

Local Bankruptcy Rules  
For the United States Bankruptcy Court  
For the District of Montana  
2009

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA

STANDING ORDER NO. 12 (REVISED)

CONTINUING ORDER REFERRING BANKRUPTCY CASES AND  
PROCEEDINGS TO BANKRUPTCY JUDGES, AUTHORIZING JURY  
TRIALS, AND AUTHORIZING BANKRUPTCY APPEALS  
TO BE DECIDED BY THE NINTH CIRCUIT  
BANKRUPTCY APPELLATE PANEL SERVICE

IT IS ORDERED that Standing Order No. 12 (revised), filed on May 24, 1985, as revised on September 26, 1995, is revised and amended as follows:

**PART I: REFERRAL OF BANKRUPTCY CASES AND PROCEEDINGS**

1.01 CASES AND PROCEEDINGS UNDER TITLE 11, UNITED STATES CODE

This Court hereby refers to the bankruptcy judges of this district all cases under Title 11, and all proceedings arising under Title 11 or arising in or related to cases under Title 11.

1.02 JURY TRIALS

If the right to a jury trial applies in a proceeding that may be heard under 28 U.S.C. § 157 by a Bankruptcy Judge, the Bankruptcy Judges of this District may conduct the jury trial with the express consent of all the parties.

**PART II: BANKRUPTCY APPEALS**

2.01 BANKRUPTCY APPELLATE PANEL

Pursuant to 28 U.S.C. § 158(b)(6), this Court hereby authorizes the Bankruptcy Appellate Panel Service to hear and determine appeals from judgments, orders, and decrees entered by bankruptcy judges originating in this district.

2.02 RULES GOVERNING BANKRUPTCY APPEALS

(a) Practice in such bankruptcy appeals as may come before this District Court shall be governed by Part VIII of the Federal Rules of Bankruptcy Procedure, except as provided in this Order or in rules subsequently adopted by this District Court.

(b) Notwithstanding subparagraph (a), the time for filing appellant's, appellee's, and reply briefs for consideration by the District Court shall be 40 days, 30 days, and 14 days, respectively, in lieu of the time limits specified in Rule 8009(a) of the Federal Rules of

Bankruptcy Procedure, provided however, that the District Court may shorten these time limits in appropriate cases.

(c) In lieu of the page limitations set forth in Rule 8009(c) of the Federal Rules of Bankruptcy Procedure, the length of briefs filed in appeals before District Court shall comply with the Local Rules of Procedure adopted by the District Court for Motion Practice as set forth in Local Rule 7.1(d)(2), that as of the effective date are as follows:

(1) Appellant and Appellee briefs are limited to 6500 words, excluding caption and certificates of service and compliance.

(2) Reply briefs are limited to 3250 words, excluding caption and certificates of service and compliance.

(3) A party may not exceed these word limits without prior leave. Any brief that exceeds standard limits must include a table of contents and a table of cases with page references.

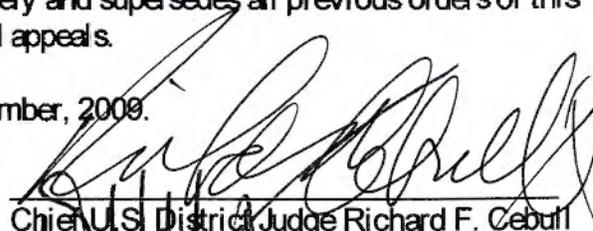
(4) Briefs must include a certificate of compliance that the brief complies with the word limits of this rule. The certificate must state the number of words in the brief, excluding caption and certificates of service and compliance. The signer of the certificate may rely on the word count of a word-processing system used to prepare the brief.

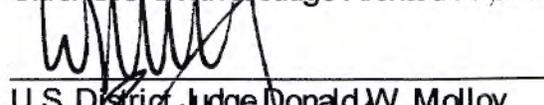
(5) These limitations may be amended from time to time. Parties should review the briefing requirements set forth in the Local Rules of Procedure adopted by the District Court prior to filing any briefs in an appeal.

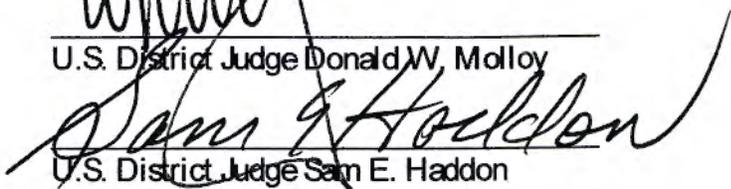
### PART III: EFFECTIVE DATE

This Order shall become effective immediately and supersedes all previous orders of this Court regarding bankruptcy cases, proceedings, and appeals.

IT IS SO ORDERED this 9<sup>th</sup> day of December, 2009.

  
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Chief U.S. District Judge Richard F. Cebul

  
\_\_\_\_\_  
U.S. District Judge Donald W. Molloy

  
\_\_\_\_\_  
U.S. District Judge Sam E. Haddon

**GUIDE TO PRACTICE AND PROCEDURES**  
**UNITED STATES BANKRUPTCY COURT**  
**FOR THE DISTRICT OF MONTANA**

Description of Desired Action	Applicable Bankruptcy Code Section	Applicable Federal and Local Rules <sup>1</sup>	Type of Pleading Required <u>Local Bankruptcy Form</u>	Applicable Negative Notice (Suspense) Language	Type of Service and/or Notice Required <sup>2</sup>
<b>Abandon:</b> Intent of Trustee to	§ 554(a)	BR 6007 LBR 6007-1	Notice LBF 11	14 - Day	BR 6007(a) LBR 9013-1(a)-(e)
<b>Abandon:</b> to Compel Trustee to	§ 554(b)	BR 6007	Motion	14 - Day	LBR 9013-1(a)-(e)
<b>Abstention from Particular Proceeding</b>	28 USC § 1334(c)	BR 5011(b)	Motion	14 - Day	LBR 9013-1(a)-(e)
<b>Accounting by Custodian</b>	§ 543	BR 6002	Report and Account	None	Hearing required
<b>Administrative Expense:</b> Allowance of	§ 503	None	Motion	14 - Day	BR 2002(a)(6) LBR 9013-1(a)-(e)

<sup>1</sup> This guide reflects the provisions of the Local Rules of Bankruptcy Procedure (LBR), as amended, which became effective on December 1, 2009. The Local Rules are now available on the Bankruptcy Court's website — [www.mtb.uscourts.gov](http://www.mtb.uscourts.gov). Applicable Federal Rules of Bankruptcy Procedure are labeled "BR".

<sup>2</sup> LBR 9013-1 requires service, not merely upon certain specified parties in specified chapters, but also upon: (1) any party entitled to such under the Federal Rules of Bankruptcy Procedure and (2) any party who has requested notice. Any party filing a response or objection in which that party is required to notice the matter for hearing must consult the applicable Federal Rule to determine if there are specific noticing requirements regarding the hearing.

Description of Desired Action	Bankr. Code Section	Applicable Rules	Pleading Required Local Form	Neg. Notice Language	Required Service/Notice
Adversary Complaint	Various	BR 7001	Complaint	None	BR 7004
Adversary Proceedings: Motion Practice in	None	LBR 9013-1	Motion	14 - Day	LBR 9013-1(a)-(e)
Adversary Proceeding: Summary Judgment	None	BR 7056 LBR 7056-1	Motion	14 - Day	LBR 9013-1(a)-(e)
Adversary Proceedings: Obtaining Default Judgment when adverse party has not appeared	None	BR 7055 LBR 7055-1	Motion	None	None
Adversary Proceedings: Obtaining Default Judgment when adverse party has appeared	None	BR 7055 LBR 7055-1	Motion	None	To adverse party at least 3 days before hearing
Adversary Proceedings: Obtaining Injunctive Relief / TRO	None	BR 7065	Application	None	BR 7065
Adversary Proceedings: Pretrial Procedures in	-----	BR 7016 LBR 7016-1	-----	-----	-----
Adversary Proceedings: Removal to Bankruptcy Court	28 USC § 1452(a)	BR 9027	Notice	None	BR 9027(b)
Adversary Proceedings: Remand of Removed Case	28 USC § 1452(b)	BR 9027	Motion	14 - Day	BR 9027(d) LBR 9013-1(a)-(e)
Adequate Protection	§ 361	BR 4001 LBR 4001-1	Motion	14 - Day	BR 4001(a)(1) LBR 9013-1(a)-(e)
Admission <i>Pro Hac Vice</i>	None	LBR 2090-1(c)	Application	None	LBR 9013-1(g)(2)(K)

Description of Desired Action	Bankr. Code Section	Applicable Rules	Pleading Required Local Form	Neg. Notice Language	Required Service/Notice
<b>Alter or Amend Judgment:</b> [a/k/a motion for reconsideration/new trial/ to vacate order]	None	BR 9023	Motion	14 - Day	LBR 9013-1(a)-(e)
<b>Appeals:</b> For Stay Pending Appeal	None	BR 8005	Motion	None	BR 8008(b) LBR 9013-1(g)(2)(CC)
<b>Appeals:</b> For Certification to Court of Appeals	28 USC § 158(d)(2)	BR 8001(f)	Motion	14 - Day	BR 8008(b)
<b>Authority to Operate Business:</b> [by Trustee]	§ 721	None	Motion	14 - Day	LBR 9013-1(g)(2)(LL)
<b>Automatic Stay:</b> Continuation of Stay in Consecutive Case [individual chapter 7-11-13 case only]	§ 362(c)(3)(B)	None	Motion		Notice and hearing completed within 30 days of filing petition.
<b>Automatic Stay:</b> Continuation of Stay by Trustee on Personal Property of Individual Debtor	§ 362(h)(2) § 521(a)(6)	None	Motion		Determination by Court within applicable time set by Bankruptcy Code § 521(a)(2).
<b>Automatic Stay:</b> Debtor's Petition Date Certification of Compliance to Invoke Automatic Stay Regarding Lease of Residential Real Property	§ 362(l)(1)	None	Certification filed with petition		If objection by lessor, hearing must be held w/in 10 days after filing & service of objection
<b>Automatic Stay:</b> Debtor's Post -Petition Certification of Compliance to Continue Automatic Stay Regarding Lease of Residential Real Property	§ 362(l)(2)	None	Certification filed within 30 days of filing of petition		If objection by lessor, hearing must be held w/in 10 days after filing & service of objection

<b>Description of Desired Action</b>	<b>Bankr. Code Section</b>	<b>Applicable Rules</b>	<b>Pleading Required Local Form</b>	<b>Neg. Notice Language</b>	<b>Required Service/Notice</b>
<b>Automatic Stay:</b> Imposition of Stay by Small Business Debtor	§ 362(n)(2)	None	Motion	14 - Day	LBR 9013-1(a)-(e)
<b>Automatic Stay:</b> Imposition of Stay when two or more cases involving debtor pending within previous year	§ 362(c)(4)(B)	None	Motion filed within 30 of filing of petition	14 - Day	LBR 9013-1(a)-(e)
<b>Automatic Stay:</b> Relief from	§ 362(d)	BR 4001 LBR 4001-1	Motion LBF 8	14 - Day	BR 4001(a)(1) LBR 9013-1(a)-(e)
<b>Automatic Stay:</b> Request to Confirm Status	§ 362(c)(4)(A) § 362(j)	None	Request	None	
<b>Automatic Stay:</b> Damages for Willful Violation	§ 362(k)	None	Motion	14 - Day	LBR 9013-1(a)-(e)
<b>Avoidance of Lien</b>	§ 522(f)	BR 4003(d) LBR 4003-4	Motion LBF 24	14 - Day	LBR 4003-4 LBR 9013-1(g)(1)(D)
<b>Bankruptcy Petition Preparer:</b> Recover Excessive Fees from	§ 110(h)(3)		Motion	14 - Day	LBR 9013-1(a)-(e)
<b>Bankruptcy Petition Preparer:</b> To Enjoin Practices of	§ 110(j)(3)	BR 7001(7)	Complaint	None	BR 7004
<b>Bankruptcy Petition Preparer:</b> To Impose Fine Upon	§ 110(l)(3)	None	Motion	14 - Day	LBR 9013-1(a)-(e)

Description of Desired Action	Bankr. Code Section	Applicable Rules	Pleading Required Local Form	Neg. Notice Language	Required Service/Notice
<b>Budget Analysis and Credit Counseling:</b> Certification for 30-Day Temporary Exemption From	§ 109(h)(3)	BR 1007(b)(3)	Certification filed with petition: Official Form 1, Ex.D	None	
<b>Budget Analysis and Credit Counseling:</b> To Obtain 15-Day Extension of Temporary Exemption From	§ 109(h)(3)	BR 1007(b)(3)	Motion	None	LBR 9013-1(g)(2)(MM)
<b>Budget Analysis and Credit Counseling:</b> Damages for Willful or Negligent Failure of Agency to Comply with Requirements	§ 111(g)(2)	None	Complaint	None	BR 7004
<b>Budget Analysis and Credit Counseling:</b> Permanent Exemption From	§ 109(h)(4)	BR 1007(b)(3)	Motion	14 - Day	LBR 9013-1(a)-(e)
<b>Cash Collateral:</b> Authority to Use	§ 363(c)	BR 4001(b)	Motion	14 - Day	LBR 9013-1(a)-(e)
<b>Cash Collateral:</b> Request for Emergency Hearing [seeking authority to use]	§ 363(c)	BR 4001(b)(2)	Motion	None	BR 4001(b)(1)(C)
<b>Cash Collateral:</b> To Prohibit Use	§ 363(c)	BR 4001(a)	Motion	14 - Day	BR 4001(a)(1) LBR 9013-1(a)-(e)
<b>Claim:</b> Objection to	§ 502	BR 3007 LBR 3007-2	Objection LBF 28	30 - Day	LBR 9013-1(g)(1)(B)

Description of Desired Action	Bankr. Code Section	Applicable Rules	Pleading Required Local Form	Neg. Notice Language	Required Service/Notice
<b>Conversion:</b> Chapter 7 case to Chapter 11 [by trustee or creditor]	§ 706(b)	BR 1017(f) LBR 1017-1(b)	Motion LBF 27	14 - Day	BR 2002(a)(4) LBR 9013-1(a)-(e)
<b>Conversion:</b> Chapter 7 case to Ch. 11, 12 or 13 [by debtor]	§ 706(a)	BR 1017 LBR 1017-1(a)(1)	Motion LBF 27	14 - Day	BR 2002(a)(4) LBR 9013-1(a)-(e)
<b>Conversion:</b> Chapter 11 case to Ch. 7-12-13 [by trustee or creditor]	§ 1112(b)	BR 1017 LBR 1017-1(b)	Motion LBF 27	14 - Day	BR 2002(a)(4) LBR 9013-1(a)-(e)
<b>Conversion:</b> Chapter 11 case to Chapter 7 [by debtor]	§ 1112(a)	BR 1017(f)(2) LBR 1017-1(a)(1)	Motion LBF 27	None	LBR 9013-1(g)(2)(N)
<b>Conversion:</b> Chapter 11 case to Ch. 12 or 13 [by debtor]	§ 1112(d)	BR 1017 LBR 1017-1(a)(1)	Motion LBF 27	14 - Day	BR 2002(a)(4) LBR 9013-1(a)-(e)
<b>Conversion:</b> Chapter 12 case to Ch. 7 [by trustee or creditor]	§ 1208(d)	BR 1017 LBR 1017-1(b)	Motion LBF 27	14 - Day	BR 2002(a)(4) LBR 9013-1(a)-(e)
<b>Conversion:</b> Chapter 12 case to Chapter 7 [by debtor]	§ 1208(a)	BR 1017 LBR 1017-1(a)(4)	Notice of Conversion LBF 10	None	LBR 9007-1
<b>Conversion:</b> Chapter 12 case to Ch. 11 or 13 [by debtor]	§ 1208	BR 1017	Motion LBF 27	14 - Day	BR 2002(a)(4) LBR 9013-1(a)-(e)
<b>Conversion:</b> Chapter 13 case to Ch. 7-11-12 [by trustee or creditor]	§ 1307(c)	BR 1017 LBR 1017-1(b)	Motion	14 - Day	LBR 9013-1(a)-(e)
<b>Conversion:</b> Chapter 13 case to Chapter 7 [by debtor]	§ 1307(a)	BR 1017 LBR 1017-1(a)(4)	Notice of Conversion LBF 10	None	LBR 9007-1

Description of Desired Action	Bankr. Code Section	Applicable Rules	Pleading Required Local Form	Neg. Notice Language	Required Service/Notice
<b>Conversion:</b> Chapter 13 case to Ch. 11 or 12 [by debtor]	§ 1307(d)	BR 1017 LBR 1017-1(b)	Motion	14 - Day	LBR 9013-1(a)-(e)
<b>Chapter 11:</b> Committee, Appoint or Request for Additional	§ 1102	None	Motion	14 - Day	LBR 9013-1(a)-(e)
<b>Chapter 11:</b> Committee, Change Composition of	§ 1102	None	Motion	14 - Day	LBR 9013-1(a)-(e)
<b>Chapter 11:</b> Approve Discharge of Individual Debtor Upon Confirmation	§ 1141(d)(5)(A)	None	Motion	14 - Day	LBR 9013-1(a)-(e)
<b>Chapter 11:</b> Disclosure Statement, To Waive Requirement of or For Conditional Approval of [only by plan proponent in small business case]	§ 1125	BR 3017.1	Motion	14 - Day	BR 3017.1 LBR 9013-1(a)-(e)
<b>Chapter 11:</b> Examiner, Appointment of	§ 1104	BR 2007.1	Motion	14 - Day	LBR 9013-1(a)-(e)
<b>Chapter 11:</b> Entry of Final Decree [corporation or partnership cases only]	§ 350	BR 3022 LBR 3022-1	Application LBF 13	None	LBR 9013-1(g)(1)(AA)
<b>Chapter 11:</b> Hearing to Consider Approval of Disclosure Statement	§ 1125	BR 3017 LBR 3017	Notice from Court	None	
<b>Chapter 11:</b> Hearing on Confirmation of Chapter 11 Plan	§ 1121	BR 2002(b) BR 3017(c) BR 3018(a)	Notice from Court	None	
<b>Chapter 11:</b> Modification of Accepted Plan before Confirmation	§ 1127	BR 3019	Motion	14 - Day	BR 3019(a) LBR 9013-1(a)-(e)

<b>Description of Desired Action</b>	<b>Bankr. Code Section</b>	<b>Applicable Rules</b>	<b>Pleading Required Local Form</b>	<b>Neg. Notice Language</b>	<b>Required Service/Notice</b>
<b>Chapter 11:</b> Post-Confirmation Modification of Plan - Individual	§ 1127(e)	BR 3019(b)	Motion	14 - Day	BR 3019(b) LBR 9013-1(a)-(e)
<b>Chapter 11:</b> Post-Confirmation Request for Discharge before completion of plan payments - Individual	§ 1141(d)(5)	BR 4007(d)	Motion	14 - Day	LBR 9013-1(a)-(e)
<b>Chapter 11:</b> Trustee, Appointment of	§ 1104	BR 2007.1	Motion	14 - Day	LBR 9013-1(a)-(e)
<b>Chapter 11:</b> Trustee, Approval of Appointment	§ 1104	BR 2007.1(C)	Application by U.S. Trustee		
<b>Chapter 11:</b> Trustee, to Resolve Disputed Election	§ 1104	BR 2007.1(b)(3)(B)	Motion	14 - Day	LBR 9013-1(a)-(e)
<b>Chapter 11:</b> Trustee, Termination of	§ 1105	None	Motion	14 - Day	LBR 9013-1(a)-(e)
<b>Chapter 12:</b> Approval of Trustee's Final Report	§ 1202(b)	BR 5009 LBR 5009-1	Report	30 - Day	LBR 9007-1
<b>Chapter 12:</b> Co-Debtor Stay Relief	§ 1201(c)-(d)	None	Motion	14 - Day	LBR 9013-1(a)-(e)
<b>Chapter 12:</b> Hearing on Confirmation of Chapter 12 Plan	§ 1221	BR 2002(a)(8)	Notice from Court	None	
<b>Chapter 12:</b> Plan & Plan Summary	§ 1221	BR 3015 LBR 3015-1	Plan	None	LBR 3015-1
<b>Chapter 12:</b> Post-Confirmation Modification of Plan	§ 1229	BR 3015(g)	Motion		BR 3015(g)

<b>Description of Desired Action</b>	<b>Bankr. Code Section</b>	<b>Applicable Rules</b>	<b>Pleading Required Local Form</b>	<b>Neg. Notice Language</b>	<b>Required Service/Notice</b>
<b>Chapter 12:</b> Post-Confirmation Request for Hardship Discharge	§ 1228(b)	None	Motion	14 - Day	LBR 9013-1(a)-(e)
<b>Chapter 13:</b> Approval of Trustee's Final Report	§ 1302(b)	BR 5009 LBR 5009-1	Report		LBR 5009-1
<b>Chapter 13:</b> Debtor's Attorney's Fees in ...	§ 330(a)(4)(B)	LBR 2016-1(a), (b) and (c)	Application (if required) LBF 17	14 - Day (if required)	BR 2002(a)(6) LBR 9013-1(a)-(e)
<b>Chapter 13:</b> Co-Debtor Stay Relief	§ 1301(c) - (d)	None	Motion	14 - Day	LBR 9013-1(a)-(e)
<b>Chapter 13:</b> Plan & Plan Summary	§ 1321	BR 3015 LBR 3015-1	Plan	None	LBR 3015-1
<b>Chapter 13:</b> Post-Confirmation Request for Hardship Discharge	§ 1328(b)	BR 4007(d)	Motion	14 - Day	LBR 9013-1(a)-(e)
<b>Chapter 13:</b> Post-Confirmation Modification of Plan	§ 1329	BR 3015(g) LBR 3015-2	Motion	21 - Day	BR 3015(g)
<b>Compel Action or Enforce Order</b>	Various	None	Motion	14 - Day	LBR 9013-1(a)-(e)
<b>Compensation of Professionals</b>	§ 330 § 331	BR 2016 LBR 2016-1	Application LBF 17	14 - Day	BR 2002(a)(6) LBR 9013-1(a)-(e)
<b>Compromise or Settlement Agreement:</b> Approval of	None	BR 9019	Motion	14 - Day	BR 9019 BR 2002(a)(3) LBR 9013-1(g)(2)(II)
<b>Consolidation</b>	§ 302(b)	BR 1015(a) LBR 1015-1(b)	Motion	14 - Day	LBR 9013-1(a)-(e)

<b>Description of Desired Action</b>	<b>Bankr. Code Section</b>	<b>Applicable Rules</b>	<b>Pleading Required Local Form</b>	<b>Neg. Notice Language</b>	<b>Required Service/Notice</b>
<b>Contempt:</b> Civil	None	BR 9020	Motion	14 - Day	LBR 9013-1(a)-(e)
<b>Continuance of Hearing</b>	None	LBR 5071-1	Motion	None	LBR 9013-1(g)(2)(M)
<b>Core Proceeding:</b> Determine Existence of	28 USC § 157(b)(3)	None	Motion	14 - Day	LBR 9013-1(a)-(e)
<b>Credit:</b> To Obtain [a/k/a motion to incur debt outside of the ordinary course of business]	§ 364	BR 4001	Motion	14 - Day	BR 4001(c)
<b>Creditor Representation:</b> Disclosure, Determine Compliance with....	None	BR 2019	Motion	14 - Day	LBR 9013-1(a)-(e)
<b>Disclosure of Names of Minor Children:</b> [by UST, case trustee or auditor]	§ 112	None	Motion	14 - Day	LBR 9013-1(a)-(e)
<b>Dismissal:</b> Chapter 7 Case for failure to file schedules	§ 707(a)(3)	BR 1017 LBR 1007-1(e)	None	None	
<b>Dismissal:</b> Chapter 7 Case [by debtor]	§ 707(a)	BR 1017 LBR 1017-1(a)(2)	Motion	14 - Day	BR 2002(a)(4) LBR 9013-1(a)-(e)
<b>Dismissal:</b> Chapter 7 Case [by trustee or creditor]	§ 707(a)	BR 1017 LBR 1017-1(b)	Motion	14 - Day	BR 2002(a)(4) LBR 9013-1(a)-(e)
<b>Dismissal:</b> Chapter 7 Case for Abuse	§ 707(b)	BR 1017(e) LBR 1017-1(b)	Motion	14 - Day	LBR 9013-1(a)-(e)
<b>Dismissal:</b> Chapter 11 Case for failure to file schedules	§ 1112(e)	BR 1017 LBR 1007-1(e)	None	None	
<b>Dismissal:</b> Chapter 11 Case [by debtor, trustee or creditor]	§ 1112(b)	BR 1017 LBR 1017-1(b)	Motion	14 - Day	BR 2002(a)(4) LBR 9013-1(a)-(e)

Description of Desired Action	Bankr. Code Section	Applicable Rules	Pleading Required Local Form	Neg. Notice Language	Required Service/Notice
<b>Dismissal:</b> Chapter 12 Case for failure to file schedules	§ 1208	BR 1017 LBR 1007-1(e)	None	None	
<b>Dismissal:</b> Chapter 12 Case [by trustee or creditor]	§ 1208(c)	BR 1017 LBR 1017-1(b)	Motion	14 - Day	BR 2002(a)(4) LBR 9013-1(a)-(e)
<b>Dismissal:</b> Chapter 12 Case [by debtor]	§ 1208(b)	BR 1017 LBR 1017-1(a)(3)	Motion	<u>14 - Day</u> None if not previously converted	<u>LBR 9013-1(a)-(e)</u> or if not previously converted: LBR 9013-1(g)(2)(O)
<b>Dismissal:</b> Chapter 13 Case [by trustee or creditor]	§ 1307(c)	BR 1017 LBR 1017-1(b)	Motion	14 - Day	LBR 9013-1(a)-(e)
<b>Dismissal:</b> Chapter 13 Case [by debtor]	§ 1307(b)	BR 1017 LBR 1017-1(a)(3)	Motion	<u>14 - Day</u> None if not previously converted	<u>LBR 9013-1(a)-(e)</u> or if not previously converted: LBR 9013-1(g)(2)(O)
<b>Employment of Professional Person</b>	§ 327	BR 2014 LBR 2014-1	Application LBF 1	14 - Day	LBR 9013-1(g)(2)(A)
<b>Examine Debtor's Transactions with Debtor's Attorney</b>	§ 329	BR 2017	Motion	14 - Day	LBR 9013-1(a)-(e)
<b>Executory Contract:</b> Establish Deadline to Assume or Reject	§ 365(d)	BR 6006	Motion	14 - Day	LBR 9013-1(a)-(e)

<b>Description of Desired Action</b>	<b>Bankr. Code Section</b>	<b>Applicable Rules</b>	<b>Pleading Required Local Form</b>	<b>Neg. Notice Language</b>	<b>Required Service/Notice</b>
<b>Executory Contract:</b> Assumption or Rejection of	§ 365	BR 6006 LBR 6006-1	Motion LBF 25	14 - Day	BR 6006 LBR 9013-1(g)(1)(E)
<b>Executory Contract:</b> Extension of Deadline to Assume or Reject	§ 365(d)	None	Motion	14 - Day	LBR 9013-1(a)-(e)
<b>Exemptions:</b> Objection to	§ 522	BR 4003 LBR 4003-3	Objection LBF 29	14 - Day	BR 4003(b)(3) LBR 9013-1(g)(1)(C)
<b>Expedited Hearing:</b> Request for	None		Motion	None	LBR 9013-1(g)(2)(Q)
<b>Extension of Time:</b> Claims Bar Date in Chapters 7-12-13 [limited grounds]	§ 501	BR 3002(c)	Motion	None	LBR 9013-1(g)(2)(R)
<b>Extension of Time:</b> Claims Bar Date in Chapter 11 Case	§ 501	BR 3003(c)(3)	Motion	None	LBR 9013-1(g)(2)(R)
<b>Extension of Time:</b> Chapter 11 Plan Exclusivity Periods	§ 1121(d)	None	Motion	14 - Day	LBR 9013-1(a)-(e)
<b>Extension of Time:</b> Filing Chapter 12 Plan	§ 1221	BR 3015(a)	Motion	14 - Day	LBR 9013-1(a)-(e)
<b>Extension of Time:</b> Filing Schedules, Statements & Other Required Documents	§ 521	BR 1007(c) LBR 1007-1(e)	Motion	None	LBR 9013-1(g)(2)(FF)
<b>Extension of Time:</b> Deadline to File Complaints to Determine Dischargeability of Debt	§ 523(c)	BR 4007(c)	Motion	None	LBR 9013-1(g)(2)(E)

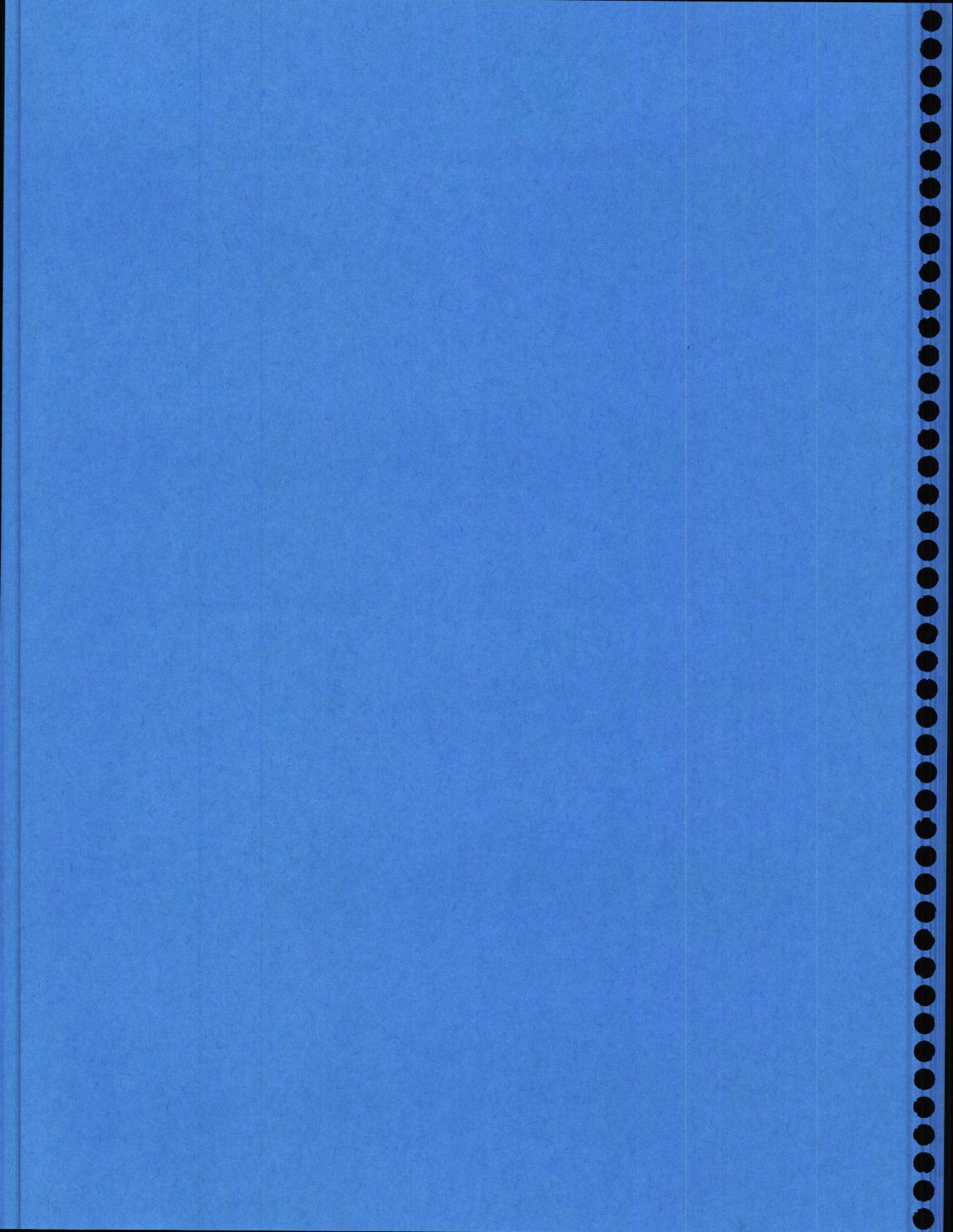
Description of Desired Action	Bankr. Code Section	Applicable Rules	Pleading Required Local Form	Neg. Notice Language	Required Service/Notice
<b>Extension of Time:</b> Deadline to File Objections to Debtor's Claim of Exemptions	§ 522(l)	BR 4003(b)	Motion	14 - Day	LBR 9013-1(g)(2)(JJ)
<b>Extension of Time:</b> Deadline to File Complaint objecting to Discharge	§ 727	BR 4004	Motion	None	LBR 9013-1(g)(2)(G)
<b>Filing Fee:</b> Request by Individual Debtor for Permission to Pay in Installments	None	BR 1006(b)	Application [Off. Form 3A]	None	LBR 9013-1(g)(2)(T)
<b>Filing Fee:</b> Request by Chapter 7 Individual Debtor To Waive Filing Fee	28 USC § 1930(f)	BR 1006(c)	Application [Off. Form 3B]	None	
<b>Financing Agreement:</b> Approval of	§ 364	BR 4001	Motion	14 - Day	BR 4001(c) LBR 9013-1(a)-(e)
<b>Health Care Business:</b> Determination of Status	§ 101(27A)	BR 1021	Motion	14 - Day	BR 1021(b) LBR 9013-1(a)-(e)
<b>Incur Secured Debt:</b> [see "Credit, to Obtain"]	-----	-----	-----	-----	
<b>Joint Administration of Cases</b>	None	BR 1015(b) LBR 1015-1(a)	Motion	14 - Day	LBR 9013-1(a)-(e)
<b>Meeting of Creditors (§341):</b> Waive Debtor's Appearance	None	None	Motion	14 - Day	LBR 9013-1(a)-(e)
<b>Meeting of Creditors (§341):</b> Waive Meeting Due to Pre-Petition Solicitation of Plan	§ 341(e)	None	Motion	14 - Day	LBR 9013-1(a)-(e)

Description of Desired Action	Bankr. Code Section	Applicable Rules	Pleading Required Local Form	Neg. Notice Language	Required Service/Notice
New Trial: [see "alter/amend judgment"]	-----	-----	-----	-----	
Notice to Parties: to Limit or Restrict...	None	BR 9007	Motion	14 - Day	LBR 9013-1(a)-(e)
Patient Care: To Waive Appointment of Patient Care Ombudsman [chapters 7-9-11 only]	§ 333(a)(1)	BR 2007.2(a)	Motion	14 - Day	LBR 9013-1(a)-(e)
Patient Care: For Appointment of Patient Care Ombudsman [chapters 7-9-11 only]	§ 333	BR 2007.2(b)	Motion	14 - Day	BR 2007.2(e) LBR 9013-1(a)-(e)
Patient Care: To Terminate Appointment of Patient Care Ombudsman [chapters 7-9-11 only]	§ 333	BR 2007.2(d)	Motion	14 - Day	BR 2007.2(e) LBR 9013-1(a)-(e)
Patient Care: Notice of Ombudsman's Intent to File 60-Day Report [chapters 7-9-11 only]	§ 333(b)(2)	BR 2015.1(a)	Notice	None	BR 2015.1(a)
Patient Care: For Authority to Review Confidential Patient Records [by Patient Care Ombudsman]	§ 333(c)(1)	BR 2015.1(b)	Motion	14 - Day	BR 2015.1(b)
Patient Care: For Authority to Dispose of Patient Records [by Trustee] [chapters 7-9-11 only]	§ 351	BR 6011	Notice	None	BR 6011
Protection Against Disclosure of Personal Information	§ 107(c)(1)	None	Motion	14 - Day	LBR 9013-1(a)-(e)
Property of the Estate: Authority to Use, Sell, or Lease	§ 363(b)	BR 6004 LBR 6004-1	Motion or Notice	14 - Day	BR 6004 BR 2002(a)(2) LBR 9013-1(a)-(e)

<b>Description of Desired Action</b>	<b>Bankr. Code Section</b>	<b>Applicable Rules</b>	<b>Pleading Required Local Form</b>	<b>Neg. Notice Language</b>	<b>Required Service/Notice</b>
<b>Property of the Estate:</b> Sell Personally Identifiable Information	§ 363(b)(1)(B)	BR 6004	Motion	14 - Day	BR 6004 IBR 2002(a)(2) LBR 9013-1(a)-(e)
<b>Property of the Estate:</b> Prohibit or Condition Use, Sale or Lease of....	§ 363(e)	BR 4001	Motion	14 - Day	BR 4001 LBR 9013-1(a)-(e)
<b>Property of the Estate:</b> Sell Free & Clear of Liens	§ 363(f)	BR 6004 LBR 6004-1	Motion	14 - Day	BR 6004(c) LBR 9013-1(a)-(e)
<b>Reconsideration of Order:</b> [see "alter or amend judgment"]	-----	-----	-----	-----	
<b>Redemption of Property from Lien or Sale</b>	§ 722	BR 6008	Motion	14 - Day	LBR 9013-1(a)-(e)
<b>Relief from Judgment or Order:</b> [when beyond 10-day filing period for m/amend or alter judgment]	None	BR 9024	Motion	14 - Day	LBR 9013-1(a)-(e)
<b>Removal of Trustee or Examiner</b>	§ 324	BR 2012	Motion	14 - Day	LBR 9013-1(a)-(e)
<b>Reopen Case</b>	§ 350	BR 5010	Motion	None	LBR 9013-1(g)(2)(V)
<b>Rule 2004 Examination:</b> Motion for	None	BR 2004 LBR 2004-1	Motion	None	LBR 9013-1(g)(2)(C)
<b>Sanctions:</b> [Contested Matter]	Various	Various	Motion	14 - Day	LBR 9013-1(a)-(e)
<b>Schedules &amp; Statements:</b> Original	§ 521	BR 1007 LBR 1007-1	Schedule	-----	

<b>Description of Desired Action</b>	<b>Bankr. Code Section</b>	<b>Applicable Rules</b>	<b>Pleading Required Local Form</b>	<b>Neg. Notice Language</b>	<b>Required Service/Notice</b>
<b>Schedules &amp; Statements:</b> Amended	§ 521	BR 1009 LBR 1009-1	Notice & Am. Schedule	-----	LBR 9013-1(g)(2)(J)
<b>Sealing of Documents</b>	§ 107	BR 9018	Motion	14 - Day	LBR 9013-1(a)-(e)
<b>Sealing of Documents:</b> False Involuntary Petition [Dismissed]	§ 303(l)(1)		Motion	14 - Day	LBR 9013-1(a)-(e)
<b>Severance of Case</b> (Bifurcation of Joint Case)	None	None	Motion	14 - Day	LBR 9013-1(a)-(e)
<b>Shorten Notice Period</b>	-----	BR 9006	Motion	14 - Day	LBR 9013-1(a)-(e)
<b>Small Business:</b> Determination of Status of Unsecured Creditors' Committee	§ 101(51D)(A)	BR 1020(c)	Motion	14 - Day	LBR 9013-1(a)-(e)
<b>Small Business:</b> Determination of Small Business Debtor Status	§ 101(51D)(A)	BR 1020	Motion	14 - Day	BR 1020(d) LBR 9013-1(a)-(e)
<b>Stipulation to Approve Under Rule 4001</b>	Various	BR 4001(d)	Motion	14 - Day	BR 4001(d)(1)(C) LBR 9013-1(a)-(e)
<b>Substitution of Attorney</b>	None	LBR 2090-5(b)	Notice	None	LBR 9007-1
<b>Suspension or Dismissal of Case under Bankruptcy Code § 305</b>	§ 305	BR 1017(d)	Motion	14 - Day	BR 1017(d)
<b>Tax Information:</b> Request for Debtor to File with Court [individual chapter 7-11-13 case only]	§ 521(f)	None	Request	None	

Description of Desired Action	Bankr. Code Section	Applicable Rules	Pleading Required Local Form	Neg. Notice Language	Required Service/Notice
<b>Tax Information:</b> Access to Information Filed with Court [individual chapter 7-11-13 case only]	§ 521(g)(2)	None	Request		
<b>Tax Liability:</b> Determination of	§ 505	None	Motion	14 - Day	LBR 9013-1(a)-(e)
<b>Utility Service Deposit:</b> Determine Adequacy of...	§ 366	None	Motion	14 - Day	LBR 9013-1(a)-(e)
<b>Vacate Order:</b> [see "alter/amend judgment"]	-----	-----	-----	-----	
<b>Valuation of Property to Determine Amount of Secured claim:</b> Determination of	§ 506	BR 3012 LBR 3012-1	Motion filed at least 30 days prior to confirmation hearing LBF 22	14 - Day	LBR 9013-1(a)-(e)
<b>Venue:</b> Change of, to District other than District of Montana	28 USC § 1412	BR 1014	Motion	14 - Day	LBR 9013-1(a)-(e)
<b>Venue:</b> Change of, to different division within the District of Montana	None		Motion	None	LBR 9013-1(g)(2)(B)
<b>Withdrawal of Attorney:</b> Debtor's Attorney	-----	LBR 2090-5(a)	Motion	14 - Day	LBR 9013-1(a)-(e)
<b>Withdrawal of Attorney:</b> Other	-----	LBR 2090-5(b)	Notice	None	LBR 9007-1
<b>Withdrawal of Pleading</b>	-----	-----			





**LOCAL BANKRUPTCY RULES  
FOR THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF MONTANA**

Honorable Ralph B. Kirscher  
Chief United States Bankruptcy Judge

Honorable John L. Peterson  
United States Bankruptcy Judge (Recall Status)

Effective December 1, 2009

**LOCAL BANKRUPTCY RULES  
FOR THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF MONTANA**

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UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA

In re

2009 AMENDMENTS TO THE LOCAL RULES FOR THE  
UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF MONTANA.

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ORDER

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IT IS ORDERED the proposed amendments to the Local Rules for the United States Bankruptcy Court for the District of Montana to be effective December 1, 2009, are hereby approved as of said effective date.

DATED: December 1, 2009.

/s/ Richard F. Cebull

HON. RICHARD F. CEBULL  
Chief United States District Judge

/Donald W. Molloy

HON. DONALD W. MOLLOY  
United States District Judge

/s/ Sam E. Haddon

HON. SAM E. HADDON  
United States District Judge

**LOCAL BANKRUPTCY RULES  
FOR THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF MONTANA**

**PART I.**

**RULE 1001-1. Scope, Applicability, and Promulgation of Local Rules; Short Title.**

(a) **Scope.** The Local Bankruptcy Rules govern practice and procedure in the United States Bankruptcy Court for the District of Montana. The Local Rules shall be cited as “Mont. LBR \_\_\_\_\_”. The term “Judge” as used in these Local Rules includes a United States Bankruptcy Judge, a United States District Judge, or any other judicial officer to which a bankruptcy case or proceeding has been referred. The term “Clerk” as used in these Local Rules refers to the United States Bankruptcy Clerk for the District of Montana. Local Bankruptcy Forms as contained in the Appendix to these Local Rules shall be cited as “Mont. LBF \_\_\_\_\_”.

