

July 22, 2025

Erika Fyfe

CLERK

Roosevelt County District Court

STATE OF MONTANA

By: Erika Fyfe

DV-43-2025-0000001-OC

Fosland, Benjamin

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Hon. Benjamin J. Fosland
District Court Judge
15th Judicial District Court
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**MONTANA FIFTEENTH JUDICIAL DISTRICT COURT,
DANIELS, SHERIDAN, AND ROOSEVELT COUNTIES**


**IN RE MONTANA FIFTEENTH
JUDICIAL DISTRICT RULES OF
PRACTICE**

**ORDER ADOPTING FIFTEENTH
JUDICIAL DISTRICT RULES OF
PRACTICE**

EFFECTIVE as of July 22, 2025, and in accordance with Rule 15 of the Montana Uniform District Court Rules, the rules attached hereto as Exhibit A (and incorporated herein by this reference) are hereby adopted as the Local District Court Rules for the Montana Fifteenth Judicial District.

IT IS SO ORDERED. The Clerk of Court is directed to file this Order and provide copies to all local attorneys.

Dated July 21, 2025.


BENJAMIN J. FOSLAND
District Court Judge

RULE 1: SCHEDULING

- A. Law & Motion Schedule.** Law and Motion shall be set and heard on the following schedule:

Daniels County – Starting from the Monday of the first full week of the month, court shall be held on the second Wednesday and fourth Tuesday beginning 9:15 a.m. and as needed; **Roosevelt** - the same days as Daniels County, beginning at 11 a.m. for civil matters (except DN) and 1:15 p.m. for criminal, youth court, and DN cases; **Sheridan** – Starting from the Monday of the first full week of the month, court shall be held on the second Tuesday and fourth Wednesday beginning at 10 a.m. for civil matters (except DN) and 1:15 p.m. for criminal, youth court, and DN cases. Alternative special settings as requested by the parties may be scheduled.

- B. Annual Trial Calendar.** The presiding judge will create an annual trial calendar that reflects deadlines, hearings and trial settings; and a Law and Motion calendar to reflect the dates on which Law and Motion will not be held because of a holiday, or other reason.
- C. Omnibus Hearing Memorandums.** The parties shall file the completed Omnibus Hearing Memorandum no later than the Thursday before the scheduled Omnibus Hearing. If both parties waive the Omnibus hearing, the scheduled Omnibus hearing is vacated without further Order.
- D. Scheduling through Judicial Assistant.** All the Court's scheduling shall be done through the Judicial Assistant or any other personnel the judge may designate. The Judicial Assistant will communicate electronically to propose dates and times to set a hearing. After three times of attempting communication with an attorney or *pro se* litigant with no return communication, the Court will set the matter.
- E. Failure to Appear at Scheduling Conference.** If counsel or an unrepresented party does not appear on the date and time set for a scheduling conference, he/she is subject to being sanctioned and the scheduling conference will proceed with dates, times and deadlines as determined by the Court and the parties who are present.
- F. Contested Hearings.** An attorney who expects a matter will be contested or take more than 15 minutes shall advise the Judicial Assistant so that additional time may be scheduled. All matters shall be calendared by the Judicial Assistant.
- G. Use of Court Facilities.** Counsel, and other persons wishing to utilize the courtroom, the jury room, or the law library for meetings, depositions, and videoconferencing shall contact the Judicial Assistant and County Clerk of Court in advance of the use of courthouse facilities to reserve the desired facility to avoid possible conflicts with Court matters or other previously-arranged use of these courthouse facilities. Last minute statutorily required matters, such as DN's and TOPs, shall take priority. The Court will make every effort to not disturb the use of the reserved facilities, if possible.

RULE 2: VIRTUAL APPEARANCES (ZOOM)

- A. **Use of Zoom.** With the installation of video-teleconferencing throughout the Fifteenth Judicial District, the presiding judge may appear via Zoom (or similar applications) from his/her home county unless a party has filed, reasonably in advance of any hearing, a specific request for personal appearance of the Judge.
- B. **Court Contact.** Zoom information and contact numbers for each respective Court are as follows:

Daniels County: Join Zoom Meeting

Meeting ID: 889 9289 7623

Password: 268363

Office Phone: 406-487-2651

Roosevelt County: Join Zoom Meeting

Meeting ID: 874 2351 5243

Passcode: 280233

Office Phone: 406-653-6266

Sheridan County: Join Zoom Meeting

Meeting ID: 813 9497 7222

Password: 952686

Office Phone: 406-765-3404

Zoom information may be subject to change based on Clerk's availability and in the event of a conflict between the above and Zoom information in a specific court order, the information contained in the specific order shall control.

