

APPLICATION FOR

**DISTRICT COURT JUDGESHIP
Seventeenth Judicial District**

A. PERSONAL INFORMATION

1. Full Name: Peter L. Helland
a. What name do you commonly go by? Pete
2. Birthdate: [REDACTED] Are you a U.S. citizen? Yes
3. Home Address: [REDACTED]
Phone: [REDACTED]
4. Office Address: 311 Klein Avenue, Suite A, Glasgow, Montana 59230
Phone: (406) 228-9331
5. Length of residence in Montana: 50 years
6. Place of residence for the last five years: 21 Sunnyhills Drive, Glasgow, Montana 59230

<u>Dates</u>	<u>City</u>	<u>State</u>
September, 2010 - Current	Glasgow	Montana

B. EDUCATIONAL BACKGROUND

7. List the names and location of schools attended beginning with high school:

<u>Name</u>	<u>Location</u>	<u>Date of Degree</u>	<u>Degree</u>
Glasgow Senior High	Glasgow, Montana	May 1984	HS Diploma
Montana State University	Bozeman, Montana	Transferred	
Eastern Montana College	Billings, Montana	Transferred	

University of Montana Missoula, Montana 1989 BA, Political Science

University of Montana School of Law Missoula, Montana May, 1993 JD

8. List any scholarships, awards, honors and citations that you have received:

None.

9. Were you a member of the Law Review? If so, provide the title and citation of any article that was published and the subject area of the article.

No.

C. PROFESSIONAL BACKGROUND AND EXPERIENCE

10. List all courts (including state and federal bar admissions) and administrative bodies having special admission requirements in which you are presently admitted to practice, giving the dates of admission in each case.

<u>Court or Administrative Body</u>	<u>Date of Admission</u>
Montana State Courts	1993
U.S. Federal District Court, District of Montana	1995
Fort Peck Tribal Court	June, 2006

11. Indicate your present employment. (List professional partners or associates, if any).

Helland Law Firm, pllc. Gerald T. Archambeault, Of Counsel.

12. State the name, dates and addresses of law firms with which you have been associated in practice, governmental agencies or private business organizations in which you have been employed, periods you have practiced as a sole practitioner, and other prior practice:

<u>Employer's Name</u>	<u>Position</u>	<u>Dates</u>
Hon. Jack D. Shanstrom U.S. District Court, District of Montana 2601 Second Avenue North Billings, Montana 59101	Law Clerk	1993-95
Edmiston & Schermerhorn 310 Grand Avenue Billings, Montana 59101	Associate	1995-2001

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Gallagher & Archambeault, PC
605 3rd Avenue South
Glasgow, Montana 59230
(no longer in existence)

Associate

2001-03

Helland Law Firm, pllc
311 Klein Avenue, Suite A
P.O. Box 512
Glasgow, Montana 59230

Managing Member/Attorney 2003-Current

13. If you have not been employed continuously since completion of your formal education, describe what you were doing.

Not applicable.

14. Describe the nature of your present law practice, listing the major types of law that you practice and the percentage each constitutes of your total practice.

I am a lawyer practicing at Helland Law Firm, pllc, in Glasgow, Montana. Gerald T. Archambeault, a practicing lawyer in Glasgow since 1967, is Of Counsel for the firm. Mr. Archambeault's practice primarily consists of estate planning/probates, real estate, contracts, and business matters. My practice primarily consists of litigation.

For the last several years, family law and personal injury law have been the primary sources of revenue for my practice. In addition, I provide, or in the past have provided representation in the following other areas of law: criminal defense (both appointed and privately retained), business transaction/contract disputes, collections work for small businesses and landlords, estate and probate disputes, guardianship and conservatorship proceedings, Youth in Need of Care matters, and mental commitment cases. I am also currently the City Attorney for the City of Glasgow and the Attorney for the Town of Nashua. Over the last ten years I have been hired to mediate one to two cases on average per year, most of which are family law or personal injury cases. My best estimate for percentage of time spent in each area is as follows:

35	Civil Litigation, including Personal Injury
30	Family Law
10	Criminal Defense

- 10 Estates/Wills/Trusts (disputes), and
Guardianship/Conservatorship (appointment & disputes), Other
- 10 Government/Municipality
- 3 Collections/Repossessions
- 2 Mediation

15. List other areas of law in which you have practiced, including teaching, lobbying, etc.

From January, 2013 through June, 2015, I prosecuted misdemeanor criminal offenses and handled all legal matters for the City of Glasgow, Montana, as the City Attorney, a part-time position. Currently, I continue representing the City of Glasgow in its civil legal matters, but no longer prosecute misdemeanor criminal cases in City Court. I am also the attorney for the Town of Nashua.