(b) **Applicability.** Unless otherwise indicated, each of these Local Rules applies to cases commenced under Chapters 7, 9, 11, 12, 13 and 15 of the U. S. Bankruptcy Code and to all Adversary Proceedings.

(c) **Promulgation.** Promulgation of these Local Rules are made by the Bankruptcy Judge in accord with Rule 9029 of the Federal Rules of Bankruptcy Procedure (F.R.B.P.), and Rule 83 of the Federal Rules of Civil Procedure (Fed. R. Civ. P.).

(d) **Numbering.** Each Local Rule is numbered by reference to the corresponding Federal Rule of Bankruptcy Procedure. Except as otherwise provided, the authority for each Local Rule is the corresponding F.R.B.P.

(e) **Electronic Filing.** The Court implemented the Case Management/Electronic Case Filing System (CM/ECF) in August of 2002. **FILING THROUGH CM/ECF IS MANDATORY FOR ALL USERS IN ALL BANKRUPTCY CASES AND IN ALL ADVERSARY PROCEEDINGS, EXCEPT *PRO PER* ENTITIES (INCLUDING *PRO PER* CREDITORS WITHOUT COUNSEL).** Any entity seeking to receive training and a password to access CM/ECF, may contact the Clerk of Court.

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Related Authority:  
28 U.S.C. §§ 151, 2071, 2072 and 2075  
F.R.B.P. 1001, 5005, 9009 and 9029  
Fed. R. Civ. P. 83

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**RULE 1002-1. Petition - General.**

- (a) **Petitions.** All petitions shall conform to Official Form 1.
- (b) **Filing.** A petition commencing a case under the U. S. Bankruptcy Code shall be filed by electronic means through CM/ECF, unless the filer is *in propria persona (pro per)*, and then by filing with the Clerk's Office.
- (c) **No Blank Items.** Each item in the petition not otherwise filled out shall be completed by the entry of "none" or "not applicable," as appropriate.

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Related Authority:  
F.R.B.P. 1002 and 5005  
Bankruptcy Official Form 1

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**RULE 1005-1. Petition - Caption.**

- (a) **Debtor's Current Name.** The title of the case shall include the debtor's full and correct name.

- (1) **Corporations, Limited Liability Companies, and Partnerships.** If the debtor is a corporation, a limited liability company, or a partnership, the title of the case shall so specify as follows:

ABC, Inc., a Corporation; or XYZ, a General (or Limited) Partnership; or Blackacre, LLC.

- (2) **Joint Petitions.** Pursuant to 11 U.S.C. § 302, only a husband and wife are permitted to file a joint petition. The title of the case shall identify them as follows:

John Robert Doe, Jr., and Jane Roberta Doe.

- (b) **Other Names Used by the Debtor.** Any other names used by the debtor in the eight (8) years preceding the commencement of the case shall be included in the petition, including assumed business names or dba's and the last four digits of the social security or individual debtor's taxpayer identification number, and any other federal taxpayer identification number.

- (c) **Debtor's Current Address.** Debtor shall include a physical street address, if available, on the petition, in addition to any mailing address (if the latter is different than the debtor's street address).

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Related Authority:

**RULE 1006-1. Fees; Installment Payments.**

(a) **General Requirement.** Every petition shall be accompanied by the filing fee required by statute or by the Judicial Conference of the United States, unless waived by order of the Court pursuant to 28 U.S.C. § 1930(f) and submitted on the prescribed Official Form 3B.

(b) **Installment Payments.**

(1) **Application.** Any individual debtor desiring to pay the filing fee in installments shall use Official Form 3A .

(2) **Schedule of Payments.** The first installment shall accompany the petition, shall not be less than \$50.00 and shall include any required administrative fee. The number of installments proposed in the application shall not exceed four (4), and the final installment shall be payable within 120 days after the date the petition is filed.

(3) **Failure to Pay Installment.**

(A) **Notice of Nonpayment.** If an individual debtor fails to pay an installment as approved in the application, the Clerk shall provide written notice to the debtor, debtor's attorney, if any, and the trustee that such installment must be paid within fourteen (14) days of the notice.

(B) **Dismissal of Case.** If an individual debtor fails to pay an installment after notice and within the required time period, the Court shall issue an order of dismissal without any further notice or hearing. If the individual debtor timely pays the first delinquent installment within the fourteen (14) day period and then fails to pay any subsequent installment by the required date, the Court shall issue an order of dismissal, without any additional notice from the Clerk.

(C) **Notice of Possible Dismissal.** At the time the Clerk transmits a copy of the Order approving the application to pay in installments, the Clerk shall include with such transmission a notice of the dismissal provisions contained in this Local Rule.

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Related Authority:  
F.R.B.P. 1006  
Bankruptcy Official Form 3A

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**RULE 1007-1. Schedules, Statement of Financial Affairs, Statement of Social Security Number, and Other Official Forms.**

(a) **No Blank Items.** Each item in the schedules, statement of financial affairs and other Official Forms not otherwise filled out, shall be completed by the entry of "none" or "not applicable," as appropriate. Every blank in every form must be completed, and all of the information required by the Official Forms must be provided.

(b) **Summary of Assets and Liabilities.** In all Chapter 7, 11, 12 and 13 cases, the debtor shall file a document listing a summary of all assets and liabilities, itemizing all priority, secured, and unsecured claims, and itemizing all real and personal property, and any exemptions claimed; together with total amounts for all assets, all liabilities, and all exemptions claimed. Such summary must be amended in the event of any amendments to the debtor's schedules or statements.

(c) **Number of Copies.** No copies of the petition, schedule of assets and liabilities, statement of financial affairs, and statement of intentions shall be filed with the Clerk by an individual or entity seeking relief under Chapters 7, 9, 11, 12 or 13.

(d) **Corporate or Limited Liability Company Petition Accompanied by Resolution.** A petition filed by a corporation or a limited liability company under Chapters 7, 11 or 12 shall include a resolution adopted by the directors or members or managers and, if required by the corporate by-laws or the laws of the state of incorporation, a resolution adopted by shareholders authorizing the relief sought (or a certification by the person signing the petition or the debtor's attorney that a shareholders' resolution is not required).

(e) **Dismissal of Case.** If the schedules, statement of financial affairs and other required forms are not filed with the petition, they shall be filed within fourteen (14) days of the filing of the petition or within the time permitted by Court Order granting a motion for extension of time filed prior to the expiration of the fourteen (14) day period. If the schedules, statement of financial affairs, statement of intentions and other required forms are not timely filed, the Court shall dismiss the case, without notice or hearing to debtors or their counsel. Upon dismissal of a case under this provision, debtors, debtors' counsel, the trustee or any other party in interest shall have fourteen (14) days to request reconsideration of the order of dismissal. The request for reconsideration must contain a showing of good cause for the request, and a request for reconsideration filed by debtors or their counsel must be accompanied by the schedules, statement of financial affairs, and statement of intentions. If a case is dismissed under this provision and if no request for reconsideration is timely filed, the debtors shall be prohibited from filing another bankruptcy petition in the District for 180 days, except by leave of court granted for good cause.

(f) **Retention of Signed Copies.** Signatures on documents that are electronically filed and that require original signatures other than from the authorized CM/ECF user, must be maintained in one of the two following manners:

(1) **Original Signatures.** The original signed documents must be retained in paper form by the filer for a period of five (5) years after the case is closed; and, on the request of the Court, the U.S. Trustee, or the case trustee, the filer must provide original documents for review; or

(2) **Scanned Signatures.** The pages of the document bearing the signatures must be scanned into CM/ECF after the electronic version of the document bearing the parties' electronic signatures.

(g) **Supplemental Personal Property List.** All debtors shall prepare and file a Supplemental Personal Property List, in compliance with Mont. LBF 31; or their Schedule B list of personal property must contain substantially the same information, itemizing each item of personal property, with a separate value attributable to each item. All items of personal property must be listed and valued. For items worth more than \$50, each individual item shall be listed separately (or collections of items, such as baseball cards, stamps, coins, or compact discs) and a value must be assigned to each item (or collection). For items worth less than \$50, the existence of such items must be disclosed, describing the same in general terms or categories (e.g., clothing; or miscellaneous pictures), with an affirmative statement that they are individually or as a group worth less than \$50. All property values shall be portrayed as fair market values.

(h) **Tax Returns and Refunds.**

(1) **Restrictions Regarding Debtor's Tax Information.** Tax information filed with the Court and that which is provided to creditors and trustees is subject to the Administrative Office's guidance regarding tax information as from time to time promulgated. Any person receiving copies of the debtor's tax information shall treat the information as confidential and shall not disseminate it except as appropriate under the circumstances of the case.

(2) **Filing Tax Returns.** Except where the Court orders otherwise for good cause shown, a debtor must file all required tax returns with the proper taxing authority; and provide the trustee a copy of any tax return for the tax years subject to the Court's tax turnover order contained in Mont. LBF 35, in accordance with 11 U.S.C. §§ 521, 1116, 1308, and 1325. Failure to do so may be grounds for dismissal or conversion.

(3) **Tax Refunds.** Immediately upon receipt, all applicable income tax refunds shall be turned over to the trustee, in accordance with the Court's tax turnover order contained in Mont. LBF 35.

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Related Authority:  
U.S. Bankruptcy Code §§ 102, 109(g), 521, 1116, 1308, 1325  
F.R.B.P. 1007, 1017, 4002 and 4004

Committee Note:

The Official Bankruptcy Forms for Schedules D and F require the creditor's name, address and account number, and require the date the claim was incurred and the consideration for the claim, as well as the amount of the claim and other information. Be sure to provide an approximate date (or a range of dates) for when each debt was incurred, and indicate the underlying basis for the claim (e.g., medical bills incurred from 5/99 through 6/03). The filing of incomplete schedules or statements of financial affairs may result in denial of discharge or the disgorgement of fees.

As the Administrative Office's Guidance may change, please refer to the Court's website at [www.mtb.uscourts.gov](http://www.mtb.uscourts.gov) for the most recent version. (Director's Interim Guidance Regarding Tax Information Under 11 U.S.C. § 521)

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**RULE 1007-2. Master Mailing List.**

**(a) Filing Requirements.**

(1) **Voluntary Case.** A "master mailing list" shall be filed with the petition including the name and mailing address of every creditor, each general and limited partner for a partnership debtor, the most recent officers and directors for a corporate debtor, all equity security holders, and the members or managers of a limited liability company.

(2) **Involuntary Case.** With every involuntary petition there shall be filed a master mailing list including the name and address of each petitioner, the petitioner's attorney, the debtor, any debtor's attorney, all last known general partners if the debtor is a partnership, all last known officers if the debtor is a corporation, and the last known members and managers if the debtor is a limited liability company.

(3) **Duty to Supplement.** A supplemental mailing list setting forth newly added creditors or additional parties in interest and all previously listed creditors or parties in interest shall be filed with any schedules or amended schedules, which will replace any previously filed mailing list. Debtor's failure to file a replacement mailing list with all creditors and parties in interest including any added persons, and to certify that a Notice of Commencement of Case, if previously entered by the Clerk, has been mailed to all added parties, after notice from the Court, shall be grounds for the Court to dismiss debtor's petition without further notice or hearing.

(b) **Chapter 9 and 11 Cases.** The debtor shall file a mailing list with the list of the debtor's twenty (20) largest unsecured creditors as required by F.R.B.P. 1007(d), clearly marked "20 Largest Unsecured Creditors," which shall include the names, addresses and claims of the creditors that hold the largest unsecured claims, excluding insiders, as prescribed by the appropriate Official Form, together with a contact person for each creditor on such list.

(c) **Accuracy and Completeness.** The debtor is responsible for the accuracy and completeness of the master mailing list. When serving notices, the Clerk and any party in interest may rely exclusively on the master mailing list. It shall be the debtor's responsibility to amend the matrix whenever it appears that a creditor or other party in interest was omitted.

(d) **Printing Requirements.** The names and addresses of creditors and other parties listed in the master mailing list must be typed. Each individual name and address must consist of no more than four (4) lines; and a single space must be inserted between the name and address of each successive party. The printing of the names and addresses must be of letter quality using a typewriter, laser printer, or daisy wheel printer. Dot Matrix printers shall not be allowed as the document cannot be optically scanned. In lieu of a typewritten form, master mailing lists shall be provided to the Clerk's Office on a computer disk in "Ascii" text format if more than 100 creditors are listed.

(e) **Dismissal of Case.** If the master mailing list required by Mont. LBR 1007-2(a) and the Mailing List of the Twenty (20) Largest Unsecured Creditors, if required by F.R.B.P. 1007(d), and other required documents are not filed with the petition, they shall be filed within forty-eight (48) hours after filing the petition. If the master mailing list, the Mailing List of the Twenty (20) Largest Unsecured Creditors, schedules or statement of financial affairs and other required documents are not timely filed, the Court shall dismiss the case, with notification in the Order that the debtor may request a hearing to reconsider such dismissal within seven (7) days of the date of the Order through a proper motion provided the missing mailing lists, schedules, statement of financial affairs or other statements are included with the motion.

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Related Authority:  
U. S. Bankruptcy Code § 102  
F.R.B.P. 1007, 1017 and 9004

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#### **RULE 1009-1. Amendments to Petition, Schedules, Master Mailing List and Statement.**

(a) **Amendments Generally.** Under F.R.B.P. 1009, debtors may amend the petition, list, schedule, or statement at any time before the case is closed. Debtors shall file a notice of amendment together with the amended petition, list, schedule, or statement. *See* Mont. LBF 4. A motion to amend by debtors and an order granting such amendment is unnecessary. Debtors filing the amendment shall contemporaneously serve the amendment on all entities affected by the amendment. If a party in interest moves to amend a petition, list, schedule or statement, then a motion is required, filed in compliance with Mont. LBR 9013-1.

(b) **Interlineation.** No amendment by interlineation shall be permitted. The entire page or pages that the amendment affects shall be redrafted and filed.

(c) **Denomination of Amendment.** Any amended document shall clearly state that it is an amendment to the original.

(d) **Notification.** If the debtor files a notice of amendment adding creditors or parties in interest not previously included in the schedules or included on the mailing list, or if the amendment corrects an address or listed debt, the person filing the amendment shall serve copies of the

following on any affected creditor or party in interest and file a certificate of service verifying that such copies have been served:

- (1) the amended list or schedule;
- (2) the "Notice of Chapter [7, 11, 12 or 13] Bankruptcy Case, Meeting of Creditors, and Deadlines";
- (3) the order granting discharge, if any;
- (4) any other filed document affecting the rights of said creditor or party in interest; and
- (5) any notice or order setting or extending any deadline for filing a claim, or a complaint objecting to the debtor's discharge or to the dischargeability of a debt.

(e) **Fee for Amending Schedules.** Every amendment that adds creditors, equity security holders or parties in interest to lists, schedules or statements previously filed with the Court, or that corrects the names, addresses or debts of such entities, shall be accompanied by a fee as prescribed by the Judicial Conference of the United States.

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Related Authority:  
F.R.B.P. 1009

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**RULE 1009-2. Case Name and Number on Amendments; Verification.**

The debtor's full name and case number shall appear on the first page of any amended petition, schedules, and/or statements. Any such amendment shall be verified in the same manner as the original.

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Related Authority:  
F.R.B.P. 1007, 1008 and 1009

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**RULE 1009-3. Amendment of Petition to Add Party.**

Unless otherwise ordered by the Court, a petition may not be amended to add a spouse as a joint petitioner after the order for relief has been entered.

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Committee Note:  
Addition of a party after entry of the order for relief is a substantial change and should generally not be allowed. The

appropriate remedy is to file a second petition and file a motion to allow joint administration or consolidation.

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#### **RULE 1015-1. Joint Administration and Consolidation.**

(a) **Joint Administration.** A motion seeking the joint administration of the cases of two or more related debtors shall be made pursuant to F.R.B.P. 1015(b).

(b) **Consolidation.** A motion seeking to consolidate two or more cases shall, if granted, result in the substantive consolidation of such cases for all purposes unless otherwise ordered by the Court. The debtors' estates shall be deemed consolidated in a case jointly filed by a husband and wife, unless the Court orders otherwise.

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Related Authority:  
11 U.S.C. § 302  
F.R.B.P. 1015 and 2009

Committee Note:

While joint administration is contemplated and provided for in the F.R.B.P., the substantive consolidation of the estates of separate debtors is not. Consolidation of non-related parties is not mentioned in the Bankruptcy Code or Rules. As noted in the Advisory Committee Notes under F.R.B.P. 1015, consolidation, as distinguished from joint administration, "is neither authorized nor prohibited by this rule since the propriety of consolidation depends on substantive considerations and affects the substantive rights of the creditors of separate estates." Consolidation is a judicially created doctrine, which must be expressly sought and the grounds therefore proven. A trustee or debtor in possession must keep separate accounts of the property and distribution of each estate being jointly administered, as required by F.R.B.P. 2009(e).

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#### **RULE 1017-1. Dismissal or Conversion.**

(a) **Motions and Notices to Dismiss or Convert Filed by Debtor.**

(1) **Motion by Debtor for Conversion from Chapter 7 or 11.** A debtor seeking conversion under 11 U.S.C. § 706(a), if the case has not been previously converted from another chapter, shall file a motion for conversion to the desired chapter, with the notice required under Mont. LBR 9013-1.

A debtor seeking conversion under 11 U.S.C. § 1112(a) or (d) shall file a motion for conversion to the desired chapter, without the notice required under Mont. LBR 9013-1. Such motion will be granted without hearing.

(2) **Motion by Debtor for Dismissal from Chapter 7, With Notice.** A debtor seeking dismissal under 11 U.S.C. § 707(a) shall file a motion for dismissal setting forth alleged facts showing no plain legal prejudice to creditors, with the notice required under Mont. LBR 9013-1.

(3) **Motion by Debtor for Dismissal from Chapter 12 or 13, With Notice.** A debtor seeking dismissal under 11 U.S.C. §§ 1208(b) or 1307(b) shall file a motion for dismissal, with the notice required under Mont. LBR 9013-1.

(4) **Notice of Conversion from Chapter 12 or 13 to Chapter 7.** A debtor seeking a conversion under 11 U.S.C. §§ 1208(a) or 1307(a) to a case under Chapter 7 shall file a notice of conversion, in compliance with Mont. LBR 10. No motion and court order is required. The filing date of the notice becomes the date of conversion.

(b) **Motion to Dismiss or Convert Filed by Trustee or Other Party in Interest.** Except as provided in Mont. LBR 1017-1(c), a trustee or other party in interest may file a motion to dismiss or to convert a case to a case under another chapter in accordance with F.R.B.P. 1017, by using Mont. LBR 27, with service of the motion on the debtor, debtor's attorney and the trustee. The motion shall include a legal and factual basis for the motion, and the notice required under Mont. LBR 9013-1.

(c) **Dismissal or Conversion upon Debtor Defaulting under Terms of Confirmed Plan.** When the debtor defaults under the terms of a confirmed plan and the order confirming the plan contains the following provision: "In the event of any default under the plan, the Court may dismiss or convert this case to Chapter 7 without further notice or hearing", the Court may grant a motion for conversion or dismissal without the notice period required in Mont. LBR 1017-1(a) and without further hearing.

(d) **Dismissal of Related Title 11 Proceedings and Matters.** Whenever a case filed under Title 11 is dismissed, any related adversary proceeding, contested matter, or any other pending matter shall likewise be dismissed without prejudice and without further order of the Court, unless the Court orders otherwise. Cases with pending appeals may be dismissed, but the dismissal of the case shall not be deemed to deprive any appellate court of its jurisdiction. Dismissal shall not be deemed to deprive the Bankruptcy Court of the authority to rule on the reasonableness of the professional fees and costs charged by debtor's attorney, as provided for in Mont. LBR 2016-1(d).

(e) **Trustee's Professional's Fees.** When a Chapter 7 case is converted to another chapter, the Chapter 7 trustee shall file any application for professional fees or costs within thirty (30) days following the conversion. Failure to make such application within the time allowed may subject the fee application to denial.

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Related Authority:  
11 U.S.C. §§ 348, 349, 706, 707, 930, 1112, 1208, and 1307  
F.R.B.P. 1017 and 1019

Committee Note

A motion to dismiss or convert shall be served as required by F.R.B.P. 2002. Unless the moving party expressly consents to a continuance for a specific period of time or compelling circumstances prevent the Court from meeting the time limits established by § 1112(b)(3), the Court must commence the hearing on a motion to dismiss or convert under § 1112(b) not later than 30 days after the filing of the motion, and must decide the motion not later than 15 days after the commencement of the hearing.

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**RULE 1019-1. Conversion from One Chapter to Another.**

(a) **Debtor's Schedules Following Conversion.** Within fourteen (14) days following conversion to another chapter the debtor shall file revised schedules of assets and liabilities, as well as revised statements of income and expenses, reflecting any changes in such items since the filing of the original petition.

(b) **Notification.** If the debtor files an amendment adding creditors or parties in interest not previously included in the schedules or included on the mailing list, or if the amendment corrects an address or listed debt, the person filing the amendment shall serve copies of the required documents in compliance with Mont. LBR 1009-1.

**RULE 1074-1. Representation of Corporations, Partnerships, Limited Liability Companies, Trusts, Associations, and Other Legal Entities.**

Other than at meetings of creditors held pursuant to 11 U.S.C. § 341(a), corporations, including corporate creditors, partnerships, limited liability companies, trusts, associations, and other legal entities shall be represented in Court proceedings by an attorney. Such entities are not required to retain attorneys to file proofs of claim, reaffirmation agreements or stipulations to modify stay.

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Related Authority:  
28 U.S.C. § 1654

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**PART II.**

**RULE 2002-1. Notice to Creditors and Other Parties in Interest.**

(a) **Duty to Provide Notice.** Unless otherwise directed in these rules, or by the Court, notices shall be provided as set forth in Mont. LBR 9013-1.

(b) **Chapter 12 and 13 Plans.** Confirmation hearings with regard to Chapter 13 Plans shall be scheduled by the Clerk and notice of the time and place for such hearings shall be provided in the Notice of Chapter 13 Bankruptcy Case and Meeting of Creditors. The Clerk shall give notice of the time fixed for objecting to a proposed plan and any amendment or modification to the plan. The debtor or debtor's counsel shall be responsible to serve copies of Chapter 12 or 13 Plans or

Amended Plans on all creditors and other parties in interest, and to file a verified certification of service listing the names and addresses of all parties who were served.

(c) **Method of Service.** Notices and documents required to be sent by a party, other than the Clerk, shall be served through CM/ECF to authorized users, and by mailing (as defined in F.R.B.P. 9001(8)) to any person not authorized to use CM/ECF, unless such person has consented by notification to the Clerk that such person requests notification by a specified type of electronic transmission pursuant to F.R.B.P. 9036.

(d) **Certification of Service.** Any certificate of service must be verified and must fulfill the requirements set forth in Mont. LBR 9013-1(d)(2). The certificate of service does not need to include any person who is notified through CM/ECF, as such person is identified on the notice of electronic filing generated through CM/ECF.

#### **RULE 2002-2. Requests for Special Notice.**

Any creditor or other party in interest may request special notice and the addition of its name to the master mailing list in a bankruptcy case by using Mont. LBF 23, or any similar request form.

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Related Authority:  
F.R.B.P. 2002(a) and (g), 3015(d), 9001(8) and 9010

Committee Note:  
Persons to be served with a Request for Special Notice include the debtor, all creditors, the trustee, and the Office of the U.S. Trustee.

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#### **RULE 2002-3. Notice to United States and Montana State Agencies.**

In addition to notices required by F.R.B.P. 2002(j) and to agencies of the United States and the State of Montana listed in the schedules of creditors or mailing matrix, copies of notices shall be served, as appropriate, to the following:

(a) In all cases:

The Office of the United States Trustee and the Montana Department of Revenue at their addresses maintained on the Court's website.

(b) In all Chapter 11 cases:

Internal Revenue Service at its address maintained on the Court's website.

(c) In all Chapter 11 cases, and in all cases under other chapters in which the debtor is

aware of any claims by Montana state agencies other than the Montana Department of Revenue:

To the agency and address maintained on the Court's website.

(d) Notice of all hearings on original or modified disclosure statements or on confirmation of original or modified plans in Chapter 11 cases where the debtor is a publicly held corporation:

Securities and Exchange Commission at its address maintained on the Court's website.

(e) If the debtor is a commodity broker:

Commodity Futures Trading Commission at its address maintained on the Court's website.

(f) If the United States has a stock interest:

Secretary of Treasury at its address maintained on the Court's website.

(g) If a person seeks the name and address of a governmental entity that is not on the Court's website, the person may inquire with the Clerk of Court to determine if the Court has a name and address available that has not been placed on the Court's website.

#### **RULE 2002-4. Notice of Application for Professional Fees and Costs.**

If an application for professional fees or reimbursement of expenses exceeds \$1,000.00, except as otherwise provided in Mont. LBR 2016-1, the professional shall file with the Court and serve a notice consistent with Mont. LBR 9013-1 and Mont. LBF 18 on the debtor, all creditors, any committee, and any parties in interest requesting special notice disclosing that the professional has filed such an application with the Court. The notice shall state the specific amount of the fees and expenses being requested from the estate, subject to Court approval, and shall comply with Mont. LBR 9013-1.

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Related Authority:  
F.R.B.P. 2002(a)(6)  
Mont. LBR 2016-1, 9013-1

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#### **RULE 2003-1. Scheduling of Creditors' Meetings; Bankruptcy Information Sheet; and Debtor Declaration Sheet.**

The U. S. Trustee shall schedule creditor meetings pursuant to Rule 2003, F.R.B.P. Prior to each individual debtor's § 341 meeting, he or she will be provided and given the opportunity to read the "Bankruptcy Information Sheet" prepared by the Office of the United States Trustee, which is set forth in LBF 32. Debtors will be asked by trustees at their §341 meetings whether they have received and reviewed this information sheet. Debtors' counsel shall provide copies of the Bankruptcy Information Sheet (Mont. LBF 32) to their clients prior to their § 341 meetings in order to allow debtors sufficient time to read the same. Debtors will also be required to read and sign a Declaration of Debtor(s) Under Penalty of Perjury at their § 341 meetings, verifying the truthfulness and accuracy of their petitions, schedules and statements of financial affairs.

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Related Authority:  
11 U.S.C. §§ 341 and 343  
F.R.B.P. 2003

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**RULE 2003-2. Time Limitations of Creditors' Meetings.**

The U.S. Trustee, or case trustee, at a meeting of creditors held pursuant to 11 U.S.C. § 341(a), shall have full authority to allocate available time to each meeting scheduled during each time period, place limitations on the time allowed creditors to examine a debtor in order to conclude or adjourn all meetings within the time period scheduled, and to call the docket in such order as appears necessary to facilitate the orderly conduct of meetings.

**RULE 2003-3. Attendance and Cooperation at Creditors' Meetings.**

A debtor and debtor's attorneys shall attend the meeting of creditors held pursuant to 11 U.S.C. § 341(a), though a debtor's attorney may arrange for other counsel to attend in his or her absence, subject to proper disclosure being made pursuant to F.R.B.P. 2016, and Mont. LBR 2090-5(c), and subject to debtor's authorization. If debtor appears and debtor's attorney fails to appear, the trustee may, subject to directives from the U.S. Trustee, proceed with the scheduled meeting of creditors. In cases of joint petitions, both debtors must appear. In every case, it is the duty of the debtor and debtor's attorney to provide the trustee assigned to such case (and/or the U.S. Trustee, if requested) with copies of those documents and materials specified in Mont. LBF 33, along with a fully completed Mont. LBF 33 (which documents and Form may be sent to trustees via e-mail in .pdf format), at least fourteen (14) days prior to the first date set for the debtor's creditors' meeting held pursuant to 11 U.S.C. § 341(a), unless otherwise agreed to by the trustee, along with such other books, records and documents which the trustee or U.S. Trustee may request. Failure to provide all of these documents or other materials requested by the trustee or the U.S. Trustee, or to cooperate with any inquiry or request made of the debtor, may be grounds for dismissal, conversion or denial of discharge by the Court, upon an appropriate pleading being filed with the Court.

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Related Authority:  
11 U.S.C. §§ 341 and 343  
F.R.B.P. 4002  
Mont. LBR 4002-1(f)

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**RULE 2003-4. Continuance of Creditors' Meetings.**

An application seeking the continuance of a creditors' meeting set pursuant to 11 U.S.C. § 341(a) shall be made to the U.S. Trustee and **not** to the Court. The U.S. Trustee shall grant or deny such application as it deems appropriate. Grounds for continuance shall be based solely on extraordinary circumstances beyond the debtor's control, which shall not include unavailability of debtor's counsel. Written application for a continuance shall be in conformity with Mont. LBF 5, and shall be made at least fourteen (14) days prior to the scheduled meeting. The U.S. Trustee shall file a disposition granting or denying the application in conformity with Mont. LBF 5-A which, if the application is granted, shall include the date and time of the continued meeting. The U.S. Trustee shall serve a copy of the disposition on the debtor's attorney or on the debtor if not represented by an attorney, and to the case trustee, if applicable. If the application is granted, the debtor or debtor's attorney must notify all creditors and parties in interest of the continuance, including the case trustee, if applicable, at least seven (7) days prior to the original date set for the meeting. Such notice shall be in conformity with Mont. LBF 6. Proof of service of the mailing of such notice of continuance shall be filed with the Clerk of Court.

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Committee Note:

The U.S. Trustee's calendar of dates for creditor meetings held pursuant to 11 U.S.C. § 341(a) is set generally three months in advance and can be reviewed at the U.S. Trustee's website located at [www.usdoj.gov/ust/r18g\\_home.htm](http://www.usdoj.gov/ust/r18g_home.htm). The UST has the authority to grant or deny continuances of § 341(a) meetings. The application for continuance form (Mont. LBF 5) must be served upon the U.S. Trustee and **should not be filed with the Court**. The notice of continuance form (Mont. LBF 6), if granted, must be served upon all creditors, the trustee and the UST.

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**RULE 2003-5. Debtor Identification at Creditors' Meetings; and Debtor Declarations.**

All debtors are required to bring to § 341(a) meetings of creditors **ORIGINAL** forms of picture identification and proof of social security number. Acceptable forms of *proof of identification* include the following original or certified documents, provided they contain a photograph of the debtor: (1) driver's license; (2) government ID; (3) state picture ID; (4) student ID; (5) U.S. passport; (6) military ID; and (7) resident alien card. Acceptable forms of *proof of social security number* include the following original or certified documents: (1) social security card; (2) medical insurance card; (3) pay stub; (4) W-2 form; (5) IRS form 1099; and (6) Social Security Administration report. Debtors shall also sign a Declaration of Debtor(s) Under Penalty of Perjury form (Mont. LBF 36) at the time of their creditors' meeting, to be retained by the trustee or U.S. Trustee.

**RULE 2003-6. Oral Notice of Continuance of Creditors' Meetings.**

At the sole discretion of the case trustee, oral notice of a continuance or adjournment may be given at the time of the creditors' meeting held pursuant to 11 U.S.C. § 341(a). Written notice of the oral continuance of the creditors' meeting shall be filed with the Clerk by the trustee.

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Related Authority:  
F.R.B.P. 2003(e)

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**RULE 2003-7. Failure to Appear at Creditors' Meetings.**

If a debtor fails to appear at the meeting of creditors scheduled pursuant to 11 U.S.C. § 341(a), the case may be dismissed or converted by the Court upon notification by the trustee or the U. S. Trustee of debtor's failure to appear (*See* Mont. LBF 7 and 7-A), unless the debtor or the debtor's attorney filed an application for continuance not later than fourteen (14) days prior to the scheduled creditors' meeting, as required under Mont. LBR 2003-4 above, and such application was granted by the U. S. Trustee. Failure to timely file an application for continuance may result in the case being dismissed or converted, unless the trustee or other party in interest requests that the case remain open or in the present chapter. If one debtor in a joint case fails to appear, the Court may bifurcate the joint case and dismiss or convert the absent debtor's case.

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Committee Note:

The panel trustee may request that the case remain open or remain in its present chapter and is further allowed to oppose the entry of the debtor's discharge based on failure to appear. 11 U.S.C. §§ 704 and 727. Note also that dismissal on this ground falls within the scope of 11 U.S.C. § 109(g)(1) regarding filing of a subsequent petition.

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**RULE 2004-1. Rule 2004 Examinations.**

Any party in interest moving the Court for an order allowing the examination of an entity pursuant to F.R.B.P. 2004 shall make such motion in compliance with Mont. LBF 15 and shall provide a form of order in compliance with Mont. LBF 16.

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Related Authority:  
F.R.B.P. 2004 and 2005

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**RULE 2007-1. Patient Care Ombudsman.**

Immediately upon the filing of a Chapter 7, 9 or 11 case involving a health care business, as that

term is defined in 11 U.S.C. § 101(27A), or in any other case in which it appears that the appointment of a patient care ombudsman under 11 U.S.C. § 333 may be required, the debtor or its attorney shall notify the Court and the U.S. Trustee of the potential need to appoint a patient care ombudsman.

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Related Authority:  
11 U.S.C. § 333  
F.R.B.P. 2007.2, 2015.1, 2015.2 and 6011

Committee Note:

The Court is required to appoint a patient care ombudsman in every Chapter 7, 9 or 11 case in which the debtor is a health care business, unless, on motion of the U.S. Trustee or another party in interest filed not later than twenty-one (21) days after the commencement of the case or within another time fixed by the Court, the Court finds that such appointment is not necessary for the protection of patients under the specific circumstances of the case. It is thus imperative that the Court and the U.S. Trustee receive notification immediately upon the filing of a case involving a health care business.

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**RULE 2014-1. Applications for Employment of Professionals.**

All applications to approve the employment of professionals by the trustee, debtor in possession or committee, filed pursuant to F.R.B.P. 2014, in cases under Chapters 7, 11, 12, 13 or 15, shall be in conformity with Mont. LBF 1. Submission of a proposed form of order approving an employment application shall not be necessary. Absent compelling circumstances, no compensation may be earned by professionals retained by the trustee or debtor in possession until after the filing of the application.

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Related Authority:  
11 U.S.C. §§ 326, 327, 329, 330 and 504  
F.R.B.P. 2014, 2016 and 6003

Committee Note:

No requirement exists under the F.R.B.P. or Code for a debtor's attorney to seek approval of employment in a Chapter 7 or 13 case. However, if such attorney seeks compensation as an administrative expense under § 330(a), Mont. LBR 2016-1 applies. *Lamie v. U.S. Trustee*, 540 U.S. 526 (2004) held § 330(a)(1) does not allow compensation to debtors' attorneys from the estate unless they are employed in a Chapter 7 case by the trustee under § 327 with Court approval. Section 329 of the Code applies to an attorney representing a debtor under any chapter of the Code, regardless of whether the attorney applies for compensation under F.R.B.P. 2016.

It should be noted that F.R.B.P. 6003 now provides that within 21 days after the filing of a petition, the Court shall not grant relief regarding an application under Rule 2014, except to the extent that relief is necessary to avoid immediate and irreparable harm. The Court can make the order approving retroactive to the date of its filing.

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**RULE 2014-2. Standard Forms of Attorney Retention Agreements.**

(a) **Chapter 7.** All attorneys representing debtors in Chapter 7 are encouraged to use the standard form of Attorney Retention Agreement in conformity with Mont. LBF 3.

(b) **Chapter 13.** All attorneys representing debtors in Chapter 13 cases shall use the standard form of Attorney Retention Agreement in conformity with Mont. LBF 3-A, if they wish to have the presumption of reasonableness of their fees as described in Mont. LBR 2016-1(b).

**RULE 2015-1. Trustee's Administrative Expenses.**

A Chapter 7 trustee may expend up to \$1,500.00 for administrative expenses to preserve or protect estate assets, and may pay the fees and costs of professionals employed by the trustee or postpetition taxes owed by the estate, if they do not exceed \$1,500.00 in the aggregate per individual or entity, without prior order of the Court, provided preliminary notice is provided to the Office of the United States Trustee, and the trustee shall account for such fees and expenditures in the trustee's final motion for approval of compensation and expenses.

**RULE 2015-2. Monthly Operating and Other Reports to the Court and United States Trustee.**

All Chapter 11 debtors in possession (or trustees, if applicable) shall electronically file monthly operating reports with the Court, on such forms and in such manner as designated by the U.S. Trustee, on or before the 14<sup>th</sup> day of each month following the month for which such report pertains. Debtors in possession shall also timely file such other periodic reports and summaries of the operation of the debtor's business, including a statement of receipts and disbursements, and such other information as the Court or the U.S. Trustee requires. If the U.S. Trustee files a Notice of Delinquent Monthly Operating Report, in compliance with Mont. LBF 12-A, the Court shall immediately schedule a hearing and require the debtor in possession to show cause why the case should not be dismissed or converted due to the untimely filing of the monthly operating reports. Debtors in possession, or their representative if a corporation or other entity, must personally attend any hearing conducted pursuant to this local rule.

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Related Authority:

11 U.S.C. §§ 704(a)(8), 1106 and 1107; and 28 U.S.C. § 1930(a)(6)  
F.R.B.P. 2015(a)

Committee Note:

Additional reporting and informational requirements are imposed upon debtors in possession in small business cases pursuant to 11 U.S.C. § 1116.

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**RULE 2016-1. Applications for Compensation of Professionals.**

(a) **Applications.** All applications for fees and costs of professionals filed pursuant to F.R.B.P. 2016 in cases under Chapters 7, 11, 12, 13 or 15 shall be in conformity with Mont. LBF 17. No

compensation or reimbursement of expenses shall be paid a professional, including from a retainer, until allowed by order of the Court under this Rule. Mont. LBR 2002-4 requires special notice when requests for compensation exceed \$1,000.00. In all Chapter 13 plans, amended plans or modified plans, Debtors' counsel shall estimate the total amount of their attorneys' fees and costs, reflect any retainer paid, and specify the total amount of attorneys' fees and costs to be paid through their clients' plans, in conformity with Mont. LBF 19. If Debtors' counsel will be seeking total attorney fees and costs (including any retainer previously paid) that exceed the presumed reasonable amounts set forth in subpart (b) below, then counsel shall file a professional fee application in conformity with Mont. LBF 17 prior to the plan confirmation hearing (or a hearing on approval of the modification of a previously confirmed plan).

The U. S. Trustee has established "Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses Filed Under 11 U.S.C. § 330" (Appendix A to 28 C.F.R. §58) which are contained in the Appendix to these Local Rules. The U. S. Trustee has determined that compliance with the project billing format will not be required for applications seeking professional fees in an amount less than ten thousand dollars (\$10,000).

Professional fees shall be documented through contemporaneous billing records. Each task shall be itemized separately, identifying the task performed, the amount of time involved, and the fee for each time entry. The Court may deny compensation for tasks which are lumped together in one entry if the cumulative time for those tasks exceeds one hour. Lumping shall be permitted for cumulative tasks which do not exceed one hour. Professionals shall be allowed compensation at the professional's usual hourly rate for reasonable and necessary travel time.

**(b) Presumed Reasonable Fees in Chapter 13.** In a Chapter 13 case, if debtor's plan is confirmed, and if debtor's attorney uses the standard form of Attorney Retention Agreement set forth in Mont. LBF 3-A and attaches it to the Disclosure of Compensation filed pursuant to F.R.B.P. 2016(b), and if professional fees for the debtor's attorney do not exceed \$3,500.00, and costs (inclusive of the filing fee) do not exceed \$500.00, no application for such fees under subpart (a) will be required and no order authorizing such fees shall be necessary. A presumption shall exist that fees referred to in this subpart are reasonable and necessary, and no evidence will be required to establish the same as an administrative expense unless the U. S. Trustee, trustee, or another party in interest files a timely objection to such fees, or the Court, *sua sponte*, sets a hearing on such fees. If attorney fees or costs exceed the allowed amounts noted above, the professional must file an application pursuant to this rule, and submit evidence that the entire amount of fees and costs requested are reasonable and necessary for the proper representation of the debtor.

**(c) Special Rules for Chapter 11, 12 and 13 Cases.** In cases under Chapters 11, 12 and 13, reports reflecting the total of all fees and costs of professionals must be filed at least annually as long as the cases remain pending before the Court. Unless otherwise approved by the Court, authorization for any professional to receive postpetition payments from the debtor, or from any other sources for the benefit of the debtor, must be sought by written application on proper notice and shall be granted only upon a demonstration of reasonableness and necessity. Unless the

Court orders otherwise, any approved postpetition retainer or payments to professionals must be deposited into a trust account and remain in such account until the Court enters an order allowing removal. Fees in excess of the retainer held by an attorney for a Chapter 12 or 13 debtor must be paid through the Chapter 12 or 13 plan as an administrative expense pursuant to 11 U.S.C. § 503(b)(2).

(d) **Fees in Dismissed Cases.** All professionals shall file with the Court a final Rule 2016(b) Disclosure of Compensation, reflecting the total amount of all fees and costs that have been or will be charged to their debtor clients for all services performed through the conclusion of the case in all cases which are dismissed. The purpose of this rule is to allow the Court and other parties in interest to know the total amount charged to debtors in every case, under every chapter, prior to dismissal. The Court shall retain jurisdiction to order the filing of a formal fee application if requested by any entity or the Court, and to hear and rule on the reasonableness and necessity of all professional fees in dismissed cases prior to the entry of a Final Decree.

(e) **Allowed Expenses.** In addition to a professional's fees and compensation, the following expenses shall be allowed at the actual cost to the professional: postage, long-distance telephone, facsimile charges, computerized legal research, travel-related expenses, and other expenses associated with the professional's representation of the party, provided they are shown to be reasonable and necessary. Photocopy costs shall be presumed reasonable and shall be allowed at the rate of \$.10 per page, unless the professional proves a greater actual cost; provided they are shown to be necessary. Mileage shall be presumed reasonable and shall be allowed at the federal rate provided by the regulations of the Internal Revenue Code for travel by private automobile, unless the professional proves a greater actual cost; provided such mileage is shown to be necessary.

(f) **Claims for Postpetition Fees by Creditors.** If a creditor wishes to recover reasonable postpetition fees, postpetition costs, or postpetition charges provided for under the agreement under which the claim arose as a portion of the creditor's allowed claim, the professionals retained by such creditor must file a fee application in accordance with the standards set forth in 11 U.S.C. § 330 and F.R.B.P. 2016(a). Reasonable fees and expenses of such professionals may be allowed by the Court as a portion of the creditor's allowed claim. Prepetition fees, prepetition costs, or prepetition charges incurred prior to the date of debtor filing the bankruptcy petition shall be itemized in the creditor's proof of claim. If professional fees and costs do not exceed \$500.00 for the filing of a motion for relief from the automatic stay pursuant to Mont. LBR 4001-1(a), such fees and costs shall be presumed to be reasonable, and no application for the same will be required and no order authorizing such fees and costs shall be necessary.

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Related Authority:  
11 U.S.C. §§ 330 and 506(b)  
F.R.B.P. 2016 and 2017  
Mont. LBR 2002-4

Committee Note:

In a Chapter 13 case, if the total amount of fees charged by a debtor's attorney exceeds the presumed reasonable fee described in subpart (b) of this rule, the attorney must file a formal fee application with the Court detailing the total amount of fees and costs charged to the debtor. It shall be insufficient for the attorney to simply state that the fee will be a set dollar amount "plus \$ X dollars per hour thereafter." At the conclusion of all services, a final fee application shall be submitted to the Court for review under this rule, if the total fees and costs exceed those specified herein.