- C. **Zoom.** The parties may access Zoom appearance using the Zoom application. If the parties utilize the application, they are required to follow through with all its requirements and to conduct, prior to any scheduled hearing, a test call to determine whether the application is working properly. Every individual utilizing Zoom must identify themselves with their first and last name; failure to identify themselves shall result in removal from Zoom.
- D. **Responsibility of Party to Arrange Zoom Use.** A party seeking an electronic appearance by Zoom for a witness or client bears the sole responsibility of

coordinating the appearance through the Court's staff (i.e. Court Clerk, Judicial Assistant or Court Reporter) prior to the day of the hearing, unless good cause is shown why coordination is done on the day of the hearing. If opposing counsel opposes the appearance of a witness by Zoom, the party seeking the Zoom appearance must file a motion. Court staff will be solely responsible for operating the videoconferencing system, with the exception of trials or hearings that require evidence be presented by the parties via Zoom.

- E. **Appearance via Zoom by Counsel without Motion.** Counsel may appear by Zoom at routine matters without filing a motion. Any matter where witness testimony or documentary evidence will be presented is not considered a routine matter. If a criminal defendant is entering a guilty plea or being sentenced, an attorney may appear by Zoom only with the consent of the defendant.
- F. **Incarcerated Defendants.** A criminal defendant who is incarcerated may appear by Zoom. Parties seeking the personal appearance of the inmate at a hearing shall specifically request the personal appearance sufficiently in advance of the scheduled hearing to allow the Sheriff's Office to arrange for the inmate's physical presence. The party requesting an inmate's personal appearance bears the responsibility to notify the correctional facility and requesting transport if necessary. If the correctional facility declines to transport, the requesting party may seek an order for transport from the court.
- G. **Untimely Motions for Zoom Appearance.** A party who files an untimely motion for Zoom appearance, without good cause, which results in a continuance, may be sanctioned to pay the costs of each opposing party's appearance.
- H. **Special Request for Zoom Use.** Any party/counsel requesting the use of the Zoom equipment for hearings or meetings other than Fifteenth Judicial District Court business shall make proper reservations for such use through the Clerk of Court in the respective county and the Judicial Assistant. The party/counsel shall report to the clerk of court in the respective county upon arriving for the Zoom session and will be directed to the appropriate location for use of the equipment. Charges for the use of Zoom may be assessed.

RULE 3: FILINGS, PLEADINGS, MOTIONS & STIPULATIONS

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

- B. E-filing Required.** All three counties in the Fifteenth Judicial District are operational for electronic filing for all case types capable of being electronically filed. Cases generally capable of being electronically filed include, but are not limited to, DC, DN, DJ, DR, DV, and DI cases. Consistent with Temporary Electronic Filing Rules 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 capable of being electronically filed. All lawyers practicing in the Fifteenth Judicial District shall become registered users of the electronic filing system and shall use the system. Upon application to the Clerk of District Court of a particular county, waivers for use of the system may be granted for compelling and extenuating circumstances.
- C. Motions & Briefs in General.** Briefs shall be concise and to the point, but as thorough as the complexities of the issues demand. The Court may strike rambling, verbose, inflammatory, or unintelligible briefs or pleadings. The Clerk will return documents not meeting the above requirements. Those seeking an exception should request it before attempting to file a document.
- D. Proposed Orders & Position of Adverse Party.** Each party filing a Motion shall submit a proposed Order and indicate the position of the adverse party. All proposed Orders shall *omit* the submitting counsel's name and address from the top left-hand corner. If using e-filing, proposed orders *shall* be attached in Microsoft Word format. The Court will not act on Motions filed without proposed Orders and/or Orders submitted via e-filing in the incorrect format.
- E. Shortened Briefing Schedule.** If a party submits a motion at a time that does not allow a full briefing schedule, the party filing the motion shall request a shortened briefing schedule and indicate the adverse party's position about a shortened briefing schedule.
- F. Reminder to Court.** In matters pending or taken under advisement including, but not limited to, a motion or decision in a bench trial, parties may, and are encouraged, following any period as allowed for briefing and/or additional filing, to send the Court a reminder e-mail to the Judicial Assistant (wen-shiu.chang@mt.gov) containing only a brief description of the matter needing attention and the date it was fully submitted or taken under advisement.
- G. Discovery Documents Not Permitted.** Except as provided in the MUDCR Rule 4, no discovery documents may be filed with the Clerk of District Court without prior leave of Court. Upon receipt of a deposition pursuant to MUDCR 4, after the Court grants leave, the Clerk shall open the deposition and file it in the open file, unless otherwise ordered. If the Court orders filing of discovery documents, the Clerk shall receive those documents, note upon the register of the action and place them in a separate Court file, with file number noted. After final judgment and expiration of the time for appeal, the Clerk shall notify counsel to retrieve filed discovery documents within thirty (30) days. If counsel fails to retrieve the discovery documents, the Clerk may destroy them without any further notice.

