



ordered, or unless the time is enlarged by the court, the motion is deemed submitted at the expiration of any of the applicable time limits set forth above without supporting briefs having been filed. If oral argument is ordered, the motion will be deemed submitted at the close of argument unless the court orders additional briefs, in which case the motion will be deemed submitted as of the date designated as the time for filing the final brief.

(e) In the event of conflict, the Montana Rules of Civil Procedure shall control. Time computation shall be governed by Rule 6, M. R. Civ. P.

### **RULE 3 - EX PARTE MATTERS**

(a) Extensions of time to further plead, file briefs, combine a hearing on a motion and other permissible ex parte matters may be granted by order of the court upon written application.

(b) Prior to the issuance of an ex parte order, the party seeking such order must file a written certification with the court declaring that the opposing party has been contacted and given reasonable notice of:

- (1) the time and place of the ex parte conference or meeting;
- (2) the substance of the order sought;
- (3) whether the opposing party opposes the motion.

(c) All requests for extension of time or continuance or other ex parte matters shall be accompanied by an appropriate form or order, with sufficient copies for the clerk to mail to all opposing parties.

(d) Except as otherwise provided by these Rules or statute, no document, including briefs, proposed orders and proposed judgments, may be presented to the court at any time unless it is first filed with the court and served on all parties.

### **RULE 4 - FILING OF DISCOVERY**

(a) Depositions upon oral or written examinations, interrogatories and answers thereto, requests for production of documents and responses thereto, and requests for admissions and responses thereto shall not be routinely filed. When any motion is filed making reference to discovery, the party filing the motion shall submit with the motion relevant unfiled documents.

(b) The pre-trial order shall identify all those portions of depositions, interrogatories, requests for admissions and answers and responses thereto that the parties intend to introduce into evidence.

### **RULE 5 - PRE-TRIAL ORDER AND PRE-TRIAL CONFERENCE**

(a) **Pre-trial.** Unless otherwise ordered by the court, a pre-trial conference shall be held in all contested civil cases.

(b) Not later than seven days prior to the pre-trial conference, Plaintiff shall convene a conference of all parties for the purpose of preparing a pre-trial order. The proposed pre-trial order shall be presented for signature at the pre-trial conference. In the event of a dispute as to the contents of the order, such dispute shall be presented to the judge for resolution at the pre-trial conference.

(c) **Pre-trial Order.** The pre-trial order shall be substantially in the following form: (see next page)

### **RULE 6 - BRIEFS**

All briefs presented to the court at any time will be filed with the court and must forthwith be served on all opposing parties.

### **RULE 7 - JURY INSTRUCTIONS AND VERDICT FORMS**

(a) **Submission.** All proposed jury instructions and verdict forms must be delivered to the court in duplicate and a copy served upon all opposing parties at the time fixed in the pre-trial order. Thereafter additional instructions may be allowed to prevent manifest injustice.

(b) **Citation of authorities.** Each proposed instruction shall contain at the bottom the source thereof and a citation of authorities, if any, supporting the statement of law therein.

(c) **Form.** Each instruction shall be on 8 1/2" x 11" paper and shall, after the citations of authorities, indicate the party on whose behalf it is requested and be numbered consecutively. One copy of the instructions filed with the court shall not be firmly bound together.

(d) **Request for special findings by jury.** Whenever a party desires special findings by a jury he/she shall file with the court and serve a copy upon all opposing parties, in writing, the issues or questions of fact upon which such findings are requested, in proper form for submission to the jury.

## **RULE 8 - FINDINGS AND CONCLUSIONS**

In all matters where the court must enter findings of fact and conclusions of law pursuant to Rule 52, M. R. Civ. P., all parties shall file with the court, and serve upon all opposing parties, at least seven days prior to the scheduled trial or hearing, proposed findings of fact and conclusions of law. Failure to file proposed findings of fact and conclusions of law in a timely manner shall be cause for appropriate sanction including removal of the case from the trial calendar, dismissal or granting of a judgment, precluding the offending party from presentation of evidence or objecting to evidence submitted by the other party, or such other action as the court deems appropriate. Posttrial amended and supplemental findings of fact and conclusions of law may be submitted in appropriate circumstances and only upon order of the court.

## **RULE 9 - JUROR QUESTIONNAIRE**

All jurors are requested to complete a questionnaire, the form of which is on file with the clerk in his/her general order file and which contains basic vital statistics and other pertinent information. The completed forms will only be available to the parties, the attorneys for the parties, judges and court employees. Others requesting the completed forms must file a Request for Privacy Information with the court. The jury questionnaire will be destroyed by the clerk's office within a reasonable length of time after the conclusion of the jury term.

## **RULE 10 - DEATH OR REMOVAL OF ATTORNEY**

(a) Whenever an attorney representing a party to an action, or in another civil proceeding of any kind is removed, withdraws or ceases to act as such, said attorney must inform the court and all other parties of the full name and address of his/her client and any other information which the court may find appropriate to assist in contacting said party.

(b) Except as allowed or modified by the limited scope of representation rules, when the attorney representing a party to an action or proceeding dies, is removed, withdraws, or ceases to act as such, that party, before any further proceedings are had against him/her must be given notice by any opposing party:

- (1) That such party must appoint another attorney or appear in person, and
- (2) The date of the trial or of the next hearing or action required in the case, and
- (3) That if he/she fails to appoint an attorney or appear in person by a date certain, which may not be less than twenty-one days from the date of the notice, the action or other proceeding will proceed and may result in a judgment or other order being entered against him/her, by default or otherwise.

(c) Such notice may be by personal service or by certified mail to said party's last known address.

(d) If said party does not appoint another attorney or appear in person within twenty-one days of the service or mailing of said notice, the action may proceed to judgment. However, copies of all papers and documents required to be served by these Rules and the Rules of Civil Procedure shall be mailed to said party at his/her last known address.

(e) In addition to the foregoing requirements of Rule 10 and before any change or substitution of attorney is effective, whether such change or substitution is occasioned by the death of the attorney or by his/her removal, withdrawal, ceasing to act, suspension or disbarment, the requirements of sections 37-61-403, 37-61-404 and 37-61-405, MCA, shall have been fully satisfied.

## **RULE 11 - JUDGMENTS AND DECREES**

Whenever a judgment or decree is signed by the presiding judge it shall be delivered to the clerk and immediately filed in the records of the court and the fee required by law shall be forthwith paid to the clerk. Failure of parties to observe this Rule shall be deemed a contempt of court.

## **RULE 12 - EXHIBITS**

(a) Every exhibit placed on file or offered in evidence shall be held in the custody of the clerk. Unless there is good reason why the original of an exhibit should be retained, upon application, the court may order a copy filed in its place. Public records offered in evidence may be withdrawn at the conclusion of the hearing on order of the court.

