



LOCAL RULES AMENDMENTS 2024

09/12/2024

CIVIL LOCAL RULES	EXPLANATION OF AMENDMENTS	Page #s in redline version
1.2 Divisions of the Court	<p>1.2 Divisions of the Court</p> <p>(a) The clerk of court shall make case assignments in accordance with caseload distribution targets established by the Court. Such caseload distribution targets shall be periodically reviewed and, if necessary, revised to ensure equitable distribution of the Court's caseload on an ongoing basis. By Standing Order, the Chief Judge will equitably distribute the caseload of the District by allocating each division to one or more judges. Cases involving reapportionment, voting rights, campaign finance or disclosure laws, or otherwise relating to elections The following cases will be randomly assigned to an Article III judge regardless of the division of filing:</p> <p>(1) civil actions involving reapportionment, voting rights, campaign finance or disclosure laws, or otherwise relating to elections;</p> <p>(2) civil actions seeking to bar or mandate statewide enforcement of a state law, including a rule, regulation, policy, or order of the executive branch or a state agency, whether by declaratory judgment and/or any form of injunctive relief; and</p> <p>(3) civil actions seeking to bar or mandate nationwide enforcement of a federal law, including a rule, regulation, policy, or order of the executive branch or a federal agency, whether by declaratory judgment and/or any form of injunctive relief.</p> <p>(b) The clerk of court maintains an office in each division. Offices in the Billings, Butte, Great Falls, and Missoula Divisions are open to the public from 8:00 a.m. to 5:00 p.m. Monday through Friday, except federal holidays. The Helena Division office is not open to the public.</p> <p><i>Explanation:</i> <i>Incorporates Standing Order BMM-32 regarding the new system for case assignments.</i></p>	pp. 1-2
1.2 Divisions of the Court	Uncapitalized counties in paragraphs (c)(1)-(5)	p. 2



1.3 Access to Court Proceeding and Records	<p>(b) Records of the Court.</p> <p>(2) <i>Case Files.</i> Unless access is restricted or case files have been archived, documents and items filed in the record may be viewed at no cost at the clerk's office. Where feasible, copies may also be obtained for a fee. The electronic record is available to remote access for a fee. Archived documents may be ordered for a fee from NARA.</p> <p>(3) <i>Verbatim Record.</i> The court will take the record by either stenotype reporting or electronic sound recording. The clerk may provide electronic sound recordings of hearings not attended by a court reporter. An electronic sound recording is not an official record of the court.</p> <p><i>Explanation: As of June 1, 2024, all physical records have been sent to the Federal Records Center and NARA.</i></p>	p. 3
1.3 Access to Court Proceedings and Records	<p>1.3(b)(4)(C) Realtime. Attorneys of record may order and receive realtime transcription of court proceedings from realtime certified court reporters. A realtime unedited transcript may only be distributed to ordering parties, their co-counsel, experts, and staff. It is not to be made available to the public, including news organizations or other nonparticipants, and it may not be cited or used in the manner of a certified transcript. Realtime transcription may not be available in all proceedings.</p> <p><i>Explanation: Clarifies that realtime reporting is not available in all proceedings.</i></p>	p. 4
1.4 Means of Filing	<p>1.4(b)(6) Attorney Exemption. An attorney may seek leave to file nonelectronically by filing a motion for leave to file nonelectronically at the first appearance in the case. The clerk will not serve an attorney by mail unless leave is granted. A form motion for this purpose can be found on the court's website.</p> <p><i>Explanation: These motions are rarely filed and so a form is not necessary.</i></p>	p. 7
3.1 Filing a New Case	<p>3.1(d) Manner of Filing</p> <p>(1) <i>Electronic Filing.</i> Any attorney or party who is</p>	p. 10