Over the years I have also appeared in administrative proceedings, including matters before the Montana Medical Legal Panel, the Montana Child Support Enforcement Division, the Montana Board of Pharmacy, and the Montana Unemployment Insurance Bureau. Time spent on these matters was considered as part of the “Other” category listed above along with Estates/Wills/Trusts, etc..

16. If you specialize in any field of law, what is your specialty?

Litigation of civil disputes and claims. Most of my courtroom work over the last ten years has been in family law cases.

17. Do you regularly appear in court? Yes.

What percentage of your appearance in the last five years was in:

Federal court	2%
State or local courts of record	95%
Administrative bodies	3%
Other	<u>0%</u> %

18. During the last five years, what percentage of your practice has been trial practice? 95%

19. How frequently have you appeared in court?

On average, I appear in court two to five times per month.

20. How frequently have you appeared at administrative hearings?

On average, I appear at administrative hearing one to two times per year.

21. What percentage of your practice involving litigation has been:

Civil	90%
Criminal	10%
Other	<u>0%</u>

22. Have you appeared before the Montana Supreme Court within the last five years? If so, state the number and types of matters handled. Include the case caption, case citation (if any), and names, addresses and phone numbers of all opposing counsel for the five most recent cases.

Yes, over the last five years I have appeared in two cases before the Montana Supreme Court. In the most recent case, I was counsel for Respondent and Appellee Shelly Jo Christensen in *Gene Andrew Tufton, s/p/a Greg Andrew Tufton, Petitioner and Appellant, v. Shelly Jo Christensen, s/p/a Shelley Jo Christensen, Respondent and Appellee, Montana Supreme Court Cause #DA 15-0674*. This was a dissolution case involving custody and property issues appealed from the Fifteenth Judicial District Court for Sheridan County, Montana. Opposing counsel was Frank Picos, Picos Law Office, PLLC, P.O. Box 773, Glasgow, Montana 59230, (406) 230-2261. The appeal was dismissed prior to the filing of opening briefs.

Additionally, I was counsel for Respondent and Appellee Chris Carnahan in *In Re the Parenting of O.M.C., Whitney Grant, Petitioner and Appellant, v. Chris Carnahan, Respondent and Appellee, Montana Supreme Court Cause #DA 12-0537*. This was a parenting plan amendment case appealed from the Seventeenth Judicial District Court for Phillips County, Montana. Opposing counsel was Lindsay Lorang, Lorang Law, PC, 410 3rd Avenue, Havre, Montana 59501, (406) 265-1530.

23. State the number of jury trials that you have tried to conclusion in the last ten years. 4

24. State the number of non-jury trials that you have tried in the last ten years. 12

25. State the names, addresses and telephone numbers of adversary counsel against whom you have litigated your primary cases over the last two years. Include the caption, dates of trial, and the name and

telephone number of the presiding judge. If your practice does not involve litigation, provide the same information regarding opposing counsel and the nature of the matter.

<p>Jeremy Yellin 419 4th Ave., Suite A P.O. Box 564 Havre, MT 59501 (406) 265-3303 <i>In Re Marriage of Anderson</i> Dissolution with custody and property issues Hill County Cause No. DR 13-055 Trial March 21, 2014 Hon. Daniel A. Boucher (406) 265-5481, Ext. 231</p>	<p>Gene Tufton, Pro Se Currently in custody of U.S. Marshal <i>In Re Marriage of Tufton</i> Dissolution with custody and property issues Sheridan County Cause No. DR 46-2014-7 Trial August 31, 2015 Hon. Richard A. Simonton (406) 377-2666</p>
<p>Luke R. Savage Savage Law Firm P.O. Box 1105 Sidney, MT 59270 (406) 433-9770 <i>In Re Parenting of K.W.M. and K.B.M.</i> Dissolution with custody issues Richland County Cause No. DR-14-7 Trial August 14, 2014 Hon. Katherine M. Bidegaray (406) 433-5939</p>	<p>Yvette K. LaFrentz 2525 Sixth Avenue North P.O. Box 30457 Billings, MT 59107 (406) 248-7337 <i>In Re Marriage of Card</i> Amendment of parenting plan Yellowstone County Cause No. DR 12-0236 Trial July 24, 2015 Hon. Gregory R. Todd (406) 256-2901</p>
<p>Tasha M. Rush, Pro Se 1130 11th Street North Havre, MT 59501 and Travis L. Rush, Pro Se 1158 Lincoln Havre, MT 59501 <i>In the Matter of the Guardianship of J.C.R.</i> Appointment of guardian Valley County Cause No. DG-2016-2 Trial May 16, 2016 Hon. John C. McKeon (406) 654-1062</p>	<p>Patrick G. Begley 1419 Alpine Avenue Cody, WY 82414-4615 (307) 586-4198 <i>In Re Marriage of Otten</i> Dissolution with custody and property issues Valley County Cause No. DR 2014-27 Trial July 1, 2015 Hon. John C. McKeon (406) 654-1062</p>
	<p>Debbie Nelson, Pro Se Box 3 Opheim, MT 59250 Tamra Sonsteng, Pro Se 3330 Ashley Ct. Helena, MT 59602 Sherran Thompson, Pro Se</p>

