Montana Fourth Judicial District Court, Missoula & Mineral Counties

Rules of Practice, Forms and Orders

Revised October 31, 2025

RULE 1: DEPARTMENTS OF THE DISTRICT COURT

The District Court of the Fourth Judicial District of the State of Montana is divided into five departments:

Department No. 1 -- presided over by Judge Leslie Halligan
Department No. 2 -- presided over by Judge Tara J. Elliott
Department No. 3 -- presided over by Judge John W. Larson
Department No. 4 -- presided over by Judge Jason Marks
Department No. 5 -- presided over by Judge Shane A. Vannatta

The position of Chief Judge is assumed for a calendar year by the presiding Judges in rotating order as follows:

Department No. 1	2028, 2033
Department No. 2	2029, 2034
Department No. 3	2025, 2030
Department No. 4	2026, 2031
Department No. 5	2027, 2032

The District Court Judges shall meet monthly at a time and place designated by the Chief Judge. Special meetings of the Judges may be called by the Chief Judge or any two Judges by announcement to all Judges at least 24 hours in advance as to time, place and agenda. Decisions of the District Court are made by majority vote of the District Judges.

The position of Youth Court Judge is assigned to Department 5 effective January 1, 2025. The assignment shall be reviewed every two years as scheduled by the Chief Judge.

RULE 2: DIVISION OF BUSINESS

Within Missoula and Mineral counties all matters filed in each docket shall be allocated among the five departments in random numerical rotation. Trials and hearings on contested matters shall be before the Judge of the department in which the action is filed.

Unless the presiding Judge orders otherwise, electronic communication devices are allowed in the courtrooms provides they are on an “off” or “silent” setting.

MINERAL COUNTY LAW AND MOTION: Mineral County Law and Motion days are set out every two weeks. Dept. 1 holds Court on Mondays and the other Depts. hold court on Wednesdays. Times vary so check with the Mineral County Clerk of Court for times and dates. The Judge assigned to a Law and Motion day in Mineral County shall hear other departmental matters if they are non-dispositive, i.e., arraignments, withdrawal of pleas, etc. The Judge presiding over an action will hear any pre-trial issues and dispositive matters. Any issues that need attention prior to disposition shall be directed to the presiding Judge. A copy of any Affidavit and Motion for Leave to File an Information shall be emailed to the Judge

conducting the next Law and Motion in Mineral County by the Mineral County Attorney's office.

RELATED CASES: "One Family – One Judge" Rule. In the efficient administration of justice, the Judges of the Fourth Judicial District direct the Clerk of Court's Office 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.

RULE 3: FILING OF PLEADINGS, DEPOSITION, BRIEFS, ETC.

A. Civil Rules Applicable. Any pleading filed in any civil action which does not conform to Rule 10 or 11 of the Montana Rules of Civil Procedure may be stricken by the Court on its own initiative.

B. Form of Papers Presented for Filing. 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.

C. Department Identification Number. A document, other than the document that initiates a case, may not be filed with the Clerk of Court unless it contains an identification of the department that has jurisdiction of the case. The department number shall be placed directly above the cause number.

D. Necessary Copies Presented. Before a matter may be set for hearing, a final Decree or Order must be prepared for the Judge's signature and submitted to the Clerk of Court to be lodged in the court file. If a party requires copies of a pleading, order, etc., to be mailed to themselves or others, the copies must be furnished to the Clerk of Court. Copies of documents to be conformed must also be furnished to the Clerk of Court. Pleadings from counsel and any pro se litigants shall include their name, address, phone, fax and **email address** at the top of all pleadings. The inclusion of the email address is for the convenience of the Court. Such inclusion is not considered consent by the attorney under Rule 5(b)(2)(E) M.R.Civ.P., to receive service by electronic means. The Clerk of Court's office may not reject pleadings which do not include an email address.

E. Court Orders and Minutes Provided Electronically. In an effort to promote the electronic storage and exchange of documents and reduce redundant scanning of documents produced by the Courts, the Clerk of Court may distribute copies of Court Orders and Minute Entries by email rather than by hard copy. Attorneys or parties wishing to receive copies by email must provide the Clerk's office with the email address(es) to which copies of Orders or Minute Entries are to be emailed. Multiple email addresses may be provided for each attorney or party, but the total may not exceed 100 characters (each email address must be separated by a semi-colon).

F. Fax and E-Mail Filings. Documents may be submitted for filing by email or facsimile *and must be accompanied by the fee of $.50/page required by Mont. Code Ann. § 25-1-201(1)(r).* Documents submitted by email must be emailed to **clerkofcourt@missoulacounty.us** and those submitted by facsimile must be faxed to **(406) 258-4899**.

The following guidelines must be followed:

(1) All E-Mail Documents must be properly signed and dated.

(2) E-Mailed documents must be in a PDF format and submitted as an attachment to an email.

(3) A hard copy original need not be provided.

G. Pleading Requirements for Use of Generative Artificial Intelligence.

(1) **Certification Requirement for Generative Artificial Intelligence.** Any party, whether appearing pro se or through counsel, who uses generative artificial intelligence in the preparation of a pleading or document filed with the court must disclose the use of "generative artificial intelligence:" the specific tool the party used; how the party used the tool in preparing the relevant document; and that the party certifies they have checked the accuracy of any portion of the document drafted or assisted by the tool, including all factual and procedural background, citations, and legal authority.

The court presumes that a party who files a document that does not contain this certification certifies that no part of the document was prepared using generative artificial intelligence.

(2) **Responsibility.**
If generative artificial intelligence is used in the preparation of any documents filed with the court, the attorney or pro se litigant will be held responsible for the contents thereof under Montana Rule of Civil Procedure 11 and applicable rules of professional conduct and attorney discipline.

(3) **Possibility of Sanctions**
If the court has good reason to suspect that a filing has relied on generative artificial intelligence in violation of this rule, and the party has not reasonably dispelled the court's concerns, such violation may result in the imposition of appropriate sanctions under Montana Rule of Civil Procedure 11, including the possibility of dismissal of the responsible party's case, document, or pleading without prejudice for failure to comply with this standing order.

Definition: As used in this rule, "generative artificial intelligence" means a computer tool (whether referred to as "generative artificial intelligence" or by another name) that is

capable of generating new content (e.g., images, text, etc.) in response to a submitted prompt and/or query by learning from a large reference database of examples. This term also encompasses computer tools that are substantially similar to the computer tools encompassed by the above definition but differ in some unique way.

H. Requirements of Briefs:

(1) No individual brief shall exceed twenty (20) pages in length, exclusive of indexes and appendices, without prior leave of the Court.

(2) In a prefatory statement in each motion submitted to the Court, the moving party shall certify that the other parties have been contacted concerning the motion, and whether the other parties object to the motion.

(3) All motions requesting orders to require participation in depositions of proceedings in foreign jurisdictions shall certify that the other parties and deponents have been contacted, whether they object to the request, and whether a date and location for the deposition has been mutually agreed upon.

(4) All pleadings (brief, petition, motion or other paper) should be formatted using either a proportionately spaced typeface of 14 points or more, or a monospaced typeface of no more than 10.5 characters per inch. A proportionately spaced typeface has characters with different widths. A monospaced typeface has characters with the same advanced width. Case names, headings and signals may be underlined or in italics or bold.

I. When Leave of Court Required. When leave of Court is required before a pleading can be filed, a proper motion must be filed and served. An original of the pleading should be attached (to be removed and stamped for filing immediately upon granting of the motion). If a pleading is allowed to be amended (upon a motion to amend complaint for example), the amended pleading shall highlight what has been added or deleted (by strike through and underlining).

J. Preparation of Order for Judge's Signature. All Orders (uncontested or not) shall accompany the motion as separate documents and be submitted in a Word-formatted document.

K. Depositions. Depositions will not be filed by the clerk as permanent Court records except upon order of the Court, in which event the clerk shall receive such documents, so note in the Register of Actions, and then place them in the Court file.

L. Notes of Issue. In any civil, divorce or invalidity actions, when the parties are fully joined, counsel shall prepare and present to the Clerk of Court a Note of Issue.

M. Certificate of Service. All motions must include a certificate of service.

RULE 4: COURT RECORDS

A. Withdrawal of Files or Papers. The clerk shall not permit any files or documents to be removed from the office except upon order of the Court for good cause shown. The clerk must obtain a receipt from any party removing any file or Court record.

B. 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 a criminal Defendant may have access to his file that has been dismissed after a deferred imposition of sentence.

C. 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.

D. Exhibits. Exhibits offered during a 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 theretofore filed with the clerk notice that said third person is entitled to the exhibit. 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 the party's intention to dispose of the same and may do so, if not then withdrawn, after obtaining a Court order to destroy the exhibit.

RULE 5: LAW AND MOTION

A. Missoula County Law and Motion Days. The law and motion days in each department are as follows:

Department 1 – Wednesday	**Exhibit "A"**
Department 2 – Tuesday	**Exhibit "B"**
Department 3 – Wednesday & Thursday	**Exhibit "C"**
Department 4 – Tuesday	**Exhibit "D"**
Department 5 – Thursday	**Exhibit "E"**

Court shall convene on law and motion days at 8:30 or 9:00 a.m. When law and motion day falls on an official holiday the law and motion calendar shall be continued to the next regular law and motion day of the Judge.

B. What Matters May Be Heard on Law and Motion Days. All uncontested matters, judgments by default, probate proceedings, uncontested *ex parte* matters, and other

matters pertaining to questions of law not involving contested questions of fact shall be heard on law and motion day, except as otherwise ordered by the Court for good cause shown. Contested matters involving questions of fact will not be heard on a law and motion day without express approval of the Court but will be set as to day and time by order of Court as set forth in this rule. Motions for summary judgment may be heard on law and motion days provided they do not exceed the time limits set forth in paragraph D.

C. Scheduling of Law and Motion Matters. Matters may be placed on the law and motion calendar only upon written request to the scheduling clerk at least 24 hours in advance of the hearing date. The written request shall:

(1) what issue the requesting party is requesting to be heard;

(2) include an estimate of the amount of time required by each party; and

(3) the number of witnesses to be called by each party.

(See (**Exhibit "F"**), "Request for Hearing.") Any matter anticipated to exceed a TOTAL hearing time of 20 minutes shall not be scheduled on the Law and Motion calendar.

D. Contested Matters Shall Be Postponed. Any matter set for the law and motion calendar which proves to involve contested issues of fact shall be subject to postponement to be set on the contested calendar. Any matter that the parties reasonably anticipate will take more than one hour to complete shall not be scheduled on the law and motion calendar but shall, instead, be scheduled as a contested hearing as set forth in Rule 6.

E. Limitations. No matter may be set on the law and motion calendar until the motion or other documentation and all relevant supporting documents have been filed with the clerk. A proposed order, decree, or judgment shall be presented to the Clerk in accordance with Rule 3(D) before the time the matter is to be heard.

F. Reminders to the Court. If a Judge has any matter under advisement for more than 30 days, each party affected thereby shall send to the Judge a letter, with copies to all counsel, describing the matter under advisement and stating the date it was taken under advisement.

G. Modifying Law and Motion Schedules. Any department may issue special orders modifying the law and motion schedules as it relates to that department.

RULE 6: CONTESTED HEARINGS

A. Disposition of Motions. All motions shall be disposed of pursuant to Rule 2 of the Uniform District Court Rules, or as otherwise required by the Montana Rules of Civil Procedure. When all briefs have been filed, or the time for filing of briefs has expired, either party may file a "Notice of Issue" with the Court indicating that the matter is ready for ruling by the Court.

B. Requests for Oral Argument. When counsel desire oral argument on a motion, other than a motion in which oral arguments shall be deemed 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. Oral argument will be set only by Court order, whether upon motion of a party or upon a *sua sponte* determination that oral argument would be beneficial. If a motion for oral argument is not ruled upon within 30 days of its submission, the motion shall be deemed denied.

C. Scheduling Oral Argument. When oral argument is granted, the moving party must prepare a Request for Hearing for the Court's Law and Motion day. The requested hearing shall not be longer than one hour without express permission of the Court. The parties should expect the Court to enforce the time limits stated by the parties at the time of scheduling of the hearing.

In the event any contested matter set for hearing is resolved between the parties, the scheduling clerk shall be immediately advised so that other matters may be scheduled in the time previously allotted for that case. Failure to abide by this provision may result in imposition of sanctions by the Court.

D. Contested Hearings. Any motion requiring presentation of testimony shall be scheduled as a contested matter with the appropriate Request for Hearing pleading being presented to the Court's scheduling clerk.

RULE 7: TIME LIMITS

In any hearing, contested or uncontested, or in any show cause hearing, injunction hearing or trial of any case, the Court may direct the parties to state the amount of time their case will take to present. The Court may then impose time limits on the presentation by each party and retains the discretion to allot a lesser time than that requested by each party.

RULE 8: SCHEDULING ORDERS

A. Scheduling Orders. Upon filing of an appearance by one or more Defendants, the Judge to whom the case is assigned shall direct the mailing of a scheduling order to the parties or their attorneys of record. The scheduling order shall direct that the deadline for filing of the pretrial order shall be seven months from the date of filing of an appearance, unless extended upon motion and order of the Judge. (*See* (**Exhibit "H"**) and (**Exhibit "I"**), for a sample of the Scheduling Order. Exact formats may vary from department to department.)

The scheduling order form shall provide dates to be filled in by attorneys of record for the following:

(1) whether the parties will use Rule 6 – simplified procedure for civil actions.
(2) joinder of parties and amendments to pleadings;
(3) date by which all pretrial motions will be filed and heard;
(4) identification of expert witnesses;
(5) close of discovery;
(6) date by which the lawyers resolution conference will be held;
(7) filing of a proposed Pretrial Order;
(8) date for a master-supervised settlement conference pursuant to Rule 9 of the Local Rules; and
(9) such additional matters as the Court or parties deem necessary.

The lawyers or mediation resolution conference referred to in (5) above shall be held in-person between all parties and their counsel (if applicable) 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.

The dates in the scheduling order shall not be changed absent Court order upon a showing of good cause.

MOTIONS FOR CONTINUANCE FOR DATES 90 DAYS BEYOND THE ORIGINAL SCHEDULING DATE IN ANY SCHEDULING ORDER SHALL BE SUBMITTED IN WRITING, SUPPORTED BY AFFIDAVIT, AND SHALL BEAR THE SIGNATURES OF ALL THE PARTIES.

The Order **(Exhibit "G")** directing filing of a Scheduling Order (**Exhibit "H"**), shall advise the parties that failure to submit an agreed-upon scheduling order shall result in the Court issuing a scheduling order *sua sponte* which will be substantially as set forth in (**Exhibit "I").**

Unless otherwise ordered by the Court, the time set for filing the pretrial order shall be after pretrial motions have been filed but before the master-supervised settlement conference is held pursuant to Rule 9 of these rules. This will allow pretrial motions to be ruled upon prior to the holding of the master-supervised settlement conference.

B. Exemptions. Pursuant to Rule 16(b), M.R.Civ.P., a scheduling order is not required, unless the case becomes a contested case:

(1) juvenile cases;
(2) URESA actions;
(3) dependent and neglect cases;
(4) abstracts and transcript of judgment;
(5) adoptions;

(6) sanity;
(7) probates;
(8) criminal cases (included to eliminate the possibility of confusion);
(9) small claims appeals;
(10) administrative appeals
(11) seizures and forfeitures;
(12) habeas corpus;
(13) name changes; and
(14) conservatorships and guardianships.

Discovery in the above matters shall proceed according to orders issued in each case.

RULE 9: SETTLEMENT CONFERENCES

A. Settlement Conferences Required. Except as provided in Mont. Code Ann. § 40-4-301, each civil case, there will be two settlement conferences, the holding of which will be required before a case may be set for trial. The first is a lawyer's resolution conference and the second is a master-supervised settlement conference, both of which are provided for in the Scheduling Order prepared and issued in accordance with Rule 8 of the Local Rules.

B. Master-supervised Settlement Conference. A master-supervised settlement conference may be held at any time upon stipulation of the parties or order of the Court. Unless otherwise agreed, the conference shall be held after submission of the pretrial order. 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. (**Exhibit "J"**), Fees are waived when the Court has approved an Affidavit of Inability to Pay Filing Fees.

Counsel who will try the case and all parties must attend in person. Out-of-area corporations or insurance companies must have a representative present in person or via 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.

C. Pro-Bono Settlement Masters/Mediators for Indigent Parties. The Western Montana Bar Association (WMBA) Pro Bono Committee has established two ways to provide free legal services to indigent parties. One is to provide a pro bono attorney to conduct a settlement conference and one is to provide a lawyer to represent a party in a case. In order for a party to qualify for these services, an Affidavit of Inability to Pay Filing Fees and Other Costs and Order must be filed in the cause of action. If the Court determines the case requires the assistance only an attorney can provide, the Court will refer the parties to the WMBA and request a pro bono settlement master or attorney. A request from a party or the Court does not guarantee an attorney will be available, but the Court understands that a reasonable effort will be made by the WMBA Pro Bono Program to serve eligible parties.

D. Report of the Settlement Master.

Cases Settled. Upon completion of the master-supervised settlement conference, the settlement master shall immediately contact the Judge's Judicial Aide to advise that the case has settled so that any action on court hearings or pending motions can be halted. The settlement master shall submit, on a form provided by the Court (**Exhibit "K"**), a report of the conference and its settlement results. The report shall be filed with copies to the Judge, all counsel of record and any parties not represented by counsel.

Cases Not Settled. Within five days of the completion of the master-supervised settlement conference, the settlement master shall submit, on a form provided by the Court a report of the conference and its result. The report shall be filed with copies to the Judge, all counsel of record and any parties not represented by counsel. In the event that the case is not settled, the form shall also state the following information obtained from counsel for the parties:

(1) the length of time anticipated to be necessary for trial;
(2) dates counsel or key witnesses are legitimately unavailable for trial;
(3) any special requests or needs regarding trial.

