the Court of the estimated time needed for oral argument in the body of the motion. Oral argument shall be set only by court order, on motion or *sua sponte*. A proposed order shall accompany any request.

F. Notice to the Judge of Settlement. In the event any contested matter set for hearing or trial is resolved, the parties shall immediately notify the judge's judicial assistant so that other matters may be scheduled in the time previously allotted for that case. A written stipulation or appropriate pleading shall subsequently be filed within a reasonable period of time, but in no event later than thirty (30) days from the date the matter was resolved. Failure to abide by this provision may result in imposition of sanctions, including but not limited to assessment of jury costs, a deputy clerk's salary, and sheriff's costs.

G. Discovery Motions. The Court may deny any discovery motion unless counsel have conferred concerning all disputed issues before the motion is filed. This requirement can be satisfied through direct dialogue and discussion in person, by telephone, or in electronic or written correspondence identifying the specific disputed issues. If counsel for the moving party seeks to arrange such a conference, and opposing counsel willfully

refuses or fails to confer, the judge may order the payment of reasonable expenses, including attorney's fees, pursuant to Rule 37(a)(4), M.R.Civ.P. Counsel for the moving party shall include in the motion a certificate of compliance with this rule.

All motions to compel or limit discovery must: (1) set forth the basis for the motion and (2) attach as an exhibit the full text of the discovery sought and the full text of the response.

Parties are encouraged, prior to filing a discovery motion, to request an informal telephonic conference with the Court regarding the applicable discovery dispute.

H. Evidentiary Hearings. Any motion requiring presentation of testimony shall be scheduled as a contested matter with the appropriate Request for Evidentiary Hearing. The party requesting the evidentiary hearing shall notify the Court of the estimated time needed for the hearing in the body of the motion. A hearing shall be set only by court order, which will set forth the procedure for identifying witnesses who will testify at the time of hearing. A proposed order shall accompany any request.

I. Courtesy Copies. If any document is filed within 48 hours of a contested hearing or oral argument, a copy thereof shall be delivered to the judge's chambers.

J. Motions to Continue or for Extensions. Motions to continue or to extend deadlines shall be in writing, and shall state the position of opposing counsel. If opposing counsel could not be reached, the moving party shall certify that he or she attempted in good faith to make contact. If a motion does not state the position of opposing counsel, or that the moving party has attempted in good faith to make contact, then the motion shall be subject to Rule 2, U.Dist.Ct.R.

K. Reminders to the Court. If a judge has not ruled on a motion within 90 days of its submission, any party affected thereby may file a notice, with a copy to the Court's chambers and copies to all counsel, describing the matter under advisement and stating the date it was taken under advisement. In matters that have been referred to a Standing Master, any reminder filed must also be copied to the original judge.

L. Over-length Briefs. Motions seeking leave to file an over-length brief are disfavored and will only be granted for good cause.

Parties shall not file an over-length brief simultaneously with the motion seeking leave to file it. Unless leave of court is granted, Rule 7.C controls. The Clerk shall refuse to file over-length briefs without court order.

RULE 8: TIME LIMITS

In any hearing, contested or uncontested, or in any show cause hearing, injunction hearing or trial, the Court may direct the parties to state the amount of time their case requires. The court may exercise its discretion to impose time limits and may allot less

time than that requested. If time limits are imposed, the Court has full authority and discretion to enforce those limits.

RULE 9: SCHEDULING ORDERS

After a responsive pleading has been filed, a party may move for a scheduling conference. A proposed order setting the scheduling conference shall accompany the motion.

RULE 10: SETTLEMENT CONFERENCES

A. If a settlement conference is ordered, unless the presiding judge orders otherwise, the following shall apply:

(1) The following persons shall appear in person at the settlement conference:

(a) The attorney for each party, if represented;

(b) Each party to the case—if the party is not an individual, a representative with ultimate settlement authority; and

(c) If a party is insured by a contract of insurance, and if the insurance may provide coverage for any of the claims asserted in the case, a representative of the insurance company with ultimate settlement authority.

(2) Telephonic appearances by any of the foregoing persons is not acceptable and does not satisfy the in-person obligation.

(3) “Ultimate settlement authority” means the discretionary authority to settle all claims against or on behalf of that party.

B. The Court may sanction any party who violates this rule.

RULE 11: TRIALS AND TRIAL SETTINGS

A. Trial Dates. Trial dates shall be set at any stage of the proceedings deemed appropriate by the presiding judge.

B. Jury Panels. The jury term is January through December. At least thirty days before the term, a panel of jurors shall be drawn. The Clerk shall, following a juror's service at trial, remove that juror's name from the panel (unless requested by the juror to serve on more panels). The Clerk shall return the name of any juror to the panel, when that juror appears on a case but is not selected as a juror in that case.