	P.O. Box 187 Windsor ME, 04363 Sandra Copple, Pro Se 442 Mahon St. Glasgow, MT 59230 Barbra Dahl, Pro Se 4459 Chastain Dr. Melbourne, FL 32940 <i>In the Matter of the Estate of Charles E. Copple</i> Appointment of guardian and conservator Valley County Cause No. DG-2014-14 Trial August 5, 2014 Hon. John C. McKeon (406) 654-1062
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26. Summarize your experience in adversary proceedings before administrative boards or commissions during the last five years.

In the last five years I have appeared in approximately three to five Child Support Enforcement cases, one matter before the Montana Board of Pharmacy, and one hearing before the Montana Medical Legal Panel.

27. If you have published any legal books or articles, other than Law Review articles, list them, giving citations, dates, and topics involved. If you lectured on legal issues at continuing legal education seminars or otherwise, state the topic, date, and group to which you spoke.

I did a presentation on personal injury claims at the Bucking Horse Sale CLE in Miles City, Montana in the late-1990's, but I cannot recall the exact year or date.

D. PROFESSIONAL AND PUBLIC SERVICE

28. List all bar associations and legal professional societies of which you are a member. Provide the titles and dates of any office that you have held in such groups and committees to which you belong. These activities are limited to matters related to the legal profession. List the dates of your involvement.

State Bar of Montana, 1993-current. Area E Representative on Board of Trustees 2002 – 2009.

Seventeenth Judicial District Bar Association, Secretary/Treasurer 2001 – current.

Montana Trial Lawyers Association, 1995-current.

29. List organizations and clubs, other than bar associations and professional societies, of which you have been a member during the last five years. State the title and date of any office that you have held in each organization. If you held any offices, describe briefly your activities in the organization.

Kiwanis Club of Glasgow. I joined Kiwanis in 2001 and served as President from 2009 – 2010. I have been a member of the Board of Directors since 2004 and currently hold that position. As President, I presided over the weekly membership and monthly board meetings.

Glasgow Recreation Department Board. I was appointed to the City of Glasgow Recreation Department Board in 2007 by the Mayor and City Council of the City of Glasgow. In this position I attend monthly meetings to oversee and direct the Recreation Department Director in executing his duties and to establish policy for the Recreation Department.

Sunnyside Golf & Country Club Board of Directors. I have been Board Member since 2013 and have been the Board President since 2015. As President, I preside over the monthly board meeting, sign documents as necessary to conduct business, oversee the managers for the clubhouse and the course, regularly communicate with members, the club's accountant, other professionals and persons as needed, as well as vendors who provide goods and services to the club.

Elks Lodge #1922. I was elected Trustee of the Elks Lodge #1922 in April of 2016. For one year prior to my election, I was on a five person committee appointed by the Lodge's Exalted Ruler to oversee the Club's bar and restaurant facilities, which was experiencing financial distress at the time. As a Trustee, I participate on

a multi-member board which oversees the management of the club's business and facilities, as well as the lodge activities.

30. Have you ever run for or held public office? If so, provide the details.

No.

31. Explain your philosophy of public involvement and practice of giving your time to community service.

Community service is part of what makes Glasgow a great place to live, not only because it makes where I live better, but also for the social interaction with other community members it provides. As such, I regularly participate in community service through Kiwanis, serving on the Glasgow Recreation Board, serving as President of the the Sunnyside Golf and Country Club board, and serving as Trustee for the Elks Lodge.

In addition, I was also a member of an ad hoc committee appointed by Glasgow's School Superintendent for the purpose of developing and supporting a plan to build a new elementary. This culminated in the opening of a new Irle Elementary School in the fall of 2015. I have also coached soccer for several seasons, I mow the lawn at our church every week, and I financially (and fanatically!) support Glasgow's high school athletics, as well as Glasgow's hockey and baseball programs.

E. PROFESSIONAL CONDUCT AND ETHICS

32. Have you ever been publicly disciplined for a breach of ethics or unprofessional conduct (including Rule 11 violations) by any court, administrative agency, bar association, or other professional group? If so, provide the details.

No.