- H. **Jury Demand.** When a party demands a jury trial in a pleading, the party must indicate the jury demand in the title as well as in the body of the pleading.
- I. **No stapling.** To facilitate scanning into the Full Court case management system, parties shall not staple documents filed with the Clerk of Court.
- J. **Subpoenas.** When counsel wishes to have only one subpoena issued, he or she shall deliver one original subpoena and one copy of the subpoena to the Clerk of Court for issuance. When counsel wishes to have more than one subpoena issued, he or she shall present one original subpoena for each person or entity to be served and one praecipe listing the name of each person or entity for whom or which a subpoena is to be issued.
- K. **Time of filing.** All briefs required by rule, regulation or by Court order to be filed by 5:00 p.m. on the required date. Any requests for an extension of time shall be filed and served prior to the filing deadline. The Court may strike briefs not filed in a timely manner and impose other appropriate sanctions. Individual briefs may not exceed 25 pages in length, exclusive of indexes and appendices, except with leave of the Court.
- L. **Form of Citation.** Parties shall comply with the most recent uniform system of citation.
- M. **Stipulations.** In any case, the Court will not consider for any purpose any stipulation between the parties unless the stipulation is made either in open court on the record or in writing and subscribed by either the party against whom the stipulation is sought to be enforced or that party's counsel.
- N. **Use of Artificial Intelligence/Disclosure.** This court is aware that parties, including those appearing *pro se*, have begun using Artificial Intelligence (AI) services and chatbots in the preparation of documents filed with the court. The court is also aware that, although AI can serve as a useful tool, in its current state, it can also on occasion misrepresent and even fabricate law and cases that do not exist. Therefore, in the event any document submitted for filing has been prepared, in whole or in part with the assistance of an Artificial Intelligence (AI) service or chatbot, such as ChatGPT, such party **shall clearly disclose** that fact to the court in the document, and further certify, pursuant to Rule 11 of the Montana Rules of Civil Procedure, that "the claims, defenses, and other legal contentions are warranted by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law or for establishing new law."

RULE 4: ELECTRONIC TRANSMISSIONS

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

- B. **Signatures Required.** The Clerk of Court shall not file a document that does not show necessary signatures. An attorney's stamped or electronically generated signature shall be deemed an original signature for court-filed documents.
- C. **Format of Filing.** The required format for electronically submitted documents other than proposed orders is PDF. The required format for electronically submitted proposed orders is Microsoft Word.
- D. **Electronic Copies from Clerk.** To promote the electronic storage and exchange of documents and reduce redundant scanning of documents produced by the Court, the Clerk of Court may distribute copies of Court Orders and Minute Entries by email rather than by hard copy. Attorneys shall provide to the Clerk of Court's office each email address to which the Clerk is to email copies of Orders or Minute Entries.
- E. **Consent to Receive Electronic Documents.** An attorney or *pro se* litigant who has filed documents or communicated with the Clerk electronically in this Judicial District is deemed to have provided written consent to receive documents from the Clerk electronically. 5(b)(2)(E) Mont.R.Civ.P.

RULE 5: COURT CALENDAR, CLERK'S CALENDAR

- A. **Calendar is a Courtesy.** The calendar the Clerk of Court provides is a courtesy to the parties. The Clerk of Court may, but is not required to, provide a courtesy calendar before 5 p.m. the day before the scheduled matter. Court Orders, not the Clerk of Court's courtesy calendar, control whether and when a matter will be heard. The Court may hear matters in a different order than listed on the Clerk of Court's courtesy calendar.
- B. **Deadline for Putting Matter on Calendar.** A party may ask the Court's Judicial Assistant to add a matter to the calendar by noon the day before any scheduled hearing. The party seeking to add a case to the calendar must submit a proposed order to set the matter, as requested, for hearing.

