

BEFORE THE WORKERS' COMPENSATION COURT
OF THE STATE OF MONTANA

In the matter of the amendment of)	NOTICE OF AMENDMENT,
ARM 24.5.301, 24.5.302, 24.5.303,)	ADOPTION, AND REPEAL
24.5.306, 24.5.307, 24.5.308,)	
24.5.309, 24.5.310, 24.5.311,)	
24.5.314, 24.5.316, 24.5.317,)	
24.5.318, 24.5.322, 24.5.323,)	
24.5.324, 24.5.325, 24.5.326,)	
24.5.327, 24.5.329, 24.5.330,)	
24.5.331, 24.5.332, 24.5.334,)	
24.5.335, 24.5.336, 24.5.337,)	
24.5.340, 24.5.342, 24.5.343,)	
24.5.344, 24.5.345, 24.5.346,)	
24.5.348, 24.5.349, 24.5.350,)	
24.5.351, and 24.5.352; the adoption)	
of NEW RULE I, regarding amended)	
petition, and NEW RULE II,)	
computation of time; and the repeal of)	
ARM 24.5.307A, regarding joinder)	
and service of alleged uninsured)	
employers, and ARM 24.5.313)	
recusal)	

TO: All Concerned Persons

1. On May 22, 2014, the Workers' Compensation Court published MAR Notice No. 24-5-247 regarding the public hearing on the proposed amendment, adoption, and repeal of the above-stated rules at page 1021 of the 2014 Montana Administrative Register, Issue Number 10.

2. On July 14, 2014, the court held a public hearing to consider the proposed amendment, adoption, and repeal. Although no one appeared at the hearing to testify, the court received written comments by the July 14, 2014, deadline.

3. The Workers' Compensation Court has thoroughly considered the comments received on the proposed amended rules. A summary of the comments received and the court's responses are as follows:

COMMENT #1: With respect to ARM 24.5.301(5), which, as proposed, states, in pertinent part, "The court returns documents which fail to comply with (1) and (4) of this rule to the petitioner," one commenter suggested changing the word "returns" to "may return" to conform to the court's current practice.

RESPONSE #1: The court agrees with the comment and incorporated this suggestion.

COMMENT #2: With respect to ARM 24.5.303(5) and ARM 24.5.306(3), which, as proposed, request different contact information from parties based upon whether or not they are represented by counsel, one commenter suggested requesting the same contact information from all parties, but adding "if available" for unrepresented parties.

RESPONSE #2: The court agrees with the comment and incorporated this suggestion.

COMMENT #3: With respect to ARM 24.5.310(4), which, as proposed, states in pertinent part that the court's scheduling orders set "trial at a time that allows 75 days' advanced notice," one commenter suggested removing the word "advanced" as it is superfluous.

RESPONSE #3: The court agrees with the comment and incorporated this suggestion.

4. The Workers' Compensation Court has amended the following rules as proposed: ARM 24.5.302, 24.5.307, 24.5.308, 24.5.309, 24.5.311, 24.5.314, 24.5.316, 24.5.317, 24.5.318, 24.5.322, 24.5.323, 24.5.324, 24.5.325, 24.5.326, 24.5.327, 24.5.329, 24.5.330, 24.5.331, 24.5.332, 24.5.334, 24.5.335, 24.5.336, 24.5.337, 24.5.340, 24.5.342, 24.5.343, 24.5.344, 24.5.345, 24.5.346, 24.5.348, 24.5.349, 24.5.350, 24.5.351, and 24.5.352.

5. The Workers' Compensation Court has amended the following rules as proposed, but with the following changes from the original proposal, new matter underlined, deleted matter interlined:

24.5.301 PETITION FOR TRIAL (1) through (4) remain as proposed.

(5) There is no filing fee. Petitions and all other materials must be filed with the Clerk of Court at 1625 11th Avenue, P.O. Box 537, Helena, MT 59624-0537. The party shall file an original and two copies of the petition. The petitioner shall provide the names and addresses of all adverse parties to be served. The court may returns documents which fail to comply with (1) and (4) of this rule to the petitioner.

AUTH: 2-4-201, MCA

IMP: 2-4-201, 39-71-2901, MCA

24.5.303 SERVICE (1) through (4) remain as proposed.

(5) Every pleading, motion, or other paper of a party represented by an attorney must be signed by at least one attorney of record in the attorney's individual name, and must state the attorney's address, phone number, fax number, and e-mail address. A party who is not represented by an attorney shall sign the pleading, motion, or other paper and state the party's address, phone number, fax number,

and e-mail address, if available. Except when otherwise specifically provided by rule or statute, pleadings need not be verified or accompanied by affidavit. The signature of an attorney or party constitutes a certification that the party has read the pleading, motion, or other paper; that to the best of the party's knowledge, information, and belief formed after reasonable inquiry it is well grounded in fact and is warranted by existing law or good faith argument for the extension, modification, or reversal of existing law; and that it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation. If a pleading, motion, or other paper is not signed, the court strikes it unless it is signed promptly after the omission is called to the attention of the pleader or movant. If a pleading, motion, or other paper is signed in violation of this rule, the court, upon motion or upon its own initiative, imposes upon the person who signed it, a represented party, or both, an appropriate sanction, which may include an order to pay to the other party or parties the amount of the reasonable expenses incurred because of the filing of the pleading, motion, or other paper, including a reasonable attorney fee.

AUTH: 2-4-201, 39-71-2901, 39-71-2903, 39-71-2905, MCA
IMP: 2-4-201, 39-71-2901, MCA

24.5.306 BREVITY IN PLEADINGS AND FORM OF PAPER PRESENTED FOR FILING (1) and (2) remain as proposed.

(3) The name of the attorney, if any, representing a petitioner or a respondent, or the name of the party appearing without an attorney, together with an telephone number, complete mailing address, phone number, fax number, and e-mail address, if available, must appear in the upper left-hand corner of the first page of any pleading filed with the court.

(4) through (8) remain as proposed.

AUTH: 2-4-201, MCA
IMP: 2-4-201, 39-71-2901, MCA

24.5.310 TIME AND PLACE OF TRIAL GENERALLY (1) through (3) remain as proposed.

(4) Upon receipt of a petition regarding a dispute meeting the requirements of these rules, the court issues a scheduling order fixing deadlines for discovery, the filing of pretrial motions, preparation of a pretrial order and other pretrial matters; setting the date of the final pretrial conference; and setting a trial at a time that allows 75 days' ~~advanced~~ notice. The court may, for good cause, hold a trial over to the next regular trial date or specially set the trial for a different time and/or place.

AUTH: 2-4-201, MCA
IMP: 2-4-201, 39-71-2901, MCA

6. The Workers' Compensation Court has adopted the following rules as proposed: NEW RULE I (ARM 24.5.319) and NEW RULE II (ARM 24.5.320).

7. The Workers' Compensation Court has repealed the following rules as proposed: ARM 24.5.307A and ARM 24.5.313.

8. The aforementioned amendments, adoptions, and repeals are effective March 1, 2015.

9. An electronic copy of this notice is available through the court's web site at <http://wcc.dli.mt.gov/proposedrules.asp>. The court strives to make the electronic copy of the notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that if a discrepancy exists between the official printed text of the notice and the electronic version of the notice, the court considers only the official printed text. In addition, although the court works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

/s/ JEANINE BLANER
Jeanine Blaner
Rule Reviewer

/s/ DAVID M. SANDLER
David M. Sandler
Judge
Workers' Compensation Court

Certified to the Secretary of State October 28, 2014.