33. Have you ever been found guilty of contempt of court or sanctioned by any court for any reason? If so, provide the details.

No.

34. Have you ever been arrested or convicted of a violation of any federal law, state law, or county or municipal law, regulation or ordinance? If so, provide the details. Do not include traffic violations unless they also included a jail sentence.

No.

35. Have you ever been found guilty or liable in any civil or criminal proceedings with conduct alleged to have involved moral turpitude, dishonesty and/or unethical conduct? If so, provide the details.

No.

36. Is there any circumstance or event in your personal or professional life that would, if brought to the attention of the Commission, Governor or Montana Supreme Court, affect adversely your qualifications to serve on the court for which you have applied? If so, provide the details.

No.

F. BUSINESS AND FINANCIAL INFORMATION

37. Since being admitted to the Bar, have you ever engaged in any occupation, business or profession other than the practice of law? If so, provide the details, including dates.

My wife and I have owned and managed a single-family rental property in Glasgow since 2005.

38. If you are an officer, director, or otherwise engaged in the management of any business, provide the name of the business, its nature, and the nature of your duties. If appointed as a district court judge, state whether you intend to resign such position immediately upon your appointment.

My board positions with the Elks Lodge #1922, Glasgow Recreation Department, and Sunnyside Golf & Country Club, as described above, are the only positions I am aware of that fit this description. If appointed as district court judge, I intend to resign from each.

39. State whether during the last five years you have received any fees or compensation of any kind, other than for legal services rendered, from any business enterprise or organization. If so, identify the source and the approximate percentage of your total income it constituted over the last five years.

My wife and I own and manage a rental property in Glasgow. I estimate the income from the rental property constitutes 1% or less of our total income on an annual basis.

40. Do you have any personal relationships, financial interests, investments or retainers that might conflict with the performance of your judicial duties or that in any manner or for any reason might embarrass you? If so, please explain.

No.

41. If appointed by the Governor, are you prepared to disclose the information required under 2-2-106, MCA (i.e., the name, address and type of your business; any present or past employer from which you

currently receive benefits; any business or professional entity or trust in which you hold an interest; any entity in which you are an officer or director; and any real property, other than a personal residence, in which you hold an interest)?

Yes.

42. Have you filed appropriate tax returns as required by federal, state, local and other government authorities? Yes No

If not, please explain.

N/A.

43. Do you have any liens or claims outstanding against you by the Internal Revenue Service (IRS)? Yes No

If yes, please explain.

N/A.

44. Have you ever been found by the IRS to have willfully failed to disclose properly your income during the last five years? If so, provide the details.

No.

G. WRITING SKILLS

45. In the last five years, explain the extent to which you have researched legal issues and drafted briefs. State if associates or others have generally performed your research and the writing of briefs.

Since beginning the practice of law, I have always done my own research and writing. Most of my legal writing over the last five years has consisted of writing proposed Findings of Fact and Conclusions of Law for hearings and trials, as well as motions and briefs submitted in support of my client's legal case.

46. If you have engaged in any other types of legal writing in the last five years, such as drafting documents, etc., explain the type and extent of writing that you have done.

Over the course of my practice of law I have drafted a few contracts, such as a lease for restaurant facilities, documents to form a limited liability company, and other simple matters. My associate Gerald T. Archambeault drafts a vast majority of our firm's non-litigation, legal documents as he primarily works in estate planning/ probates, real estate, contracts and business law.

47. Attach a writing sample of no more than ten pages that you have written yourself. A portion of a brief or memorandum is acceptable.
48. What percentage of your practice for the last five years has involved research and legal writing?
15 to 20%.
49. Are you competent in the use of Westlaw and/or Lexis?

Yes.

H. MISCELLANEOUS

50. Briefly describe your hobbies and other interests and activities.

I enjoy attending my children's various activities, which include theater, choir, cheerleading, track, soccer, and basketball. Also, I enjoy playing golf and play in a golf league every year. I also enjoy boating on Fort Peck Lake with my family, yard work, working out, kayaking, attending plays at Fort Peck Summer Theater, participating in community service organizations and attending social activities, including local school sporting events.

51. Describe the jobs that you have held during your lifetime.

Starting around the age of 10, I mowed lawns during the summers and delivered the Glasgow Courier on a weekly basis year round. During my sophomore year of high school I worked as weekend dispatcher for the Glasgow Police Department and Valley County Sheriff Department. Later that year, I became employed at Markle's Hardware, where I did everything from delivering and installing appliances, assembling products for display, stocking shelves, assisting customers and cleaning the interior and exterior. I remained employed at Markle's Hardware until I left for college in the fall of 1984.

