

APPLICATION FOR

**DISTRICT COURT JUDGESHIP
Eighteenth Judicial District**

A. PERSONAL INFORMATION

1. Full Name: Rienne Hartman McElyea
 - a. What name do you commonly go by? Rienne
2. Birthdate: [REDACTED] Are you a U.S. citizen? Yes
3. Home Address: [REDACTED]
Phone: [REDACTED]
4. Office Address: One West Main, Bozeman, MT 59715
Phone: 406-587-3181
5. Length of residence in Montana: 25 years
6. Place of residence for the last five years:

<u>Dates</u>	<u>City</u>	<u>State</u>
1991 to the Present	Bozeman	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>
Cherry Creek High School	Englewood, CO	May 1981	High School Diploma
Mills College	Oakland, CA	Transferred	Transferred
University of Colorado	Boulder, CO	May 1985	Bachelor of Arts
University of Colorado	Boulder, CO	May 1989	Juris Doctor

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

I graduated *cum laude* from the University of Colorado as an undergraduate.

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>
Admitted to practice in the State of Montana	1992
United States District Court, District of Montana	1993
Admitted to practice in the State of Colorado (inactive)	1989
United States District Court, District of Colorado (inactive)	1990
United States Court of Appeals, Tenth Circuit (inactive)	1990

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

Shareholder in Berg, Lilly and Tollefsen, P.C. The other shareholders are Michael J. Lilly, Lynda S. White, John T. Glover, Bridget W. leFeber, Jeremy J. leFeber, and Kellie A. Morton.

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>
Hartman Law Offices	Associate	1989 to 1991
Berg, Lilly, Andriolo and Tollefsen, P.C	Associate	1991 to 1995
Berg, Lilly and Tollefsen, P.C	Shareholder	1995 to Present

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

With the exception of maternity leave, I have been continuously employed.

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.

Family Law	50%
Wills and Trusts	25%
Probate	15%
Business Formation	10%

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

I began my legal practice with my father in Englewood, Colorado. My father practiced mostly personal injury law. With my father's firm, I engaged in general civil litigation including personal injury, criminal defense, bankruptcy, and family law. In Montana, I have practiced personal injury, criminal defense, family law, real estate, business, employment, defense, and contract law.

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

Family Law.

17. Do you regularly appear in court?

Yes.

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

Federal court	0%
State or local courts of record	95%
Administrative bodies	<5%
Other	0%

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

About 60% of my practice is committed to trial work. I interpret "trial practice" to mean all court appearances related to the disposition of a case. I appear in court for pre-trial matters such as discovery disputes and resolution of pre-trial motions. I also appear in court for family law matters such as Interim Parenting Plans; Temporary Order issues of maintenance, attorney fees, and protective orders; as well as contested and uncontested final hearings. My post-trial practice includes contempt and amendment of Parenting Plan matters.

19. How frequently have you appeared in court?

Four times per month on average.

20. How frequently have you appeared at administrative hearings?

One to two times per year on average.

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

Civil (in the last 5 years)	100%
Criminal	0%
Other	0%

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.

I have not appeared before the Montana Supreme Court in the last five years. I have appeared before the Montana Supreme Court on a number of cases. My most recent case occurred in 2008.

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

None.

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

In the last ten years, I have tried seven family law cases requiring the Court to decide all contested issues and two contested Guardianship trials.

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.

Contested case trial date in April 2017, *In re Marriage of Jacobs*, Montana 18th Judicial District Court, Cause No. DR-08-59A, Standing Master Magdalena C. Bowen presiding, 406-582-2156; opposing counsel Kent M. Kasting, Kasting, Kauffman & Mersen, P.C., 716 S. 20th, Ste. 101, Bozeman, Montana, 59718, 406-586-4383.

Contested case trial date in June 2017, *In re Marriage of Fulton*, Montana 18th Judicial District Court, Cause No. DR-15-281A, Standing Master Magdalena C. Bowen presiding, 406-582-2156; opposing counsel Dennis L. Munson, Kasting, Kauffman & Mersen, P.C., 716 S. 20th, Ste. 101, Bozeman, Montana, 59718, 406-586-4383.

Contested case settled - *In re Marriage of Brennan*, Montana 5th Judicial District Court, Cause No. DR-29-2015-15, the Honorable Loren Tucker presiding, 406-843-4235. Three attorneys represented respondent:

First opposing counsel John Nesbitt, Guza, Nesbitt & Putzier, PLLP, 25 Apex Drive, Suite A, Bozeman, Montana 59718, 406-586-2228.

Second opposing counsel P. Mars Scott, P. Mars Scott, P.C., 2920 S. Garfield Street, Missoula, Montana, 59801, 406-327-0600.

Final opposing counsel Philip S. Chiaviello, P. O. Box 21, Livingston, Montana, 59047, 406-224-1108.