C. Six Person Juries. Pursuant to § 3-15-106, MCA, in all civil actions where the relief sought is less than \$10,000.00, the trial jury shall consist of six persons. The parties may stipulate to six-person juries in other civil cases.

D. Voir Dire Examination. Time limits for *voir dire* examination in civil cases may be set in the court's discretion.

RULE 12: CRIMINAL ACTIONS

A. Use of Forms. A written Acknowledgment and Waiver of Rights in substantially the form attached as Exhibit A shall be filed by defense counsel at or before the time of a guilty plea. Plea Agreements shall be in substantially the form of Exhibit B-1 (binding) and B-2 (non-binding) attached.

B. Omnibus Hearings. The individual judges have specific omnibus hearing memoranda and orders. Parties shall request and use those required by the judge on the case. These forms shall be filed at the omnibus hearing.

C. Status Hearings. Status hearings may be set at the discretion of the judge on the case. If scheduled, status hearings shall be held on the record. The Defendant shall be present. Before any status hearing, counsel shall have conducted plea negotiations. The parties shall be prepared to discuss the status of discovery, likely motions, the scheduling of hearings, whether there is reason to change the trial date and any other pre-trial issues. If a plea agreement has been reached, the Court may take the change of plea at the status hearing.

D. Arraignment. Each individual judge has arraignment orders. At arraignment, the Court shall in its discretion enter an order applicable to the judge's department, or one substantially in the form of Exhibit C attached.

E. Motions. A courtesy copy of all motions and a proposed order shall be submitted to the presiding judge. Unless otherwise ordered, the following motions do not require a brief and are subject to summary ruling without prior notice to opposing counsel:

Motions to Set Hearings for:

Arraignments
Change of Pleas
Answer Hearing
Sentencing
Bail Hearing
Evidentiary Hearing
Status Conference
Dispositional Hearing

Omnibus Hearing
Miscellaneous Hearing
Final Pre-Trial Conference
Vacate any Pre-Trial Hearing and Set
for Change of Plea
Jury Trials
Bench Trials

Miscellaneous Motions:

Add Witnesses	Request for Defendant to Attend
Neuro-Psycho Evaluation – State to Pay Costs	Funeral and Wear Street Clothes
Additional Time to File/Respond to Briefs	Substitution of Counsel
Quash Transportation Order	Transport Defendant
Change Conditions of Release	Request for Interpreter – State to Pay Costs
Quash Order	Withdraw as Counsel of Record
Chemical Evaluation – State to Pay Costs	Psychological Evaluation – State to Pay the Costs
Request for Credit for Time Served	Request for Defendant to Leave Cascade County/State of Montana
State to Pay for Costs of Deposition	Mental Evaluation – State to Pay the Costs
Seal Plea Agreement	
Sex Offender Evaluation – State to Pay Costs	

F. Subpoenas for Production of Evidence. A party seeking issuance of a subpoena *duces tecum* pursuant to § 46-15-106, MCA, shall first file a motion which shall include:

- (1) A copy of the proposed subpoena;
- (2) A description of the item, document, or object sought;
- (3) A statement about the necessity of the subpoena for trial preparation;
- (4) A statement that the items sought are not available through the process set forth in § 46-15-322, MCA *et seq.*;
- (5) A statement that the subpoena is requested in good faith; and;
- (6) A statement as to the opposing party's position.

Objections shall be filed in accordance with the briefing period set forth in these Rules, the Uniform District Court Rules, and the specific orders of the presiding court.

RULE 13: DOMESTIC ACTIONS

A. Assumption of Cases Involving Families and Children by One Department. To better serve families and children and efficient administration of justice, related cases involving families or children under Titles 40, 41, 45, and 72 may be consolidated so that one judge has jurisdiction of all related civil and criminal proceedings. Some examples of cases falling under this Rule are:

- (1) conservatorship and guardianship civil proceeding
- (2) civil commitment proceeding
- (3) juvenile proceeding
- (4) criminal cases involving domestic violence or other violence which affects or impacts the child directly

- (5) abuse/neglect cases
- (6) adoptions and
- (7) marital dissolutions

Where related cases have been filed in different departments, the cases shall be assumed by the Court in jurisdiction over the first case filed. Such assumption by one department will insure consistent and fully informed decisions concerning families. The parties shall advise the Court at scheduling, status conferences, and omnibus hearings if there are related cases.

