

LOCAL RULES OF PRACTICE
OF THE DISTRICT COURT OF THE
THIRTEENTH JUDICIAL DISTRICT
OF THE STATE OF MONTANA
COUNTY OF YELLOWSTONE

PREFACE

The following Rules of Practice supplement the Uniform District Court Rules and the Montana Rules of Civil Procedure and any conflict shall be controlled by the Montana Rules of Civil Procedure and/or the Uniform District Court Rules.

RULE 1

DEPARTMENTS - For the convenient classification and division of business, the District Court of the Thirteenth Judicial District is divided into eight departments assigned to individual judges and their successors as follows:

- Department 1: The Honorable Jessica Fehr
- Department 2: The Honorable Donald Harris
- Department 3: The Honorable Thomas Pardy
- Department 4: The Honorable Brett Linneweber
- Department 5: The Honorable Rod Souza
- Department 6: The Honorable Mary Jane Knisely
- Department 7: The Honorable Colette B. Davies
- Department 8: The Honorable Ashley Harada

DIVISION OF BUSINESS

- a. No department assignments shall be made in the following cases:
Abstracts of Judgment, Transcripts of Judgment, Warrants for Dstraint, Certificates of Amount Due and Abstracts of Administrative Orders.
- b. Subject to the exceptions contained in sections (c) through (g), the Clerk of Court shall assign all cases of every nature in a random manner in equal numbers among the judicial departments.
- c. If a criminal defendant (DC) or a delinquent youth (DJ) has a second or subsequent case filed against him/her, the Clerk shall assign the new case to the department currently or previously assigned to that person's

case. If a criminal defendant (DC) previously had a delinquent youth (DJ) case filed against him/her, the Clerk shall assign the criminal (DC) case to the department that previously handled the delinquent youth (DJ) case.

- d. Post-conviction relief (DV) cases shall be assigned to the department which was assigned to the underlying criminal (DC) case.
- e. Protective Order matters shall be assigned to the department assigned to the dissolution of marriage or parenting plan (DR) case, paternity (DF) case, youth in need of care (DN), or criminal (DC) case between the same parties, if one exists. If a family (DR/DF/DN) case and a criminal (DC) case are both pending between the same parties, the Protective Order shall be assigned to the department assigned to the DR/DF/DN case.
- f. Family Court: If a department was previously assigned or is currently assigned to an adoption (DA), guardianship and/or conservatorship (DG/C), probate (DP), dissolution, parenting plan, protective order (DR), paternity (DF), youth in need of care (DN), or delinquent youth (DJ) case, and an additional DA, DG/C, DR, DF, DN, or DJ case is filed involving one or more direct family members, (i.e. parent, step-parent, grandparent, child, or sibling), the Clerk shall assign the new DA, DG/C, DR, DF, DN or DJ case to the department assigned to the previous DA, DG/C, DP, DR, DF, DN or DJ case. Counsel are requested to alert the Clerk of any previous cases that fall into this category.
- g. Youth in need of care (DN): Department 1 shall administer Family Drug Court. Department 5 shall administer ICWA Court. Cases not assigned to Departments 1 or 5 shall be assigned to the remaining six departments. Cases shall be assigned to the remaining six departments in an equitable manner that ensures consistency as to attorneys representing the state, attorneys representing parents, guardians ad litem, and social workers. The judges will provide direction to the Clerk of Court regarding assignment of DN cases and will periodically review assignments to ensure equitable distribution of cases.
- h. Motions to Consolidate: A motion to consolidate cases (civil and criminal) filed in different departments shall be filed in each case but will be heard before the judge presiding in the department having the lowest cause number and, if the cases are consolidated, the trial will also

be conducted in that department. The judges may consult with each other regarding any decision on a motion to consolidate.

RULE 2

LAW AND MOTION. Law and Motion days are distributed among the departments such that there will generally be four days of law and motion each week.

Consult the Clerk of Court to determine Law and Motion on any given day.