Costs of settlement master shall be included in the final judgment; however, unless the parties agree otherwise, the settlement master should be paid 50% by each party at the time of the settlement conference.

Cases will be set for trial upon submission of the settlement master's report. No case will be set for trial without a master-supervised settlement conference unless specifically provided by Court order upon motion and showing of good cause.

E. Proceedings Confidential. Mediation and settlement conference proceedings must be kept confidential as provided in Mont. Code Ann. § 26-1-813 and Rule 408, Mont. R. Evid.

RULE 10: TRIALS AND TRIAL SETTINGS

A. Trial Dates. Trial dates shall be set by the scheduling clerk designated by each department upon submission of the report of the settlement master. All trials shall be assigned a date certain but may share that date with other cases, each being assigned a first, second, third or fourth setting on the date certain. When submitting the pretrial order, counsel shall state in a cover letter any special requests regarding the trial setting, including dates that the parties or key witnesses are legitimately unavailable for trial, and the estimated length of trial. In addition, the report of the settlement master will state the estimated length of trial and dates key witnesses and parties are legitimately unavailable for trial.

B. Settlement Conference Mandatory. No case may be tried unless it has been through a lawyer's resolution conference and master-supervised settlement conference as required by these rules. This requirement may be waived only upon motion and order of the

Court.

C. Trial Schedules. Jury and non-jury trials shall be scheduled by the Court throughout the year as time is available.

D. Advising the Court of Settlement is Mandatory. When a case set for trial is settled, the parties must immediately advise the Court or scheduling clerk of that fact. Failure to do so may result in imposition of sanctions. In addition, the Court may impose monetary sanctions sufficient to reimburse the Clerk of Court for any expenditures incurred by the Clerk of Court if a jury trial is settled or continued within 72 hours of its scheduled time.

E. Findings of Fact and Conclusions of Law. Proposed findings of fact and conclusions of law shall be filed, when required by Rule 8, Unif. Dist. Crt. R., or requested by the Court. The proposed document also shall be provided to the Court in Word-format for its review. Any proposed findings shall be served upon all parties.

F. Trial Briefs. Trial briefs must be served upon opposing counsel no less than five days before commencement of trial.

G. Release of Discovery Materials Thirty days after a final judgment has been issued, where the time for appeal has expired or the questions on appeal are finally resolved, the clerk will notify counsel that all discovery materials and trial briefs will be removed from the Court files and destroyed unless retrieved by counsel within thirty days of the date of the notice.

H. Video Conferencing. All courtrooms are video-conferencing capable. The Court uses the Zoom platform for simultaneous audio-video conferencing during hearings. Zoom webinars are available for jury trials, if the parties agree that the case is appropriate for public viewing. Zoom procedures are listed in Rule 30.

I. Jury Panels (Venire). Pursuant to Mont. Code Ann. § 3-15-501 and at least thirty days prior to the commencement of the jury trial term, the court shall issue an order directing the clerk to draw and summon a jury panel (venire) for the specific jury trial term. Pursuant to Mont. Code Ann. § 3-15-402 & -403, a master jury list is provided to the clerk of court by the office of court administrator. Where an individual has served as a juror or alternate juror for any portion of a jury trial, the clerk shall remove that juror's name from the the master jury list (unless requested by the juror to serve on more panels). Any individual summoned for jury service who is not selected shall have their name returned to the master jury list for further selection. The clerk shall use the jury drawing application approved by the office of court administrator for the random juror selection process.

J. Jury Instructions. Unless otherwise ordered by the court, proposed jury instructions in a civil case shall be presented to the Court and served upon each adverse party within five days prior to the trial set by the Court. The original and one copy of each instruction proposed must be furnished to the Court, along with the instructions in a Word-formatted document. The copies submitted to the Court shall be numbered consecutively,

specify the party on whose behalf they are requested, and include a citation of authority supporting the statement of law therein. The original shall be "clean," i.e., bear no citation. The Court may receive additional proposed instructions relating to questions arising during the trial at any time prior to completion of settlement of jury instructions. Proposed forms of verdict must be submitted by each party at the same time and in the same manner as jury instructions.

K. Six Person Juries. Pursuant to Mont. Code Ann. § 3-15-106, in all civil actions where the relief sought in the Complaint is under the sum of $10,000, the trial jury shall consist of six persons. The parties may stipulate to six-person juries in other civil cases.

L. Voir Dire Examination. Voir dire examination shall be limited to one hour on each side unless additional time is requested before trial. Only one attorney for each party shall be allowed to question the prospective jurors on voir dire.

The only proper purpose of voir dire of jurors is to select a panel who will fairly and impartially hear the evidence presented and render a just verdict and to determine the grounds for any challenge for cause therefore:

Counsel will not:

(1) Ask any questions of an individual juror that could be asked collectively.

(2) Ask questions covered by and answered in the juror questionnaire, except to explore some questionnaire answer in greater depth.

(3) Repeat questions asked and answered, even though asked by opposing counsel.

(4) Use voir dire for the purpose of attempting to instruct the jury on the law – that is the Court's function.

(5) Use voir dire for the purpose of arguing the case.

(6) Ask a juror what his or her verdict might be under any hypothetical situation based on any expected evidence or otherwise.

Upon failure of counsel to abide by this rule, the Court may assume voir dire of the jury. In such case, the Court may require counsel to submit in writing specific questions to be asked by the Court.

RULE 11: CRIMINAL ACTIONS

A. Use of Forms. An Omnibus Hearing Memorandum should be prepared and filed prior to the omnibus hearing. A Plea of Guilty and Waiver of Rights form shall be presented to the Court by defense counsel at the time of a guilty plea. The Court shall prepare and make available through the Clerk of Court the approved forms. Forms for Plea

Agreements may also be prepared and made available.

B. Omnibus Hearings. Omnibus hearings or a case schedule submitted on an Omnibus form shall be ordered by the Court after entry of a not guilty plea. Prior to the time set for omnibus hearings, counsel for the prosecution and defense shall meet privately and attempt to stipulate to a Court-approved omnibus form which shall be submitted for final approval by the Court prior to the date of the omnibus hearing. Upon approval of the omnibus form, the omnibus hearing shall be converted to a scheduling hearing.

C. Plea Negotiations.

(1) Before the date of the omnibus hearing or other joint conference with the Court, the prosecutor and defense counsel should engage in plea negotiations. The Omnibus form shall include a declaration that the prosecutor has extended a plea offer.

(2) Each department shall schedule pre-trial/status conference and trial date in an effort to avoid conflict, showing preference for incarcerated Defendants.

(3) Each department may prepare a trial calendar before the first trial date. Within ten days of publication of the trial calendar in any department, the prosecutor and the defense counsel shall enter into good faith plea bargaining negotiations in each case not yet resolved. By the 10th day, the parties in each case must:

a) request that the case be set on the calendar for change of plea;

b) file a motion to continue over term and a waiver of speedy trial;

c) file a Request for Calling of Jury which will notify the Court that no plea-bargained resolution is contemplated; and/or

d) if a specific trial date is established by the Court other pretrial deadlines may be established.

D. Judgment To Include Imposition of Costs of Prosecution, Public Defender, etc. Subject to an ability to pay inquiry and potential waiver, the Court shall impose appropriate fines, fees and surcharges as allowed by law.

E. Related Criminal Cases. In the efficient administration of justice, the Judges of the Fourth Judicial District direct the County Attorney's Office, when filing a new criminal case, to bring to the attention of the Clerk of Court any Cause Numbers or active judgments filed previously for that particular Defendant. The Clerk of Court shall also cross check for names when filing a new criminal file, bringing to the attention of the Judge in jurisdiction for the new criminal case filing all files related to that Defendant so, as far as is practically feasible, one Judge may preside over that particular Defendant.

F. Judges to Include Costs of Incarceration. The Court may impose costs of incarceration or medical care as provided in Mont. Code Ann. § 7-32-2245.

G. Appointment of Counsel – State Public Defender System. The eligibility to request representation by the statewide Public Defender system must be determined in accordance with Mont. Code Ann., Title 47 – Access to Legal Services. The Office of Public Defender shall provide public defenders for all 72-hour hold hearings, including those held during holiday periods, when such hearings are scheduled.

H. Pro Se Defendants. For Defendants who reject the services of a public defender and wish to represent themselves, the Court has adopted the "FOURTH JUDICIAL DISTRICT GUIDE TO CRIMINAL TRIALS FOR PRO SE DEFENDANTS" **(Exhibit "P")**

I. Petitions for Post-Conviction Relief and Petitions for Writ of Habeas Corpus. The Clerk of Court shall file Petitions for Post-Conviction Relief and Petitions for Writ of Habeas Corpus as civil proceedings and waive any filing fee. The Clerk of Court shall assign the civil proceeding to the sentencing judge in the criminal action for which relief is sought under the petition and route the file to the Judge in jurisdiction of the petition for further action.

J. Subpoena Duces Tecum. The court may issue a subpoena duces tecum commanding the person to whom it is directed to produce the books, papers, documents, or other objects designated in the subpoena. Mont. Code Ann. § 46-15-106. Before the court will issue such a subpoena in a criminal case, the requesting party must move for issuance of the subpoena and include the following information:

1. the nature of the documents requested;
2. the relevancy of the documents;
3. the documents are necessary for trial preparation;
4. that the documents are not otherwise procurable reasonably in advance of trial through discovery processes of Mont. Code Ann. § 46-15-322;
5. that application is made in good faith and not for harassment or delay; and
6. that if the applicant seeks the information ex parte, the reason why such process is necessary, such as implication of a defendant's trial strategy, protection of a privacy interest, or that disclosure would compromise the integrity of evidence.

If *ex parte* application is made, the court will determine the propriety of the request and may order that the information be produced first to the court for an *in camera* inspection.

RULE 12: DOMESTIC ACTIONS

A. Parenting Plan Orientation Program. Pursuant to Mont. Code Ann. § 40-4-226, the Judges of the Fourth Judicial District have determined that it is in the best interests

of the minor child(ren) that parties involved in a dissolution of marriage or parenting plan proceeding (including child support and other actions) attend a Parenting Plan Orientation program. Program information is available through the Clerk of the District Court and an on-line through the MCAT (Missoula Community Access Television) at mcat.org, click on "Watch," then click "Archived Videos," then "channel," then search for "district court parenting course"). The on-line link to watch this program is as follows: https://www.youtube.com/watch?v=dvnd1HHFIDw [youtube.com]

The case cannot proceed to final hearing until proof of attendance from each party has been filed in the case record. **(Exhibit "L").**

As an alternative, the Court will accept a certificate of completion from the web-based educational parenting program offered through Children In Between (https://online.divorce-education.com). The program may accept court-approved fee waivers if the program is completed in a 30-day period. A party must file a certificate of completion from the program with the Court.

B. Modification of Decree. Hearing on a modification of a decree of dissolution shall be held before the Judge of the department who heard the dissolution action and signed the decree.

C. Child Support. When a case involves parenting, the Clerk of Court will issue an Order to Apply for Establishment of Medical and Child Support Order when the Petition is filed. This Order requires a party to apply to the Montana Child Support Services Division (CSSD). **(Included in Exhibit "L".)**

D. Custody Evaluations, etc. Fees for professional services ordered by the Court shall be equitably apportioned. The bench and bar will endeavor to establish procedures and guidelines to ensure that all parties and children, regardless of wealth, receive necessary services, evaluations and representation in dissolution proceedings.

E. Guardian ad Litem Guidelines. Once appointed by the Court to serve as a Guardian ad Litem (GAL), the GAL assumes significant responsibility to a child, a family, to counsel, and to the Court. The Fourth Judicial District has established the following twelve Guidelines to govern the Court-appointed GAL, in domestic relations cases.

(1) The appointment of a GAL for children from birth to three years of age is a priority.

(2) The GAL shall conduct investigations that the GAL considers necessary to ascertain the facts related to the child's support, parenting, and parental contact. A GAL should anticipate ten - fifteen hours for an initial investigation and report.

(3) The GAL shall interview or observe the child who is the subject of the proceeding. Investigations shall include a minimum of a one-hour office

consultation with each parent, a home visit, an observed interaction with each parent and child, collateral source interviews including school personnel, therapist, and up to three (3) individuals identified by each party. The GAL shall document these interviews and times on each billing statement.

(4) If a GAL chooses not to interview individuals identified by either party, the GAL shall inform the parties of that decision and the rationale for that decision. When possible, the GAL shall communicate equally with both parties

(5) The GAL has access to Court, medical, psychological, law enforcement, social services, and school records pertaining to the child and the child's siblings and parents or caretakers. The GAL also has access to Court records in order to ascertain information regarding any related criminal, dependent-neglect, or sanity proceedings.

(6) The GAL shall make written reports and timely updates to the Court and parties, concerning the child's support, parenting, and parental contact. If a deficiency in a party's parenting is noted, the GAL shall advise that party of the concern as early into the investigation as possible.

(7) The GAL shall appear and participate in all proceedings to the degree necessary to adequately represent the child and to make recommendations to the Court concerning the child’s support, parenting, and parental contact.

(8) The GAL shall perform other duties as directed by the Court. However, the GAL shall not provide direct services to the child or to the parents. This includes therapy, supervised visitation, or counseling. If a need for direct service is identified, the GAL shall advise the parties and recommend possible resources.

(9) The GAL shall issue Recommendations to the Court. The GAL may not issue Orders. Orders shall issue exclusively from a Judge or Standing Master.

(10) The Court shall enter an Order for costs and fees in favor of the child's GAL. The Order must be made against either or both parents, except that if the responsible party is indigent, the costs must be waived.

(11) Once the Court Orders a parenting schedule, the GAL is available to explain the Order and establish use of the Parenting Plan. However, the GAL shall not renegotiate the Order or modify the Plan.

(12) Any objections to the GAL’s working relationship with either of the parties,

must be submitted to the Court in writing, prior to the GAL's having issued Recommendations. The Court will then conduct a hearing to determine whether the GAL should be substituted.

F. Assumption of Cases Involving Families & Children by One Department. To better serve the needs of families and children as well as efficient administration of justice, the Judges of the Fourth Judicial District direct that cases involving families/children and/or conservators/guardianships be consolidated so that one Judge be in jurisdiction of all related civil and criminal proceedings. Some examples of cases which would be consolidated pursuant to this Rule are:

(1) conservatorship civil proceeding
(2) civil commitment proceeding
(3) juvenile proceeding
(4) criminal cases
(5) abuse/neglect cases and adoptions
(6) dissolutions

Abuse/Neglect cases designated as an ICWA case shall be referred to the Missoula ICWA Court presided over by an appointed Standing Master or assigned Judge. Upon the filing of a Petition to Terminate Parental Rights, the Standing Master will refer the case back to the original Judge in jurisdiction.

In those instances where related cases have been filed in different departments, the cases shall be assumed by the Court in jurisdiction which has the lowest number but remain separate causes for filing of the pleadings. Such assumption by one department will ensure consistent and fully informed decisions concerning families.

G. **Parenting** . The District Court has adopted Montana Fourth Judicial District Child Parenting Guidelines, attached as **Exhibit "M".**

H. **State Case Registry and Vital Statistics Reporting Form.** The parties to a dissolution of marriage (or annulment of marriage) action shall complete and submit to the clerk a current Montana State Case Registry and Vital Statistics Reporting Form prior to the court taking any final action on the dissolution/annulment.

I. **Informal Domestic Relations Trial (IDRT).** The Court has adopted an informal process to address domestic relations trials. The procedures involved in this informal process have been developed to simplify the process, relax the rules of evidence and reduce the legal complexity of presenting a case for trial. When a case involves a self-represented party, the Court will use this process. However, the parties may opt-out of IDRT and request a traditional trial. In cases where the parties are represented by an attorney, the case will proceed to a traditional trial, unless the parties opt-in to the IDRT process. Information on the IDRT process can be found at https://courts.mt.gov/idrt and attached in **Exhibit "N"**.

RULE 13: PROBATE AND ADOPTION MATTERS

A. **Adoption Investigation.** In all adoption matters the pre-placement evaluation required by Mont. Code Ann. § 42-3-201, will be ordered by the Court. It is the obligation of counsel to present to the Court an order for such evaluation. The evaluation will then be considered for waiver by the Court or the Department of Public Health and Human Services (DPHHS) if the petitioner is a stepparent or a member of the child's extended family. Whenever the Court signs an order for such an evaluation by DPHHS, it shall be the duty of counsel to mail or deliver a conformed copy of the Petition for Adoption and the Order for evaluation to:

Montana Department of Public Health and Human Services
Child & Family Services Division
2677 Palmer Street, Suite 300
Missoula, Montana 59802

B. Payment of Fees. The amount and payment of administrator, personal representative, conservator, guardian and attorneys' fees shall be governed by the Montana Uniform Probate Code, as amended from time to time.

C. Petition for Probate of Will. Whenever a petition for the probate of a Will is filed, a copy of the Will shall be attached. The original must be filed with the clerk. The Personal Representative shall either file the certificate required by Mont. Code Ann. § 72-3-1006, or file a declaration, either separately or in the Petition for Distribution, stating that the filing of a federal estate tax return was not required in the estate.

D. **Access to Mental Health Commitment Files.** The Respondent, the Respondent's attorney, the County Attorney and all court personnel are allowed access to the DI files without specific authorization from the Court. Any other access to DI files will only be permitted with the specific authorization from the Court.

RULE 14: WITNESSES

A. Examination Limited. On the examination of witnesses, only one attorney upon each side will be permitted to examine or cross examine the same witness, except by permission of the Court first asked and obtained.

If the attorney of either party offers himself as a witness in behalf of his client, and gives evidence on the merits of the trial, he shall not argue the case to the jury, except by permission of the Court.

B. Discharge of a Witness. A party having a witness subpoenaed in a civil cause may discharge the witness by motion made in open Court. If an adverse party desires such witness to remain, the adverse party must procure the witness's further attendance by subpoena or order of the Court and shall thereafter be responsible to the witness for the fees.