RULE 6: COURTROOM DECORUM AND SECURITY

- A. **Court to Begin on Time.** Barring unforeseen circumstance, Court will start on time. Counsel and the parties are expected to be prompt and present at the time scheduled for the hearing.
- B. **Dress.** Counsel, counsel's staff, and the parties shall dress in a manner that reflects the seriousness of judicial proceedings. Counsel will dress professionally. No person, including attorneys, will be permitted to appear in Court in denim jeans, shorts, sleeveless tops, torn or dirty clothing; clothing that bears violent, racist, sexist, drug- or alcohol-related themes; clothing that promotes or advertises alcohol or drug use; or gang colors, gang clothing, sunglasses, bandanas, or hats. It is counsel's duty to advise each client, witness, and staff what dress is inappropriate.

and to alert the client that he or she may be asked to change clothes, reappear, or potentially be sanctioned.

- C. **Conduct.** Unless otherwise directed, counsel and parties shall stand when the Judge enters and leaves the Courtroom. All persons shall stand when addressing the Court for any reason unless otherwise directed. Counsel may not interrupt the Judge or opposing counsel and shall always conduct themselves in a manner befitting the dignity of the Court and judicial process.
- D. **Food & Drink.** No one shall bring food into the courtroom. Non-alcoholic liquid drinks are permitted so long as they are in suitable containers (no pop cans/bottles). No party, witness, attorney or staff member shall chew gum during Court appearances.
- E. **Mobile Devices.** All mobile phones, tablets, or like devices will be turned off in the courtroom. Counsel is permitted to utilize such devices at Counsel table so long as the items are silenced and used only for scheduling or addressing an issue in the case presently before the court. A person may *never* use an electronic device from inside the courtroom to transmit information about anything being said or testimony being presented to someone who is outside the courtroom. Texting while in the courtroom and posting to social media while in the courtroom is not permitted.
- F. **Violent Situations.** Potentially violent situations may arise. It is the duty of each party/counsel to advise the Court, through the assigned Judge's Judicial Assistant sufficiently in advance of any hearing that may result in a potentially violent situation so that appropriate security measures may be taken. Unless the court issues an order specifically stating otherwise, only on-duty law enforcement officers or court security personnel are permitted to carry firearms or other weapons in the courtroom, chambers, or offices of other court personnel.
- G. **Search.** Anyone wishing to enter the courtroom may be subject to metal detector security check or required to submit to a search of his/her person or belongings by law enforcement or other court security personnel.
- H. **Prisoners.** The Sheriff's Deputies/Corrections Officer may bring prisoners into the courtroom in handcuffs, manacles, or other restraints except when a jury or jury panel is present, or the prisoner's attorney has obtained *from the Court* an Order that such restraints be removed. Prisoners may not appear in court or in any places where they may be observed by a jury or jury panel in prison/jail clothing or in visible restraints without prior permission from the Court. Prisoner movement within the Courthouse is subject to detention facility staff policies. All communication with in-custody prisoners by any individual other than those permitted (the Court, Counsel, detention center staff) is subject to the rules and regulations set forth by detention center staff. If, during a court proceeding, it becomes necessary for counsel to consult with a prisoner, such communication shall take place between attorney and prisoner alone and in private with due regard for

security considerations. Counsel shall be professional and respectful in all dealings with detention center staff concerning security of prisoners.

- I. **Media.** Broadcasting, televising, live-streaming, recording or taking photographs in the courtroom and areas immediately adjacent thereto during sessions of the court, or recesses between sessions, shall be allowed only with prior notice to, and specific permission of, the presiding judge. All equipment used and persons using it shall remain behind the bar. No flash lights, or other lighting equipment or large microphones shall be used. Photographers, television cameras, and other recording devices, when allowed, shall remain stationary, and shall be used so as to not disrupt the proceedings. No photographs of or televising of the members of a jury panel shall be permitted.
- J. **Removal.** Parties or other persons in the courtroom while the Court is in session may be subject to removal for behavior or actions considered disruptive, threatening, violent, or inappropriate.

RULE 7: COURT RECORDS & COURTHOUSE FACILITIES

- A. The Clerk of Court may not permit any person other than the Judge or Judge's staff to remove a file or document from the office without obtaining a receipt from the party removing a file or document. The person removing the file or document shall return it the earlier of ten (10) days or three (3) days before any scheduled Court activity.
- B. No person may, other than the Judge or Judge's staff, take any document from the Clerk of Court's office under any circumstances, before it is scanned into Full Court.