B. Juvenile Cases Involving Same Transaction. Where two or more juveniles are charged with offenses arising out of the same transaction, one judge shall have jurisdiction over all such actions.

RULE 14: ABSENCE OR DISABILITY OF JUDGE

During the absence or disability of a judge of the District or at the request of any judge, any of the remaining judges of the District 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, the substituting judge who presides shall make the case returnable to the original, but absent or disabled judge. Thereafter, counsel shall consult with the judicial assistant for the assigned judge to confirm or reset the hearing date.

RULE 15: OUTSIDE JUDGE

When a case is assigned to a judge from another district, the Clerk shall make and forward to such judge a complete copy of the case file to date. From assignment forward, copies of all documents subsequently filed shall be promptly transmitted by counsel to the outside judge. Likewise, counsel shall forward proposed orders directly to the outside judge. Counsel shall contact the staff of the outside judge to determine whether electronic or mailed copies are preferred.

The outside judge shall be encouraged to schedule hearings and trials in consultation with the judicial assistant of the judge who originally had jurisdiction.

The judge of this District who originally had jurisdiction and the Clerk shall promptly notify one another when they learn of any hearing or trial scheduled by the outside judge.

RULE 16: DISMISSAL OF ACTION FOR LACHES

For those cases in which it appears on the face of the record that activity by filing of pleadings, order of court, or otherwise has not occurred for a period of two (2) years and no stay has been issued or approved, the Court or the Clerk of Court shall follow the procedures outlined in § 25-1-104, MCA.

RULE 17: ORDER TO SHOW CAUSE AND TEMPORARY RESTRAINING ORDERS

Two originals of any order to show cause, temporary restraining order or like order shall be presented to the assigned judge. One original shall be signed by the judge retained as part of the Court file. The other shall be issued by the Clerk and shall be used to make service.

RULE 18: JUDGMENT ON WRITTEN INSTRUMENT

When judgment is entered on a written instrument, the instrument must be presented to the Clerk at the time judgment is granted. The Clerk shall note in ink across the face of the instrument the date and that judgment was entered. The Clerk shall sign the entry, attach the official seal, and file the instrument. The instrument shall not be removed except by written court order stating the basis for removal.

RULE 19: RULES OF DECORUM

Each individual judge has specific decorum expectations and rules. Lawyers are encouraged to contact court staff for further information on individual judge's preferences. Lawyers should conduct themselves under the guidance of the rules adopted by the Montana Bar Association. Access to these rules can be made through the State Bar of Montana online.

RULE 20: USE OF ELECTRONIC DEVICES IN THE COURTROOM

A. An "electronic" device is any device capable of transmitting and/or recording data or audio, including smartphones, cellular phones, still and video cameras, voice recorders, computers, laptops, tablets, notebooks, personal digital assistants and other similar devices.

B. Members of the public are not permitted to use electronic devices in the courtroom. Electronic devices possessed by members of the public must be turned off and kept out of sight.

C. Subject to the following, attorneys, court staff, law enforcement, probation, social workers, persons representing him or herself, and the media are permitted to use electronic devices in the courtroom.

(1) Usage is limited to court or business-related matters;

(2) Unless leave of court is granted, lawyers may not use electronic devices to audio record court proceedings;

(3) Electronic devices must be in silent mode and used in a discreet manner;

(4) Electronic devices must not:

- (a) Interfere with courtroom decorum or the proper administration of justice;
- (b) Interfere with court recording equipment or other courtroom technology; or
- (c) Be used for voice communication.

D. This policy is not intended to interfere with the use of any adaptive technology used by a person with a disability.

E. An electronic device shall not be used in a manner that interferes with court proceedings or the work of court personnel.

F. Nothing in this policy affects the authority of a judge to determine what use, if any, can be made of electronic devices in the courtroom.

G. Any person using an electronic device in a manner in violation of this policy or in violation of a court order may be:

- (1) Required to turn the device off;
- (2) Required to forfeit the device while in the courtroom;
- (3) Required to leave the courtroom; and/or
- (4) If found to be willfully violating the policy, may be found in civil or criminal contempt of court and may be sanctioned.

RULE 21: FREE PRESS AND FAIR TRIAL

Consistent with Article II, § 7 of the Montana Constitution and the First Amendment to the U.S. Constitution, the presiding judge shall permit the recording and broadcasting by radio and television, and the taking of photographs in the courtroom unless the judge is convinced from the particular circumstances of the individual case, or any portion thereof, that such recording, broadcasting, or photographing would substantially and materially interfere with the primary function of the court to resolve disputes fairly under the law.