LOCAL RULES AMENDMENTS 2024

09/12/2024

	<p>authorized to file documents with the court electronically may file a new case by following procedures established by the clerk of court and published in the Guide for Filing in the District of Montana which is available on the court's website. Failure to comply with the clerk's procedures may result in delay in filing.</p> <p><i>Explanation: The detailed information on filing procedures is found in the Guide for Filing.</i></p>	
3.1 Filing a New Case	<p>(g) Judge Notification. The clerk of court shall immediately notify any judge, magistrate judge, or bankruptcy judge named as a defendant in any lawsuit filed within this District and send a copy of the pleadings to the judge involved on the same day that such pleadings are received in the clerk's office for filing.</p> <p><i>Explanation: This is an internal policy which does not need to be contained in the local rules.</i></p>	p. 11
3.3 Removal and Remand	<p>3.3(a)(2) When the state court file is received in this court, the clerk will enter scan into CM/ECF the pleadings and orders filed to date in the state court. All other documents will be scanned and attached as exhibits to the state court docket sheet.</p> <p><i>Explanation: The court rarely scans state court documents anymore—they are generally sent to us electronically.</i></p>	p. 12
4.1 Issuance and Service of Process	<p>4.1 Issuance and Service of Process</p> <p>The issuance and service of process must be in conformity with the Federal Rules of Civil Procedure. Only the clerk may issue process in all proceedings brought to quash an IRS summons. The clerk may sign, seal, and issue a summons in CM/ECF. The clerk will issue summons and/or subpoenas for plaintiffs proceeding under 28 U.S.C. § 1915 and 28 U.S.C. § 1915A only if directed to do so by the court.</p> <p><i>Explanation: Codifies process in pro se cases.</i></p>	p. 14
5.1(b)(1) Exhibits	<p>(b) Exhibits</p> <p>(1) Identification. Exhibits must be identified and electronically filed so as to allow the court and the parties to locate easily and refer unambiguously to a specific page of</p>	p. 16



	<p>a specific exhibit. Use of a short descriptive name in filing the exhibit, e.g., “Smith Aff.” or “Range Rover Vehicle Registration,” in the docket and in the text of the brief is required. In cases involving a large number of exhibits, a bookmarked PDF is allowable. Bookmarks within any such PDF must provide the exhibit number and a short description of the exhibit.</p> <p><i>Explanation: Moved information in green from 7.2 Motion Exhibits as this information applies to all exhibits</i></p>	
5.2 Filing Under Seal	<p>(h) Highly Sensitive Documents (HSDs). A Highly Sensitive Document (HSD) is a document or other material that contains sensitive, but unclassified, information that warrants exceptional handling and storage procedures to prevent significant consequences that could result if such information were obtained or disclosed in an unauthorized way. A document is an HSD if its subject matter renders it of potential value to malicious nation-state actors seeking to harm the interests of the United States. Factors to be considered in making the determination include whether the document involves matters of national security; foreign sovereign interests; cybersecurity; intellectual property or trade secrets; terrorism; public officials; or the reputational interests of the United States.</p> <p><i>Explanation: Incorporates the AO’s revised definition of HSDs.</i></p>	p. 19
5.3 Addresses for Service	<p>5.3 Addresses for Service</p> <p>(a) Address Changes.</p> <p>(1) Attorneys must update any change in name, e-mail, mailing address, law firm affiliation, and/or telephone number through their PACER accounts.</p> <p>(2) A self-represented party filing non-electronically whose e-mail, post office box or physical mailing address changes while an action is pending must promptly file with the court and serve upon all other parties a Notice of Change of Address specifying the new address for service.</p> <p>(3) A self-represented party filing electronically must update any change in name, e-mail,</p>	p. 20