If Debtors' counsel anticipates that their total attorneys' fees may exceed the presumed reasonable fee set forth in subpart (b) of this Local Rule, they should set forth language in their Rule 2016 disclosures of compensation what their hourly rate will be for services rendered beyond the no-look fee (which hourly rate should be the same as set forth in the Montana Chapter 13 Model Retention Agreement, if this is employed by counsel).

All creditors are entitled to request postpetition fees if provided for in the underlying contract. *See Centre Insurance Co. v. SNTL Corp. (In re SNTL Corp.)*, 2009 WL 1758759 (9th Cir. 2009). The Local Rule allowing fees and expenses to a creditor only applies if such creditor seeks reasonable fees and expenses as a portion of the creditor's allowed claim. The Court has no interest in reviewing the fee arrangement or the fees and expenses incurred between the creditor and the professional if the creditor is paying such fees and expenses and is not seeking such fees and expenses as a portion of the creditor's allowed claim. Pursuant to F.R.B.P. 2002(a)(6), and Mont. LBR 2002-4, if the amount of fees and costs exceed \$1,000, then the debtor, and all parties in interest requesting special notice must be served with the notice of application for professional fees and costs (by using Mont. LBF 18).

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**RULE 2016-2. Attorney Fees Paid Through Chapter 13 Plans.**

Except for prepetition retainers, all of debtor's attorney's fees and costs shall be paid through the Chapter 13 Plan unless otherwise ordered. Debtor's attorney may not receive the payment of fees or the reimbursement of expenses directly from the debtor, or from another party on behalf of the debtor, other than the prepetition retainer, without Court authorization. Court authorization shall also be required in all Chapter 13 cases that are dismissed or converted to another chapter, either before or after plan confirmation, when the total fees and costs exceed those presumed to be reasonable under Mont. LBR 2016-1(b). See also Mont. LBR 2016-1(d) with regard to dismissed Chapter 13 cases.

**RULE 2090-1. Admission to Practice Before the Bankruptcy Court.**

(a) **Admission of Attorneys.** Admission to the Bar of this Court is limited to attorneys of good moral character who are members in good standing of the State Bar of Montana. Except as provided herein, the Local Rules of Procedure of the U.S. District Court for the District of Montana, as amended, shall govern the admission of attorneys to practice before the U. S. Bankruptcy Court for the District of Montana.

(b) **Attorneys for the United States.** An attorney who is not eligible for admission under Mont. LBR 2090-1(a) but who is a member in good standing of and eligible to practice before the Bar of any United States Court or of the highest court of any state or of any territory or insular possession of the United States, who is of good moral character, may practice in this Court in any matter in which that attorney is employed or retained by the United States or its agencies and is representing the United States or any of its officers. Attorneys permitted to practice in this Court

are subject to the jurisdiction of the Court with respect to their conduct to the same extent as members of the Bar of this Court.

(c) **Admission by *pro hac vice*.** An attorney not eligible for admission under Mont. LBR 2090-1(a) but who is a member in good standing of and eligible to practice before the Bar of any United States Court or of the highest court of any state or of any territory or insular possession of the United States, who is of good moral character, and who has been retained to appear in this Court, may, upon written application to and in the discretion of the Court, be permitted to appear and participate in a particular case. Application shall be in accordance with L.R. 83.3(e) of the Local Rules of Procedure for the U.S. District Court for the District of Montana.

(d) **Application.** The *pro hac vice* application shall be presented to the Court and shall state under penalty of perjury: (1) the attorney's residence and office addresses, including an office telephone number, facsimile number, and an e-mail address, if available; (2) by what court(s) the attorney has been admitted to practice, the date(s) of admission and the date(s) of termination; (3) that the attorney is in good standing and eligible to practice in these courts; (4) whether the attorney has ever been held in contempt, disciplined or sanctioned by any state or federal court and the name of the court issuing such order and the date of the order, together with a copy of the order; and (5) whether the attorney has previously requested a *pro hac vice* application from this Court and the case number within which the application was requested. The attorney shall further designate in the application the name and address of the local attorney who must be a member of the Bar of this Court, with whom the Court and opposing attorney may readily communicate regarding the conduct and the status of the case and upon whom papers shall be served.

(e) **Local Attorney.** The requirement to associate a local attorney admitted to practice before the U. S. Bankruptcy Court for the District of Montana may, on motion, be waived by the Court on a case-by-case basis. If such association is not waived, the local attorney shall be served with copies of all pleadings, shall attend all hearings or trials, shall be continually informed by the attorney admitted by *pro hac vice* of the current status of all negotiations and matters occurring in the case or proceeding, and shall have the local attorney's name, address, telephone and facsimile numbers, and e-mail address on all pleadings.

(f) **Fee.** The fee established for *pro hac vice* admission by the U.S. District Court for the District of Montana shall accompany the application, shall be payable to the U.S. District Court, and shall be nonrefundable.

(g) **Revocation.** The Court may revoke *pro hac vice* admission for cause at any time without a hearing.

#### **RULE 2090-2. Notice of Change of Status.**

An attorney who is a member of the Bar of this Court or who has been permitted to practice in this Court under Mont. LBR 2090-1 shall promptly notify the Court of any change in the

attorney's status in another jurisdiction which would make the attorney ineligible for membership in the Bar of this Court or ineligible to practice in this Court.

**RULE 2090-3. Standards of Professional Conduct.**

The standards of professional conduct for attorneys practicing in this Court shall include the American Bar Association's Model Rules of Professional Conduct and the Montana Rules of Professional Conduct. For a willful violation of any of these Professional Rules or of Mont. LBR 2090 in connection with any matter pending before this Court, an attorney may be subjected to appropriate disciplinary action by the Court or by any judge of the Court. In addition, the Court may refer the matter to the appropriate regulatory agency for disciplinary proceedings.

**RULE 2090-4. Attorney Discipline, Suspension and Disbarment.**

This Court shall enforce the disciplinary rules set forth in L.R. 83.14 of the Local Rules of Procedure of the U.S. District Court for the District of Montana, as amended, when circumstances warrant discipline in this Court. The reference to "Chief Judge" in the Local Rules of Procedure of the U.S. District Court for the District of Montana, as amended, and as incorporated herein shall mean the Chief Bankruptcy Judge or other bankruptcy judge designated by the Chief Bankruptcy Judge.

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Committee Note:

According to *Price v. Lehtinen (In re Lehtinen)*, 2009 WL 1119530 (9<sup>th</sup> Cir. 2009), a Bankruptcy court has the inherent power to disbar or suspend an attorney from practice, provided appropriate due process is afforded.

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**RULE 2090-5. Temporary Co-Counsel; and Attorney Withdrawal.**

(a) **Withdrawal or Substitution of Attorney for a Debtor.** An attorney representing a debtor may withdraw from any case or proceeding, provided either:

(1) a motion filed in compliance with Mont. LBR 9013-1, with notice, is served on both the attorney's client(s) and on any opposing attorney, allowing the client(s) or opposing attorney to file a response and request a hearing; or

(2) a consent to withdrawal is signed by the attorney and the client(s) and filed with the Court, wherein the debtor, if an individual, specifies that the debtor at the specified address and phone number(s) will appear on the debtor's own behalf; or there is filed with the consent an appearance by a newly retained attorney; or the debtor, if a legal entity, specifies the name, address, phone and facsimile number, and e-mail address of the newly retained and substituting attorney.

If no response and request for hearing are filed within the fourteen (14) day period provided by

Mont. LBR 9013-1 in subparagraph (1) above, then the Court may either routinely grant the motion without a hearing, or may set the motion for hearing.

If, with the consent to withdrawal, the newly retained and substituting attorney files an appearance identifying the name, address, phone and facsimile number, and e-mail address of the substituting attorney, no hearing is necessary and approval by the Court will be routinely granted.

Attorneys commencing employment in the case as newly retained and substituting attorneys for a debtor shall file a statement pursuant to F.R.B.P. 2016(b) and otherwise fully comply with Mont. LBR 2016-1 and these rules.

(b) **Withdrawal or Substitution of Other Attorneys.** Notice of withdrawal or substitution of attorneys other than debtor's attorney shall be deemed effective upon filing with the Clerk and shall be served upon all parties to the proceeding, the case trustee, and the U.S. Trustee.

(c) **Temporary Co-Counsel at Creditors' Meetings or Court Hearings.**

In the event it becomes necessary for temporary co-counsel to appear on behalf of debtors at a creditors' meeting held pursuant to 11 U.S.C. § 341(a), or in a hearing before the Court, such counsel shall file a statement as required by F.R.B.P. 2016(b), outlining such compensation as will be paid to such counsel by the debtors, if any, and the nature and limitations of any legal services to be provided by such temporary counsel. This statement shall be filed prior to the commencement of any legal services and shall be served on the debtor, the trustee and the U.S. Trustee. At the conclusion of such temporary counsel's services on behalf of the debtors, counsel shall file a "Notice of Withdrawal as Temporary Counsel for Debtor(s); With No Change in Original Attorney for Debtor(s)," in conformity with Mont. LBF 2. Such withdrawal as temporary counsel shall be effective immediately upon filing, without further notice, hearing or order.

(d) **Notice for Removal from Service.** An attorney no longer wishing to receive notices in a case or proceeding may file a notice requesting that such attorney's name be removed from any service list utilized in CM/ECF or in any certificate of service.

(e) **Pro Per Litigants.** If a party without an attorney fails to appear and respond in the case or proceeding after an attorney has withdrawn, defaults and other prejudicial decisions may be entered against such party.

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Related Authority:  
11 U.S.C. §§ 329 and 504  
F.R.B.P. 2014 and 2016  
Mont. LBR 2090-3 and 2090-5

Committee Note:

Any attorney agreeing to act as temporary counsel for a debtor to attend a creditors' meeting or court hearing on behalf of such debtor must file a declaration of fees pursuant to F.R.B.P. 2016(b), notifying the Court and others that a fee has been paid to such counsel by the debtor (or that a fee will not be paid, if such is the case), and specifying the amount of such fee, if any, and the nature of and any limitations on the legal services to be provided by such temporary counsel. 11 U.S.C. § 504 prohibits any fee sharing between attorneys who are not members of the same firm, so any fee paid to a temporary co-counsel must be paid directly by the debtors. Co-counsel appearing under these circumstances should carefully consider the ethical issues that are attendant upon appearing as co-counsel, as well as the disclosures which should be made by debtor's regular counsel about the use of temporary co-counsel for purposes of appearing with the debtor at the § 341(a) creditors' meeting.

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**RULE 2090-6. Communications with the Court and *Ex Parte* Motions and Applications.**

The Court will not receive and review letters or other communications from attorneys or any parties that do not indicate on their face that copies have been sent to all opposing attorneys or *pro per* litigants. As appropriate, such communications may be transmitted to appropriate parties and attorneys in the case. *Ex parte* motions or applications for orders will not be granted unless it is indicated in the motion or application that the adverse party or attorney has been advised of the request, unless an emergency exists as set forth in an affidavit submitted under penalty of perjury.

**RULE 2091-1. Student Practice Rule.**

(a) **Purpose.** This Court and the Bar are responsible for providing competent legal services. This rule is adopted to assist practicing attorneys in providing legal services and to encourage law schools to provide clinical instruction in diverse trial work.

(b) **Activities.**

(1) An eligible law student may appear in this Court on behalf of any person in any case or adversary proceeding if:

(A) the person on whose behalf the student is appearing has consented in writing to the appearance and the supervising attorney has approved the appearance in writing; and

(B) the supervising attorney is personally present throughout the case or proceeding and is fully responsible for the manner in which the case or proceeding is conducted.

(2) In each case the written consent and approval referred to above shall be filed in the record of the case or proceeding and shall be brought to the attention of the Court.

(c) **Requirements and Limitations.** To proceed under this Rule, the law student must:

- (1) be duly enrolled in a law school approved by the American Bar Association;
- (2) have completed legal studies amounting to at least two-thirds of the total credit hours required for graduation;
- (3) be certified by the Dean or designate of the student's law school as being of good moral character and competent legal ability and as being adequately trained to perform as a legal intern;
- (4) be introduced to the Court by a member of the Bar of this Court;
- (5) neither ask for nor receive any compensation or remuneration of any kind from the person on whose behalf the student renders services; but this shall not prevent an attorney employer, law school, or governmental agency from paying compensation to the eligible law student, nor shall it prevent any of the foregoing from making such charges for its services as it may otherwise properly require; and
- (6) certify in writing that the student has read and is familiar with and will abide by the American Bar Association's Model Rules of Professional Conduct and the Montana Rules of Professional Conduct.

(d) **Certification.** The certification of a student by the Law School Dean or designate:

- (1) shall be filed with the Clerk of Court, and, unless it is sooner withdrawn, shall remain in effect for twelve (12) months after it is filed, or until the student's admission to any bar, whichever occurs first. Under exceptional circumstances, the Dean or designate may renew the certification for one more twelve (12) month period. Law school graduates are eligible to practice under this Rule until the results of the first bar examination after their certification under this Rule are announced;
- (2) may be withdrawn by the Dean or designate at any time by mailing a notice to that effect to the Clerk of Court, who shall forthwith mail copies thereof to the student and the supervising attorney; and
- (3) may be terminated by this Court at any time without notice or hearing and without any showing of cause.

(e) **Supervision.** The attorney under whose supervision an eligible law student participates in any of the activities permitted by this Rule shall:

- (1) be a member in good standing of the Bar of this Court;
- (2) assume personal professional responsibility for the student's guidance in any work undertaken and for supervising the quality of the student's work; and

(3) assist and counsel the law student in the activities mentioned in these Rules and review such activities with such student to ensure the proper practical training of the student and the protection of the client.

(f) **Pro Per Representation.** Nothing contained in this rule shall affect the right of any person who is not admitted to practice law to do anything that person might lawfully have done prior to the adoption of this Rule.

### PART III.

#### **RULE 3001-1. Proof of Claim for Unsecured Deficiency.**

An undersecured claim which requires an allowance for a deficiency resulting from the enforcement of a security agreement, shall be accompanied by:

- (a) excerpts of the security and perfection documents that are directly germane to establishing the claim;
- (b) a summary of the remaining principal balance of the debt, together with the amount of accrued unpaid interest claimed, calculated as of the date of the commencement of the debtor's bankruptcy case, and the total amount alleged due;
- (c) a description of the collateral; and
- (d) if repossession has occurred, the date of repossession or seizure, whether the sale was public or private, the date of sale, sale price, person to whom sold, the date notice of the sale was given to the debtor and to the trustee, and an itemization of the credit allowed toward the original debt.
- (e) If repossession has not occurred, the estimated time for the proposed method of liquidating the security must be given. The creditor must file a proof of claim stating the dollar amount of the claim which is unsecured (or a good faith estimate, with details providing the basis for such estimate). If the dollar amount of the unsecured component of an undersecured claim is not specified in a proof of claim, as required by this rule, a trustee or debtor in possession may disregard any unsecured component of an undersecured claim. A trustee or debtor in possession need not calculate the unsecured component by attempting to subtract the alleged value of the undersecured creditor's collateral from the total amount of the creditor's claim.

Failure to comply with this rule shall be deemed a waiver of any unsecured component of a claim, without need for formal objection by the trustee or debtor in possession, and without need for a hearing.

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Related Authority:

Committee Note:

This rule is intended to provide the Court, the debtor and the trustee with precise information concerning the dollar amount of the secured and unsecured components of an undersecured claim. A creditor with an undersecured claim should specify the information required by this rule in order to separately designate the secured component of its claim and the unsecured component of its claim. In the event an undersecured claim does not specify the dollar amount of the unsecured deficiency, the unsecured component may be disregarded by a trustee or debtor in possession. A beneficiary under a trust indenture or deed of trust covered by the Small Tract Financing Act of Montana may not be allowed a deficiency claim.

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**RULE 3001-2. Attachments to Proof of Claim.**

A proof of claim shall include those documents required by F.R.B.P. 3001(c) and (d); and an itemized summary of the account showing, **as of the date of the commencement of the debtor's bankruptcy case**, the unpaid principal balance, all accrued interest, forced-placed insurance, late charges, and other charges; the rate of contract or other interest; and the per diem interest accrual as of the date of the commencement of the case. Entities filing documents or attachments not prepared in electronically produced text shall scan and electronically file only excerpts of the documents that are directly germane to the matter under consideration by the Court. Excerpted material must be clearly and prominently identified as such, and the complete exhibit must be made available to the attorneys and the Court on request. Entities filing excerpts do so without prejudice to their right to file by electronically scanning additional excerpts or the complete document with the Court. Responding entities may file by electronically scanning additional germane excerpts. Filing attachments by other than electronic means will not be allowed, except as permitted at the discretion of the Court. *See* Mont. LBR 5003-2. The following documents must be attached to any secured proof of claim and sent to the case trustee (or debtor's attorney in a Chapter 11 case): those pages of all notes, contracts or other agreements, and security and perfection documents, reflecting the names and addresses of the subject parties; the date signed, the date filed and/or recorded and/or perfected; the dollar amount of the debt; the description of the collateral; and all other information which might be necessary for a trustee or debtor in possession to verify the nature and amount of the debt, and the validity and perfection of the underlying lien.

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Related Authority:  
11 U.S.C. § 501  
F.R.B.P. 3001 - 3005

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**RULE 3001-3. Interest on Claims of Oversecured Creditors.**

If interest upon a debt is to be claimed, the proof of claim must state:

- (a) the dollar amount of interest claimed on the principal;
- (b) the rate of interest;
- (c) the date of last payment;
- (d) the unpaid principal balance on the debt after crediting the last payment;
- (e) the rate of interest from the date of the last payment;
- (f) a per diem from the date of the last payment to the date the bankruptcy petition was filed; and
- (g) per diem from and after the date of filing.

Failure to comply with this rule shall be deemed a waiver of any claim for interest upon the debt, without need for formal objection by the trustee or debtor in possession, and without need for a hearing.

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Related Authority:  
11 U.S.C. § 506(b)

Committee Note:

For unsecured and undersecured claims, interest accrual stops on the date of the filing of the debtor's petition, and only starts again on the secured portion of an undersecured creditor's claim on the date of confirmation of a Chapter 11, 12, or 13 plan. The amount of any creditor's claim is determined on the date of the petition filing, and includes the principal amount of the obligation plus all matured prepetition interest (accrued up to the date of the filing of the petition at the underlying contract rate), plus all fees, costs and other charges owing as of the petition date. Interest continues to accrue on oversecured claims from and after the petition date at the underlying contract rate until paid or until changed to a different interest rate by the terms of a confirmed plan. Interest begins to accrue again on the secured component of undersecured claims once a plan is confirmed and fixes the post-confirmation interest rate.

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**RULE 3001-4. Chapter 11, 12 or 13 Plan Superseded by Proof of Claim.**

An allowed proof of claim filed in a Chapter 11, 12 or 13 case shall supersede the amount of such claim set forth in a plan.

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Related Authority:  
11 U.S.C. § 502  
F.R.B.P. 3003(c)(4)

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**RULE 3002-1. Late Filed Claims in Chapter 12 and 13 Cases.**

Late filed proofs of claim in Chapter 12 or 13 cases shall be deemed disallowed, without need for formal objection by the trustee or a hearing, if the trustee sends a notice to the late filing creditor using Mont. LBF 21. If a creditor files a response and requests a hearing within thirty (30) days of the date of the notice, then the creditor shall notice the contested matter for hearing pursuant to Mont. LBR 9013-1, except that such notice shall provide that the hearing on the objection and response shall be scheduled at least twenty-one (21) days after the date of the creditor's response and request for hearing. If the creditor fails to file a written response to the objection to the late filed claim within thirty (30) days of the date of the notice provided by Mont. LBF 21, the failure to respond shall be deemed an admission that the objection should be sustained by the Court without further notice or hearing. The trustee shall not pay on a claim filed after the claims bar deadlines described in F.R.B.P. 3002 or 3004, without a Court order obtained by the claimant allowing such claim.

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Related Authority:  
11 U.S.C. § 502(b)(9)  
F.R.B.P. 3002(c) and 3007

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**RULE 3003-1. Proofs of Claim and Interest in Chapter 11 Cases.**

In a Chapter 11 case, any request for a bar date by the debtor in possession for filing proofs of claim or interest shall be filed prior to the first date set for hearing on the disclosure statement. Pursuant to F.R.B.P. 2002(a), the plan proponent shall give twenty-one (21) days notice of the time to file proofs of claims or interests to each creditor and equity security holder.

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Related Authority:  
F.R.B.P. 2002, 3002 and 3003

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**RULE 3007-1. Overstated Proofs of Claim.**

A proof of claim found to be knowingly overstated or false as to any material item may be disallowed in its entirety by the Court, after hearing.

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Related Authority:  
11 U.S.C. § 502

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**RULE 3007-2. Objections to Proofs of Claim.**

Except as provided in Mont. LBR 3002-1 for late filed claims in Chapter 12 or 13 cases, a trustee, debtor or other party in interest may file an objection to a creditor's proof of claim in

accordance with F.R.B.P. 3007, by using Mont. LBF 28. The objection shall include the legal and factual basis for the objection. The objection shall be scheduled for hearing at least thirty (30) days after the date of the filing of such objection. Objections to duplicate claims will be summarily granted by the Court without notice or hearing.

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Related Authority:  
11 U.S.C. §§ 102(1)(B)(i) and 9007  
F.R.B.P. 3007

Committee Note:

Only the creditor at the address noted on the filed proof of claim and the case trustee must be served with the objection. If a federally insured depository institution is involved the service must be sent by certified mail to the officer of the institution unless the institution has appeared through an attorney, the Court orders otherwise after initial certified service, or the institution waives in writing the certified mail requirement by designating an officer to receive service.

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**RULE 3010-1. Dividend Distribution.**

In any bankruptcy case, the case trustee shall distribute dividends to all entitled creditors, regardless of amount.

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Committee Note:

Pursuant to F.R.B.P. 3010, the Court by local rule may authorize the payment of small dividends to entitled creditors and not have small dividends treated as unclaimed funds payable to the Court under 11 U.S.C. § 347.

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**RULE 3011-1. Withdrawal of Unclaimed Funds.**

- (a) **Motion.** A person seeking disbursement of unclaimed funds held by the Court shall file a motion for withdrawal of such funds. All motions must be in compliance with Mont. LBF 40.
- (b) **Statement of Entitlement.** The movant, under penalty of perjury, shall file a motion stating that the movant has made sufficient inquiry and has no knowledge that the claim has been previously paid, that no other motion for withdrawal of unclaimed funds is currently pending, that no person other than the movant is entitled to submit a motion for withdrawal of the subject funds, and that no person other than the person identified in the motion is entitled to disbursement.
- (c) **Disbursements.** The Clerk of Court shall make disbursements payable to the person requested by the movant.
- (d) **Objections.** The United States Attorney or any other interested person may object to any motion for withdrawal of unclaimed funds by filing an objection within fourteen (14) days of

service of the motion. An order approving the disbursement shall be entered if no timely objection is filed.

(e) **Proof of Service.** The movant shall serve a copy of the motion on the United States Attorney pursuant to 28 U.S.C. § 2042, and on the debtor and on the person for whom the movant is requesting disbursement, with the notice required under Mont. LBR 9013-1.

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Related Authority:  
11 U.S.C. § 347; 28 U.S.C. §§ 2041 and 2042  
F.R.B.P. 3010 and 3011

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**RULE 3015-1. Original Chapter 11, 12 or 13 Plans.**

In all Chapter 11, 12 or 13 cases, the debtor, or debtor's attorney, shall file a plan and serve a copy of the plan on the trustee, all creditors and all other parties in interest, and confirm such service has been accomplished by filing a certificate of service.

**RULE 3015-2. Objections to Confirmation or Modification of Chapter 12 or 13 Plans.**

A party objecting to confirmation of a Chapter 12 or 13 plan or modification of a confirmed plan must file and serve an objection not less than fourteen (14) days prior to the date set for the hearing on confirmation or approval of the modification. If the trustee has no objections, the trustee shall file a report with the Court, serving a copy on the debtor, recommending plan confirmation or approval of any modification to a confirmed plan. The Court may, without further notice or hearing, grant plan confirmation or approval of any modification of a confirmed plan if no timely objections are filed. The Clerk shall include the date objections to plan confirmation are due in the Notice of Chapter 13 Bankruptcy Case and Meeting of Creditors, and debtor's attorney shall provide notice for objections to motions to modify confirmed plans as specified in F.R.B.P. 3015(g), unless the trustee is proposing a modification and then the trustee will provide notice for objections.

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Related Authority:  
11 U.S.C. §§ 1223, 1224, 1225, 1229, 1323, 1324, 1325 and 1329  
F.R.B.P. 3015(f) and (g)  
Mont. LBR 2002-1(b)

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**RULE 3015-3. Amended Chapter 12 or 13 Plans Prior to Confirmation.**

A debtor shall file any amended plan or addendum in a Chapter 12 or 13 case on or before fourteen (14) days prior to the date fixed by the Court for the confirmation hearing. The debtor shall file a certificate of service reflecting service of the amended plan on the trustee, all

creditors, and all other parties in interest. If the trustee and all creditors have no objection to the amended plan, it will be confirmed.

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Committee Note:

NOTE: The Court has indicated it intends to strictly enforce these deadlines.

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**RULE 3015-4. Tax Returns in Chapter 12 or 13 Cases.**

During each year of the plan after confirmation, the debtor shall provide: (1) a copy of the debtor's federal income tax return; (2) any request for extension of the deadline for filing a return; and (3) Forms W-2 and 1099, to the Chapter 12 or 13 trustee within thirty (30) days after the return or document is filed with the Internal Revenue Service.

**RULE 3017-1. Objections to Chapter 11 Disclosure Statements and Plans.**

Unless otherwise ordered by the Court, objections to the disclosure statement or plan in a Chapter 11 case shall be filed and served not less than fourteen (14) days prior to the hearing on such statement or plan. Service of the objection shall be made on any party in interest requesting notice. The Clerk shall include the date objections are due in the notice of the hearing on the disclosure statement or plan.

**RULE 3017-2. Report of Administrative Expenses in Chapter 11 Cases.**

The proponent of a plan of reorganization in a Chapter 11 case shall file an estimate of administrative expenses not less than seven (7) days prior to the date fixed for the hearing on confirmation of the plan. Such administrative expenses shall include, but are not limited to, the debtor's attorney's fees, accountant's fees, any other professional's fees, and the fees owing to the Clerk of Court and the U. S. Trustee.

**RULE 3020-1. Quarterly Fees in Chapter 11 Cases.**

In accordance with 11 U.S.C. § 1129(a)(12), the Court shall not confirm a Chapter 11 plan unless the U. S. Trustee notifies the Court by filing Mont. LBF 12 that all fees required by 28 U.S.C. § 1930 have been paid or will be paid on or before the effective date of the plan. If the U.S. Trustee files a Notice of Delinquent Quarterly Fees, in compliance with Mont. LBF 12-B, the Court shall immediately schedule a hearing and require the debtor in possession to show cause why the case should not be dismissed or converted due to the nonpayment of quarterly fees. Debtors in possession, or their representative if a corporation or other entity, must personally attend any hearing conducted pursuant to this local rule.

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Related Authority:  
28 U.S.C. §§ 1112(b)(4)(K) 1930(a)(6)  
F.R.B.P. 2015(a)

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**RULE 3022-1. Chapter 11 Case Closings.**

To facilitate the closing of Chapter 11 cases in accordance with F.R.B.P. 3022, the debtor in possession (or trustee) shall file a Motion for Final Decree within sixty (60) days of the Order of Confirmation of the plan in conformity with Mont. LBF 13. The motion shall be filed and served on all creditors. The motion may be immediately granted by the Court, as provided in Mont. LBR 9013-1(g)(2)(AA). Beginning sixty (60) days after confirmation of the plan and then every thirty (30) days thereafter, the debtor in possession shall file a Status Report with the Court explaining the failure to file a Motion for Final Decree in accordance with the terms of this rule. Failure to file such monthly reports shall subject the case to summary dismissal or conversion by the Court, without further notice or hearing. In the case of individual debtors, the case will remain open until completion of all payments provided for in the debtor's plan, unless otherwise ordered by the Court.

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Related Authority:  
11 U.S.C. §§ 350(a); 1141(d)(5)

Committee Note:

Section 28 U.S.C. § 1930(a)(6) was amended on January 27, 1996, to provide that quarterly fees due the U.S. Trustee in a Chapter 11 case are payable after confirmation of a plan until the case is closed by the Court, and interest accrues on delinquent quarterly fees until paid.

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**PART IV.**

**RULE 4001-1. Motions to Modify Stay.**

(a) **Motion.** A motion to modify stay under 11 U.S.C. § 362 shall be made in conformity with Mont. LBF 8. Consents to the motion shall conform to Mont. LBF 9 and 9-A. Copies, or excerpts, of security documents and proof of perfection do not need be attached to a motion to modify stay if a proof of claim has been filed on or before the motion to modify. Instead, copies, or excerpts, of security documents and proof of perfection should be attached to the proof of claim filed on or before the motion to modify, and reference to such proof of claim shall be made in the motion to modify. A proposed order shall be filed with every motion to modify in accordance with Mont. LBF 8-A. Evidence of proof of the moving party's standing to file the motion shall be attached to the motion.

(b) **Impact of Postpetition Invoicing on Content of Motion; and Specificity Required in Both Motion and Response to Motion.**

- (1) A secured creditor seeking relief from the automatic stay based upon allegations of a postpetition payment default by a debtor must specify that it seeks relief based on the debtor's payment default, and articulate with specificity the amount and date of the payments the debtor allegedly failed to make, and attest that it responded promptly and thoroughly to the trustee or to the debtor's reasonable requests for account information. In the event the secured creditor has not provided the debtor with the account information required by this rule, the Court may deny the secured creditor's request for recovery of attorney's fees or costs in connection with the motion, regardless of the terms of its agreement with the debtor; and the Court may order the secured creditor to pay the debtor's reasonable attorney's fees, if any, for responding to the motion.
- (2) A debtor opposing relief from stay in connection with a debt within the scope of this rule shall state with specificity which allegations of the creditor's motion the debtor disputes and must append to the response either an affidavit of the debtor or copies of records showing proof of payment on the account, and articulate the debtor's legal and factual basis for asserting that the creditor is not entitled to relief from stay. The debtor's failure to meet these requirements may constitute cause for the Court to deny the debtor's request for additional time and/or for the Court to consider the motion unopposed.
- (3) When a Chapter 13 debtor's objection to a motion for relief from stay contests, with specificity, either the payment default or the creditor's application of payments, the creditor shall immediately transmit the debtor's payment history and a detailed accounting of how the debtor's payments were applied to the outstanding obligation to counsel for the debtor (or to the debtor directly, if not represented by counsel), by electronic or facsimile means, to ensure that the debtor has a reasonable opportunity to review this data prior to the hearing on the motion for relief from stay.

(c) **Response and Hearing.** If a debtor, trustee or party in interest files a response, then a hearing shall be noticed pursuant to Mont. LBR 9013-1. In the event such scheduled hearing date is thirty (30) days beyond the date of the motion to modify, then a preliminary hearing within such thirty (30) day period will be scheduled by the responding party after such party contacts the Clerk of Court to confirm the preliminary telephone hearing date and time, which shall be set forth in the response. The response and request for hearing must include the legal and factual basis for the objection and as appropriate the following:

- (1) If valuation of property is an issue, the estimation of value asserted by the respondent.
- (2) If the existence, validity, or any other aspect of the notes or security documents is an issue, such objections must be stated with particularity.
- (3) If the debtor proposes to offer adequate protection, it must state with specificity the

adequate protection offered to be provided (e.g., periodic payments, substitute liens, or other indubitable equivalents).

(4) If the debtor asserts that the debtor has made or attempted to make all delinquent payments to the moving creditor but the creditor has refused to accept such payments, the debtor shall state with specificity this fact, and state the dates of such payments, and shall provide a copy of the check or checks the debtor alleges were sent to but refused by the moving creditor.

(5) If the moving creditor has requested that the fourteen (14) day stay provided for in F.R.B.P. 4001(a)(3) be waived, the debtor shall state any objection the debtor may have to the Court's order becoming effective immediately.

**(d) Stipulation to Modify Stay.** A stipulation to modify stay, filed in compliance with Mont. LBF 8-B, joined by the creditor, debtor and trustee, if any, may be filed without fee, together with a proposed order, and an order shall be promptly issued without hearing. A creditor negotiating and filing such a stipulation is not required to retain an attorney. A form of proposed order in compliance with Mont. LBF 8-C shall accompany any Stipulation to Modify Stay.

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Related Authority:

11 U.S.C. § 362, 1201 and 1301

Committee Note:

In a Chapter 7, 12 or 13 case, a motion to modify stay should be served upon the debtor, debtor's attorney, the trustee, if any, the U.S. Trustee, and any entity requesting special notice. In a Chapter 9 or 11 case, a motion to modify stay should be served upon all of the above entities and any committee appointed under the Code or its authorized agent, or if no committee has been appointed, the creditors listed under F.R.B.P. 1007(d). A stipulation to modify stay only needs to be served upon the parties signing the stipulation. Debtor's and trustee's consents to modify only need to be filed and not be served upon any other entity. Note that pursuant to Rules 7004(b)(9), 7004(g) and 9014(b), F.R.B.P., all motions directed to a debtor, in addition to being served upon counsel for the debtor, must be served upon the debtor by mailing a copy of the motion "to the debtor at the address shown in the petition or to such other address as the debtor may designate in a filed writing." Such service by mail can be accomplished pursuant to F.R.B.P. 9001(8), but the debtor must be served as well as his or her counsel. Proof of service upon the debtor is required. It will now be incumbent upon a creditor moving for stay relief to attach to its motion evidence of its standing to file the motion, such as an assignment from the original note holder. Too often the mortgage and note are in the name of one party while the moving party is a different party, and there is nothing appearing within the motion connecting the two together.

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**RULE 4001-2. Orders Granting Modification of Stay.**

If, at any time during the pendency of a Chapter 13 case, an order modifying the stay is entered, no distributions will be made under the Chapter 13 plan to the creditor obtaining modification of the stay until such time as the creditor files an amended proof of claim, or either the creditor or debtor move for or stipulate to specific modification from the Court.

**RULE 4001-3. Scope and Content of Account Information, and Statements Secured**

## **Creditors May Provide to Debtors Postpetition.**

(a) **Scope and Purpose.** The purpose of this rule is to allow the routine flow of information from secured creditors to debtors to continue postpetition with respect to secured loans, in each bankruptcy case where the debtor retains possession of the collateral and continues to make regular installment payments directly to the secured creditor; and to direct that secured creditors provide debtors with a contact point so that debtors can obtain specific information on the status of their loans, as needed.

It is also the purpose of this rule to make clear that, as long as a creditor complies with this rule in furnishing account information to the debtor, such good faith attempts at compliance will not expose the secured creditor to claims of violating the automatic stay.

This rule applies in Chapters 7, 12 and 13; applies only to consumer loan relationships; and applies as long as the debtor is in bankruptcy and protected by the automatic stay. However, for cause shown and after proper notice and a hearing, the Court may direct parties to comply with this rule with regard to commercial loans, or in Chapter 11.

### **(b) Debts Secured by a Mortgage on Real Property.**

(1) For purposes of this subpart, the term "Mortgage Creditor" may include any creditor that has a claim secured by a mortgage on real property.

(2) Except as provided in paragraph (3) below, the Mortgage Creditor may provide monthly statements to all Chapter 12 and Chapter 13 debtors who have indicated an intent to retain the Mortgage Creditor's collateral in their plan, and to all Chapter 7 debtors who have indicated an intent to retain the Mortgage Creditor's collateral in their statement of intention which has been served on the Mortgage Creditor. Monthly statements shall contain at least the following information concerning postpetition mortgage payments to be made directly to the mortgagee ("outside the plan"):

- (A) the date of the statement and the date the next payment is due;
- (B) the amount of the current monthly payment;
- (C) the portion of the payment attributable to escrow, if any;
- (D) the postpetition amount past due, if any, and from what date;
- (E) any outstanding postpetition late charges;
- (F) the amount and date of receipt of all payments received since the date of the last statement;
- (G) a telephone number and contact information that the debtor or the debtor's attorney may use to obtain reasonably prompt information regarding the loan and recent transactions; and
- (H) the proper payment address.

(3) No monthly statement shall be required in a Chapter 12 or Chapter 13 where postpetition mortgage payments are to be made to the trustee ("through the plan").

If a Mortgage Creditor sends a monthly statement to a debtor in such a case which complies with subsection (d)(2) below, the Mortgage Creditor is entitled to the protections of subsection (d)(2).

- (4) The Mortgage Creditor shall provide any of the following information to the debtor upon the reasonable written request of the debtor:
  - (A) the principal balance of the loan;
  - (B) the original maturity date;
  - (C) the current interest rate;
  - (D) the current escrow balance, if any;
  - (E) the interest paid year to date;
  - (F) the property taxes paid year to date, if any; and/or
  - (G) any other amounts due, including charges paid by lender for taxes, insurance, attorney's fees, or other expense, the nature of the expense, and the date of the payment.

(c) **Other Secured Debts.** For the purposes of this subpart, the term "creditor" shall include any creditor that holds a claim secured by personal property, and lessors for assumed leases for personal property, for which monthly statements are provided under non-bankruptcy law or practice. For all debts secured by property other than as provided by for subpart (b)(2) above, and for assumed leases for personal property, the creditor shall provide monthly statements to the debtors in the following manner:

- (1) If the case was filed under Chapter 12 or 13 and the secured debt is paid entirely through the plan, the creditor is under no obligation to send a monthly statement to the debtor directly. However, if a creditor or lessor sends a monthly statement which complies with this rule to the debtor in such a case, then the creditor shall be entitled to the protection described in subsection (d)(2), below.
- (2) If the case was filed under Chapter 7, or was filed under Chapter 12 or 13 and the secured debt is not paid entirely through the plan, and the creditor sent monthly statements to the debtor prior to the bankruptcy petition, the creditor shall send monthly statements which contain the same information as, and are similar to, the monthly statements that the creditor sent to the debtor before the bankruptcy was filed.
- (3) If the case was filed under Chapter 7, or was filed under Chapter 12 or 13 and the secured debt is not paid entirely through the plan, and the creditor provided a coupon book or other similar set of invoices to the debtor, the creditor shall send to the debtor and the debtor's attorney a default letter setting forth the postpetition arrearages, upon any perceived or actual default by the debtor, and before taking any steps to modify the automatic stay.

(d) **Forms of Communication; Issuance of Monthly Statements Do Not Violate the**

### **Automatic Stay.**

- (1) For the purposes of this rule, creditors shall be considered to have sent the requisite documents or monthly statements to the debtor when the creditor has placed the required document in any form of communication which in the usual course would result in the debtor receiving said document, to the address that the debtor last provided to the creditor by agreement between the debtor and the creditor. Said communication may be transmitted via electronic mail, facsimile, United States Postal Service, commercial communications carrier, or such other mode as is mutually acceptable to the parties.
- (2) Creditors who provide account information or monthly statements under subparts (b) or (c) above shall not be found to have violated the automatic stay by doing so. Secured creditors may contact the debtors about the status of insurance coverage on property that is collateral for the creditor's claim, may respond to inquiries and requests or information about the account from debtors, and may send the debtor statements, payment coupons, or other correspondence that the creditor sends to its non-debtor customers, without violating the automatic stay, provided none of these communications includes an attempt to collect the debt.

### **(e) Motions to Compel a Creditor to Issue Monthly Statements that Comply with this Rule.**

- (1) A debtor may file a Motion to Compel Creditor to Issue Monthly Statements in Compliance with Mont. LBR 4001-3 (a "Motion to Compel") if the debtor can offer evidence that the information in sections (b), (c), or (d) is necessary. Before filing such a Motion to Compel, the debtor must make good faith attempts to contact the creditor to determine whether the information is available. The Motion must include a description of the debtor's good faith attempts taken prior to filing the Motion, any response(s) from the creditor, and the harm the debtor has suffered, if any, as a result of the creditor's failure to provide appropriate monthly statements.
- (2) If a creditor's regular billing system can provide a statement to a debtor that substantially complies with this rule, but does not fully confirm to all of its requirements, the creditor may request that the debtor accept such statements, and the debtor may do so. If the debtor declines to accept the non-conforming statements, a creditor may file a motion, on notice to the debtor and debtor's attorney, seeking a declaration of the Court that cause exists to allow such non-conforming statements to satisfy the creditor's obligations under this rule. For cause shown, the Court may grant a waiver for purposes of a single case or multiple cases, and for either a limited or unlimited period of time. No waiver will be granted, however, unless the proffered statement substantially complies with this rule and the creditor has demonstrated that it would be an undue hardship for it to strictly comply with this rule.

**RULE 4002-1. Property in Need of Attention or Protection; Debtors with Special Needs; Privacy Ombudsmen; Domestic Support Obligations; and Other Documentation.**

(a) **Inventory or Equipment.** When a stock of goods or inventory, or business equipment is scheduled, the debtor shall, immediately after the general description thereof, provide a detailed list of such inventory and business equipment and the respective value, append a brief explanation of its exact location, the name and address of the custodian thereof, the protection being given such property, and the amount of fire and theft insurance, if any, and state whether prompt additional attention or protection is necessary.

(b) **Need for Immediate Action.** If a stock of goods includes perishables, or if property or the business premises otherwise requires immediate attention or protection, the debtor or the debtor's attorney, when relief is ordered under Chapters 7, 12 or 13, or when a trustee is appointed under Chapter 11, shall notify the trustee of the need for immediate action. Notification shall be by personal communication or by telephone.

(c) **Debtors with Special Needs.** If a debtor has special needs, such as a hearing impairment which would require the services of a sign language interpreter, the debtor or debtor's counsel shall make the Court and the U.S. Trustee aware of such circumstances as soon as possible after the commencement of the case.

(d) **Consumer Privacy Ombudsman.** If it appears that a case may involve the sale or lease of personally identifiable information, as that term is defined in 11 U.S.C. § 101(41A), or if the appointment of a consumer privacy ombudsman under 11 U.S.C. § 332 may be required in a case, the debtor or its attorney shall immediately upon the filing of the case notify the Court and the U.S. Trustee.

(e) **Domestic Support Obligations.** Within fourteen (14) days of commencing a bankruptcy case, all individual debtors shall file a "Statement of Domestic Support Obligation(s)," in conformity with Mont. LBF 30.

(f) **Documentation to be Provided to Trustees.** In addition to those documents required to be provided by Rule 4002, it is the duty of the debtor and debtor's attorney to provide the trustee assigned to the debtor's case, and/or to the U.S. Trustee, if requested, those documents and materials specified in Mont. LBF 33, along with a fully completed Mont. LBF 33 (which documents and form can be sent via e-mail in .pdf format), at least fourteen (14) days prior to the first date set for the debtor's creditors' meeting held pursuant to 11 U.S.C. § 341(a), along with such other books, records and documents which the trustee or U.S. Trustee may request. As provided in Mont. LBR 2003-3, failure to provide all of these documents or other materials requested by the trustee or the U.S. Trustee, or to cooperate with any inquiry or request made of the debtor, may be grounds for dismissal, conversion or denial of discharge by the Court, upon an appropriate pleading being filed with the Court.