The following guidelines shall apply:

GENERAL

Jurors shall not be identified, either in writing, or by photograph, video, or drawing. The press may not interview witnesses, or court personnel, during the trial in or out of Court.

TELEVISION & RADIO

The judge may limit the number of cameras in the courtroom and order that coverage be pooled. Cameras shall be located in a preselected position and operated by one cameraman per camera. If pooling is ordered or agreed upon, unless the judge orders otherwise, it will be the responsibility of all press representatives to agree on the mechanics of pooling. All representatives shall share in the pool arrangement. Cameras shall not signal whether they are operating.

Press shall have sufficient film capacities to avoid film changes except during court recesses.

Press representatives shall communicate with the presiding judge in advance of the day of trial or hearing about numbers and placements of cameras and microphones. All equipment shall be in place at least 15 minutes before each session.

Broadcast coverage outside the courtroom shall be handled with care and discretion, but need not be pooled. The jury *voir dire* process shall not be televised or broadcast.

PRINT MEDIA

Representatives of the press, including still photographers, will be accommodated on a first-come, first-served basis, and position themselves in the spectator section. Cameras shall be operated so as not to distract the jury.

RULE 22: TREATMENT COURT

The judges of the Eighth Judicial District Court of the State of Montana have established an Adult Treatment Court, a Juvenile Treatment Court, and a Veteran's Treatment Court pursuant to Montana Code Annotated Title 46, Chapter 1, Parts 11 and 12. The Eighth Judicial District Treatment Court seeks to improve the quality of life in our community by establishing a comprehensive diversionary program of incentives and sanctions aimed at breaking the offender's substance use disorder and/or mental health conditions.

Eligibility for Treatment Court will be reviewed in accordance with state law and the internal operating rules of each of the Treatment Courts.

Pursuant to § 46-1-1104(8), MCA, Defendants with sexual offense convictions are not eligible to participate in the Treatment Court.

Treatment Court operations will be guided by the Montana Rules of Judicial Conduct, Montana Rules of Professional Conduct, their internal operating policies and procedures, and the National Association of Drug Court Professionals' best practice standards.

RULE 23: SELF-REPRESENTED (“*PRO SE*”) PARTIES

A. Representation. A *pro se* party cannot represent him or herself and be represented by an attorney at the same time, except as required to comply with constitutional requirements in criminal cases. *Pro se* parties also can only represent themselves and cannot represent other parties, including individuals, corporations, partnerships, limited liability companies, and similar entities, involved in litigation.

B. Procedural Standards. *Pro se* parties, as with represented parties, are expected to adhere to the procedural rules of this Court and Montana law. Procedural rules include the Montana Rules of Civil Procedure, Uniform District Court Rules, and these Rules. Access to these rules can be made through the State Law Library of Montana online. *Pro se* parties shall familiarize themselves with the rules. It is not sufficient for a *pro se* party to claim to be unaware of a rule.

C. Communication with the Court. *Ex parte* communication is communication between a judge and only one party. Judges are not allowed to engage in *ex parte* communication except in very limited circumstances. Absent specific authorization to the contrary, *pro se* parties should not try to speak with or write to the judge about his or her case unless the other party is present or has been properly notified in advance. If the *pro se* party has something to tell the judge, he/she must ask for a hearing and give notice to the other party or file a written statement in the court file and provide a copy of it to the other party.

RULE 24: AFFIDAVIT OF INABILITY TO PAY

Under § 25-10-404, MCA, those individuals who are unable to pay the costs of the cause of action or defense, may request a waiver of fees by filing the Affidavit of Inability to Pay attached hereto as Exhibit D. Copies of the form can also be obtained from the Clerk of Court's office.

Amended and Effective January 1, 2019

EXHIBIT A

Drafting Attorney's Information

Address: XXXXXXXXXXXXXXXX

Telephone: XXXXXXXXXXXXXXXX

Email: XXXXXXXXXXXXXXXX

Attorneys for the XXXXXXXX

MONTANA EIGHTH JUDICIAL DISTRICT COURT, CASCADE COUNTY

<p>STATE OF MONTANA,</p> <p style="text-align: center;">Plaintiff,</p> <p>vs.</p> <p>SAMPLE MAN,</p> <p style="text-align: center;">Defendant.</p>	<p style="text-align: center;">No. DDC-76-111</p> <p style="text-align: center;">ACKNOWLEDGMENT OF WAIVER OF RIGHTS BY ANSWER OF TRUTH</p>
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I, SAMPLE MAN, am prepared to enter an answer of TRUTH in the above-titled matter. This plea is being voluntarily made and not the result of force, threats or promises. I acknowledge and I fully understand that:

1. A petition to revoke has been filed in the above entitled case.
2. I have the right to plead NOT TRUE or to persist in that plea if it has already been made.
3. I have the right to a hearing before a judge, I have the following rights:
 - a) the right to the assistance of counsel.
 - b) the right to have witnesses testify on my behalf.
 - c) the right to confront and cross-examine witnesses against me.
 - d) the right not to be compelled to incriminate myself.
 - e) the right to require my violations to be proven by a preponderance of the evidence.
4. By pleading TRUE, I give up the right to a hearing before a judge, the right to have witnesses testify on my behalf, the right to confront and cross-examine witnesses against

me, the right not to be compelled to incriminate myself, and the right to appeal any finding of guilt.

5. I acknowledge that there has been ample time to prepare a defense.

6. I am not suffering any emotional or mental disability from any cause including mental disease or defect and am not impaired from taking any drugs, alcohol, or prescription medication. I fully understand what I am doing.

7. I have read the last paragraph of my plea agreement, it is in bold print, and understand that violation of that paragraph may result in me losing important benefits of this agreement. I further understand that such a violation shall not entitle me to withdraw my TRUE plea or pleas unless allowed by court order.

8. If you are not a citizen of the United States, you should consult with your attorney about your rights. Regardless of your lawful immigration status, any guilty plea or conviction may result in detention, deportation, exclusion from the United States, or denial of naturalization or other immigration benefits under federal law. Depending on the charge, detention and deportation may be required by law.

SAMPLE MAN, Defendant

Date

I certify that the defendant has read the above or I have read the above to the defendant. I have advised the defendant of the above and explained it and I am satisfied that the defendant understands all the rights and that the plea of TRUE is being voluntarily made, and that the defendant understands the waiving of these rights by entering this plea of TRUE.

XXXXXXXXXXXXXXXXXXXX, Defendant's Attorney

Date

EXHIBIT B-1

Drafting Attorney's Information

Address: XXXXXXXXXXXXXXXX

Telephone: XXXXXXXXXXXXXXXX

Email: XXXXXXXXXXXXXXXX

Attorneys for the XXXXXXXX

MONTANA EIGHTH JUDICIAL DISTRICT COURT, CASCADE COUNTY

<p>STATE OF MONTANA,</p> <p style="text-align: center;">Plaintiff,</p> <p>vs.</p> <p>SAMPLE MAN,</p> <p style="text-align: center;">Defendant.</p>	<p>No. DDC-76-111</p> <p>§ 46-12-211(1)(b) PLEA AGREEMENT</p>
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WHEREAS, an Information was filed in the District Court of the Eighth Judicial District of Cascade County, Montana, charging the Defendant SAMPLE MAN, with the offense of:

COUNT I: XXXXXXXXXXXXXXXXXXXXXXXX

The County Attorney's Office makes the following offer for resolution of the above-entitled case.

THE PARTIES AGREE to the following:

A. The parties to this plea agreement understand that it is entered pursuant to M.C.A. § 46-12-211(1)(b). The County Attorney agrees to make a recommendation for a particular sentence and all parties understand that the County Attorney's recommendation may not be binding upon the Court. The Defendant understands that if the Court does not accept the recommendation of the County Attorney, the Defendant may withdraw his plea agreement if he/she wishes. This plea offer revokes any prior offer by the State.

B. Defendant acknowledges that, as part of this sentencing, this Court must impose the appropriate surcharge for each count as provided in M.C.A. § 46-18-236.

C. Defendant acknowledges that pursuant to M.C.A. § 46-18-241, the Court may require him or her to pay the cost of supervising the payment of restitution.

D. **This offer will automatically revoke if not accepted, signed, and returned the County Attorney's Office prior to XXXXXXXXXXXXXXXX.**

AGREEMENT OF THE DEFENDANT

1. Defendant agrees to plead GUILTY to:

COUNT I: XXXXXXXXXXXXXXXXXXXXXXXX

2. The Defendant agrees to the standard conditions of probation, including that the Defendant shall not possess or consume intoxicants or alcohol, nor will Defendant enter any place where intoxicants are the chief item of sale. Defendant agrees to submit to breathalyzer testing or bodily fluid testing for drugs or alcohol as requested by Defendant's probation officer.

3. The Defendant agrees to pay restitution to the victim(s) on all charges/cases included in this plea agreement including any charges/cases being dismissed per this agreement.

