

IN THE SUPREME COURT OF THE STATE OF MONTANA

No. AF 07-0110

FILED

IN RE REVISIONS TO THE
UNIFORM DISTRICT COURT RULES

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ORDER

NOV 29 2011

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

Effective October 1, 2011, the Court adopted extensive changes to the Montana Rules of Civil Procedure. One part of those changes involves the way in which time periods are computed. The Uniform District Court Rules Commission has proposed changes to the Uniform District Court Rules, to reflect these changes to the Montana Rules of Civil Procedure. The Court approves of the proposed changes, and thanks the Commission for its work.

IT IS ORDERED that the following changes are made to the Uniform District Court Rules:

- In UDC Rule 2(a) and (b), the time to file a brief in support of a motion is changed to require that the brief be filed with the motion, instead of within 5 days of when the motion was filed. The time to file an answer brief and time to file a reply brief are changed from within 10 days after service to within 14 days after service, except that the time limits for responding to a motion for summary judgment are governed by M. R. Civ. P. 56(c).
- In UDC Rule 5(b), the time for a conference for the purpose of preparing a pre-trial order is changed from not later than 5 days before the pre-trial conference to not later than 7 days before the pre-trial conference.
- In UDC Rule 8, the time to submit proposed findings of fact and conclusions of law is changed from at least 5 days before the scheduled trial or hearing to at least 7 days before the scheduled trial or hearing.
- In UDC Rule 10(b)(3) and (d), the time to appoint another attorney or appear in person following the removal or withdrawal of an attorney is changed from not less than 20 days to not less than 21 days from the date of notice.

- In UDC Rule 12(b), the time at which a court may enter an order authorizing the clerk to dispose of exhibits is changed from 20 days after mailing of notice to 21 days after mailing of notice.
- In UDC Rule 13, the time allowed for an out-of-state lawyer to associate with local counsel is changed from within 10 days after making a first appearance to within 14 days after making a first appearance.

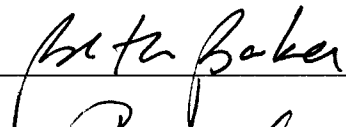
A redlined and interlineated version of the affected portions of the rules is attached to this Order. These changes shall take effect March 1, 2012.

The Clerk is directed to provide copies of this order to the State Law Library, all District Court Judges of the State of Montana, each member of the Uniform District Court Rules Commission, the State Bar of Montana, Thomson-Reuters, CompuLaw, and Lee Heiman at the Montana Legislative Services Division.


DATED this 29th day of November, 2011.



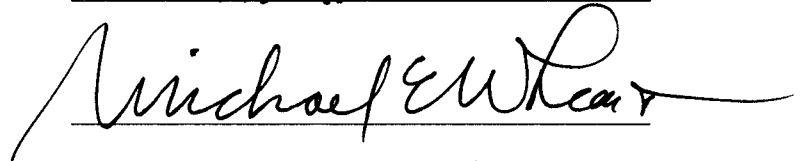
Chief Justice



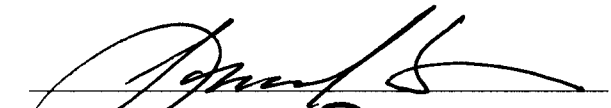
Peter Baker



Patricia Cotter



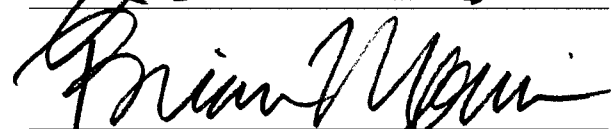
Michael E. Wheeler



Paul



Jim Rice



Brian M. Mori

Justices

Rule 2 – Motions.

(a) ~~Upon filing a motion, the moving party shall file a brief within five days thereafter.~~ Upon filing a motion, or within five days thereafter, the moving party shall file a brief. The brief may be accompanied by appropriate supporting documents. ~~Within ten days after service of the movant's brief, the opposing party shall file an answer brief which also may be accompanied by appropriate supporting documents. Within ten days after service of the opposing party's answer brief, the movant may file a reply brief or other appropriate responsive documents.~~ Within ten days after service of the movant's brief, the opposing party shall file an answer brief which also may be accompanied by appropriate supporting documents. Within ten days after service of the opposing party's answer brief, the movant may file a reply brief or other appropriate responsive documents.

(b) Failure to File Briefs. Failure to file briefs may subject the motion to summary ruling. ~~Failure to file a brief within five days by the moving party shall be deemed an admission that the motion is without merit. Failure to file an answer brief by the opposing party within ten days shall be deemed an admission that the motion is well taken. Reply briefs by movant are optional, and failure to file will not subject a motion to summary ruling.~~ Failure to file a brief within five days by the moving party shall be deemed an admission that the motion is without merit. Failure to file an answer brief by the opposing party within ten days shall be deemed an admission that the motion is well taken. Reply briefs by movant are optional, and failure to file will not subject a motion to summary ruling.

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Rule 5 – Pre-Trial Order and Pre-Trial Conference.

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(b) Not later than five ~~ten~~ 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.

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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 five ~~ten~~ 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 matter 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. Post-trial amended and supplemental findings of fact and conclusions of law may be submitted in appropriate circumstances and only upon order of the court.

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Rule 10 – Death or Removal of Attorney.

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(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:

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(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~~ [redacted] 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.

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(d) If said party does not appoint another attorney or appear in person within ~~twenty~~ [redacted] days of the serve 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.

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Rule 12 – Exhibits.

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(b) Exhibits may be withdrawn by the party offering them thirty days after a judgment has become final. Forty-five days after a judgment has become final, the clerk may apply to the court for an order to dispose of exhibits, and shall notify the parties of said application. ~~Twenty~~ [redacted] days after mailing of said notice the court may enter its order authorizing the clerk to dispose of exhibits.

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Rule 13 – Regulation of Attorneys not Admitted to Practice in Montana.

An attorney seeking to be admitted to practice before the 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~~ [redacted] days thereafter, and before any further proceedings are had in the matter, join with, or record, an attorney who is admitted to practice in Montana and who is a resident of Montana.

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