While attending college at Eastern Montana College in Billings from 1985-87, I worked as bellman at the Sheraton Hotel, as a sales clerk at Hastings Records & Tapes, as a bartender at Lucky's Bar and as campus representative for Miller Brewing Company.

While finishing up my undergraduate degree at the University of Montana from 1987-89, I did lawn work. After receiving my undergraduate degree, I worked the pre-load (loading the package delivery trucks) at United Parcel Service in Missoula for one year before entering law school. My employment after law school is detailed above in response to question 12 above.

52. Identify the nature and extent of any pro bono work that you have personally performed during the last five years.

Helland Law Firm's billing records show the firm has handled 31 pro bono matters since January 1, 2011. Five of these matters were probates, which were completed by my associate Gerald T. Archambeault. Five of the matters were legal work done pro bono for local non-profits, including the Glasgow Chamber of Commerce, the Glasgow Fire Department Relief Association, the Glasgow Reds American Legion baseball program, the Glasgow Scottie Booster Club and the Glasgow Wrestling Club. My work in one these matters involved defending my client in a trademark infringement claim by an out-of-state artist claiming the organization improperly used his artistic rendering in marketing a local event.

Two of the cases listed in response to question 25 above were also pro bono. One was a referral from Montana Legal Services and in another case I was retained, but I did not charge any fees after the retainer was depleted because the contentious actions of the opposing party made the case more difficult, time-consuming and more expensive than necessary.

In January of 2016, I mediated a case pro bono that involved a parenting plan modification dispute between two unrepresented parties. The mediation occurred as the result of a referral of the father to me from Montana Legal Services. Rather than represent the father, I informed him and the mother that I would mediate the dispute. The parties agreed and we successfully resolved it at mediation.

The remaining cases were mostly family law matters, although two of my most recent pro bono matters include a referral from Montana Legal Services for a consultation and preparation of a Power of Attorney for a woman whose husband was recently confined to a nursing home due to a medical condition and the other was defending a young, single-mother against charges of misdemeanor obstruction of justice. It has been my practice to try to have one pro bono case at all times if possible.

53. In the space provided, explain how and why any event or person has influenced the way that you view our system of justice.

Francis Gallagher was the source of my first thought of becoming a lawyer sometime early in grade school. Mr. Gallagher was a lawyer in my hometown of Glasgow for over forty years. Butch, as I knew him,

was also my next door neighbor, a friend of my dad's since childhood and the father of three children who were close in age to me and three of my siblings.

Because of these relationships, I came to know Mr. Gallagher very well as a person, neighbor and family friend. Additionally, because of his involvement in local organizations, such as the school board, and the legal community, I was also well aware of Mr. Gallagher's reputation professionally as well. At all times, whether in his personal or professional life, Mr. Gallagher was a true gentleman who acted with humility and integrity, and was well-respected. What I saw in Mr. Gallagher inspired me to want to be a lawyer just like him.

Sometime later, in second or third grade, my teacher taught a lesson on Thomas Jefferson, during which I learned he was an accomplished lawyer in addition to being a founder of our country, Secretary of State and President. What I learned about President Jefferson inspired me to want to be a lawyer just like him. Because they demonstrated that a lawyer can have a positive impact not only locally, but on the country as well, Francis Gallagher and Thomas Jefferson inspired me to want to become a lawyer, just like them.

54. In the space provided, explain the qualities that you believe to be most important in a good district court judge.

Intelligence, integrity, work ethic and compassion are the qualities I believe are the most important qualities for a good district court judge to have. To begin, a judge must have the intelligence to understand the law, make appropriate factual findings and properly apply the law to the facts. In addition, a judge also must have the integrity to make the proper ruling, even when it may be unpopular. Another word for this quality is "courage."

Furthermore, a judge must also have the work ethic to make and issue timely decisions. This is an essential quality for a good judge because experience has shown me the emotional stress of a pending legal matter is oftentimes worse for a client than the financial stress of attorney bills. Lastly, a good judge must have compassion for the parties to a case because being a litigant is stressful enough without incurring the court's

wrath because the judge has a negative reaction to the parties' lawyer or the lawyer's presentation of the case, is impatient, or is simply having a bad day.

55. In the space provided, explain how a court should reach the appropriate balance between establishment of a body of precedent and necessary flexibility in the law.

If clear precedent applies to the facts of the case, a trial judge's job is to apply the precedent, even if he or she disagrees with it, unless the result would be manifestly unjust to one party or the other. However, experience has taught me there is more "gray" in both precedent and the facts of nearly every case to believe justice can be achieved by using a simple, mathematic-like formula of applying a set of facts to legal standards. As such, the court must consider the impact its ruling will have on the people involved, including those who are not parties, such as children, who will be impacted by the court's rulings. Where manifest injustice would result through the inflexible application of precedent, a judge must use what flexibility he or she has to ensure justice is appropriately served for all involved in, or who will be impacted, by the case.