4. **<<Enter Additional terms as appropriate>>**

AGREEMENT OF THE COUNTY ATTORNEY

1. The State agrees to recommend that the Court impose the following sentences:

COUNT I: XXXXXXXXXXXXXXXXXXXXXXXX

Recommended Sentence:

➤ **<<Enter Recommended Sentence Here>>**

2. The State agrees to dismiss **<<Enter Dismissed Counts/Cases Here>>**.

3. **<<Enter Additional terms as appropriate>>**

4. The State may recommend restitution to any victim, reasonable fines, or any reasonable conditions upon review of the Pre-Sentence Investigation.

THE FOREGOING SENTENCING RECOMMENDATION IS CONTINGENT UPON THE DEFENDANT NOT COMMITTING OR BEING ARRESTED FOR ANY ADDITIONAL CRIMES, MAKING ALL COURT APPEARANCES, COOPERATING WITH ADULT PROBATION AND PAROLE IN THE PREPARATION OF THE PRE-SENTENCE INVESTIGATIVE REPORT PROCESS, HAVING NO ADDITIONAL

- e. The right to have the State prove each element of the offense(s) beyond a reasonable doubt.
- f. The right to summon witnesses on your behalf;
- g. The right to cross-examine the State's witnesses.

_____ 4. By pleading GUILTY I am waiving any factual dispute as to my case.

_____ 5. I may be required to pay restitution and court costs and assessments provided by law.

_____ 6. By pleading GUILTY I am giving up the possibility of being found guilty of a lesser offense.

_____ 7. I am not suffering from a physically illness, physical injury, or ailment that affects my ability to waive my rights, plead GUILTY, or enter into this agreement.

_____ 8. I am not under the influence of drugs or alcohol at this time.

_____ 9. I take the following prescription medications: _____

The above medications do not affect my ability to know what I am doing.

_____ 10. I am not under any emotional or mental disability that would prevent me from knowing what I am doing.

_____ 11. By pleading GUILTY I give up my right to appeal my conviction.

_____ 12. By pleading GUILTY I may be barred from certain occupations or professions.

_____ 13. I understand that a plea of GUILTY is one of the strongest proofs known to the criminal law.

_____ 14. I certify that I am not under any pressure or coercion from law enforcement, the county attorney, or anyone to plead GUILTY.

_____ 15. If I am not a United States citizen, a GUILTY plea may result in deportation from or exclusion from admission to the United states or denial of naturalization under federal law.

_____ 16. If I am on probation I understand that a plea of GUILTY could constitute grounds for revocation of probation.

_____ 17. By pleading GUILTY I understand that I may be barred from possessing

firearms.

_____ 18. I have discussed the consequences of my GUILTY plea with my attorney.

_____ 19. I have discussed all of the possible defenses that I might have in this case with my attorney.

_____ 20. I have not had any communication problems with my attorney.

_____ 21. I am satisfied with the services of my attorney.

_____ 22. I have no complaints about my attorney.

_____ 23. I understand that a conviction for a DUI offense or an offense of domestic violence may be used against me to enhance a sentence in any subsequent convictions for that type of offense.

_____ 24. I have read the last paragraph of my plea agreement, it is in bold print, and understand that violation of that paragraph may result in me losing important benefits of this agreement. I further understand that such a violation shall not entitle me to withdraw my GUILTY plea or pleas unless allowed by court order.

I have read and understand this Acknowledgment of Waiver of Rights by Plea of GUILTY. I understand the rights which I have in this case and that by pleading GUILTY I waive these rights.

SAMPLE MAN, Defendant

Date

I certify that the defendant has read the above or I have read the above to the defendant. I have advised the defendant of the above and explained it and I am satisfied that the defendant understands all the rights and that the plea of GUILTY is being voluntarily made, and that the defendant understands the waiving of these rights by entering this plea of GUILTY.

XXXXXXXXXXXXXXXXXX, Defendant's Attorney

Date

EXHIBIT B-2

Drafting Attorney's Information

Address: XXXXXXXXXXXXXXXX

Telephone: XXXXXXXXXXXXX

Email: XXXXXXXXXXXXXXXX

Attorneys for the XXXXXXX

MONTANA EIGHTH JUDICIAL DISTRICT COURT, CASCADE COUNTY

<p>STATE OF MONTANA,</p> <p style="text-align: center;">Plaintiff,</p> <p>vs.</p> <p>SAMPLE MAN,</p> <p style="text-align: center;">Defendant.</p>	<p style="text-align: center;">No. DDC-76-111</p> <p style="text-align: center;">§ 46-12-211(1)(c) PLEA AGREEMENT</p>
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WHEREAS, an Information was filed in the District Court of the Eighth Judicial District of Cascade County, Montana, charging the Defendant SAMPLE MAN, with the offense of:

COUNT I: XXXXXXXXXXXXXXXXXXXXXXXX

The County Attorney's Office makes the following offer for resolution of the above-entitled case.