RULE 15: STIPULATIONS

No agreement or consent between the parties, or their attorneys, shall be accepted by the Court unless made in open Court, recorded or entered in the minutes by the clerk, or unless the same shall be in writing, signed by the party against whom the same may be urged, or by that party's attorney. It shall be the duty of the party relying upon such minute entry to see that the same is duly entered.

RULE 16: CASH BAIL AND BAIL BONDS

A. Whenever cash bail is delivered to any Clerk of Court, justice of the peace, or municipal Judge, the cash must, as soon as possible, be deposited in a special account with some financial institution where checks, warrants, or drafts can be drawn on the account for the transfer of funds.

B. 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 is required:

At the time the papers transferring the case to the District Court are filed with the clerk of the court, the bail must also be delivered to the clerk. The amount and nature of the bail furnished must be endorsed upon the order whereby the justice or Judge transfers the cause to the District Court.

(1) If the bail furnished was cash bail, the justice or municipal Judge must deposit a proper check, warrant or draft for the full amount of the bail. Upon receipt of the check, warrant or draft, the clerk of the Court must issue a trust fund receipt and deliver it to the justice of the peace or municipal Judge.

(2) If the bail furnished was a bail bond or other bail as permitted by Mont. Code Ann. § 46-9-401, the justice of the peace or municipal Judge must deliver the actual documents furnished as bail to the clerk of the district Court. Upon deposit of such bail, the clerk must issue a receipt specifying the documents received.

C. Whenever bail has been set by and furnished to a justice of the peace in an action wherein the district Court has original trial jurisdiction, and the County Attorney elects to proceed in district Court by filing a Motion for Leave to File an Information directly to the District Court, the following procedure must be complied with:

(1) The County Attorney must, contemporaneously with the filing of the motion in District Court, file a written request with Justice Court asking that the bail be transferred to the District Court;

(2) The County Attorney must deliver to Justice Court duplicate copy of such request;

(3) The justice of the peace must endorse upon the original request and copy the proper information regarding the nature of the bail and must transfer the bail to the district Court as provided in (1) or (2) above. A copy of the request must be filed with the clerk of district Court.

(4) Prior to release of any bail or bond, the original receipt must be presented with appropriate identification. The funds will then be released to the posting party only, unless otherwise directed by the Court. Cash bonds posted by a Defendant may be applied (or at least a portion) to restitution, fines and fees prior to release.

RULE 17: PRIORITY RANKING OF PAYMENT OF FINES AND FEES

Unless otherwise specifically ordered by a Judge in a judgment regarding punishments imposed on a convicted criminal Defendant, the Clerk of Court in each county in the Fourth Judicial District shall establish separate accounts for all categories of payment ordered by the Judge and distribute payments received from the Defendant to these accounts in the following priority order:

(1) Restitution (if ordered)
(2) Recoupment - Including:
    a) Repayment of Cost of Prosecution
    b) Repayment of Cost of Public Defense Attorney
    c) Repayment of Cost of Calling a Jury
    d) Repayment of Pre-Trial Supervision Costs
    e) Repayment of Extradition Charges
    f) Medical Expenses During Incarceration
    g) Costs of Incarceration
(3) Drug Fund
(4) Fine
(5) Other fees and charges

Unless specifically waived by a Judge, each Defendant will be informed in writing by the office of the County Attorney of the amount of the County Attorney longevity pay surcharge to be paid by the Defendant.

RULE 18: OUTSIDE JUDGE

When an out-of-county Judge will be presiding in any trial, or any hearing or motion therein, civil or criminal, it shall be the duty of counsel to make arrangements (file notice) with the local clerk in charge of outside Judges for any personnel or facilities necessary for the orderly disposition of the proceeding.

RULE 19: ABSENCE OR DISABILITY OF JUDGE

The work of the district shall be interchangeable among the Judges thereof during the absence or disability of any of them or upon the request of any Judge. During the absence of

any Judge, the Judges present and presiding, or any of them, 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 Judge to whom it is assigned. Thereafter, it shall be the duty of counsel to consult with the assigned Judge to either confirm or reset the hearing date fixed.

RULE 20: NON-RESIDENT ATTORNEY

An attorney seeking to be admitted to practice before this Court on a particular case, who is not admitted to the Bar of Montana, and who is authorized to practice law in the highest Courts of another State, must at the time of his/her first appearance in a District Court in Montana, or within ten days thereafter, and before any further proceedings are had in the matter, join with, of record, an attorney who is admitted to practice in Montana and who is a resident of Montana. All admissions *pro hac vice* shall be recorded by the Clerk of Court in the action in which the non-resident attorney is appearing.

RULE 21: ATTORNEYS

A. **Authority as Attorney.** In case of a dispute over the authority of an attorney to represent a party to a proceeding pending before the Court, the Court will not recognize the right of the attorney to appear in such proceedings unless he has written authority from his client or unless the party has personally signed the pleadings filed by the attorney.

B. **Withdrawal by Attorney.** Except as provided in (D), no attorney may withdraw from any case, civil or criminal, except by consent of the client and/or by leave of Court after notice has been served on the parties and opposing counsel. This provision is subject to Mont. Code Ann. §§ 37-61-403 through 37-61-405, and Uniform District Court Rule 10.

C. Attorney Fees. In all civil cases, contested or uncontested, where attorney's fees are requested in the pleadings, there must be competent evidence submitted to the Court from which the Court can determine reasonable attorney fees for the services rendered. The party seeking an award of attorney fees shall file and serve upon opposing counsel an affidavit itemizing the claim. The opposing party shall, within ten (10) days thereafter, file objections and a request for a hearing thereon. Failure to file such an objection and request shall be deemed a waiver of the right to a hearing on fees. In a contested proceeding, receipt of evidence pertaining to attorney's fees shall be deferred until a final decision or order on the merits of the case has been issued by the Court.

D. Release of Counsel of Record on Notice. When a final disposition has been made of any case and the time for appeal has expired, all counsel of record shall be automatically relieved of their duties as counsel of record provided they first file a notice of termination with the Clerk of Court and serve the same on opposing counsel and their client. Thereafter if any further proceedings are filed therein, notice must be served on the adverse party as provided in Rule 4(D), M.R.Civ.P.

E. **Duty to Notify.** If an attorney is (a) disciplined, (b) suspended from practice; (c) failed to pay bars dues; or (d) failed to complete CLE credits, upon notice of the aforementioned in any jurisdiction, the attorney must promptly notify the Chief Judge of the matter and provide copies of the document(s) imposing any sanctions.

RULE 22: CLOSURE OF FILES OR DISMISSAL OF ACTION FOR LACHES

The Clerk of Court may close all causes of action without activity for two or more years. 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.

The Clerk of Court will, on a quarterly basis, bring to the attention of the Judge in whose department it is filed any cause which the pleadings show at issue for more than three years. The Court may dismiss the case without prejudice for want of prosecution pursuant to Rule 4(t), M.R.Civ.P.

RULE 23: MOTIONS FOR PROTECTIVE ORDERS OR ORDER COMPELLING DISCOVERY – GOOD FAITH

A motion for a protective order filed under Rule 26(c), M.R.Civ.P. or a motion for an order compelling discovery filed under Rule 37, M.R.Civ.P., shall be accompanied by a certification that the movant has in good faith conferred or attempted to confer with other affected parties in an effort to resolve the dispute or to secure the disclosure or discovery without court action. Failure to include the certification or failure to make a good faith effort to confer may result in sanctions as allowed by Rule 26(c) and 37.

RULE 24: JUDGMENT ON WRITTEN INSTRUMENT

In all cases in which a judgment is entered upon a written instrument, the instrument must be presented to the clerk at the time judgment is granted by the Court, the clerk shall note in ink across the face of the instrument the fact of the entry of judgment and its date. The clerk shall sign the entry, attach the official seal, and file the instrument. The instrument shall not be removed except by the order of the Court in writing setting forth the facts of such removal.

RULE 25: RULES OF DECORUM

The District Court adopts the Fourth Judicial District Courtroom Decorum and Practice Guidelines attached hereby as **Exhibit "O"**.

RULE 26: COURT SECURITY COMMITTEE

There shall be a Court Security Committee whose members are:

A. A District Court Judge of this District, who shall chair the Committee
B. A representative of Missoula County Justice Court;
C. A representative of the Missoula County Sheriff's Department;
D. A representative of the Missoula County Commissioners;
E. A representative of the Federation of Missoula County Employees;
F. A representative of the Western Montana Bar Association;
G. A representative of the Missoula County /Clerk of Court's office;
H. A representative of County Risk Management or insurance services.
I. A representative of the Mineral County Sheriff's Department;
J. A representative of the Mineral County Commissioners;
K. A representative of the Mineral County Clerk of Court's office; and
L. A representative of the Mineral County Justice Court

The Court Security Committee shall develop a Court security plan with recommended training and equipment and provide continuous oversight of the implementation of the Court security plan.

RULE 27: MEDIA GUIDELINES

Within the spirit of the First Amendment and Montana Right to Know, media coverage of trials and hearings shall conform to the following guidelines:

CELL PHONES must be on silent or vibrate so that they do not disturb court proceedings. Cell phones may be used for internet use in the courtroom by counsel or spectators as long as they are silenced. During jury trials, jurors are permitted to keep their cell phones for use when court is not in session to make contact with family or work, but are directed 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. **Unless specifically authorized by the Court, cell phones may not be used to record audio or video during Court proceedings.**

TELEVISION & RADIO: Cameras are limited to local broadcast networks. They shall be located in a preselected position and operated by one 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 operating. Sufficient film and/or tape capacities shall be available to alleviate film or tape changes except during Court recess.

MICROPHONES: Microphones shall placed to minimize distraction to the proceedings. Placement of pooled microphones will be determined by court clerk in consultation with the presiding judge. All equipment shall be placed at least 15 minutes before the start of the day's proceedings. Members of the press, including still photographers, will be accommodated on a first-come basis, and should position themselves in the designated

media sections. Members of the press are permitted, when necessary, to move in a non-disruptive manner in the Courtroom. Broadcast coverage outside of the Courtroom shall be handled with care and discretion.

PRINT MEDIA: Photographers are permitted to move in a non-disruptive manner in the Courtroom. No flash cameras will be permitted and the cameras used shall operate with no distracting noise.

JURY: No member of the press or spectator may record or televise (post) the jury voir dire process. Jurors' faces shall not be recorded, photographed or drawn.

ALLEGED VICTIM: No recordings, photographs or drawings shall be made of the alleged victim or the alleged victim's family.

INTERVIEWS: Until the conclusion of the trial, there will be absolutely no interviews of the 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 guidelines are subject to such amendments as the Court may from time to time deem necessary

RULE 28: MISCELLANEOUS FILINGS

The Clerk of Court shall file each miscellaneous filing in its own separate cause of action and, pursuant to Mont. Code Ann. § 25-1-201(1)(a), shall charge the $120 commencement of action filing fee. This includes but is not limited to Bond to Release a Construction Lien, Petition For Release of Excess Proceeds From a Trustee's Sale, Issuance of Out of State Subpoena and Petition For Release of Certified Copy of Original Birth Certificate.

RULE 29: STANDING ORDER FOR REFERRING CASES TO A STANDING MASTER

The District Court Judges of the Fourth Judicial District jointly issue this Standing Order pursuant to Mont. Code Ann. § 3-5-124(1).

1. Appointment. District Court Judges, at their discretion, may appoint a Standing Master to adjudicate a case. Once appointed to a case, the Standing Master shall be responsible for the administration and disposition of proceedings on the case.

2. Governing Laws and Rules. Proceedings before a Standing Master are governed by Mont. Code Ann. §§ 3-5-124 through 3-5-126, and any other statute

specifically applicable to Standing Masters. Mont. Code Ann. § 3-1-804 only applies to substitution of district court judges, and does not apply to Standing Masters.

3. Final Orders and Decrees. Pursuant to Mont. Code Ann. § 3-5-126(1) and Rule 52(a), M.R.Civ.P., the Standing Master shall file and serve written findings of fact, conclusions of law, and a dispositive order for all contested proceedings tried upon the facts. The Standing Master shall file and serve a written decision and dispositive order for all contested proceedings not tried upon the facts. The filing and service of a dispositive order of the Standing Master shall trigger the beginning of the 10-day in which a party may file and serve objections pursuant to Mont. Code Ann. § 3-5-126(2). If no objections are filed within the 10 days, the Standing Master's findings of fact and conclusions of law and/or order or decree are the final order of the Court. Mont. Code Ann. § 3-5-126(2). In this situation, no further action by the appointing District Court Judge is necessary.

4. Objections. If a party files objections to the Standing Master's dispositive order within the 10 days provided by statute, and the objections conform to the requirements set out below, then the case will proceed according to Mont. Code Ann. § 3-5-126(2).

Objections to the Standing Master's Report must:

A. be written;
B. specifically identify the subject of fact or conclusion of law asserted to be in error; and
C. for each assertion of error, state with particularity the asserted factual or legal basis or reason for the assertion with citation to relevant legal authority.

5. Effect and Enforceability of Standing Master's Order or Report Pending Review. Upon filing and except as otherwise stayed by order of the Standing Master or District Court Judge, the Standing Master's Orders or Report shall be immediately effective and enforceable as an Order of the Court, subject to subsequent order of the District Court Judge upon review based on a timely-filed objection which meets the requirements set out above. Upon motion of a party, the Standing Master or District Court Judge may order a stay of execution of the Standing Master's Order or Report pending expiration of the 10-day objection deadline under Mont. Code Ann. § 3-5-126(2), or entry of a final judgment by the Court upon review of the timely-filed objections. Along with the District Court Judge, the Standing Master retains jurisdiction to enforce all provisions of an Order or Report that are not subject to objection or Court's review pursuant to Mont. Code Ann. § 3-5-126(2). The Standing Master also retains jurisdiction to hear and rule on all other pending and new issues raised by the parties in the proceeding.

6. Finality of Final Dissolution Decree Issued by Standing Master: Pursuant to Mont. Code Ann. § 40-4-108(1), the filing of objections to a Final Decree of Dissolution issued by the Standing Master that do not challenge the finding that the marriage is irretrievably broken will not delay the finality of that provision of the Decree and therefore

the marriage remains dissolved in accordance with the Standing Master's Order.

7. Force of Law. The District Court may address, remedy, and sanction or punish any violation of this Order as a contempt of court. This provision does not preclude, limit, or impair the authority of a Standing Master to address and remedy contempt of court within the authorized scope of a Standing Master's authority under this Order, any specific order of reference and Mont. Code Ann. §§ 3-5-124 through 3-5-126.

RULE 30 – JUDICIAL ZOOM OR VIDEO APPEARANCES, GUIDELINES

1. ZOOM APPEARANCES/HEARINGS – Any individual who intends to view or participate in a hearing through a Zoom appearance is required to provide their name on the Zoom connection. Failure to include the appropriate identifying information may result in removal from the Zoom platform. An individual may be required to obtain permission to attend a hearing from the presiding Judge. Additional ZOOM procedures, which may be more specific to this rule, can be found at the following link:

https://www.missoulacounty.us/government/civil-criminal-justice/district-court/court-calendars [missoulacounty.us]

2. ZOOM HEARINGS WITH MONTANA STATE PRISON

HOW TO REQUEST A COURT APPEARANCE VIA VISION NET/ZOOM WITH AN OFFENDER AT MONTANA STATE PRISON With the increased demand for offenders to appear via vision net/zoom; before a date is set, it is important to determine if the date and time are available for the Facility Transportation/Video Conference Calendar.

1. Contact the Court Coordinator (see below) and set up a date on the Video Conference Calendar.
   a. Offenders located at Montana State Prison* - CORMSPCourt@mt.gov
   b. Offenders located at Dawson County Correctional Facility – 406-377-1640
   c. Offenders located at Crossroads Correctional Center – 406-434-7405
2. Create and File an Order to Appear via Vision Net/Zoom with the Clerk of Court. The Order should include the who, what, where, when and most importantly, the how the offender will attend the hearing.
3. Request the Clerk of Court:
   a. E-mail CORMSPCourt@mt.gov and CORDOCRecords@mt.gov with a copy of the Order that has been filed with them.
   b. E-mail CORMSPCourt@mt.gov with the zoom link to connect to the hearing.
   *Orders or messages that are sent to other individual staff may not be processed.

**If a security issue is taking place during the time of a scheduled court hearing, Montana State Prison may not be able to allow the offender to be present for the hearing. Safety and security of our staff and offenders is our highest priority. Please remember it takes time to move inmates within the facility.

Michelle Chapel
Office: 406-415-6302
Michelle.chapel@mt.gov
or
Stacy Leighton
Office: 406-415-6519 | stacy.leighton@mt.gov
400 Conley Lake Rd | Deer Lodge, MT 59722

A. Counsel shall make all arrangements with the MSP contact person to set up a ZOOM appearance. If the ZOOM time and date are acceptable to MSP, counsel shall file a motion to appear by ZOOM conference and state in the motion that they have contacted MSP and the date and time is acceptable to MSP along with the ZOOM information to call. Counsel shall also submit a proposed order. Once the order is filed counsel shall email it to MSP and MSP will then send out an email confirmation. Counsel shall then email the confirmation to the deputy clerk for the Judge in jurisdiction.

B. At the time of the hearing Counsel shall make sure all persons dial into the MSP's Zoom.

C. If the Zoom from MSP is not available, counsel shall make arrangements to see if the hearing can be available at the date and time above in a room with a telephone. Counsel shall have the telephone number ready at the time of the hearing of what number to call at MSP.

D. If MSP states that they cannot accommodate a Zoom hearing, counsel shall determine what dates MSP would be available to accommodate a hearing. Counsel shall then make a motion to continue and the Court will try to accommodate those dates and times.

3. ZOOM Technology Requirements & Best Practices

- **Devices**
  - Computer (laptop or desktop), tablet or smartphone with Zoom desktop application or app installed. Telephone for audio only participation.
  - Make sure your device is connected to power.