	<p>mailing address, law firm affiliation, and/or telephone number through their PACER account.</p> <p><i>Explanation: The court is seeing more pro se litigants file electronically and this revision clarifies how they must update and change in address.</i></p>	
7.1-1 Notice of Additional Interested Parties	<p>7.1-1 Notice of Additional Interested Parties</p> <p>(a) Counsel for all non-governmental parties must file with their first appearance a Notice of Interested Parties, which</p> <p>(1) lists must list all persons, associations of persons, firms, partnerships, and corporations (including parent corporations, clearly identified as such), other than the parties and their immediate families, that may have a financial interest in the outcome of the proceeding, including any insurance carrier that may be liable in whole or in part (directly or indirectly) for a judgment in the action or for the cost of defense; or</p> <p>(2) states that there are no such persons, associations of persons, firms, partnerships, or corporations.</p> <p><i>Explanation: Clarifies that a notice of additional interested parties must be filed even if there are no interested parties to disclose.</i></p>	p. 22
7.2 Motion Exhibits	<p>7.2 Motion Exhibits</p> <p>(a) Exhibits must be identified and electronically filed so as to allow the court, the parties, and the public to locate easily and refer unambiguously to a specific page of a specific exhibit. See L.R. 5.1. Use of a short descriptive name in filing the exhibit, e.g., "Smith Aff." or "Range Rover Vehicle Registration," in the docket and in the text of the brief is required. In cases involving a large number of exhibits, a bookmarked PDF is allowable. Bookmarks within any such PDF must provide the exhibit number and a short description of the exhibit.</p> <p>All motion exhibits must comply with the provisions set forth in L.R. 5.1(b). Only exhibits that are directly germane to the matter under consideration by the court may be filed.</p> <p>(c) Excerpted material must be prominently identified as such.</p>	p. 25



	<i>Explanation: The deleted paragraphs (in red) are already included in LR 5.1(b). The deleted information (in green) has been moved to LR 5.1(b).</i>	
7.3 Motion for Reconsideration	7.3 Motion for Reconsideration (d) Response. Unless the presiding judge orders a response, no response may be filed to a motion for leave to file a motion for seeking reconsideration of an interlocutory order. <i>Explanation: This change clarifies that no response may be filed to a motion for leave to file a motion for reconsideration instead of no response may be file to the motion for reconsideration itself.</i>	p. 26
7.5 Amicus Brief	7.5(b)(2) Motion for Leave The motion must: (B) include, if the amicus is a corporation, a disclosure statement like that required of parties by Fed. R. Civ. P. 7.1(a) and/or a notice of interested parties as required by LR 7.1-1; <i>Explanation: Incorporates requirements of last year's new Local Rule 7.1.1</i>	p. 27
26.4 Protective Orders	26.4 Protective Orders (a) Motion for Order or Review. When a person or party seeks a protective order under Fed. R. Civ. P. 26(c) and submits documents or items for in camera review: (1) the documents or items sought to be protected may be filed under seal, following L.R. 5.1(b)(1) and (c), without prior leave of court pursuant to LR 5.2(b)(1); <i>Explanation: Corrects incorrect citation.</i>	p. 46
26.4(b) Protective Order	Removed "that are" from the header so it now reads "Filing Documents Subject to a Protective Order"	p. 46
56.1 Motion for Summary Judgment	(b) Any party opposing a motion for summary judgment must file a Statement of Disputed Facts simultaneously with and separately from the response brief. The Statement must:	p. 54