(g) **Documentation Required by § 521.** In order to facilitate the filing of the documents

required by 11 U.S.C. § 521, debtors shall file a form in substantial compliance with Mont. LBF 37.

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Related Authority:  
11 U.S.C. §§ 101(14A), 332 and 521  
F.R.B.P. 4002  
Mont. LBR 2003-3

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**RULE 4002-2. Annual Financial Reports in Chapter 12 Cases.**

Every debtor whose Chapter 12 case has not been closed by the Court prior to the end of each calendar year shall prepare and serve on the trustee annually the following materials: an annual summary of operations, using the report form prescribed by the trustee; an annual financial statement; and a balance sheet. The latter two documents may be copies of financial statements and balance sheets provided to lenders by the debtor.

**RULE 4002-3. Plan Payments in Chapter 12 Cases.**

All plan payments made by the debtor in possession to the Chapter 12 trustee shall be paid by cashiers check or certified check at least fourteen (14) days prior to the payment dates specified in the debtor's plan, or at least twenty-eight (28) days prior to such dates if paid by the debtor's personal check.

**RULE 4002-4. Estimate of Administrative Expenses in Chapter 12 Cases.**

The debtor shall file an estimate of administrative expenses, containing the detail required in Mont. LBR 3017-2, at least fourteen (14) days before the confirmation hearing.

**RULE 4002-5. Monthly Financial Reports in Chapter 13 Cases.**

A monthly financial report shall be filed by every debtor engaged in business within fourteen (14) days following the end of each calendar month reflecting the debtor's income and expenses, for purposes of establishing the debtor's projected disposable income.

**RULE 4002-6. Filing of Income Documentation for Two Months Prior to Bankruptcy; and Turnover of Income Documentation for Six Months to Chapter 13 Trustee.**

At least fourteen (14) days prior to the meeting of creditors held pursuant to 11 U.S.C. § 341(a), every individual debtor shall file with the Court copies of all payment advices and proof of income from all other sources received by the debtor for the two (2) month period ending on the last day of the calendar month immediately preceding the date of the commencement of the case. Individual debtors shall provide such additional proof of income and expenses to the U.S.

Trustee as may be requested. In all Chapter 13 cases, individual debtors shall turn over to the standing trustee income documentation for the six (6) month period ending on the last day of the calendar month immediately preceding the date of the commencement of the case.

**RULE 4002-7. Turnover of Income Tax Returns During Pendency of Case.**

Every Chapter 11, 12 or 13 debtor shall turn over to the trustee assigned to its case (or to the U.S. Trustee in the case of a Chapter 11 debtor in possession), at the same time the same are filed with the appropriate taxing authorities, copies of all state and federal income tax returns, together with all schedules, for each year ending while the case is pending before the Bankruptcy Court.

**RULE 4003-1. Claims of Exemptions.**

A debtor shall claim exemptions, as required by 11 U.S.C. § 522, on Schedule C, pursuant to F.R.B.P. 1007. The MONTANA CODE ANNOTATED section or other authority under which each exemption is claimed, and each item of property claimed as exempt, together with the value of each such item, shall be described with specificity, without reference to other schedules.

**RULE 4003-2. Homestead Exemptions.**

If a homestead exemption is claimed by the debtor, the date and place of recordation of the homestead declaration shall be included in either Schedule A or Schedule C.

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Related Authority:  
MONTANA CODE ANNOTATED §§ 70-32-105, 106 and 107  
Mont. LBR 2003-3, and Mont. LBF 33

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**RULE 4003-3. Objections to Claims of Exemption.**

A trustee or other party in interest may file an objection to a debtor's claim of exemption in accordance with F.R.B.P. 4003(b), by using Mont. LBF 29. The objection shall include a legal and factual basis for the objection. The objection to a debtor's claim of exemption must be served upon the debtor, debtor's attorney and the trustee, if any. The objecting party shall file with the objection a proposed order.

**RULE 4003-4. Motions for Avoidance of Liens.**

A debtor shall move to avoid liens pursuant to 11 U.S.C. § 522(f)(1) by filing Mont. LBF 24, and by serving the creditor whose lien is subject to avoidance, or the creditor's attorney and the trustee, if any. A proposed order shall be submitted with the motion.

**RULE 4004-1. Procedures for Entry of Discharge in Chapter 12 and 13 Cases.**

For those Chapter 12 or 13 cases filed on or after October 17, 2005, a discharge shall not be entered until the following requirements are met:

(a) **Chapter 12.** Upon completion of a Chapter 12 plan, the debtor shall file a Motion for Entry of Discharge; and Attorney Certification, and an Affidavit in support thereof, in compliance with Mont. LBF 38 and 38-A.

(b) **Chapter 13.** Upon completion of a Chapter 13 plan, the debtor shall file a Motion for Entry of Discharge; and Attorney Certification, and an Affidavit in support thereof, in compliance with Mont. LBF 39 and 39-A.

(c) **Motion for Entry of Discharge.** In the Motion for Entry of Discharge and Affidavit, the debtor shall certify that:

(1) All domestic support obligations payable under any judicial or administrative order, or required by statute, have been paid, including but not limited to:

(A) child support and spousal maintenance and alimony that were due through the date of the motion, including all payments due under the confirmed plan for amounts due before the bankruptcy petition was filed; and

(B) any domestic support obligations that arose after the filing of the bankruptcy petition;

(2) The debtor has:

(A) not claimed a homestead exemption in excess of the cap described in 11 U.S.C. § 522(q)(1); or

(B) claimed a homestead exemption in excess of the cap but there is no proceeding pending in which the debtor may be found guilty of a felony of the kind described in 11 U.S.C. § 522(q)(1)(A) or liable for a debt of the kind described in 11 U.S.C. § 522(q)(1)(B); and

(3) In a Chapter 13 case, the debtor has completed a financial management course required pursuant to 11 U.S.C. §§ 111, 1328(g)(1) and filed a certification of completion with the Court.

(d) **Attorney Certification - Chapter 12.** If the debtor was represented by an attorney during the course of the Chapter 12 case, the debtor's attorney shall certify that the attorney has explained the requirements for a discharge to the debtor and that to the best of the attorney's knowledge, the debtor qualifies for a discharge under §§ 521 and 1228(a) and (f).

(e) **Attorney Certification - Chapter 13.** If the debtor was represented by an attorney during

the course of the Chapter 13 case, the debtor's attorney shall certify that the attorney has explained the requirements for a discharge to the debtor and that to the best of the attorney's knowledge, the debtor qualifies for a discharge under 11 U.S.C. §§ 521, 1308, and 1328(a),(g)(1) and (h).

(f) **Service of Motion.** The debtor shall serve the Motion for Entry of Discharge upon the parties to whom the debtor is or was obligated to make the domestic support payments described in subpart (c)(1) above, if any, as well as all of the debtor's creditors.

(g) **No Motion - No Discharge.** If no Motion for Entry of Discharge is filed, the Court will not issue a discharge in the debtor's case. If no Motion for Entry of Discharge is filed within a reasonable time after completion of the payments due under the debtor's confirmed plan, the case may be closed without the entry of a discharge order. If the debtor later files a Motion for Entry of Discharge, the debtor will be required to pay the reopening fee unless the debtor can demonstrate cause for the waiver of such fee.

## PART V.

### **RULE 5001-1. Clerk's Office Hours and Address.**

The Office of the Clerk of the Bankruptcy Court is located in the Mike Mansfield Federal Building and U.S. Courthouse, Room 303, 400 North Main, in Butte, Montana 59701 and shall be open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, for the filing of papers. See Rule 5005-1 for electronic filing. The mailing address is: Clerk of U.S. Bankruptcy Court, Mike Mansfield Federal Building and U.S. Courthouse, Room 303, 400 North Main, Butte, Montana 59701.

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Related Authority:  
11 U.S.C. § 301  
F.R.B.P. 5001, 5003 and 5005

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### **RULE 5001-2. Divisions of Court.**

The Bankruptcy Court for the District of Montana is divided into the following Divisions, and Court trials or hearings are held in each Division depending upon the debtor's county of residence or principal place of business, to-wit:

(a) **Billings Division:** Big Horn, Carbon, Carter, Custer, Daniels, Dawson, Fallon, Garfield, Golden Valley, McCone, Musselshell, Petroleum, Powder River, Prairie, Richland, Roosevelt, Rosebud, Sheridan, Stillwater, Sweetgrass, Treasure, Valley, Wheatland, Wibaux and Yellowstone.

(b) **Butte Division:** Beaverhead, Broadwater, Deer Lodge, Jefferson, Gallatin, Granite, Lewis & Clark, Madison, Park, Powell and Silver Bow.

(c) **Missoula Division:** Flathead, Lake, Lincoln, Mineral, Missoula, Ravalli and Sanders.

(d) **Great Falls Division:** Blaine, Cascade, Chouteau, Fergus, Glacier, Hill, Judith Basin, Liberty, Meagher, Phillips, Pondera, Teton and Toole.

**RULE 5001-3. Court Hearings and Creditors' Meetings.**

Bankruptcy Court trials and hearings are regularly scheduled in Butte, Missoula, Great Falls and Billings. Creditors' meetings conducted pursuant to 11 U.S.C. § 341(a) are held in these four cities, and in Kalispell and are arranged and scheduled by the Office of the U.S. Trustee in its sole discretion.

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Related Authority:  
28 U.S.C. § 151  
11 U.S.C. §§ 341(a) and 343  
F.R.B.P. 5001(b)

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**RULE 5003-1. Withdrawal of Documents from Proofs of Claim.**

After a proof of claim has been filed, the Clerk may, without an order of the Court, permit the substitution by the claimant of a photocopy for any original note or other instrument in writing filed in support of such claim. The original, upon return, may be endorsed reflecting its attachment to a claim in a bankruptcy proceeding.

**RULE 5003-2. Exhibits to Pleadings and Proofs of Claim.**

All exhibits shall be filed with the pleading or proof of claim to which they belong. Each exhibit shall be filed as a separate .pdf document; or as a single .pdf document, with each exhibit book marked and identified therein. Entities filing exhibits not prepared in electronically produced text shall scan and electronically file only excerpts of the documents that are directly germane to the matter under consideration by the Court. Excerpted material must be clearly and prominently identified as such, and the complete exhibit must be made available forthwith to the attorneys and the Court on request. Entities filing excerpts do so without prejudice to their right to file by electronically scanning additional excerpts or the complete document with the Court. Responding entities may file by electronically scanning additional germane excerpts. Oversized and voluminous attachments will not be filed and will be returned by the Clerk. Filing attachments by other than electronic means is not encouraged, but may be permitted at the discretion of the Court.

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Committee Note:

Each exhibit must be filed separately or book marked separately, so that the Court and other parties may easily retrieve each individual exhibit from the electronic filing. Transcripts from Rule 2004 examinations or § 341 creditor meetings that are to be used for impeachment purposes do not need to be filed with the Court. Such transcripts only need to be filed with the Court if they will be used for evidentiary purposes.

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**RULE 5003-3. Judgments and Orders.**

As the Director of the Administrative Office of the United States Courts has not prescribed a form and manner for the U.S. Bankruptcy Clerk of Court to maintain judgments and orders, a prevailing party shall request that a copy of every final judgment or order affecting title to or lien on real property or for the recovery of money or property, and every other judgment or order as directed by the Court, be kept and indexed with the civil judgments of the District Court in the judgment docket. To perfect a judicial lien, the prevailing party shall comply with applicable law.

**RULE 5005-1. Electronic Filing.**

Electronic filing through CM/ECF is mandatory for all users, except for *pro per* filers. Documents shall be filed, signed, or verified by electronic means through CM/ECF and according to rules and procedures adopted by the Court. A document filed by electronic means in compliance with this rule constitutes a written paper for the purposes of applying these rules, the Fed. R. Civ. P. made applicable by any rule and § 107 of the Bankruptcy Code. Instructions and procedures for electronic filing shall be distributed by the Clerk to members of the Bar and interested parties, will be posted on the Court's website at [www.mtb.uscourts.gov](http://www.mtb.uscourts.gov), and will be available from the Clerk's Office upon request. No papers or documents shall be filed with the U.S. District Court Clerk or at the Bankruptcy Judge's chambers. Documents electronically filed via CM/ECF shall be deemed timely filed on the date filed if they are received by the Clerk's Office on or before 11:59 o'clock p.m. on the date filed.

**RULE 5005-2. Requirements for Papers; Attorneys; Parties; and Bankruptcy Petition Preparers.**

(a) **Size and Format.** Filings and attachments must conform to these specifications:

- (1) be electronically filed in .pdf format, and *pro per* filers must use 8 ½ x 11 inch paper;
- (2) be plainly legible, whether typed or duplicated in at least 12 point font size, except the master mailing list shall be in 10 point font size;
- (3) have no less than one inch (1") margins, exclusive of page numbers;

- (4) be consecutively paginated, with page numbers on the bottom of the page;
- (5) be double-spaced, except for quoted material and footnotes;
- (6) be one-sided, not 2-sided;
- (7) use a nationally recognized citation form, (i.e., The Harvard Citator or the Association of Legal Writing Directors (ALWD) Citation Manual);
- (8) NOT be stapled, but only be bound by paper or binder clip, if filed by *pro per* filers.

(b) **Identification of Attorney and Party.** The following information must appear in the upper left-hand corner of the first page of each document or pleading presented for electronic filing, in the order specified, except that in multiparty or multi-attorney actions or proceedings, reference may be made to the signature page for the complete list of attorneys and parties represented:

- (1) name of the attorney (or, if *pro per*, the name of the party);
- (2) office mailing address;
- (3) telephone number;
- (4) facsimile number;
- (5) e-mail address;
- (6) state bar I.D. number;
- (7) specific identification of party represented by name and interest in litigation (i.e., Attorney for Debtor; Attorney for Plaintiff; etc.).

Should a party be without an address or telephone, the document shall set forth a work or third party's address or telephone number where the party may be contacted.

(c) **Signature Compliance.** The authorized CM/ECF user log-in and password required to submit documents to CM/ECF serve as the user's signature on all electronic documents filed with the Court. The log-in and password also serve as a signature for purposes of F.R.B.P. 9011, and for any other purpose for which a signature is required in connection with proceedings before the Court. Filing by electronic means requires that the signature of any persons, individually or on behalf of an entity, shall conform to either a cursive signature on the signature line or a conformed signature using a /s/ and then the typewritten name. Examples follow of acceptable signatures:

“/s/(name of person filing document)”  
(typed name of person); or

Joseph P. Smith  
Joseph P. Smith

A signature, whether original, photocopied, scanned or conformed, shall constitute the person’s verification that such person has read the contents of the pleading and certification that F.R.B.P. 9011(b) has been satisfied.

(d) **Bankruptcy Petition Preparers.** All bankruptcy petition preparers providing services to debtors filing documents before the United States Bankruptcy Court for the District of Montana shall provide the name and physical address of an authorized agent for service of process, and shall provide a physical street address for their business.

**RULE 5005-3. Custody of Records and Release.**

No record or paper belonging to the files of the Court shall be taken from the custody of the Clerk except with the permission of the Judge to whom the case is assigned, and a receipt given by the party obtaining it, specifying the record or paper, the date of its receipt, and the date it is to be returned. In the event the presiding Judge is not available or cannot be reached to give permission, then the Clerk or deputy in charge of the office is vested with the discretion to release any record or paper.

**RULE 5005-4. Custody of Exhibits and Release.**

Every exhibit placed in an electronic file shall be held in the custody of the Clerk. If, given the voluminous nature of an exhibit, a party submits an exhibit in paper form upon approval of the Court, such exhibit will be retained until the case is closed and then the Clerk shall notify the party that such exhibit may be obtained from the Clerk. If the party does not make arrangements within thirty (30) days to obtain such exhibit, the Clerk may dispose of the exhibit.

Any party may withdraw, after service to all parties, any exhibit the party has filed in paper copy or in original form, upon filing a waiver of the right to an appeal and to a new trial. If another party or witness files notice within seven (7) days thereafter requesting withdrawal of the same exhibit, the Clerk shall keep the exhibit in custody until the Court has determined who is entitled to it or until all interested persons consent to its release. If exhibits are not withdrawn within thirty (30) days after the judgment has become final, the Clerk may dispose of them within a reasonable time after notice to the party offering the exhibit.

**RULE 5009-1. Trustee's Report and Accounting in Chapter 12 and 13 Cases.**

Within thirty (30) days following the entry of an order of conversion or dismissal, the trustee in a Chapter 12 or 13 case shall file a report and accounting of all receipts and disbursements made

pursuant to the plan, and shall serve a copy of such final report and accounting on the debtor or debtor's counsel, and all creditors who have filed a timely proof of claim and other parties in interest.

In a completed Chapter 12 or 13 case, the trustee shall report to the Court that the debtor has completed all payments within thirty (30) days of the final distribution of funds under the plan. The trustee shall file his final report and account with the Court as soon as practicable after the last disbursement check clears the trustee's bank, and shall serve a copy of such final report and accounting on the debtor, all creditors who filed timely proofs of claim and other parties in interest.

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Related Authority:  
11 U.S.C. §§ 347, 1202(b)(1) and 1302(b)(1)

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**RULE 5010-1. Reopening Closed Cases with Subsequent Income Tax Refunds.**

Trustees shall not need to file motions or take any other affirmative actions to reserve their rights to later reopen closed cases in which the only asset such trustees may later seek to administer upon reopening is a tax refund received by the debtors based upon income earned prior to the commencement of their cases.

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Related Authority:  
11 U.S.C. §§ 521(1) and 554(c)

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**RULE 5011-1. Withdrawal of Reference.**

(a) **Motion to Withdraw Reference.** A motion to withdraw a case or proceeding under 28 U.S.C. § 157(d) shall be filed with the Clerk of the District Court and heard by a District Judge. The moving party shall file a copy of the motion with the Clerk of the Bankruptcy Court.

(b) **Recommendation of Bankruptcy Court.** A Bankruptcy Judge may on the Judge's own motion recommend that a case or proceeding be withdrawn under 28 U.S.C. § 157(d). Such a recommendation shall be served on the parties to the case or proceeding and forwarded to the Clerk of the District Court for assignment to the appropriate Judge of the District Court.

(c) **Designation of Record.** The moving party shall serve and file, together with the motion to withdraw the reference, a designation of those portions of the record of the proceedings in the Bankruptcy Court that the moving party believes will reasonably be necessary or pertinent to the District Court's consideration of the motion. Within fourteen (14) days after service of such designation of record, any other party may serve and file a designation of additional portions of

the record. If the record designated by any party includes a transcript of any proceeding or a part thereof, that party shall immediately after filing the designation, deliver to the reporter and file with the Clerk of the Bankruptcy Court, a written request for the transcript and make satisfactory arrangements for payment of its cost. All parties shall take any other action necessary to enable the Clerk to assemble and transmit the record. The parties shall submit only that part or parts of a transcript of proceedings relevant to the issues raised in the motion for withdrawal of reference. If the issues involve only questions of law, the parties may submit an agreed statement of facts, or such parts of the record as are relevant to such questions of law, unless the District Judge considering the motion directs otherwise.

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Related Authority:  
28 U.S.C. § 157(d)

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**RULE 5070-1. Calendars and Scheduling.**

(a) **Consent Calendar.** A consent calendar shall precede each regularly scheduled hearing calendar, which will allow any matter scheduled for hearing to be placed on such consent calendar for purposes of resolution by stipulation or agreement. Parties or their counsel, without the submission of evidence, may appear at the time of the consent calendar and advise the Court of the case and the settlement terms. Upon concurrence by the Court, the hearing on the matter will be vacated, and the parties shall be granted up to seven (7) days (unless extended by the Court) to file a written stipulation and proposed order. The Court reserves the right to call the matter as originally scheduled.

(b) **Scheduling.** Attorneys shall schedule hearings for all matters to be heard in any division, except that only the Court shall set hearings for pretrial conferences in adversary proceedings, disclosure statement hearings, and confirmation hearings for Chapters 11, 12 and 13 cases. The Court may at anytime reschedule matters.

**RULE 5071-1. Request for Continuance.**

Any party requesting the continuance of a trial, hearing or conference shall:

(a) file a motion seeking the continuance at least three (3) days prior to the scheduled trial, hearing or conference;

(b) advise the Court of the affected party's response to such request or what attempts have been made to gain each party's consent; and

(c) give telephone notice of the date, time and location of, and reason for, the continued hearing to all affected parties and file written confirmation of such notice with the Clerk within two days of receiving such information from the Court, unless all affected parties receive electronic notice.

**RULE 5072-1. Courtroom Decorum.**

The following procedures are to be followed in all proceedings in open court:

- (a) there shall be no oral confrontation or colloquy directly between opposing attorneys or parties;
- (b) all persons addressing the Court shall stand, unless otherwise directed by the Court, and address the Court from the podium or from a microphone location to improve the quality of the recording;
- (c) all objections shall be stated with specificity prior to any argument or explanation of the same (i.e., leading, hearsay, improper foundation, etc.);
- (d) during the testimony of a witness, attorneys shall not approach the witness box, bench, or clerk's bench without the Court's prior approval, and all persons within the courtroom shall be treated with dignity and respect;
- (e) counsel shall request assistance from the courtroom deputy if they wish to use blackboards, view boxes, or other audio-visual aids and shall make their request sufficiently in advance of the need to allow for set-up of this equipment when the Court is not in session;
- (f) counsel shall address each other and all witnesses by formal name (rather than by first name) during all court proceedings; and
- (g) all attorneys shall wear business, not business casual, attire while appearing before the Court.

**RULE 5073-1. Photography, Recording Devices & Broadcasting.**

(a) **Prohibition Against Certain Devices.** The use of cameras, radios, portable telephones, paging devices, tape recorders, and the like is expressly prohibited in any court facility, except with the Court's permission, and at any non-court site used for creditors' meetings, except with the trustee's permission. Failure to follow this rule shall be grounds for refusal of admission to Court or creditors' meeting facilities and may subject the offender to removal from the Court or creditors' meeting facilities and other sanctions imposed by the Court.

(b) **Broadcasting and Recording by Court.** The Court may permit electronic or photographic preservation of evidence and perpetuation of the record. The Court may also permit broadcasting, televising, or photographing of ceremonial proceedings. The Court may conduct video conferences at the established court locations in Butte, Billings, Great Falls and Missoula and at off-site locations.

**RULE 5074-1. Telephone, Video, or In-Person Conferences and Hearings.**

(a) **Conferences and Hearings.** The Court may schedule any matter in a bankruptcy case, contested matter or adversary proceeding to be heard by video or telephonic conference. Any party in interest affected by or involved in such case, matter or proceeding may request the Court to hear the matter by video conference, or in-person. Requests for in-person hearings shall be made in substantial conformity with Mont. LBF 26, and may be granted at the discretion of the Court. The Court may, at its discretion, hold pretrial conferences in adversary proceedings, preliminary hearings on motions to modify, preliminary hearings, hearings on reaffirmation agreements, and any other matters requiring an emergency hearing by telephone. The Court, except within its discretion, will not conduct evidentiary hearings by telephone. Any party or attorney wishing to appear for a Court hearing by way of video conference facilities shall seek and obtain permission from the Clerk of Court's Office at least three (3) days prior to the hearing. Any party or attorney who previously arranged to appear by video shall immediately notify the Clerk of Court if the underlying matter has been settled, or if the party or attorney shall not otherwise be appearing by video.

(b) **Exchange of Exhibit and Witness Lists.** The parties involved in video and in-person conferences and hearings shall exchange proposed witness and exhibit lists and copies of all proposed exhibits, and file such lists and exhibits with the Court, at least three (3) days prior to a hearing or trial. Witness and exhibit lists may be combined into one document. Copies of all proposed exhibits shall be attached to such list, and each individual exhibit must be electronically filed as a separate .pdf document; or as a single .pdf document, with each exhibit book marked and identified therein. The moving party in a contested matter and the plaintiff in an adversary proceeding shall identify exhibits in numerical sequence commencing with the number 1. The responding party in a contested matter and the defendant in an adversary proceeding shall identify exhibits in alphabetical sequence. If multiple parties are involved, the parties prior to hearing or trial shall determine an identification sequence that eliminates any duplicative sequence. Failure to timely exchange and file proposed witness and exhibit lists and copies of proposed exhibits in accordance with this rule may result in the Court barring any undisclosed witness testimony and denying the admission of any unexchanged exhibits. Except as otherwise may be allowed by the Court, all exhibits shall be electronically filed.

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Committee Note:

Each exhibit must be filed separately or book marked separately, so that the Court and other parties may easily retrieve each individual exhibit from the electronic filing. Transcripts from Rule 2004 examinations or § 341 creditor meetings that are to be used for impeachment purposes do not need to be filed with the Court. Such transcripts only need to be filed with the Court if they will be used for evidentiary purposes.

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**RULE 5078-1. Clerk's Fees in Chapter 13 Cases.**

Unless otherwise ordered, the trustee in a Chapter 13 case shall pay any claim of the Clerk of Court for fees or costs incurred in a case at the time of the initial distribution under the plan. The Clerk shall provide a statement of such fees or costs to the trustee immediately following the

confirmation of the plan.

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Related Authority:  
28 U.S.C. § 1930

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## PART VI.

### **RULE 6004-1. Notice of a Proposed Sale by a Trustee or Debtor in Possession.**

A notice of a proposed sale filed by a trustee or debtor in possession shall include the fourteen (14) day notice provided in Mont. LBR 9013-1, which shall constitute a permissible reduction of time authorized under F.R.B.P. 9006(c)(1). A trustee or debtor in possession shall file with the notice a proposed order. A party in interest may file a response and request a hearing pursuant to Mont. LBR 9013-1.

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Related Authority:  
F.R.B.P. 6003 and 6004

#### Committee Note:

It should be noted that F.R.B.P. 6003 now provides that within 21 days after the filing of a petition, the Court shall not grant relief regarding a motion to use, sell, lease or otherwise incur an obligation regarding property of the estate, except to the extent that relief is necessary to avoid immediate and irreparable harm. The Court can make the order approving the motion retroactive to the date of its filing.

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### **RULE 6006-1. Motions for Assumption or Rejection of an Executory Contract or Unexpired Lease.**

(a) **Motion.** A motion for assumption or rejection of an executory contract or unexpired lease under 11 U.S.C. § 365 shall be made in compliance with Mont. LBR 9013-1 and in conformity with Mont. LBR 25, if appropriate, and promptly served in a Chapter 9 or 11 case upon any committee appointed under the Code or its authorized agent, or, if no committee has been appointed, the creditors listed under F.R.B.P. 1007(d). Executory contract or lease documents shall be attached to the motion, unless such documents are attached to a timely filed proof of claim or otherwise located in the file; and reference to such proof of claim by number or file location by docket number shall be made in the motion. The moving party shall file a proposed order with the motion.

(b) **Response to Motion.**

(1) A response must comply with Mont. LBR 9013-1. Any response must state with

specificity the grounds for any and all objections, including citation to applicable statutes and case law, provisions of the executory contract or unexpired lease in question, and the facts regarding whether any default exists under the executory contract or unexpired lease.

(2) If the debtor or trustee proposes to offer a cure of default or adequate assurance, the response must state with specificity the terms of the cure or adequate assurance the debtor or trustee offers to provide (e.g., periodic payments, substitute liens, or other indubitable equivalents).

**(c) Stipulation for Assumption or Rejection of Executory Contract or Unexpired Lease.** A stipulation for assumption or rejection of an executory contract or unexpired lease, joined by the creditor, debtor and case trustee, if any, may be filed, together with a proposed order and an order shall be issued without hearing.

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Related Authority:  
11 U.S.C. §365  
F.R.B.P. 6003, 6006, 9014

Committee Note:  
Debtor, debtor's attorney, the trustee, if any, the U.S. Trustee, any affected creditor, and parties requesting special notice should be served with the motion. In a Chapter 11 case, in addition to the above entities, any appointed committees, or if no committees are appointed then to the creditors listed under F.R.B.P. 1007(d), should be served with the motion.

It should be noted that F.R.B.P. 6003 now provides that within 21 days after the filing of a petition, the Court shall not grant relief regarding a motion to assume or assign an executory contract or unexpired lease in accordance with § 365, except to the extent that relief is necessary to avoid immediate and irreparable harm. The Court can make the order approving the motion retroactive to the date of its filing.

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**RULE 6007-1. Abandonment.**

(a) **Notice.** Abandonment or other disposition of property shall be accomplished pursuant to F.R.B.P. 6007 and in conformity with Mont. LBF 11. The trustee or debtor in possession shall give notice to all entities specified in F.R.B.P. 6007. Notices of proposed abandonment filed by a trustee shall include the fourteen (14) day notice provided in Mont. LBR 9013-1, which shall constitute a permissible reduction of time authorized under F.R.B.P. 9006(c)(1). A proposed order shall be filed with the notice of abandonment. A party in interest may file a response and request a hearing pursuant to Mont. LBR 9013-1.

(b) **Tax Refunds Not Abandoned.** The closure of cases by the Court following the filing of a trustee's report of no distribution in a no-asset case, or a trustee's final report in an asset case,

shall not constitute an abandonment of tax refunds earned prepetition, whether or not the same were scheduled by debtors under 11 U.S.C. § 521(1), and such tax refunds shall not be deemed administered by the trustee during the original pendency of such debtors' cases.

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Related Authority:  
11 U.S.C. §§ 554  
F.R.B.P. 6007

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## PART VII.

### **RULE 7005-1. Service by Electronic Means.**

FED R.CIV.P. 5, as amended, applies in adversary proceedings. In addition to other methods of service described in Fed. R. Civ. P. 5, service by electronic means is allowed provided the entity being served consents in writing to such electronic service. All authorized users of CM/ECF consent to electronic service. An entity or the Court may make service under this Local Rule through electronic means by using the Court's transmission facilities, wherein the notice of electronic filing generated by CM/ECF (which contains a hyperlink to the filed document) shall constitute service (and proof of service) of the document, pleading or other paper.

### **RULE 7016-1. Pretrial Procedures.**

(a) **In Default Cases.** If the defendant has failed to appear or respond within the time permitted for an appearance or response, the procedure outlined herein shall not be applicable, but the Court may direct the party not in default to appear or to file a pleading for the purpose of noting a default, the entry of a default judgment, and for scheduling a date for trial on the issue of damages if required by law. If the party not in default fails to take action to prosecute its claim after reasonable notice to appear or take such action, the Court may dismiss the proceeding for failure to prosecute.

### **(b) Case Scheduling Conference; Pretrial Conference; and Order.**

(1) Within twenty-one (21) days after the defendant files an answer, the Court will issue an order scheduling a telephone conference with all attorneys representing parties and with any *pro per* litigants to discuss time limits to be contained in a case scheduling order that limits the time: (1) to complete discovery; (2) to join parties and to amend pleadings; (3) to file pretrial motions; (4) to conduct and complete alternative dispute resolution procedures; (5) to file the pretrial order; (6) to exchange exhibits and identify witnesses; (7) to file pretrial memoranda; and (8) to set the trial date.

(2) An order containing the above time limits will be issued by the Court upon completion of the telephone conference. If multiple defendants exist in an adversary

proceeding, the Court, in its discretion, may issue an order scheduling a telephone conference to establish appropriate dates for the appearing defendants and to determine the status of service of process on any unserved defendants.

(3) The Court, in its discretion, may set such additional pretrial conferences for the purposes of expediting the disposition of the case, establishing early and continuing control, discouraging wasteful pretrial activities, improving thorough preparation and facilitating the settlement of the case. During the case scheduling conference, the parties shall discuss whether alternative dispute resolution may be beneficial in resolving any contested issues.

(4) Pursuant to the authorization of Fed. R. Civ. P. 26(d), as incorporated in F.R.B.P. 7026, this Court through this rule and by other appropriate order directs that discovery may be commenced after the complaint is filed, without leave of Court. Furthermore, all parties are expected to informally satisfy the provisions of initial disclosure contained in Fed. R. Civ. P. 26(a), without the need for any formal discovery requests.

(c) **Initial Conference and Discovery Plan.** During the case scheduling conference, the parties shall orally discuss the names and addresses of individuals likely to have discoverable information, discuss the need for and the names and addresses of possible expert witnesses, discuss the existence and availability of documents, and discuss a computation of damages, if applicable. Any information discussed shall be supplemented immediately upon discovering more complete or more accurate information. The parties shall further discuss a discovery plan that addresses the nature and complexity of the claims or defenses alleged in the litigation.

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Related Authority:  
F.R.B.P. 16 and 26  
Mont. LBR 9014-1

Committee Note

Mont. LBR 7016 and 7026 are based on Rules 16 and 26, Fed. R. Civ. P., as F.R.B.P. 7016 and 7026 incorporate by reference the Fed. R. Civ. P. To promote thorough preparation for trial, to conserve scarce judicial resources and to expeditiously conclude litigation, the Court, pursuant to the Local Rules and the discretion and authority permitted by the rules to issue orders modifying strict compliance with the federal rules given the varying nature and complexity of the adversary proceedings filed before the Court, shall generally consolidate and coordinate the conferences and disclosures required under the federal rules.

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**RULE 7016-2. Continuances of Dates Set in Case Scheduling Order.**

The parties and their attorneys are governed by the dates set forth in the Order entered immediately after the pretrial conference and no extensions or continuances shall be granted in the absence of a showing of good cause. Mere failure on the part of counsel to proceed promptly with the normal processes of discovery shall not constitute good cause for an extension or continuance.

**RULE 7026-1. Discovery.**

(a) **Initial Disclosure.** The provisions of Fed. R. Civ. P. 26(a)(1), as incorporated into F.R.B.P. 7026, shall not apply in adversary proceedings unless so ordered by the Court on a case-by-case basis, except as provided in Mont. LBR 7016-1(b)(4). Mont. LBR 7016-1(c) provides that the initial disclosures and the discovery plan shall be considered and discussed during the case scheduling conference. Prior to the completion of the case scheduling conference, parties may commence discovery, without leave of court. *See* Mont. LBR 7016-1(b).

(b) **Limits on and Transcripts of Depositions.** No party shall take more than ten (10) depositions, whether upon oral examination under F.R.B.P. 7030 or upon written questions under F.R.B.P. 7031. Exceptions to this rule may be granted by the Court only upon written motion showing good cause. Original transcripts of depositions need not be filed with the Clerk of Court.

(c) **Requirement of a Writing.** All objections to interrogatories, depositions, requests, applications under F.R.B.P. 7037, and all motions and replies concerning discovery matters shall be in writing and recite with specificity the offending interrogatory, deposition, request, or application. If time does not permit the filing of a written motion, the Court may, in its discretion, waive this requirement.

(d) **Objections to Discovery Process.** An objection to any interrogatory, deposition, request, or application under F.R.B.P. 7037, shall be filed within thirty (30) days after service of the offending interrogatory, deposition, request, or application unless otherwise ordered by the Court. The filing of an objection shall not extend the time within which the objecting party must otherwise answer or respond to any discovery matter not specifically included in the objection.

(e) **Mandatory Conference Among Attorneys.** The mandatory F.R.B.P. 7026(f) conference shall be conducted in conjunction with the case scheduling conference pursuant to Mont. LBR 7016-1(b). Attorneys are further encouraged to participate in non-court, pretrial discovery conferences to decrease contentious actions by the attorneys and parties and the filing of unnecessary discovery motions. A motion concerning a discovery dispute shall not be filed until all attorneys have explored the possibility of resolving the discovery matters in controversy. The Court will not consider any motion concerning a discovery matter unless the motion is accompanied by a statement from the attorney that a good faith effort has been made by the attorney to resolve the discovery matter at issue.

(f) **No Filing of Discovery with Court.** Discovery of any type shall not be filed with the Court at any time unless a discovery dispute occurs and appropriate motions concerning the dispute are filed or the Court directs the parties to file discovery. A notice that some type of discovery is occurring shall not be filed with the Court.

(g) **Motions to Compel.** After a discovery request is objected to or not complied with in a timely manner, and if not otherwise resolved under subsection (e), it is the responsibility of the party

initiating discovery to place the matter before the Court in a timely manner. To compel an answer, production, designation, or inspection, a motion must be filed under F.R.B.P. 7037, and in compliance with Mont. LBR 9013-1. However, a party properly noticed of a deposition must appear and submit to the deposition unless a motion to quash has been granted.

(h) **Other Discovery Motions.** Motions for a protective order under F.R.B.P. 7026(c) and motions to compel physical or mental examination, including F.R.B.P. 7035, shall comply with Mont. LBR 9013-1 and subsection (f) hereof.

(i) **Discovery Replies.** A response to a discovery motion and request for hearing shall be filed in compliance with Mont. LBR 9013-1.

(j) **Compliance with Discovery Orders.** After the Court has ruled on a discovery motion, any answer, production, designation, inspection, or examination required by the Court shall be done within fourteen (14) days after the entry of the order of the Court, oral or otherwise, unless otherwise ordered by the Court.

(k) **Failure to Comply with Orders.** Should a party fail to comply with an order of the Court concerning discovery motions, it is the responsibility of the objecting party to place the matter before the Court by a proper motion for supplementary relief under F.R.B.P. 7037.

(l) **Unnecessary Discovery Motions or Objections.** The presentation to the Court of unnecessary discovery motions or requests, as well as unwarranted opposition to proper discovery proceedings, may subject the offender to remedies and sanctions, including the imposition of costs and attorney fees.

#### **RULE 7055-1. Default and Default Judgment.**

(a) **By the Clerk.** A judgment of default may be entered by the Clerk upon application for default judgment with affidavits and amount due, including costs and disbursements if any, filed by the party entitled to judgment other than under 11 U.S.C. §§ 523 or 727. The affidavit shall include a statement that no defense or other response of any kind has been received, or if received shall detail the defense or other response received. If the party in default has appeared in the proceeding, notice of the application for default judgment shall be served pursuant to F.R.B.P. 7055 as it incorporates Fed. R. Civ. P. 55(b)(2). The Court may order a hearing on any application for default judgment.

(b) **Documents to Submit.** When a party is entitled to have a default judgment entered by the Clerk pursuant to F.R.B.P. 7055 and Fed. R. Civ. P. 55(b)(1), the party must submit the following:

(1) application for Clerk's entry of default pursuant to subsection (2) below;

(2) the actual Clerk's entry of default, which will be completed by the Clerk's Office when the required information is verified;

(3) a motion for entry of default judgment by the Clerk pursuant to (4) below; and

(4) a proposed default judgment with a statement showing the following:

(A) the principal amount due, not to exceed the amount of the original demand, giving credit for any payments and showing the amounts and dates of all payments;

(B) a computation of accrued interest to the proposed date of judgment; and

(C) any costs and taxable disbursements claimed.

(c) **Affidavit.** An affidavit of counsel or the party seeking default judgment must be attached to the default request showing:

(1) that the party against whom judgment is sought is not an infant, an incompetent person, or in the military service;

(2) that service of the summons and complaint was properly made in compliance with F.R.B.P. 7004;

(3) that the party has defaulted in the obligation to appear or respond in the action;

(4) that the amount shown by the statement is justly due and owing and that no part thereof has been paid except as stated; and

(5) that the disbursement sought to be taxed has been made in the action or will necessarily be made or incurred.

The Clerk shall then enter judgment for principal, interest, and costs.

(d) **By the Court.** When applying for entry of default judgment pursuant to F.R.B.P. 7055 and Fed. R. Civ. P. 55(b)(2), the following papers must be filed:

(1) a motion for entry of default judgment;

(2) a proposed default judgment; and

(3) an itemized statement regarding damages being requested and the basis therefor.

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Related Authority:  
F.R.B.P. 7055  
Fed. R. Civ. P. 55

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**RULE 7056-1. Summary Judgment.**

(a) **Summary Judgment Motions.** In addition to the following requirements, Mont. LBR 9013-1 and Mont. LBR 9013-2 shall apply to summary judgment motions, except for provisions dealing with the noticing of hearings. No hearings shall be held in connection with summary judgment motions unless ordered by the Court.

(1) **Statement of Uncontroverted Facts.** A separate, short, and concise "Statement of Uncontroverted Facts" must accompany every motion for summary judgment. Failure to submit this statement constitutes grounds for denial of the motion. The statement shall set forth separately each fact, in serial, not narrative form, and shall specify the specific portion of the record where the fact can be found (e.g., affidavit, deposition, etc.).

(2) **Statement of Genuine Issues.** Opposition to a motion for summary judgment, if any, must be filed within fourteen (14) days after the motion is served and must comply with Mont. LBR 9013-1. A separately identified, short, and concise "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, must be filed by the party opposing the motion together with an opposition brief.

(3) **Facts Admitted.** All material facts in the moving party's Statement of Uncontroverted Facts are deemed to be admitted unless controverted by a Statement of Genuine Issues filed by the opposing party.

(4) **Time for Filing.** Summary judgment motions must be filed by the date specified in the case scheduling order for the filing of pretrial motions.

(5) **Stipulation.** Alternatively, the parties may file a stipulation setting forth a "Statement of Stipulated Facts" with a representation that no genuine issues of material fact exist. Such stipulation is solely for the purpose of considering the summary judgment motion and is not otherwise binding.

(b) **No Tolling.** Even though a summary judgment motion may be filed by a party, such motion does not toll the period of time for filing a F.R.B.P. 7012(b) motion or answer, or for complying with any other dates set forth in a pretrial scheduling order.

(c) **Consideration by the Court.** Nothing in this rule shall require the Court to review portions of the record in response to a motion where the moving papers do not make specific reference to portions of the record. To expedite a decision or for other good cause, the Court may, on notice to all parties, rule on a motion before the expiration of the fourteen (14) day period ordinarily permitted for filing opposition papers.

(d) **Oral Arguments.** Unless the Court orders otherwise, no formal hearing on a motion for

summary judgment will be conducted and the Court shall proceed to consider and rule upon the merits of any such motion upon the expiration of the reply deadline without oral arguments by the parties.

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Related Authority:  
F.R.B.P. 7056  
Fed. R. Civ. P. 56

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## **PART IX.**

### **RULE 9001-1. Definitions.**

The terms “documents” and “papers” as used in these rules include those filed or transmitted by electronic means.

### **RULE 9003-1. *Ex Parte* Contact.**

No attorney, accountant, party in interest, or any of their employees shall engage in any *ex parte* meetings or communications with the Judge or with Chamber’s staff concerning any disputed issue of fact or law in a particular case, matter or proceeding. This rule does not limit or prohibit *ex parte* presentation of emergency or administrative matters, or *ex parte* applications contemplated by the Bankruptcy Code, the F.R.B.P., or these Local Rules.

### **RULE 9004-1. Case Numbering for Pleadings.**

The case number provided in every pleading filed with the Court shall include a reference to the chapter under which the case is then pending. Case numbers shall be consistent with the following example: 03-12345-13, with the first set of numbers being the year in which the case was filed, the second set of numbers being the actual case number, and the third set of numbers being the chapter under which the case is presently pending. It shall not be necessary to include the initials of the U.S. Bankruptcy Judge assigned to the case as a part of the case number.