- **Internet access**
  - You need a stable internet connection. You can verify that your internet connection is good at: https://www.pcworld.com/article/2048594/how-to-test-your-home-internet-speed.html.
  - Connection via a hard-wire Ethernet cable will always be faster and more reliable than WiFi.
  - Free public Wi-Fi does NOT offer the stability and strength required to participate in a Zoom hearing.
  - Do not join in a moving vehicle—internet connectivity may affect your Zoom connection.

- **Camera & microphone**
  - Laptops, tablets and smartphones have these tools integrated into the device.
  - Desktop computers must be paired with external microphones and cameras that have been tested prior to the hearing.

- **Technical Support**
  - The court will not provide technical support for Zoom attendees. Please contact the Zoom Help Center, your local IT support or other online guidance.

- **Download and Install Zoom:**
  - If you haven't already, download and install the Zoom Cloud Meetings app from the App Store or Google Play Store.

- **Joining Zoom hearing**
  - Use the link provided in your hearing notice or enter the meeting ID and password. Or go to: https://www.missoulacounty.us/government/civil-criminal-justice/district-court/court-calendars to find a Judge's specific Zoom information.
  - to find the specific judge's zoom link and password.
  - Be sure to join the hearing at least ten minutes before the start time. If you arrive late, you may end up waiting longer in the Waiting Room.
  - You will be prompted to enter your name or identification information. Verify that your screen name is your real name. The Court cannot recognize you in the waiting room or on the main room when your identity is unrecognizable.
  - You may be placed in a virtual "waiting room" until the court is ready to address your hearing or if you are observing and the case is confidential and not open to the public.

- **Audio/Video**
  - Test your audio and video before joining the meeting.
  - Turn off all other audio disruptions (phones, messaging alerts, email alerts, etc.).
  - Know how to mute your voice by clicking on the microphone icon. If there is a red line through the microphone you are muted and cannot be heard by the people in the meeting. When it is your turn to speak, you will need to unmute yourself by clicking on the microphone icon.
  - Do not speak over anyone and do not interrupt anyone.

- **Location/Professionalism**
  - Select a location that is relatively quiet and manageable. Cell phones should be muted, doors to rooms closed and disruptions minimized.
  - Be aware of the background behind you as it will be seen by the Judge and others attending the hearing.
  - Don't sit directly in front of or behind a window as the light or reflection can affect the video.
  - If you use Virtual Backgrounds, select something neutral in color.
  - Dress appropriately and maintain a professional demeanor throughout the

hearing.

- **Testing/Practicing**
  - Run a quick test to connect with another Zoom user or use the Zoom test: https://support.zoom.us/hc/en-us/articles/115002262083-Joining-a-test-meeting.
  - The court will use the audio and video functionality of Zoom, but other functions such as screen sharing, etc., may be allowed by the judge for participants. All participants must be familiar with all the Zoom functions and should practice prior to their proceeding.

- **Recording/Photographs/Reproductions**
  - **Any recording of a court proceeding held by video or teleconference, including "screenshots" or other audio or visual copying of a hearing, is absolutely prohibited. Violation of these prohibitions may result in sanctions, restricted entry to future hearings, denial of entry to future hearings or any other sanctions deemed necessary by the court.**

RULE 31 - ORDER IMPLEMENTING ELECTRONIC FILING SYSTEM

The Fourth Judicial District Court participates in the electronic filing system as adopted by the Supreme Court Administrator. The Montana Supreme Court has adopted rules governing access to and use of the electronic filing system. *See In Re Temporary Electronic Filing Rules*, AF 14-0745, filed October 3, 2017, as amended April 24, 2024. All lawyers admitted to practice in Montana, or those appearing *pro hac vice*, shall become registered users of the electronic filing system and begin using the electronic filing system. Instructions on becoming a registered user and accessing the electronic filing system are available at https://courts.mt.gov/courts/EFile/Instructions/

# # #

EXHIBIT “A”

LAW & MOTION - DEPT. 1
HONORABLE LESLIE HALLIGAN PRESIDING

Time	Mon	Tues	Wednesday	Thurs	Friday
8:30			Juveniles		
9:00			Dependency cases (Youth In Need of Care)		
10:00			Adoptions		
10:30			Civil Cases		
11:00			Misc Criminal Matters		
1:30			Criminal video appearances and in-custody		
2:00			Criminal cases out of custody		
4:00			Criminal sentencing and in-custody, in-person criminal appearances		

EXHIBIT “B”

LAW & MOTION - DEPT. 2
HONORABLE TARA J. ELLIOTT PRESIDING

	Mon	Tuesday	Wed	Thur	Fri
9:00		**Dependent/Neglect Matters**			
10:00		**Civil Matters – Limited contested matters that will not exceed a total hearing time of 30 minutes with time split equally between the parties.**			
11:00		**Civil Matters – Uncontested default dissolutions, probates, guardianships, adoptions, and sanity cases.**			
1:30		**Criminal Matters – in custody**			
2:45		**Criminal Matters- out of custody**			
4:00		**Juvenile Matters – Second and Fourth Tuesdays of the Month**			

EXHIBIT "C"

LAW & MOTION - DEPT. 3
HONORABLE JOHN W. LARSON PRESIDING JUDGE

	WEDNESDAY	**THURSDAY**
10:00	**Criminal Matters** **PTR hearings**	**Criminal Video Court from the Jail**
10:30– 11:30	**Contested Motions Criminal and Civil**	**Criminal Matters**
12:00-1:00		**Family Court Staffing**
1:30	**Sanities** **Criminals**	
2:00	**Orders of Protection** **Contested** **Civil Matters**	**Civil Matters: Dependency/Neglect, Adoptions, Probates, Defaults, Dissolutions, etc.**
2:30	**Contested** **Civil Matters**	**Civil Matters: Dependency/Neglect, Adoptions, Probates, Defaults, Dissolutions, etc.**
3:00	**Contested** **Civil Matters**	**Juvenile matters**
3:30	**Contested** **Civil Matters**	**Family Treatment Court**

EXHIBIT “D”

LAW & MOTION - DEPT. 4
HONORABLE JASON MARKS PRESIDING

Time	Mon	Tues	Wed	Thurs	Friday
9:00	Arraignments	Criminal – In custody via video			
10:00	Contested Sentencing & Evidentiary Hrng	Criminal – Not in Custody and Dispositive Matters			
11:00		Criminal- Transport and out of custody contested sentencings.			
1:00		Sanity			
2:00		Youth in Need of Care			
2:45		Scheduling Conference			
3:00		Civil- Parenting, Dissolution, Adoption, Probate, Driver’s License, Name Change			
4:00		Juvenile- Criminal In Custody and Not in Custody – **Schedule only on 1st and 3rd Tuesdays of the Month.**			

EXHIBIT "E"

LAW & MOTION CALENDAR - DEPT. 5
HONORABLE SHANE A. VANNATTA PRESIDING

Time	Mon	Tues	Wed	Thursday	Fri
9:00 AM				**Civil Matters – Uncontested/limited hearings in dissolutions and parenting (DR), probates (DP), guardianships (DG), adoptions (DA), and civil cases (DV)**	
10:00 AM				**Youth in Need of Care (DN)**	
11:00 AM				**Juvenile Matters (DJ)**	
12:15 PM			**YDTC Staffing**		
1:00 PM					
1:30 PM				**Criminal video appearances (DC)**	**(DI)**
2:00 PM				**Criminal cases: in-custody/in-person criminal appearances, omnibus, etc. (DC)**	
4:00 PM			**Youth Drug Treatment Court**	**Civil Matters – Limited hearings/conferences in civil cases and D/L suspension cases (DV)**	

(Revised October 29, 2025)

EXHIBIT "F"

[Name of Attorney]
[Address]
[Telephone No.]

MONTANA FOURTH JUDICIAL DISTRICT COURT, MISSOULA COUNTY

, Plaintiff(s), vs. , Defendant(s).	Dept. No. Cause No. _____ REQUEST FOR HEARING

The (Plaintiff/Defendant) requests a hearing in the above-entitled cause now pending before this Court. The parties request that the hearing be set on the Law & Motion day of _____, the _____ day of _____, 20___, at _____o'clock ___.m.

The parties estimate the length of the hearing will be _____ and the parties intend to call _____ witnesses.

DATED this _____ day of _____, 20__.

_____
Requesting Attorney

ORDER SETTING HEARING

☐ Hearing is set as requested.

☐ Hearing is set for _____, _____, 20__, at _____o'clock _____.m. by order of the Court.

DATED this _____ day of _____, 20___.

_____
District Judge

EXHIBIT “G”

[Name of Judge]
Fourth Judicial District
Missoula County Courthouse
Missoula, MT 59802
[Telephone No.]

MONTANA FOURTH JUDICIAL DISTRICT COURT, MISSOULA COUNTY

,	
Plaintiff(s),	Dept. No. Cause No. _____
vs.	
,	**RULE 16(b) SCHEDULING ORDER**
Defendant(s).	

To enable the court to issue the Scheduling Order required by Rule 16(b), M.R.Civ.P., the attorney for the Plaintiff is directed to consult with the attorney for the opposing parties and any unrepresented party and thereafter file with the court the attached proposed Scheduling Order. If the proposed Scheduling Order is not filed with the court within 30 days of the date of this Order, the court will issue the attached Scheduling Order sua sponte.

DATED this _____ day of _____, 20__.

_____
District Judge

EXHIBIT "H"

[Name of Judge]
Fourth Judicial District
Missoula County Courthouse
Missoula, MT 59802
[Telephone No.]

MONTANA FOURTH JUDICIAL DISTRICT COURT, MISSOULA COUNTY

, Plaintiff(s), vs. , Defendant(s).	Dept. No. Cause No. _____ SCHEDULING ORDER

_____ **The parties *WILL* UTILIZE RULE 6 – SIMPLIFIED PROCEDURE FOR CIVIL ACTIONS.**

_____ **The parties *WILL NOT* UTILIZE RULE 6 – SIMPLIFIED PROCEDURE FOR CIVIL ACTIONS AND PROPOSE THE FOLLOWING SCHEDULE**

Preliminary Note: Discovery shall be completed and the Pretrial Order filed within seven (7) months of the date of this Order unless, for good cause shown, the court allows a longer period.

1. _____: All parties are to be joined and all amendments to the pleadings are to be filed.

2. _____: Names and addresses of Plaintiff's expert witnesses must be furnished to defense counsel on or before this date.

3. _____: Names and addresses of Defendant's expert witnesses must be furnished to Plaintiff's counsel on or before this date.

4. _____: All discovery in this matter shall be completed on this date.

5. _____: Exchange exhibits and final witness lists.

ESTABLISHING DEADLINES FOR THE IDENTIFICATION OF EXPERT WITNESSES, WITNESSES AND EXHIBITS DOES NOT SUPERSEDE THE REQUIREMENT OF ALL PARTIES TO FAIRLY AND ACCURATELY RESPOND TO OTHER DISCOVERY. THAT IS TO SAY, BY ESTABLISHING THESE DEADLINES, IT IS NOT INTENDED THAT THE PARTIES CANNOT IDENTIFY EXPERTS, WITNESSES, OR EXCHANGE EXHIBITS IN RESPONSE TO OTHER DISCOVERY BY CLAIMING THAT THE EXCHANGE OF INFORMATION IS NOT DUE UNTIL THE DEADLINES ESTABLISHED BY THIS ORDER.

ALL DISCOVERY IS TO BE FAIRLY AND ACCURATELY RESPONDED TO AND FAILURE TO DO SO MAY RESULT IN APPROPRIATE SANCTIONS.

6. _____: All pretrial motions, including motions in limine and motions for summary judgment, along with supporting briefs, shall be filed and served on opposing counsel on or before this date. Filling of answer briefs and reply briefs shall comply with the schedule provided by Rule 2(a) of the Uniform District Court Rules.

FOR DEPT. 3 ADD THE FOLLOWING HIGHLIGHTED LANGUAGE:

Multiple motions:

Local Rule 3(G) sets standards for briefs, including their length, which shall not exceed twenty (20) pages in length, exclusive of indexes and appendices, without prior leave of the Court.

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

Parties may not avoid these page limits by filing several motions to dismiss, motions for summary judgment, or other motions—such as using a motion *in limine* to have the effect of a motion for summary judgment.

A motion for partial summary judgment will be treated as if it were a motion for summary judgment, meaning that more than one such motion may not be filed without leave. Supplementary or additional motions and briefs, renewed motions and briefs, objections, and similar documents will be treated as motions in their own right and may not be filed without leave if a second motion to dismiss or motion for summary judgment would require leave for filing.

IF A PARTY BELIEVES THAT DISCOVERY OR OTHER FACTORS REQUIRE FILING MORE THAN ONE SUCH DUPLICATIVE MOTION, THEN THE PARTY MUST OBTAIN PERMISSION TO DO SO BEFORE THE COURT WILL RULE ON THE MOTION. The motion for permission shall set forth the grounds for seeking permission and may not exceed 500 words, applying the standards set in Rule 3(G). The Court will not grant a motion *in limine* unless a party asserts in the motion that it has requested that opposing counsel not offer the evidence but counsel has either rejected the requests or not responded. The Court will then consider whether the evidence is inherently and improperly prejudicial or whether it could appropriately require an objection at trial. The Court also wishes to forestall the use of motions *in limine* as substitutes for motions for summary judgment or similar motions.

7. _____: Hearings on motions or submission of the motions on briefs shall be accomplished by this date. It shall be the responsibility of the moving party to advise the court either that the motions are submitted on briefs or to request a hearing in

accordance with Rule 6 of the Local Rules of the Fourth Judicial District.

8. _____: The lawyers for all parties shall meet in person and discuss settlement in a lawyers resolution conference as provided by Rule 9 of the Local Rules.

9. No further pretrial conferences shall take place unless requested by counsel. If requested, it shall be the obligation of counsel to schedule the conference with the court.

10. There shall be no changes in this Scheduling Order absent court order upon showing of good cause. All motions for continuance shall be submitted in writing, supported by affidavit, and shall bear the signatures of the parties.

11. The Pretrial Order shall be prepared and submitted pursuant to Rule 5 of the Uniform District Court Rules.
_____: Plaintiff's Proposed Pretrial Order shall be served on Defendant.
_____: Defendant's Proposed Pretrial Order shall be served on Plaintiff.
_____: The final Pretrial Order is to be submitted to the Court.

The parties shall advise the court in a cover letter submitted with the Pretrial Order of any special requests regarding the scheduling of the trial, including dates that counsel agree should not be devoted to trial of the case and the anticipated length of trial. The case will be set for trial only upon submission of the Settlement Master's report.

12. _____: A settlement conference shall be held, as provided in Rule 9 of the Local Rules, by this date. The Settlement Master shall submit a report to the court within 5 days of completion of the conference. Upon submission of the Settlement Master's report, the case will be set for trial and/or approval of the Pretrial Order.

Counsel shall advise the Settlement Master, and the Settlement Master shall include in the report to the court, the anticipated length of trial and the dates the parties or key witnesses are unavailable for trial. No case will be set for trial unless a master-supervised settlement conference has been held.

13. Proposed jury instructions (in a jury case) are to be exchanged and submitted 5 days prior to trial.

14. An original and one copy (for the Judge's use) of the Proposed Findings of Fact/Conclusions of Law are to be submitted to the Clerk of Court three days prior to trial or as ordered by the Judge. A Word-formatted document containing the Findings/Conclusions also should be supplied to the Court.

DATED this _____ day of _____, 20__.

_____
District Judge

EXHIBIT "I"

[Name of Judge]
Fourth Judicial District
Missoula County Courthouse
Missoula, MT 59802
[Telephone No.]

MONTANA FOURTH JUDICIAL DISTRICT COURT, MISSOULA COUNTY

, Plaintiff(s), vs. , Defendant(s).	Dept. No. Cause No. _____ SCHEDULING ORDER (Issued as a result of the parties' failure to submit an agreed-upon Scheduling Order)

Pursuant to Rule 16(b), M.R.Civ.P., it is the duty of the court to issue a scheduling order within 120 days of the filing of the complaint. No proposed scheduling order having been filed by the parties, the court issues the following schedule that shall govern this case:

DATE	EVENT
One month from the date of this order	All parties must be joined and amendments to the pleadings filed.
Two months from the date of this order	Names of expert witnesses must be provided to opposing counsel.
Three months from the date of this order	Discovery closes and all exhibits and lists of witnesses shall be exchanged with opposing counsel. The lawyers shall meet in person in a resolution conference in accordance with Rule 9 of the Local Rules.
Four months from the date of this order	All motions must be filed and shall be briefed in accordance with the schedule provided in Rule 2(a) of the Uniform District Court Rules. There will be no hearings on motions unless scheduled in accordance with Rule 4 of the Local Rules.

Five months from the date of this order	The Pretrial Order shall be completed and filed with the court, prepared pursuant to Rule 5 of the Uniform District Court Rules. The parties shall advise the court in a cover letter submitted with the Pretrial Order of any special requests regarding scheduling of the trial.
Two months from the date of this order	Names of expert witnesses must be provided to opposing counsel. A settlement conference shall be held in accordance with Rule 9 of the Local Rules. The Settlement Master shall submit a report to the court within 5 days of completion of the conference. No case will proceed to trial unless a master-supervised settlement conference has been held. Proposed jury instructions (in a jury case) are to be exchanged and submitted 5 days after submission of the Settlement Master's report to the court.

DATED this _____ day of _____, 20___.

_____
District Judge

EXHIBIT “J”

[Name of Judge]
Fourth Judicial District
Missoula County Courthouse
Missoula, MT 59802
[Telephone No.]

MONTANA FOURTH JUDICIAL DISTRICT COURT, MISSOULA COUNTY

, Plaintiff(s), vs. , Defendant(s).	Dept. No. Cause No. _____ ORDER SETTING SETTLEMENT CONFERENCE

IT IS HEREBY ORDERED that a master-supervised settlement conference be held in this case. The case will not be set for trial unless a master-supervised settlement conference is held in accordance with the scheduling order. The parties may utilize a Settlement Master from the list maintained by the Settlement Conference Coordinator (call Randy Cox's secretary at (406) 543-6646) or make other arrangements as they choose.