	<i>Explanation: Makes this paragraph match paragraph 56.1(a)</i>	
67.1 Order for Deposit	<p>67.1 Order for Deposit</p> <p>(a) General Information. Terms governing registry funds and payment of associated fees are set forth in a Standing Order DLC-28 that may be found on the court's website. The Court Registry Investment System ("CRIS") is the sole authorized investment mechanism for money deposited in the court's registry. Parties will save time and effort by contacting the court's finance department Financial Unit for guidance on Judicial Conference policy before preparing documents to file with the court. Additional information can be found on the court's website.</p> <p>(b) Prerequisites to Filing Motion to Deposit Funds.</p> <p>(1) Before filing a motion to deposit money in the court's registry, a party must deliver the following documents to the clerk's office:</p> <p>(A) a motion for an order to deposit funds into the court's registry, stating whether ownership of the funds is disputed;</p> <p>(B) a completed and signed Registry Deposit Information Form from the court's website; and</p> <p>(C) a proposed order stating the amount to be deposited.</p> <p>(2) When the court's finance department Financial Unit confirms the documents are correct, the party must file the motion, the Registry Deposit Information Form, and a proposed order and serve all other parties who have appeared.</p> <p><i>Explanation: Clarifies the common name of the court's finance department and insert the number of the applicable standing order.</i></p>	p. 58
72.2 Referral to Magistrate Judge	<p>72.2 Referral to Magistrate Judge</p> <p>(a) Referral on Filing of a New Case. Except as otherwise provided by order, and except for motions under 28 U.S.C. § 2255, actions for writs filed by federal prisoners, actions filed by pro se prisoners, cases originating in the bankruptcy court, complaints accompanied by a motion for temporary restraining order or</p>	p. 60



	<p>preliminary injunction under Fed.R.Civ.P. 65, petitions brought pursuant to the Hague Convention, and cases governed by Appendix A of these rules, all cases will be assigned to a magistrate judge upon filing and be subject to the consent election procedure set forth in Local Rule 73.1. in which a magistrate judge's name is randomly drawn will be assigned to an Article III judge and referred to a magistrate judge upon filing.</p> <p><i>Explanation: Incorporates Standing Order BMM-33 and added petitions brought pursuant to the Hague Convention..</i></p>	
73.1 Consent Election	<p>73.1 Consent Election</p> <p>(a) Anonymity. Parties are free to give or withhold their consent to magistrate judge jurisdiction. No judge will be notified as to the identity of any party giving or withholding consent to the exercise of jurisdiction by a magistrate judge, except when there is no objection to magistrate judge jurisdiction. All parties consent. No party may disclose its own or any other party's consent or lack of consent.</p> <p>(b) Filing. Information about filing consent forms electronically is available in the court's CM/ECF User's Guide for Filing in the District of Montana which is available on the court's public website, www.mtd.uscourts.gov.</p> <p>(c) Notice. When a civil action has been assigned referred to a magistrate judge under L.R. 72.2(a), the clerk will notify the parties of such assignment referral and advise them that they may give or withhold consent to the magistrate judge's exercise of jurisdiction. In cases that are pre-screened pursuant to 28 U.S.C. § 1915(e)(2), 42 U.S.C. § 1997e(c), or Rule 4 of the Rules Governing Section 2254 Cases in the United States District Courts, the clerk will serve the notice of assignment to U.S. magistrate judge and a form for withholding consent and consent election form after all parties ordered to be served have made an appearance. In all other cases assigned to a U.S. magistrate judge pursuant to L.R. 72.2(a), the clerk will serve the notice of assignment to U.S. magistrate judge and a form for withholding consent and consent election form within seven days after the last party has appeared.</p>	p. 62