In the event a judge is unable to hold Law and Motion on his/her assigned day, he/she shall make arrangements with another judge to preside in his/her place, or, if it is to be cancelled, provide advance notice, if possible, to the Clerk of Court of such cancellation, when possible.

Law and Motion days are generally limited to uncontested matters. Contested matters and those involving presentation of evidence will not be heard on Law and Motion days except by leave of Court.

The judge presiding will hear matters presented on each Law and Motion day and that judge shall hear all matters presented, whether filed in his/her department or another department; provided that any motion which is resisted, or any other matter which is contested, shall be heard by the judge of the department where such motion or matter is pending. All matters presented on Law and Motion day shall be heard in open court.

Each attorney shall designate in advance the matters to be presented by him/her on Law and Motion day. The matters so designated shall be listed by the Clerk on a Law and Motion calendar, which calendar shall be closed at 4:00 p.m. two business days prior to each Law and Motion day. On infrequent occasion exception to this cut-off time may be made on a case-by-case basis.

Local Rule 2 was amended and effective on October 30, 2017. **Rule 2** states the “calendar shall be closed at 4:00 pm two business days prior to each Law and Motion day.”

Calendar Closes at 4:00 pm	Court Day
Wednesday	Monday
Thursday	Tuesday
Friday	Wednesday
Monday	Thursday
Tuesday	Friday

Additionally, one more day should be added if a holiday falls on a weekday. For example, if Monday is a holiday, then the calendar would close at 4:00 pm the previous Wednesday for a Tuesday court day.

RULE 3

SUBSTITUTION OF JUDGES. Substitution of Judges is governed by Mont. Code Ann. §3-1-804 and those rules are herein supplemented because the Thirteenth Judicial District is a multi-judge district.

When a party moves to substitute a judge in any case, the Clerk of Court shall at once reassign said case in a random manner to another department, making a memorandum thereof for the file and notifying the judges involved and all parties to said cause, or their attorneys, personally or by U. S. Mail.

In a case in which a judge recuses him/herself, the reassignment of the case shall be made by the Clerk of Court in the same manner as motions for substitution.

When an outside judge has been called in, it shall be the duty of plaintiff's counsel, a reasonable time in advance of any proceedings to be taken, to notify the local judge who was originally assigned to the case and with his/her assistance make arrangements for all personnel and facilities necessary to accommodate the needs of the case and the outside judge.

Nothing in these rules shall prohibit a judge having jurisdiction of a case from calling in an outside judge to take jurisdiction of the case, pursuant to Mont. Code Ann., §3-5-111.

RULE 4

PLEADINGS/BRIEFS. Pleadings/briefs in all cases, except initial pleadings and except where otherwise limited in any statute or rule, shall be limited to 20 pages, not including attachments. Additional pages may be filed only with leave of the court upon a showing of good cause.

RULE 5

MOTIONS - EXTENSIONS - PRESENTATION. Motions shall be governed by Rule 2, Uniform District Court Rules, except motions made pursuant to Rules 56, 59 and 60 of the Montana Rules of Civil Procedure with the provision of those Rules. Prior to noticing a contested motion for argument or hearing, the moving party shall obtain a date and time for same from the Court. All motions shall be identified in the title of the pleading with the applicable rule number of the Montana Rules of Civil Procedure.

Upon representation to the Court by the moving party that opposing counsel was notified and does not object to the motion, the Court may sign the order.

Pursuant to Rule 6(b) of the Montana Rules of Civil Procedure, extension of time for filing briefs may be granted on oral application without notice to the adverse party. All requests for extension of time, whether written or oral, shall be accompanied by an appropriate proposed order.

Following the filing of a reply brief or the lapse of the time allowed either party for filing of a brief, the Clerk shall present such motion to the Court for decision.

Any motion for which a hearing is requested or other immediate action by the Court is sought, a courtesy copy of the motion or request should be provided directly to the Court in chambers.