56. In the space provided, state the reasons why you are seeking office as a district court judge.

Clerking for U.S. District Judge Jack D. Shanstrom from 1993-95, provided the opportunity to use my research skills to find the correct law and my writing skills to draft memorandums, orders and opinions for the Judge to review and consider in making and issuing his final determination. Because the focus was on dispensing justice equally and appropriately, it gave me the feeling of always being on the "right" or "winning" side (for lack of better terms). As you can imagine, this was a very satisfying work experience. In fact, because I enjoyed it so much, I always considered the prospect of becoming a judge very appealing.

Now, I use these same skills to achieve the best result for my client. At times, when a great case comes along, the practice of law provides the same level of satisfaction I experienced while clerking. Unfortunately, the nature of the practice of law means I am on the "wrong" or "losing" side of a case at times. While I do not see the practice of law as a contest or game where one side "wins" and other "loses" (I have been involved in

cases where both sides “won” and where both sides “lost”), it was more enjoyable and satisfying using my skills to achieve justice, regardless of who the parties are or what the issues were.

57. What items or events in your career have distinguished you or of which you are most proud?

Although I have had many experiences where I felt proud of my work on behalf of a client, three events stick out the most. One occurred 2012 when I represented a small, family-owned construction company in an arbitration dispute with a general contractor arising out of my client’s work as a subcontractor on a multi-million dollar grain elevator project. Following a three day arbitration hearing in Billings, my client was awarded over a half-million dollars for contract fees we claimed were due it, plus interest and attorney fees. It makes me proud to have represented good people and obtaining a result which prevented those good people from suffering the severe financial stress that undoubtedly would have occurred if we had not prevailed.

Another case occurred in 2000, when I represented a criminal defendant charged with conspiracy to promote prostitution in a seven day, multi-defendant jury trial in federal court. Unfortunately, my client was convicted, which given the amount and troubling nature of the evidence was not surprising. Despite the “loss,” I am still proud of this case because I worked my tail off and did what I believed was a very good job for my client. This feeling was validated when, after the trial was over, my investigator told me about a conversation she had with the prosecuting Assistant U.S. Attorney, who was a friend of hers, that night before the jury returned its verdict wherein he expressed the thought that I “had sprung” my client.

Although this was not a “victory,” I am also proud of my work because lawyers often talk about our role in society of representing the disadvantaged or unpopular client; however, very few either seek out or accept the opportunity to represent less desirable clients because it is neither easy nor profitable. Doing good work for the right purpose in this tough case is something that I will always be proud of.

The third example, which is also the most recent, is referenced in response to question number 25 above. My clients in that case, *In the Matter of the Guardianship of J.C.R.*, were an elementary-age minor and his

grandmother. They sought my help because the child had been living and thriving with his grandmother in Glasgow for most of the previous year, but was also subject to being taken back to his family home in Havre since the grandmother only had the parents' permission to maintain custody of the child, and no legal authority to keep custody if the parents changed their minds and took the child back to Havre, which was verbalized on several occasions. Both the child and grandmother wanted to remove this uncertainty as it caused them both a great deal of anxiety, especially for the child. Additionally, the child had been living with the grandmother because the child had been struggling in school and was having physical problems due to lack of proper nutrition and care. These problems mostly resolved after the child lived with the grandmother for one year. Fortunately, we prevailed and the court appointed the grandmother as the child's guardian, thus ensuring the child would remain living with her, where he could continue to thrive.

However, I am not proud of this case because we "won." After all, given the evidence we presented and the parents' failure to contest the petition at trial, victory was guaranteed. Rather, I am proud of this case because it provided the opportunity to make a significant difference in this child's life for the better. It was especially gratifying to receive a thank you card containing the child's hand-printed words of thanks and school picture, along with a plate of home-made treats from the clients after the case was done. I keep that thank you card in my office as a reminder of the good which can be accomplished practicing law.

58. Provide any pertinent information reflecting positively or adversely on you that you believe should be disclosed to the Judicial Nomination Commission.

In twenty-one years of practicing law I have maintained a professional and cordial relationship with the opposing counsel in all of my cases, even cases with notoriously difficult opposing counsel.

59. Is there any comment that you would like to make that might differentiate you from other applicants or that is unique to you that would make you the best district court judge applicant?

Prior to moving back home to Glasgow in 2001, I spent six years in Billings practicing primarily plaintiffs personal injury and medical malpractice law against some of the highest caliber defense lawyers in

Billings and the state of Montana. Also, while in Billings I was Vice President of the New Lawyers, was a member of the board of directors for the Yellowstone County Bar Association, and produced the Association's newsletter.

