

BEFORE THE WORKERS' COMPENSATION COURT  
OF THE STATE OF MONTANA

In the matter of the amendment of	)	NOTICE OF PUBLIC HEARING ON
ARM 24.5.301, 24.5.302, 24.5.303,	)	PROPOSED AMENDMENT,
24.5.306, 24.5.307, 24.5.308,	)	ADOPTION, AND REPEAL
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 July 14, 2014, at 10:00 a.m., the Workers' Compensation Court is holding a public hearing in the courtroom, Workers' Compensation Court, 1625 11th Avenue, Helena, MT, to consider the proposed amendment, adoption, and repeal of the above-stated rules.

2. The Workers' Compensation Court makes reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Workers' Compensation Court no later than 5:00 p.m. on July 9, 2014, to advise us of the nature of the accommodation that you need. Please contact the Workers' Compensation Court, 1625 11th Avenue, P.O. Box 537, Helena, MT 59620-0537; telephone (406) 444-7794; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 444-7798; e-mail [dliwccfilings@mt.gov](mailto:dliwccfilings@mt.gov).

3. GENERAL STATEMENT OF REASONABLE NECESSITY FOR ALL AMENDED, ADOPTED, AND REPEALED RULES: The Workers' Compensation Court proposes these changes, additions, and repeals as part of its regular internal rules review, with the input of the court's rules committee, which advises the court on rules of practice. The court proposes amending its rules to conform to 2-4-201 and

39-71-2903, MCA, to adopt technological advances, to clarify ambiguous provisions, to improve efficiency by simplifying procedures and making the rules more internally consistent, and to improve procedures in the interests of justice. The court further believes reasonable necessity exists to amend the rules to make the terminology internally consistent and to conform to the style guidelines of the Legislative Services Division's Bill Drafting Manual and the Gregg Reference Manual, tenth edition, pursuant to ARM 1.2.519. The court believes reasonable necessity exists to clarify the rules and simplify their wording in order to minimize reliance upon lawyers and the courts in compliance with the provisions of 39-71-105, MCA. To improve clarity and minimize reliance upon lawyers and the courts, the court has combined all deadlines previously set forth throughout the rules in [NEW RULE II]. The court further proposes repealing rules which are redundant to and/or conflict with existing statutes. Where additional specific bases for a proposed amendment or adoption exist, or where additional comments about these general statements may be helpful, an additional statement of reasonable necessity immediately follows the specific rule.

4. The rules proposed for amendment provide as follows, stricken material interlined, new matter underlined:

24.5.301 PETITION FOR TRIAL (1) All requests for trial before the Workers' Compensation Court ~~shall~~ must be in petition form, and signed by the petitioner or ~~her/his~~ the petitioner's attorney. The petition ~~shall~~ must comply with ARM 24.5.303(5). Upon request, the court ~~will~~ provides a form which can be used as a petition. The petition ~~shall~~ must include the following information:

(a) through (c) remain the same.

(d) for accidents occurring before July 1, 1987, a statement to the effect that the parties have made an effort to resolve the dispute, but have been unable to do so;

(e) and (f) remain the same.

(g) a list of the petitioner's potential witnesses and a summary of the subject matter of ~~their~~ the witnesses' anticipated testimony; and

(h) a list of written documents relating to the claim which the petitioner may ~~be introduced~~ introduce as evidence ~~by the petitioner;~~

~~(i) a request for emergency trial shall be indicated in the title of the petition, and the facts constituting the emergency explained in the petition. (ARM 24.5.311)~~

(2) remains the same.

(3) Any claim for attorney fees, costs, and/or penalty with respect to the benefits or other relief sought by the petitioner ~~shall~~ must be joined and pleaded in the petition. Failure to join and plead a claim for attorney fees, costs, and/or penalty with respect to the benefits or other relief sought in the petition ~~shall~~ constitutes a waiver and ~~shall~~ bars any future claim with respect to such attorney fees, costs, and/or penalty.

(4) Except in cases involving ~~the uninsured employers' fund or involving a~~ request for relief against an employer, the caption of the petition, as well as subsequent pleadings, motions, briefs, and other documents, ~~shall~~ must not name the employer. This rule ~~shall not be construed as~~ does not ~~relieving~~ relieve any

employer from its duty to cooperate and assist its insurer, including any duty to assist in responding to discovery.

(5) There is no filing fee. Petitions and all other materials ~~are to~~ must be filed with the clerk of court at 1625 11th Avenue, P.O. Box 537, Helena, Montana MT 59624-0537. The party ~~should~~ shall file an original and ~~three~~ two copies of the petition, ~~and should~~ The petitioner shall provide indicate the names and addresses of all adverse parties to be served. ~~Failure~~ The court returns documents which fail to comply with (1) and (4) of this rule ~~will result in the document being returned to the~~ petitioner.

AUTH: 2-4-201, MCA

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

REASON: The court proposes striking ARM 24.5.301(1)(i) because it is redundant to ARM 24.5.311(1).

24.5.302 RESPONSE TO PETITION (1) ~~Within 20 days after the service of a petition by the court~~ the time set forth in [NEW RULE II], the respondent(s) shall serve upon the petitioner and all other parties, and file with the court, a response which ~~shall~~ includes the following information:

(a) and (b) remain the same.

(c) a list of the respondent's potential witnesses and a summary of the subject matter of ~~their~~ the witnesses' anticipated testimony;

(d) and (e) remain the same.

AUTH: 2-4-201, MCA

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

24.5.303 SERVICE AND COMPUTATION OF TIME (1) Except as provided below, the court ~~will~~ serves the furnished copies of the petition, amended petition, or third-party petition upon adverse parties and others, as designated in the petitioner's or third-party petitioner's instructions, by mailing them at from Helena, Montana, with first-class postage prepaid.

(a) ~~If the respondent or third-party respondent is an unrepresented claimant, other individual, corporation, partnership, limited liability company, or other entity other than a Montana state agency, insurer doing business in Montana, self-insurer, insurance guarantee fund, or insurer qualified to do business in Montana at the time of an alleged injury or occupational disease and its successors and predecessors,~~ The party filing the petition or third-party petition shall cause personal service of a summons and the petition or third-party petition upon the respondent or third-party respondent in accordance with the provisions of the Mont. R. Civ. P. Montana Rules of Civil Procedure regarding service of summons and complaint if the respondent or third-party respondent is an entity other than a Montana state agency, insurer doing business in Montana, self-insurer, insurance guarantee fund, or insurer

qualified to do business in Montana at the time of an alleged injury or occupational disease and its successors and predecessors.

(b) If the matter involves a third-party respondent, service shall must include all pleadings and orders filed in the case to date.

(c) Time lines for service, return of service, and response shall must be in accordance with the rules of the Workers' Compensation Court or as ordered by the Workers' Compensation Court.

(d) remains the same.

(2) All pleadings subsequent to the original petition, every written motion, and any other document described in ~~Rule 5, Mont. R. Civ. P. 5~~ shall must be accompanied by proof of service as provided in ~~Rule 5, Mont. R. Civ. P. 5~~ when submitted to the court. Service by mail is complete on mailing; a document and is deemed served on the date as shown on the proof of service.

~~(3) Whenever a party has the right or is required to do some act within a prescribed period of time after the service of a notice or other paper upon the party and the notice or paper is served by mail, three days shall will be added to the prescribed period.~~

~~(4) In computing the time for any response as provided for in these rules, weekends and holidays shall be included. If a deadline falls on a weekend or holiday the deadline is the next workday.~~

~~(5) (3) Unless the court specifically orders otherwise, filing with the court may be accomplished by mail addressed to the clerk, and with such filing will be deemed complete on the date shown on the certificate of mailing upon receipt by the court.~~

~~(6) (4) The court will accepts fax and electronic filings, but an original signature page of any document filed by fax or electronic means should must be filed in with the court within three days. the time set forth in [NEW RULE II]; otherwise the filing is void. The signature of an attorney or party on any fax or electronic filing shall have the same effect, and carry carries the same representations and consequences, as a signature on an original filing. Electronic filings must be in Portable Document Format (PDF).~~

~~(7) (5) Every pleading, motion, or other paper of a party represented by an attorney shall must be signed by at least one attorney of record in her/his the attorney's individual name, and must state the attorney's whose address, phone number, fax number, and e-mail address. shall be stated. A party who is not represented by an attorney shall sign the pleading, motion, or other paper and state her/his the party's address. 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 certificate certification that the person party has read the pleading, motion, or other paper; that to the best of her/his 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 shall be stricken 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, shall impose 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

REASON: The court proposes amending the catchphrase because all time requirements are now set forth in [NEW RULE II]. The court proposes striking (3) and (4) from ARM 24.5.303 and adding these provisions to [NEW RULE II]. The court believes a reasonable necessity exists to amend ARM 24.5.303, new (3), to make this court's filing requirements consistent with filing requirements in other courts in the state.

24.5.306 BREVITY IN PLEADINGS AND FORM OF PAPER PRESENTED FOR FILING (1) The court encourages brevity in all pleadings and other documents. Documents which, in the court's opinion, are rambling or verbose may be returned to the party who submitted the document, with instructions to correct any deficiencies and make the document more concise.

(2) All documents filed with the court shall must be typewritten or legibly printed on 8-1/2 x 11 8 1/2 x 11-inch unnumbered, unlined paper.