### **RULE 9005-1. Constitutional Challenge to a Statute – Notice, Certification, and Intervention.**

In any case in which the constitutionality of (a) an Act of Congress is brought into question and in which the United States or any agency, officer, or employee thereof is not a party, or (b) a statute of a state is brought into question and in which the state or any agency, officer or employee thereof is not a party, the party raising the constitutional issue shall comply with 28 U.S.C. § 2403, Fed. R. Civ. P. 5.1 or Mont. R. Civ. P. 24(d), or the applicable rule or statute of any other state.

### **RULE 9006-1. Time.**

When a notice or other paper prescribes that some act occur and such notice or paper, other than process, is served by mail or electronic means, three (3) days shall be added to the prescribed time period. Three (3) days shall not be added to the applicable time period when such time period is given in open court.

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Related Authority:  
F.R.B.P. 7005 and 9006(f)  
Fed. R. Civ. P. 5(b)(2)(D)  
Mont. LBR 5009-1

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**RULE 9007-1. Notice to Creditors and Others in Chapter 7 Asset Cases, and Chapter 12 and 13 Cases.**

Unless otherwise specified in the F.R.B.P., after the time for filing claims has expired in Chapter 7, 12 and 13 cases, notice need only be served on the debtor(s), the case trustee, and their respective attorneys, the U. S. Trustee, creditors having timely filed proofs of claim, and entities specifically requesting copies of all notices; provided, however, all creditors on the Clerk of Court's mailing list shall be served with copies of the final reports and accounts filed by Chapter 7 trustees; and only those creditors who filed timely proofs of claims shall be served with copies of final reports and accounts filed by Chapter 12 or 13 trustees.

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Related Authority:  
F.R.B.P. 2002(h)

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**RULE 9009-1. Form of Chapter 12 and 13 Plans.**

(a) **Chapter 12 Plans.** A Chapter 12 plan shall be filed within ninety (90) days of the petition date on Mont. LBF 14, and must include the projected income and expenses for the term of the plan, and a liquidation analysis.

(b) **Chapter 13 Plans.** Debtor's Chapter 13 plan shall conform to Mont. LBF 19 unless, for good cause, the debtor obtains leave from the trustee or the Court to submit an alternative form of plan. Requests for such leave from the Court shall be made by filing Mont. LBF 20, accompanied by a proposed Order using the form specified in Mont. LBF 20-A.

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Related Authority:  
11 U.S.C. §§ 1221 and 1321

Committee Note:  
Debtors shall file and serve all creditors and the trustee with Debtors' Chapter 12 or 13 plans. Debtors only need to serve

the Chapter 13 trustee with the motion for leave to file alternative form of Chapter 13 plan (Mont. LBR 20). In Chapter 13 cases, reference should be made to the special rules that pertain to estimated attorney fees and costs, as contained in Mont. LBR 2016(a), and the Committee Note pertaining to such Local Rule.

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#### **RULE 9011-1. Signing of Papers; Representations to the Court.**

(a) **Signing of Papers.** All pleadings, motions and other papers that are submitted for filing shall be signed by an attorney of record in the attorney's own name, or if there is no attorney, by the party, except that the petition, schedules, statements and plan, if any, shall be signed by the debtor(s). See Signature Compliance, Mont. LBR 5005-2(c).

(b) **Electronic Signatures.** Any person signing a document to be electronically filed shall use either "/s/ Joseph P. Smith [person's name]" or "*Joseph P. Smith* [electronic cursive signature]" when filing documents electronically. This shall constitute the signature of the person for purposes of F.R.B.P. 9011. The original declaration under penalty of perjury relating to the petition, statements, schedules, and any amendment to any of these types of documents, shall be transmitted by personal delivery, mail, or electronic means to the Clerk and, if necessary, shall be scanned into the CM/ECF system. The signature appearing on the electronic document shall be the original. The Clerk shall not retain any originally signed documents, but shall return them to the submitting person, provided such person has presented to the Clerk a stamped, self-addressed envelope. If no envelope is presented the document will be disposed of by the Clerk. Any password required for electronic filing shall be used only by the entity to whom the password is assigned, and by authorized members and employees of an entity to whom the password is assigned.

#### **RULE 9011-2. Reminders to Court.**

In the event a Judge has under advisement any matter, including, but not limited to, a motion or decision in a bench trial, for a period of more than sixty (60) days, each party affected by the undecided matter shall send to the Judge a letter particularly describing the matter under advisement and stating the date the matter was taken under advisement. As long as the matter remains under advisement, at intervals of forty-five (45) days thereafter, each affected party shall send a similar letter to the Judge.

#### **RULE 9013-1. Motion Practice.**

(a) **Applicability.** This Rule applies to all motions, applications and other pleadings requesting an order, unless governed by Mont. LBR 9013-1(g), in all contested matters and adversary proceedings.

(b) **Form.** All motions, including objections to discovery, shall be in writing, except those made during trial or hearing.

(c) **Content of Motion.** Motions, in the body of the motion or in an accompanying brief, shall state with particularity the relevant law by section and the relevant procedure by rule upon which the

moving party relies, shall specify all relief requested, and shall include a brief statement explaining why the relief should be granted. If a motion consists of several documents, the moving party shall serve to any party germane excerpts of all documents and all exhibits.

**(d) Service of Motion, Response and Other Pleadings.**

(1) **Minimum Service.** In addition to all parties entitled to service under the F.R.B.P., at a minimum, parties shall electronically serve notice of their respective papers upon all opposing attorneys, the U.S. Trustee, the case trustee, if any, and any party appearing *pro per* and serve by mail any entity not receiving electronic service. The serving party shall file a Certificate of Service with the Clerk for all entities not receiving electronic service but receiving service by mail or other means.

(2) **Certificate of Service or Transmittal.** Unless otherwise noted herein, an original certificate of service shall be incorporated in, or attached to, each original pleading whenever service or transmittal of a document is accomplished by mail or other means, and shall be filed with the Clerk. A certificate of service does not need to include entities served electronically through CM/ECF. The copies served on other entities shall also reflect such proof of service. All proofs of service, except those made by the Clerk or by electronic service under Mont. LBR 9013-1(d)(3), shall be made by verified statement (i.e., "under penalty of perjury") identifying the document and stating the date on which it was served or transmitted, the method by which service was accomplished and shall include the name and address of each entity served.

(3) **Service by Electronic Means.** For purposes of service of motions, documents, pleadings and other papers, Fed. R. Civ. P. 5(b), as amended, shall apply. Service by electronic means is allowed provided the entity being served consents in writing to such electronic service. All authorized users of CM/ECF have consented to receiving electronic service. An entity or the Court may make service under this Local Rule through electronic means by using the Court's transmission facilities, wherein the notice of electronic filing generated by CM/ECF (which contains a hyperlink to the filed document) shall constitute service of the motion, document, pleading or other paper, without the need for a separate certificate of service on those parties served by electronic means.

**(e) Notice of Opportunity to Respond.** After each motion, in bold and conspicuous print, the moving party shall include the following language:

**NOTICE OF OPPORTUNITY TO RESPOND  
AND REQUEST A HEARING**

**If you object to the motion, you must file a written responsive pleading and request a hearing within fourteen (14) days of the date of the motion. The responding party shall**

schedule the hearing on the motion at least twenty-one (21) days after the date of the response and request for hearing and shall include in the caption of the responsive pleading in bold and conspicuous print the date, time and location of the hearing by inserting in the caption the following:

**NOTICE OF HEARING**

**Date:** \_\_\_\_\_

**Time:** \_\_\_\_\_

**Location:** \_\_\_\_\_

**If no objections are timely filed, the Court may grant the relief requested as a failure to respond by any entity shall be deemed an admission that the relief requested should be granted.**

(f) **Response to Motion.** Unless otherwise provided by these Local Rules, any entity objecting to a motion shall file a response and request a hearing within fourteen (14) days of the date of the motion and shall, in the response, notice the contested matter for hearing by including in the caption of the responsive pleading the date, time and location of the hearing by inserting in the caption in bold and conspicuous print the Notice of Hearing as specified in the subpart (e) above. The notice of the hearing shall provide that the hearing on the contested matter shall be scheduled at the earliest hearing day following the expiration of the twenty-one (21) days counted after the date of the response and request for hearing. If no response and request for hearing is filed within fourteen (14) days of the date of the motion, the Court may grant the relief requested as a failure to respond by any entity shall be deemed an admission that the relief requested should be granted. Any response must state with specificity the grounds for any and all objections, including citation to applicable statutes and case law, provisions of any executory contract or unexpired lease in question, and the facts regarding whether any default exists.

(g) **Exception for Specific Matters.**

(1) **Matters Governed by Other Rules.** The following matters are governed by the identified Rules and follow a similar procedure as set forth in Mont. LBR 9013-1:

(A) Motions to Modify Stay, Mont. LBR 4001-1;

(B) Objections to Proofs of Claim, Mont. LBR 3007-2;

(C) Objections to Exemptions, Mont. LBR 4003-3;

(D) Motions to Avoid Liens and Nonpossessory, Nonpurchase-Money Security Interests, Mont. LBR 4003-4;

(E) Motions for Assumption or Rejection of Executory

Contracts and Unexpired Leases, Mont. LBR 6006-1;

(F) Motions to Dismiss or Convert, Mont. LBR 1017-1; and

(G) Objections to Late Filed Claims, Mont. LBR 3002-1.

**(2) Matters the Court Will Routinely Grant or Deny, with the Right to Request a Hearing.** The following matters will be routinely granted or denied, without notice or hearing, in the Court's discretion, with any party in interest having the right to object, request a hearing and schedule a hearing to reconsider the issuance of any Order within fourteen (14) days of the date of the Order:

(A) Employment of Professionals, subject to F.R.B.P. 6003(a);

(B) Change of Venue;

(C) Motion for Rule 2004 Examination;

(D) Dismissal for Failure to Pay Filing Fee, *see* Mont. LBR 1006-1(b)(3);

(E) Extending the Time to File Dischargeability Complaint;

(F) Extending Time to Pay Filing Fee;

(G) Extending Time to Object to Discharge;

(H) Redemption of Property;

(I) Substitution of an Attorney;

(J) Amending Schedules, or Statement of Financial Affairs;

(K) Motion to Appear *pro hac vice*;

(L) Reaffirmation Agreements (when signed by debtor, creditor and attorney);

(M) Continuance/Rescheduling of Hearing;

- (N) Debtor's Motion to Convert from Chapter 11 to Chapter 7;
- (O) Debtor's Motion to Dismiss from Chapter 12 or 13, if not previously converted;
- (P) Entry of Default;
- (Q) Expediting Hearing;
- (R) Extending Time to File Proofs of Claim;
- (S) Participation in ASCS Program;
- (T) Pay Filing Fees in Installments;
- (U) Recusal of Judge;
- (V) Reopening Chapter 7, 11, 12, or 13 Case;
- (W) Rescission of Reaffirmation Agreement;
- (X) Establish Bar Date for Proofs of Claim;
- (Y) Conduct Appraisal by Creditor of Debtor's Property;
- (Z) Withdrawal of Trustee's No Distribution Report;
- (AA) Motion for Final Decree in Chapter 11 case;
- (BB) Leave to Appeal;
- (CC) Stay Pending Appeal;
- (DD) Motion to File Briefs Longer than 15 pages;
- (EE) Extending Time to File Motion to Dismiss Under § 707(a) or (b);
- (FF) Extending Time to File Schedules and/or Statements of Financial Affairs;

(GG) Notice of Amendment of Statement of Social Security Number;

(HH) Compelling Turnover of Documents to the U.S. Trustee;

(II) Motion to Approve Compromise and Settlement [provided there are no parties who might object];

(JJ) Motion to Extend Time to File Objections to Claims of Exemption Under F.R.B.P. 4003(b);

(KK) Motion to Defer Entry of Discharge Under F.R.B.P. 4004(c)(2);

(LL) Motion by Chapter 7 Trustee for Authority to Operate Business Under § 721; and

(MM) Motion to Extend Time to Obtain 15-Day Extension of Temporary Exemption from Credit Counseling Requirement Under § 109(h)(3).

In its orders granting or approving the above-described motions, the Court will provide notice to third parties of their right to object and request a hearing within fourteen (14) days.

(h) **Notice Required Instead of Motion.** Notices and not motions may be filed for the following matters:

- (1) Trustees' deposit of funds into Court registry;
- (2) Debtors' conversion of a case from Chapters 12 or 13 to another chapter; and
- (3) Debtors' amendment of petition, schedules, statement of financial affairs, and any other statement, *see* Mont. LBR 1007-1 and 1009-1.

(i) **Proposed Order.** A separate original, proposed order shall be submitted with the motion, except in the case of motions for summary judgment; dismissal for abuse under 11 U.S.C. § 707(b); voluntary dismissal of a Chapter 13 case; employment of professionals; reaffirmation of debt; trustee compensation and expenses; enlargement of time to file schedules or statements of financial affairs; entry of discharge; plan modifications; professional fee applications; or in such other instances where the Court does not require a formal order. If the moving party is unsure about the appropriate form of proposed order to submit to the Court, an order in compliance with Mont. LBF 34 will be acceptable.

In all forms of proposed orders submitted to the Court, it shall not be necessary to include the following signature line, as the Court has its own template for the following:

BY THE COURT:

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Hon. [Name of Judge]  
United States Bankruptcy Court  
District of Montana

Proposed Orders should be submitted without the above language.

(j) **Attendance at Hearings.** Any party proposing or opposing a motion or application who does not intend to actively pursue or oppose the same shall immediately notify all attorneys of record, *pro per* parties, and the Clerk, so that the Court, all attorneys, and any *pro per* parties are not required to devote unnecessary attention to the matter or to appear in court. Unless excused by the Court, the failure of any party to attend a duly noticed hearing shall be deemed a waiver of the pleading, objection, or motion, and a consent to sustaining or granting the relief sought by the attending party.

(k) **Motion to Vacate or Amend an Order.** A motion under F.R.B.P. 9023 or 9024 (or under Fed. R. Civ. P. 59 or 60) must be filed within fourteen (14) days from the date of the order. Motions captioned as Motions to Reconsider shall be treated as Motions for Relief from a Judgment or Order and should set forth the grounds alleged to satisfy the criteria set forth in F.R.B.P. 9023 or 9024 (or Fed. R. Civ. P. 59 or 60).

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Related Authority:  
11 U.S.C. §§ 102(1)(B)(i)  
F.R.B.P. 9007

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**RULE 9013-2. Briefs and Memoranda of Law.**

(a) **Memoranda of Law.** Motions, responses to motions, objections, and responses to objections shall be supported by a memorandum of law filed with or as a part of the motion, objection or response, except as provided in subsection (b) below. Such memoranda shall be succinct and shall not exceed 15 pages in length without prior leave of the Court and shall include a concise statement of the facts and each basis for the pleading with relevant citations to legal authorities. Memoranda opposing the motion or objection shall be filed within fourteen (14) days after service of the motion or objection, or as otherwise directed by the Court and shall not exceed ten (10) pages in length, without prior leave of the Court. Memoranda in support of or in opposition to motions for summary judgment shall not exceed 25 pages in length. Any reply memoranda by the party moving for summary judgment shall not exceed 10 pages. Parties who cite authority not generally available on WESTLAW shall provide a copy to the Court. [See also Mont. LBR 7056-1 for special requirements applicable when the memorandum of law is being filed in support of a motion for summary judgment.]

(b) **Motions Not Requiring Memoranda of Law.** Unless otherwise directed by the Court, memoranda of law are not required for the following motions:

- (1) to obtain an extension of time, provided that the request is made before the expiration of the period originally prescribed by applicable rule, statute, order, or as extended by previous order;
- (2) to continue a pretrial conference, hearing, motion, or the trial of an action;
- (3) to demand a more definite statement;
- (4) to waive the debtor's appearance at the 11 U.S.C. § 341 meeting;
- (5) to amend the petition or schedules or statements;
- (6) to effect a substitution of parties;
- (7) all motions routinely granted under Mont. LBR 9013-1(g)(2);
- (8) compelling turnover of property to the trustee; or
- (9) to modify the automatic stay under 11 U.S.C. § 362(a).

**RULE 9014-1. Contested Matters.**

Unless requested by a party and allowed by the Court, in its discretion, the Part VII rules identified in F.R.B.P. 9014(c) shall not apply to any contested matter. The subpoena powers of attendance and production allowed under F.R.B.P. 9016 apply in contested matters, which are separate and distinct from the Part VII rules specified in F.R.B.P. 9014(c).

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Related Authority:  
F.R.B.P. 7004 and 9014  
Mont. LBR 7016-1

Committee Note:  
Pursuant to Rules 7004(b)(9) and 9014(b), F.R.B.P., all motions directed to a debtor, in addition to being served upon counsel for the debtor, must be served upon the debtor by mailing a copy of the motion "to the debtor at the address shown in the petition or to such other address as the debtor may designate in a filed writing." Such service can be accomplished by First Class Mail, but the debtor must be served as well as his or her counsel. Proof of service upon the debtor is required.

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**RULE 9015-1. Jury Trials.**

(a) **Applicability of Certain Federal Rules of Civil Procedure.** Fed. R. Civ. P. 38, 39, 47-51, and 81(c), insofar as they apply to jury trials, apply in all cases and proceedings in this Court, except that a demand made under Fed. R. Civ. P. 38(b) shall be filed in accordance with F.R.B.P. 5005.

(b) **Consent to Have Jury Trial Conducted by Bankruptcy Court.** If the right to a jury trial applies and a timely demand has been filed under Fed. R. Civ. P. 38(b), the parties may consent to have a jury trial conducted by the Bankruptcy Court under 28 U.S.C. § 157(e). Parties must jointly or separately file a statement of consent no later than thirty (30) days after the date for demand. Failure to affirmatively file a consent to a jury trial shall be deemed to be a lack of consent.

(c) **Voir Dire.** Unless otherwise ordered, interrogation of prospective jurors on *voir dire* examination shall be conducted by the Court. The Court, in its discretion, may permit questions to be submitted in writing in advance of jury selection or orally at the side of the bar during *voir dire*.

(d) **Time for Filing a Demand for Jury Trial After Removal.** If at the time of removal all necessary pleadings have been served, a party entitled to a jury trial must demand one within twenty-one (21) days after the Notice of Removal is filed; otherwise, within twenty-one (21) days after service of the notice of filing of the Notice of Removal on the party entitled to a jury trial. A party making an express demand for trial by jury prior to removal, in accordance with federal or state law, need not make a demand after removal. If applicable state law in the court from which the case is removed does not require the parties to make express demands to claim a trial by jury, the parties must make demands after removal, in accordance with this paragraph, unless the Court directs them to do so within a specific time. The Court may make such a direction on its own motion and shall do so as a matter of course at the request of any party. The failure of a party to make a jury demand as directed under this sub-paragraph constitutes a waiver of trial by jury.

#### **RULE 9019-1. Alternative Dispute Resolution and Settlement Conferences.**

(a) **Generally.** The Court encourages the use of Alternative Dispute Resolution (“ADR”) in any adversary proceeding or contested matter where the parties believe the contested issues may be resolved through ADR. The Court will discuss ADR with the parties during the case scheduling conference. *See* Mont. LBR 9014-1 for applying ADR to contested matters.

(b) **The Early Neutral Evaluation Process and Goals.** The provisions of the District Court Local Rules regarding Early Neutral Evaluation (“ENE”) shall apply in Bankruptcy Court, subject to modifications necessary to ensure a specialized panel and requirements appropriate to bankruptcy issues. Upon request and consent of all parties, an adversary proceeding or contested matter will be submitted to ENE and the deadline for completing the ENE process shall be set forth in the Case Scheduling Order. The Court, upon request, will coordinate the initiation of ENE in any adversary proceeding or contested matter.

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Committee Comment:

The Bankruptcy Section of the State Bar of Montana has established an Alternate Dispute Resolution Panel. The names

of individuals available to mediate disputes in the context of bankruptcy cases are maintained on the Bankruptcy Section's Internet webpage.

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**RULE 9022-1. Notice of Judgment or Order.**

Pursuant to Fed. R. Civ. P. 5(b), as amended, the Court may serve notice of entry of a judgment or order through several methods, including electronic means, upon an entity's consent, by using the Court's transmission facilities, wherein the notice of electronic filing generated by CM/ECF (which contains a hyperlink to the filed document) shall constitute service of the order or judgment.

**RULE 9029-1. Local Rules.**

**(a) Matters Not Covered by Local Rules.**

- (1) **Consistent Practice.** In any matter not covered by these Local Rules the Court may regulate practice in any manner not inconsistent with the F.R.B.P. and the Fed. R. Civ. P.
- (2) **Suspension of Rules.** The Court, upon its own motion or the motion of any party, may change or dispense with any of these Local Rules in the interests of justice.
- (3) **Good Cause.** A motion for waiver of these Local Rules may be approved if the moving party demonstrates good cause for a waiver.

**(b) District Court Authorization To Amend.**

The U.S. District Court Judges of the District of Montana, by a majority, authorizes by their approval of these Local Rules the Bankruptcy Judges of the District to make and amend rules of practice and procedure pursuant to Fed. R. Civ. P. 83, but not duplicative of, Acts of Congress, and the F.R.B.P. and which do not prohibit or limit the use of the Official forms. This authorization is provided pursuant to F.R.B.P. 9029(a).

**RULE 9036-1. Notice by Electronic Transmission.**

(a) **Electronic Noticing Agreement.** Pursuant to F.R.B.P. 9036, the Court may direct notice by electronic transmission if the entity entitled to receive the bankruptcy notice requests in writing that notices be transmitted electronically. This written request requirement is fulfilled through the execution of an electronic noticing agreement. This is in addition to and distinct from the consent document executed for the CM/ECF electronic service.

(b) **BNC.** The Clerk will provide noticing agreements through the judiciary's Bankruptcy Noticing Center ("BNC") to any person requesting this service. The terms and procedures for electronic noticing are detailed in the Court's noticing agreement provided by the Clerk and also available on the Court's website at [www.mtb.uscourts.gov](http://www.mtb.uscourts.gov).

**RULE 9037-1. Privacy Protection For Filings Made with the Court.**

F.R.B.P. 9037, adopted December 1, 2007, and as amended from time to time, applies in all cases and adversary proceedings, including all exhibits or other documents filed with the Court.

**EFFECTIVE DATE**

These Local Rules shall be in force and effect in the United States Bankruptcy Court for the District of Montana from and after December 1, 2009, and shall supersede all former Local and Interim Rules and General Orders of the Court.

/s/ Ralph B. Kirscher  
CHIEF BANKRUPTCY JUDGE RALPH B. KIRSCHER

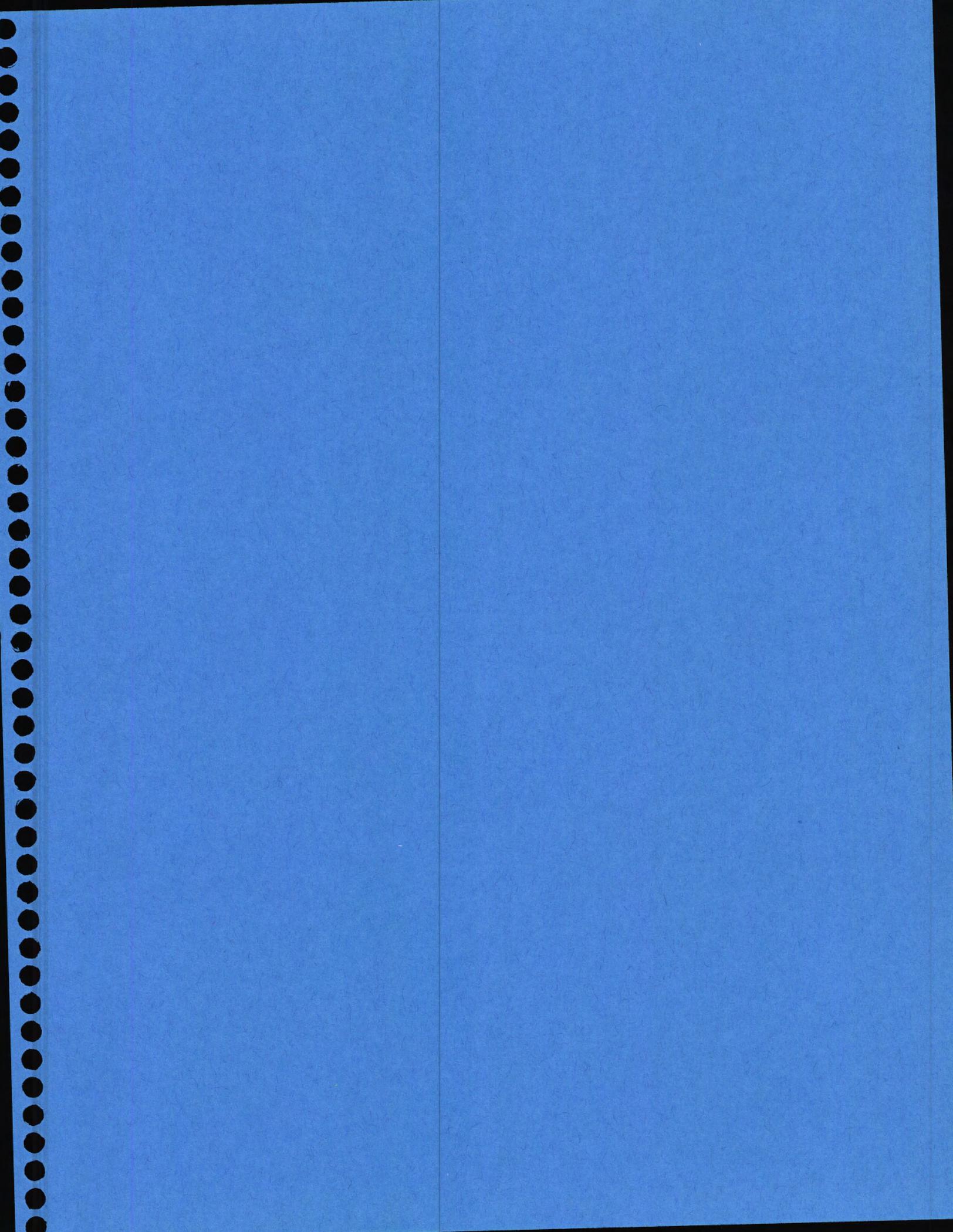
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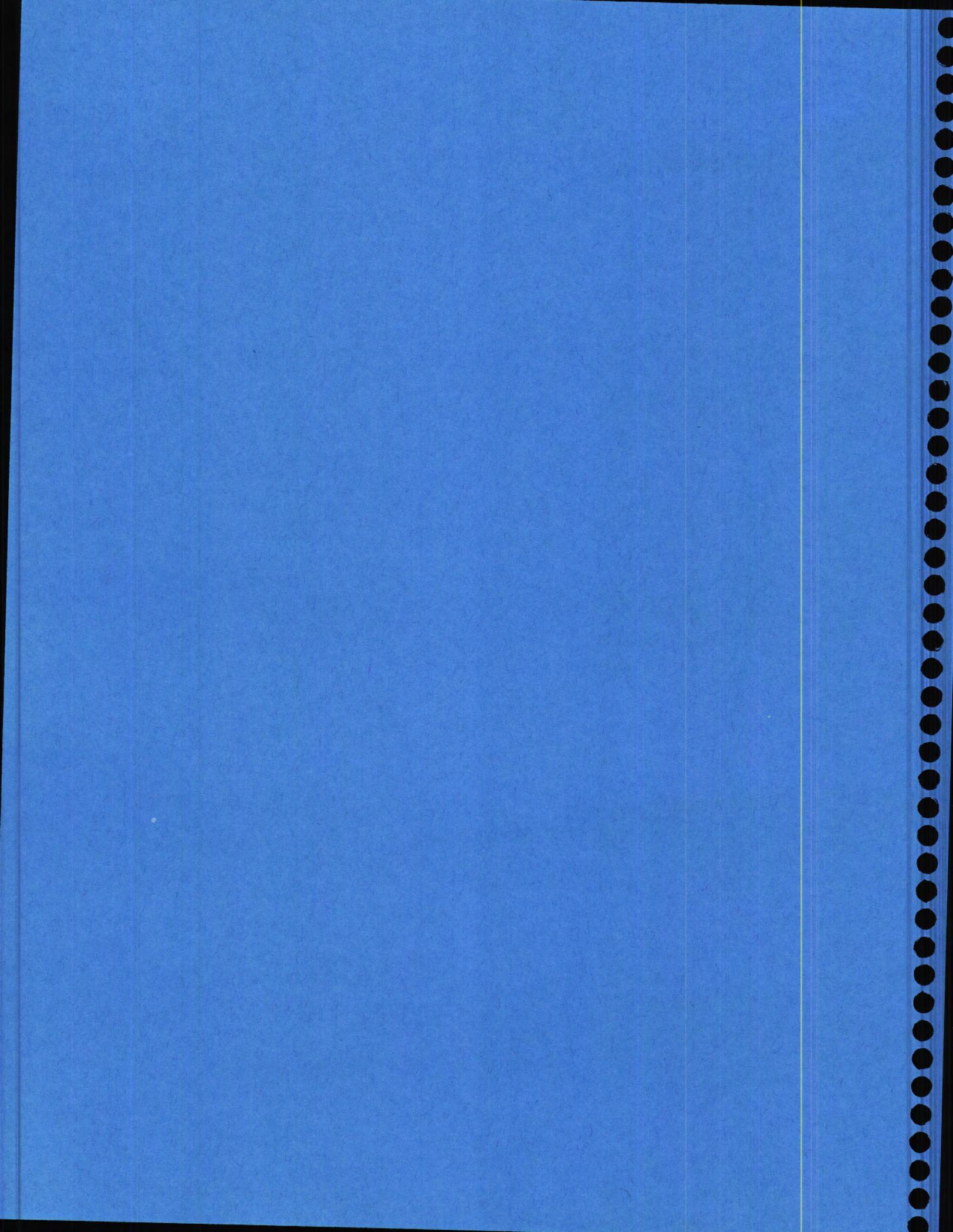
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**Appendix to the  
Local Bankruptcy Rules  
For the United States Bankruptcy Court  
For the District of Montana**

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**LOCAL BANKRUPTCY FORMS**

(Local Bankruptcy Forms to be cited as Mont. LBF \_\_\_\_)

\* \* \* \* \*

**UNITED STATES TRUSTEE GUIDELINES  
FOR REVIEWING APPLICATIONS FOR COMPENSATION  
AND REIMBURSEMENT OF EXPENSES UNDER 11 U.S.C. § 330**

**LOCAL BANKRUPTCY FORMS  
FOR THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF MONTANA**

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**Mont. LBF 1. APPLICATION TO APPROVE EMPLOYMENT OF PROFESSIONAL;  
AFFIDAVIT.**

[Mont. LBR 2014-1]

Name of Trustee/Attorney  
Office Mailing Address  
Telephone Number  
Facsimile Number  
E-Mail Address  
State Bar I.D. Number  
(Attorney for \_\_\_\_\_)

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF MONTANA

In re \_\_\_\_\_ ) Case No. \_\_\_\_\_  
 )  
 )  
Debtor(s). )

---

APPLICATION TO APPROVE EMPLOYMENT OF PROFESSIONAL; AND AFFIDAVIT

---

The Application of [trustee or debtor in possession] respectfully represents:

1. On the \_\_\_ day of \_\_\_\_\_, 20\_\_\_, Debtor(s) filed a petition under Chapter \_\_\_ of the Bankruptcy Code.
2. [Trustee or debtor in possession] wishes to employ \_\_\_\_\_, (“Professional”) in the capacity of an \_\_\_\_\_ (e.g., attorney, accountant, etc.).
3. Applicant has selected Professional for the following reasons: (State reasons for the selection.)
4. The professional services that Professional is to render include: (State services to be rendered.)
5. To the best of Applicant’s knowledge, Professional has no connection with the creditors, or any other party in interest, or their respective attorneys and accountants, the United States Trustee, or any person employed in the office of the United States Trustee, and is a “disinterested person” as defined in 11 U.S.C. 101(14) except: (State any exceptions.)

6. The terms of employment of Professional, agreed to by the [trustee or debtor in possession], subject to the approval of the Court are: (State terms of employment, to include but not limited to the name and hourly rate of each professional to be employed; the name and hourly rate of each paraprofessional which may perform services; and the amount of any retainer paid.)

7. Professional represents no interest adverse to [trustee or debtor in possession] or the estate in the matters upon which Professional is to be engaged, and Professional's employment would be in the best interest of this estate.

WHEREFORE, [trustee or debtor in possession] prays that the Court approve Professional's employment under the terms specified herein.

Dated this \_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Name of Trustee/Attorney

---

AFFIDAVIT OF PROPOSED PROFESSIONAL

---

STATE OF MONTANA            )  
  :  
County of \_\_\_\_\_        )

[Name of person to be employed], being duly sworn upon [his/her] oath, deposes and states:

1. I am an [capacity of person to be employed and association with firm, if appropriate].
2. I [and firm of which professional is a member, if appropriate] have no connections with the Debtor, creditors, or any other party in interest, their respective attorneys and accountants, the United States Trustee, or any person employed in the office of the United States Trustee; and I [and firm of which professional is a member, if appropriate] am a "disinterested person" as defined in 11 U.S.C. § 101(14). [State any exceptions.]
3. I [and firm of which professional is a member, if appropriate] represent no interest adverse to the Debtor or the estate in the matters upon which I [and firm of which professional is a member, if appropriate] am to be engaged.

4. I have received a general retainer in the amount of \$\_\_\_\_\_, which shall not be used to pay my compensation or for reimbursement of my expenses without prior approval of this Court.

\_\_\_\_\_  
[Name of Professional]

Subscribed and sworn to before me this \_\_\_ day of \_\_\_\_\_, 20\_\_.

(Notary Seal)

\_\_\_\_\_  
Notary Public for the State of Montana  
Residing At: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

CERTIFICATE OF MAILING

I, the undersigned, \_\_\_\_\_, do hereby certify under penalty of perjury that a copy of the within and foregoing Application to Approve Employment of Professional; and Affidavit was sent by first class mail postage prepaid on the \_\_\_ day of \_\_\_\_\_, 20\_\_, at \_\_\_\_\_, Montana, and directed to the following:

[Insert the name and address of each individual or entity served]

\_\_\_\_\_  
[Name of person certifying the mailing]

[Must comply with Mont. LBR 9013-1(d)(2), by reflecting the name and address of each party served, and by being signed "under penalty of perjury" and by identifying the document served. Any committee and/or other parties in interest requesting special notice should also be served with this Application.]

**Mont. LBF 2. NOTICE OF WITHDRAWAL AS TEMPORARY COUNSEL FOR DEBTOR(S); WITH NO CHANGE IN ORIGINAL ATTORNEY FOR DEBTOR(S).**  
[Mont. LBR 2090-5(c)]

Name of Attorney  
Office Mailing Address  
Telephone Number  
Facsimile Number  
E-Mail Address  
State Bar I.D. Number  
(Attorney for Debtor(s))

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF MONTANA

In re ) Case No.  
)  
)  
Debtor(s). )

---

NOTICE OF WITHDRAWAL AS TEMPORARY COUNSEL FOR DEBTOR(S);  
WITH NO CHANGE IN ORIGINAL ATTORNEY FOR DEBTOR(S)

---

The undersigned attorney temporarily represented the above-named Debtor(s) at a [court hearing / § 341(a) meeting of creditors] held on the \_\_\_ day of \_\_\_\_\_, 20\_\_\_. Prior to representing the Debtor(s) at such [hearing / creditors' meeting], pursuant to Mont. LBR 2090-5(c), I filed an attorney's disclosure statement as required by Rule 2016(b), F.R.B.P., regardless of whether or not I accepted compensation for such representation. I hereby provide this notice that I am withdrawing from further representation of the Debtor(s) in all other matters or proceedings in connection with this case. My withdrawal is effective immediately.

DATED this \_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
[Name of Attorney]

**Mont. LBF 3. ATTORNEY RETENTION AGREEMENT (CHAPTER 7).**  
[Mont. LBR 2014-2(a)]

**MONTANA CHAPTER 7 MODEL RETENTION AGREEMENT**

Rights and Responsibilities Agreement Between  
Chapter 7 Debtors and Their Attorneys

Chapter 7 gives debtors important benefits, such as the opportunity to obtain a discharge of most debts – but Chapter 7 also puts burdens on debtors, such as the burden of making complete and truthful disclosures of their financial situation. It is important for debtors who file a Chapter 7 bankruptcy case to understand their rights and responsibilities in bankruptcy. In this connection, the advice of an attorney is crucial. Debtors are entitled to expect certain services will be performed by their attorneys, but debtors also have responsibilities to their attorneys. In order to assure that debtors and their attorneys understand their rights and responsibilities in the Chapter 7 process, the Bankruptcy Court for the District of Montana has approved the following agreement, setting out the rights and responsibilities of both debtors in Chapter 7 and their attorneys. By signing this agreement, debtors and their attorneys accept these responsibilities.

**I. BEFORE THE CASE IS FILED**

**A. THE DEBTOR AGREES TO:**

1. Discuss with the attorney the debtor's objectives in filing the case.
2. Provide the attorney with full, accurate and timely information, financial and otherwise, including properly documented proof of income.

**B. THE ATTORNEY AGREES TO:**

1. Personally meet with the debtor to discuss and analyze the debtor's situation and objectives in filing the case, and recommend a solution.
2. Personally counsel the debtor regarding the advisability of filing either a Chapter 7 or a Chapter 13 case, discuss both procedures (as well as non-bankruptcy options) with the debtor, and answer the debtor's questions.
3. Personally explain to the debtor that the attorney is being engaged to represent the debtor on all matters arising in this case; and explain how and when the attorney's fees and the trustee's fees are determined and paid.
4. Obtain a credit report pertaining to the debtor, and check the national PACER database to

confirm whether the debtor has previously filed a bankruptcy case.

5. Timely prepare, revise, finalize and file the debtor's petition, statements, schedules, and other related forms, and other documents necessary for prosecuting the debtor's bankruptcy case.

6. Carefully review with the debtor and sign, as appropriate, the completed petition, statements, and schedules, as well as all amendments thereto, whether filed with the petition or later.

7. Advise the debtor of the need to maintain appropriate insurance.

8. Advise the debtor of the need to file all appropriate income and other tax returns.

9. Advise the debtor as to the steps necessary to obtain a discharge.

## **II. AFTER THE CASE IS FILED**

### **A. THE DEBTOR AGREES TO:**

1. Appear at the meeting of creditors (also called the "§ 341(a) meeting") with recent proof of income, picture identification, and proof of the debtor's social security number, and any other required information.

2. Notify the attorney and the trustee of any change in the debtor's address or telephone number.

3. Inform the attorney of any wage garnishment, levies, liens or repossessions of or on assets that occur or continue after the filing of the case.

4. Contact the attorney immediately if the debtor loses employment, has a significant change in income, or experiences any other significant change in financial situation (such as serious illness, lottery winnings, or an inheritance).

5. Notify the attorney if the debtor is sued or wishes to file a lawsuit (including divorce).

6. Provide the attorney and the trustee with copies of income tax returns, and provide the trustee with any refunds received, as required by the Court's Income Tax Order. Inform the attorney if any tax refunds to which the debtor is entitled are seized or not received when due from the IRS, the State of Montana, or other entities.

7. Cooperate with the attorney and the trustee in regard to questions about the allowance or disallowance of claims.

B. THE ATTORNEY AGREES TO:

1. Advise the debtor of the requirement to attend the meeting of creditors, and notify the debtor of the date, time, and place of that meeting.
2. Inform the debtor that the debtor must be punctual and, in the case of a joint filing, that both spouses must appear at the same meeting.
3. Appear and provide knowledgeable legal representation for the debtor at the § 341(a) meeting of creditors and at any hearing.
4. If the attorney finds it necessary for another attorney to appear and attend the § 341(a) meeting or any court hearing, personally explain to the debtor, in advance, the role and identity of the other attorney; obtain the debtor's informed consent to the retention of co-counsel; and provide the other attorney with the file in sufficient time to review it, meet with the debtor, and properly represent the debtor.
5. Ensure timely submission to the trustee of properly documented proof of income for the debtor, including business books, records, or reports for self-employed debtors.
6. Initiate and respond to all routine correspondence and calls to and from the trustee, the United States Trustee, and/or creditors necessary to the timely administration of the debtor's case.
7. Timely prepare, file, and serve any necessary amended statements and schedules and any change of address, in accordance with information provided by the debtor.
8. Be available to respond to the debtor's questions throughout the duration of the case.
9. Evaluate claims which are filed and, where appropriate, notify the trustee of objectionable claims.
10. Timely respond to motions for relief from stay or valuation of property, or objections to debtor's claims of exemptions.
11. Attend any hearings concerning relief from the automatic stay or valuation of property, or concerning objections to the debtor's claims of exemptions.
12. Prepare, file, and serve all appropriate motions to avoid liens.
13. Represent the debtor in any adversary proceedings, unless otherwise authorized by the Court.
14. Provide any other legal services necessary for the administration of this case before the Bankruptcy Court, and to ensure that the debtor receives a discharge.

ALLOWANCE AND PAYMENT OF ATTORNEYS' FEES

Any attorney retained to represent a debtor in a Chapter 7 case is responsible for representing the debtor on all matters arising in the case, unless otherwise ordered by the court. For such services, as set forth above, the attorney will be paid a fee not to exceed \$ \_\_\_\_\_ (exclusive of costs and court filing fees, which shall not exceed \$ \_\_\_\_\_).

In extraordinary circumstances, the attorney may request additional compensation. The debtor is hereby informed that, in the event of such a request, fees shall be calculated or claimed at the following hourly rate: \$ \_\_\_\_\_ per hour.

The debtor agrees to pay the attorney a retainer in the amount of \$ \_\_\_\_\_ before the filing of the case.

If the debtor disputes the sufficiency or quality of the legal services provided or the amount of the fees charged by the attorney, including the fees or expenses charged, the debtor may file a motion with the Bankruptcy Court requesting the Court to examine the reasonableness of the fees and costs, and request a hearing.

If the attorney believes that the debtor is not complying with the debtor's responsibilities under this agreement or is otherwise not engaging in proper conduct, the attorney may apply for an order allowing the attorney to withdraw from the case.

The debtor may discharge the attorney at any time.

\_\_\_\_\_  
Debtor Date: \_\_\_\_\_

\_\_\_\_\_  
Joint Debtor (if applicable) Date: \_\_\_\_\_

\_\_\_\_\_  
Attorney for Debtor(s) Date: \_\_\_\_\_

**Mont. LBF 3-A. ATTORNEY RETENTION AGREEMENT (CHAPTER 13).**  
[Mont. LBRs 2014-2(b) and 2016-1(b)]

**MONTANA CHAPTER 13 MODEL RETENTION AGREEMENT**

Rights and Responsibilities Agreement Between  
Chapter 13 Debtors and Their Attorneys

Chapter 13 gives debtors important rights, such as the right to keep property that could otherwise be lost through repossession or foreclosure – but Chapter 13 also puts burdens on debtors, such as the burden of making complete and truthful disclosures of their financial situation. It is important for debtors who file a Chapter 13 bankruptcy case to understand their rights and responsibilities in bankruptcy. In this connection, the advice of an attorney is crucial. Debtors are entitled to expect certain services will be performed by their attorneys, but debtors also have responsibilities to their attorneys. In order to assure that debtors and their attorneys understand their rights and responsibilities in the Chapter 13 process, the Bankruptcy Court for the District of Montana has approved the following agreement, setting out the rights and responsibilities of both debtors in Chapter 13 and their attorneys. By signing this agreement, debtors and their attorneys accept these responsibilities.