RULE 6

TIME TO AMEND. When a motion made under Rule 12(b)(6), Montana Rules of Civil Procedure is granted or denied, the unsuccessful party shall have twenty (20) days within which to amend or answer unless a different time shall be prescribed in the order granting or denying the motion.

RULE 7

CASE MANAGEMENT. Pursuant to Rule 16, Montana Rules of Civil Procedure, except as set forth below, the Clerk will, at the time each case comes to issue, notify the department in which the case is filed of the fact the case is at issue. That department shall be responsible to cause the case to be placed upon its pretrial calendar. If a case is not at issue within 100 days after the complaint is filed, then the Clerk will notify the department in which the case is filed. The following matters (cases) shall be excluded from this rule:

- | | | |
|-----|-----------------------------------|----------|
| (a) | All Delinquent actions | DJ |
| (b) | All Youth In Need Of Care actions | DN |
| (c) | All Criminal actions | DC |
| (d) | All Probate matters | DP, DG/C |
| (e) | All Adoptions | DA |
| (f) | All Insanity matters | DI |
| (g) | All Appeals from lower courts | DV |

In these matters, at any time after the case is at issue, either party may request that the department in which the case is filed place the same on a pretrial and trial calendar.

RULE 8

TRIALS. Each cause shall be tried before the judge of the department in which it is filed. Non-jury and jury trials will be held throughout the year as time is available.

Trial settings will be made by the Court upon request to the Court by either party, pursuant to Rule 7 of these Rules and Rule 16, Montana Rules of Civil Procedure.

Each judge shall summon a panel of jurors as needed to try the cases in his/her own department. No judge shall excuse any juror from service in a department other than his/her own.

RULE 9

DISMISSAL FOR FAILURE TO PROSECUTE. When no proceedings have been taken in any civil cause for a period of one year, the action will be dismissed on its merits and/or the file closed by the Court on its own motion after twenty (20) days notice of such intended dismissal unless good cause to the contrary is shown.

Any party that intends to show cause that an action should not be dismissed or the file closed will give notice of his reasons for opposing the dismissal to any other party. Within ten days of such notice, any other party may file his objection and notice the matter for hearing. The Clerk shall give notice to the attorneys of record or the parties when an action is dismissed pursuant to this rule.

The Clerk shall notify the attorney of record ninety (90) days before the expiration of two (2) years from the filing of an estate matter that it has not been completed and that fact will be brought to the attention of the Court in ninety (90) days for such action as may be appropriate.

RULE 10

TRIAL BRIEFS. Unless otherwise ordered, at least two (2) days before the trial of any cause, civil or criminal, counsel shall present to the judge presiding and serve upon opposing counsel a trial brief, setting forth a statement of the theory of their cause and the issues involved, with a statement of the authorities upon which they rely as to both the law of the case and in support of the introduction of evidence proposed to be offered. See Rule 4 above for length limitations. The presiding judge may waive a trial brief upon request and for good cause.

RULE 11

VOIR DIRE - OPENING STATEMENTS - CLOSING ARGUMENTS. *Voir dire* shall not be conducted in a manner calculated to create prejudice or bias or to disqualify the entire panel by what may be revealed by one prospective juror. Sensitive matters may, upon request, be examined one juror at a time and out of the presence of the balance of the panel. *Voir dire* shall not be used to argue the merits of the case.

The use of written instructions anticipated to be given by the Court shall not be permitted, but this does not prohibit reasonable inquiry concerning aspects of the law which are applicable to the issues. ***Voir dire examination*** shall be limited to **30 minutes** for each party, unless for good cause shown, additional time is secured from the Court.

Opening statements shall be limited to **30 minutes** and **closing arguments** (including rebuttal) shall be limited to **45 minutes**; unless for good cause, additional time is secured from the Court.