Counsel who will try the case and all parties must attend in person. Out-of-area corporations or insurance companies must have a representative present in person or via speaker phone, unless personal attendance is ordered by the court upon showing of good cause. All participants must have requisite settlement authority.

Each party shall submit to the Settlement Master at least three (3) business days before the conference a settlement statement of not more than five (5) pages. The statement shall set forth the nature of the case, the issues, the points of law, the strengths and weaknesses of each party's case and a history of settlement negotiation. Relevant additional material may be included if necessary or deemed appropriate. Settlement

statements will not be exchanged and will be returned to the parties at the close of the conference.

The purpose of the settlement conference is to permit a candid exchange of views concerning the settlement value of the case. All communications are confidential and will not be disclosed to anyone. Statements or communications of any kind occurring during the settlement conference may not be used by any party with regard to any aspect of the litigation. No person present at or participating in a settlement conference shall be subject to examination concerning any statements made by any participant or person attending the conference, including statements of the Settlement Master.

The parties shall be equally responsible for payment of the fees charged by the Settlement Master or shall agree among them the responsibility for payment of those fees.

Failure to abide by the procedures stated herein may cause the conference to be cancelled or rescheduled. The non-complying party may be assessed the costs and expenses incurred and other sanctions may be imposed in the discretion of the court.

DATED this ____ day of _____, 20__.

_____
District Judge

EXHIBIT “K”

[Name of Settlement Master]
[Address]
[Telephone No.]

MONTANA FOURTH JUDICIAL DISTRICT COURT, MISSOULA COUNTY

, Plaintiff(s), vs. , Defendant(s).	Dept. No. Cause No. _____ **SETTLEMENT CONFERENCE REPORT**

The Settlement Master reports as follows:

Date And Time Of Conference: _____

Plaintiff(s) Counsel: _____

Defendant(s) Counsel: _____

Time Spent and Hours Billed: _____

Result: (check one) _____ case settled _____ case not settled

Estimated Trial Time Recommended by Settlement Master: _____

Dates Not Available for Trial: _____

Master's Comments: (if any)

Special Trial Considerations: (if any)

DATED this _____ day of _____, 20__.

_____
[Name of Settlement Master]

cc: Attorneys of Record

EXHIBIT "L"

Fourth Judicial District
Missoula County Courthouse
Missoula, MT 59802
(406) 258-4780

MONTANA FOURTH JUDICIAL DISTRICT COURT, MISSOULA COUNTY

_____, Petitioner, And _____, Respondent.	Dept. ___ Cause No.: DR-32-_____ **ORDER TO ATTEND MANDATORY PARENTING PLAN ORIENTATION**

Pursuant to Montana Law, Mont. Code Ann. § 40-4-226, the Fourth Judicial District Court Judges require that parties involved in cases for Dissolutions of Marriage with children and Petitions for Parenting Plans attend a PARENTING PLAN ORIENTATION program. This orientation, a free service of the Court, is mandatory for both parents. Those involved in Motions to Amend Parenting Plans must attend Orientation if they haven't previously attended.

Since the COVID-19 Pandemic, the in-person orientation has been suspended. Parties must view the online parenting plan course video through MCAT, available for viewing at: https://www.youtube.com/watch?v=dvnd1HHFIDw

In order to receive credit for watching the program, you must file a Notice of Completion with the Court stating that you have watched the entire program, and provide a report of at least five (5) points which you feel were important parts of the presentation by the psychologist and which you will use to become a better co-parent for your child(ren).

Dated this ___ day of _____, 2025.

Amy McGhee
(COURT SEAL) Clerk of the District Court

By: _____
Deputy Clerk

Fourth Judicial District
Missoula County Courthouse
Missoula, MT 59802
(406) 258-4780

MONTANA FOURTH JUDICIAL DISTRICT COURT, MISSOULA COUNTY

_____, Petitioner, And _____, Respondent.	Dept. ___ Cause No.: DR-32-_____ **CERTIFICATE OF COMPLETION OF ONLINE PARENTING PLAN COURSE**

The undersigned hereby states:

I am the Petitioner/Respondent (circle one) of the above action

I watched the entire parenting plan course program on _____.

I have attached a report listing at least five points I feel were important parts of the presentation by the psychologist and which I will use to become a better co-parent for my child(ren).

Dated this _____ day of _____, 20____.
(date) *(month)* *(year)*

_____
(Your signature)

_____
(print your name)

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this Notice of Filing was served the _____ day of _____, 20___, by:

[ ] depositing the same in the U.S. Mail with postage pre-paid;
or
[ ] personally delivering this document to the following person.

(Insert Name and Address of Opposing Party) _____
_____
_____

_____
Signature of Petitioner/Respondent (circle one)

Fourth Judicial District
Missoula County Courthouse
Missoula, MT 59802
(406) 258-4780

MONTANA FOURTH JUDICIAL DISTRICT COURT, MISSOULA COUNTY

_____, Petitioner, And _____, Respondent.	Dept. ___ Cause No.: DR-32-_____ **ORDER TO APPLY FOR ESTABLISHMENT OF MEDICAL AND CHILD SUPPORT ORDER**

This matter is pending before the Court and includes minor children. The Court, having reviewed the record finds no child support has been ordered. In the absence of a child support order, the Montana Child Support Services Division (CSSD) can enter a child support order (Mont. Code Ann. § 40-5-225). Therefore:

THE DISTRICT JUDGE ASSIGNED TO THIS CASE REQUIRES THE FOLLOWING:

1. The parties must apply for services with the Montana CSSD within 14 days of this Order. Application forms to open a case with the CSSD are available at the Missoula Self-Help Law Center (Missoula County Courthouse), at the CSSD Office (at 2675 Palmer St Suite C, Missoula, MT 59808) or on-line at DPHHS.mt.gov/cssd under "Forms." (https://dphhs.mt.gov/cssd/Forms). The completed form with required information and signatures can be mailed or hand-delivered to CSSD at the address above.
2. Both parties must fully cooperate with CSSD in providing all requested and necessary information.
3. The parties must file a Notice with the Court of the CSSD case number within 5 business days of CSSD assigning a case number.
4. CSSD shall file an abstract of any final or temporary administrative order to the Court in this case.

Note: Failure to abide by the requirements of this Order <u>will</u> delay the processing of your case. The Court will not enter any final orders or decrees without an open case with CSSD.

Dated this day of 2025.

AMY MCGHEE,
CLERK OF DISTRICT COURT

(COURT SEAL)

By:_____
Deputy Clerk

EXHIBIT "M"

MONTANA FOURTH JUDICIAL DISTRICT
PARENTING GUIDELINES

These Parenting Guidelines are intended to assist parents in developing a child-centered parenting plan that provides meaningful contact between a child and parents and that promotes the child's well-being. Research shows that a child suffers more from conflict between parents before, during, and after a separation than from the separation of households itself. In creating a parenting plan, the parents' goal should be to promote the security of and minimize the stress on the child. These Guidelines also will assist parents in understanding what the judges in the Fourth Judicial District believe is reasonable. When parents are unable to agree on a parenting plan, the judges will order specific parenting arrangements using the standards set forth in Mont. Code Ann. §§ 40-4-212 through 40-4-234 and these Guidelines.

1. GENERAL PRINCIPLES

1.1 **Parental Contact.** A child generally benefits when parental contact is generous and flexible. These Guidelines do not prevent parents from agreeing to different or additional parental contact that they find reasonable and in their child's best interests. Parents are encouraged to adjust a child's schedule when family necessities, illnesses, or unexpected events occur. The requesting parent shall give as much notice as possible and an explanation for occasional requested changes.

1.2 **Extended Family.** A child will generally benefit from continued contact with both parents' relatives and family friends. A child will usually visit with a parent's relatives and family friends during that parent's parenting time.

1.3 **Supporting the Parent-Child Relationship.** Children are best served by having meaningful relationships with both parents. Parents are a powerful influence on their children and should ensure court-ordered parenting time occurs. Children typically identify themselves as being part of both of their parents and often interpret criticism of a parent as criticism of themselves. Parents should speak in positive terms about the other parent in the presence or hearing of the children and ensure others do the same. Parents should communicate directly with each other and should never use a child to gain information about the other parent.

2. HOW TO DESIGN A PARENTING PLAN THAT BEST MEETS A CHILD'S NEEDS

Parents are encouraged to enter into a parenting plan after fully considering the individual circumstances of their family. Under Montana law, courts determine parenting plans in accordance with a child's best interests, as explained in Mont. Code Ann. § 40-4-212.

NOTE: Under Mont. Code Ann. § 40-4-219, a parenting plan may be modified in certain circumstances. However, the court may not allow parents to amend their parenting plan in the future based solely on a child's increasing age, so parents should develop a parenting plan that evolves to meet a child's changing developmental needs.

2.1 **General Considerations.** Children usually do best when they have plenty of time to develop affectionate bonds with both parents. Lower-numbered schedules in the table at 2.5 are more appropriate for a younger child. Since young children adjust better if they have to cope with only one major change at a time, a young child will generally do best with a schedule that closely matches the parenting routine in place at the time of the separation. For example, if one parent performed the majority of child care prior to the parents' separation, beginning with a schedule that allows the child significantly more access to this parent will ease the child's adjustment. Higher-numbered schedules in the table at 2.5 are often more appropriate for an older child.

2.2 **Practical Considerations.** All families are different. When applying the recommendations in these Guidelines and developing their parenting plan, parents are most able to address the concrete issues that must be addressed for a parenting plan to work in their family. Parents should consider factors such as whether parents' work schedules allow them to provide direct care, whether the children have special needs, how to address challenges posed by length or costs of travel, potentially hazardous road conditions, and other relevant matters.

2.3 **Specific Considerations.** Higher-numbered schedules in the table at 2.5 are most appropriate when the following circumstances exist:

A. The child has a secure attachment with each parent, and each parent can soothe the child. Secure attachment forms when a parent provides consistent, loving, sensitive, nurturing, and responsive care to the child. A healthy attachment helps a child learn to manage stress, understand others' feelings, and form stable relationships throughout life. Attachment is not to be confused with general affection.

B. Parents shared equally in parenting responsibilities before the separation, and the child is comfortable with both parents completing parenting tasks.

C. Both parents have good parenting skills, know and are able to meet the child's needs, and are able to put the child's needs above their own.

D. The child is older and more developmentally advanced or is at the older end of the age groups described in 2.4. If a bond exists between siblings, a sibling can bolster a young child's coping abilities.

E. The child is resilient, has an easy temperament, and is able to handle change without a lot of distress and anxiety.

F. Parents are able to work together to meet the child's needs, communicate effectively with each other, maintain flexibility, and minimize conflict.

G. For young children and children with special needs, parents' households, routines, and parenting styles are similar.

2.4 **Considerations When Parents Reside In the Same or Nearby Communities.** The sample parenting schedules referred to below are located in 2.5. Parent 1 means the parent with whom the child spends more time and Parent 2 means the parent with whom the child spends less time. These labels are not based on parenting skill or history.

A. **Infants—Birth to 18 Months.** Predictability and routine are very important. The child's nervous system is rapidly developing, and high stress levels can cause long-term damaging effects to the child. Overnights in two homes can cause stress for an infant and are not usually recommended. Frequent, short parenting periods with Parent 2 are usually better and can gradually increase in length as the infant adjusts and develops. For many infants, Schedules 1 or 2 work best. If the child is not breastfeeding and both parents have been actively involved in parenting and providing care during the night, Schedule 3 might work at the younger end of the age group and Schedule 4 at the older end of the age group. Schedules above 4 should be considered only when all of the considerations in 2.3 exist.

B. **Toddlers—18 Months to 3 Years.** Toddlers start to learn that things and people continue to exist even when they can't see them, but if toddlers are away from their attachment figures for too long, they can develop separation anxiety and feel a powerful sense of loss and anger. Taking comfort items such as a favorite blanket, stuffed animal, or pacifier can help a toddler adjust. For many toddlers, Schedules 1 or 2 may still work best. Some toddlers can progress from Schedule 3 through 5. Schedules above 5 should be considered with caution and when most of the considerations in 2.3 exist.

C. **Preschoolers—3 Years to Start of Kindergarten.** Preschoolers need structure and predictability. Preschoolers can hold the memory of the absent parent in mind and can comfortably handle longer time away from each parent. Most preschoolers can handle one overnight away from their primary attachment figure. Many preschoolers still need to take comfort items with them between households. For most preschoolers, Schedule 3 will work if Parent 2 can soothe them. Schedules 4 through 6 can be considered if some of the considerations in 2.3 exist. Schedule 7 can be considered if most of the considerations in 2.3 exist. If an equal parenting arrangement is used, the 2-2-3 or 2-5-5-2 schedule may best meet a preschooler's need for frequent contact with both parents. If an alternating week schedule is used, which is not generally recommended, the preschooler would benefit from midweek contact with the other parent. Vacations longer than one or two weeks will likely cause distress.

D. **Kindergarten through Middle School.** A child this age increasingly values friends but still depends on parents to provide structure and predictability, particularly at the younger end of the age group. A child will want to have things at each home and will also want to take some items back and forth. Many children this age do best spending most school nights with one parent. For these children, Schedule 6 may work best. Many children in this age group can adjust to Schedule 7.

E. **High Schoolers.** Independence, friends, and social activities are very important to high schoolers. Many high schoolers prefer a schedule with fewer transitions or one home base to simplify their more complex schedules and reduce the volume of items they must transfer between homes. Parents should consider their high schoolers' wishes and rationale; however, parents or the court determine the final parenting schedule regardless of the age of the child. Most high schoolers can handle the longer separations from each parent of Schedule 7. If the high schooler is involved in a lot of extracurricular activities or has a job, the high schooler may prefer a home base or a flexible schedule.

2.5 **Sample Parenting Schedules.** The following sample parenting schedules are listed in order of steadily increasing time with Parent 2. In general, lower numbered schedules are more appropriate for younger children and higher numbered schedules are more appropriate for older children and/or when more of the considerations of 2.3 exist.

SCHEDULE NUMBER	PARENTING TIME WITH PARENT 2	
	Daytime Parenting	**Overnight Parenting**
1	1 to 3 times per week for 2 to 5 hours each	None
2	2 times per week for 2 to 5 hours each and 1 time per week for 6 to 8 hours	None
3	2 times per week for 2 to 6 hours each	1 time per week for no longer than 16 hours
4	1 time per week for 3 to 6 hours	2 non-consecutive times per week for no longer than 16 hours each
5	1 time per week for 3 to 6 hours	2 consecutive times per week
6	1 time per week for 3 to 6 hours	Every other weekend, or extended weekend. Examples of progressive parenting time on alternating weekends: • Sat. morning to Sun. evening • Fri. after school to Sun. evening • Fri. after school to Mon. morning • Thurs. after school to Mon. morning • Wed. after school to Mon. morning
7		Equal parenting time. Examples: • "2-2-3": Week 1: Mon. & Tues. with Parent 1, Wed. & Thurs. with Parent 2, and Fri., Sat., & Sun. with Parent 1; Week 2: Mon. & Tues. with Parent 2, Wed. & Thurs. with Parent 1, and Fri., Sat., & Sun. with Parent 2 • "2-5-5-2": Week 1: Mon. & Tues. with Parent 1; Wed. & Thurs. with Parent 2; alternate weekends • Alternating one-week periods • For older children, alternating two-week periods

2.6 **Considerations When Parents Do Not Reside Close to Each Other.**

A. **General Additional Considerations.** When parents do not reside close to each other, a child will typically spend more time with one parent than the other. In designing a parenting schedule, parents should consider the following, along with 2.1, 2.2, and 2.3 above: time and distance between parents' homes, travel costs (for example, airfare and gas), travel safety, and the child's ability to cope with travel.

B. **Infants and Toddlers—Birth to 3 Years.** For infants younger than 18 months, parenting time should occur in Parent 1's community, beginning with a frequency and duration that closely matches Parent 2's pre-separation parenting time and expands as appropriate. If many of the circumstances in 2.3 exist, a toddler may be able to adjust to traveling a short distance to Parent 2's home for one overnight every other week or one to three overnights monthly.

C. **Preschoolers—3 Years to Start of Kindergarten.** Most preschoolers can adjust to one overnight every other week preferably in Parent 1's community. One or two midweek parenting periods for a few daytime hours are appropriate if circumstances allow. For shorter distances, and if many of the circumstances in 2.3 exist, a preschooler may be able to adjust to two to four consecutive overnights every other week depending on age and developmental level. For longer distances, and if many of the circumstances in 2.3 exist, a preschooler may be able to adjust to two to seven consecutive overnights monthly. An equal parenting schedule that requires a child to adjust to two different preschools is not advisable.

D. **Kindergarten—High School.** Most school age children can spend time with Parent 2 on alternate weekends from Friday after school until Sunday evening at least two hours before bedtime and one or two midweek parenting periods that do not interfere with school. Children at the younger end of the age group generally adjust better if the summer break with Parent 2 is split into two blocks of time to allow reconnection with Parent 1. At greater distances, Parent 2 should parent all but three weeks of the school summer break, with the child returning at least one week prior to the start of school. A child at the younger end of the age group, however, may need to begin with shorter time blocks in the summer with Parent 2 and expand to the full amount of time.

E. **Scheduling.** In order to make travel arrangements, and schedule childcare, summer camps, activities, and family vacations, parents should plan well in advance of proposed parenting time to avoid last-minute conflicts. Failure to give a precise number of days' notice does not entitle one parent to deny the other parent parenting time. When a child spends all or most of the summer break with Parent 2, Parent 1 may not schedule activities for the child that will interfere with the child's time with Parent 2 without Parent 2's consent.

F. **Additional Parental Contact.** When parents reside at greater distances and Parent 2 is in the child's community, or the child is in Parent 2's community, the child should have additional time with Parent 2. School is a priority, yet a child can occasionally miss school to spend time with Parent 2 as long as the child's scholastic progress is not substantially impaired.