**I. BEFORE THE CASE IS FILED**

**A. THE DEBTOR AGREES TO:**

1. Discuss with the attorney the debtor's objectives in filing the case.
2. Provide the attorney with full, accurate and timely information, financial and otherwise, including properly documented proof of income.

**B. THE ATTORNEY AGREES TO:**

1. Personally meet with the debtor to discuss and analyze the debtor's situation and objectives in filing the case, and recommend a solution.
2. Personally counsel the debtor regarding the advisability of filing either a Chapter 7 or a Chapter 13 case, discuss both procedures (as well as non-bankruptcy options) with the debtor, and answer the debtor's questions.
3. Personally explain to the debtor that the attorney is being engaged to represent the debtor on all matters arising in this case; and explain how and when the attorney's fees and the trustee's fees are determined and paid.

4. Obtain a credit report pertaining to the debtor, and check the national PACER database to confirm whether the debtor has previously filed a bankruptcy case.
5. Timely prepare, revise, finalize and file the debtor's petition, plan, statements, schedules, and other related forms, and other documents necessary for prosecuting the debtor's bankruptcy case.
6. Carefully review with the debtor and sign, as appropriate, the completed petition, plan, statements, and schedules, as well as all amendments thereto, whether filed with the petition or later.
7. Advise the debtor of the need to maintain appropriate insurance.
8. Advise the debtor of the need to file all appropriate income and other tax returns.
9. Advise the debtor as to the steps necessary to obtain a discharge.

## **II. AFTER THE CASE IS FILED**

### **A. THE DEBTOR AGREES TO:**

1. Make the required plan payments to the trustee and to whatever creditors are being paid directly, or, if required payments cannot be made, to notify the attorney immediately.
2. Appear at the meeting of creditors (also called the "§ 341(a) meeting") with recent proof of income, picture identification, and proof of the debtor's social security number, and any other required information.
3. Notify the attorney and the trustee of any change in the debtor's address or telephone number.
4. Inform the attorney of any wage garnishment, levies, liens or repossessions of or on assets that occur or continue after the filing of the case.
5. Contact the attorney immediately if the debtor loses employment, has a significant change in income, or experiences any other significant change in financial situation (such as serious illness, lottery winnings, or an inheritance).
6. Notify the attorney if the debtor is sued or wishes to file a lawsuit (including divorce).
7. Provide the attorney and the trustee with copies of income tax returns, and provide the trustee with any refunds received, as required by the Court's Income Tax Order. Inform the attorney if any tax refunds to which the debtor is entitled are seized or not received when due from the IRS, the State of Montana, or other entities.

8. Contact the attorney before buying, refinancing or selling any property, real or personal, and before entering into any loan agreement.
9. Cooperate with the attorney and the trustee in regard to questions about the allowance or disallowance of claims.

B. THE ATTORNEY AGREES TO:

1. Advise the debtor of the requirement to attend the meeting of creditors, and notify the debtor of the date, time, and place of that meeting.
2. Inform the debtor that the debtor must be punctual and, in the case of a joint filing, that both spouses must appear at the same meeting.
3. Appear and provide knowledgeable legal representation for the debtor at the § 341(a) meeting of creditors and at any hearing, plan confirmation hearing, and/or plan modification hearing.
4. If the attorney finds it necessary for another attorney to appear and attend the § 341(a) meeting or any court hearing, personally explain to the debtor, in advance, the role and identity of the other attorney; obtain the debtor's informed consent to the retention of co-counsel; and provide the other attorney with the file in sufficient time to review it, meet with the debtor, and properly represent the debtor.
5. Ensure timely submission to the trustee of properly documented proof of income for the debtor, including business books and records for self-employed debtors.
6. Initiate and respond to all routine correspondence and calls to and from the trustee, the United States Trustee, and/or creditors necessary to the timely administration of the debtor's case.
7. Timely respond to objections to plan confirmation and, where necessary, prepare, file, and serve an amended plan.
8. Timely prepare, file, and serve any necessary amended statements and schedules and any change of address, in accordance with information provided by the debtor.
9. Be available to respond to the debtor's questions throughout the term of the plan.
10. Prepare, file, and serve timely modifications to the plan after confirmation, when necessary, including modifications to suspend, lower, or increase plan payments.
11. Prepare, file, and serve necessary motions to buy or sell property and to incur debt.
12. Evaluate claims which are filed and, where appropriate, object to filed claims.

13. Timely respond to the trustee's motion to dismiss the case, such as for payment default, or unfeasibility, and to motions to increase the payments into the plan.

14. Timely respond to motions for relief from stay or valuation of property.

15. Attend any hearings concerning relief from the automatic stay or valuation of property, or concerning objections to the debtor's claims of exemptions.

16. Prepare, file, and serve all appropriate motions to avoid liens, if not included in the plan.

17. Provide any other legal services necessary for the administration of this case before the Bankruptcy Court, and to ensure the debtor receives a discharge.

#### ALLOWANCE AND PAYMENT OF ATTORNEYS' FEES

Any attorney retained to represent a debtor in a Chapter 13 case is responsible for representing the debtor on all matters arising in the case, unless otherwise ordered by the court. For such services, as set forth above, the attorney will be paid a fee not to exceed \$3,500.00; and the attorney may receive reimbursement for the payment of costs in an amount not to exceed \$500.00, inclusive of the fee paid to the Clerk of the Court to file the debtor's petition.

The attorney may apply to the court for additional compensation. Any such application must be accompanied by an affidavit of the attorney, and include an itemization of the services rendered, showing the date, the time expended, the identity of the attorney or other person performing the services, the rate(s) charged, and the total amount sought. Such an application must be set for a hearing before the Court. The debtor must be served with a copy of the application, affidavit, and notice of hearing, and advised of the right to appear in court to comment on or object to such application. The debtor is hereby informed that, in the event of such a request, fees shall be calculated or claimed at the following hourly rate(s): \$ \_\_\_\_\_ .

The attorney may receive some portion of the described fee before the filing of the case. The attorney may not receive payment on the fee directly from the debtor after the filing of the case, but must receive any remaining portion of such fee through the plan. In addition to other disclosures required by the Rules, the attorney shall disclose, in any application for additional fees, any and all fees or expenses previously paid by the debtor, pursuant to Mont. LBF 17.

If the debtor disputes the sufficiency or quality of the legal services provided or the amount of the fees charged by the attorney, including the fees or expenses charged, the debtor may file an objection with the Court and request a hearing.

If the attorney believes that the debtor is not complying with the debtor's responsibilities under this agreement or is otherwise not engaging in proper conduct, the attorney may apply for an order allowing the attorney to withdraw from the case.

The debtor may discharge the attorney at any time.

\_\_\_\_\_ Date: \_\_\_\_\_  
Debtor

\_\_\_\_\_ Date: \_\_\_\_\_  
Joint Debtor (if applicable)

\_\_\_\_\_ Date: \_\_\_\_\_  
Attorney for Debtor(s)

**Mont. LBF 4. DEBTOR'S NOTICE OF AMENDMENT TO SCHEDULES.**

[Mont. LBR 1009-1(a)]

Name of Debtor/Attorney  
Office Mailing Address  
Telephone Number  
Facsimile Number  
E-Mail Address  
State Bar I.D. Number  
(Attorney for Debtor(s))

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF MONTANA

In re ) Case No.  
 )  
 )  
Debtor(s). )

---

DEBTOR'S NOTICE OF AMENDMENT TO SCHEDULES

---

The Debtor provides this notice of the amendment of the following Schedules:

Amended Schedule(s) \_\_\_\_\_ to [add/delete/change] the following  
[property/creditor(s)/entries]:

Copies of revised schedules and the summary of assets, liabilities, and exemptions are attached hereto, together with a certificate of service verifying that a copy of the amended list or schedule, the Notice of Bankruptcy Case, Meeting of Creditors, and Deadlines, any order of discharge, any other document filed that affects an added creditor's rights, and any notice or order setting or extending any deadlines for filing claims or complaints for determining dischargeability or exceptions to discharge, have been mailed to the added creditor(s).

The reason for this amendment is as follows:

The date for filing objections to discharge is:

DATED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
[Name of attorney]  
(Attorney for \_\_\_\_\_)

CERTIFICATE OF MAILING

I, the undersigned, \_\_\_\_\_, do hereby certify under penalty of perjury that a copy of the within and foregoing Debtor's Notice of Amendment to Schedules was sent by first class mail postage prepaid on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, at \_\_\_\_\_, Montana, and directed to the following:

[Insert the name and address of each individual or entity served.]

\_\_\_\_\_  
[Name of person certifying the mailing]

[All affected creditors and any parties in interest requesting special notice should be served with this Notice.]

**Mont. LBF 5. APPLICATION FOR CONTINUANCE OF § 341(a) MEETING OF CREDITORS.**

[Mont. LBR 2003-4]

Name of Debtor/Attorney  
Office Mailing Address  
Telephone Number  
Facsimile Number  
E-Mail Address  
State Bar I.D. Number  
(Attorney for Debtor(s))

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF MONTANA

In re ) Case No.  
 )  
 )  
 Debtor(s). )

---

APPLICATION FOR CONTINUANCE OF § 341(a) MEETING OF CREDITORS

---

The undersigned makes application to the Office of United States Trustee for a continuance of the § 341(a) meeting of creditors in the above-entitled case which is presently scheduled for the \_\_\_ day of \_\_\_\_\_, 20 \_\_\_, at the hour of \_\_\_ o'clock, \_\_.m. The circumstances necessitating a continuance are as follows:

DATED the \_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Debtor(s)/Attorney for Debtor(s)

[This Application is to be submitted only to the Office of the United States Trustee and is not to be filed with the Court.]

**Mont. LBF. 5-A. DISPOSITION OF APPLICATION FOR CONTINUANCE OF § 341(a) MEETING.**  
[Mont. LBR 2003-4]

Office of United States Trustee  
Mailing Address  
Phone Number  
Facsimile Number  
E-Mail Address  
(Attorney for United States Trustee)

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF MONTANA

In re ) Case No.  
 )  
 )  
Debtor(s). )

---

DISPOSITION OF APPLICATION FOR CONTINUANCE OF § 341(a) MEETING

---

The Application for Continuance of § 341(a) Meeting of Creditors is:

GRANTED \_\_\_\_ DENIED \_\_\_\_.

If granted, the § 341(a) meeting for the above-entitled case shall be continued until the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at the hour of \_\_\_\_\_ o'clock, \_\_.m. Pursuant to Mont. LBR 2003-4, the Debtor or Debtor's attorney must notify all creditors, the trustee and other parties in interest, in writing using Mont. LBF 6, of the continuance and the new § 341(a) meeting date at least seven (7) days prior to the date of the originally scheduled § 341(a) meeting. Proof of service of the Notice of Continuance must be filed pursuant to Mont. LBR 9013-1(d).

DATED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Office of United States Trustee

**Mont. LBF 6. NOTICE OF CONTINUANCE OF § 341(a) MEETING OF CREDITORS.**  
[Mont. LBR 2003-4]

Name of Attorney  
Office Mailing Address  
Telephone Number  
Facsimile Number  
E-Mail Address  
State Bar I.D. Number  
(Attorney for Debtor(s))

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF MONTANA

In re ) Case No.  
)  
)  
Debtor(s). )

---

NOTICE OF CONTINUANCE OF § 341(a) MEETING OF CREDITORS

---

On the application of the Debtor(s) in the above-entitled case, notice is hereby given of the continuance of the § 341(a) meeting of creditors which is presently scheduled for the \_\_\_ day of \_\_\_\_\_, 20\_\_\_, at the hour of \_\_\_ o'clock \_\_.m. For good cause, the Office of United States Trustee has granted a continuance of such meeting, and the § 341(a) meeting of creditors in this case shall now be held on the \_\_\_ day of \_\_\_\_\_, 20\_\_\_, at the hour of \_\_\_ o'clock, \_\_.m., at the location checked below:

- \_\_\_\_\_ U.S. Attorney's Conference Room, 2<sup>nd</sup> Floor, Missouri River Federal Courthouse, 125 Central Avenue West, Great Falls, Montana
- \_\_\_\_\_ Third Floor, Mike Mansfield Federal Building and Courthouse, 400 North Main, Butte, Montana
- \_\_\_\_\_ Fifth Floor Courtroom, James Battin Federal Building, 316 North 26<sup>th</sup> St., Billings, Montana
- \_\_\_\_\_ 201 East Broadway, Russell Smith Federal Courthouse, Missoula, Montana
- \_\_\_\_\_ Third Floor of the Justice Center, 920 South Main, Kalispell, Montana

DATED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Debtor(s)/Attorney for Debtor(s)

CERTIFICATE OF MAILING

I, the undersigned, \_\_\_\_\_, do hereby certify under penalty of perjury that a copy of the within and foregoing Notice of Continuance of § 341(a) Meeting of Creditors was sent by first class mail postage prepaid on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, at \_\_\_\_\_, Montana, and directed to the following:

[Insert the name and address of each individual or entity served.]

\_\_\_\_\_  
[Name of person certifying the mailing]

[Must comply with Mont. LBR 9013-1(d)(2), by reflecting the name and address of each party served, and by being signed "under penalty of perjury" and by identifying the document served. This Notice of Continuance must be served upon all creditors and other parties requesting special notice.]

**Mont. LBR 7. TRUSTEE'S NOTICE OF DEBTOR'S FAILURE TO APPEAR AT § 341(a) MEETING; AND REQUEST FOR DISPOSITION.**

[Mont. LBR 2003-7]

Name of Trustee/Attorney  
Office Mailing Address  
Telephone Number  
Facsimile Number  
E-Mail Address  
State Bar I.D. Number  
(Chapter \_\_\_\_ Trustee)

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF MONTANA

In re ) Case No.  
 )  
Debtor(s). )

---

TRUSTEE'S NOTICE OF DEBTOR'S FAILURE TO APPEAR AT §341(a)  
MEETING OF CREDITORS; AND REQUEST FOR DISPOSITION

---

The undersigned trustee hereby notifies the Court pursuant to Mont. LBR 2003-7 that the following named Debtor(s) failed to appear at the scheduled § 341(a) meeting of creditors:

\_\_\_\_\_. (If a joint petition was filed and one debtor appeared and one failed to appear, only the absent debtor is listed.)

\_\_\_\_\_ The trustee requests that the absent Debtor's case remain open and the Debtor be ordered to appear and be examined at a continued § 341(a) meeting of creditors.

\_\_\_\_\_ The trustee requests that the absent Debtor's case be dismissed, and if a joint petition was filed, that the case be bifurcated and the absent Debtor's case be dismissed.

DATED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Trustee

**Mont. LBF 7-A. ORDER OF DISPOSITION.**  
[Mont. LBR 2003-7]

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF MONTANA

In re ) Case No.  
 )  
 )  
Debtor(s). )

---

ORDER

---

At Butte in said District this \_\_\_ day of \_\_\_\_\_, 20\_\_.

Pursuant to the Trustee's Notice of Debtor's Failure to Appear at § 341(a) Meeting of Creditors, and Request for Disposition, and good cause appearing therefore,

IT IS HEREBY ORDERED:

\_\_\_\_\_ The following named Debtor(s) shall appear and be examined by the trustee at a continued § 341(a) meeting of creditors, following proper notice to creditors and other parties in interest: \_\_\_\_\_.

\_\_\_\_\_ The above-entitled case is dismissed due to the Debtor's failure to appear at the scheduled § 341(a) meeting of creditors.

\_\_\_\_\_ The above-entitled joint case is bifurcated and the case of \_\_\_\_\_ is dismissed for failure of such Debtor to appear at the scheduled § 341(a) meeting of creditors.

**Mont. LBR 8. MOTION TO MODIFY STAY; AND NOTICE.**

[Mont. LBR 4001-1(a)]

Name of Attorney  
Office Mailing Address  
Telephone Number  
Facsimile Number  
E-Mail Address  
State Bar I.D. Number  
(Attorney for \_\_\_\_\_ )

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF MONTANA

In re \_\_\_\_\_ ) Case No. \_\_\_\_\_  
 )  
 )  
Debtor(s). )

---

MOTION TO MODIFY STAY; AND NOTICE

---

The Motion of \_\_\_\_\_ (“Creditor”) respectfully represents:

1. The Debtor(s) filed a Petition in this Court under Chapter \_\_\_\_ of the Bankruptcy Code on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

2. Creditor is the holder of a secured claim against the Debtor(s), and pursuant to Mont. LBR 4001-1, provides the following information:

- (a) The present balance owing to Creditor, excluding any precomputed interest or other unearned charges, is \$ \_\_\_\_\_.
- (b) The date upon which the subject debt was incurred was \_\_\_\_\_.
- (c) Creditor holds a security interest or lien upon the following described property of the estate: \_\_\_\_\_.
- (d) The nature of Creditor’s security interest, the date upon which the security interest was obtained, and the date upon which the security interest was perfected

are as follows: \_\_\_\_\_.

[Creditor has attached copies of all security agreements, financing statements, titles, and other perfection documents necessary to prove the validity of its security interest to its Proof of Claim on file herein, as required by Mont. LBR 4001-1; or if no Proof of Claim has been filed, such documents are attached to this Motion.]

(e) Creditor has standing to file this motion on the following grounds:

[Creditor has attached copies of all documents necessary to establish its standing to file this motion, including all assignments of claims, as appropriate.]

(f) A description of Creditor's collateral, including its location, is as follows:

(g) The fair market value of Creditor's collateral is \$ \_\_\_\_\_.

(h) A description of, and the amounts due upon, any other security interests which have priority over that of Creditor are as follows:

(i) If the Debtor is in default, the number of defaulted installments and the total amount in default are as follows:

(j) If the Creditor alleges a postpetition payment default by the Debtor, the amount and date of the payments the Debtor is alleged to have failed to make are as follows:

[Creditor attests that it responded promptly and thoroughly to the trustee's or to the Debtor's reasonable requests for account information.]

(k) This Motion is made under and pursuant to the following subsection of 11 U.S.C. § 362: \_\_\_\_\_.

(l) Other facts which are relevant in determining whether relief should be granted are as follows:

3. Creditor further represents that in the event the Court grants this Motion, Creditor will seek foreclosure and liquidation of the above-described collateral in accordance with applicable nonbankruptcy law. Upon disposition of such collateral, Creditor will account for all proceeds to the Court, and trustee, if applicable, and agrees to turn over any proceeds in excess of Creditor's

allowed secured claim to the Court, and trustee, if applicable.

WHEREFORE, Creditor moves the Court to grant this Motion to Modify Stay, and to grant such other relief as the Court may deem appropriate.

DATED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
[Name of attorney]  
(Attorney for \_\_\_\_\_)

**NOTICE OF OPPORTUNITY TO RESPOND  
AND REQUEST A HEARING**

**If you object to the motion, you must file a written responsive pleading and request a hearing within fourteen (14) days of the date of the motion. The objecting party shall schedule the hearing and shall include in the caption of the responsive pleading in bold and conspicuous print the date, time and location of the hearing by inserting in the caption the following:**

**NOTICE OF HEARING**

**Date:** \_\_\_\_\_  
**Time:** \_\_\_\_\_  
**Location:** \_\_\_\_\_

**This contested matter shall be scheduled for hearing for the next hearing date scheduled in the division within which the case is filed. The date, time and location of the hearing can be obtained from the Clerk of Court or from the Court's website at [www.mtb.uscourts.gov](http://www.mtb.uscourts.gov). In the event such scheduled hearing date is thirty (30) days beyond the filing date of the motion for relief, then a preliminary hearing within such thirty (30) day period shall be scheduled by the responding party after such party contacts the Clerk of Court to confirm the preliminary telephone hearing date and time, which shall be set forth in the response.**

**If you fail to file a written response to the above Motion to Modify Stay with the particularity required by Mont. LBR 4001-1(c), and request a hearing, within fourteen (14) days of the date of this Notice, with service on the undersigned and all parties entitled to service under all applicable rules, then your failure to respond or to request a hearing will be deemed an admission that the motion for relief should be granted without further notice or hearing.**

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
[Name of Attorney}  
(Attorney for Creditor)

CERTIFICATE OF MAILING

I, the undersigned, \_\_\_\_\_, do hereby certify under penalty of perjury that a copy of the within and foregoing Motion to Modify Stay and Notice was sent by first class mail postage prepaid on the \_\_\_ day of \_\_\_\_\_, 20\_\_, at \_\_\_\_\_, Montana, and directed to the following:

[Insert the name and address of each individual or entity served.]

\_\_\_\_\_  
[Name of person certifying the mailing]

[Must comply with Mont. LBR 9013-1(d)(2), by reflecting the name and address of each party served, and by being signed "under penalty of perjury" and by identifying the document served. In a chapter 7, 12 or 13 case, parties who must be served include the debtor and any party requesting special notice. In a chapter 9 or 11 case, the motion should be served upon any committee appointed under the Code or its authorized agent, or, if no committee has been appointed, upon all creditors listed under Rule 1007(d), F.R.B.P.]

**Mont. LBF 8-A. ORDER GRANTING MOTION TO MODIFY STAY.**  
[Mont. LBR 4001-1(a)]

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF MONTANA

In re )  
 )  
 )  
 Debtor(s). ) Case No.

---

ORDER GRANTING MOTION TO MODIFY STAY

---

At Butte in said District this \_\_\_ day of \_\_\_\_\_, 20\_\_.

In this Chapter \_\_\_ bankruptcy, [name of creditor], as the Movant, filed a Motion to Modify Stay on [month, date], 20\_\_\_. As required by Mont. LBR 9013-1(d), the Movant's motion provided a "NOTICE" provision which granted the opposing party fourteen (14) days to respond to the motion and schedule the matter for hearing. The "NOTICE" provided that if no written response was timely filed, the Court could grant the relief requested as a failure to respond by any entity would be deemed an admission that the relief requested should be granted. The fourteen (14) day period has expired and \_\_\_\_\_ has not filed a response to the Motion to Modify Stay. In accordance with the Notice provision attached to the Movant's motion, the failure of \_\_\_\_\_ to respond is deemed an admission that the Movant's motion should be sustained without further notice or hearing. Accordingly,

IT IS ORDERED the Movant's Motion to Modify Stay is GRANTED.

**Mont. LBF 8-B. STIPULATION TO MODIFY STAY.**

[Mont. LBR 4001-1(d)]

Name of Attorney/Party  
Office Mailing Address  
Telephone Number  
Facsimile Number  
E-Mail Address  
State Bar I.D. Number  
(Attorney for \_\_\_\_\_)

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF MONTANA

In re ) Case No.  
 )  
 )  
Debtor(s) )

---

STIPULATION TO MODIFY STAY

---

The undersigned Creditor, \_\_\_\_\_ ("Creditor"), the above-named Debtor(s), and the trustee, if applicable, hereby stipulate as follows:

1. The Debtor(s) filed a Petition in this Court under Chapter \_\_\_\_ of the Bankruptcy Code on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

2. Creditor is the holder of a secured claim against the Debtor(s), and pursuant to Mont. LBR 4001-1, provides the following information:

- (a) The present balance owing to Creditor, excluding any precomputed interest or other unearned charges, is \$ \_\_\_\_\_.
- (b) The date upon which the subject debt was incurred was \_\_\_\_\_.
- (c) Creditor holds a security interest or lien upon the following described property of the estate: \_\_\_\_\_.

- (d) The nature of Creditor's security interest; the date upon which the security interest was obtained; the date upon which the security interest was perfected; and the facts which give Creditor standing to file this Stipulation are as follows:

[Creditor has attached copies of all security agreements, financing statements, titles, and other perfection documents necessary to prove the validity of its security interest to its Proof of Claim on file herein, and such documents as are necessary to establish its standing to file this Stipulation, as required by Mont. LBR 4001-1; or if no Proof of Claim has been filed, such documents are attached to this Stipulation.]

- (e) A description of Creditor's collateral, including its location, is as follows:  
\_\_\_\_\_.

- (f) The fair market value of Creditor's collateral is \$ \_\_\_\_\_.

- (g) A description of, and the amounts due upon, any other security interests which have priority over that of Creditor are as follows:

- (h) If the Debtor(s) is in default, the number of defaulted installments and the total amount in default are as follows:

- (i) This Stipulation is made under and pursuant to the following subsection of 11 U.S.C. § 362: \_\_\_\_\_.

- (j) Other facts which are relevant to this Stipulation are as follows:

3. Creditor agrees that in the event the Court grants the relief sought by this Stipulation, Creditor will seek foreclosure and liquidation of the above-described collateral in accordance with applicable non-bankruptcy law. Upon disposition of such collateral, Creditor shall account for all proceeds to the Court, and trustee if applicable, and agrees to turn over any proceeds in excess of Creditor's allowed secured claim to the Court, or trustee if applicable.

WHEREFORE, the undersigned Creditor, Debtor(s) and trustee, if applicable, hereby stipulate that the Court may modify the stay in accordance with the terms of this Stipulation.

DATED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Name of Creditor: \_\_\_\_\_

\_\_\_\_\_  
Creditor or Attorney for Creditor

\_\_\_\_\_  
Debtor(s) or Attorney for Debtor(s)

\_\_\_\_\_  
Trustee (if applicable)

CERTIFICATE OF MAILING

I, the undersigned, \_\_\_\_\_, do hereby certify under penalty of perjury that a copy of the within and foregoing Stipulation to Modify Stay was sent by first class mail postage prepaid on the \_\_\_\_ day of \_\_\_\_\_, 20 \_\_, at \_\_\_\_\_, Montana, and directed to the following:

[Insert the name and address of each individual or entity served.]

\_\_\_\_\_  
[Name of person certifying the mailing]

[Must comply with Mont. LBR 9013-1(d)(2), by reflecting the name and address of each party served, and by being signed "under penalty of perjury" and by identifying the document served. There need be no Certificate of Mailing if all parties being served will be served electronically via the Court's CM/ECF system.]





**Mont. LBF 9-A. TRUSTEE'S CONSENT TO CREDITOR'S MOTION TO MODIFY STAY.**

[Mont. LBR 4001-1(a)]

Name of Trustee  
Office Mailing Address  
Telephone Number  
Facsimile Number  
E-Mail Address  
State Bar I.D. Number  
(Chapter \_\_\_\_ Trustee)

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF MONTANA

In re ) Case No.  
 )  
 )  
Debtor(s). )

---

TRUSTEE'S CONSENT TO CREDITOR'S MOTION TO MODIFY STAY

---

The undersigned trustee hereby consents to the Motion to Modify Stay filed herein by \_\_\_\_\_ (Creditor), dated the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_. This consent is given in accordance with Mont. LBR 4001-1(a).

DATED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Trustee

**Mont. LBF 10. NOTICE OF CONVERSION TO CHAPTER 7.**  
[Mont. LBR 1017-1(a)(4)]

Name of Attorney  
Office Mailing Address  
Telephone Number  
Facsimile Number  
E-Mail Address  
State Bar I.D. Number  
(Attorney for Debtor)

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF MONTANA

In re ) Case No.  
)  
)  
)  
Debtor(s). )

---

NOTICE OF CONVERSION TO CHAPTER 7

---

The Debtor hereby converts [his/her/its] Chapter [12/13] case to a case under Chapter 7.

DATED this \_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
[Name of attorney]  
(Attorney for \_\_\_\_\_)

CERTIFICATE OF MAILING

I, the undersigned, \_\_\_\_\_, do hereby certify under penalty of perjury that a copy of the within and foregoing Notice of Conversion to Chapter 7 was sent by first class mail postage prepaid on the \_\_\_ day of \_\_\_\_\_, 20\_\_, at \_\_\_\_\_, Montana, and directed to the following:

[Insert the name and address of each individual or entity served.  
All creditors and any party requesting special notice should be served.]

\_\_\_\_\_  
[Name of person certifying the mailing]

**Mont. LBF 11. NOTICE OF TRUSTEE'S INTENT TO ABANDON PROPERTY;  
AND NOTICE.**

[Mont. LBR 6007-1(a)]

Name of Trustee  
Office Mailing Address  
Telephone Number  
Facsimile Number  
E-Mail Address  
State Bar I.D. Number  
(Trustee)

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF MONTANA

In re ) Case No.  
)  
)  
Debtor(s). )

NOTICE OF TRUSTEE'S INTENT TO ABANDON PROPERTY; AND NOTICE

Notice pursuant to 11 U.S.C. § 554(a) is hereby given that the Trustee of the above-named Debtor's estate intends to abandon the following property as burdensome and of inconsequential value to the estate:

<u>Description of Item</u>	<u>Scheduled or Estimated Value</u>	<u>Amount Secured or Exempt</u>	<u>Lienholder Name and Address</u>	<u>Estimated Liquidation Expenses</u>	<u>* Estimated Net Value to the Estate</u>
----------------------------	-------------------------------------	---------------------------------	------------------------------------	---------------------------------------	--

Reason for Abandonment: \*\*

\* Enter zero (\$0.00) if the estimated expenses and/or amount of secured interests exceed the actual or estimated value of the property.

\*\* Explain all entries in the last column if zero (\$0.00) was not entered.

Objections to the above abandonment must be filed with the Court.

DATED this \_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Trustee

**NOTICE OF OPPORTUNITY TO RESPOND  
AND REQUEST A HEARING**

**If you object to the notice, you must file a written responsive pleading and request a hearing within fourteen (14) days of the date of the notice. The objecting party shall schedule the hearing on the objection to the abandonment at least twenty-one (21) days after the date of the response and request for hearing and shall include in the caption of the responsive pleading in bold and conspicuous print the date, time and location of the hearing by inserting in the caption the following:**

**NOTICE OF HEARING**

**Date:** \_\_\_\_\_

**Time:** \_\_\_\_\_

**Location:** \_\_\_\_\_

**If no objections are timely filed, the Court may grant the request for abandonment as a failure to respond by any entity shall be deemed an admission that the relief requested should be granted.**

Dated this \_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Trustee

CERTIFICATE OF MAILING

I, the undersigned, \_\_\_\_\_, do hereby certify under penalty of perjury that a copy of the within and foregoing Notice of Trustee's Intent to Abandon Property was sent by first class mail postage prepaid on the \_\_\_ day of \_\_\_\_\_, 20\_\_, at \_\_\_\_\_, Montana, and directed to the following:

[Insert the name and address of each individual or entity served.]

\_\_\_\_\_  
[Name of person certifying the mailing]

[Must comply with Mont. LBR 9013-1(d)(2), by reflecting the name and address of each party served, and by being signed "under penalty of perjury" and by identifying the document served. This Notice should be also be served upon all creditors, and all committees elected pursuant to 11 U.S.C. § 705 or appointed pursuant to 11 U.S.C. § 1102.]

**Mont. LBF 12. NOTIFICATION BY U.S. TRUSTEE OF DEBTOR'S PAYMENT OF QUARTERLY FEES.**

[Mont. LBR 3020-1]

Name of Attorney  
Office of United States Trustee  
Liberty Center, Suite 204  
301 Central Avenue  
Great Falls, MT 59401  
Phone (406) 761-8777  
Fax (406) 761-8895  
E-Mail Address  
State Bar I.D. Number  
(Attorney for United States Trustee)

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF MONTANA

In re ) Case No.  
)  
)  
Debtor(s). )

---

NOTIFICATION BY OFFICE OF UNITED STATES TRUSTEE  
OF DEBTOR'S PAYMENT OF QUARTERLY FEES

---

The Office of the United States Trustee hereby notifies the Court, pursuant to Mont. LBR 3020-1, that the above-named Debtor has paid all fees due under 28 U.S.C. § 1930(a)(6), or has provided in its plan that such fees will be paid on or before the effective date of such Plan, as required by 11 U.S.C. § 1129(a)(12).

DATED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
[Name of Attorney]  
(Attorney for United States Trustee)

**Mont. LBF 12-A. NOTICE OF DELINQUENT MONTHLY OPERATING REPORT.**  
[Mont. LBR 2015-2]

Name of Attorney  
Office of United States Trustee  
Liberty Center, Suite 204  
Great Falls, MT 59401  
Phone (406) 761-8777  
Fax (406) 761-8895  
E-Mail Address  
State Bar I.D. Number  
(Attorney for United States Trustee)

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF MONTANA

In re ) Case No.  
 )  
 )  
Debtor(s). )

---

NOTICE OF DELINQUENT MONTHLY OPERATING REPORT

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The Office of the United States Trustee hereby notifies the Court, pursuant to Mont. LBR 2015-2, that the above-named Debtor in Possession has not filed its Monthly Operating Report for the month of \_\_\_\_\_, 20\_\_\_\_, which was due to be filed on the 14<sup>th</sup> day of \_\_\_\_\_, 20\_\_\_\_. Pursuant to Mont. LBR 2015-2, the Court is requested to order the Debtor in Possession to show cause why this case should not be dismissed or converted to Chapter 7.

DATED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

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[Name of Attorney]  
(Attorney for United States Trustee)

**Mont. LBF 12-B. NOTICE OF DELINQUENT QUARTERLY FEES.**  
[Mont. LBR 3020-1]

Name of Attorney  
Office of United States Trustee  
Liberty Center, Suite 204  
Great Falls, MT 59401  
Phone (406) 761-8777  
Fax (406) 761-8895  
E-Mail Address  
State Bar I.D. Number  
(Attorney for United States Trustee)

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF MONTANA

In re ) Case No.  
)  
)  
Debtor(s). )

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NOTICE OF DELINQUENT QUARTERLY FEES

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The Office of the United States Trustee hereby notifies the Court, pursuant to Mont. LBR 3020-1, that the above-named Debtor in Possession has not paid its quarterly fees for the \_\_\_\_\_ quarter of 20\_\_\_\_, which became due and payable under 28 U.S.C. § 1930(a)(6) on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_. Pursuant to Mont. LBR 3020-1, the Court is requested to order the Debtor in Possession to show cause why this case should not be dismissed or converted to Chapter 7.

DATED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

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[Name of Attorney]  
(Attorney for United States Trustee)

**Mont. LBF 13. MOTION FOR FINAL DECREE IN CHAPTER 11 CASE.**  
[Mont. LBR 3022-1]

Name of Attorney  
Office Mailing Address  
Telephone Number  
Facsimile Number  
E-Mail Address  
State Bar I.D. Number  
(Attorney for \_\_\_\_\_)

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF MONTANA

In re ) Case No.  
 )  
 )  
Debtor(s). )

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MOTION FOR FINAL DECREE IN CHAPTER 11 CASE

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The above-named Debtor(s), acting through counsel, respectfully moves the Court to enter a Final Decree in the above-entitled case, pursuant to 11 U.S.C. § 350 and Rule 3022,

F.R.B.P. The undersigned represents to the Court the following:

1. The Order confirming the Plan has become final;
2. Any deposits required by the Plan have been distributed;
3. Any property proposed by the Plan to be transferred has been transferred;
4. The Debtor or successor of the Debtor under the Plan has assumed the business or the management of the property dealt with by the Plan;
5. The payments under the Plan have commenced;
6. All motions, contested matters, and adversary proceedings have been finally resolved;
7. All Monthly Operating Reports due through this date have been prepared, properly executed and filed with the Court; and
8. All quarterly fees due to the United States Trustee pursuant to 28 U.S.C. § 1930(a)(6) have been paid in full.

DATED this \_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Attorney for Debtor(s)

CERTIFICATE OF MAILING

I, the undersigned, \_\_\_\_\_, do hereby certify under penalty of perjury that a copy of the within and foregoing Motion for Final Decree in Chapter 11 Case was sent by first class mail postage prepaid on the \_\_\_ day of \_\_\_\_\_, 20\_\_, at \_\_\_\_\_, Montana, and directed to the following:

[Insert the name and address of each individual or entity served.]

\_\_\_\_\_  
[Name of person certifying the mailing]

[Must comply with Mont. LBR 9013-1(d)(2), by reflecting the name and address of each party served, and by being signed "under penalty of perjury" and by identifying the document served. This Notice should be also be served upon all creditors, and all committees appointed pursuant to 11 U.S.C. § 1102.]

**Mont. LBF 14. CHAPTER 12 PLAN.**  
[Mont. LBR 9009-1(a)]

Name of Attorney  
Office Mailing Address  
Telephone Number  
Facsimile Number  
E-Mail Address  
State Bar I.D. Number  
(Attorney for Debtor(s))

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF MONTANA

In re ) Case No.  
)  
)  
Debtor(s). )

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CHAPTER 12 PLAN

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1. The future earnings and projected disposable income of the Debtor(s) are submitted to the supervision and control of the Court, and the Debtor(s) shall pay to the trustee [state amount and frequency of payments, and payment dates] the sum of \$ \_\_\_\_\_, according to the attached exhibit of income and expenses.

2. From the payments so received, the trustee shall make disbursements as follows:

(a) Allowed claims of administration required by 11 U.S.C. § 507(a)(1).

(b) Payments to secured creditors whose claims are duly proven and allowed as follows:

<u>Name of Creditor</u>	<u>Value of Security</u>	<u>Payment (Amount and Frequency)</u>	<u>Interest</u>
-------------------------	--------------------------	---------------------------------------	-----------------

(The allowed claim of each of the creditors listed above shall be allowed as a secured claim in the amount of the value of the security and will be paid in installments as shown until the allowed secured claim together with interest upon the unpaid balance at the rate stated above has been paid. Secured creditors shall retain their liens and priority until their allowed secured claims have been paid. In order for any unsecured deficiency to be allowed and paid under paragraph 2.(d) below, a timely proof of claim must be filed pursuant to Montana's Local Bankruptcy Rules.)

(c) Debts entitled to priority under and in the order prescribed by 11 U.S.C. § 507.

(d) From the disposable income remaining after the above payments, dividends to unsecured creditors whose claims are fully proven and allowed as follows:

[If less than 100% of unsecured claims are to be paid, state that unsecured creditors will receive the greater of all of the Debtor's disposable income during the term of the plan pursuant to 11 U.S.C. § 1225(b)(1)(B), or the liquidation value of the Debtor's non-exempt assets pursuant to 11 U.S.C. § 1225(a)(4).]

3. The following executory contracts and leases of the Debtor(s) are rejected, the Debtor(s) shall surrender any collateral, and any allowed unsecured claim for damages resulting from such rejection shall be paid under paragraph 2.(d) above: \_\_\_\_\_

4. The secured property described below will be surrendered to the following named creditors, and any allowed unsecured claim resulting from such surrender shall be paid under paragraph 2.(d) above: \_\_\_\_\_

5. The following creditors' claims are fully secured, shall be paid directly by the Debtor(s) pursuant to the original contract terms, and shall receive no payments under paragraph 2. of this Plan: \_\_\_\_\_

6. The property described below is to be sold [state the offering price, and whether it will be offered through a broker; and if so, who; and state the date by which it will be sold and what will occur if it is not timely sold], all offers received by the Debtor(s) shall be promptly

communicated to the trustee and any lienholders, and no sale of such property shall be completed without notice to the trustee and any lienholders and an opportunity provided for a hearing on such sale: \_\_\_\_\_

7. Interest on all unsecured claims shall have ceased on the date this case was filed. All allowed unsecured claims of \$25.00 or less may be paid in advance of other allowed unsecured claims.

8. Except as provided in this plan or in the order confirming this plan, upon confirmation of this plan all of the property of the estate shall vest in the Debtor(s) free and clear of any claim or interest of any creditor provided for by this plan, pursuant to 11 U.S.C. § 1227.

9. In accordance with 11 U.S.C. § 1229, the Court may, from time to time, during the term of this plan, increase or reduce the amount of any of the installment payments provided for by this plan, or extend or shorten the time for any such payments, where it appears, after motion and hearing upon such notice as the Court may deem appropriate, that the Debtor's change in circumstances so warrants or requires.

DATED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Debtor

\_\_\_\_\_  
Debtor

#### CERTIFICATE OF MAILING

I, the undersigned, \_\_\_\_\_, do hereby certify under penalty of perjury that a copy of the within and foregoing Chapter 12 Plan was sent by first class mail postage

prepaid on the \_\_\_ day of \_\_\_\_\_, 20\_\_\_, at \_\_\_\_\_, Montana, and directed to the following:

[Insert the name and address of each individual or entity served.]

\_\_\_\_\_  
[Name of person certifying the mailing]

[Must comply with Mont. LBR 9013-1(d)(2), by reflecting the name and address of each party served, and by being signed "under penalty of perjury" and by identifying the document served. All creditors and any parties requesting special notice should be served with this Plan.]

**Mont. LBF 15. MOTION FOR RULE 2004 EXAMINATION.**  
[Mont. LBR 2004-1]

Name of Attorney  
Office Mailing Address  
Telephone Number  
Facsimile Number  
E-Mail Address  
State Bar I.D. Number  
(Attorney for \_\_\_\_\_ )

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF MONTANA

In re ) Case No.  
 )  
 )  
Debtor(s). )

---

MOTION FOR RULE 2004 EXAMINATION

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Pursuant to Rule 2004, F.R.B.P., the undersigned respectfully requests the Court to order an examination as follows:

1. Witness to be examined:
2. Date:
3. Time:
4. Place:
5. Scope of examination:
6. Documents to be produced:
7. Time, Date and Place of Production (if different from examination):
8. Moving Party's Calculation of Mileage pursuant to F.R.B.P. 2004(e):

9. The undersigned has contacted opposing counsel, \_\_\_\_\_, who advises that [he/she] [does/does not] oppose this Motion and [will/will not] agree to produce the documents described herein without a subpoena duces tecum pursuant to F.R.B.P. 9016.

DATED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
[Name of attorney]  
(Attorney for \_\_\_\_\_)

CERTIFICATE OF MAILING

I, the undersigned, \_\_\_\_\_, do hereby certify under penalty of perjury that a copy of the within and foregoing Motion for Rule 2004 Examination was sent by first class mail postage prepaid on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, at \_\_\_\_\_, Montana, and directed to the following:

[Insert the name and address of each individual or entity served.]

\_\_\_\_\_  
[Name of person certifying the mailing]

[Must comply with Mont. LBR 9013-1(d)(2), by reflecting the name and address of each party served, and by being signed “under penalty of perjury” and by identifying the document served. There need be no Certificate of Mailing if all parties being served will be served electronically via the Court’s CM/ECF system. Only the affected persons or entities, and/or their attorneys, if represented by counsel, need to be served with this Motion.]

**Mont. LBF 16. ORDER FOR RULE 2004 EXAMINATION.**  
[Mont. LBR 2004-1]

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF MONTANA

In re ) Case No.  
)  
)  
)  
Debtor(s). )

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ORDER FOR RULE 2004 EXAMINATION

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Pursuant to the Motion for Rule 2004 Examination filed herein by \_\_\_\_\_,  
it appearing that said examination is authorized by Rule 2004, F.R.B.P., and good cause  
appearing therefore:

IT IS HEREBY ORDERED,

1. That \_\_\_\_\_ shall appear and be examined by the Moving Party at the time and place described in the Motion for 2004 Examination;
2. That \_\_\_\_\_ shall produce those documents for inspection and copying in connection with said examination held pursuant to Rule 2004, F.R.B.P., at the time and place described in the Motion for 2004 Examination;
3. That subpoenas duces tecum may be issued pursuant to Rule 9016, F.R.B.P., by the Clerk of the Bankruptcy Court; and
4. That the Moving Party shall send a copy of this Order to all parties in interest.