Furthermore, I was on two Magistrate Selection Committees which interviewed and recommended candidates for selection as United States Magistrate Judge by the federal district court judges in Montana. Finally, toward the end of my clerkship with Judge Shanstrom, his long-time secretary, who prepared and finalized all the court's written orders and opinions for the Judge's final review and signature, expressed her opinion that I was the best writer who had clerked for Judge Shanstrom thus far. Although Judge Shanstrom has had several law clerks since then, and his secretary remained with him until he retired recently, I haven't asked for an updated opinion from her on whether I was still the best writer, and don't intend to ask for an update. After all, sometimes it is better to let sleeping dogs lie.

CERTIFICATE OF APPLICANT

I understand that the submission of this application expresses my willingness to accept appointment as District Court Judge for the 17th Judicial District, if tendered by the Governor, and further, my willingness to abide by the rules of the Judicial Nomination Commission with respect to my application and the Montana Code of Judicial Conduct, if appointed.

August 25, 2016
(Date)

Peter Z. Helland
(Signature of Applicant)

A signed original **and** an electronic copy of your application and writing sample must be submitted by **5:00 p.m. on September 1, 2016.**

Mail the signed original to:

**Office of Court Administrator
c/o Lois Menzies
P.O. Box 203005
Helena, MT 59620-3005**

Send the electronic copy to: mtsupremecourt@mt.gov

1 Peter L. Helland
2 Helland Law Firm, PLLC
3 311 Klein Avenue
4 P.O. Box 512
5 Glasgow, Montana 59230
6 Telephone: (406) 228-9331
7 Fax: (406) 228-9335
8 E-mail: phelland@hellandlawfirm.com

9 Attorneys for Plaintiff

10 MONTANA SEVENTH JUDICIAL DISTRICT COURT
11 MCCONE COUNTY

12 FARM EQUIPMENT SALES, Inc., a Montana
13 Corporation,

14 Plaintiff,

15 vs.

16 JANITELL BROTHERS LLC, a Montana
17 Limited Liability Company, and MARK
18 JANITELL, an individual,

19 Defendants.

20 Cause No. DV 15-5

21 Judge Katherine M. Bidegaray

22 **MOTION FOR PARTIAL SUMMARY
23 JUDGMENT, STATEMENT OF
24 UNDISPUTED FACTS
25 and
26 BRIEF IN SUPPORT**

27 **MOTION**

28 COMES NOW the Plaintiff, by and through counsel of record, and moves pursuant to
M.R.Civ.P. 56 for partial summary judgment in favor of the Plaintiff as the pleadings on file and
discovery herein establish there are no genuine issues as to any material fact and that Plaintiff is entitled
to partial summary judgment as a matter of law on its claims for breach of contract. The basis for
Plaintiff's motion is set forth below.

UNDISPUTED FACTS

The following facts, as plead in Plaintiff's Complaint, have been admitted by Defendants in

1 their Answer to the complaint on file in this matter and in Defendants' responses to Plaintiff's
2 discovery requests:

3 1. On or about October 24, 2013, in Circle, McCone County, Montana, Defendants (here-
4 inafter "Janitell") signed a Purchase Order to purchase from Plaintiff Farm Equipment Sales, Inc.
5 (hereinafter "FES") two 2014 John Deere S680 Combines, two 1808 Auto Trac Complete with Harvest
6 Monitor and Auto Trac RowSense, and two John Deere 640D – 40 Foot Centered Draper Cutting
7 Platforms. (Complaint ¶ 4; Answer ¶ 4.)

8 2. At Janitell's request, the two John Deere S680 Combines were specially equipped to
9 harvest corn, requiring the installation of additional equipment to suit Janitell's particular need.
10 (Complaint ¶ 5; Answer ¶ 5.)

11 3. On or about October 24, 2013, in Circle, McCone County, Montana, Defendants also
12 signed a Purchase Order to buy a 2014 John Deere 1890 No-Till Air Drill-60 foot and a 2014 John
13 Deere 1910 Commodity Cart – 430 Bushel Tow-Between – Three Tanks. As part of this agreement,
14 FES agreed to accept in trade from Janitell a 2008 Air Hoe Drill 1910 Air Commodity Cart.
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16 4. Mark Janitell was born in 1959. As such, he was over 18 years of age at the time he
17 signed the Purchase Orders. (Deft.'s Resp. to Int. No. 4.)

18 5. When he signed the Purchase Orders, Janitell was not of unsound mind or incapacitated
19 and had not been adjudicated as either being of unsound mind or incapacitated. (Deft.'s Resp. to Req.
20 No. 5, Interrog., and Deft.'s Resp. to Req. No. 8, Admission.)