3. HOLIDAY/SPECIAL DAY SCHEDULE

To create a schedule for holidays and special days, parents should make a list of holidays, religious and cultural events, special days, and long weekend school breaks that are important to the child and parents. The parents may divide these days any way they prefer and should state the day and hour when each holiday/special day begins and ends and whether the holiday should vary (e.g., alternate between parents in odd and even years). Holiday/special day parenting takes priority over regular parenting time and vacations. If parents cannot agree on a holiday/special day schedule, the court will adopt a holiday schedule that generally alternates major holidays/special days.

4. ADDITIONAL CO-PARENTING RECOMMENDATIONS

4.1 **Parental Communication**. Parents shall keep each other and the court advised of their home and work addresses, telephone numbers, and email addresses unless excused from doing so by the court. Parents should communicate well in advance about matters that will impact the child's parenting, school, and summer vacation. Electronic programs may assist in parental communication, scheduling, and information exchange. If parents are unable to communicate respectfully, the court may order the parents to use an electronic program that gives the court and attorneys the ability to view the parents' communications. Programs include Our Family Wizard, Google Calendar, and Talking Parents.

4.2 **Communication with Children.** Communication between parent and child shall be encouraged. Parents and children have an unrestricted right to exchange cards, letters, and packages. Parents and children may contact each other with appropriate frequency at reasonable hours, both electronically (Skype, FaceTime, video chat, email, texting, etc.) and by phone. Parents may not unreasonably refuse to answer, turn off the phone, or restrict the child's access to the phone or electronic devices to deny contact between the child and the other parent. Messages left for a child should be returned within 24 hours. If necessary, parents should agree on a specified time for calls.

4.3 **Sharing Information**. Each parent should communicate independently with the child's school, doctors, other professionals, and organizations regarding the child and request grade reports, records, schedules, and notices as they are issued. Schools, professionals, and organizations usually communicate with both parents if the parents register with them to receive information and maintain current contact information. However, parents are expected to share information about the child's events when they believe the other parent has not received notice. Each parent should keep the other parent informed of any medical treatment or vaccinations the child receives while in their care. Each parent should notify the other parent as soon as practical of any medical emergencies or any illness sufficient to require medical care or keep the child out of school. If the child is taking medication, the parent filling the prescription should provide the other parent with enough medication for their parenting time and appropriate instructions on use of the medication.

4.4 **Clothing**. Both parents should maintain an appropriate supply of clothing including underclothes and personal care items (diapers, toothbrushes, shampoo, etc.) for the child at their residences. When a parent sends clothing with a child, the other parent should return the clothing with the child. Parents should advise as early as possible of any special activities so the other parent can send appropriate clothing, medical supplies, comfort items, sports equipment, or other items in the other parent's possession.

4.5 **Child Support**. Child support is determined in accordance with the Montana Child Support Guidelines. To be enforceable, child support can be changed only by order of the court or the Montana Child Support Enforcement Division (CSED). If the parents agree to change child support, in order for the change to be enforceable, the change must be in writing, filed with the court, and approved by a court or CSED order. A parent may not deduct the cost of food, clothing, or other items from court-ordered support.

4.6 **Withholding Child Support or Parenting Time**. Children have a right to parenting time and child support, neither of which is dependent upon the other. A parent cannot withhold parenting time from a parent who does not pay child support, and a parent must continue to pay child support even if not receiving parenting time. If a parent violates a parenting plan or a support order, the other parent's remedy is to seek a court order requiring enforcement of the parenting plan or support order. The court may modify a parenting plan if a parent refuses, frustrates, or denies a child contact with the other parent.

4.7 **Insurance**. Parents shall ensure the child is medically insured. Any parent who carries medical insurance for the child should provide the other parent with a copy of the insurance card, coverage information, and a list of preferred providers in the area where the other parent resides or authorization to obtain a list. Parents should cooperate in submitting bills to the insurance carrier. Parents should make reasonable efforts to ensure that the child sees a preferred provider and should consider the value of maintaining consistent care providers. When a parent takes a child to a health care provider, the parent should promptly furnish the other parent with the bill, and the parent carrying the insurance should promptly furnish the other parent with any explanation of benefits from the insurance company. Both parents should arrange directly with the health care provider to pay their share and should inform the other parent of their arrangements.

4.8 **Summer Vacation**. Each parent is entitled to a reasonable and developmentally appropriate amount of vacation time with the child during the summer. The parents should communicate in writing as early as possible in order to schedule vacations well in advance of the end of the school year.

4.9 **Privacy of Residence.** A parent may not enter the residence of the other parent except by the other parent's express invitation, even if the parent retains an ownership interest in the residence.

4.10 **Child Care Providers**. Parents should use the same provider when a child is in regularly scheduled day care or after-school care. When practical, each parent should ask the other parent to care for the child when one parent is unavailable.

4.11 **Transportation.** Parents should share responsibility for transporting the child and be punctual when doing so. Exchanges of the child made at child care or school reduce the number of transitions for the child but may require parents to make other arrangements for exchanging the child's personal belongings.

4.12 **Residential Changes.** A parent who changes residence should provide written notice to the other parent and the court. If the change in residence will significantly affect the child's contact with the other parent, the parent who intends to change residence shall comply with the requirements of Mont. Code Ann. § 40-4-217. While parents have a constitutional right

to choose where they live, the court determines the child's residence if the parents cannot agree. If the parents do not agree in writing to a change in the child's residence, the court will consider family-specific circumstances in making its decision. Generally, the court views a change in a child's residence before or after entry of a parenting plan order as significantly affecting the child's relationship with family members and others and the child's adjustment to home, school, and community. When both parents reside in the same community at the time of separation and then one parent intends to leave that community, the court will consider imposing travel costs for the child on the parent who is moving.

4.13 **Parent's Mental Health Issues.** Not all mental health issues affect a person's ability to parent, and people with mental health issues can be good parents. If a mental health issue impacts the ability to parent, the court may require compliance with treatment recommendations and place restrictions on contact to protect the child.

4.14 **Factors that Negatively Impact Parenting**. The court may limit or deny parental contact to a parent whose behavior places the child's safety or well-being at risk.

A. **Child Abuse or Neglect**. If there are allegations that a parent abused or neglected a child, the court may impose restrictions such as supervised parenting or no contact.

B. **Partner or Family Member Assault**. A parent who loses control or acts violently with a partner or family member may do so with a child. Exposure to partner or family member abuse has long-term, emotionally damaging effects on children. Depending on the nature of the abuse and how recently it occurred, the court may limit parenting and require a parent to successfully complete appropriate counseling or impose other requirements before allowing unsupervised parental contact.

C. **Substance Abuse**. A child's safety should not be placed at risk by a parent's use or abuse of alcohol or drugs.

D. **Kidnapping.** The court may restrict or require supervised contact for parents who have kidnapped or hidden a child or threatened to do so.

E. **False Reports and Unnecessary Court Filings**. Parents should not make false reports about the other parent to law enforcement or child protection authorities or file repetitive, groundless requests for court intervention.

4.15 **Special Considerations.**

A. **Parent Education.** Most parents may benefit from learning more about parenting after separation or divorce, including by attending the mandatory Parenting Plan Orientation program and consulting the handout, "Putting Missoula County Kids First." Many other resources are available in our community and on the internet. The court also may order parents to attend parenting classes in addition to the Parenting Plan Orientation program.

B. **Parents' New Relationships**. Parents should take care when introducing new partners into their child's life. Parents should not involve a child in a new relationship unless the relationship is likely to become long-term. A young child tends to form relationships quickly with a caring adult and suffers a loss when the relationship ends. An older child may resent a parent's new partner if introduced too soon after a separation or divorce.

C. **Breastfeeding**. If an infant is being breastfed, both parents should maintain the feeding of breast milk to the child. A breastfeeding parent is encouraged to provide breast milk to the other parent to accommodate parenting time by the other parent; and if provided, the other parent should use the breast milk. A parent should not use breastfeeding to deprive the other parent of parental contact. Premature weaning from breastfeeding or bottlefeeding may negatively affect a child's physical health and emotional wellbeing.

D. **Gradual Transition to Parental Contact.** When a parent has not had an ongoing relationship with a child for an extended period, the court may require therapeutic support and a gradual transition to the parental contact recommended in these Guidelines.

EXHIBIT "N"

Choosing an Informal Domestic Relations Trial for Your Family Law Case

Note: You can agree to trying an Informal Domestic Relations Trial (IDRT) either by using this form or telling the judge you want to during a hearing.

This process may not be right for your case, and these instructions cannot take the place of advice from a lawyer. Talk to a lawyer if you have **any** questions.

What Terms Do I Need to Know?

Petitioner/Plaintiff- Depending on the type of case, the person who files an action in court is either called the petitioner or the plaintiff. If you were the first person to file something in court, this is you.

Respondent/Defendant- Depending on the type of case, the person who needs to respond to someone else's action in court is either called the respondent or defendant. If the other person filed first, this is you.

Dissolution- Dissolution is the legal word for divorce in Montana

Modification- If you want to change something about something the Court has already ordered (i.e. a dissolution, parenting plan, or order of protection), then you are asking for a modification.

Informal Domestic Relations Trial (IDRT)- This is a new process for handing family laws cases in Montana. You can learn more about the difference between this and a traditional trial at https://courts.mt.gov/idrt/.

Traditional Trial- The usual process for family law cases tends to involve a traditional trial. You can learn more about the difference between this and an IDRT at https://courts.mt.gov/idrt/.

Montana Rules of Evidence- The laws that govern how a traditional trial works for family cases in Montana is called the Montana Rules of Evidence. They can be found in title 26, chapter 10 of the Montana Code Annotated.

Name
Mailing Address
City State Zip Code
Phone Number
E-mail Address *(optional)*

☐ Petitioner/Plaintiff ☐ Respondent/Defendant

MONTANA _____ JUDICIAL DISTRICT COURT, _____ COUNTY

_____, **Petitioner / Plaintiff,** **and** **_____,** **Respondent / Defendant.**	**Case No: _____** **Informal Domestic Relations Trial Agreement**

My name is_. I agree with the following:

- **I want an informal domestic relations trial. I make this choice voluntarily and understand that both people involved in the case and the judge must agree to it.**
- **I understand that because the Montana Evidence Rules do not strictly apply, both sides can present any relevant evidence we think is important. The judge will decide how much weight to give the evidence provided.**
- **I understand I will not have the right to question the other side and the other side will not question me. Instead, the judge will ask both of us questions about the issues in the case. Each side may suggest topics or questions for the judge to ask about.**
- **I understand that most of the time, the two people in the case are the only witnesses. Sometimes a party needs an expert witness (someone with special training and education) to give an opinion, which is allowed in**

informal trials. The parties may ask experts questions. Other witnesses may testify only if the judge agrees they are needed.

- **I understand that lawyers may not ask the parties questions but may question expert witnesses. Lawyers may also make opening statements if allowed by the judge, identify the issues, and make short arguments about the law at the end of the case.**

I have read this document, and I understand and agree to an informal domestic relations trial.

Signature	**Date**

EXHIBIT “O”

FOURTH JUDICIAL DISTRICT COURTROOM DECORUM AND PRACTICE GUIDELINES

Preface

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.

A trial is an adversary proceeding, and lawyers must advocate for their clients' positions. However, conduct that may be characterized as discriminatory, abusive, or obstructive impedes the fundamental goal of resolving disputes rationally, peacefully and efficiently. Such conduct tends to delay and often to deny justice.

Attorneys are privileged to participate in the administration of justice in a unique way, and are responsible to their own consciences, to their clients, to one another, and to the public to conduct themselves in a manner which will facilitate, and never detract from, the administration of justice.

A trial is a truth-seeking process designed to resolve human and societal problems in a rational and efficient manner. A lawyer's conduct should be characterized at all times by personal courtesy and professional integrity in the fullest sense of those terms. A Judge's conduct should be characterized at all times by courtesy, patience, and fairness toward all participants, The courts belong to the people of this state. The guidelines are intended to facilitate access to the courts for the fair resolution of disputes, and should never be applied to deny access.

Application

The purpose of these guidelines is to provide lawyers, Judges, and parties with a reasonable standard of conduct in judicial proceedings, However, these guidelines are not intended to homogenize conduct or remove individuality from the courtroom. To facilitate professional growth and foster voluntary compliance with these guidelines, the Judges of the Fourth Judicial District periodically review the guidelines. Comments are considered by the Judges and changes are incorporated as needed.

All participants in judicial proceedings should voluntarily adhere to these guidelines. The Judges of the Fourth Judicial District reserve the right to impose contempt of court or Rule 11 sanctions for violations of these guidelines. Nothing in these guidelines supersedes or detracts from existing codes or rules of conduct or discipline or alters existing standards by which lawyer misconduct may be determined.

COURTROOM DECORUM

I. General Courtroom Conduct

A. Always be prompt.

B. Stand when the Judge enters or leaves the courtroom.

C. Do not make personal attacks on opposing counsel. Argument or motions on issues not fully briefed or noticed for heating as well as allegations of improper or unethical conduct by an attorney or party which are being raised for the first time during a trial or court hearing are generally considered efforts calculated to disrupt or distract from the issues before the Court and will be cause for sanctions.

D. Do not interrupt the Court or opposing counsel. Wait your turn.

E. Enhancing courtroom decorum is a cooperative venture among bench and bar. It is appropriate to call to the attention of opposing counsel any perceived violations of these guidelines out of the presence of the jury.

F. After the Court has ruled, ask the Court's permission before arguing further.

G. Advise clients and witnesses of the formalities of the Court, the appropriate guidelines, and any rulings on motions in limine. Encourage their cooperation. This applies both to attorneys and to pro se parties.

H. If there is a live microphone at counsel table, remember not to confer with others or rustle papers near the microphone.

I. Courtrooms equipped for videotaped reporting may require special precautions, such as remaining near a microphone.

J. Counsel and the parties are expected to dress in a manner that reflects the seriousness of judicial proceedings and demonstrates an awareness of the Court as a respected institution of the American system of democracy. Coat and tie are suggested for male attorneys. Corresponding attire is appropriate for female attorneys.

K. Treat everyone in the courtroom with fairness, consideration and respect. Refrain from conduct that discriminates on the basis of race, color, national origin, religion, creed, sex, age, disability, sexual orientation, or marital status.

II. General Trial Conduct

A. Offers of and requests for stipulations are appropriate to facilitate the presentation of a case but should not be employed to communicate to the jury a party's willingness or unwillingness to stipulate.

B. During trial, maintain appropriate respect for witnesses, jurors, and opposing counsel, avoiding informality. Address adults by their titles or surnames unless permission has been given to use first names. Avoid referring to adults by biased and demeaning expressions or labels such as “girl,” “gal,” or “boy.” Address jurors individually or by surname only during voir dire.

C. Treat jurors with respect and dignity, avoiding fawning, flattery, or pretended solicitude. Suggestions regarding the comfort or convenience of jurors should be made to the Court out of the jury's hearing.

D. During the opening statement and argument of opposing counsel, never inappropriately divert the attention of the Court or the jury.

E. Avoid expressing an opinion to the jury about the testimony of a witness, a ruling of the Court, or argument of counsel through exaggerated facial expressions or other contrived conduct.
F. When practical, give the Court advance notice of any legal issue which is likely to be complex, difficult, and which you expect to require argument.
G. Do not argue the case in the opening statement.
H. Counsel should not express to the jury personal knowledge or personal opinions about the evidence.
I. Address your remarks to the Court, not to opposing counsel except when extending necessary courtesies, e.g., thank you.
L Only attorneys, parties, court personnel, and witnesses, when called to the stand, are permitted within the bar of the courtroom, unless otherwise allowed by the Court.

III. Examination of Witnesses

A. When examining a witness, avoid undue repetition of the witness's answer.
B. Make objections for evidentiary reasons without delivering a speech or guiding a witness. Recapitulate testimony only as needed to put an objection in context.
C. If a witness was on the stand at a recess or adjournment, have the witness ready to proceed when court is resumed.
D. Attempt to anticipate witness scheduling problems and discuss them with opposing counsel and the Court. Try to schedule witnesses in advance of trial.

IV. Exhibits and Documents

A. Premark exhibits with the clerk for identification prior to trial where appropriate. Hand all unmarked exhibits to the clerk for marking before using them in trial.
B. If practical, have photocopies of an exhibit for the Court, opposing counsel, and the witness. Avoid illegible copies if possible.
C. Return all exhibits to the clerk at each adjournment.
D. Whenever referring to an exhibit, mention the exhibit number.
E. After an exhibit has been admitted, mark on it only with the Court's permission. Avoid unnecessary markings. When referring to locations or features on exhibits such as maps or diagrams, indicate the locations by appropriate markings if they are not readily apparent from the documents.
F. Give to the clerk all papers intended for the Court.
G. Show the proposed exhibit to opposing counsel prior to offering the exhibit in evidence.

V. Scheduling

A. When practical, consult opposing counsel before asking for a hearing and scheduling a discovery appearance in an effort to avoid scheduling conflicts. Assert a scheduling conflict only if the requested time is not available, not to obtain any unfair advantage.
B. If opposing counsel fails to promptly accept or reject a time offered for hearing or discovery appearance, raises an unreasonable number of conflicts, or consistently fails to comply with this standard, agreement is not required.
C. Where time associated with scheduling agreements could cause damage or harm to a client's case, then a lawyer is justified in asking for a healing or scheduling a discovery appearance without first consulting with opposing counsel.

D. Give notice of cancellation of appearances and hearings to all involved at the earliest possible time.

VI. Preferences of Individual Judges

Counsel are advised to determine the preferences of individual Judges with respect to movement within the courtroom. Following are some examples of individual preferences.

A. Stand when addressing the' Court and when making objections.
B. Stand during opening statements and closing argument.
C. Approach the bench only with permission.
D. Maintain an appropriate distance from the witness and the jury.
E. Always address the Judge as "Your Honor."