RULE 12

ORDERS, JUDGMENTS AND DECREES. Except in circumstances where the Clerk of District Court enters judgment by default as provided in Rule 55(b)(1) M.R.Civ. P., it shall be the duty of counsel obtaining any order, judgment or decree to present the same, accompanied by the court file, in written form for the signature of the Judge at the time of applying for the order, judgment or decree. Except in those instances where prior arrangements have been made with the Court or in matters of a self-evident nature concerning which the Court will have no questions, no requests for the issuance of an order will be considered by the Court unless the request is made by counsel in person.

If service of an executed order is to be made by the Court, a party presenting an unopposed or routine order shall furnish the Court with copies of the unopposed or routine order to conform together with stamped envelopes addressed to the parties upon whom the documents will be served.

When any order is made by the Court, it must immediately thereafter be presented to the Clerk by counsel. A copy of any order, the original of which is being taken out for service, shall be presented to the Clerk immediately upon the signing of the order. All orders, decrees and judgments shall be immediately filed following signature by the Court.

RULE 13

COURT FILES. The Clerk is the custodian of the files of this Court. The Clerk may allow papers to be taken from his/her office in accordance with the rules of Court and appropriate statutes provided that no will, bond, deposition, exhibit or undertaking shall be taken from the Clerk's office under any circumstances, and no judgment before it is recorded, except by order of the court in writing. Nothing shall

be removed from the files in criminal actions before trial without a written order from the Judge.

No file shall be taken from the office of the Clerk of Court without the consent of the Clerk and without receipt acknowledged in writing by the party taking the same provided, however, that no record or paper belonging to a file shall be taken from the custody of the Clerk for a period of twenty-four (24) consecutive hours of a working day after its initial filing except by permission of one of the Judges of the Court.

The Clerk of Court shall be responsible for the safekeeping and return of all files but shall allow a reasonable use of same.

RULE 14

ELECTRONIC FILING. The Thirteenth Judicial District has implemented an electronic filing system for all case types capable of being electronically filed. Cases that are generally capable of being electronically filed include, but are not necessarily limited to, DC, DN, DJ, DR, DV, DD and DI cases. All lawyers admitted to practice in Montana, or those appearing *pro hac vice*, who shall appear in cases filed in the Thirteenth Judicial District shall become registered users of the electronic filing system and begin using the electronic filing system.

The types of cases that shall be included in mandatory electronic filing in the Thirteenth Judicial District and the effective date of mandatory electronic filing in each type of case are as follows:

Effective Date for Mandatory Electronic Filing:	Type of Case:
July 1, 2019	DJ, DN, DC, DD and DI
July 1, 2023	DR and DV

The Montana Supreme Court has adopted rules governing access to and use of the electronic filing system. See *In Re Temporary Electronic Filing Rules*, AF14-0745, filed October 3, 2017 (hereinafter “Electronic Filing Rules”). These rules are incorporated herein as the rules governing electronic filing in the Thirteenth Judicial District.

Consistent with Electronic Filing Rule 2(b), use of the electronic filing system for all lawyers admitted to practice in Montana, or those appearing *pro hac vice*, is mandatory in all cases, subject to Electronic Filing Rule 6(a), and the effective dates set forth above. Mandatory use of the electronic filing system shall apply to all cases, irrespective of filing date, after the effective dates set forth above.

All registered users of the electronic filing system are responsible for keeping the registration information profile current, accurate and complete in the electronic filing system by notifying the Clerk of Court should the registered users email address change. See Electronic Filing Rule 3(e). Registered users shall submit all proposed orders in the electronic filing system in Word format so they may be edited as necessary by Chambers. Registered users are also reminded that pursuant to Thirteenth Judicial District Local Rules a courtesy copy of all documents must be provided to Chambers by counsel.

Service of any notice, order, judgment or other document issued by a Judge or Standing Master of the Thirteenth Judicial District shall be accomplished by the Yellowstone County Clerk of Court consistent with Electronic Filing Rule 6. The Clerk of Court's responsibility to provide service is irrespective of whether the type of case requires mandatory filing or not.