Contested case settled - *In re Marriage of Coppolillo*, Montana 18th Judicial District Court, Cause No. DR-15-190B, Standing Master Magdalena C. Bowen presiding, 406-582-2156; opposing counsel Charles P. Bowen, 1700 West Koch, Suite 3, Bozeman, Montana, 59715, 406-587-4883.

Contested case settled - *In re Marriage of Tatarka*, Montana 18th Judicial District Court, Cause No. DR-15-175A, Standing Master Magdalena C. Bowen presiding, 406-582-2156; opposing counsel Christopher J. Gillette, 11 East Main Street, Suite C., Bozeman, Montana, 59715, 406-587-4883.

Contested case settled - *In re Marriage of Cribb*, Montana 18th Judicial District Court, Cause No. DR-13-326A, Standing Master Magdalena C. Bowen presiding, 406-582-2156; opposing counsel John Nesbitt, Guza, Nesbitt & Putzier, PLLP, 25 Apex Drive, Suite A, Bozeman, Montana, 59718, 406-586-2228.

26. Summarize your experience in adversary proceedings before administrative boards or commissions during the last five years.

I have appeared before an Administrative Law Judge in contested child support matters with the Child Support Enforcement Division of the Department of Public Health and Human Services.

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.

None.

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.

I have been a member of the Gallatin County Bar Association and the Montana Bar Association since admission to practice in Montana in early 1992. I have been a member of the American Bar Association since admission to the Colorado Bar in 1989.

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.

I am a volunteer with Gallatin Legal Assistance Clinic, GLAC.

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.

I am privileged to understand how our Court system works and how to interpret and apply the law. Sharing my legal knowledge and experience with those that cannot afford a lawyer is essential. I have provided free and low cost services to the community for twenty-five years.

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.

I am a member of One West Main, LLC. One West Main, LLC holds title to the building in which I practice. The Berg Law Firm, P.C. rents the building from One West Main, LLC. We have owned the building since 2000. My husband and I own residential rental property.

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.

I am an officer in Berg, Lilly and Tollefsen, P.C. and in One West Main, LLC. If appointed to serve as district court judge, I would resign from both entities.

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 husband and I receive income from residential rental property. Rental income constitutes less than 10% of our income.

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.

If not, please explain.

N/A

43. Do you have any liens or claims outstanding against you by the Internal Revenue Service (IRS)?

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.

I do my own research and writing. On a rare occasion, I will employ a paralegal to assist with my research, but I prefer to write all of my own briefs.

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.

I typically draft several premarital agreements every year. I also write co-habitation agreements, leases, trusts, and wills.

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.

See attached.

48. What percentage of your practice for the last five years has involved research and legal writing?

60%

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 appreciate the outdoors. In the summer, I enjoy hiking in the mountains. I summited Mount Rainier in Washington State in the summer of 2014. I also enjoy mountain biking. In the last few years, my

husband and I have explored the abandoned railroad beds turned biking trails of The Hiawatha Trail and Milwaukee Road Rail-Trail through Thompson Park. In the winter, I like to downhill and cross-country ski. I exercise two energetic dogs year round. To a lesser and unsuccessful degree, I grow tomatoes.

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

Practicing law and running a law firm has been my career. Prior to law, I worked a series of short term jobs to pay for college and law school. I have waited tables, worked retail, washed windows, and worked in a gym. I taught ski school in Aspen, Colorado, for a year between college and law school.

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

Gallatin County has a large number of *pro se* litigants. Approximately two years ago, Attorney Pam Poon started a legal aid clinic to assist *pro se* individuals navigate the legal system. GLAC provides free legal assistance to individuals of limited means who are representing themselves. GLAC serves those in need of legal information regarding family law legal matters and is made up of legal professionals who volunteer their time. The clinic meets once a month and provides free consultations, including the preparation of pleadings. I volunteer my time with free legal consultations and as a mentor to other lawyers interested in learning family law. Prior to my work for the clinic, I represented litigants *pro bono* through the Montana Legal Services Association and the Eighteenth Judicial District Court Administrator.

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

My father had the most influence on my legal practice and my view of our system of justice. He practiced law for nearly 50 years and focused on plaintiff's personal injury work. Although my father's specialty was personal injury, he helped clients with all of their legal concerns. He assisted clients with criminal matters, divorces, and real property disputes. My father was both a litigator and a caretaker. In his life and in his law practice, he believed his role was to help people. He understood a lawyer often represents an individual in what may be their only experience with the legal system. He respected and honored this duty. My father taught me integrity, empathy, and a duty to one's client.

My father taught me that the law should not be mysterious or difficult to understand. Our legal system is based on common sense. Our system of justice must be accessible to all and not just to those with knowledge or means. My father was a champion of equal rights. He practiced law and lived his life in conformance with his beliefs. I work hard to follow my father's lessons.