THE PARTIES AGREE to the following:

A. The parties to this plea agreement understand that it is entered pursuant to M.C.A. § 46-12-211(1)(c). The County Attorney agrees to make a recommendation for a particular sentence and all parties understand that the County Attorney's recommendation may not be binding upon the Court. The Defendant understands that if the Court does not accept the recommendation of the County Attorney, the Defendant nevertheless has no right to withdraw the plea. This plea offer revokes any prior offer by the State.

B. Each party recognizes that sentencing in this matter is entirely within the discretion of the presiding District Court Judge, subject only to the limits of statutory and case law.

C. Each party understands that the presiding District Court Judge can designate the

Defendant as a dangerous offender as well as limit his or her eligibility for parole and work release through furlough programs.

D. Each party understands and agrees that a plea of GUILTY entered to any charge pursuant to this agreement cannot be subsequently withdrawn.

E. Defendant acknowledges that, as part of this sentencing, this Court must impose the appropriate surcharge for each count as provided in M.C.A. § 46-18-236.

F. Defendant acknowledges that pursuant to M.C.A. § 46-18-241, the Court may require him or her to pay the cost of supervising the payment of restitution.

G. This offer will automatically revoke if not accepted, signed, and returned the County Attorney's Office prior to XXXXXXXX.

AGREEMENT OF THE DEFENDANT

1. Defendant agrees to plead GUILTY to:

COUNT I: XXXXXXXXXXXXXXXXXXXXXXXX

2. The Defendant agrees to the standard conditions of probation, including that the Defendant shall not possess or consume intoxicants or alcohol, nor will Defendant enter any place where intoxicants are the chief item of sale. Defendant agrees to submit to breathalyzer testing or bodily fluid testing for drugs or alcohol as requested by Defendant's probation officer.

3. The Defendant agrees to pay restitution to the victim(s) on all charges/cases included in this plea agreement including any charges/cases being dismissed per this agreement.

4. The Defendant may make any recommendation he/she feels is appropriate.

5. **<<Enter Additional terms as appropriate>>**

AGREEMENT OF THE COUNTY ATTORNEY

1. The State agrees to recommend that the Court impose the following sentences:

COUNT I: XXXXXXXXXXXXXXXXXXXXXXXX

Recommended Sentence:

➤ **<<Enter Recommended Sentence Here>>**

- d. The right to a speedy and public trial
- e. The right to have the State prove each element of the offense(s) beyond a reasonable doubt.
- f. The right to summon witnesses on your behalf;
- g. The right to cross-examine the State's witnesses.

_____ 4. By pleading GUILTY I am waiving any factual dispute as to my case.

_____ 5. I may be required to pay restitution and court costs and assessments provided by law.

_____ 6. By pleading GUILTY I am giving up the possibility of being found guilty of a lesser offense.

_____ 7. I am not suffering from a physically illness, physical injury, or ailment that affects my ability to waive my rights, plead GUILTY, or enter into this agreement.

_____ 8. I am not under the influence of drugs or alcohol at this time.

_____ 9. I take the following prescription medications: _____

The above medications do not affect my ability to know what I am doing.

_____ 10. I am not under any emotional or mental disability that would prevent me from knowing what I am doing.

_____ 11. By pleading GUILTY I give up my right to appeal my conviction.

_____ 12. By pleading GUILTY I may be barred from certain occupations or professions.

_____ 13. I understand that a plea of GUILTY is one of the strongest proofs known to the criminal law.

_____ 14. I certify that I am not under any pressure or coercion from law enforcement, the county attorney, or anyone to plead GUILTY.

_____ 15. If I am not a United States citizen, a GUILTY plea may result in deportation

from or exclusion from admission to the United States or denial of naturalization under federal law.

_____ 16. If I am on probation I understand that a plea of GUILTY could constitute grounds for revocation of probation.

_____ 17. By pleading GUILTY I understand that I may be barred from possessing firearms.

_____ 18. I have discussed the consequences of my GUILTY plea with my attorney.

_____ 19. I have discussed all of the possible defenses that I might have in this case with my attorney.

_____ 20. I have not had any communication problems with my attorney.

_____ 21. I am satisfied with the services of my attorney.

_____ 22. I have no complaints about my attorney.

_____ 23. I understand that a conviction for a DUI offense or an offense of domestic violence may be used against me to enhance a sentence in any subsequent convictions for that type of offense.