Upon application to the Chief Judge of the Thirteenth Judicial District, waivers for use of the system may be granted for compelling or extenuating circumstances.

While use of the electronic filing system is not currently mandatory for self-represented litigants, self-represented litigants are strongly encouraged to become registered users of the system.

Instructions on becoming a registered user and accessing the electronic filing system are available at <https://courts.mt.gov/courts/efile>.

RULE 15

STANDING MASTERS.

A. The Thirteenth Judicial District has two Standing Masters. The appointed Standing Masters are Laurie Grygiel and Bradley Kneeland. The Standing Masters perform their duties in accordance with Mont. Code Ann. §§ 3-5-124-126, and SB-15-1, *Charter Order In Re District Standing Master Establishment and Procedure*, entered August 26, 2015.

B. Unless a party has filed and served written specific objections or applied to the district court for an extension within 10 days after being served with notice of filing of the findings of fact and conclusions of law or order, the Standing Master's judgement is final.

RULE 16

ABSENCE OR DISABILITY OF JUDGE. The work in the district shall be interchangeable between the Judges 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, 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 17

STIPULATIONS AND AGREEMENTS. Stipulations and Agreements between the parties or their attorneys shall be made on the record and/or reduced to writing.

RULE 18

EXAMINATION OF WITNESSES. On the examination of witnesses, only one attorney for each party will be permitted to examine or cross-examine the same witnesses, except by permission of the Court first asked and obtained; however, any attorney may make objections to the testimony of a witness.

RULE 19

DECORUM. On the trial of any cause or in the presentation of any matter before the Court, only attorneys and parties engaged in the matter shall occupy

positions before the bar, except by permission of the Court. No argument, motion or suggestion to the Court, other than a formal objection to the evidence, need be entertained unless the attorney making the same first rises in his place and addresses the Court.

RULE 20

JUDGMENT ON WRITTEN INSTRUMENT. In all cases in which a judgment is entered upon a written instrument, the Clerk shall, at the time of entering judgment, note in ink over his/her official signature across the face of the instrument the fact of the entry of judgment and its date and attach his/her seal to the instrument, and file the instrument, which instrument shall not be removed except by order of Court. Then a proper entry of the same and of the order shall be made in the register of actions under the title of the case in which it was filed.

RULE 21

DISCOVERY. Discovery shall not be routinely filed and shall only be filed upon certification of counsel that filing is necessary and appropriate to a pending motion or upon order of the Court.

In child protection (abuse and neglect) cases brought by the Montana Department of Public Health and Human Services, counsel for the Department shall maintain an "open client file" discovery policy which includes dissemination of treatment plans to all parties involved in the case. Dissemination of discovery shall be made without motion or request to all attorneys for the parents and the child(ren)'s attorney(s) and/or guardian(s) *ad Litem* in all cases, and CASA volunteers when appointed. It is expected all documents to be produced hereunder shall be produced within 14 days of a party creating or receiving a document unless good cause is shown as to why such cannot occur. Except as it relates to each attorney's own client, it is recognized that the information disseminated in discovery should be treated as confidential, private, and entitled to protection from disclosure. Counsel for the Department shall provide a list of items that shall be expected to be disseminated in discovery. Discovery may be redacted only to protect the identity of reporters, or as ordered by the Court, upon application by a party. Discovery of confidential criminal justice information or other confidential records sought by a party shall be discussed by counsel with the Court on or before any hearing, or upon motion made to the Court.

Recognizing important privacy requirements, in child protection cases, the party reviewing discovery and his/her counsel receiving and reviewing discovery agree:

- a) No party, counsel or CASA shall publicly disseminate discovery received.
- b) No party, counsel, or CASA shall use discovery received other than for purposes of abuse/ neglect litigation in which the discovery was disseminated.
- c) Staff of counsel of record shall have access to the discovery. Except for the dissemination of discovery relating directly to each attorney's own client or a child as to that parent, discovery relating to other persons involved in the case shall be permitted to be shown to the client but not duplicated or electronically transmitted to the client or otherwise made available to the client.
- d) A copy of discovery may be provided by counsel, to any trial witness or expert witness, or any consulting expert, who reasonably has need for it. However, prior to provision, the witness, or expert witness, or consulting expert shall acknowledge his/ her agreement to be bound by this Rule.