VII. Discovery

A. Make reasonable efforts to conduct all discovery by agreement. Consider agreeing to an early voluntary exchange of information.
    1. Comply with all reasonable discovery requests in a timely
    2. Stipulate to facts unless there is a genuine dispute.
B. Conduct yourself in a professional manner and treat other lawyers, the opposing party, and all involved with courtesy and civility at all times. Clients should be counseled that civility and courtesy are required.
C. Be punctual in fulfilling all professional commitments and in communicating with the Court and other lawyers.
D. Concentrate discovery responses on matters of substance and content, avoiding quarrels over form or style.
E. Clearly identify for other counsel or parties all changes made in documents submitted for review.
F. Fully respond to discovery, unless making a specific and clear objection warranted by existing law or a reasonable extension thereof. Do not produce documents in a manner designed to hide or obscure the existence of particular documents.

VIII. Depositions

A. Advise clients regarding appropriate behavior, attire and other matters involved with depositions and other proceedings.
B. Take depositions only when actually needed to ascertain facts or information or to perpetuate testimony.
C. Make only good-faith objections to discovery, and avoid objections solely for the purpose of withholding or delaying the disclosure of relevant information.

IX. Court Staff

A. Counsel are to fully cooperate with all court staff including appointed guardians, settlement masters, and standing masters by promptly returning phone calls and keeping scheduled appointments.

EXHIBIT “P”

FOURTH JUDICIAL DISTRICT GUIDE TO CRIMINAL TRIALS FOR PRO SE DEFENDANTS

This guide is intended for the criminal defendant who has knowingly and voluntarily rejected the appointment of counsel to represent him/her in the upcoming jury trial(s). This guide is intended to simply outline the basic steps in a criminal jury trial and explain what will be expected of a criminal defendant who has chosen to represent himself/herself. It is not intended as legal advice.

You are reminded that you have an absolute right to the appointment of counsel to represent you. Although you do not have the right to choose the lawyer who will represent you, you have the right to a lawyer. You are further reminded that since you are not trained in the law, you will be at a disadvantage in the upcoming trial(s) if you continue to represent yourself. You will have to abide by the same rules in court as lawyers do. Even if you make mistakes, you will be given no special privileges or benefits and the judge cannot help you. The State is represented by a trained and skilled prosecutor who is experienced in criminal law and court procedures. Unlike the prosecutor you will face in this case, you will be exposed to the dangers and disadvantages of:

1. Not knowing the complexities of jury selection;
2. What constitutes a permissible opening statement to the jury:
3. What is admissible evidence;
4. What is appropriate direct and cross examination of witnesses;
5. What motions you must make and when to make them before and during the trial to permit you
   to make post-trial motions and protect your rights on appeal;
6. What constitutes appropriate closing argument to the jury;
7. What the applicable rules of evidence are and
8. What appropriate jury instructions may be.

Even though you have rejected the appointment of counsel to represent you at the upcoming trial(s), the Court has appointed a public defender to sit with you during your trial(s) as stand-by counsel. You can consult with stand-by counsel about procedure during these trial(s).

You have certain rights in your trial(s):

1. You have the right to appear in civilian clothing. If you are in custody, you should make arrangements with the Detention Center to be dressed in your own clothing before the trial(s).
2. You have a right to pre-trial discovery of the State’s case.
3. You have a right to a jury trial.
4. You have the right to ask questions of prospective jurors during the jury selection process.
5. You have the right to exercise challenges to prospective jurors for cause and to use 6 peremptory challenges. A challenge for cause is if the juror is not qualified to sit, has actual bias, or implied bias. A peremptory challenge is one that you do not have to give a reason for.
6. You have a right to give an opening statement.
7. You have a right to object to the evidence presented by the prosecution. Your objections must be based on the rules of evidence.

8. You have a right to cross-examine the witnesses called by the prosecution in compliance with the rules of evidence.
9. You have a right to call witnesses in your defense and to subpoena those witnesses.
10. You have a right not to testify. If you do not testify, the jury will be instructed that they cannot hold anything against you for failing to testify and they cannot consider your failure to testify in any way when they deliberate on the verdict.
11. You have a right to testify in your own defense. If you testify, the prosecutor will have the right to cross-examine you, which could hurt your case. Whether or not to testify can be a very difficult decision.
12. You have a right to propose jury instructions, which are statements of the applicable law, and to object to jury instructions proposed by the prosecutor or the Court that will be given by the judge to the jury.
13. You have a right to present a closing argument.
14. You have a right to appeal a verdict of guilty.

PRE-TRIAL PROCEDURES IN YOUR CASE

Practices and procedures for criminal cases are found in Title 46, Mont. Code Ann.. The following is an outline only. You are responsible for timely completion of all pretrial procedures.

A. Arraignment.

Arraignment is the time at the beginning of the case in District Court when you are asked to enter a plea of guilty or not guilty to the charge(s) in the Information. The Information is the formal charging document that tells you what you are charged with, what the maximum penalties are, and what the State says the facts that constitute the charges are. If you are unwilling to enter a plea, the Court will enter a Not Guilty Plea for you to protect your rights.

B. Omnibus Hearing

An Omnibus Hearing is held shortly after the arraignment for scheduling pre-trial motions and other pre-trial matters. Before the hearing, you will be sent an Omnibus Hearing Memorandum form. The prosecutor will fill out his/her half of the form and then send it to you to fill out your portion. You must indicate on the form whether you intend to file any pre-trial motions. Pre-trial motions include motions to suppress any evidence that was taken from you that the State intends to introduce into evidence or to suppress any statement that you made to law enforcement. A motion to suppress asks the Court to prevent the prosecutor from presenting that evidence to the jury. A motion must be in writing and accompanied by a legal memorandum known as a brief in support of your motion. The Omnibus Memorandum will spell out a briefing schedule, a date for you to file your first brief, for the prosecutor to respond, and for you to file a response to the prosecutor's response if you want to. After briefing, the Court will rule on your motion so that you will know before the trial if the evidence will be admitted or not. Failure to file these suppression motions pre-trial means that you cannot complain at trial or on appeal that the evidence should not have been admitted at your trial. You must also tell the prosecutor and the Court in the Omnibus Memorandum if you have certain defenses called affirmative defenses such as alibi, self-defense, or mental disease or defect. You are required to tell the prosecutor and the Court who your witnesses will be in support of these defenses. The Omnibus Memorandum will also ask you if you have any other pre-trial motions and ask you to spell out a briefing schedule. The Omnibus Memorandum will also ask you how many days will be needed

for your trial and how many prospective jurors will be needed. The minimum number of jurors is twenty-four, but usually two or three times that number are called to make sure enough people show up for jury selection. When you have filled out your portion, you must sign the form.

C. Pre-trial Discovery

You have a right to know ahead of the trial what information the State has gathered that shows you are guilty or not guilty. This may include law enforcement reports, copies of any photographs the State may introduce, copies of any reports (like crime lab reports or medical reports) that may be used, statements of any witnesses, a list of any physical evidence, and a transcript of any statement you gave. You have the right to interview the State's witnesses. You must ask the prosecutor to arrange for you to interview the witnesses. The State also has a right to know certain information about your case. You must give the prosecutor the names and addresses of any witnesses you intend to call in support of your defense, and a list of any evidence you intend to offer into evidence. The prosecutor has the right to interview your witnesses before trial. If the prosecutor fails to give you all the required information, you can object at the trial when the prosecutor seeks to call that witness or offer that piece of evidence. If you fail to tell the prosecutor, the prosecutor will object to you being able to call the witness or present that piece of evidence. The Court will then decide whether the witness gets to testify.

D. Final decision about whether you want a jury or non-jury trial.

You get to decide if you want a jury or a non-jury trial. In a non-jury trial, the judge decides both the facts and the law and decides whether you are guilty or not guilty. In a jury trial, the jury decides the facts and decides whether you are guilty or not guilty while the judge decides what the law is. Most criminal trials are jury trials. The steps in a jury or non-jury trial are essentially the same except in the non-jury trial there is no jury selection, and instructions are not read to the jury. If you decide that you want a non-jury trial, you should expect that the judge will engage in a lengthy conversation with you where the court reporter will take down everything that you say to be sure you understand the consequences of your decision.

E. Decorum during the trial.

"Decorum" means proper behavior. Proper behavior in a trial means behaving formally with an emphasis on courtesy. This helps protect your rights. You must treat everyone in the courtroom with courtesy and respect including the jury, the court reporter, the clerk, the prosecutor, the judge and the witnesses. You must stand when the judge or jury enters or leaves the room. You must address all parties using titles, such as "Your Honor"; "Mr." or "Ms."; "Dr.", "Deputy", "Officer" with last names as appropriate. Sit still at your table. You must wait to speak until you are recognized by the judge except when you are making an objection. If you are told by the judge that the judge has heard enough on an argument, you must stop arguing immediately and sit down. When you ask questions, you should stand and use the podium if there is one or stand by your table. You may be asked to use a microphone. You may not approach a witness for any reason unless you ask the judge's permission first. You must not interrupt or talk over the judge, the prosecutor or the witness. There will be a court reporter present and he or she cannot transcribe two people talking at once. You should not react negatively by facial expressions, eyerolling or comments to rulings by the judge that go against you or to testimony or arguments you disagree with. Jurors pay careful attention to everything that happens in a courtroom and bad courtroom behavior from you will distract from your

case. It is in your best interest to be the most courteous person in the room. The judge may counsel you regarding decorum during the trial but disruption will not be tolerated.

STEPS OF THE TRIAL

A. Jury Selection

A group of randomly selected prospective jurors will be summoned in your case(s). Usually between 60 and 75 prospective jurors are summoned to appear on the date your trial starts. Not everyone shows up. You will be given a list of the prospective jurors with their names and the order in which they will be selected, and the jury questionnaires they have filled out. At the start of the trial, the roll of the jury will be called. If a prospective juror has not appeared, that person will be skipped. The prospective jurors will swear an oath that they will truly answer questions posed to them about their qualifications to serve as jurors. Since most jury cases have a 12-person jury and one alternate, the first 27 jurors will be called and seated with the first 12 in the jury box and the next 15 on the benches and chairs in the front. Each seat has a designated number. The judge will then ask questions of all the prospective jurors to determine if they are basically qualified to sit. A juror must be a resident of Missoula County, read and understand the English language, not have a disability that prevents them from hearing the case or sitting and listening to the case, not be on probation or parole, not related to any party or lawyer in the case, and not have any close, business, or financial relationship to any party or lawyer. A judge may ask some additional questions related to the prospective juror's knowledge about the case, ability to serve for the time that the case is expected to take, or sensitive issues that might arise in the case. For example, if the case involves the accusation of a sexual crime, the judge might inquire of the jurors about any experiences as victims of similar crimes or any experiences of being accused of a crime the person did not commit. Sometimes jurors do not want to talk about these matters in front of all of the prospective jurors, so jurors might be questioned in the judge's chambers with only the parties, lawyers, and court reporter present together with the prospective juror.

After the judge is finished asking questions, then the prosecutor will ask questions of the prospective jurors. The questions can be about certain legal issues or factual issues that are likely to come up in the case. The questions are limited to the juror's qualifications to sit as a juror or to discover potential biases. When the prosecutor finishes asking questions, the prosecutor will "pass the jury for cause" which means that there are no challenges for cause to the prospective jurors. If the prosecutor believes that the prospective juror's answer could be grounds for a motion to excuse for cause, the prosecutor must make a motion to excuse the juror. You will be given a chance to object to the motion or agree and then the Court will decide if the juror should be excused. If the juror is excused, a new juror will be called from the back to take the excused juror's seat. You must keep careful track of the prospective jurors, where each one is seated and listen to their answers to any questions so you can make an informed decision later about your peremptory challenges.

After the prosecutor has "passed the jury for cause", it will then be your turn to ask questions of the prospective jurors. When you are finished, you will then be asked if you "pass the jury for cause". If you believe that a prospective juror's answer to one of your questions allows you to ask that the juror be excused for cause, you must make a motion to excuse the juror for cause. Remember, challenges for cause are limited to the juror not being qualified, having actual or implied bias. The prosecutor will get a chance to object or agree to your motion, and the Court will make a decision about whether or not the juror will be excused. Again, if a juror sitting up front is excused, a new prospective juror will

be called from the back and each side with get a chance to ask that juror questions. It is likely that the judge will impose a time limit on your questioning, so you think carefully about what questions you need to ask to make sure that you have a fair and impartial jury.

After both sides have "passed the jury for cause", it will be time to exercise your peremptory challenges. You get 6 of these challenges, and if there is to be an alternate, you also get to exercise 1 challenge for each prospective alternate. You do not need to give any reason for your peremptory challenges. You do not need to exercise all your 6 challenges but you can. The jury will end up being the first 12 people not challenged. A sheet of paper with the jurors' names and numbers of their seats will be circulated between you and the prosecutor without any discussion. The prosecutor goes first, and marks on the sheet the prosecutor's first challenge. The prosecutor will mark in the section on the paper next to the person's name that is to be challenged: "S-1" that stands for "State's 1". The paper will then come to you. You will mark next to the person's name you want to challenge: "D-1" that stands for "Defense 1". The paper will then go back and forth between the prosecutor and you until both of you have exercised all your 6 challenges. When you get to challenges of alternates, you mark "DA-1".

After all the challenges have been made, the clerk will call the names of the juror chosen to try the case and they will be seated in the jury box. When the jurors are seated in the jury box, the judge will likely ask both you and the prosecutor: "Do the parties stipulate that the jurors and alternate are those chosen to try this case?" You will need to look over the jury, make sure that no one you challenged is still sitting there, and then answer "Yes". The jury will then take a final oath to "truly and fairly try the case".

B. Preliminary Jury Instructions

Before the trial actually starts, either the morning of the trial or a day or two before the trial, you and the prosecutor will have met with the judge to decide on the jury instructions that will be given in the case. Jury instructions are the statements of the law that govern your case. The Preliminary Instructions are standard instructions given in every criminal case. They are intended to explain to the jury what their job is, what the charge(s) are, how the jury should evaluate evidence, definitions of certain kinds of evidence, that you are presumed to be innocent of the charge(s) and that the State has the burden of proving your guilt beyond a reasonable doubt and that you have no obligation to put on any evidence. Preliminary instructions are given to the jury before the Opening Statements are delivered.

C. Opening Statements.

After the Preliminary Instructions are read to the jury, the prosecutor will give an Opening Statement. When the prosecutor has completed his/her Opening Statement, you will be given an opportunity to give your own Opening Statement. You may reserve (or wait) to give your Opening Statement until after the prosecution has rested his/her case in chief.

An Opening Statement is a speech telling the jury what you intend to prove in the case. Although it is appropriate for the prosecutor to tell the jury what the charges are, or for you as the defendant what your defense is, the Opening Statement should be limited to explaining to the jury what the evidence will be. It is not the time to argue your case. You will get that opportunity in Closing Argument. It is, however, proper to tell an effective story about what the evidence will be.

For example, if the charge in a criminal case was Robbery, a prosecutor's Opening Statement might be:

"Ladies and Gentlemen of the jury, in this case, the Defendant is charged with Robbery. On September 10, 2016, the Defendant walked into the Holiday Gas Station and Convenience Store at 11:30 PM. The Defendant was wearing sunglasses and a black hoodie with the hood pulled up so it shielded his face. In the pocket of his black hoodie was a loaded, .45 caliber, Winchester silver revolver. The Defendant loitered in the store while the only other customer finished his transaction with the clerk and then left. The Defendant then came up to the clerk, Norm Jones, pulled out the handgun, pointed it at Norm and demanded that he open the till of the cash register and give him all the money. Norm Jones is a sophomore at the University. He had taken this job as night clerk just one week before. He liked the night shift because when the store was not busy in the early morning hours, he had time to study. The robber stood clearly under the overhead light and Norm got a good look at the robber's face. Norm was frightened when he saw the gun and afraid he was going to be shot and did what he was told. He opened the cash register, put all the bills and coins into one of the store's paper bags and handed the bag to the Defendant. The Defendant then walked out of the store and disappeared from Norm's sight. Norm immediately called 911 and a Missoula City Police Officer responded within minutes. When Officer Thomas arrived, she reviewed the in-store video that recorded the transaction. The video does not clearly show the Defendant's face. It does show a white male, dressed in jeans and a black hoodie. It does show a silver revolver. Police officers made an immediate search of the area to see if they could find the suspect. An hour and a half later, officers stopped the Defendant because his clothing matched the description given by Norm and the person on the video. The Defendant was not carrying any firearm at the time officers stopped him, nor did he have a paper bag containing money. He was wearing a black hoodie and blue jeans. A later search of his apartment located just three blocks from the Holiday store turned up a .45 caliber silver revolver and a paper bag from the Holiday store. Norm will tell you at this trial that the gun recovered from the Defendant's apartment looks like the gun pointed at me. Norm will also tell you that the Defendant is the person who pointed the gun at him and took the store's money. At the end of this trial, I will be asking you to return a verdict of guilty".

If a Defendant chose to give an Opening Statement in this made-up case, the Defendant might say the following:

"Ladies and Gentlemen of the jury, the State cannot prove beyond a reasonable doubt that I committed this robbery at the Holiday store. One of the things they have to prove is identification of the robber. They cannot prove that I did so because I wasn't there at the time of the robbery. At the time of the robbery, I was having a drink with my friend, Les Williams, at the Top Hat where we had gone to hear one of my favorite bands. We got to the Top Hat at 10:00 PM just before the show started. Les is going to come here and tell you that is where I was at 11:30 PM. At 1:00 AM, the show was over and I started walking back to my apartment. When I was close to home, the police stopped me. I had no idea what they were talking about. As you heard from the prosecutor, the video does not clearly show the robber's face. Although a bag from the Holiday store was found in my apartment, since I live close by, I have shopped there quite a bit, although I never saw Norm Jones before when I shopped. As you heard from the prosecutor, Norm Jones cannot positively identify my gun that I own legally as the gun pointed at him that night. I'm sure he was frightened and I am sorry for that, but it was not me. You are going to hear from an expert witness that when an

individual has a gun pointed at them, the person tends to focus on the gun and not on the face of the person holding the gun, so their identification is questionable. At the end of the trial, I'm going to ask you to find me not guilty."