(a) Typewritten or machine-printed documents must use a font size of no smaller than 12 points.

(b) The court requests that parties produce all documents using a sans-serif font, preferably the font commonly known as Arial. Documents produced with a legible typeface are not rejected as nonconforming.

(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 a telephone number ~~and a~~ complete mailing address, fax number, and e-mail address, must appear in the upper left-hand corner of the first page of any pleading filed with the court.

(4) All documents shall must be on standard quality, white or unbleached, unglazed, acid-free recycled paper, and be a minimum of 25% cotton fiber content and a minimum of 50% recycled content, of which 10% shall must be post-consumer waste.

(5) All documents filed with the court shall must be single-spaced with double spacing between paragraphs, printed on one side of the paper, and with margins of ~~one~~ 1 inch on all sides except the top margin which shall must be 1 1/2 inches.

(6) At the bottom of the second and all subsequent pages, the title of the pleading document and the page number shall must appear as a footer.

(7) Lines 1 through 7 of the right one-half of page 1 shall must be left blank for the use of the clerk.

(8) remains the same.

AUTH: 2-4-201, MCA

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

REASON: The court believes reasonable necessity exists to amend ARM 24.5.306(2) to establish guidelines for the typeface used in documents filed with the court in order to facilitate the court's use of document-scanning technology both for internal use and to post publicly available documents on the court's web site.

24.5.307 THIRD-PARTY PRACTICE (1) Prior to or simultaneously with the filing of the response to a petition, the ~~responding party, an insurer or the uninsured employers' fund,~~ respondent may file a third-party petition with the court, naming anyone other insurer not already a party to the action ~~which who~~ who may be liable to the ~~responding insurer, the uninsured employers' fund, or claimant~~ any named party for any or all or part of the claims asserted in the petition.

(a) The third-party petition shall must contain a short, plain statement of the party's contentions with regard to the third party's liability and may incorporate allegations of the petition and/or the response to the petition.

(b) ~~The party filing the third-party petition shall~~ must be filed in accordance with ARM 24.5.303 and [NEW RULE II] ~~serve the third-party petition upon the original petitioner in the case and shall file with the court an original and three copies of the third-party petition, along with a letter indicating the names and addresses of third parties to be served.~~

(c) ~~The court~~ third-party petition shall must be served ~~the furnished copies of the third-party petition along with all other pleadings and orders filed in the case to date upon the third party, who shall be referenced as the third-party respondent in accordance with ARM 24.5.303.~~

(2) After the response to a petition has been filed, any attempt to join a third party into a pending case shall must be through noticed motion in accordance with ARM 24.5.308.

(3) ~~Within 40 days after the service of a third-party petition by the court~~ the time set forth in [NEW RULE II], the third-party respondent shall serve upon all parties, and file with the court, a response which ~~shall comply~~ complies with ARM 24.5.302.

AUTH: 2-4-201, 39-71-2401, 39-71-2901, 39-71-2903, 39-71-2905, MCA

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

REASON: The court proposes amending ARM 24.5.307(b) and (c) to make the filing and service of a third-party petition consistent with the filing and service of a petition and amended petition for hearing, in accordance with ARM 24.5.303 and [NEW

RULE II].

24.5.308 JOINING THIRD PARTIES (1) The joinder of parties shall be is governed where appropriate by the considerations set forth in ~~Rules 14, 19, 20, and 21 of the Mont. R. Civ. P. 14, 19, 20, and 21.~~

(2) Unless otherwise permitted by order of the court, a motion to join a third party must be served within ~~30 days of the service of the petition by the court~~ the time set forth in [NEW RULE II]. The motion shall ~~must~~ be filed and served on all parties and the proposed third party. Any party and the proposed third party shall have ~~40 days from the date of service~~ the time set forth in [NEW RULE II] to serve objections to the motion. The court may, for good cause shown, grant joinder on such terms and conditions as are necessary to protect the interests of the existing parties, including the interest of in a speedy remedy.

(3) If the joinder of a third party results in the trial being vacated and good cause is shown, the court may order the insurance company alleged to be at risk at the time of the accident to pay benefits pending the trial. Such insurer ~~has a right to~~ may seek indemnity from the responsible insurer if it is later determined that it ~~was~~ is not responsible liable.

(4) Within ~~40 days of an order joining a third party~~ the time set forth in [NEW RULE II], the joined party shall serve upon all parties, and file with the court, a response which shall ~~comply~~ complies with ARM 24.5.302.

AUTH: 2-4-201, 39-71-2401, 39-71-2901, 39-71-2903, 39-71-2905, MCA  
IMP: 2-4-201, 39-71-2901, MCA

24.5.309 INTERVENTION (1) Intervention in a pending proceeding shall be is governed by the considerations set forth in ~~Rule 24(a) and (b) of the Mont. R. Civ. P. 24(a) and (b).~~

(2) Unless otherwise permitted by order of the court, a motion to intervene must be served within ~~30 days of the service of the petition by the court~~ the time set forth in [NEW RULE II]. The motion shall ~~must~~ state the grounds upon which intervention is sought. A copy of the motion, supporting brief, and any affidavits shall ~~must~~ be served upon all parties. Any party to the dispute shall have ~~40 days following service~~ the time set forth in [NEW RULE II] to serve an answering brief. The court, in its discretion, ~~will~~ determines whether or not to allow intervention.

(3) If intervention results in the trial being vacated and good cause is shown, the court may order the insurance company alleged to be at risk at the time of the accident to pay benefits pending the trial. Such insurer ~~has a right to~~ may seek indemnity from the responsible insurer if it is later determined that it ~~was~~ is not responsible liable.

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

24.5.310 TIME AND PLACE OF TRIAL GENERALLY (1) The court has divided the state into six geographic areas. Generally, the court holds trials will be held in the places designated in (3) except for cases in the Butte venue, which shall be are tried in Helena unless the parties specifically request otherwise. Upon agreement of the parties and consent of the court, or upon order of the court, a trial may be held at any time and any place. The court ~~will~~ attempts to accommodate parties' requests for special trial settings; however, the court reserves the discretion to ~~finally~~ determine the time and place of all trials.

(2) remains the same.

(3) Each of the six areas designated for trial schedule purposes is named for the principal city in the counties making up the area as follows:

(a) Kalispell area:

(i) Flathead and Lincoln<sub>2</sub>

(b) Missoula area:

(i) Lake, Mineral, Missoula, Ravalli<sub>1</sub> and Sanders<sub>2</sub>

(c) Butte area:

(i) Beaverhead, Deer Lodge, Granite, Jefferson, Madison, Powell, Silver Bow, Gallatin, Park, Sweet Grass<sub>1</sub> and Wheatland<sub>2</sub>

(d) Billings area:

(i) Big Horn, Carbon, Golden Valley, Musselshell, Petroleum, Stillwater, Treasure, Yellowstone, Carter, Custer, Dawson, Fallon, McCone, Powder River, Prairie, Richland, Rosebud, Wibaux, Daniels, Garfield, Phillips, Roosevelt, Sheridan<sub>1</sub> and Valley<sub>2</sub>

(e) Great Falls area:

(i) Blaine, Cascade, Chouteau, Fergus, Glacier, Hill, Judith Basin, Liberty, Pondera, Teton<sub>1</sub> and Toole<sub>2</sub>

(f) Helena area:

(i) Broadwater, Lewis and Clark<sub>1</sub> and Meagher<sub>2</sub>

(4) Upon receipt of a petition regarding a dispute meeting the requirements of these rules, the court ~~will~~ issues a scheduling order fixing deadlines for discovery, the filing of pretrial motions, preparation of a pretrial order<sub>7</sub> and other pretrial matters<sub>1</sub>; setting the date of the final pretrial conference<sub>2</sub>; and setting a trial at a time that ~~will~~ allows 75 days' advanced notice ~~to be given of the trial~~. 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

24.5.311 EMERGENCY TRIALS (1) A request for emergency trial must be indicated in the title of the petition, and the facts constituting the emergency explained in the petition. ~~Trials may be held by the~~ The court may hold trials upon less than 75 days' notice when good cause is shown. Such trials ~~shall be are~~ termed "emergency trials". ~~." Facts~~ The petition must set forth facts constituting the



emergency ~~must be set forth in the petition~~ in sufficient detail for the court to determine whether an actual emergency exists. If good cause for the emergency setting is not shown in the petition, the court sets the trial on its regular trial calendar. The court, on its own motion, may set a trial as an emergency trial. When the court orders an emergency trial is ordered, the court shall give provides reasonable notice of the time and place for a pretrial conference and for the trial.

(2) If the court determines that good cause exists for an emergency trial setting, the court issues a notice to the opposing party. If the opposing party objects to the emergency trial setting, the party shall file a written objection within the time set forth in [NEW RULE II]. The written objection must contain a short, concise statement setting forth the basis for the objection. If no objection is filed within the time set forth in [NEW RULE II], the court deems the emergency request valid and grants an emergency trial setting. If the opposing party files a written objection, the court may hold a hearing to determine whether to allow the emergency setting. The court issues an order granting or denying the request for an emergency trial setting within 5 business days following the filing of the objection or at the conclusion of the hearing.

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

REASON: The court believes amending ARM 24.5.311(1) to require a petitioner to indicate the petitioner's request for an emergency trial in the title of the petition and to explain the reason for the request in the petition improves the present procedure in the interests of justice. ARM 24.5.311, new (2) is necessary to specify the procedure for the parties and the court to follow in considering requests for emergency trials.

24.5.314 ADJUDICATION OF INTERIM BENEFIT CLAIMS UNDER 39-71-610, MCA (1) Appeals of determinations by the Department of Labor and Industry regarding interim benefits under 39-71-610, MCA, may be presented to the court in letter form. ~~Such appeals shall be~~ The court initially addressed addresses such appeals informally ~~by the court~~ through telephone conference involving all parties.

(2) If any party objects to informal resolution of a dispute under 39-71-610, MCA, the court holds a formal evidentiary hearing ~~shall be held~~ on an expedited basis. Such hearing may be conducted through telephone conference if all parties agree. If requested by any party, the court promptly holds an in-person hearing ~~will be promptly held~~ in Helena or, at the court's discretion, in some other venue at a date and time set by the court.

AUTH: 2-4-201, 39-71-610, 39-71-2901, 39-71-2903, 39-71-2905, MCA  
IMP: 2-4-201, 39-71-2901, MCA

24.5.316 MOTIONS (1) Unless a different time is specified in these rules, the ~~time~~ deadline for filing any motion to amend a pleading, to dismiss, to quash, for summary judgment, to compel, for a protective order, in limine, or for other relief ~~shall be~~ is fixed by the court in a scheduling or other order.

(2) When an appeal is taken from a final order of the Department of Labor and Industry, unless a different time is fixed by order of the court, any motion related to the appeal must be filed and served prior to the date for submission of briefs.

(3) Every motion ~~shall~~ must be in writing and accompanied by a supporting brief. ~~The brief may be accompanied by appropriate supporting~~ Supporting documents and affidavits may accompany the briefs. An adverse party shall file an ~~answer~~ a response brief, ~~which shall be~~ accompanied by appropriate documents and affidavits, within ~~40 days~~ the time set forth in [NEW RULE II]. Within ~~5 days~~ the time set forth in [NEW RULE II] thereafter, the moving party may file a reply brief. The filing deadlines ~~set in this rule~~ may be changed by order of the court. In addition to the requirements set forth in this rule, a party filing a motion for summary judgment under ARM 24.5.329, as well as a party opposing that motion, shall comply with the requirements of that rule.

(a) A party shall not be required to file a response to a summary judgment motion earlier than the deadline for filing a response to a petition.

(4) Failure to file briefs may subject the motion to summary ruling. Failure of the moving party to file a brief with the motion ~~shall~~ may be deemed an admission that the motion is without merit. Failure of the adverse party to timely file an ~~answer~~ a response brief may be deemed an admission that the motion is well-taken. Reply briefs are optional; ~~and~~ failure to file a reply brief ~~will~~ does not subject the motion to summary ruling.

(5) Unless otherwise ordered, ~~the court does not permit~~ oral argument ~~will not be permitted~~. Unless the court orders oral argument ~~is 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. If the court orders oral argument ~~is ordered~~, the motion ~~will be~~ is deemed submitted at the close of argument unless the court orders additional briefs, in which case the motion ~~will be~~ is deemed submitted at the time set for filing of the final brief.

(6) An application for an extension of time for filing briefs or affidavits ~~shall~~ must be made in writing but may be filed electronically or by fax. The application must state whether any party agrees to or opposes the extension of time requested. ~~An~~ The court may grant an application for an extension of time ~~may be granted by~~ the court without notice to the adverse party only upon the applicant's written certification that an attempt ~~has been~~ was made to contact the adverse party. Whenever the court grants an ex parte extension ~~has been granted~~, the moving party shall immediately advise the adverse party of the new due date. Except under extraordinary circumstances, the court does not grant extensions of more than 10 days from the original due date ~~shall not be granted~~. If the filing deadline has passed, the court grants extensions of time only for good cause shown.

(7) Nothing in this rule ~~shall be construed to~~ precludes the filing or

presentation of motions or objections related to evidentiary and other matters arising at trial.

(8) Motions regarding discovery, procedure, and similar pretrial issues may be presented informally by telephone conference, ~~call~~. The moving party shall arrange the call and for the participation of all parties. The court may designate a hearing examiner to preside and decide the motion. The court may make an oral ruling or direct that the motion be presented in writing and briefed. Any oral order ~~shall~~ must thereafter be confirmed by written order.

AUTH: 2-4-201, MCA

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

REASON: The court believes a reasonable necessity exists to add ARM 24.5.316(3), new (a) in order to make this court's procedure consistent with M. R. Civ. P. 56(c)(1)(B). The underlying rationale of this procedure is that it allows a respondent adequate time to respond fully to a motion for summary judgment filed simultaneously with, or shortly after, the filing of a petition. The court proposes amending ARM 24.5.316(6) to assist the court in determining whether to grant or deny an application for extension of time. This would improve the current procedure in the interests of justice.

24.5.317 MEDICAL RECORDS (1) "Medical records" for purposes of this rule includes all medical notes, reports, test results, correspondence, and other written records or materials regularly maintained by any medical provider as a part of the provider's records or file. ~~The term shall also~~ "Medical records" includes all reports, correspondence, and other documents authored by any medical provider.

(2) Within the time set by the scheduling or other order of the court, the parties shall exchange all medical records in their parties' possession ~~relating relevant~~ to the claimant's work-related medical conditions, other than records of professional consultants who have not examined the claimant, ~~and~~ will not be witnesses at trial, and whose records the party does not intend to offer into evidence. Failure to exchange any medical record by the exchange deadline ~~shall precludes~~ its use at trial except by stipulation of the parties or order of the court for good cause.

(3) Any party who intends to object to the ~~authenticity or genuineness of any medical record, to its admissibility pursuant to Rule 803(6) Mont. R. Evid., or to its admissibility of a medical record on any ground other than relevancy,~~ shall make such objection in writing. All objections to medical records ~~shall~~ must identify each medical record to which an objection is made and the particular objections to the record. ~~The party shall serve its objections shall be served~~ upon the adverse party within such time fixed by the scheduling or other order of the court. Failure to object to a medical record in the manner and within the time specified by this rule ~~shall be is~~ deemed a waiver of any objection to the record, ~~other than on relevancy grounds,~~ and ~~shall~~ constitutes an admission by the party that the record is authentic and

admissible under the ~~Mont.R.Evid.~~ Montana Rules of Evidence and the rules of the Workers' Compensation Court.

(4) ~~Where a timely objection to a medical record is served, the record shall nonetheless be admitted, however, the party objecting to the record is entitled to call the medical provider or, if the objection is to the authenticity of the record, the custodian of the record as a witness either at trial or by deposition and to cross-examine the witness. A party is not required to call as a witness the medical provider or the custodian of the medical record solely for the purpose of authenticating the medical record. If a party timely objects to the authenticity of a medical record, that party may call the medical provider or the custodian of the record as a witness either at trial or by deposition and may examine the witness regarding the authenticity of the medical record.~~

AUTH: 2-4-201, MCA

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

REASON: The court proposes amending ARM 24.5.317(4) to simplify the language used in order to clarify this rule for parties appearing before the court.

24.5.318 PRETRIAL CONFERENCE AND ORDER (1) A final pretrial conference ~~shall precede~~ every trial unless otherwise ordered by the court.

(2) and (3) remain the same.

(4) At the time of the pretrial conference, or as otherwise ordered by the court, the parties shall present a proposed pretrial order in the form provided in (5). Disputes as to the content of the final pretrial order ~~shall~~ must be presented and resolved at the pretrial conference. The final, signed pretrial order ~~shall~~ must be filed and received at the court ~~by the Friday preceding the trial~~ on the date as set forth in the scheduling order.

(5) The pretrial order must be signed by all parties and ~~shall~~ set forth the following:

(a) through (e) remain the same.

(f) ~~the petitioner's and respondent's parties'~~ parties' contentions, including in the case of ~~petitioner~~ the claimant all contentions which provide the basis for any claim of unreasonableness on the part of the insurer;

(g) a list of all exhibits to be offered by each party on an attached exhibit grid, including ~~the grounds of~~ any objections an adverse party may have to the admission of particular exhibits and the grounds upon which those objections are made;

(h) through (k) remain the same.

(6) Upon approval by the court, the pretrial order ~~shall~~ supersedes all other pleadings and ~~shall~~ governs the trial proceedings. Amendments to the pretrial order ~~shall be~~ are allowed by either stipulation of the parties or leave of court for good cause shown.

(7) The parties must provide All all exhibits which ~~will be offered~~ either party intends to offer at trial ~~shall be provided~~ to the court ~~at the time of the pretrial~~

~~conference on the date set forth in the scheduling order. The exhibits shall must be bound or in a three-ring notebook. The exhibits shall be tabbed and numbered consecutively. All pages within an exhibit shall be numbered beginning with 1. All parties' exhibits must be combined in the same exhibit notebook and must be tabbed and numbered sequentially beginning with 1. The pages within each exhibit must be numbered sequentially beginning with 1. Exhibits attached to depositions must also be numbered sequentially. The court may refuse to accept exhibits which do not meet these criteria and/or may order the parties to resubmit the exhibits in the correct format. The petitioner shall provide an additional exhibit book for trial witnesses.~~

(8) Upon request, the court may schedule and hold an earlier preliminary pretrial conference ~~may be scheduled and held~~ to address any discovery or other issues encountered by the parties.

AUTH: 2-4-201, MCA

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

REASON: To allow flexibility in its due dates which can benefit both the parties appearing and the court, the court proposes amending ARM 24.5.318(4) and (7). The court proposes amending ARM 24.5.318(5)(g) to require the parties to attach the exhibit grid to the pretrial order to improve efficiency and court procedures. The proposed amendment to ARM 24.5.318(7) clarifies the procedure for submitting trial exhibits. The court believes a reasonable necessity exists to add the requirement that the petitioner shall supply an additional exhibit notebook for trial witnesses; the lack of an extra exhibit notebook has obligated the court to offer its copy to witnesses, which does not allow the court to follow along with the exhibits during testimony.

24.5.322 DEPOSITIONS (1) remains the same.

(2) A party desiring to take the deposition of any person upon oral examination shall give reasonable notice in writing to every other party to the proceeding. The notice shall must state the time and place for taking the deposition and the name and address of each person to be examined. If a subpoena duces tecum is to be served on the person to be examined, the designation of the materials to be produced as set forth in the subpoena shall must be attached to or included in the notice.

(3) remains the same.

(4) Examination and cross-examination of witnesses may proceed in the same manner as permitted at the trial. The officer before whom the deposition is to be taken shall put the witness on oath and shall personally, or by someone acting under the officer's direction and in that person's presence, record the testimony of the witness. The testimony shall must be stenographically recorded unless otherwise ordered by the court. If requested by one of the parties, the testimony shall must be transcribed.

(5) Unless otherwise agreed by the parties, all objections must be made at the time of taking the deposition and be included within the transcript of the deposition. Evidence objected to shall must be taken subject to the objections. Deposition objections must be briefed ~~in the parties' proposed findings of fact and conclusions of law.~~ Failure The court may deem the failure to do so will be deemed a withdrawal of the objections.

(6) At any time during the taking of the deposition, on motion of a party or of the deponent and upon a showing that the examination is being conducted in bad faith or in such manner as unreasonably to annoy, embarrass, or oppress the deponent or party, the taking of the deposition shall must be suspended for the time necessary for the objecting party to move the court for an order. The court may order the officer conducting the examination to cease forthwith from taking the deposition, or may limit the scope and manner of the taking of the deposition. If the court's order made terminates the examination, ~~it shall~~ the deposition may be resumed thereafter only upon ~~the~~ further order of the court. The provisions of ARM 24.5.326 apply to the award of expenses incurred in relation to the motion.

(7) When the testimony is fully transcribed, the deposition shall must be submitted to the witness for examination and shall be read to or by the witness. Any changes in form or substance which the witness desires to make shall must be entered upon the deposition, which shall must then be signed by the witness under oath, unless the parties and the witness waive the signing or the witness is ill, or cannot be found, or refuses to sign. If the witness does not sign the deposition ~~is not signed by the witness within 40 days of its submission to the witness~~ the time set forth in [NEW RULE II], the officer shall sign it and state on the record the reason, if any, that the deposition has not been signed. The deposition and it may then be used as fully as though signed.

(8) and (9) remain the same.

(10) Any party participating in a deposition may make a simultaneous videotape or digital recording of the deposition. A party who intends to videotape or digitally record a deposition shall, in the notice of deposition, notify all parties of her/his intention. ~~A copy of the videotaped deposition must be provided to all parties.~~ If any party proposes to offer the videotaped or digitally recorded deposition for the court's consideration, that party shall provide a copy to the court. Any videotaped or digitally recorded deposition provided to the court shall must be in VHS or DVD format, and shall be labeled with the name of the case and the name or names of all witnesses whose depositions are contained on the videotaped or digitally recorded deposition. Each videotaped or digitally recorded deposition filed with the court shall must be accompanied by a transcript prepared by the court reporter who attended ~~was present at~~ the deposition.

(11) A party may take a deposition upon written questions. Reasonable notice of the name and address of the person who is to answer the questions and the name or descriptive title and address of the officer before whom the deposition is to be taken shall must be given to opposing parties. Within ~~40 days~~ the time set forth in [NEW RULE II] after the notice and written questions are served, a party may

serve cross-questions upon all other parties. Thereafter, within ~~10 days~~ the time set forth in [NEW RULE II], a party may serve redirect questions. Recross-questions ~~must~~ may be served upon all other parties within ~~5 days of~~ the time set forth in [NEW RULE II] after the service of the redirect questions.

AUTH: 2-4-201, MCA

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

REASON: The court proposes amending ARM 24.5.322(5) to simplify the procedure for objecting to deposition testimony.

24.5.323 INTERROGATORIES (1) A party may serve written interrogatories upon an adverse party, either with the petition or at any time after the service of a petition, ~~written interrogatories to be answered by the party served.~~ Where If a party wishes to serve interrogatories with the petition, the party shall furnish sufficient copies to the court for service with the petition.

(2) The party upon whom the interrogatories have been served shall serve a copy of the answers on the party submitting the interrogatories within ~~20 days after the service of the interrogatories~~ the time set forth in [NEW RULE II], unless the court lengthens or shortens the time. ~~In no event shall answers~~ Answers must not be due in less than 30 days from the service of the petition.

(3) If the interrogatories are propounded upon the claimant or any other party who is a natural person, then the party shall sign the answers ~~must be signed~~ under oath ~~by the party~~. If the party is the insurer or other entity which is not a natural person, then the party's attorney or other representative of the party may sign the answers and such answers need not be verified. Whether or not verified, the signature of the person signing the answers ~~shall constitute~~ a certification that the answers are complete and truthful to the best of the signor's knowledge.

(4) If the answers to interrogatories are made on behalf of an insurer or some other party which is not a natural person, the party propounding the interrogatories may, after receiving the answers, request that the answers be verified, under oath, by the person employed by the insurer or party, other than an attorney for the insurer or party, having the most knowledge of the subject matters mentioned in the interrogatories. The request must be made in writing but need not be filed with the court. Within ~~10 days after the request is served~~ the time set forth in [NEW RULE II], the insurer or other party shall provide the requested verification.

(5) Proof of service of interrogatories and answers thereto must be filed with the court simultaneously with the service of discovery on the other party. Interrogatories and answers thereto ~~shall~~ must not be filed except by leave of the court. When ~~any~~ a motion is filed making reference to an interrogatory answers, the party filing the motion shall also submit ~~with the motion~~ the relevant interrogatories interrogatory and interrogatory answers to which reference is made. Answers to interrogatories may be used at trial to the extent allowed by the ~~Mont. R. Evid.~~ Montana Rules of Evidence and the ~~Mont. R. Civ. P.~~ Montana Rules of Civil

Procedure.

(6) No party shall serve on any other party more than 20 interrogatories in the aggregate, inclusive of subparts. Subparts of any interrogatories shall must relate directly to the subject matter of the interrogatory. Any party desiring to serve additional interrogatories shall must file a written motion setting forth the proposed additional interrogatories and the reasons establishing the necessity for their use.

(7) Each interrogatory shall must be answered separately and fully in writing under oath unless it is objected to, in which event the reasons for objection shall must be stated in lieu of an answer. Objections may be made because of annoyance, expense, embarrassment, oppression, irrelevance, or other good cause. Objections ~~are to be~~ must be signed by the attorney party making them. The party answering the interrogatories shall set forth a verbatim recopy of each of the interrogatories, followed by the answer or objection thereto.

(8) and (9) remain the same.

AUTH: 2-4-201, MCA

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

24.5.324 REQUEST FOR PRODUCTION (1) A party may serve a request for production upon an adverse party either with the petition or at any time after the service of a petition ~~a request for production~~. ~~Where~~ If a party wishes to serve a request for production with the petition, the party shall furnish sufficient copies to the court for service with the petition. The request may be:

(a) to produce and permit the party making the request, or the party's agent, to inspect and copy any designated documents or records, or to copy, test, or sample any tangible things, which may be relevant and which are in the possession, custody, or control of the party upon whom the request is served; or

(b) remains the same.

(2) Proof of service of requests for production and responses thereto must be filed with the court simultaneously with the service of discovery on the other party. Requests for production and answers thereto shall must not be filed except by leave of the court. When a motion is filed making reference to a request for production, the party filing the motion shall also submit ~~with that motion~~, the request for production, the response thereto, and the documents produced pursuant to the ~~request response~~. Requests for production and ~~answers~~ responses thereto may be used at trial to the extent allowed by the ~~Mont. R. Evid.~~ Montana Rules of Evidence and the ~~Mont. R. Civ. P.~~ Montana Rules of Civil Procedure.

(3) The party upon whom a request for production is served shall serve a written response within ~~20 days after service of the request~~ the time set forth in [NEW RULE II] unless the court lengthens or shortens the time. ~~The court may allow a longer or shorter time. In no event shall a~~ A response must not be due in less than 30 days from the service of the petition. The response shall must state, with respect to each item or category, that inspection and related activities will be permitted as requested, unless the request is objected to, in which event the



reasons for objection ~~shall~~ must be stated. For a partial objection, the part subject to objection shall must be specified.