If not previously done so, counsel for the Department, at the time of the filing of a petition for permanent legal custody, shall provide to counsel for the parents, child(ren) and the guardian *ad Litem*, and appointed CASA copies of all documents sought to be admitted into evidence at the termination trial by the Department, including, but not limited to, all reports generated by third parties gathered by the Department in the course of its investigation and treatment of the family involved. Counsel for the Department, at the time of the filing of a petition for termination of parental rights, shall also provide to counsel for the parents and child(ren) any exculpatory documentation, including, but not limited to, documents supportive of a parent's ability to parent and documents evidencing completion of treatment plan tasks. Within a reasonable time thereafter, but at least 15 days prior to hearing, counsel for the other parties shall provide counsel for all parties with copies of documents that the party may seek to introduce into evidence.

All parties shall have a duty to supplement dissemination of the above documents and information as it becomes available. Failure to provide and/or supplement the above documents and information in a timely manner may result in rejection of the documents or information at hearing or trial or other appropriate sanction as permitted under Rule 37 M.R.Civ.P.

Discovery in the possession of the Department that should be regularly disseminated to counsel shall include, but not be limited to, the following:

- Family Functioning Assessments, when available
- Safety plans
- Arrest reports from law enforcement, when applicable
- Chemical dependency evaluations
- Drug and alcohol testing reports
- Drug treatment discharge summaries
- Psychological testing and evaluation reports
- Therapy notes
- Visitation/parenting time notes and reports including emailed reports about visits
- Certificates of completion of any programming

RULE 22

INTERROGATORIES. The form of interrogatories and answers thereto shall conform to the requirements of Rule 33, Montana Rules of Civil Procedure.

The Court will, except in extraordinary circumstances, sustain a motion to quash all interrogatories if it appears that numerous frivolous interrogatories are asked therein. (Comment: This rule is intended to require the interrogator to custom prepare his interrogatories to the case at hand.)

RULE 23

TRANSCRIPT. In the case of an appeal, a party must make a written request to the court reporter or transcriptionist for a transcript of the proceedings and make satisfactory arrangements to pay the estimated fees to obtain the transcript. The request must be filed in the court file and served upon the opposing party. Except

for good cause shown, no extension of the time allowed by statute in which to prepare a transcript will be granted.

RULE 24

EVIDENCE AS TO CHARACTER. Not more than two witnesses will be allowed to testify as to character in any cause, civil or criminal, without leave of the Court being first asked and obtained.

RULE 25

GUILTY PLEA. Before the judge will accept any plea of guilty, the attorney for the defendant shall file with the Court a fully executed Acknowledgment of Waiver of Rights by Plea of Guilty, in the form and with content consistent with the one on file with the Clerk in the general order file, copies of which shall be available from the Clerk. Copies of the executed document shall be served upon the persons designated by said form and at the time provided.

RULE 26

CRIMINAL CASES.

A. In a criminal case, if a not-guilty plea is entered at the time of the arraignment, the case will be set for Omnibus hearing at a later date. The State or the defendant may make any motion permitted under the Montana Rules of Criminal Procedure at any time after arraignment and the motion shall be noticed for hearing by the moving party. Dispositive motions shall be made within sixty (60) days of arraignment.

B. The Court urges full discovery, exploration and plea discussions be carried out between counsel *prior* to the Omnibus hearing.

C. It is contemplated that most cases will be on a course for trial or be ready for a guilty plea at the time of the Omnibus hearing. If a defendant is going to plead guilty, s/he shall do so as soon as possible and in all events prior to trial.

