

ORIGINAL

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08/04/2021

Bowen Greenwood
CLERK OF THE SUPREME COURT
STATE OF MONTANA

Case Number: AF 07-0016

IN THE SUPREME COURT OF THE STATE OF MONTANA

AF 07-0157

AF 07-0016

FILED

AUG 04 2021

Bowen Greenwood
Clerk of Supreme Court
State of Montana

IN THE MATTER OF THE MONTANA RULES
OF CIVIL PROCEDURE

and

ORDER

IN THE MATTER OF THE MONTANA RULES
OF APPELLATE PROCEDURE

The Court is considering revisions to Rule 58(e) of the Montana Rules of Civil Procedure and Rule 4(5)(a) of the Rules of Appellate Procedure to: remove from the Rules of Civil Procedure direction to the Montana Supreme Court that is more appropriately located in the Rules of Appellate Procedure; eliminate the administrative difficulties that M. R. Civ. P. 58(e) currently poses by placing premature appeals in a suspended status; and more clearly advise litigating parties as to the disposition of appeals that are prematurely filed in this Court.

The proposed amendments are as follows. Language proposed to be stricken from the Rules is interlineated, and language proposed to be added is underlined.

[Rules of Civil Procedure] Rule 58. Entering Judgment

. . .

(e) Cost or Fee Awards, and Sanctions. A judgment, even though entered, is not considered final for purposes of appeal under Rule 4(1)(a), M. R. App. P., until any necessary determination of the amount of costs and attorney fees awarded, or sanctions imposed, is made. The district court is not deprived of jurisdiction to enter its order on a timely motion for attorney fees, costs, or sanctions by the premature filing of a notice of appeal. ~~A notice of appeal filed before the disposition of any such motions shall be treated as filed on the date of such entry.~~

[Rules of Appellate Procedure] Rule 4. How and when to take an appeal or cross appeal

(5) Time for filing notice of appeal or cross-appeal.

(a) Appeals in civil cases.

(iii) A notice of appeal filed prior to the district court's ruling on any necessary determination of the amount of costs and attorney fees awarded, or sanctions imposed, may be dismissed sua sponte and shall be dismissed upon the motion of any party. The district court is not deprived of jurisdiction to enter its order on a timely motion for attorney fees, costs, or sanctions by the premature filing of a notice of appeal, in accordance with Rule 58(e), M. R. Civ. P.

(iiiiv) If a timely notice of appeal is filed by a party

IT IS THEREFORE ORDERED that all members of the bench and bar of Montana and any other interested persons are granted 30 days from the date of this Order in which to file with the Clerk of this Court appropriate comments and/or suggestions to these Proposed Revisions to the Montana Rules of Civil Procedure and Rules of Appellate Procedure.

IT IS FURTHER ORDERED that the Proposed Revisions to the Montana Rules of Civil Procedure and Rules of Appellate Procedure shall be posted on the websites of the Montana State Law Library and the State Bar of Montana. The State Bar of Montana is further requested to give notice of this Order and of its website posting of the Proposed Revisions in the next available issue of *The Montana Lawyer*.

IT IS FURTHER ORDERED that the Clerk of this Court shall post this Order on the Court's website and shall provide copies of such to the State Bar of Montana, and shall provide to each District Court Judge and each Clerk of the District Court a copy of this Order with a request that each Clerk of the District Court make the Order available for public review in the Office of the Clerk of the District Court.

DATED this 4th day of August, 2021.

For the Court,



Chief Justice