(4) If the request is for production of the file of a party and objection is made to such production on the grounds of privilege or work product, the objecting party shall produce all documents other than those specific documents which are subject to objection. Where the objection is only to part of a document, the document ~~shall~~ must be produced with the ~~objected~~ portions subject to objection deleted redacted. The objecting party shall also provide in its response a list of documents which are subject to objections, specifically identifying:

(a) through (d) remain the same.

(e) where the document is a communication, the author of the document, ~~and her/his~~ the address of the author, and the relationship of the author and the addressee;

(f) through (5) remain the same.

(6) ~~An~~ The court rules upon objections based on a ~~claims~~ of attorney-client privilege or work product ~~will be ruled on~~ only upon the filing of a motion to compel, at which time the following procedure ~~shall apply~~ applies:

(a) along with ~~its answer~~ the response brief, ~~counsel~~ for the objecting party shall furnish the court with a copy of ~~its~~ the original response to the request for production and the original or a copy of all documents which are identified in the motion to compel;

(b) where only parts of the document are subject to an objection, ~~counsel~~ for the objecting party shall identify those parts; and

(c) remains the same.

(7) If the request is intended to obtain the production of documents which are not in the adverse party's possession but are within the adverse party's custody or control, unless otherwise ordered by the court, the adverse party may, in lieu of providing the documents, provide an authorization or a release as necessary to obtain such documents from all persons or entities physically possessing the documents.

AUTH: 2-4-201, MCA

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

REASON: The court proposes amending ARM 24.5.324(2) to better allow the court to make an informed ruling when discovery disputes involving dates of service arise.

24.5.325 LIMITING DISCOVERY (1) through (1)(e) remain the same.

(f) that a deposition, after being sealed, be opened only by order of the court;  
(g) through (2) remain the same.

AUTH: 2-4-201, MCA

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

24.5.326 FAILURE TO MAKE DISCOVERY -- SANCTIONS (1) If a party fails to respond to discovery pursuant to these rules, or makes evasive or incomplete responses to discovery, or objects to discovery, the party seeking discovery may move for an order compelling responses. With respect to a motion to compel discovery, the court may, at the request of a party or upon its own motion, impose such sanctions as it deems appropriate. Such sanctions include but are not limited to including, but not limited to, awarding the prevailing party attorney fees and reasonable expenses incurred in obtaining the order or in opposing the motion. ~~Sanctions shall be imposed~~ The court imposes sanctions against the nonprevailing party unless the party's position with regard to the motion to compel was substantially justified or other circumstances make sanctions unjust. If the party ~~shall~~ fails to make discovery following issuance of an order compelling responses, the court may order such sanctions as it deems ~~required and~~ just under the circumstances. Prior to any imposition of sanctions, the court ~~shall~~ provides the party who may be sanctioned with the opportunity for a hearing.

AUTH: 2-4-201, MCA

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

24.5.327 DEFAULT (1) If a party required to file a responsive pleading under these rules fails to file a responsive pleading within the time specified, or otherwise fails to defend, the court at the request of the petitioner or upon its own motion may issue an order providing that the party shall file a responsive pleading within 10 days, or in the alternative, shall appear before the court at a specified date, time, and place to show cause why the party should not be found in default and relief granted in accordance with the petition. The order ~~shall be~~ is served by mail if upon an insurer, otherwise by certified mail or through personal service as directed by and at the discretion of the court.

(2) through (4) remain the same.

(5) Applications for relief from default judgment must be ~~made within 60 days after judgment is entered and~~ based upon good cause shown, such as mistake, inadvertence, surprise, or excusable neglect, and must be made within the time set forth in [NEW RULE II].

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

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

24.5.329 SUMMARY JUDGMENT (1)(a) A party may, at any time after the filing of a petition for hearing, move for a summary judgment in the party's favor upon all or any part of a claim or defense.

~~(a) The time for filing shall be fixed by the court as provided by ARM 24.5.316(1).~~ The court fixes the time for filing as provided by ARM 24.5.316(1).

(b) Because the court hears cases in the Workers' Compensation Court ~~are heard~~ on an expedited basis, a motion for summary judgment may delay the trial

without any corresponding economies. The time and effort involved in preparing briefs and resolving the motion may be as great or greater than that expended in resolving the disputed issues by trial. For these reasons, the court typically disfavors summary judgment motions ~~typically will be disfavored~~. The court may decline to consider individual summary judgment motions where it concludes that the issues may be resolved as expeditiously by trial as by motion.

(c) remains the same.

(2) Subject to the other provisions of this rule, the court renders summary judgment ~~shall be rendered~~ forthwith if the pleadings, depositions, answers to interrogatories, and responses to requests for production, together with the affidavits, if any, show that ~~there is~~ no genuine issue exists as to any material fact and that the moving party is entitled to a judgment as a matter of law.

(3) Any party filing a motion under this rule shall include in its brief a statement of uncontroverted facts, ~~which shall~~ setting forth in full the specific facts on which the party relies in support of the motion. ~~The specific facts shall be set forth in serial fashion and not in narrative form. As to each fact, the statement shall refer to a specific pleading, affidavit, or other document where the fact may be found.~~ Any party opposing a motion filed under this rule shall include in ~~their~~ the party's opposition a brief statement of genuine issues, setting forth the specific facts which the opposing party asserts establish a genuine issue of material fact precluding summary judgment in favor of the moving party. Each party's brief must set forth the specific facts in serial fashion and not in narrative form. As to each fact, the statement must refer to a specific pleading, affidavit, or other document where the fact may be found.

(4) If the movant and the party opposing the motion agree that ~~there is~~ no genuine issue of any material fact exists, they shall jointly file a stipulation with the court setting forth a statement of stipulated facts. This stipulation ~~shall~~ must be prepared and filed in lieu of the statements required by (3) of this rule.

(5) If either party desires a hearing on the motion, ~~a request must be made~~ the party shall make the request in writing no later than the time specified for the filing of the last brief. The court ~~will~~ may thereupon set a time and place for hearing. If no request for hearing is made, any right to hearing afforded by these rules ~~will be~~ is deemed waived. The court may order a hearing on its own motion.

(6) If on motion under this rule the court does not render judgment ~~is not rendered~~ upon the whole case or for all the relief ~~asked~~ requested and a trial is necessary, the court, ~~by examining the pleadings and the evidence before it, and in its discretion, by interrogating counsel, shall if practicable~~ may on its own motion ascertain what material facts exist without substantial controversy and what material facts are ~~actually and~~ in good faith controverted. ~~It~~ The court shall thereupon make an order specifying the facts that appear without substantial controversy, and ~~directing~~ directs such further proceedings in the action as are just. Upon the trial of the action, the court deems the facts so specified shall be deemed established, and conducts the trial ~~shall be conducted~~ accordingly.

(7) Supporting and opposing affidavits ~~shall~~ must be made on personal

knowledge; shall set forth such facts as would be admissible in evidence; and shall show affirmatively that the affiant is competent to testify to the matters stated therein. Sworn or certified copies of all papers or parts thereof referred to in an affidavit shall must be attached thereto or served therewith. The court may permit affidavits to be supplemented or opposed by depositions, answers to discovery, or further affidavits. When a motion for summary judgment is made and supported as provided in this rule, an adverse party may not rest upon the mere allegations or denials of the adverse party's pleading, but the adverse party's response, by affidavits or as otherwise provided in this rule, must set forth specific facts showing that ~~there is~~ a genuine issue exists for trial. If the adverse party does not so respond, the court may enter summary judgment, ~~if appropriate, may be entered~~ against the adverse party.

(8) remains the same.

(9) ~~Should~~ If it appears to the satisfaction of the court at any time that any of the affidavits presented pursuant to this rule are presented in bad faith or solely for the purpose of delay, the court ~~shall forthwith~~ orders the party employing them to pay to the other party the amount of the reasonable expenses which the filing of the affidavits caused the other party to incur, including reasonable attorney's fees, and any offending party or attorney may be adjudged guilty of contempt.

AUTH: 2-4-201, MCA

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

REASON: The court proposes amending ARM 24.5.329(3) to improve court efficiency by simplifying the filing procedure. The court proposes amending ARM 24.5.329(6) to clarify that the court may determine certain issues without a motion.

24.5.330 VACATING AND RESETTING TRIAL (1) A party shall request to vacate and reset a trial ~~must be~~ in writing and ~~be supported by~~ for good cause shown. The application must state whether any party agrees to or opposes the request.

AUTH: 2-4-201, MCA

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

24.5.331 SUBPOENA (1) Every subpoena ~~shall state the name of the court, the title of the action, and the case number, and shall must command each person to whom it is directed to attend and give testimony at a time and place therein specified. The clerk shall issue a subpoena or a subpoena for the production of documentary evidence. An attorney as an officer of the court may also issue and sign a subpoena or subpoena for the production of documentary evidence on behalf of the court. A subpoena may be issued only for trial a court proceeding or a noticed deposition. If all parties to the action agree, subpoenaed documents may be produced without the necessity of a noticed deposition, such as by simultaneous~~

~~mailing to all parties or through production at a time and place agreed upon by the parties without the presence of a court reporter, otherwise the documents must be produced at trial or at a deposition with a court reporter.~~

~~(2) A subpoena may be issued for the purpose of taking a duly noticed deposition or compelling attendance of a witness at trial, and may also command the person to whom it is directed to produce the books, papers, documents, or tangible things designated therein in accordance with (1); but the court, upon motion made promptly and in any event at or before the time specified in the subpoena for compliance therewith, may quash or modify the subpoena if it is unreasonable, unduly burdensome or oppressive, or condition denial of the motion upon the advancement by the person in whose behalf the subpoena is issued of the reasonable cost of producing the books, papers, documents, or tangible things. Any party serving a subpoena for the production of documentary evidence shall provide all other parties to the dispute reasonable notice of the place, date, and time for such production. In the event a subpoena is found to be unreasonable, unduly burdensome, or oppressive, the court may impose sanctions on the party issuing or requesting the subpoena, which may include, but are not limited to, lost earnings and a reasonable attorney fee.~~

~~(3) A subpoena may be served by any person who is not a party and is not less than 18 years of age. Service of a subpoena upon a person named therein shall must be made by delivering a copy thereof to such person and, if the person's attendance is commanded, by tendering to that person the fees for one day's attendance and the mileage allowed by state law. The service must be made so as to allow the witness a reasonable time for preparation and travel to the place of attendance.~~

~~(4) If the subpoena is for the production of the file of a party, and objection is made to the production of such file, the deposition, if one is in progress, shall must be recessed, and the procedures set forth in ARM 24.5.324(4) shall must be followed.~~

~~(5) Failure by any person without adequate excuse to obey a subpoena served upon her/him that person may be deemed a contempt of the court must comply with M. R. Civ. P. 45.~~

AUTH: 2-4-201, MCA

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

REASON: The court proposes amending ARM 24.5.331 because the rule is redundant to M. R. Civ. P. 45. However, the court proposes amendment, rather than repeal, of this rule to assist non-attorney parties in locating the procedure regarding subpoenas.

24.5.332 CONDUCT OF TRIAL (1) remains the same.

(2) The trial will be conducted court conducts trials in the same manner as a trial without a jury. The trial shall Trials must proceed in the following order unless

the court, for good cause and special reasons, otherwise directs.

(a) The party on whom rests the burden of the issues may briefly state ~~his~~ the party's case and the evidence by which ~~he~~ the party expects to sustain it.

(b) The adverse party may then briefly state ~~his~~ the adverse party's defense and the evidence ~~he~~ the adverse party expects to offer in support of it, or ~~he~~ may wait and do this at the beginning of ~~his~~ the adverse party's case-in-chief.

(c) The party on whom rests the burden of the issues ~~must~~ shall produce ~~his~~ the party's evidence; the adverse party ~~will~~ shall then follow with ~~his~~ the adverse party's evidence.

(d) The parties ~~will~~ shall then be confined to rebuttal evidence, unless the court, for good reasons and in the furtherance of justice, permits either party to offer further evidence in support of its case-in-chief.

AUTH: 2-4-201, MCA

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

24.5.334 SETTLEMENT CONFERENCE (1) In its discretion, the court may, either on its own motion or upon request of any party, order a settlement conference at any time before decision in any case pending before the court. ~~Such settlement conference will normally be conducted by a~~ A hearing examiner appointed by the court or, ~~if the parties agree, by an outside mediator,~~ normally conducts the settlement conference. ~~However, if the parties agree, an outside mediator may conduct the conference.~~ In the event if the parties use an outside mediator is used, the parties shall share and pay the expense of hiring the mediator. The conference may be in person or by ~~conference telephone~~ conference call at a time and place as the court may direct. The court may direct that the person with ultimate settlement authority for each party attend ~~be present at~~ the conference.

AUTH: 2-4-201, MCA

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

24.5.335 BENCH RULINGS (1) ~~In order to more promptly deliver decisions in cases pending before the court, particularly those cases that do not involve complex factual questions or unique questions of law, †~~ The court may, in its sole discretion, issue a bench ruling following the close of the testimony in a case. If the court issues a bench ruling ~~is issued,~~ the court utilizes the following procedure will be followed:

(a) The judge ~~will~~ announces ~~his~~ the decision to the parties in open court, outlining the factual and legal reasoning therefor.

(b) The judge may direct one of the parties, usually the prevailing party, to reduce ~~his~~ the decision to writing by preparing written findings of fact, conclusions of law, and judgment.

(c) Following entry of the court's written findings of fact, ~~and~~ conclusions of law, and judgment, the parties shall have 20 days the time set forth in [NEW RULE

II] in which to file objections to the court's decision and to request a rehearing, pursuant to ARM 24.5.344.

AUTH: 2-4-201, MCA

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

24.5.336 FINDINGS OF FACT AND CONCLUSIONS OF LAW AND BRIEFS

(1) The court may require any or all parties to file briefs or other documents ~~to be filed by either or both parties.~~

(2) The court may require ~~either~~ any or ~~both~~ all parties to file proposed findings of fact and conclusions of law. Requests that a decision not be certified as final pursuant to ARM 24.5.348~~(3)~~ (4) should ordinarily be included in the proposed findings of fact and conclusions of law, with the basis for the request set forth.

(3) Briefs and proposed findings of fact and conclusions of law ~~will~~ must be filed ~~at a~~ by the date set by the judge or hearing examiner.

(4) Briefs and proposed findings of fact and conclusions of law ~~may~~ cannot be filed after the due date except by leave of court.

(5) The court encourages any party filing a trial brief or proposed findings of fact and conclusions of law to submit the document in electronic form by attaching it to an e-mail addressed to the court. Any party e-mailing such a brief or proposed findings and conclusions shall also file the original of the document with the court and serve the other parties as required by ARM 24.5.303.

AUTH: 2-4-201, MCA

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

REASON: The court proposes amending ARM 24.5.336(1) and (2) to clarify that more than two parties to an action may exist. Additionally, the proposed amendment corrects an erroneous subparagraph citation. The corrections to ARM 24.5.336(3) and (4) clarify that any findings of fact and conclusions of law filed by a party are merely "proposed." The court proposes new (5) to encourage parties to submit these filings in electronic form for the court's internal use which increases efficiency.

24.5.337 MOTION FOR RECONSIDERATION (1) Any party may move for reconsideration of any order or decision of the Workers' Compensation Court. The motion ~~shall~~ must be filed within ~~20 days~~ the time set forth in [NEW RULE II] after the ~~order or decision is served~~ court issues its order or decision. The opposing party shall have ~~40 days~~ the time set forth in [NEW RULE II] thereafter to respond unless the court orders an earlier response. Upon receipt of the response, or the expiration of the time for such response, the court deems the motion ~~will be deemed~~ submitted for decision unless the court requests oral argument. The court does not consider reply briefs from moving parties.

(2) remains the same.

(3) If the motion requests reconsideration of an appealable order or

judgment, the court does not deem the original order or judgment shall not be final until and unless the court denies the motion.

AUTH: 2-4-201, MCA

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

24.5.340 MASTERS AND EXAMINERS -- PROCEDURE --  
RECOMMENDATIONS FOR BENCH ORDERS (1) remains the same.

(2) ~~Masters will be appointed and serve~~ The court appoints masters pursuant to ~~Rule 53, Mont. R. Civ. P. 53.~~ In the event that a master is appointed, Masters utilize the procedures set forth in ~~Rule 53 shall be utilized~~ M. R. Civ. P. 53 insofar as they relate to a trial without a jury.

(3) ~~Examiners will be appointed and serve~~ The court appoints examiners pursuant to 2-4-611, MCA. Examiners serve pursuant to 2-4-611, MCA. However, ~~because of the overriding concern in a workers' compensation case to render a prompt decision, especially in matters concerning the payment of a workers' biweekly compensation benefits, and because of the time delays inherent in the procedures set forth in 2-4-621 and 2-4-622, MCA, such provisions are not appropriate in Workers' Compensation Court proceedings within the meaning of 39-71-2903, MCA. In lieu thereof, the court will utilize~~ the following procedure in cases where it appoints a hearing examiner has been appointed.

(a) Following submission of the case, the hearing examiner ~~will submit~~ her/his proposed findings of fact and conclusions of law to the judge. The court does not serve the proposed decision of the hearing examiner ~~will not be served~~ upon the parties until after the judge has ~~made a ruling~~ ruled thereon. The judge ~~will decide~~ make a decision as to whether to adopt the proposed findings of fact and conclusions of law of the hearing examiner based solely upon the record and pleadings made before the hearing examiner. The court does not reject or revise Findings findings of fact made by a hearing examiner ~~will not be rejected or revised~~ unless the court first determines from a review of the complete record, and states with particularity in the order, that the findings of fact were not based upon competent substantial evidence or that the proceedings on which the findings were based did not comply with essential requirements of law. The court may, upon its own motion, reconsider or alter ~~Conclusions conclusions~~ of law and interpretations of statutes or rules written by a hearing examiner ~~may be reconsidered or altered by the court upon its own motion.~~ Subject to the provisions of this subsection, the court ~~will enter~~ enters its order and judgment adopting the decision of the hearing examiner.

(b) Any party aggrieved by a decision of a hearing examiner adopted pursuant to this rule, may obtain review thereof by filing a motion pursuant to ARM 24.5.344. Upon the filing of such a motion by ~~either~~ any party, the court ~~will, in its discretion, liberally grants~~ the opportunity for oral argument as to whether it should: amend the decision; should be amended, hear additional evidence; should be heard, or grant a new trial ~~should be granted.~~

(4) An examiner may, during or at the conclusion of a trial or a pretrial



conference, advise the parties that an interlocutory order for payment of benefits or other relief to a party appears to be justified and promptly submit such an order ~~will be forthwith submitted~~ for approval by the judge.

AUTH: 2-4-201, MCA

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

24.5.342 TAXATION OF COSTS (1) Unless otherwise ordered by the court, ~~within 40 days after the entry of a judgment allowing costs~~ the time set forth in [NEW RULE II], a prevailing claimant shall serve an application for taxation of costs on the parties any party against whom costs are to be allowed an application for taxation of costs assessed. ~~The claimant shall file the application must be filed~~ with the court.

(2) ~~The application for taxation of costs must be signed by the attorney for the claimant, or the claimant personally; if appearing pro sé,~~ shall sign the application for taxation of costs. The signature on the application is a certification by the person signing the application of the accuracy of the costs claimed and that the costs incurred were reasonable and necessary to the case.

(3) The court ~~will allow~~ reasonable costs. ~~The court judges the~~ reasonableness of a given item of cost claimed ~~is judged~~ in light of the facts and circumstances of the case, and the issues upon which the claimant prevailed.

(4) through (4)(d) remain the same.

(e) fees and expenses necessary for the perpetuation or presentation of evidence offered at trial, such as recording, videotaping, or photographing exhibits;

(f) through (6) remain the same.

(7) ~~An insurer may make specific objection to any item of costs claimed within 10 days of the service of the application.~~ If an insurer objects to any item of costs claimed:

(a) Within the time set forth in [NEW RULE II], the insurer shall serve on the prevailing claimant written objections to specific items of costs. The insurer shall file the objections with the court.

(b) Within the time set forth in [NEW RULE II], the prevailing claimant shall serve on the insurer a response. The claimant shall file the response with the court. No reply brief is allowed.

AUTH: 2-4-201, MCA

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

REASON: The court proposes amending ARM 24.5.342(7) to improve the current procedure in the interests of justice.

24.5.343 ATTORNEY FEES (1) remains the same.

(2) The court ~~will determine~~ and awards reasonable attorney fees in the following manner.

(a) Within ~~20 days~~ the time set forth in [NEW RULE II], following the

expiration of the appeal period or remittitur on appeal of the court's final decision, or within ~~20 days~~ the time set forth in [NEW RULE II], after the filing of the court's decision which pursuant to ARM 24.5.348(2) holds that the decision is not certified as final, the claimant's attorney shall file with the court a claim for attorney fees which ~~shall~~ contains the following:

(i) and (ii) remain the same.

(iii) the attorney's claim concerning ~~her/his~~ the attorney's hourly fee.

(b) Within ~~20 days~~ the time set forth in [NEW RULE II], following the service of a claim for attorney fees, any party to the dispute may file an objection to the fees' reasonableness ~~of the fees~~, specifically identifying the objectionable portions of the claim and stating the reasons for the objection. General allegations to the effect that the award is unreasonable ~~shall~~ are not be sufficient.

(c) ~~If an objection is made~~ If a party objects to the reasonableness of the attorney fee claim, any party may request an evidentiary hearing, stating ~~specifically~~ the specific reasons a hearing is ~~needed~~ necessary. The request for hearing must be made at the same time an objection is filed if by the objecting party, or within ~~40 days~~ the time set forth in [NEW RULE II], of the filing of the objection if requested by the claimant's attorney.

(d) The court ~~will~~ determines if it requires an evidentiary hearing ~~is required~~. If the court deems a hearing ~~is deemed~~ necessary, ~~it will be scheduled at the court's~~ the court schedules the hearing at its earliest convenience, ~~and the~~ The court ~~will~~ issues its decision following the hearing. ~~Evidentiary~~ The court sets evidentiary hearings ~~will generally be set in Helena unless a party demonstrates~~ a party demonstrates good cause to the contrary ~~can be demonstrated by a party~~. If the court determines that no hearing is necessary, the court ~~will~~ determines attorney fees based on the claim and objections. No additional pleadings ~~will be~~ are allowed unless requested by the court.

(e) The court's determination of reasonable attorney fees is a final decision for ~~the~~ purposes of appeal.

AUTH: 2-4-201, MCA

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

24.5.344 PETITION FOR NEW TRIAL AND/OR REQUEST FOR AMENDMENT TO FINDINGS OF FACT AND CONCLUSIONS OF LAW (1) After a trial, the court ~~will~~ issues an order or ~~will issue~~ findings of fact, ~~and~~ conclusions of law, and judgment setting forth the court's determination of the disputed issues. A party to the dispute may petition for a new trial or request amendment to the court's findings of fact and conclusions of law within ~~20 days~~ the time set forth in [NEW RULE II], after the court serves the written order or judgment ~~is served~~.

(2) If a party files a petition for a new trial or requests ~~for~~ amendment ~~is filed~~, the party requesting the new trial or amendment shall set forth specifically and in full detail the relief requested. An opposing party ~~will have 10 days~~ shall respond within the time set forth in [NEW RULE II], from the date of service pursuant to ARM

24.5.303(3) to respond.

(3) If a party files a petition for a new trial or requests for amendment is filed, the original order or judgment issued by the court shall is not be considered the final decision of the court pending the denial or granting of the new trial or amendment.

(4) If the court grants a new trial is granted, the matter will be is scheduled for trial pursuant to ARM 24.5.310. As determined by the court, the matter may be decided based on the testimony taken at the initial trial and at the new trial, or by a de novo trial. After the new trial, the court will issues an order or findings of fact, and conclusions of law, and judgment setting forth the court's determination of the disputed issues.

AUTH: 2-4-201, MCA

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

24.5.345 WRIT OF EXECUTION (1) The procedure on execution, in proceedings supplementary to and in aid of a judgment, and in proceedings on and in aid of and supplementary to execution, shall must be in accordance with the statutes of the state of Montana that are applicable to executions in civil cases in district court, as set forth in Title 25, chapter 13, MCA, except that the court does not issue a writ of execution shall be issued until after the time has expired for requesting a rehearing or amendment of the court's decision.

(2) In aid of the judgment or execution, the judgment creditor or a successor in interest when that interest appears of record, may examine any person, including the judgment debtor, in the manner provided in these rules for taking depositions.

AUTH: 2-4-201, MCA

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

24.5.346 STAY OF JUDGMENT PENDING APPEAL (1) The party appealing a judgment of the workers' compensation judge court may request a stay of execution of the judgment or order pending resolution of the appeal. A The court automatically deems a request for new trial and/or request for amendment to findings of fact and conclusions of law shall be deemed an automatic stay stayed until it rules upon the request is ruled upon. If the parties stipulate that no bond shall be is required, or if it is shown to the satisfaction of the court that adequate security exists for payment of the judgment, the court may waive the bond requirement.

(2) Except as provided for herein, the procedures for requesting a stay and the procedure for posting a supersedeas bond will be are the same as the procedures in Rule 7(a) and 7(b), respectively, of the Montana, Rules, Appellate, Procedure. 22(1) and ARM 24.5.316.

AUTH: 2-4-201, MCA

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

REASON: The court proposes amending ARM 24.5.346(2) to reflect the correct appellate rule regarding stays and supersedeas bonds. The proposed amendment also adds a cross-reference to ARM 24.5.316, because the procedure for filing motions is also applicable here.

24.5.348 CERTIFICATION OF DECISIONS, APPEALS TO SUPREME COURT (1) Appeals from the Workers' Compensation Court shall must be made as in the case of an appeal from a district court as provided in ~~Rule 72~~, Mont. R. Civ. P. 72.

(2) The court's final certification for the purposes of appeal shall ~~be is~~ considered as a notice of entry of judgment.

(3) Appeals must be in compliance with the Montana Rules of Appellate Procedure Rule 10(a) of the Mont. R. App. P., ~~an original and two copies of each transcript of proceedings must be lodged with the clerk of this court for filing.~~

(4) The court ~~will certify~~ certifies its decisions as final without a determination of the amount of reasonable costs and attorney fees, except that:

(a) At any time prior to issuance of the decision and certification, a A party to the dispute may submit, ~~with party's proposed findings and conclusions or otherwise at any time prior to issuance of the decision and certification,~~ a request that the court not certify the decision ~~not be certified~~ as final. Such a request must include a showing of ~~the~~ good cause upon which the request is based.

(b) The court in its discretion may grant the request, in which case the decision of the court shall must not certify the judgment for purposes of appeal until the amount of the attorney fees and costs is determined.

(c) Regardless of whether or not the decision is certified as final for appeals purposes, ARM 24.45.344 ~~shall still~~ determines and limits the time within which ~~to a~~ party may petition for new trial or request amendment to the court's findings of fact and conclusions of law.

AUTH: 2-4-201, MCA

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

REASON: The court proposes amending ARM 24.5.348(3) to place its appeal procedure in compliance with all current and future appellate procedures.

24.5.349 RULES COMPLIANCE (1) If a party neglects or refuses to comply with the provisions of ~~this subchapter~~ these rules, the court may dismiss a matter with or without prejudice, grant an appropriate order for a party, or take other appropriate action. However, the court may, in its discretion and in the interests of justice, waive irregularities and noncompliance with any of the provisions of ~~this subchapter~~ these rules.