D. Unresolved cases will come on for trial after the Omnibus hearing.

E. On the form, the State and defense may check off the items called to the attention of the Court and note for their file copy the action taken. Such annotations will become a motion by the defense and by the prosecution for the relief requested and a shorthand record of the action taken. If a sufficient record has been made in the Omnibus hearing, the Court will summarily hear, consider and decide motions checked on the Omnibus form. However, the Court, upon request or upon its own direction, may permit the defendant or the State to submit written motions and supporting briefs with appropriate supporting documents for consideration by the Court. If witnesses are to be called, the Court will set a date certain for a hearing upon the motion.

F. In all cases in which the Court has discretion to consider a motion or allow the exercise of a defense at a later date than that designated in any statute, no party shall be deprived of the right to make such motion to designate such defense by waiting to present the same at the time of the Omnibus hearing, as contemplated by this rule.

RULE 27

EVALUATIONS, THERAPY, COUNSELING AND DISPUTE RESOLUTION IN DR CASES. The Judge to whom a domestic relations case with parenting plan issues is assigned shall consider, at the time of the scheduling conference or at any subsequent time, the advisability of requiring the parties to participate at their own cost in such evaluation, counseling, therapy, course of education and/or dispute resolution as may appear necessary and appropriate in the circumstances relative to the parenting and/or dissolution issues. Any party may also request the Court to order the same at any time.

RULE 28

(Repealed)

RULE 29

SETTLEMENT CONFERENCES AND ALTERNATIVE DISPUTE RESOLUTION. The Judge to whom a case is assigned shall consider, at the time of the scheduling conference or at any subsequent conference, the advisability of requiring the parties to participate in a settlement conference or other alternative dispute resolution process including, but not limited to, mediation. Any party may also request the Court to order a settlement conference or other alternative dispute resolution process.

The Chairman of the Yellowstone Area Bar Association Settlement Masters Committee shall maintain a list of settlement masters, comprised of attorneys duly licensed and admitted to practice law, who have engaged in the practice for a minimum of five (5) years, and have indicated their availability to act as settlement masters in cases pending before the Court. The parties may select any qualified person to act as a settlement master and shall not be limited to the list of settlement masters maintained by the Chairman of the Yellowstone Area Bar Association Settlement Masters Committee.

If a settlement master or mediator is appointed by the Court or selected by the parties his/her fees shall be paid equally by the parties unless otherwise agreed. In the event that any party objects to a settlement conference by a settlement master for any reason, including inability to pay the costs associated with mediation, the presiding Judge may, in his discretion, request another District Court Judge to preside over a settlement conference or mediation.

Unless otherwise ordered or agreed to by the parties in writing, the following guidelines shall apply to settlement conferences before a settlement master and to mediations before a mediator:

(1) Counsel who will actually try the case shall attend the settlement conference. All parties shall attend in person. Corporations named as a party and involved insurance companies shall have a representative present who has authority to settle the claim without the necessity of seeking or obtaining authority from some other person or entity; provided, however, that if, in the judgment of the settlement master, the magnitude of the case does not require such representative to be present in person, he shall have authority to proceed with an experienced representative present who shall have access by telephone to the person with final authority.

(2) A statement from each party or counsel shall be submitted directly to the settlement master or mediator no later than three (3) business days prior to the conference. The statement may not exceed five (5) pages in length and shall contain:

- (i) The background of the case;
- (ii) Factual and legal issues, including damages;
- (iii) Points and authorities of law;

- (iv) A description of the strongest and weakest points in their case, both legal and factual, and that of their opponents;
- (v) The history of settlement negotiations, including a recitation of any specific offers and demands; and
- (vi) The settlement statement shall not be filed or exchanged with other parties and will be returned to the party providing the statement at the close of the settlement conference. (Provided, however, that a report of the success or failure of the settlement conference may be made to the Yellowstone Area Bar Association for statistical purposes.)

(3) All communications made in connection with the settlement conference or mediation 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. The parties will not subpoena or otherwise require the settlement master to testify in any future proceedings. No person present at or participating in a settlement conference or mediation shall be subject to examination concerning any statements made or alleged to have been made by that person or by any other participant or person attending, including statements of the settlement master or mediator. The settlement master or mediator may, for the sole purpose of establishing the fact of settlement, disclose that settlement was in fact agreed.

RULE 30

DR AND DF MATTERS – TERMINATION AS COUNSEL OF RECORD. In the event no action occurs within 12 months of entry of a Final Decree or Order in a DR or DF cause, unless counsel of record provides notice to the Court otherwise, counsel of record shall no longer be considered as counsel of record in the cause and his/her designation as such shall be terminated.

RULE 31

PROVIDING COURTESY COPIES TO CHAMBERS. All motions filed in the 13 Judicial District shall be disposed of pursuant to Rule 2 of the Uniform District Court Rules. At the time of filing, attorneys are required to deliver paper courtesy copies of such motions and briefs directly to the presiding Judges' or Standing Masters' chambers, regardless of whether the documents were filed via e-filing.

RULE 32

USE OF ELECTRONIC DEVICES IN THE COURTROOM.

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

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

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

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

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

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

(4) Electronic devices must not:

(i) Interfere with courtroom decorum or the proper administration of justice.

(ii) Interfere with court recording equipment or other courtroom technology.

(iii) Be used for voice communication.

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

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

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

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

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

RULE 33

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

The following guidelines shall apply:

A. Jurors shall not be identified, either in writing, or by photograph, video, or drawing. There will be no interviews of jurors, witnesses, or court personnel either in or out of the court during a trial or any ancillary proceeding. This applies to all media.

B. No video or audio recording, still photography or broadcasting of court proceedings shall occur without prior consent of the presiding district court judge.

- (1) The Judge may limit the number of cameras in the courtroom and order that coverage be pooled. Cameras shall be located in a preselected position and operated by one cameraman per camera. If pooling is ordered or agreed upon, it will be the responsibility of each

news representative to achieve an understanding as to who will function at any given time and as to how the coverage will be pooled. Permission for such coverage is on the condition that all representatives share in the pool arrangement. The camera shall give no indication as to whether it is or is not operating and it shall remain stationary during the entire proceeding.

(2) Broadcast coverage outside the courtroom shall be handled with care and discretion but need not be pooled.

(3) Sufficient film, tape, or data card capacities shall be available to alleviate changes during the entire proceeding.

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

(5) The Jury Voir Dire process shall not be televised or broadcast.

E. Print and digital media, including still photographers, will be accommodated on a first-come basis and position themselves in the spectator section. Photographers and reporters will not be permitted to roam the courtroom. No flash cameras will be permitted, and the cameras used shall operate as to not distract the jury.

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

RULE 34

DISTRICT COURT SAFETY AND SECURITY. The District Court reserves the right to make rules on a case-by-case basis regarding individual courtroom safety practices and protocols. Generally, weapons, backpacks and bags will not be permitted to be brought by community members and litigants into the District Court Courtrooms, District Court Chambers, and all spaces used by the 13th Judicial District court, including office spaces.

These rules are hereby adopted and shall apply to and be in force in Yellowstone County commencing January 15, 2024 until further order of the Court.

DATED this 15th day of January, 2024.

BY THE COURT:

/s/ Hon. Jessica T. Fehr

District Court Judge

Chief Judge of the 13th Judicial District

Hon. Jessica Fehr, Dept. No. 1
Hon. Donald Harris, Dept. No. 2
Hon. Thomas Pardy, Dept. No. 3
Hon. Brett Linneweber, Dept. No. 4
Hon. Rod Souza, Dept. No. 5
Hon. Mary Jane Knisely, Dept. No. 6
Hon. Colette B. Davies, Dept. No. 7
Hon. Ashley Harada, Dept. No. 8