_____ 24. I have read the last paragraph of my plea agreement, it is in bold print, and understand that violation of that paragraph may result in me losing important benefits of this agreement. I further understand that such a violation shall not entitle me to withdraw my GUILTY plea or pleas unless allowed by court order.

I have read and understand this Acknowledgment of Waiver of Rights by Plea of GUILTY. I understand the rights which I have in this case and that by pleading GUILTY I waive these rights.

SAMPLE MAN, Defendant

Date

I certify that the defendant has read the above or I have read the above to the defendant. I have advised the defendant of the above and explained it and I am satisfied

that the defendant understands all the rights and that the plea of GUILTY is being voluntarily made, and that the defendant understands the waiving of these rights by entering this plea of GUILTY.

XXXXXXXXXXXXXXXXXX, Defendant's Attorney

Date

Defendant, c/o counsel
CCSO

Or

I receive one or more of these benefits: (Check the box for each benefit you receive.)

_____ SNAP _____ TANF _____ SSI _____ Medicaid _____ WIC _____ LIEAP

If you checked any one of the three boxes above, skip to the end of this form, and sign the declaration on page 3. You don't need to fill out the remainder of the form.

If you did not check a box above, you may still qualify for a fee waiver. Please continue to fill out pages 2 and 3 of this form so the court has the information it needs to decide if you qualify for the fee waiver.

I. INCOME (Complete this Section to the best of your ability.)

What do you do for work? _____ Who is your employer?

_____ What is your household's annual

income, before taxes? _____ How many people are in your household? _____

(The tables below will help you answer these questions, if you are not sure what to put in the blanks.)

If you are unemployed, when were you last employed' (Month, Year)? _____ Your job? _____

Are you married? ___ Yes ___ No ___ Separated ___ Getting Divorced

NOTE: If you are not married, if you and your spouse are separated, or if one of you is filing for dissolution of marriage, you do not need to provide your spouse's income below.

Fill in the chart below with the income received by you, and by your spouse, if applicable. Put a "0" in each blank if you or your spouse don't receive the income listed.

Income Sources	Amount YOU receive per month <i>before</i> taxes	Amount YOUR SPOUSE receives per month <i>before</i> taxes
Employment	\$	\$
Retirement/Pension	\$	\$
Workers' Compensation	\$	\$

Social Security	\$	\$
Unemployment	\$	\$
Government Benefits	\$	\$
Child Support Received	\$	\$
A person or agency pays my rent or other monthly expenses and the amount is:	\$	\$
Other Income-e.g., rental income, stocks, investments. etc.-describe:	\$	\$
Total here:	\$	\$

What is your household size? How many persons, if any, depend on you financially? If none, then write "N/A" below. Attach another page if needed and check here to tell the court you attached another page:

Dependents (Initials Only)	Age	Relationship to You
1.		
2.		
3.		
4.		
5.		

II. ASSETS (Complete this Section to the best of your ability.)

What property do you and your spouse own? Include your spouse's property if you are married and not separated and not filing for dissolution. Fill in the chart below, only listing items that you could sell for \$600 or more. If you don't own an item listed, write "N/A" in the "Value" column for that item. "Value" means the total amount the item(s) identified in a column would sell for, minus the amount you still owe on the item(s), if anything.

Asset	Value
Cash (this includes the money in your savings and checking accounts)	\$
Vehicle 1: provide year, make and model	\$
Vehicle 2: provide year, make and model	\$

Home where you live now	\$
Real estate or other homes/mobile homes (Not including the home you are living in now)	\$
Recreational vehicle(s) such as snowmobile, ATV, camper/RV, boat, motorcycle, etc.	\$
Guns or other collections	\$
Other Item(s) worth more than \$600-describe:	\$

III. DEBTS AND EXTRAORDINARY EXPENSES *(Complete this Section to the best of your ability.)*

What bills do you and your spouse pay each month? Fill in the chart below.

Monthly Expenses	Value
Housing Expense: Mortgage or Rent	\$
General Household Expenses: Utilities, Phone/Internet/Cable, etc.	\$
Insurance Expenses, Healthcare Costs and/or Medical Debt(s)	\$
Childcare Expenses	\$
Other Extraordinary Expenses: e.g., Collection actions, Student Loans-describe:	\$

IV. ADDITIONAL INFORMATION *(This Section is optional.)*

If you have additional information that you want the court to consider about your inability to pay court costs, write that information under your signature below or attach an extra page. Check here if you attached another page:

V. DECLARATION *(This Section is Required.)*

I declare under penalty of perjury and under the laws of the State of Montana that the information in this document is true and correct. I understand that it is a crime to give false information in this document.

Date: _____ City: _____ State: _____

YOUR Signature:
