

FILED

08/12/2019

Bowen Greenwood  
CLERK OF THE SUPREME COURT  
STATE OF MONTANA

Case Number: AF 07-0110

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Robert L. Deschamps, Dept. 2  
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August 5, 2019

Clerk of the Montana Supreme Court  
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AUG 12 2019

Bowen Greenwood  
Clerk of Supreme Court  
State of Montana

Re: Bench/Bar Comment - Proposed Amendments to  
Uniform District Court Rules AF 07-0110

Dear Chief Justice McGrath and Committee Members,

This letter will serve as the Fourth Judicial District's (JD4) comments to the proposed amendments to the Uniform District Court Rules. These comments refer to proposed Rule 16.

Proposed Rule 16 requires the district court to set a case for trial on "a date certain within six months or as soon as the court's schedule allows." Proposed Uniform District Court Rule 16(c)(1). We concur with the comments offered by the 18<sup>th</sup> Judicial District and Judge Manley of the 20<sup>th</sup> Judicial District.

Our district continues to grow at a significant rate. This change ignores the extremely heavy caseload (58,000) in our District Courts. There are at least 12 types of priority cases that must be calendared ahead of other cases including abuse/neglect, domestic relations, custody, sanity, incarcerated criminal and juvenile cases, temporary orders of protection and temporary injunctions. Larger population cities, of which JD4 is one, have these cases. Each are part of the 1,000+ cases managed by each of our five judges. All priority cases must be heard and most turn around times are well under the six months noted by this rule change. Some are very short – juvenile detention (1 day); abuse/neglect (10 days); temporary orders of protection (20 days), juvenile transfers (30) days; temporary injunctions (10 days); sanity (5 days), etc. Complex criminal trials have multiple motions that must be dealt with in advance of trial and serious criminal trials can last two weeks. None of these issues are dealt with by Rule 16(b).

Judge Larson, Montana's most senior trial judge (26+ years), states: "I have had over 400 criminal trials and at least 200 civil jury trials. All these cases are taking longer to get to trial than they did in 1993 when I first started on the bench." Individual case management orders must be carefully crafted by the Court and counsel. Arbitrary dates and deadlines for civil jury trials will not solve the problems of an overworked, understaffed, and underpaid state judiciary."

All five JD4 Judges are addressing the number of criminal cases by stacking criminal jury trial settings. A typical trial setting may have up to 10-20 cases stacked. The juggling of courtrooms and staff requires court resources, creativity, and judges to comply with the constitutional rights afforded defendants. In addition to the criminal jury trials, we also have statutorily mandated deadlines to set youth in need of care cases, detention hearings, involuntary commitment hearings, and several other matters prioritized by the legislature. The trial and hearing calendars for all judges are already set well into 2020.

Proposed Rule 16(c)(1) states "The parties are not required to attend a settlement conference. JD4 has had a mandatory settlement conference in its Rules of Practice for over 25 years. Local Rule 9 states:


Except as provided in §40-4-301, MCA, each civil case, there will be two settlement conferences; the holding of which will be required before a case may be set for trial. The first is a lawyer's resolution conference and the second is a master-supervised settlement conference, both of which are provided for in the Scheduling Order prepared and issued in accordance with Rule 8 of the Local Rules.


Over 90% of our civil jury cases settle during the settlement master practice. Our workload would quadruple if this section were to be followed.

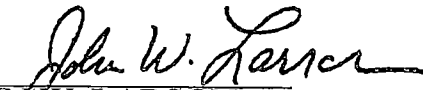
We appreciate the Committee's proposal and creativity. We would like to comply with any new rule that affords civil litigants' speedy resolution for their cases. However, we cannot guarantee civil litigants a jury trial for 2 to 3 days within 6 months. If adopted, we suggest the rule be an "opt in" rule by district judges or by individual districts to adopt through local court rules. When resources are available and JD4 secures the necessary number of judges to accommodate the growth, we would readily consider opting in to a process to set simplified civil jury trials as suggested by proposed Rule 16. While we remain under the pressure of our current limitations, we are required to "opt out."

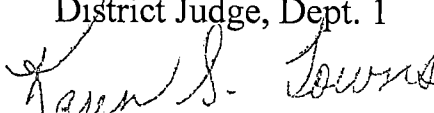
If you need any further information, please do not hesitate to call or email us. Thank you.


Sincerely,

  
LESLIE HALLIGAN  
District Judge, Dept. 1

  
ROBERT L. DESCHAMPS  
District Judge, Dept. 2

  
JOHN W. LARSON  
District Judge, Dept. 3

  
KAREN S. TOWNSEND  
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