DATED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.



this proceeding, and the following is a complete schedule of all prior applications submitted to the Court for approval:

<u>Date Filed</u>	<u>Amount Requested</u>	<u>Date Approved</u>	<u>Amount Approved</u>
-------------------	-------------------------	----------------------	------------------------

Total Amount Previously Approved: \$ \_\_\_\_\_

6. To date, applicant has received as compensation the following amounts from the following sources:

<u>Date Received</u>	<u>Amount Received</u>	<u>Source of Payment</u>
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Total Amount Received: \$ \_\_\_\_\_

7. This application is based on the performance of professional services by the following individuals at the rates and for the number of hours described below:

<u>Individual</u>	<u>Total Hours</u>	<u>Hourly Rate</u>	<u>Compensation</u>
-------------------	--------------------	--------------------	---------------------

Total Compensation Requested: \$ \_\_\_\_\_

8. The compensation requested is based on the customary compensation charged by comparably skilled practitioners in cases other than cases under the Bankruptcy Code. [If not, state the reason for any deviation from such standard.]

9. Applicant certifies that none of the compensation or reimbursement for costs applied for in this application will be shared with any entity in violation of 11 U.S.C. § 504.

10. Attached are complete time records detailing each service performed by date,

description, and the number of hours expended, under the appropriate project categories (if applicable under Mont. LBR 2016-1), for which compensation is requested.

11. Attached is a complete accounting for all costs incurred for which reimbursement is requested.

12. The amount of costs were computed utilizing the following methods of allocation:

[Example]  
(Copies are charged at the rate of \$.10 each.)  
(Long distance calls are charged at actual cost.)  
(Mileage is charged at federal allowed per mile rate.)

13. In addition to the payments already received, applicant has been promised the following payment for services in connection with this case:

<u>Amount Promised</u>	<u>Identity of Promisor</u>	<u>Conditions/Terms</u>
------------------------	-----------------------------	-------------------------

14. Case Status: [Insert relevant information required by Section II.B of the United States Trustee Guidelines, as set forth in the Appendix to the Montana Local Bankruptcy Rules.]

15. \_\_\_\_\_ [Name of person on whose behalf applicant is employed] has been given the opportunity to review this application and [approves/does not approve] the requested amount.

WHEREFORE, applicant prays that this Court enter an Order awarding applicant reasonable professional fees in the amount of \$ \_\_\_\_\_ and reimbursement of costs and expenses in the amount of \$ \_\_\_\_\_.

DATED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

[Name of Applicant]

\_\_\_\_\_  
Attorney for Debtor(s)/Trustee

CERTIFICATE OF MAILING

I, the undersigned, \_\_\_\_\_, do hereby certify under penalty of perjury that a copy of the within and foregoing Application for Professional Fees and Costs was sent by first class mail postage prepaid on the \_\_\_ day of \_\_\_\_\_, 20\_\_\_, at \_\_\_\_\_, Montana, and directed to the following:

[Insert the name and address of each individual or entity served.]

\_\_\_\_\_  
[Name of person certifying the mailing]

[Must comply with Mont. LBR 9013-1(d)(2), by reflecting the name and address of each party served, and by being signed "under penalty of perjury" and by identifying the document served. Pursuant to Rule 2002(a)(6), F.R.B.P., notice of a hearing on an Application seeking compensation or reimbursement of expenses exceeding \$1,000 should also be served upon the debtor, all creditors, any committee, and other parties in interest requesting special notice. Mont. LBR 2002-4 requires the service of a Notice of Application for Professional Fees and Costs (Mont. LBF 30) upon all creditors, committees, and other parties in interest requesting special notice, disclosing that the applicant has filed an Application for Professional Fees and Costs, when the amount of such fees and costs exceeds \$1,000.]



If you object to the application, you must file a written responsive pleading and request a hearing within fourteen (14) days of the date of the notice. The responding party shall schedule the hearing on the application at least twenty-one (21) days after the date of the response and request for hearing and shall include in the caption of the responsive pleading in bold and conspicuous print the date, time and location of the hearing by inserting in the caption the following:

**NOTICE OF HEARING**

**Date:** \_\_\_\_\_

**Time:** \_\_\_\_\_

**Location:** \_\_\_\_\_

If no response and request for hearing are timely filed, the Court may grant the relief requested as a failure to respond by any entity shall be deemed an admission that the relief requested should be granted.

DATED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
[Name of attorney]

(Attorney for \_\_\_\_\_)

CERTIFICATE OF MAILING

I, the undersigned, \_\_\_\_\_, do hereby certify under penalty of perjury that a copy of the within and foregoing Notice of Application for Professional Fees and Costs was sent by first class mail postage prepaid on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, at \_\_\_\_\_, Montana, and directed to the following:

[Insert the name and address of each individual or entity served.]

\_\_\_\_\_  
[Name of person certifying the mailing]

[Must comply with Mont. LBR 9013-1(d)(2), by reflecting the name and address of each party served, and by being signed "under penalty of perjury" and by identifying the document served. Pursuant to Rule 2002(a)(6), F.R.B.P., notice of a hearing on an Application seeking compensation or reimbursement of expenses exceeding \$1,000 should also be served upon the debtor, all creditors, any committee, and other parties in interest requesting special notice. Mont. LBR 2002-4 requires the service of a Notice of Application for Professional Fees and Costs (Mont. LBF30) upon all creditors, committees, and other parties in interest requesting special notice, disclosing that the applicant has filed an Application for Professional Fees and Costs, when the amount of such fees and costs exceeds \$1,000.]

**Mont. LBF 19. CHAPTER 13 PLAN.**  
 [Mont. LBR 9009-1(b)]

Name of Attorney  
 Office Mailing Address  
 Telephone Number  
 Facsimile Number  
 E-Mail Address  
 State Bar I.D. Number  
 (Attorney for Debtor(s))

UNITED STATES BANKRUPTCY COURT  
 FOR THE DISTRICT OF MONTANA

In re ) Case No.  
 )  
 Debtor(s). )

[FIRST AMENDED, as appropriate] CHAPTER 13 PLAN (DATED \_\_\_\_\_)

1. The future earnings and other income of the Debtor(s) are submitted to the supervision and control of the Chapter 13 Standing Trustee as necessary for the execution of this Plan, and Debtor(s) shall pay to the Trustee the sum of \$ \_\_\_\_\_ each month for a term of \_\_\_\_\_ months, or until all of the provisions of this Plan have been completed. Plan payments shall commence within thirty (30) days following the filing of the Plan. The Debtor(s) shall make payments directly to the Trustee until [his/her/their] wage deductions begin.

2. From the payments so received, the Trustee shall make disbursements as follows:

(a) ADMINISTRATIVE CLAIMS. The Trustee shall pay those claims, fees or charges specified in 11 U.S.C. § 507(a)(2), including the Debtor's attorney fees and costs in such amount as may be allowed by the Court. As of the date of this plan, Debtor's counsel estimates that total attorney fees and costs for representation of Debtor (excluding the fee for filing the Debtor's petition) will be as follows:

Estimated total attorney fees:	\$ _____ *
Estimated total costs:	+ \$ _____
Total estimated attorney fees and costs:	= \$ _____
Less retainer:	- \$ _____

TOTAL FEES AND COSTS TO BE PAID THROUGH PLAN: \$ \_\_\_\_\_

\* If this figure differs from the Disclosure of Compensation originally filed by the Debtor's attorney, said Disclosure must be amended simultaneously with the filing of this plan or amended plan, as provided in F.R.B.P. 2016(b).

(b) IMPAIRED SECURED CLAIMS. After the payments provided for above, the Trustee shall pay allowed secured claims, as determined pursuant to 11 U.S.C. § 506(a), together with interest at the rate set forth below from the date of confirmation, on a pro rata basis, as follows:

<u>Name of Creditor</u>	<u>Claim Number</u>	<u>Allowed Secured Claim *</u>	<u>Rate of Interest</u>
-------------------------	---------------------	--------------------------------	-------------------------

[\* This figure is the lesser of the total amount of the debt owing to the creditor or the value of the collateral securing said debt.]

Secured creditors shall retain their liens as provided by 11 U.S.C. § 1325(a)(5)(B). In order for any unsecured deficiency to be allowed and paid, a proof of claim must be filed pursuant to Montana's Local Bankruptcy Rules.

(c) UNIMPAIRED SECURED CLAIMS. The following secured creditors, whose claims will be left unimpaired by this Plan, are not provided for by this Plan and shall receive no payments through the Trustee except with regard to those arrearages specified below, if any:

<u>Name of Creditor</u>	<u>Description of Collateral</u>
-------------------------	----------------------------------

Concurrently with the payments on impaired secured claims specified above, the following arrearages on unimpaired secured claims, if any, shall be paid through the Trustee on a pro rata basis until the same have been paid in full:

<u>Name of Creditor</u>	<u>Amount of Arrearage</u>
-------------------------	----------------------------

Upon completion of the Plan, all prepetition arrearages provided for by this Plan shall be deemed current.

(d) DOMESTIC SUPPORT OBLIGATIONS. After the payments provided for above, the Trustee shall pay all allowed prepetition domestic support obligations. Such allowed claims for prepetition domestic support obligations shall be paid in full under this Plan, without interest (unless otherwise provided).

<u>Creditor</u>	<u>Complete Address</u>	<u>Claim Amount</u>
-----------------	-------------------------	---------------------

(e) PRIORITY CLAIMS. After the payments provided for above, the Trustee shall pay allowed claims entitled to priority in such order as specified in 11 U.S.C. § 507.

(f) GENERAL UNSECURED CLAIMS. After the payments provided for above, the Trustee shall pay dividends, to the extent possible, to allowed unsecured, nonpriority claims on a pro rata basis.

(g) LIQUIDATION ANALYSIS. The total amount distributed under paragraphs 2.(e) and (f) above will be at least \$ \_\_\_\_\_, which exceeds what would be available to pay unsecured claims if the Debtor's estate was liquidated under Chapter 7 of the Bankruptcy Code. A discharge will not be entered by the Court until said sum has been distributed, or until all allowed unsecured claims have been paid in full, whichever is less.

3. REJECTION OF CONTRACTS OR LEASES. The Debtor(s) rejects the following executory contracts and unexpired leases, and shall surrender property subject to such contracts or leases:

<u>Type of Agreement</u>	<u>Date of Agreement</u>	<u>Other Party to Contract</u>
--------------------------	--------------------------	--------------------------------

All other executory contracts and unexpired leases shall be affirmed.

4. SURRENDER OF PROPERTY. The Debtor(s) surrenders any and all interest in the following described collateral to the stated secured creditor in full satisfaction of the creditor's allowed secured claim. In order for any unsecured deficiency to be allowed and paid under this Plan, a proof of claim must be filed pursuant to Montana's Local Bankruptcy Rules.

Secured Creditor

Description of Collateral

5. POSTPETITION SECURED DEBT: The Debtor(s) reserves the right to incur postpetition secured debts, upon prior written approval of the Trustee, for items necessary to Debtor(s) performance under this Plan.

6. REPORT OF CHANGES IN INCOME: The Debtor(s) shall commit all projected disposable income to the Plan for the applicable commitment period and shall immediately report any changes in income in excess of \$300 per month to the Trustee.

7. OTHER PROVISIONS:

8. DECLARATIONS: Under penalty of perjury, Debtor(s) affirms that all federal and state income, employment and other tax returns due as of the date of this plan have been filed with the appropriate agency, and that all postpetition payments due on all domestic support obligations have been paid through the date of this Plan.

9. EFFECTS OF CONFIRMATION: Upon confirmation of this plan, all issues that have been or could have been decided involving any creditors are *res judicata*, and Debtor(s) reserves all rights under applicable federal and state law with regard to those issues, including rights under 11 U.S.C. § 524(i). Debtor(s) specifically reserves all rights under 11 U.S.C. § 524(i), including the right to ensure that all postpetition mortgage payments be applied and credited to Debtor's mortgage account as if the account were current and no prepetition default existed.

10. PREVIOUS BANKRUPTCIES, AND DISCHARGE: (Check one)

- Debtor(s) is not eligible for a discharge of debts because the debtor(s) has previously received a discharge described in 11 U.S.C. § 1328(f).
- Under penalty of perjury, Debtor(s) declares that he/she has not received a discharge in a previous bankruptcy case that would cause him/her to be ineligible to receive a discharge in the above-entitled case under 11 U.S.C. § 1328(f).

11. INCOME TAX REFUNDS: (Check one)

- Debtor(s) projects no income tax refunds during the term of this plan. As a result, no income tax refunds will be turned over to the trustee.

- Debtor(s) projects income tax refunds during the term of this plan. During the applicable commitment period of the plan, as defined in 11 U.S.C. § 1325(b)(4), Debtor(s) will turn over to the trustee all net income tax refunds.
- Debtor(s) projects income tax refunds during the term of this plan, and such tax refunds are included in the Debtor's budget.

DATED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Debtor

\_\_\_\_\_  
Debtor

CERTIFICATE OF MAILING

I, the undersigned, \_\_\_\_\_, do hereby certify under penalty of perjury that a copy of the within and foregoing [First Amended, as appropriate] Chapter 13 Plan (Dated \_\_\_\_\_) was sent by first class mail postage prepaid on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, at \_\_\_\_\_, Montana, and directed to the following:

[Insert the name and address of each individual or entity served.]

\_\_\_\_\_  
[Name of person certifying the mailing]

[Must comply with Mont. LBR 9013-1(d)(2), by reflecting the name and address of each party served, and by being signed "under penalty of perjury" and by identifying the document served. All creditors and any parties requesting special notice should be served with this Plan.]

**Mont. LBF 20. MOTION FOR LEAVE TO FILE ALTERNATE FORM OF CHAPTER 13 PLAN.**

[Mont. LBR 9009-1(b)]

Name of Attorney  
Office Mailing Address  
Telephone Number  
Facsimile Number  
E-Mail Address  
State Bar I.D. Number  
(Attorney for \_\_\_\_\_)

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF MONTANA

In re \_\_\_\_\_ ) Case No. \_\_\_\_\_  
 )  
 )  
Debtor(s). )

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MOTION FOR LEAVE TO FILE ALTERNATE FORM OF CHAPTER 13 PLAN

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The undersigned respectfully moves the Court for leave to file an alternate form of Chapter 13 Plan than that required by Mont. LBR 9009-1(b) and set forth in Mont. LBF 19.

The reasons for this request are as follows:

WHEREFORE, the Court is requested to allow the above-named Debtor(s) to file an alternate form of Chapter 13 Plan.

DATED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
[Name of attorney]  
(Attorney for \_\_\_\_\_)

**Mont. LBF 20-A. ORDER GRANTING LEAVE TO FILE ALTERNATE FORM OF CHAPTER 13 PLAN.**

[Mont. LBR 9009-1(b)]

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF MONTANA

In re ) Case No.  
 )  
 )  
Debtor(s). )

---

ORDER GRANTING LEAVE TO FILE ALTERNATE FORM OF CHAPTER 13 PLAN

---

Pursuant to the Motion for Leave to File Alternate Form of Chapter 13 Plan filed herein by the Debtor(s), and good cause appearing therefore,

IT IS HEREBY ORDERED, that the Debtor(s) motion is granted and the Debtor(s) may file an alternate form of Chapter 13 Plan than that required by Mont. LBR 9009-1(b).

DATED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**Mont. LBF 21. NOTICE OF LATE FILED CLAIM; AND NOTICE OF OPPORTUNITY FOR HEARING.**

[Mont. LBR 3002-1]

Name of Trustee  
Office Mailing Address  
Telephone Number  
Facsimile Number  
E-Mail Address  
State Bar I.D. Number [If an attorney]  
(Chapter \_\_\_\_ Trustee)

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF MONTANA

In re \_\_\_\_\_ ) Case No.  
 )  
 )  
Debtor(s). )

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NOTICE OF LATE FILED CLAIM; AND NOTICE OF OPPORTUNITY FOR HEARING

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TO: [Name of creditor]

PROOF OF CLAIM NO.: [Claims register number]

The undersigned Chapter [12/13] Standing Trustee provides this notice pursuant to Montana Local Bankruptcy Rule 3002-1 that the proof of claim you filed in the above-entitled case was filed late, after the expiration of the bar date for filing claims fixed by the Court in the "Notice of Commencement of Case" previously sent to all creditors and other parties in interest in this case.

Bar Date Fixed By Court: \_\_\_\_\_

Date Proof of Claim Filed: \_\_\_\_\_

DATED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Chapter 12/13 Standing Trustee

**NOTICE OF OPPORTUNITY TO RESPOND  
AND REQUEST A HEARING**

Because your Proof of Claim was filed late, Mont. LBR 3002-1 provides that such claim shall be deemed disallowed, without formal objection or hearing, unless you file a response and request a hearing within thirty (30) days of the date of this notice.

If you respond, then you shall notice the contested matter for hearing pursuant to Mont. LBR 9013-1 and shall schedule the hearing on the objection and response at least twenty-one (21) days after the date of the your response and request for hearing, and shall include in the caption of the responsive pleading in bold and conspicuous print the date, time and location of the hearing by inserting in the caption the following:

**NOTICE OF HEARING**

**Date:** \_\_\_\_\_

**Time:** \_\_\_\_\_

**Location:** \_\_\_\_\_

If you fail to file a written response to the objection to the late filed claim within thirty (30) days of the date of the notice, the failure to respond shall be deemed an admission that the objection should be sustained by the Court without further notice or hearing.

DATED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Chapter 12/13 Standing Trustee

CERTIFICATE OF MAILING

I, the undersigned, \_\_\_\_\_, do hereby certify under penalty of perjury that a copy of the within and foregoing Notice of Late Filed Claim, and Notice of Opportunity for Hearing was sent by first class mail postage prepaid on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_, Montana, and directed to the following:

[Insert the name and address of the late filing creditor, as well as the Debtor and the Debtor's counsel.]

\_\_\_\_\_  
[Name of person certifying the mailing]

[Must comply with Mont. LBR 9013-1(d)(2), by reflecting the name and address of each party served, and by being signed "under penalty of perjury" and by identifying the document

served. There need be no Certificate of Mailing if all parties being served will be served electronically via the Court's CM/ECF system. Only the affected late filing creditor, or its counsel, need also be served with this Notice.]



WHEREFORE, the undersigned moves the Court to fix the value of the above-named creditor's collateral and, therefore, the amount of its allowed secured claim, in the amount alleged above.

DATED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
[Name of attorney]  
(Attorney for \_\_\_\_\_)

**NOTICE OF OPPORTUNITY TO RESPOND  
AND REQUEST A HEARING**

**If you object to the motion, you must file a written responsive pleading and request a hearing within fourteen (14) days of the date of the motion. The responding party shall schedule the hearing on the motion at least twenty-one (21) days after the date of the response and request for hearing and shall include in the caption of the responsive pleading in bold and conspicuous print the date, time and location of the hearing by inserting in the caption the following:**

**NOTICE OF HEARING**

**Date:** \_\_\_\_\_

**Time:** \_\_\_\_\_

**Location:** \_\_\_\_\_

**If no objections are timely filed, the Court may grant the relief requested as a failure to respond by any entity shall be deemed an admission that the relief requested should be granted.**

DATED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
[Name of attorney]  
(Attorney for \_\_\_\_\_)

CERTIFICATE OF MAILING

I, the undersigned, \_\_\_\_\_, do hereby certify under penalty of perjury that a copy of the within and foregoing Motion for Valuation of Security, and Notice was sent by first class mail postage prepaid on the \_\_\_ day of \_\_\_\_\_, 20\_\_\_, at \_\_\_\_\_, Montana, and directed to the following:

[Insert the name and address of each individual or entity served.]

\_\_\_\_\_  
[Name of person certifying the mailing]

[Must comply with Mont. LBR 9013-1(d)(2), by reflecting the name and address of each party served, and by being signed "under penalty of perjury" and by identifying the document served. There need be no Certificate of Mailing if all parties being served will be served electronically via the Court's CM/ECF system. Only the affected secured creditor, or its counsel, need also be served with this Motion.]

**Mont. LBF 23. REQUEST FOR SPECIAL NOTICE.**

[Mont. LBR 2002-2]

Name of Attorney  
Office Mailing Address  
Telephone Number  
Facsimile Number  
E-Mail Address  
State Bar I.D. Number  
(Attorney for \_\_\_\_\_ )

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF MONTANA

In re ) Case No.  
 )  
 )  
Debtor(s) )

---

REQUEST FOR SPECIAL NOTICE

---

Pursuant to Rule 2002(i) and (g), F.R.B.P., \_\_\_\_\_, a creditor/party in interest in the above-entitled bankruptcy case, hereby requests that all matters which must be noticed to creditors, any creditors' committees, and any other parties in interest, whether sent by the Court, the Debtors or any other party in the case, be sent or delivered to the undersigned; and pursuant to Rule 2002(g), that the following be added to the Court's service list:

Name of Attorney/Party in Interest  
Address  
E-Mail Address  
Phone Number  
Fax Number

Such notices shall include notices by mail, telephone, facsimile, or any other means of electronic transmission, and the notices requested shall include, but are not limited to, all notices relating to the matters set forth in Rule 2002; matters relating to any motion for the appointment of a trustee, or conversion or dismissal of the case; matters relating to the proposing or confirming of a plan; matters relating to adequate protection and the Debtor's obtaining of credit under 11 U.S.C. § 361 or 364; and matters relating to the use, sale or lease of property under 11 U.S.C. § 363, or the assumption or rejection of executory contracts or unexpired leases under 11 U.S.C. § 365.

DATED this \_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Attorney for \_\_\_\_\_/Party in Interest

CERTIFICATE OF MAILING

I, the undersigned, \_\_\_\_\_, do hereby certify under penalty of perjury that a copy of the within and foregoing Request for Special Notice was sent by first class mail postage prepaid on the \_\_\_ day of \_\_\_\_\_, 20\_\_, at \_\_\_\_\_, Montana, and directed to the following:

[Insert the name and address of each individual or entity served.]

\_\_\_\_\_  
[Name of person certifying the mailing]

[Must comply with Mont. LBR 9013-1(d)(2), by reflecting the name and address of each party served, and by being signed "under penalty of perjury" and by identifying the document served. All creditors should also be served with this Request.]

**Mont. LBF 24. MOTION TO AVOID LIEN UNDER 11 U.S.C. § 522(f); AND NOTICE.**  
[Mont. LBR 4003-4]

Name of Attorney  
Office Mailing Address  
Telephone Number  
Facsimile Number  
E-Mail Address  
State Bar I.D. Number  
(Attorney for Debtor(s))

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF MONTANA

In re ) Case No.  
)  
)  
Debtor(s). )

---

MOTION TO AVOID LIEN UNDER 11 U.S.C. § 522(f); AND NOTICE

---

Pursuant to Rule 4003(d), F.R.B.P., and Mont. LBR 4003-4, the undersigned respectfully moves the Court to avoid the lien of \_\_\_\_\_ on property of the Debtor's estate pursuant to 11 U.S.C. § 522(f)(1) [(A) or (B)]. In support of its motion, the undersigned alleges as follows:

1. Name of creditor: \_\_\_\_\_
2. Type of lien: \_\_\_\_\_  
[Judicial; or nonpossessory, nonpurchase-money security interest]

[If judicial lien, set forth the cause number, title of the case, originating court, date of entry of judgment, and amount(s); and attach copies of judgment(s) or documents evidencing the lien.]

3. Description of property secured by the lien: \_\_\_\_\_
4. Market value of the Debtor's interest in the above-described property: \$ \_\_\_\_\_

5. Statute(s) under which Debtor claims property as exempt: \_\_\_\_\_

6. For purposes of 11 U.S.C. § 522(f)(2)(A):

(a) Amount of the lien: \$ \_\_\_\_\_

(b) Description of other creditors and amounts of all other liens on the property and the respective priority of each: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(c) Amount of exemption the Debtor could claim if no liens existed on the property: \$ \_\_\_\_\_

WHEREFORE, the undersigned moves the Court to avoid the lien of the above-named Creditor pursuant to 11 U.S.C. § 522(f)(1) [(A) or (B)] on the ground that such lien impairs an exemption to which the Debtor is entitled under 11 U.S.C. § 522(b).

DATED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Attorney for Debtor(s)

**NOTICE OF OPPORTUNITY TO RESPOND  
AND REQUEST A HEARING**

**If you object to the motion, you must file a written responsive pleading and request a hearing within fourteen (14) days of the date of the motion. The responding party shall schedule the hearing on the motion at least twenty-one (21) days after the date of the response and request for hearing and shall include in the caption of the responsive pleading in bold and conspicuous print the date, time and location of the hearing by inserting in the caption the following:**

**NOTICE OF HEARING**

**Date:** \_\_\_\_\_

**Time:** \_\_\_\_\_

**Location:** \_\_\_\_\_

**If no objections are timely filed, the Court may grant the relief requested as a failure to respond by any entity shall be deemed an admission that the relief requested should be granted.**

DATED this \_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Attorney for Debtor(s)

CERTIFICATE OF MAILING

I, the undersigned, \_\_\_\_\_, do hereby certify under penalty of perjury that a copy of the within and foregoing Motion to Avoid Lien Under 11 U.S.C. § 522(f), and Notice was sent by first class mail postage prepaid on the \_\_\_ day of \_\_\_\_\_, 20\_\_, at \_\_\_\_\_, Montana, and directed to the following:

[Insert the name and address of each individual or entity served.]

\_\_\_\_\_  
[Name of person certifying the mailing]

[Must comply with Mont. LBR 9013-1(d)(2), by reflecting the name and address of each party served, and by being signed “under penalty of perjury” and by identifying the document served. There need be no Certificate of Mailing if all parties being served will be served electronically via the Court’s CM/ECF system. Only the affected creditor, or its counsel, need also be served with this Motion.]

**Mont. LBR 25. MOTION TO ASSUME [REJECT] EXECUTORY CONTRACT [OR UNEXPIRED LEASE]; AND NOTICE.**

[Mont. LBR 6006-1(a)]

Name of Attorney  
Office Mailing Address  
Telephone Number  
Facsimile Number  
E-Mail Address  
State Bar I.D. Number  
(Attorney for \_\_\_\_\_)

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF MONTANA

In re ) Case No.  
)  
)  
Debtor(s). )

---

MOTION TO ASSUME [REJECT] EXECUTORY CONTRACT  
[OR UNEXPIRED LEASE]; AND NOTICE

---

The Motion of \_\_\_\_\_ ( hereinafter "Creditor") respectfully represents:

1. The Debtor(s) filed a petition in this Court under Chapter \_\_\_\_ of the Bankruptcy Code on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

2. Creditor is the [seller/lessor/or otherwise] of property to the Debtor(s), and pursuant to Mont. LBR 6006-1(a), provides the following information: [Attach copies of executory contract or unexpired lease, or refer to Proof of Claim or other location for such documents in the file.]

(a) The present balance owing to Creditor, excluding any precomputed interest or other unearned charges, is \$ \_\_\_\_\_. Additional charges claimed are \$ \_\_\_\_\_ [describe with specificity].

(b) The date upon which the subject debt was incurred: \_\_\_\_\_.

(c) Creditor is a [seller/lessor/or specify] of the following described property:  
\_\_\_\_\_.

(d) A description of the property, including its location, is as follows:  
\_\_\_\_\_.

(e) The fair market value of the property subject to the executory contract or unexpired lease is \$ \_\_\_\_\_.

(f) A description of, and the amounts due upon, any other interests which have priority over that of Creditor are as follows: \_\_\_\_\_.

(g) If the Debtor is in default, the number of defaulted installments and the total amount in default are as follows: \_\_\_\_\_.

(h) Provisions of Debtor's proposed cure [if applicable] are as follows:  
\_\_\_\_\_.

(i) This Motion is made under and pursuant to the following subsection of 11 U.S.C. § 365: \_\_\_\_\_.

(j) Other facts which are relevant in determining whether relief should be granted are as follows: \_\_\_\_\_.

WHEREFORE, the undersigned moves the Court to grant this Motion to Assume [Reject] Executory Contract [or Unexpired Lease] pursuant to 11 U.S.C. § 365\_\_\_\_\_, and to grant such other relief as the Court may deem appropriate.

DATED this \_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
[Name of attorney]  
(Attorney for \_\_\_\_\_)

**NOTICE OF OPPORTUNITY TO RESPOND  
AND REQUEST A HEARING**

If you object to the motion, you must file a written responsive pleading and request a hearing within fourteen (14) days of the date of the motion. The responding party shall schedule the hearing on the motion at least twenty-one (21) days after the date of the response and request for hearing and shall include in the caption of the responsive pleading in bold and conspicuous print the date, time and location of the hearing by inserting in the caption the following:

**NOTICE OF HEARING**

**Date:** \_\_\_\_\_

**Time:** \_\_\_\_\_

**Location:** \_\_\_\_\_

If no objections are timely filed, the Court may grant the relief requested as a failure to respond by any entity shall be deemed an admission that the relief requested should be granted.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
[Name of attorney]

(Attorney for \_\_\_\_\_)

CERTIFICATE OF MAILING

I, the undersigned, \_\_\_\_\_, do hereby certify under penalty of perjury that a copy of the within and foregoing Motion to Assume [Reject] Executory Contract [or Unexpired Lease], and Notice was sent by first class mail postage prepaid on the \_\_\_ day of \_\_\_\_\_, 20\_\_, at \_\_\_\_\_, Montana, and directed to the following:

[Insert the name and address of each individual or entity served.]

\_\_\_\_\_  
[Name of person certifying the mailing]

[Must comply with Mont. LBR 9013-1(d)(2), by reflecting the name and address of each party served, and by being signed “under penalty of perjury” and by identifying the document served. There need be no Certificate of Mailing if all parties being served will be served electronically via the Court’s CM/ECF system. Only the affected creditor, or its counsel, and any parties in interest requesting special notice need also be served with this Motion; except that in a chapter 9 or 11 case, the Motion must also be served upon any committee appointed under the Code or its authorized agent, or, if no committee has been appointed, upon the creditors listed under Rule 1007(d), F.R.B.P.]

**Mont. LBF 26. REQUEST FOR IN-PERSON HEARING.**

[Mont. LBR 5074-1(a)]

Name of Trustee/Attorney  
Office Mailing Address  
Telephone Number  
Facsimile Number  
E-Mail Address  
State Bar I.D. Number  
(Attorney for \_\_\_\_\_)

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF MONTANA

In re ) Case No.  
)  
)  
Debtor(s). )

---

REQUEST FOR IN-PERSON HEARING

---

Pursuant to Mont. LBR 5074-1(a), the undersigned respectfully requests that the Court schedule and conduct the hearing or trial on [describe the matter in issue and the date set for the hearing or trial] in person. The undersigned asserts that good cause exists for the Court to conduct the hearing in person for the following reason:

The undersigned has contacted or attempted to contact other affected parties to gain their consent to this request, and advises the Court regarding such contacts or attempts as follows:

WHEREFORE, the undersigned respectfully requests the Court to conduct the hearing or trial scheduled for \_\_\_\_\_ in person.

DATED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
[Name of attorney]  
(Attorney for \_\_\_\_\_)

CERTIFICATE OF MAILING

I, the undersigned, \_\_\_\_\_, do hereby certify under penalty of perjury that a copy of the within and foregoing Request for In-Person Hearing was sent by first class mail postage prepaid on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, at \_\_\_\_\_, Montana, and directed to the following:

[Insert the name and address of each individual or entity served.]

\_\_\_\_\_  
[Name of person certifying the mailing]

[Must comply with Mont. LBR 9013-1(d)(2), by reflecting the name and address of each party served, and by being signed “under penalty of perjury” and by identifying the document served. There need be no Certificate of Mailing if all parties being served will be served electronically via the Court’s CM/ECF system. Only the persons affected by the subject hearing, or their counsel, need also be served with this Request.]

**Mont. LBF 27. MOTION TO DISMISS [CONVERT]; AND NOTICE.**

[Mont. LBR 1017-1(b)]

Name of Trustee/Attorney  
Office Mailing Address  
Telephone Number  
Facsimile Number  
E-Mail Address  
State Bar I.D. Number  
(Attorney for \_\_\_\_\_)

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF MONTANA

In re: ) Case No.  
)  
)  
Debtor(s). )

---

MOTION TO DISMISS [CONVERT]; AND NOTICE

---

Pursuant to Rule 1017, F.R.B.P., and Mont. LBR 1017-1(a), the undersigned respectfully moves the Court to dismiss the above-entitled case [or convert the above-entitled case to a case under Chapter \_\_\_\_]. The grounds for this motion are as follows:

DATED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
[Name of attorney]  
(Attorney for \_\_\_\_\_)

**NOTICE OF OPPORTUNITY TO RESPOND  
AND REQUEST A HEARING**

**If you object to the motion, you must file a written responsive pleading and request a hearing within fourteen (14) days of the date of the motion. The responding party shall schedule the hearing on the motion at least twenty-one (21) days after the date of the response and request for hearing and shall include in the caption of the responsive pleading in bold and conspicuous print the date, time and location of the hearing by inserting in the caption the following:**

**NOTICE OF HEARING**

**Date:** \_\_\_\_\_

**Time:** \_\_\_\_\_

**Location:** \_\_\_\_\_

**If no objections are timely filed, the Court may grant the relief requested as a failure to respond by any entity shall be deemed an admission that the relief requested should be granted.**

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
[Name of attorney]  
(Attorney for \_\_\_\_\_)

CERTIFICATE OF MAILING

I, the undersigned, \_\_\_\_\_, do hereby certify under penalty of perjury that a copy of the within and foregoing Motion to Dismiss [Convert], and Notice was sent by first class mail postage prepaid on the \_\_\_ day of \_\_\_\_\_, 20\_\_, at \_\_\_\_\_, Montana, and directed to the following:

[Insert the name and address of each individual or entity served.]

\_\_\_\_\_  
[Name of person certifying the mailing]

[Must comply with Mont. LBR 9013-1(d)(2), by reflecting the name and address of each party served, and by being signed “under penalty of perjury” and by identifying the document served. The Debtor and its counsel must be served with this motion, together with any parties requesting special notice.]

**Mont. LBF 28. OBJECTION TO PROOF OF CLAIM; AND NOTICE OF HEARING.**  
[Mont. LBR 3007-2]

Name of Trustee/Attorney  
Office Mailing Address  
Telephone Number  
Facsimile Number  
E-Mail Address  
State Bar I.D. Number  
(Attorney for \_\_\_\_\_)

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF MONTANA

In re: ) Case No.  
)  
) **NOTICE OF HEARING**  
) **Date:** \_\_\_\_\_  
) **Time:** \_\_\_\_\_  
) **Location:** \_\_\_\_\_  
Debtor(s). )

---

OBJECTION TO PROOF OF CLAIM; AND NOTICE OF HEARING

---

Pursuant to Rule 3007, F.R.B.P., and Mont. LBR 3007-2, the undersigned respectfully objects to the Proof of Claim filed in the above-entitled case by \_\_\_\_\_, which is claim number \_\_\_\_ on the Claims Register maintained by the Clerk of Court. The grounds for this objection are as follows:

WHEREFORE, Proof of Claim number \_\_\_\_ should be disallowed.

DATED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
[Name of attorney]  
(Attorney for \_\_\_\_\_)

**NOTICE OF HEARING**

**A hearing on the above-referenced Objection to Proof of Claim will be held at the date, time and location set forth in the caption above, at which time you must appear and respond to such Objection. If no response is timely made, the Court may grant the Objection, as a failure to appear shall be deemed an admission that the Objection is valid and should be granted.**

CERTIFICATE OF MAILING

I, the undersigned, \_\_\_\_\_, do hereby certify under penalty of perjury that a copy of the within and foregoing Objection to Proof of Claim, and Notice was sent by first class mail postage prepaid on the \_\_\_ day of \_\_\_\_\_, 20\_\_\_, at \_\_\_\_\_, Montana, and directed to the following:

[Insert the name and address of each individual or entity served.]

\_\_\_\_\_  
[Name of person certifying the mailing]

[Must comply with Mont. LBR 9013-1(d)(2), by reflecting the name and address of each party served, and by being signed “under penalty of perjury” and by identifying the document served. There need be no Certificate of Mailing if all parties being served will be served electronically via the Court’s CM/ECF system. Only the affected creditor, or its counsel, need also be served with this Objection.]

**Mont. LBF 29. OBJECTION TO CLAIM OF EXEMPTION; AND NOTICE.**

[Mont. LBR 4003-3]

Name of Trustee/Attorney  
Office Mailing Address  
Telephone Number  
Facsimile Number  
E-Mail Address  
State Bar I.D. Number  
(Attorney for \_\_\_\_\_ )

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF MONTANA

In re: ) Case No.  
)  
)  
Debtor(s). )

---

OBJECTION TO CLAIM OF EXEMPTION; AND NOTICE

---

Pursuant to Rule 4003, F.R.B.P., and Mont. LBR 4003-3, the undersigned respectfully objects to the Debtor's claim of exemption for the following described asset:

The grounds for this objection are as follows:

DATED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
[Name of attorney]  
(Attorney for \_\_\_\_\_)

**NOTICE OF OPPORTUNITY TO RESPOND  
AND REQUEST A HEARING**

**If you object to the motion, you must file a written responsive pleading and request a hearing within fourteen (14) days of the date of the motion. The responding party shall schedule the hearing on the motion at least twenty-one (21) days after the date of the response and request for hearing and shall include in the caption of the responsive pleading in bold and conspicuous print the date, time and location of the hearing by inserting in the caption the following:**

**NOTICE OF HEARING**

**Date:** \_\_\_\_\_

**Time:** \_\_\_\_\_

**Location:** \_\_\_\_\_

**If no objections are timely filed, the Court may grant the relief requested as a failure to respond by any entity shall be deemed an admission that the relief requested should be granted.**

DATED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
[Name of attorney]

(Attorney for \_\_\_\_\_)

CERTIFICATE OF MAILING

I, the undersigned, \_\_\_\_\_, do hereby certify under penalty of perjury that a copy of the within and foregoing Objection to Claim of Exemption, and Notice was sent by first class mail postage prepaid on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, at \_\_\_\_\_, Montana, and directed to the following:

[Insert the name and address of each individual or entity served.]

\_\_\_\_\_  
[Name of person certifying the mailing]

[Must comply with Mont. LBR 9013-1(d)(2), by reflecting the name and address of each party served, and by being signed “under penalty of perjury” and by identifying the document served. The Debtor and his or her counsel must be served with this objection.]

**Mont. LBF 30. STATEMENT OF DOMESTIC SUPPORT OBLIGATION(S)**  
[Mont. LBR 4002-1(e)]

Name of Attorney  
Office Mailing Address  
Telephone Number  
Facsimile Number  
E-Mail Address  
State Bar I.D. Number  
(Attorney for Debtor(s))

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF MONTANA

In re: ) Case No.  
)  
)  
Debtor(s). )

---

STATEMENT OF DOMESTIC SUPPORT OBLIGATION(S)

---

*[If filing jointly, information for both spouses must be provided on this form]*

Pursuant to Mont. LBR 4002-1(e), the undersigned hereby provides this Statement of Domestic Support Obligation(s), as defined in 11 U.S.C. § 101(14A).

1. Debtor's name (enter full name): \_\_\_\_\_

2. Does Debtor have a domestic support obligation: \_\_\_\_ yes \_\_\_\_ no. If yes, please fill out the rest of this form. If no, do not fill out the rest, but sign where indicated below.

3. Debtor's employer and employer's address: \_\_\_\_\_

4. Name, address, phone number, employer's name, and address of employer for any person responsible with the Debtor for the support:

\_\_\_\_\_

5. Name, address and phone number for the holder of the claim of support:

\_\_\_\_\_

[If the Debtor does not know the whereabouts of the former spouse, this fact should be affirmatively stated above, but the address for the support collection agency must be provided.]