RULE 8: STATUS/JURY CONFIRMATION, PRETRIAL ORDERS & PRETRIAL HEARINGS

- A. **Status/Jury Confirmation Hearing.** The Court will conduct a Status/Jury Confirmation hearing approximately four weeks before trial is scheduled to begin. The parties are required to appear at this hearing to advise the Court, and the Clerk of Court, whether a Jury should be called for the matter to proceed to trial as scheduled. The parties may appear by Zoom, telephone or in person. Failure to appear at a Status/Jury Confirmation Hearing will result in sanctions including removal of the case from the trial calendar, loss of trial priority status and, in criminal actions, a bench warrant being issued for the Defendant's failure to appear.
- B. **Jury Costs.** If the parties fail to notify the Court and Clerk of Court that a matter will not proceed to trial and a jury is called, either or both parties may be assessed the cost of calling the jury (\$200). The Court will determine the allocation of costs under this section. If the parties indicate at the Status/Jury Confirmation hearing that the case will proceed to trial, the Clerk of Court will call a jury directly following the hearing.

- C. **Exhibits.** Counsel shall make reasonable effort to pre-label all exhibits to be used at trial. In making trial exhibits, plaintiffs shall use numbers and defendants shall use letters. Multiple defendants should use a different initial before numbering of each exhibit. Copies of all standard-size exhibits shall be made in advance for the judge and opposing counsel.
- D. **Jury Instructions.** Counsel for the parties will exchange jury instructions pursuant to the schedule set by the Court. All proposed jury instructions and verdict forms must be delivered to the court in duplicate (an original and one copy), and a copy served upon all opposing parties. Copies of the jury instructions must contain a citation of authority at the bottom of the instructions as well as an indication of the party on whose behalf the instruction is requested, and the number of the proposed instruction. The original jury instructions will omit the authority, the party on whose behalf the instruction is requested and the number of the proposed instruction.
- E. **Trial Briefs.** Trial briefs will be submitted as required in the pretrial order, or prior to the first day of trial. A trial brief shall set forth a statement of the party's 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. The presiding judge may waive a trial brief upon request and for good cause.
- F. **Character Witnesses.** Not more than three witnesses for each side will be allowed to testify as to character in any case, civil or criminal, without prior permission of the Court.

RULE 9: CRIMINAL MATTERS

- A. **Arraignment/Not Guilty Plea.** 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. **Discovery and Plea Negotiations.** The Court urges full discovery, exploration and plea discussions be carried out between counsel prior to the Omnibus hearing. 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, he/she shall do so as soon as possible and in all events prior to trial.
- C. **No Contest Plea.** Counsel who intends to proffer a plea of *Nolo Contendere* (No Contest) under Sec. 46-12-212(2), MCA, must present a factual basis showing good reason for the Court to accept the plea (mental state in question, intoxication, or

otherwise). Pleas of *Nolo Contendere* (No Contest) will not be accepted simply to permit a Defendant to escape an acknowledgement of wrongdoing. If a Defendant honestly believes he/she did not commit the offense, a plea of *Nolo Contendere* (No Contest) is not appropriate.

RULE 10: HEARINGS & TRIAL PRACTICE

- A. **Appearance for Negotiation Prior to Hearing.** Prior to any contested hearing, especially those in Youth in Need of Care cases, counsel and the parties will be available in, or adjacent to, the Courtroom at least 30 minutes before the hearing to discuss settlement. If the parties settle any issues, counsel must inform the Court of the settlement prior to presenting any evidence, testimony or argument. In Youth in Need of Care cases, counsel for the State shall coordinate this pre-hearing meeting.
- K. **Attorney's Duty.** It is counsel's duty to advise each client or witness to speak up when testifying so that the record may accurately reflect what was said in the hearing. Attorneys have the sole responsibility of advising their clients and witnesses of appropriate dress. Attorneys will keep themselves, their parties, and their witnesses apart from the jury at all times and will instruct their parties and witnesses to not discuss their testimony with waiting witnesses. Counsel shall not obstruct the jury view, or court view, of the witness.
- B. **Examination of Witnesses.** During trial or any hearing before the Court, only one attorney for each party shall examine or cross-examine the same witness. Only the attorney who objects to a line of questioning may cross-examine the witness. On cross-examination of any witness or direct examination of a hostile witness, counsel shall not approach the witness without first obtaining permission of the court.
- C. **Note Taking by Jurors.** Jurors will be permitted to take notes unless the Court orders otherwise. No juror shall be required to take notes. Jurors' notes shall be taken in a notebook that can be closed, and the juror's numbers (or names) shall be placed on the outside cover of the notebook. Jurors' notebooks shall be collected by the bailiff at the end of each court day and returned to the jurors at the beginning of the next day. Jurors shall be allowed to have their notes during their deliberations.