	<p>At the direction of the court, the clerk may conduct new consent elections at any time.</p> <p>(d) Return of Consent Election Forms. Parties have 14 days from service of the clerk's notice of assignment to file a notice of withholding of consent the consent election form. If any party's form is not filed within 17 days after service of the clerk's notice of assignment, that party is deemed to have withheld consent to magistrate judge jurisdiction. If any party objects to the exercise of jurisdiction by a magistrate judge, all parties give consent, the case will be reassigned to an Article III judge but may still be referred to a magistrate judge for all pretrial proceedings purposes, including trial and entry of judgment, pursuant to 28 U.S.C. § 636(c).</p> <p><i>Explanation: Incorporates Standing Order BMM-33.</i></p>	
83.1(a)(2)(C) Attorney Admission and Appearance	<p>83.1(a)(2)(C) Attorney Admission and Appearance (C) have been granted leave to appear pro hac vice in the case in which they are appearing.</p> <p><i>Explanation: Clarifies that a pro hac vice attorney can only appear in the action in which they have been granted leave to appear PHV.</i></p>	p. 66
83.1(b)(4) Membership in the Bar	<p>83.1(b)(4) Membership in the Bar (4) Eligible attorneys must complete the online application process using PACER and pay all required fees including the admission fee and any re-registration fees which may be imposed. Failure to pay these fees may result in denial of admission or deactivation of filing privileges.</p> <p><i>Explanation: The District Judges have approved a biennial re-registration fee for all members of the bar. This change to the local rule codifies that fee and advises attorneys of the failure to pay the fee.</i></p>	p. 67
83.1(d)(3) Attorney Admission and Appearance	<p>83.1(d)(3) Attorney Admission and Appearance (3) An applicant attorney must obtain the name, address, telephone number, and written consent of local counsel who is an active member of the bar of this court with a physical office within the geographical boundaries of the District of Montana and with whom the court and opposing counsel may readily communicate regarding the conduct of the case, upon whom documents will be served,</p>	p. 68



LOCAL RULES AMENDMENTS 2024

09/12/2024

	<p>and who will be responsible to participate as required under subsection (7) of this rule.</p> <p><i>Explanation: Only active attorneys can act as local counsel.</i></p>	
83.1(d)(5) Attorney Admission and Appearance	<p>83.1(d)(5) Attorney Admission and Appearance</p> <p>(5) Leave to appear pro hac vice is granted or denied solely at the discretion of the presiding judge and pertains only to the instant case. Revocation of leave to appear pertains to the instant case only and does not automatically bar application in another case or membership in the bar of the court.</p> <p><i>Explanation: Clarifies that a pro hac vice attorney can only appear in the action in which they have been granted leave to appear PHV.</i></p>	p. 69
83.2(d)(1) Standards of Conduct and Discipline	<p>LR 83.2(d)(1) Moved paragraph H to above paragraph C</p> <p>LR 83.2(d)(2)(C)(iii)—corrected citation to earlier paragraph so changed it from (c)(2)(B) to (d)(2)(B)</p>	pp. 71-72 p. 73
83.6(g) Appointment of Counsel	<p>LR 83.6(g) corrected citation from 28 U.S.C. 1915(g) to 28 U.S.C. 1915(e)(2)</p>	p. 82



LOCAL RULES AMENDMENTS 2024

09/12/2024

CRIMINAL LOCAL RULES	EXPLANATION OF AMENDMENTS	Page #s in redline copy
CR 1.1 Rules Incorporated from Chapter I	CR 1.1 Rules Incorporated from Chapter I Civil Local Rules 1, 5.1, 11.1(b)-(d) , 11.2 , 48.2, and 83, except 83.3(b), 83.6, and 83.8(c)-(e)(a) and (b), apply in criminal proceedings. <i>Explanation: CR 49.2 incorporates 11.1(b)-(d) into the criminal rules. LR 83.8(a) and (b) pertain to the personal appearance and representation of entities and apply in criminal proceedings. LR 83.8(c)-(e) pertain to electronic filing by self-represented litigants, consent to electronic service, and agreements for other means of service which should not apply in criminal cases.</i>	p. 86
CR 44.2 Withdrawal of Counsel	CR 44.2 Withdrawal of Counsel When an attorney's withdrawal will leave any defendant without counsel for any period of time before the expiration of time for filing a notice of appeal of the final judgment, the attorney may withdraw only by leave of court. <i>Explanation: Codifies general practice.</i>	p. 103
CR 49.2 Signature	CR 49.2 (omitted and incorporated into CR 1.1) The provisions of L.R. 11.1(b)-(d) and 11.2 apply in criminal cases. <i>Explanation: The information in CR 49.2 has been incorporated into CR 1.1.</i>	p. 108