---

AS OF THE DATE OF FILING OF THE BANKRUPTCY PETITION:

1. Amount of support obligation: \$ \_\_\_\_\_ per \_\_\_\_\_ [i.e. month, week, etc.]
2. Term of support obligation: from \_\_\_\_\_ until \_\_\_\_\_
3. Amount that the domestic support obligation is in arrears: \$ \_\_\_\_\_
4. Court name and jurisdiction in which order of support was issued:  
\_\_\_\_\_
5. Court Case No. \_\_\_\_\_
6. Name and address of State Child Support Enforcement Agency involved in such claim:  
\_\_\_\_\_  
\_\_\_\_\_

---

**I/We declare under penalty of perjury that the foregoing is true and correct.**

\_\_\_\_\_  
**Signature of Debtor**

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Signature of Co-Debtor**

\_\_\_\_\_  
**Date**

Penalty for making a false statement: Fine up to \$250,000 or imprisonment for up to 5 years or both. 18 U.S.C. §§ 152 and 3571

**Mont. LBF 31. SUPPLEMENTAL PERSONAL PROPERTY LIST.**

[Mont. LBR 1007-1(g)]

Name of Attorney  
 Office Mailing Address  
 Telephone Number  
 Facsimile Number  
 E-Mail Address  
 State Bar I.D. Number  
 (Attorney for Debtor(s))

UNITED STATES BANKRUPTCY COURT  
 FOR THE DISTRICT OF MONTANA

In re ) Case No.  
 )  
 )  
 Debtor(s). )

SUPPLEMENTAL PERSONAL PROPERTY LIST

<i>1. Household Goods and Furnishings</i>								
<i>Exempt Amount</i>	<i>Qty</i>	<i>Fair Market Value</i>	<i>Description</i>	<i>Exempt Amount</i>	<i>Qty</i>	<i>Fair Market Value</i>	<i>Description</i>	
			<i>Couch</i>				<i>Dressers</i>	
			<i>Love Seat</i>				<i>Televisions</i>	
			<i>Lamps</i>				<i>Stereos</i>	
			<i>Tables</i>				<i>VCR/DVD Players</i>	
			<i>Chairs</i>				<i>CD/VCR/DVD or Record Collections</i>	
			<i>Beds</i>				<i>Barbeques</i>	
			<i>Desks</i>				<i>Lawnmowers</i>	
			<i>End Tables</i>				<i>Entertainment Center</i>	
			<i>Other (Describe)</i>					
			<i>Other (Describe)</i>					

			<i>Other (Describe)</i>				
2.			<i>Other (Describe)</i>				
<b>3. Appliances</b>							
<i>Exempt Amount</i>	<i>Qty</i>	<i>Fair Market Value</i>	<i>Description</i>	<i>Exempt</i>	<i>Qty</i>	<i>Value</i>	<i>Description</i>
			<i>Refrigerator</i>				<i>Freezer</i>
			<i>Washer/Dryer</i>				<i>Dishwasher</i>
			<i>Microwave</i>				<i>Satellite Dish</i>
			<i>Trash Compacter</i>				<i>Range/Oven</i>
			<i>Other (Describe)</i>				
			<i>Other (Describe)</i>				
			<i>Other (Describe)</i>				
			<i>Misc. (Describe)</i>				
<b>4. Books, Pictures, Electronic Equipment, Collections/Art Objects:</b>							
<i>Exempt Amount</i>	<i>Qty</i>	<i>Fair Market Value</i>	<i>Description</i>	<i>Exempt</i>	<i>Qty</i>	<i>Value</i>	<i>Description</i>
			<i>Books</i>				<i>Sculptures</i>
			<i>Pictures</i>				<i>Knickknacks</i>
			<i>Coin/Stamp Collections</i>				<i>Fish Tank(s)</i>
			<i>Antiques</i>				<i>Paintings or Other Art Work</i>
			<i>Cameras/Video Equipment</i>				<i>Video Equipment</i>
			<i>Typewriters</i>				<i>Computer Equipment</i>
			<i>Binoculars</i>				
			<i>Other (Describe)</i>				
			<i>Other (Describe)</i>				
			<i>Other (Describe)</i>				
			<i>Other (Describe)</i>				
<b>5. Wearing Apparel, Sports Equipment:</b>							

<i>Exempt Amount</i>	<i>Qty</i>	<i>Fair Market Value</i>	<i>Description</i>	<i>Exempt</i>	<i>Qty</i>	<i>Value</i>	<i>Description</i>	
			<i>Men's Clothes</i>				<i>Jewelry (Men's)</i> <i>(Itemize Each Item)</i>	
			<i>Women's Clothes</i>				<i>Jewelry (Women's)</i> <i>(Itemize Each Item)</i>	
			<i>Children's Clothes</i>				<i>Jewelry (Children's)</i> <i>(Itemize Each Item)</i>	
			<i>Gun (Describe, make, model &amp; caliber)</i>					
			<i>Gun (Describe, make, model &amp; caliber)</i>					
			<i>Gun (Describe, make, model &amp; caliber)</i>					
			<i>Skis (Describe)</i>					
			<i>Boats (Describe, make, model &amp; year)</i>					
			<i>Boat Motors (Describe, make, model &amp; year)</i>					
			<i>Boat Trailer (Describe, make, model &amp; year)</i>					
			<i>Snowmobile (Describe, make, model &amp; year)</i>					
			<i>ATV (Describe, make, model &amp; year)</i>					
			<i>Archery Equipment (Describe)</i>					
			<i>Bowling Equipment (Describe)</i>					
			<i>Golf Equipment (Describe)</i>					
			<i>Hiking/backpack (Describe)</i>					
			<i>Fishing Equipment (Describe)</i>					
			<i>Other (Describe)</i>					
			<i>Other (Describe)</i>					
			<i>Other (Describe)</i>					
			<i>Other (Describe)</i>					
<b>6. Automobiles, Trucks, Trailers, Motorcycles, Farm Equipment:</b>								
<i>Exempt Amount</i>	<i>Qty</i>	<i>Fair Market Value</i>	<i>Description</i>					
			<i>Automobile (make, model, year)</i>					

			<i>Automobile (make, model, year)</i>
			<i>Automobile (make, model, year)</i>
			<i>Trailer (make, model, year)</i>
			<i>Trailer (make, model, year)</i>
			<i>Motorcycle (make, model, year)</i>
			<i>Farm Equipment (make, model, year)</i>
			<i>Farm Equipment (make, model, year)</i>
			<i>Additional Equipment:</i>
			<i>Additional Equipment:</i>

<b>7. Animals</b>							
<i>Exempt Amount</i>	<i>Qty</i>	<i>Fair Market Value</i>	<i>Description</i>	<i>Exempt</i>	<i>Qty</i>	<i>Value</i>	<i>Description</i>
			<i>Cats</i>				<i>Horses</i>
			<i>Dogs</i>				<i>Birds</i>
			<i>Livestock (describe)</i>				
			<i>Other (describe)</i>				
			<i>Other (describe)</i>				

<b>8. Tools, Machinery &amp; Implements</b>			
<i>Exempt Amount</i>	<i>Qty</i>	<i>Fair Market Value</i>	<i>Description</i>
			<i>Hand tools (automotive, woodworking, etc.) (Including Trade Tools - And Itemize Each Item)</i>
			<i>Power tools (chainsaw, compressors, welding, etc.) (Including Machinery &amp; Equipment Used in a Trade or Business - And Itemize Each Item)</i>

			<i>Lawn/Garden Tools (Describe)</i>
<p>9. <i>Personal Property of other description (include such items as business inventory, patents, accounts receivables, inheritances, stocks and bonds, insurance policies (if any, cash surrender value) and any other personal property of any other kind or description not otherwise listed in the bankruptcy schedules, statement of financial affairs, or this inventory list</i></p>			
<i>Exempt Amount</i>	<i>Qty</i>	<i>Fair Market Value</i>	<i>Other (Describe)</i>
			<i>Other (Describe)</i>
			<i>Other (Describe)</i>

**Mont. LBF 32. BANKRUPTCY INFORMATION SHEET.**  
[Mont. LBR 2003-1]

**BANKRUPTCY LAW IS A FEDERAL LAW. THIS SHEET GIVES YOU SOME GENERAL INFORMATION ABOUT WHAT HAPPENS IN A BANKRUPTCY CASE. THE INFORMATION HERE IS NOT COMPLETE. YOU MAY NEED LEGAL ADVICE.**

**WHEN YOU FILE BANKRUPTCY:**

You can choose the kind of bankruptcy that best suits your needs:

Chapter 7 - A trustee is appointed to take over your property. Any property of value will be sold or turned into money to pay your creditors. You may be able to keep some personal items and possibly real estate depending on the law of the state where you live.

Chapter 13 - You can usually keep your property, but you must earn wages or have some other source of regular income and you must agree to pay part of your income to your creditors. The Court must approve your repayment plan and your budget. A trustee is appointed and will collect the payments from you, pay your creditors, and make sure you live up to the terms of your repayment plan.

Chapter 12 - Like chapter 13, but it is only for family farmers.

Chapter 11 - This is used mostly by businesses. In chapter 11, you may continue to operate your business, but your creditors and the Court must approve a plan to repay your debts. There is no trustee unless the Judge decides that one is necessary; if a trustee is appointed, the trustee takes control of your business and property.

If you have filed bankruptcy under another chapter, you may be able to change your case to another chapter.

Your bankruptcy may be reported on your credit record for as long as ten years. It can affect your ability to receive credit in the future.

**WHAT IS A BANKRUPTCY DISCHARGE AND HOW DOES IT OPERATE?**

One of the reasons people file is to get a "discharge." A discharge is a Court order which states that you do not have to pay most of your debts. Some debts cannot be discharged. For example, you cannot discharge debts for --

- most taxes;
- child support;
- alimony;
- most student loans;
- Court fines and criminal restitution; and
- personal injury caused by drunk driving or under the influence of drugs.

The discharge only applies to debts that arose before the date you filed.

Also, if the Judge finds that you received money or property by fraud, that debt may not be discharged.

It is important to list all your property and debts in your bankruptcy schedules. If you do not list a debt, for example, it is possible the debt will not be discharged.

The judge can also deny your discharge if you do something dishonest in connection with your bankruptcy case, such as destroy or hide property, falsify records, or lie, or if you disobey a Court order.

You can only receive a chapter 7 discharge once every six years. No one can make you pay a debt that has been discharged, but you can voluntarily pay any debt you wish to pay. You do not have to sign a reaffirmation agreement or any other kind of document to do this.

Some creditors hold a secured claim (for example, the bank that holds the mortgage on your house or the loan company that has a lien on your car). You do not have to pay a secured claim if the debt is discharged, but the creditor can still take the property.

#### **WHAT IS A REAFFIRMATION AGREEMENT?**

Even if a debt can be discharged, you may have special reasons why you want to promise to pay it. For example, you may want to work out a plan with the bank to keep your car. To promise to pay the debt, you must sign and file a reaffirmation agreement with the Court. Reaffirmation agreements are under special rules and are voluntary. They are not required by bankruptcy law or by any other law.

Reaffirmation agreements --

- must be voluntary;
- must not place too heavy a burden on you or your family;
- must be in your best interest; and
- can be cancelled anytime before the Court issues your discharge or within 60 days after the agreement is filed with the Court, whichever gives you the most time.

If you are an individual and you are not represented by an attorney, the Court must hold a hearing to decide whether to approve the reaffirmation agreement. You must file the agreement with the Court and request a hearing. At the hearing, the court must find that the agreement is in your best interests and enter an order approving the agreement. The agreement will not be legally binding until the Court approves it.

If you reaffirm a debt and then fail to pay it, you owe the debt the same as though there was no bankruptcy. The debt will not be discharged and the creditor can take action to recover any property on which it has a lien or mortgage. The creditor can also take legal action to recover a judgement against you.

**IF YOU WANT MORE INFORMATION OR HAVE QUESTIONS ABOUT HOW THE BANKRUPTCY LAWS AFFECT YOU, YOU MAY NEED LEGAL ADVICE. THE TRUSTEE IN YOUR CASE IS NOT RESPONSIBLE FOR GIVING YOU LEGAL ADVICE.**

**Mont. LBF 33. MATERIALS REQUIRED TO BE DELIVERED TO TRUSTEES PRIOR TO § 341(a) MEETINGS OF CREDITORS.**

[Mont. LBRs 2003-3; 4002-1(f) and 4003-2]

**MATERIALS FOR TRUSTEES**

Copies of the following documents and materials must be provided to the appropriate panel or standing trustees (and to the U.S. Trustee, if requested) at least fourteen (14) days prior to the first date scheduled for the § 341(a) meeting of creditors on each Debtor's case. If these materials are not provided, the trustee may continue the meeting of creditors until a later date, at which time the Debtor and Debtor's attorneys will be required to attend again in order to respond to inquiries related to such documents and materials; or, at the trustee's discretion, the trustee or U.S. Trustee may seek dismissal or conversion of a Debtor's case for failure to timely provide these documents and materials, or may seek an order compelling the debtor to provide such materials.

A copy of this Form must also be provided to the trustee, properly completed to reflect which documents and materials are being provided, and which are not being provided. An explanation is required for each document which is not provided indicating the reason for not providing the document (e.g., "n/a" if the item is not applicable to the debtor). Leave no blank items.

1. \_\_\_\_\_ **Tax Returns:** Copies of state and federal income tax returns (including all schedules) for the two years (or more, as requested by the trustee) prior to the bankruptcy filing; including returns for any corporation, partnership or other entity in which the debtor holds an interest
  
2. \_\_\_\_\_ **Documents for Real Property:** (Provide for each parcel; including those assets which the debtor transferred or surrendered within four years prior to filing bankruptcy, or which the debtor intends to transfer or surrender following the bankruptcy filing.)

Location of Property: \_\_\_\_\_  
\_\_\_\_\_

- \_\_\_\_\_ Trust Indenture, Contract for Deed or Mortgage
- \_\_\_\_\_ Proof of Perfection (e.g., proof of recording)
- \_\_\_\_\_ Notice of Purchaser's Interest (with proof of recording)
- \_\_\_\_\_ Homestead Declaration (with proof of recording)
- \_\_\_\_\_ Appraisal (or most recent year's county tax assessment statement)
- \_\_\_\_\_ Underlying Promissory Note
- \_\_\_\_\_ Underlying Deed
- \_\_\_\_\_ Copy of Survey (if applicable)
- \_\_\_\_\_ Loan Status (most recent month's loan statement)

\_\_\_\_\_ Complete Legal Description (if not a street address)

3. \_\_\_\_\_ **Documents for Personal Property:** (Provide for each item of personal property which is pledged as collateral to secure a debt; including those assets which the debtor transferred or surrendered within four years prior to filing bankruptcy, or which the debtor intends to transfer or surrender following the bankruptcy filing.)

Description of Property: \_\_\_\_\_  
\_\_\_\_\_

- \_\_\_\_\_ Underlying Promissory Note  
\_\_\_\_\_ Security Agreement or Retail Installment Contract  
\_\_\_\_\_ Proof of Perfection (e.g., UCC-1, with proof of filing)  
\_\_\_\_\_ Loan Status (most recent month's loan statement)  
\_\_\_\_\_ Proof of Fair Market Value (if possible)  
\_\_\_\_\_ Appraisal (if any)

4. \_\_\_\_\_ **Vehicle and Other Titles or Registrations:** (Provide for each vehicle, trailer, ATV, motorcycle, RV, boat, personal watercraft, snowmobile, airplane, etc.)

- \_\_\_\_\_ Certificate of Title  
\_\_\_\_\_ Registration  
\_\_\_\_\_ Appraisal (or blue book valuation or other Internet valuation)  
\_\_\_\_\_ Loan Status (most recent month's loan statement)

5. \_\_\_\_\_ **Mobile Homes:**

- \_\_\_\_\_ Underlying Promissory Note and Other Loan Documents  
\_\_\_\_\_ Security Agreement  
\_\_\_\_\_ Certificate of Title  
\_\_\_\_\_ Homestead Declaration (with proof of recording)  
\_\_\_\_\_ Loan Status (most recent month's loan statement)

6. \_\_\_\_\_ **Life Insurance:** Proof of all insurance, and any cash value or loan documents

7. \_\_\_\_\_ **IRA or Pension Plans:** Most recent monthly or quarterly statements reflecting account balances; and copy of 401(k) or other plan, if applicable

8. \_\_\_\_\_ **Insurance Policies:** Copy of the declarations page for each policy (or copy of annual statement provided by the insurance company), proving that liability and/or general casualty insurance exists for the debtor's assets, and setting forth the declared values of assets and any loan amounts

9. \_\_\_\_\_ **Banking Information:** Copies of all bank, credit union, or other financial institution checking, savings, money market, mutual fund, brokerage and other depository and investment account statements, reflecting all account balances as of the month the debtor's case was filed

10. \_\_\_\_\_ **Stocks, Bonds, or Other Money Instruments:** Copies of all stocks, bonds, or other instruments which represent or can be converted to money

11. \_\_\_\_\_ **Business Information:** (For any debtor who operated a business of any kind within the six year period preceding the filing of the case)

\_\_\_\_\_ Complete Listing of Most Recent Inventory

\_\_\_\_\_ Listing of All Business Assets (if not contained in Schedules)

\_\_\_\_\_ Copy of Most Recent Balance Sheet

\_\_\_\_\_ Copy of Most Recent Profit and Loss Statement

\_\_\_\_\_ Copies of All Loan Applications Provided to Anyone Within the Prior Two Years

\_\_\_\_\_ Copies of All Loan Documents (including most recent month's statements)

\_\_\_\_\_ Copies of Last Two Year's State and Federal Income Tax Returns

\_\_\_\_\_ Copy of Most Recent Accounts Receivable (including name, address, and amount of each receivable)

12. \_\_\_\_\_ **Divorce:** If the debtor has been divorced within two years prior to the bankruptcy filing, provide copies of the divorce decree and any marital settlement agreement

13. \_\_\_\_\_ **Loan Applications:** Copies of all loan applications submitted to any bank, credit union, other financial institution, wholesale or retail merchant, or any other entity within the last two years, for all loans that were approved or outstanding at the time of the bankruptcy filing. [This does not involve credit card applications.]

Debtor(s) affirm and declare under penalty of perjury that the above-listed documents which are being provided to their case trustee are true and correct copies of the respective documents, and that they have not been changed or altered in any manner.

DATED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Debtor

\_\_\_\_\_  
Debtor

[This form must be provided to the trustee, but need not be filed with the Court.]

**Mont. LBF 34. STANDARD FORM OF PROPOSED ORDER.**  
[Mont. LBR 9013-1(i)]

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF MONTANA

In re ) Case No.  
 )  
 )  
Debtor(s). )

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ORDER

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At Butte in said District this \_\_\_ day of \_\_\_\_\_, 20\_\_.

In this Chapter \_\_\_ bankruptcy, the [Debtor(s); trustee; name of creditor; etc.], as the Movant(s), filed a \_\_\_\_\_ on [month, date], 20\_\_.

As required by Mont. LBR 9013-1(d), the Movant's [motion; objection to exemption; etc.] provided a "NOTICE" provision which granted the opposing party fourteen (14) days to respond to the [motion; objection; etc.] and schedule the matter for hearing. The "NOTICE" provided that "[I]f no objections are timely filed, the Court may grant the relief requested as a failure to respond by any entity shall be deemed an admission that the relief requested should be granted." The fourteen (14) day period has expired and \_\_\_\_\_ has not filed a response to the \_\_\_\_\_. In accordance with the Notice provision attached to the Movant's \_\_\_\_\_, the failure of \_\_\_\_\_ to respond is deemed an admission that the Movant's \_\_\_\_\_ should be sustained without further notice or hearing. Accordingly,

IT IS ORDERED the Movant's \_\_\_\_\_ is [GRANTED; SUSTAINED; etc.], and [describe the relief obtained by the Movant].

**Mont. LBF 35. TAX TURNOVER ORDER.**

[Mont. LBR 1007-1(h)]

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF MONTANA

In re ) Case No.  
 )  
 )  
 Debtor(s). )

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ORDER

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At Butte in said District this \_\_\_ day of \_\_\_\_\_, 20\_\_.

TO THE ABOVE NAMED DEBTOR(S):

YOU ARE HEREBY ORDERED as follows:

1. **FILING TAX RETURNS:** You are ordered to properly file all required income and other tax returns with the federal government (Internal Revenue Service), any state (Dept. of Revenue), and any other taxing authority, within the time limits provided by law. This order shall apply as to all tax years or other periods which arise during the pendency of this case. This order also includes returns for the preceding calendar or tax year, as well as returns for all prior years and to periods for which returns were required but which were not filed before your bankruptcy case was commenced.

2. **COPIES OF TAX RETURNS TO TRUSTEE:** You are further ordered to deliver to your trustee in this case signed photocopies of all tax returns which have been or must be filed under and pursuant to the preceding paragraph.

3. **DELIVERY OF REFUNDS:** You are further ordered to turn over to your trustee in this case all income tax refunds now held or hereafter received by you while the case is open; except in Chapter 13 cases if your income tax refunds were included in your budget. If, in Chapter 7 cases, you have provided your trustee with copies of your income tax returns and the trustee has indicated in writing that the portion of any tax refund belonging to your bankruptcy estate is not economically sufficient to administer, then such tax refunds need not be turned over to your trustee.

**LOSS OF DISCHARGE AND OTHER SANCTIONS:** A willful failure to obey this order (for example a failure to file required tax returns, failure to provide signed copies of all tax

returns to your trustee, or failure to surrender and turnover refunds) may result in a loss of your right to a bankruptcy discharge of indebtedness, dismissal of your case without further notice to you and without hearing, and/or other possible sanctions.

All legal questions should be directed to an attorney.

**Mont. LBF 36. DECLARATION OF DEBTOR(S) UNDER PENALTY OF PERJURY.**  
[Mont. LBR 2003-5]

[Individual Debtor(s)]

I declare under penalty of perjury that I have read the petition, schedules of assets and liabilities, and statement of financial affairs on file in my bankruptcy case now pending before the U.S. Bankruptcy Court for the District of Montana, and that all of the answers and information provided in such documents, and any attachments thereto, are true and correct to the best of my knowledge, information and belief.

Dated: \_\_\_\_\_ Signature of Debtor: \_\_\_\_\_  
Print Name: \_\_\_\_\_

I declare under penalty of perjury that I have read the petition, schedules of assets and liabilities, and statement of financial affairs on file in my bankruptcy case now pending before the U.S. Bankruptcy Court for the District of Montana, and that all of the answers and information provided in such documents, and any attachments thereto, are true and correct to the best of my knowledge, information and belief.

Dated: \_\_\_\_\_ Signature of Debtor: \_\_\_\_\_  
Print Name: \_\_\_\_\_

[Corporation or Partnership]

I declare under penalty of perjury that I have read the petition, schedules of assets and liabilities, and statement of financial affairs on file in the below-named corporate or partnership bankruptcy case now pending before the U.S. Bankruptcy Court for the District of Montana, that I was authorized to file the petition on behalf of the debtor, and that all of the answers and information provided in such documents, and any attachments thereto, are true and correct to the best of my knowledge, information and belief. [An individual signing on behalf of a corporation or partnership must indicate his or her position or relationship to the debtor.]

Dated: \_\_\_\_\_ Name of Corporation or Partnership: \_\_\_\_\_  
Signature and Title of  
Authorized Representative: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Print Title: \_\_\_\_\_

Witnessed by: \_\_\_\_\_ (Trustee)

Penalty for making a false statement: Fine of up to \$250,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571

**Mont. LBF 37. NOTICE OF COMPLIANCE WITH § 521.**  
[Mont. LBR 4002-1(g)]

Name of Attorney  
Office Mailing Address  
Telephone Number  
Facsimile Number  
E-Mail Address  
State Bar I.D. No.  
(Attorney for Debtor(s))

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF MONTANA

In re: ) Case No.  
)  
)  
Debtor(s). )

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NOTICE OF COMPLIANCE WITH § 521

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Debtor(s) hereby certify under penalty of perjury that:

1. Pursuant to § 521(a)(1)(A), the list of creditors is filed herewith.
2. Pursuant to § 521(a)(1)(B), the schedules of (i) assets and liabilities; (ii) current income and expenditures; (iii) statement of financial affairs; and (iv) the proof of delivery of the § 342(b) notice to the debtor is filed herewith.
3. Pursuant to § 521(a)(1)(B)(iv), the Debtor(s) has/have filed with the Court copies of all payment advices or other evidence of payment received within 60 days before the date of filing of the Debtor's/Debtors' petition;
4. Pursuant to § 521(a)(1)(B)(v), the Debtor(s) has/have filed with the Court Schedules I and J, showing the amount of monthly net income, itemized to show how the amount is calculated, and the Statement of Current Monthly Income and Means Test Calculation;
5. Pursuant to § 521(a)(1)(vi), the Debtor(s) state(s) that:

\_\_\_\_\_ The Debtor(s) anticipate(s) an increase in income or expenditures over the

12-month period following the date of filing the petition. Specifically:

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_ The Debtor(s) does/do not anticipate(s) an increase in income or expenditures over the 12-month period following the date of filing the petition.

6. Pursuant to § 521(b)(1), the required credit counseling certification is filed herewith.

7. Pursuant to § 521(b)(2), the Debtor(s) state(s) that there are no debt repayment plans of the type contemplated by this statute (or, a copy of such repayment plan is filed herewith);

8. Pursuant to § 521(c), the Debtor(s) state(s) that:

\_\_\_\_\_ The Debtor(s) has/have an interest in an account or program of the type specified in § 521(c) of the Code, with documentation thereof filed herewith.

\_\_\_\_\_ The Debtor(s) has/have no interest in an account or program of the type specified in § 521(c) of the Code.

DATED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**I/We declare under penalty of perjury that the foregoing is true and correct.**

\_\_\_\_\_  
**Signature of Debtor**

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Signature of Co-Debtor**

\_\_\_\_\_  
**Date**

Penalty for making a false statement: Fine up to \$250,000 or imprisonment for up to 5 years or both. 18 U.S.C. §§ 152 and 3571

**Mont. LBF 38. MOTION FOR ENTRY OF DISCHARGE; AND ATTORNEY CERTIFICATION (CHAPTER 12).**

[Mont. LBR 4004-1]

Name of Attorney  
Office Mailing Address  
Telephone Number  
Facsimile Number  
E-Mail Address  
State Bar I.D. Number  
(Attorney for Debtor(s))

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF MONTANA

In re ) Case No.  
 )  
 )  
Debtor(s). )

---

MOTION FOR ENTRY OF DISCHARGE;  
AND ATTORNEY CERTIFICATION

---

The above-named Debtor(s) respectfully moves the Court for the entry of an Order of Discharge. In support of this motion, the undersigned represents that:

1. I am counsel of record for the Debtor(s) in the above-entitled case.
2. I have explained the requirements for a discharge to the Debtor(s) and to the best of the undersigned's knowledge, the Debtor(s) qualifies for a discharge under §§ 521 and 1228(a) and (f); and
3. By affidavit, filed herewith, the Debtor(s) has made the required certification, under oath, necessary for the entry of discharge.

DATED this \_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Attorney for Debtor(s)

**ATTORNEY CERTIFICATION**

**In Support of Motion for Entry of Discharge**

I represent the above captioned Debtor(s) and hereby certify that I have explained to the Debtor(s) the averments set forth above, and to the best of my knowledge and belief, each Debtor identified above is in compliance with the provisions of 11 U.S.C. §§ 521 and 1228(a) and (f), and meets the eligibility requirements for a Chapter 12 discharge pursuant to 11 U.S.C. §§ 1228(a) and (f).

DATED this \_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Attorney for Debtor(s)

**Mont. LBF 38-A. AFFIDAVIT IN SUPPORT OF MOTION FOR ENTRY OF DISCHARGE (CHAPTER 12).**

[Mont. LBR 4004-1]

Name of Attorney  
Office Mailing Address  
Telephone Number  
Facsimile Number  
E-Mail Address  
State Bar I.D. Number  
(Attorney for Debtor(s))

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF MONTANA

In re ) Case No.  
 )  
 )  
 Debtor(s). )

---

AFFIDAVIT IN SUPPORT OF  
MOTION FOR ENTRY OF DISCHARGE

---

The above-named Debtor(s) having moved the Court for the entry of an Order of Discharge, in support of such motion, I/we certify and state as follows:

1. I have made all of the payments required under the confirmed Chapter 12 Plan in this case and have fully complied with the terms of that Plan.
2. I have completed an instructional course concerning personal financial management described in 11 U.S.C. § 111 and have filed a copy of the Certification of Completion, either prior to the filing of this Motion or with this Motion.
3. *Check the box that applies, one box MUST be checked.*

I am not required by any judicial or administrative order or law to pay a domestic support obligation (child support or spousal support); OR

[ ] I was required to pay a domestic support obligation during this case, and I certify that I have paid all domestic support due through today, under the order or law requiring support payments.

4. I have no reason to believe that there is any pending investigation or proceeding in which I may be found guilty of:
- (i) a felony involving the abuse of bankruptcy law;
  - (ii) any violation of federal or state securities law;
  - (iii) fraud, deceit or manipulation in a fiduciary capacity (where I am responsible for managing someone else's money, property or affairs) involving the purchase or sale of any securities;
  - (iv) any civil offense under § 1964 of Title 18 U.S. Code (federal criminal laws); or
  - (v) any criminal act, any intentional harm to another or willful or reckless misconduct that caused serious physical injury or death to another individual in the preceding five (5) years.

I/we certify under oath and penalty of perjury that the foregoing is true and correct to the best of my/our knowledge and belief.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Debtor

\_\_\_\_\_  
Signature of Co-Debtor

**Mont. LBF 39. MOTION FOR ENTRY OF DISCHARGE; AND ATTORNEY CERTIFICATION (CHAPTER 13).**

[Mont. LBR 4004-1]

Name of Attorney  
Office Mailing Address  
Telephone Number  
Facsimile Number  
E-Mail Address  
State Bar I.D. Number  
(Attorney for Debtor(s))

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF MONTANA

In re ) Case No.  
)  
)  
Debtor(s). )

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MOTION FOR ENTRY OF DISCHARGE;  
AND ATTORNEY CERTIFICATION

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The above-named Debtor(s) respectfully moves the Court for the entry of an Order of Discharge. In support of this motion, the undersigned represents that:

1. I am counsel of record for the Debtor(s) in the above-entitled case.
2. I have explained the requirements for a discharge to the Debtor(s) and to the best of the undersigned's knowledge, the Debtor(s) qualifies for a discharge under §§ 521, 1308, and 1328(a), (g)(1) and (h); and
3. By affidavit, filed herewith, the Debtor(s) has made the required certification, under oath, necessary for the entry of discharge.

DATED this \_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Attorney for Debtor(s)

**ATTORNEY CERTIFICATION**

**In Support of Motion for Entry of Discharge**

I represent the above captioned Debtor(s) and hereby certify that I have explained to the Debtor(s) the averments set forth above, and to the best of my knowledge and belief, each Debtor identified above is in compliance with the provisions of 11 U.S.C. §§ 521, 1308, and 1328(1), and meets the eligibility requirements for a Chapter 13 discharge pursuant to 11 U.S.C. §§ 1328(g)(1) and 1328(h).

DATED this \_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Attorney for Debtor(s)

**Mont. LBF 39-A. AFFIDAVIT IN SUPPORT OF MOTION FOR ENTRY OF DISCHARGE (CHAPTER 13).**

[Mont. LBR 4004-1]

Name of Attorney  
Office Mailing Address  
Telephone Number  
Facsimile Number  
E-Mail Address  
State Bar I.D. Number  
(Attorney for Debtor(s))

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF MONTANA

In re ) Case No.  
 )  
 )  
Debtor(s). )

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AFFIDAVIT IN SUPPORT OF  
MOTION FOR ENTRY OF DISCHARGE

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The above-named Debtor(s) having moved the Court for the entry of an Order of Discharge, in support of such motion, I/we certify and state as follows:

1. I have made all of the payments required under the confirmed Chapter 13 Plan in this case and have fully complied with the terms of that Plan.
2. I have completed an instructional course concerning personal financial management described in 11 U.S.C. § 111 and have filed a copy of the Certification of Completion, either prior to the filing of this Motion or with this Motion.
3. *Check the box that applies, one box MUST be checked.*

I am not required by any judicial or administrative order or law to pay a domestic support obligation (child support or spousal support); OR

[ ] I was required to pay a domestic support obligation during this case, and I certify that I have paid all domestic support due through today, under the order or law requiring support payments.

4. I have not received a discharge in any prior Chapter 7, 11 or 12 bankruptcy case in which I was a debtor during the four year period prior to the date that I filed this Chapter 13 bankruptcy case, and I have not received a discharge in any previous Chapter 13 bankruptcy case during the two year period before I filed this Chapter 13 bankruptcy case.
5. I have no reason to believe that there is any pending investigation or proceeding in which I may be found guilty of:
  - (i) a felony involving the abuse of bankruptcy law;
  - (ii) any violation of federal or state securities law;
  - (iii) fraud, deceit or manipulation in a fiduciary capacity (where I am responsible for managing someone else's money, property or affairs) involving the purchase or sale of any securities;
  - (iv) any civil offense under § 1964 of Title 18 U.S. Code (federal criminal laws); or
  - (v) any criminal act, any intentional harm to another or willful or reckless misconduct that caused serious physical injury or death to another individual in the preceding five (5) years.

I/we certify under oath and penalty of perjury that the foregoing is true and correct to the best of my/our knowledge and belief.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Debtor

\_\_\_\_\_  
Signature of Co-Debtor

**Mont. LBF 40. MOTION FOR WITHDRAWAL OF UNCLAIMED FUNDS; AND NOTICE.**

[Mont. LBR 3011-1]

Name of Attorney/Party  
Office Mailing Address  
Telephone Number  
Facsimile Number  
E-Mail Address  
State Bar I.D. Number  
(Attorney for \_\_\_\_\_)

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF MONTANA

In re ) Case No.  
 )  
 )  
Debtor(s) )

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MOTION FOR WITHDRAWAL OF UNCLAIMED FUNDS; AND NOTICE

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The undersigned, under penalty of perjury, represents and declares that the following statements and information are true and correct, and respectfully moves the Court for an order of withdrawal pursuant to Mont. LBR 3011-1 as follows:

1. I move the Court for an order authorizing the Clerk of the Bankruptcy Court to disburse unclaimed funds in the amount of \$ \_\_\_\_\_, which is the sum remitted to the Court by the trustee on the following date(s): \_\_\_\_\_, on behalf of the person described in paragraph 2. below.

2. Person entitled to disbursement: \_\_\_\_\_  
Tax Identification Number: \_\_\_\_\_

3. I have made a sufficient inquiry and have no knowledge: (a) that the claim has been previously paid; (b) that any other motion for withdrawal of unclaimed funds is currently pending; (c) that any person other than the person identified in paragraph 2 is entitled to submit a motion for withdrawal of the subject funds; and (d) that any person other than the person identified in paragraph 2 is entitled to disbursement.

4. I understand and acknowledge that pursuant to 18 U.S.C. § 152, I may be

imprisoned up to 5 years and fined not more than \$250,000, or both, if I have knowingly and fraudulently made any false statements or representations in this motion.

Wherefore, movant moves the Court for an order granting this motion for withdrawal of unclaimed funds and authorizing the Clerk of the Bankruptcy Court to disburse the amount stated above to the person designated in paragraph 2 above.

DATED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Signature of Movant \_\_\_\_\_  
Type or Print Movant's Name \_\_\_\_\_  
Name of Movant's Company \_\_\_\_\_  
Movant's Address \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Movant's Phone Number \_\_\_\_\_  
Movant's E-Mail Number \_\_\_\_\_

**NOTICE OF OPPORTUNITY TO RESPOND  
AND REQUEST A HEARING**

**If you object to the motion, you must file a written responsive pleading and request a hearing within fourteen (14) days of the date of the motion. The responding party shall schedule the hearing on the motion at least twenty-one (21) days after the date of the response and request for hearing and shall include in the caption of the responsive pleading in bold and conspicuous print the date, time and location of the hearing by inserting in the caption the following:**

**NOTICE OF HEARING**

**Date:** \_\_\_\_\_  
**Time:** \_\_\_\_\_  
**Location:** \_\_\_\_\_

**If no objections are timely filed, the Court may grant the relief requested as a failure to respond by any entity shall be deemed an admission that the relief requested should be granted.**

DATED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
[Name of attorney]  
(Attorney for \_\_\_\_\_)

CERTIFICATE OF MAILING

I, the undersigned, \_\_\_\_\_, do hereby certify under penalty of perjury that a copy of the within and foregoing Motion for Withdrawal of Unclaimed Funds; and Notice was sent by first class mail postage prepaid on the \_\_\_ day of \_\_\_\_\_, 20\_\_\_, at \_\_\_\_\_, Montana, and directed to the following:

[Insert the name and address of each individual or entity served.]

\_\_\_\_\_  
[Name of person certifying the mailing]

[Must comply with Mont. LBR 9013-1(d)(2), by reflecting the name and address of each party served, and by being signed "under penalty of perjury" and by identifying the document served. The Debtor and his or her counsel must be served with this motion.]

**UNITED STATES TRUSTEE GUIDELINES FOR REVIEWING APPLICATIONS FOR  
COMPENSATION AND REIMBURSEMENT OF EXPENSES FILED UNDER 11 U.S.C.  
§ 330.**

**ORDER**

The appended Guidelines have been adopted by the Executive Office for United States Trustees this date and supersede the Guidelines previously issued by the Executive Office on March 22, 1995.

Dated: January 30, 1996

Joseph Patchan, Director  
Executive Office for U.S. Trustees

**UNITED STATES TRUSTEE  
GUIDELINES FOR REVIEWING APPLICATIONS  
FOR COMPENSATION AND REIMBURSEMENT OF  
EXPENSES  
FILED UNDER 11 U.S.C. § 330**

**Issued January 30, 1996**

**I. GENERAL INFORMATION**

- A. The Bankruptcy Reform Act of 1994 amended the responsibilities of the United States Trustees under 28 U.S.C. § 586(a)(3)(A) to provide that, whenever they deem appropriate, United States Trustees will review applications for compensation and reimbursement of expenses under section 330 of the Bankruptcy Code, 11 U.S.C. § 101, et seq. ("Code"), in accordance with procedural guidelines ("Guidelines") adopted by the Executive Office for United States Trustees ("Executive Office"). The following Guidelines have been adopted by the Executive Office and are to be uniformly applied by the United States Trustees except when circumstances warrant different treatment.
- B. The United States Trustees shall use these Guidelines in all cases commenced on or after October 22, 1994.

- C. The Guidelines are not intended to supersede local rules, but should be read as complementing the procedures set forth in local rules.
- D. Nothing in the Guidelines should be construed:
1. to limit the United States Trustee's discretion to request additional information necessary for the review of a particular application or type of application;
  2. to limit the United States Trustee's discretion to determine whether to file comments or objections to applications; or
  3. to create any private right of action on the part of any person enforceable in litigation with the United States Trustee.
- E. Recognizing that the final authority to award compensation and reimbursement under section 330 of the Code is vested in the Court, the Guidelines focus on the disclosure of information relevant to a proper award under the law. In evaluating fees for professional services, it is relevant to consider various factors including the following: the time spent; the rates charged; whether the services were necessary to the administration of, or beneficial towards the completion of, the case at the time they were rendered; whether services were performed within a reasonable time commensurate with the complexity, importance, and nature of the problem, issue, or task addressed; and whether compensation is reasonable based on the customary compensation charged by comparably skilled practitioners in non-bankruptcy cases. The Guidelines thus reflect standards and procedures articulated in section 330 of the Code and Rule 2016 of the Federal Rules of Bankruptcy Procedure for awarding compensation to trustees and to professionals employed under section 327 or 1103. Applications that contain the information requested in these Guidelines will facilitate review by the Court, the parties, and the United States Trustee.
- F. Fee applications submitted by trustees are subject to the same standard of review as are applications of other professionals and will be evaluated according to the principles articulated in these Guidelines. Each United States Trustee should establish whether and to what extent trustees can deviate from the format specified in these Guidelines without substantially affecting the ability of the United States Trustee to review and comment on their fee applications in a manner consistent with the requirements of the law.

## II. CONTENTS OF APPLICATIONS FOR COMPENSATION AND REIMBURSEMENT OF EXPENSES

All applications should include sufficient detail to demonstrate compliance with the standards set forth in 11 U.S.C. § 330. The fee application should also contain sufficient information about the case and the applicant so that the Court, the creditors, and the United States Trustee can review it without searching for relevant information in other documents. The following will facilitate review of the application.

- A. **Information about the Applicant and the Application.** The following information should be provided in every fee application:
1. Date the bankruptcy petition was filed, date of the order approving employment, identity of the party represented, date services commenced, and whether the applicant is seeking compensation under a provision of the Bankruptcy Code other than section 330.
  2. Terms and conditions of employment and compensation, source of compensation, existence and terms controlling use of a retainer, and any budgetary or other limitations on fees.
  3. Names and hourly rates of all applicant's professionals and paraprofessionals who billed time, explanation of any changes in hourly rates from those previously charged, and statement of whether the compensation is based on the customary compensation charged by comparably skilled practitioners in cases other than cases under title 11.
  4. Whether the application is interim or final, and the dates of previous orders on interim compensation or reimbursement of expenses along with the amounts requested and the amounts allowed or disallowed, amounts of all previous payments, and amount of any allowed fees and expenses remaining unpaid.
  5. Whether the person on whose behalf the applicant is employed has been given the opportunity to review the application and whether that person has approved the requested amount.
  6. When an application is filed less than 120 days after the order for relief or after a prior application to the Court, date and terms of the order allowing leave to file at shortened intervals.
  7. Time period of the services or expenses covered by the application.

**B. Case Status.** The following information should be provided to the extent that it is known to or can be reasonably ascertained by the applicant:

1. In a chapter 7 case, a summary of the administration of the case including all moneys received and disbursed in the case, when the case is expected to close, and, if applicant is seeking an interim award, whether it is feasible to make an interim distribution to creditors without prejudicing the rights of any creditor holding a claim of equal or higher priority.
2. In a chapter 11 case, whether a plan and disclosure statement have been filed and, if not yet filed, when the plan and disclosure statement are expected to be filed; whether all quarterly fees have been paid to the United States Trustee; and whether all monthly operating reports have been filed.
3. In every case, the amount of cash on hand or on deposit, the amount and nature of accrued unpaid administrative expenses, and the amount of unencumbered funds in the estate.
4. Any material changes in the status of the case that occur after the filing of the fee application should be raised, orally or in writing, at the hearing on the application or, if a hearing is not required, prior to the expiration of the time period for objection.

**C. Summary Sheet.** All applications should contain a summary or cover sheet that provides a synopsis of the following information:

1. total compensation and expenses requested and any amount(s) previously requested;
2. total compensation and expenses previously awarded by the court;
3. name and applicable billing rate for each person who billed time during the period, and date of bar admission for each attorney;
4. total hours billed and total amount of billing for each person who billed time during billing period; and
5. computation of blended hourly rate for persons who billed time during period, excluding paralegal or other paraprofessional time.

**D. Project Billing Format**

1. To facilitate effective review of the application, all time and service entries should be arranged by project categories. The project categories set forth in Exhibit A should be used to the extent applicable. A separate project category should be used for administrative matters and, if payment is requested, for fee application preparation.
2. The United States Trustee has discretion to determine that the project billing format is not necessary in a particular case or in a particular class of cases. Applicants should be encouraged to consult with the United States Trustee if there is a question as to the need for project billing in any particular case.
3. Each project category should contain a narrative summary of the following information:
  - a. a description of the project, its necessity and benefit to the estate, and the status of the project including all pending litigation for which compensation and reimbursement are requested;
  - b. identification of each person providing services on the project; and
  - c. a statement of the number of hours spent and the amount of compensation requested for each professional and paraprofessional on the project.
4. Time and service entries are to be reported in chronological order under the appropriate project category.
5. Time entries should be kept contemporaneously with the services rendered in time periods of tenths of an hour. Services should be noted in detail and not combined or "lumped" together, with each service showing a separate time entry; however, tasks performed in a project which total a de minimis amount of time can be combined or lumped together if they do not exceed .5 hours on a daily aggregate. Time entries for telephone calls, letters, and other communications should give sufficient detail to identify the parties to and the nature of the communication. Time entries for court hearings and conferences should identify the subject of the hearing or conference. If more than one professional from the applicant firm attends a hearing or conference, the applicant should explain

the need for multiple attendees.

**E. Reimbursement for Actual, Necessary Expenses.**

Any expense for which reimbursement is sought must be actual and necessary and supported by documentation as appropriate. Factors relevant to a determination that the expense is proper include the following:

1. Whether the expense is reasonable and economical. For example, first class and other luxurious travel mode or accommodations will normally be objectionable.
2. Whether the requested expenses are customarily charged to non-bankruptcy clients of the applicant.
3. Whether applicant has provided a detailed itemization of all expenses including the date incurred, description of expense (e.g., type of travel, type of fare, rate, destination), method of computation, and, where relevant, name of the person incurring the expense and purpose of the expense. Itemized expenses should be identified by their nature (e.g., long distance telephone, copy costs, messengers, computer research, airline travel, etc.) and by the month incurred. Unusual items require more detailed explanations and should be allocated, where practicable, to specific projects.
4. Whether applicant has prorated expenses where appropriate between the estate and other cases (e.g., travel expenses applicable to more than one case) and has adequately explained the basis for any such proration.
5. Whether expenses incurred by the applicant to third parties are limited to the actual amounts billed to, or paid by, the applicant on behalf of the estate.
6. Whether applicant can demonstrate that the amount requested for expenses incurred in-house reflect the actual cost of such expenses to the applicant. The United States Trustee may establish an objection ceiling for any in-house expenses that are routinely incurred and for which the actual cost cannot easily be determined by most professionals (e.g., photocopies, facsimile charges, and mileage).
7. Whether the expenses appear to be in the nature of

nonreimbursable overhead. Overhead consists of all continuous administrative or general costs incident to the operation of the applicant's office and not particularly attributable to an individual client or case. Overhead includes word processing, proofreading, secretarial and other clerical services, rent, utilities, office equipment and furnishings, insurance, taxes, local telephone and monthly car phone charges, lighting, heating and cooling, and library and publication charges.

8. Whether applicant has adhered to allowable rates for expenses as fixed by local rule or order of the Court.