RULE 11: TRANSCRIPTS

- A. **Request for Transcript.** In the case of an appeal, a party must make a written request to the court reporter for a transcript of the proceedings and make satisfactory arrangements to pay the estimated fees to obtain the transcript.
- B. **Filing of Request.** The request for transcript must be filed in the court file and served upon opposing party. Except for good cause shown, no extension of the time allowed by statute in which to prepare a transcript will be granted.

RULE 12: MEDIATION

- A. **Participants with Ultimate Settlement Authority.** When the Court orders mediation, each party shall have a person with ultimate settlement authority attend the mediation *in person* and participate in the mediation in good faith. If the person who has ultimate settlement authority is a party, then the party shall *personally* appear at the mediation.
- B. **Participants allowed to Attend.** During the mediation session, only the party and the party's attorney or the party appearing *pro se* and a person with ultimate settlement authority, who is not a party, may attend the mediation session. No member of a party's family or any other person may attend mediation unless all parties agree to the attendance of another person.
- C. **Payment Required.** Parties attending mediation will provide proof to the court that financial obligations of mediation have been satisfied before the Court will issue an Order or the Clerk will issue a Final Decree or Judgment.

RULE 13: DISMISSAL OF INACTIVE CASES

- A. **Civil Cases.** When no proceedings have been undertaken in any civil cause for a period of one year, the action may be dismissed with or without prejudice by the Court on its own motion after the giving of a twenty (20) day notice of such intended dismissal, unless good cause is shown.
- B. **Probate Cases.** In estate matters not closed pursuant to statute, the Clerk shall notify the attorney or record ninety (90) days before the expiration of two years from the filing of the estate matter.
- C. **Reinstatement.** Cases and parts of cases closed for lack of prosecution shall be reinstated only by court order to reinstate upon agreement of the parties or good cause shown. If an order to reinstate is not entered, no judicial action will be taken in the case or part thereof.

RULE 14: ATTORNEY'S FEES

- A. **When Fees May Be Requested.** Attorney's fees should not be requested unless authorized by statute, case law, or contract. In such cases, the authority for requesting an award of attorney fees should be specified.
- B. **Affidavit Required.** Upon a final decision on the merits or other appropriate time, a party seeking an award of attorney's fees shall file and serve an affidavit itemizing the claim. Within fourteen (14) days thereafter allowing three (3) additional days for mailing, the opposing party shall file any objection. The Court will docket the matter for hearing. In a contested proceeding, receipt of evidence pertaining to attorney's fees may be deferred until the final decision or order on the merits of the case has been issued.

RULE 15: APPEALS FROM JUSTICE OR CITY COURT

- A. **Scheduling.** When an appeal from Justice or City Court, civil or criminal, has been filed and the record received by the Clerk of Court, the Clerk shall present the record to the Judicial Assistant for scheduling. This provision does not apply to appeals on the record from Small Claims Court.
- B. **Failure to Appear.** In any appeal from Justice or City Court, if one or both of the parties does not appear for scheduling, the Court may dispose of the matter as the ends of justice dictate, including issuance of an order dismissing the appeal.

RULE 16: DOMESTIC ACTIONS

- A. **Child Support Guidelines.** As long as application of uniform child support guidelines is required by Montana Code Annotated, parties seeking a child support determination shall enroll for services with Montana's Child Support Services Division (CSSD). <https://dphhs.mt.gov/cssd>. CSSD may also be contacted at 1-800-346-5437 or via email at childsupport@mt.gov.
- B. **Support Variance.** A party seeking support variance from the support guidelines or withholding requirements must furnish written proposed findings addressing their contention the variance is supported by clear and convincing evidence.
- C. **Notice to Child Support Enforcement Division.** Any petition filed to commence proceedings involving modification of child support shall include a statement whether the requesting party has knowledge of the child's receiving or applying for public assistance and if so, petitioner shall immediately notify Montana's Child Support Enforcement Division and the State Attorney General's Office, in writing of the pending action and file proof of such notice with the Clerk of Court.