AUTH: 2-4-201, MCA

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

24.5.350 APPEALS TO WORKERS' COMPENSATION COURT UNDER TITLE 39, CHAPTERS 71 AND 72, MCA (1) An appeal from a final decision of the Department of Labor and Industry under Title 39, chapters 71 and 72, MCA, other than an appeal of a department order regarding payment of benefits pursuant to 39-71-610, MCA, ~~shall~~ must be made by filing a notice of appeal with the court ~~or with the department~~. The notice of appeal ~~shall~~ must be served by mail on all other parties and the legal services division of the Department of Labor and Industry and ~~should~~ must include:

(a) the relief to which the appellant believes ~~s/he~~ the appellant is entitled; and  
(b) the grounds upon which the appellant contends ~~s/he~~ the appellant is entitled to that relief.

(2) The filing of the notice ~~shall~~ does not stay the department decision. However, upon application of a party, the court may, ~~upon application of a party~~, order a stay upon terms which the court considers proper.

(3) Any party or the court may request a transcript of the proceeding. Upon receiving such request, the department ~~shall have~~ has 30 days in which to prepare and file the transcript; ~~unless such time is shortened or extended by the court. the court lengthens or shortens the time. The parties may, i~~ In the alternative, the parties may agree by written stipulation to other arrangements for transcribing the hearing. The appealing party shall be responsible for the cost of preparing the transcript unless otherwise ordered by the court.

(4) remains the same.

(5) A motion for leave to present additional evidence must be filed no later than the time set for the last brief or, if oral argument is timely requested, then no later than the day before the argument. If it is shown to the satisfaction of the court that the additional evidence is material and that ~~there were~~ good reasons for failure exist for the offering party's failure to present it in the department proceeding ~~before the department~~, ~~then~~ the court may remand the matter to the department and order that the additional evidence be taken before the department upon conditions determined by the court. The department may modify its findings and decision by reason of the additional evidence and shall file that evidence and any modifications, new findings, or decisions with the reviewing court.

(6) and (7) remain the same.

AUTH: 2-4-201, MCA

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

24.5.351 DECLARATORY RULINGS (1) remains the same.

(2) Proceedings for a declaratory ruling ~~shall be~~ are the same as in all other disputes.

AUTH: 2-4-201, MCA

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

24.5.352 REFERENCE TO MONTANA RULES OF CIVIL PROCEDURE

(1) If no express provision is made in these rules regarding a matter of procedure, the court ~~will be~~ is guided, where appropriate, by considerations and procedures set forth in the ~~Mont. R. Civ. P.~~ Montana Rules of Civil Procedure.

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

5. The rules proposed for adoption provide as follows:

NEW RULE I AMENDED PETITION (1) A petitioner must file an amended petition within the time period set forth in the scheduling order or by leave of court. The response to the amended petition is due within the time set forth in [NEW RULE II].

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

REASON: The court believes the addition of [New Rule I] is necessary to clarify a current ambiguity regarding the filing of amended petitions.

NEW RULE II COMPUTATION OF TIME (1) The following provisions apply to the computation of time for all filings:

(a) In computing the time for any response as provided for in these rules, the court includes weekends and holidays. If a deadline falls on a weekend or holiday, the deadline is the next workday.

(b) Whenever a party has the right or is required to do some act within a prescribed period of time after the service of a notice or other paper upon the party and the notice or paper is served by mail, the court adds 3 days to the prescribed period.

(c) The court accepts fax and electronic filings, but an original signature page of any document filed by fax or electronic means must be filed with the court within 5 days.

(2) Except as provided elsewhere within these rules, the following time limits apply. This rule provides for the time limits only. Specific information as to format and content requirements is located within the rule relating to each specific filing:

COMPUTATION OF TIME

Document Type	Reference Rule	Days to File
response to petition	24.5.302(1)	20 days after service of petition

Document Type	Reference Rule	Days to File
response to amended petition	NEW RULE I	10 days after service of amended petition
response to third-party petition	24.5.307(3)	10 days after service of third-party petition
motion to join third party	24.5.308(2)	30 days after service of petition
objection to joining third party	24.5.308(2)	10 days after service of motion to join third party
response to petition by third party	24.5.308(4)	10 days after service of order joining third party
motion to intervene	24.5.309(2)	30 days after service of the petition
answer to motion to intervene	24.5.309(2)	10 days after service of motion to intervene
objection to court's notice of emergency trial setting	24.5.311(New 2)	5 days after service of notice of emergency trial setting
response to motion	24.5.316(3)	10 days after service of motion
response to motion for summary judgment	24.5.316(3)(a)	10 days after service of motion, but no earlier than the deadline for filing a response to a petition
reply to adverse party	24.5.316(3)	5 days after service of response brief to motion
officer to sign and state that deposition was not signed by deponent	24.5.322(7)	10 days after submission to witness
cross-questions to deposition upon written questions	24.5.322(11)	10 days after service of notice and written questions
redirect questions to deposition upon written questions	24.5.322(11)	10 days after service of cross-questions

Document Type	Reference Rule	Days to File
recross-questions to deposition upon written questions	24.5.322(11)	5 days after service of redirect questions
response to interrogatories	24.5.323(2)	20 days after service of interrogatories
verification to interrogatories by unnatural person	24.5.323(4)	10 days after service of request
response to request for production	24.5.324(3)	20 days after service of request
relief from default judgment	24.5.327(5)	60 days after entry of judgment
objections to court's written findings of fact, conclusions of law, and judgment, and request for rehearing	24.5.335(1)(c)	20 days after entry of judgment
motion for reconsideration	24.5.337(1)	20 days after order or decision
opposition to motion for reconsideration	24.5.337(1)	10 days after service of motion for reconsideration
application for taxation of costs	24.5.342(1)	10 days after entry of judgment allowing costs
objection to application for taxation of costs	24.5.342(7)(a)	10 days after service of application for taxation of costs
claim for attorney fees	24.5.343(2)(a)	20 days after expiration of appeal period or remittitur on appeal of court's final decision or 20 days after filing of court's decision
objection to claims for attorney fees	24.5.343(2)(b)	20 days after service of claim for attorney fees
request for attorney fee hearing	24.5.343(2)(c)	10 days after filing of objection (if hearing requested by claimant's attorney) or at same time an objection is filed (if hearing requested by objecting party)



Document Type	Reference Rule	Days to File
petition for new trial and/or request for amendment to findings of fact and conclusions of law (refer to 24.5.344(1))	24.5.344(1)	20 days after service of order or judgment
opposition to petition for new trial and/or request for amendment to findings of fact and conclusions of law	24.5.344(2)	10 days after service of petition for new trial or request for amendment

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

REASON: The court proposes [NEW RULE II] to simplify procedures and to minimize reliance upon lawyers and the court by allowing parties to more easily ascertain court deadlines. The court also believes that the proposed adoption of [NEW RULE II] necessitates the amendment of the existing rules which contain deadlines, as noted throughout this document.

6. The rules proposed for repeal are as follows:

24.5.307A JOINDER AND SERVICE OF ALLEGED UNINSURED EMPLOYERS which can be found on page 24-170 of the Administrative Rules of Montana.

AUTH: 2-4-201, 39-71-2401, 39-71-2901, 39-71-2903, 39-71-2905, MCA  
IMP: 2-4-201, 39-71-2901, MCA

REASON: The court proposes repealing ARM 24.5.307A because it is redundant to and conflicts with 39-71-541, MCA.

24.5.313 RECUSAL which can be found on page 24-174 of the Administrative Rules of Montana.

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

REASON: The court proposes repealing ARM 24.5.313 because this rule is redundant to 39-79-2901(3) and (4), MCA.

7. Concerned persons may present their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted to Jeanine Blaner, Workers' Compensation Court, 1625 11th Avenue, P.O. Box 537, Helena, MT 59620-0537; faxed to (406) 444-7798; e-mailed to

dliwccfilings@mt.gov, and must be received no later than 5:00 p.m. on July 14, 2014.

8. An electronic copy of this proposal 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, and that a person's difficulties in sending an e-mail do not excuse late submission of comments.

9. The Workers' Compensation Court maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this court. Persons who wish to have their names added to the list shall make a written request which includes the name, e-mail, and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding Workers' Compensation Court rulemaking actions. Such written requests may be mailed or delivered to the Workers' Compensation Court, 1625 11th Avenue, P.O. Box 537, Helena, MT 59620-0537; faxed to (406)444-7798; e-mailed to [dliwccfilings@mt.gov](mailto:dliwccfilings@mt.gov); or may be made by completing a request form at any rules hearing held by the court. Notices are sent by e-mail unless a mailing preference is noted in the request.

10. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

11. With regard to the requirements of 2-4-111, MCA, the Workers' Compensation Court has determined that the amendment, adoption, and repeal of the above-referenced rules will not significantly and directly impact small businesses.

12. Jeanine Blaner, Workers' Compensation Court, has been designated to preside over and conduct the hearing.

/s/ JAMES JEREMIAH SHEA  
James Jeremiah Shea, Judge  
Workers' Compensation Court

/s/ JEANINE BLANER  
Jeanine Blaner, Rule Reviewer  
Workers' Compensation Court

Certified to the Secretary of State May 12, 2014