21 6. When he signed the Purchase Orders, Janitell had not been deprived of his civil rights.
22 (Deft.'s Resp. to Req. No. 10, Interrog., and Deft.'s Resp. to Req. No. 13, Admission.)

23 7. Janitell consensually signed the Purchase Order for the two combines, the two Auto
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1 Trac Complete with Harvest Monitor and Auto Trac RowSense, and the two Draper Cutting Platforms.
2 (Def't.'s Resp. to Req. No. 15, Admission.)

3 8. Janitell consensually signed the Purchase Order for the No-Till Air Drill and the Com-
4 modity Cart with three tanks in trade for a 2008 Air Hoe Drill 1910 Air Commodity Cart. (Def't.'s
5 Resp. to Req. No. 17, Admission.)

6 9. The purchases negotiated with FES which are the subject of this litigation were law-
7 ful. (Def't.'s Resp. to Req. No. 19, Admission.)

8 10. The purchases negotiated with FES which are the subject of this litigation included an
9 exchange of consideration. (Def't.'s Resp. to Req. No. 20, Admission.)

10 11. On or about June 16, 2014, FES notified Janitell the equipment was ready for delivery at
11 its store in Circle, McCone County, Montana. (Complaint ¶ 8; Answer ¶ 8.)

12 12. Thereafter, Janitell refused to take delivery and pay FES for the equipment ordered and
13 set forth on the Purchase Orders. (Complaint ¶ 9; Answer ¶ 9.)

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16 **BRIEF**

17 **A. Background:**

18 In October of 2013, Janitell signed a Purchase Order with FES for two 2014 John Deere S680
19 Combines, two 1808 Auto Trac Complete with Harvest Monitor and Auto Trac RowSense, and two
20 John Deere 640D Cutting Platforms. (Fact ¶ 1.) At Janitell's request, the combines were specially
21 equipped to harvest corn, which required FES to install additional equipment to suit this particular
22 need. (Fact ¶ 2.)

23
24 At the same time, Janitell also signed a Purchase Order with FES for a 2014 John Deere 1890
25 No-Till Air Drill and a 2014 John Deere 1910 Commodity Cart. (Fact ¶ 3.) For this transaction, FES
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1 party, who must “set forth specific facts showing there is a genuine issue for trial.” *Id.* All reasona-
2 ble inferences which might be drawn from the offered evidence should be drawn in favor of the party
3 opposing summary judgment. *Howard v. Conlin Furniture No. 2, Inc.*, 272 Mont. 433, 437, 901
4 P.2d 116, 119 (1995).

5
6 **C. Argument:**

7 **1. The purchase orders are legally enforceable contracts:**

8 Montana Code defines a contract as “an agreement to do or not to do a certain thing.” *Mont.*
9 *Code Ann. §28-2-101.* The Code further specifies the essential elements of a contract are: (1)
10 identifiable parties capable of contracting; (2) consent; (3) a lawful object; and (4) a sufficient cause
11 or consideration. *Mont. Code Ann. §28-2-102.* Finally, the Code provides that “[a]ll persons are
12 capable of contracting except minors, persons of unsound mind, and persons deprived of civil
13 rights.” *Mont. Code Ann. §28-2-103.*

14
15 Here, Janitell admits he consensually entered two contracts to purchase equipment from FES.
16 Moreover, Janitell admits the object of the contracts was legal and the contracts involved an
17 exchange of consideration. As such, there are no material issues of fact regarding the legality of the
18 contracts upon which this action is based. Thus, the two purchase orders which are the subject of
19 this litigation are legally enforceable contracts under Montana law.

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21 **2. Janitell breached the contracts:**

22 Janitell admits FES notified them the equipment was ready for delivery on June 16, 2014.
23 Additionally, Janitell admits they refused to take delivery and further admits they refuse to pay FES
24 for the equipment. Consequently, the undisputed facts here establish as a matter of law that Janitell
25 breached the contracts at issue herein.

1 **CONCLUSION**

2 Janitell admits the Purchase Order contracts are legal and that they are in breach of both con-
3 tracts because they failed to complete the purchases they agreed to with FES. As such, the record
4 establishes a complete absence of any genuine material issue of fact regarding Jantitell's liability for
5 breach of contract. Consequently, FES is entitled to judgment as a matter of law on its breach of
6 contract claims.
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8 For the reasons set forth above, FES respectfully requests the Court enter partial summary
9 judgment in its favor on the legal issue of Defendants' breaches of contract.

10 DATED this ____ day of July, 2016.

11 Helland Law Firm, pllc
12 Attorneys for Plaintiff

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Peter L. Helland