It is proper to object to the other side's Opening Statement if the person is presenting argument instead of just telling the jury what he/she intends to prove. Other possible objections in an Opening Statement are: 1) is unethically stating a personal opinion; 2) is misstating what will be contained in the evidence; 3) is making a statement that is inflammatory and improper; 4) is stating facts outside the record; 5) is making a statement that comments on privilege; 6) is commenting on credibility of witnesses.

D. Prosecution's case in chief.

The next step in the trial is the prosecution's case in chief. The prosecutor will call witnesses and ask them questions, which is called "Direct Examination". . . During direct examination, a prosecutor must ask questions about what the witness knows without using "leading questions".". A "leading question" is a question that suggests the answer that the prosecutor wants. For example, in our Robbery case, if the prosecutor has called Norm Jones, it would be proper for the prosecutor to ask Norm: "Do you see the person in the courtroom who pointed the gun at you at the Holiday store?" If the answer is "Yes", then it is proper for the prosecutor to ask: "Can you point him out for us?" It would not be proper, however, for the prosecutor to ask while he stands right behind you: "This is the person you saw in the Holiday Store that night that pointed the gun at you, isn't it?" A leading question is generally answered "Yes" or "No", but just because a question can be answered "Yes" or "No" does not make the question a leading question. If a question starts with the words "Who", "What", "Where", "When", "How", or "Why" it is never a leading question.

When the prosecutor finishes asking questions of the witness on Direct-Examination, you then get a chance to cross-examine the witness. Cross-Examination means asking questions of the witness about the matters that the prosecutor has brought up or testing the witness's credibility. You should use leading questions on cross-examination. For example, in the Robbery case: "Norm, you've only worked at the Holiday Store for a week?" "Norm, these bags are used by your store whenever someone buys something from the store if they need a bag?" "You'd never seen me in the store before?" "You were scared when the robber pointed the gun at you?" "You kept looking at the gun?"

When you finish your Cross Examination, the prosecutor gets an opportunity to conduct Re-Direct Examination. This examination is limited to what you brought up on cross. Once again, the prosecutor cannot ask leading questions. Re-Direct Examination is not required. If there has been Re-Direct Examination, you have an opportunity for Re-Cross Examination. This examination is limited to what was brought up on Re-Direct Examination. Re-Cross Examination is not required.

E. Exhibits

Criminal trials almost always have exhibits---things that are real that constitute evidence. For example, in our made-up Robbery case, possible exhibits might be the store video, the handgun found in the Defendant's apartment, the store bag found in the Defendant's apartment, photos from the search of the Defendant's apartment, the black hoodie worn at the time of the arrest, the 911 call from Norm Jones. Exhibits that are admitted into evidence go with the jury when they deliberate on the case.

In order to get an exhibit admitted into evidence, there are steps that must be followed. First, you must have the opportunity to look at the exhibits before the trial even starts---as part of pre-trial discovery. Second, an exhibit must be identified. In this Judicial District, State's exhibits are identified by number and Defense exhibits are identified by letter. It is helpful to have exhibits pre-marked and the clerk of court has exhibit stickers. Third, if there has not been a prior agreement on the admission of the exhibit, the person who wants to get the exhibit into evidence has to lay foundation for the exhibit. Foundation is laid by asking permission to approach the witness, handing the exhibit to the witness, in our Robbery example to a police officer, and the prosecutor would ask: "I'm handing you what has been marked as State's proposed exhibit 2. What is it?" The exhibit cannot be shown to the jury until it is admitted, so in this example, the gun would likely be in an evidence bag that the officer would have to open. The witness would respond for example: "It is the .45 caliber silver handgun that was taken from the Defendant's apartment pursuant to a search warrant." The prosecutor would then ask: "How do you know it is the same gun?" The witness would respond: "Because of this evidence tag that is attached to the gun. It has my name and date of recovery on it." The prosecutor would then say: "Your honor, I move to admit State's proposed exhibit 2." The Court would then ask you if you object, and if not, it would be admitted, if you do object, it would have to be a legal objection, and the Court would rule to admit or refuse the exhibit. When the exhibit is admitted, the police officer could take the gun out of the bag and show it to the jury.

F. Objections to testimony or exhibits.

All objections must be legal objections. The basis for most legal objections is found in the Rules of Evidence. The fact that you disagree with what the witness says or have different or contradictory evidence on the same point is not a legal objection. You will have an opportunity to testify about that issue if you choose to testify or present your own witnesses with the contradictory evidence in your case.

Objections must be timely. In other words, you must make your objection immediately after you hear the objectionable question. If the witness answers, you may be too late although you can object and ask that the answer be struck. An objection that is not timely cannot be raised on appeal if you appeal your case. To make an objection, you must stand up, say "Objection", and then state the grounds for your objection. The prosecutor gets an opportunity to respond to your objection, and then the Court will rule on whether the objection is "sustained" meaning you were right, or "overruled" which means you were wrong.

During testimony of a witness, an objection can be made to the form of the question being posed. Possible objections on direct examination are:

1. The question is ambiguous.
2. The question is argumentative.
3. The question is not a question but a comment on the evidence.
4. The question is a jury speech.
5. The question assumes a fact not in evidence. This witness has not said that and no other witness has said that.
6. The question is a compound question, asking two questions at the same time. It needs to be broken down.

7. The question is confusing.
8. The question is cumulative.
9. The question is irrelevant, has nothing to do with anything the jury has to decide.
10. The question is leading.
11. The question misquotes the witness.
12. The question misstates the evidence.
13. The question calls for a lay opinion that is not reasonably based on the witness's perception; not helpful, misleading; in an area not recognized for lay opinion testimony.
14. The question is repetitive.
15. The question has been asked and answered
16. The question has been asked again and again.
17. The question calls for a narrative response.
18. The question calls for speculation.

Hearsay:
One common objection that is often heard in trials is: "The question calls for Hearsay". Hearsay is defined as "an out of court statement offered to prove the truth of the matter asserted". In general, you are not allowed to testify to statements made by others because that other person is not in court and cannot be cross examined. There are two kinds of statements given out of court that are defined as not hearsay. One is a statement by the party opponent. In a criminal case, you are the party opponent because you are the Defendant. So, the prosecutor can offer your statement through a police officer who heard your statement and it is not hearsay. The other kind of statement that is not hearsay is a prior inconsistent statement. If a witness said one thing one time and something opposite on another occasion, each of those statements would come into evidence and would not be hearsay and the witness(es) who heard the statements would be allowed to testify to the statements. For example, in our Robbery case, if Norm had told the police officer who initially investigated that he did not get a very good look at the robber and was not sure he could identify the robber again, and then at the trial says he got a good look at the robber and is positive about his identification, the police officer could be asked about the earlier statement. There are also a lot of exceptions to the hearsay rule that hearsay is not admitted. Those exceptions are found in Title 26 of the Mont. Code Ann..

Other possible objections:
1. The question is improper because any probative value of the testimony is substantially outweighed by the prejudicial effect.
2. The question is improper because it will inflame the jury.
3. The question is improper because it will mislead the jury.
4. The question is improper because it will confuse the jury.
5. The question is improper because it will cause a waste of time, cause undue delay or is cumulative.
6. The question calls for improper character evidence.
7. The question calls for character evidence and the witness has not been shown to be familiar with the other witness's reputation for truth and veracity in the community.
8. The question calls for evidence on a character trait that is not in issue here.
9. The question calls for disclosure of privileged information.

Objections to Expert Witnesses or expert witness testimony:

1. The witness has not been sufficiently qualified in the field of….
2. The area of expertise is beyond the scope of the witness's expertise.
3. The area of expertise is not generally recognized in the scientific community.
4. This purported expert testimony is not sufficiently reliable.
5. The question calls for improper expert opinion because it asks the witness to guess and it is not sufficiently certain, it calls for opinion on a question of law, it would be of no assistance to the jury.

Objections to exhibits

1. There is no foundation for this exhibit. The chain of custody has not been shown.
2. There is no foundation for this exhibit. The exhibit has not been properly identified.
3. The photograph has not been shown to accurately depict what it purports to depict.
4. The photograph is inflammatory.
5. The photograph distorts.
6. The exhibit was not provided in discovery.

Cross-examination Objections

1. Counsel is harassing and arguing with the witness.
2. Counsel is badgering the witness.
3. Counsel is misquoting the witness.
4. Counsel is asking a bad faith question.
5. Counsel has no factual basis for the insinuation in the question.
6. The prior inconsistent statement that counsel is attempting to elicit is not inconsistent with the witness's testimony.
7. The prior inconsistent statement is on a matter that is not material to this case and therefore is not proper.

The Prosecution Rests its case in chief

When the prosecutor calls its last witness and introduces its last exhibit, the prosecution will say: "The prosecution rests." At this point, you must decide if you want to make a motion to dismiss the case arguing that there is not enough evidence to go forward with the case, that the prosecutor has not proved what is called a prima facie case. The standard at this point in the trial is not beyond a reasonable doubt, but whether a reasonable jury viewing the evidence in the light most favorable to the prosecution could find you guilty. This motion is usually denied. However, if you want to preserve your appeal right on this issue, you must make this motion. This motion is made outside the presence of the jury. You make the motion by saying: "Your Honor, I move to dismiss the case because the prosecution has not proved a prima facie case."

G. Your case in chief

It is now your opportunity to put on your case in your defense. You do not have to put on a case, but you can. You have no obligation to prove anything because the burden to prove you are guilty is always on the prosecution and the jury will be instructed that you have no obligation to prove anything or present any evidence. You do not have to prove you are not guilty. You can, however, call your own witnesses that you have subpoenaed to appear or who appear willingly who can help your defense. For example, in our Robbery case, with an alibi defense, you would likely call the person

you say you were with at the time of the robbery. If you call your own witnesses to support your defense, your witnesses must be questioned by you on direct examination in question and answer form with no leading questions and the prosecutor will get to cross examine them. After the prosecutor's cross examination, you can have re-direct examination and the prosecutor gets re-cross examination. If you have exhibits, you must follow the same procedure that the prosecutor followed to get the exhibits into evidence. Remember, before the trial, you need to have told the prosecutor that you intend to offer certain exhibits at the trial and give the prosecutor the right to look at the exhibits before trial. At trial, you must mark them with exhibit stickers that the clerk has, show them to the prosecutor, have them identified by the witness, and move the court to get them admitted as exhibits. The Court will ask the prosecutor if he or she objects to the exhibit and if there is no objection, it will be admitted, if the prosecutor objects, you will have to tell the Court why the exhibit should be admitted, show that the exhibit is relevant to the issues in the trial and that it is not too prejudicial. The Court will rule on whether the exhibit is admitted. You follow this same procedure with each of your witnesses and/or exhibits.

H. Are you going to testify in your own defense?

One of the biggest decisions you have to make about your case is whether or not you are going to testify in your own case. You have an absolute right to testify, but you do not have to and no one can force you to testify. That is your Fifth Amendment right to remain silent. It is entirely your decision. If you testify, you will have to swear to tell the truth just like the other witnesses. If you testify, the Court may allow you to testify in a narrative form, in other words allow you to just tell your story, although the Court might make you ask yourself questions and then answer the questions that you have asked yourself. Before the trial, you should ask the judge how the judge will proceed on this matter so you know. If you decide to testify, the prosecutor will get the right to cross-examine you and you must answer all the prosecutor's questions even if you think your answers will hurt you. If you think there is a legal objection to the prosecutor's question, you must make that objection before you answer and allow the judge to decide if you must answer. Your case might be hurt by your answers. After the prosecutor cross examines you if you testify, you have a chance for re-direct and then there can be re-cross.

I. The Defense rests.

When you have called all your witnesses, including yourself if you decide to testify and admitted all the exhibits, you then tell the Judge, "The Defense rests." The prosecutor then has the opportunity to present rebuttal evidence following the same procedure as the prosecutor's case in chief although there is no requirement for rebuttal. If the prosecutor presents rebuttal evidence, you have the opportunity to present sur-rebuttal evidence. Rebuttal or sur-rebuttal evidence is limited to rebutting the evidence received in the defense case or the prosecution's rebuttal case.

J. The final jury instructions

When all the evidence has been submitted you will meet with the judge and the prosecutor outside the presence of the jury to decide on the final jury instructions. These instructions tell the jury what the law is for the particular charges that have been filed against you, and what the law is for your defense. Each criminal charge will be defined and the elements that the State has to prove will be spelled out in the final instructions. The last instruction usually given tells the jury how to go about deciding the case. Once the final instructions are decided upon, the jury will come back to the courtroom and the judge will read the final instructions.

K. Closing Arguments.

Each side gets to present a closing argument. Because the State has the burden of proof, the State gets to go first and last. You get to go in the middle. The judge will normally ask each side how much time they want for closing argument. The prosecutor cannot use more time in his/her second argument that the prosecutor used in the first portion. Closing argument is the time for arguing to the jury and persuading the jury why the evidence and law should lead to the conclusion that each side is putting forward. It is improper in a closing argument to give a personal opinion about guilt or innocence and if the prosecutor uses words that in his/her opinion you are guilty of the crime you can object. However, if the prosecutor simply outlines the evidence and the law and tells the jury that the combination shows you are guilty, that is not improper. It is proper in a closing argument for the jury to be shown pieces of evidence that have been admitted. If you have not testified, the prosecutor may not comment on the fact that you did not testify. If the prosecutor does comment on the fact that you did not testify, you should immediately move for a mistrial and the judge will most likely grant it. Either side is entitled to comment during closing argument on the credibility of the witnesses who testified in the trial. A comment on credibility is not a comment that you believe the witness because that is a personal opinion, but it is proper to point out how one witness is corroborated by other witnesses or the physical evidence or how witnesses are not corroborated by other evidence or have a bias.

L. Jury deliberations.

When the closing arguments are completed, the jury will go to the jury room to deliberate. They will get at least one copy of the instructions and all the physical evidence that has been admitted into evidence. The jury deliberates until they reach a verdict, or advise the Court that they are unable to reach a unanimous verdict. If is not uncommon during jury deliberations for the jury to have a question. If so, they write the question down and give it to the bailiff who will give it to the judge, you and the prosecutor and the judge will then meet outside the presence of the jury and decide on the answer to the question if there is one to be given. Because this case is a criminal case, there must be a unanimous verdict, in other words, all 12 of the jurors must agree on whether you are guilty or not guilty. If there is more than one charge, they must reach a verdict on each charge separately. When the verdict is reached, the foreperson signs the verdict and tells the bailiff that they have a verdict. Everyone is then brought back to the courtroom so that the verdict can be announced.

M. Returning the verdict(s).

When everyone is back in the courtroom, the jury is brought back. The first thing that happens is that the roll of the jury is called to ensure that all the members of the jury are present. The jury foreperson then hands the written verdict to the bailiff who will hand it to the judge first who reviews it and then hands it to the clerk. The clerk then reads the verdict. If the verdict is not guilty, you will be free to go. If the verdict is guilty, you have another decision to make. You can ask that the jury be polled. That means that the clerk will call each juror by name and ask them if that is their verdict and the individual juror must answer yes or no. This process is to ensure there is a unanimous verdict. You do not have to ask that the jury be polled, but you can. Once the verdict has been announced and any polling is completed, the jury will be excused. The Court will then likely order that the probation department prepare a Pre-Sentence Investigation Report prior to sentencing. The Pre-Sentence Investigation Report will give information about your criminal history if any, the crime, information about your education, your work history, information about your family, information about your

finances, information about any alcohol, drug or psychological problems, information about any past time spent on probation, information about any restitution owed and then a recommendation for what sentence the judge should impose. You will be interviewed by the probation officer for this report and asked to fill out a questionnaire. You will be given a copy of the Pre-Sentence Investigation Report after it is completed and before your sentencing. This process usually takes from 30-60 days.

N. Sentencing

At your sentencing, you will first be asked if there are any factual matters in the Pre-Sentence that need to be corrected. If none, then the prosecutor will be asked for his/her recommendation for sentencing. Since you went to trial, the prosecutor can recommend any sentence up to the maximum sentence permitted by law. The prosecutor will give his/her reasons for the recommendation. You will then be given the right to make a sentencing recommendation as well. You are also free to make any recommendation that is permitted by the charge, including that you be given just probation. You need to give your reasons for your recommendation. You will also be given an opportunity to say anything else you want to about the case. The judge will then tell you what your sentence is. The judge must spell out specifically how much time if any you will spend in prison, or committed to the Department of Corrections, or on probation. The judge must spell out the probation conditions if any. The judge must tell you the reasons for the sentence. The judge must give you credit against your sentence for any time you spent in detention awaiting your trial and sentencing. Depending on what the sentence is, you will be remanded to the custody of the sheriff for placement with the Department of Corrections or released to report to the probation department to sign the rules of probation. The sentence will be reduced to writing and you will be given a written copy of the Judgment.

O. After sentencing - Appeal of your case.

You must file a written notice of appeal within 60 days of the entry of the written judgment. You must follow the Rules of Appellate Procedure in filing your appeal. You must order a transcript of the trial and that the entire District Court Record be sent to the Montana Supreme Court. There are deadlines for filing briefs that you must follow. Your appeal is limited to legal issues that you believe the District Judge made in error and that you made a timely objection to.

Sentence Review. The Sentence Review Division of the Montana Supreme Court is a panel of three District Court Judges who can review sentences imposed by other District Judges and alter the sentence. They have the power to leave the sentence as is, lower the sentence or increase the sentence. You will be given Notice of your Right to apply for Review of your sentence. You must follow the rules of the Sentence Review Division if you wish to seek such a review. There are deadlines for filing for review of your sentence, but the deadlines are stayed if you have appealed. If your appeal is decided against you, the deadline is in place.