

**MONTANA TWENTIETH JUDICIAL DISTRICT  
COURT RULES**

**LAKE AND SANDERS COUNTIES**

**RULE 1- LAW AND MOTION DAYS AND SCHEDULING**

**Dept. # 1 - Hon. James A. Manley, Presiding Judge**

<u>Lake County:</u>	Each Wednesday
9:00 a.m.	Criminal Matters
10:00 a.m.	Civil Matters
1:30 p.m.	Juvenile Matters
<u>Sanders County:</u>	2nd and 4th Tuesdays Each Month
10:00 a.m.	Criminal and Civil Matters

**Dept. # 2 - Hon. Deborah Kim Christopher, Presiding Judge**

<u>Lake County:</u>	Each Thursday
9:00 a.m.	Criminal Matters
10:00 a.m.	Civil Matters
1:30 p.m.	Juvenile Matters
<u>Sanders County:</u>	1st and 3rd Tuesdays Each Month
10:00 a.m.	Criminal and Civil Matters

**RULE 2- CONTINUED MATTERS**

Matters not heard on the day set due to time constraints, or when law and motion is not held by order of the Court, shall be deemed continued to the next regular law and motion day. Requests for continuance by counsel must be noticed by counsel for a specific date.

**RULE 3- TRIAL SETTINGS**

3.1 Whenever any civil action is at issue and ready for trial, the moving party shall file with the Clerk and serve on the other parties a request for trial setting. This shall include anticipated length of trial. The responding party shall have ten (10) days to respond. If not contested, the Court will then set trial for the next available time.

3.2 Scheduling and planning shall be governed by Rule 16 (b), M.R.Civ.Pro. Tentative dates for the final pre-trial conference and for trial shall be obtained by counsel from the Court's Administrative Assistant prior to the scheduling conference.

3.3 Pre-trial orders and pre-trial conferences shall be governed pursuant to Rule 5, Montana Uniform District Court Rules. The pre-trial conference may be waived if a signed pre-trial order is filed prior to the date set for such conference.

3.4 At least one of the attorneys for each party participating in any conference before trial shall have authority to enter into stipulations and to make admissions regarding all matters that the participants may reasonably expect to be discussed.

**RULE 4- COURT RECORDS**

4.1 Withdrawal of Files. Only civil and probate files may be withdrawn from the Clerk's office, upon approval of the Clerk of Court, for not more than (10) days by attorneys or licensed abstractors residing in the county. Files may not be removed from the county without first obtaining permission from the Court.

4.2 Juvenile and Adoption Matters. The records and files in juvenile and adoption actions shall not be withdrawn, examined or inspected by anyone except upon order of the Court. Exceptions shall be made in juvenile matters for the County Attorney, Youth Court Officer, Juvenile Probation Officer and the attorney for the juvenile. Some juvenile cases are open by law.

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

4.4 Testate Probates. When an application for probate of will is filed, the original will must be presented for filing and a copy of the will must be attached to the application.

**RULE 5- ORDERS, JUDGMENTS AND DECREES**

5.1 It shall be the duty of counsel obtaining any order, judgment or decree to present the same in written form for the signature of the judge at the time of applying for the order, judgment or decree. Copies to be conformed must also be included.

5.2 Two copies of any order to show cause, temporary restraining order or like order shall be presented to the judge for signature, both shall be signed by the judge as original orders. One shall be retained as part of the court file and the other used for the purposes of making service.

5.3 Self-addressed, stamped envelopes must be included for return of copies.

**RULE 6- CASH BAIL AND BAIL BONDS**

6.1 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 must be adhered to:

- At the time the papers transferring the case to the District Court are filed with the Clerk of District 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;
- If the bail furnished was cash bail, the Justice or Municipal Judge must present a proper check, warrant or draft for the full amount of the bail. Upon receipt of the check, warrant or draft, the Clerk of District Court must issue a trust fund receipt and deliver it to the Justice of the Peace or the Municipal Judge;
- If the bail furnished was a bail bond or other bail as permitted by '46-9-401, MCA, the Justice of the Peace or Municipal Judge must deliver the actual documents furnished as bail to the Clerk of District Court.

6.2 Whenever bail has been set by and furnished to a Justice of the Peace in an action wherein the District Court has the original trial jurisdiction and the County Attorney elects to proceed in District Court by filing a Motion for Leave to File an Information direct, the following procedure must be compiled with:

- The County Attorney must, contemporaneously with the filing of the motion in District Court, file a written request with the Justice of the Peace asking that the bail be transferred to the District Court;
- The County Attorney must deliver to the Justice of the Peace a duplicate copy of such request;
- The Justice of the Peace must forthwith endorse upon the original request and the duplicate copy the proper information regarding the nature of the bail and must forthwith transfer the bail to the District Court as provided in a. or b. above. The duplicate copy of the request must be filed with the Clerk of District Court.

**RULE 7- APPOINTMENT OF COUNSEL**

7.1 Appointment of Counsel for Indigent Defendants. In any case where the Public Defender cannot represent an indigent defendant, counsel will be appointed on a rotation basis first from a list of attorneys who volunteer to accept appointments and, if not available, then from a list of all actively practicing attorneys residing within the county, other than those excused by the Court. Whether an attorney is actively practicing is subject to periodic review by the Court. The duties of an appointed attorney may be performed by some other member of the firm.

7.2 Attorney Fees. Court-appointed counsel shall be paid at a rate to be determined by the Court. The current rate is available in the office of the Clerk of Court.

**RULE 8- DOMESTIC RELATIONS MATTERS**

Execution for Support Payments. The Clerk of Court shall not issue any execution for support or maintenance payments due under any decree of dissolution without prior approval of the Court. Executions will not be issued unless supported by an affidavit affirmatively showing that the parties have not entered into any arrangements not contemplated by the decree of dissolution, that they are not living together, that payments were required to have been made at the office of the Clerk of Court and that the payments are delinquent. Details of the delinquency must be specifically set forth.

**RULE 9- PHOTOGRAPHY AND TELEVISION**

Broadcasting, televising, recording or taking photographs in the courtroom and areas immediately adjacent thereto during sessions of 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, 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 shall be permitted.

#### **RULE 10- JURY TRIALS – VOIR DIRE**

The length and conduct of voir dire examination shall not exceed one (1) hour fifteen (15) minutes per side without prior leave of court.

**Revised, Effective May 27, 2009.**