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

A judge must possess an even temperament. A judge must have the patience and willingness to listen to the story of each individual seeking justice. A judge must be smart, conscientious, curious, decisive, and objective. A judge must be willing to work hard and deliver timely rulings. A judge must possess common sense and be empathetic. A judge cannot shy away from difficult choices and must be willing

to make tough decisions. A judge must be a good listener and have patience. A judge must be selfless and avoid the temptation to insert his or her ego into the job.

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.

Judges are bound by precedent. Our system of law is based on previous interpretations of the law. Lawyers rely on precedent in the presentation of their case. However, the law is constantly evolving. There are grey areas, different fact patterns, and equity considerations unique to many cases. There are some cases of first impression. Judges must maintain the flexibility in their rulings to respond to each case while ensuring predictability in the law.

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

I have a passion for the law and for helping people, and I have the correct temperament for the job. I am patient, a hard worker, and thoughtful. I am a good listener but decisive. I am direct but kind. I am firm but flexible. Humility is important to me.

I understand the needs of individuals in crisis. I understand that timely rulings are paramount both in final dispositions as well as pre-trial matters. The best judges are efficient, fair, and decisive. My experience qualifies me to be such a judge.

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

I have practiced law for 27 years. I am proud of my long-term association with law partners who are smart, supportive, and caring. I am proud of maintaining congenial relationships with opposing counsel despite difficult cases. I am proud of my work with attorneys who need advice or mentorship. I am honored when less experienced attorneys seek me out as a reliable source of information. I have given many hours helping both indigent litigants and young attorneys.

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

I am direct. Directness can be both helpful and off-putting. I am aware of this character trait and often modify my approach to suit particular individuals to assure I communicate tactfully. I believe being direct is a positive quality in a judge. Directness means efficiency in the court room.

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?

I am well qualified to serve as a district court judge. I will provide Gallatin County with excellent service based on common sense and broad work experience. As a working mother, my priority was raising my children and taking care of my clients. My children are now both in college and I will dedicate my skills completely to being the finest judge possible. I am uniquely suited to serve as the next District Court Judge because I have expertise in many areas of the law. I have handled family matters, tax matters, business dissolution, business creation, real property transactions, criminal issues,

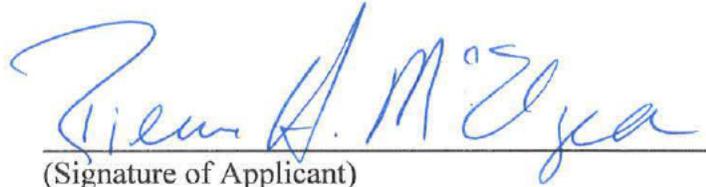
abuse and neglect, personal injury, insurance claims, and employment issues. I have run a small law business with my law partners and possess the knowledge and efficiency to manage a busy and diverse docket of cases.

CERTIFICATE OF APPLICANT

I understand that the submission of this application expresses my willingness to accept appointment as District Court Judge for the 18th 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.

9/19/16

(Date)



(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 Wednesday, September 21, 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 Intervene was filed on the 28th day of January, 2011. The Motion
2 and Memorandum seek to intervene as a matter of right pursuant to
3 Montana Rules of Civil Procedure Rule 24(a).

4 **ARGUMENT**

5 Generally, M.R.Civ.P. 24 "is a discretionary, judicial
6 efficiency rule. It is used to avoid delay, circuitry and
7 multiplicity of actions." In Re Marriage of Glass (1985), 215
8 Mont. 248, 253, 697 P.2d 96, 99 (citing Grenfell v. Duffy (1982),
9 198 Mont. 90, 95, 643 P.2d 1184, 1187).

10 The intervenors brought their Motion pursuant to M.R.Civ.P.
11 Rule 24(a). M.R.Civ.P. Rule 24(a) governs intervention as of
12 right. That section states that a person is permitted to
13 intervene in an action:

14 (2) when the applicant claims an interest related to
15 the property or transaction which is the subject of the
16 action and the applicant is so situated that the
17 disposition of the action may as a practical matter
18 impair or impede the applicant's ability to protect
19 that interest, unless the applicant's interest is
20 adequately represented by existing parties. M.R.Civ.P.
21 24(a)(2).

19 This statute has been addressed by the Montana Supreme
20 Court. A motion to intervene as of right must meet four
21 criteria: (1) The application must be timely; (2) The applicant
22 must show an interest in the subject matter of the action; (3)
23 The applicant must show that the protection of that interest may
24 be impaired by the disposition of the action; and (4) The
25 applicant must show that that interest is not adequately
26 represented by an existing party. In Re Marriage of Loftis, 2010
27 MT 49, ¶9, 355 Mont. 316, 227 P.3d 1030.

28 The intervenors' Motion was timely filed. However,

1 intervenors have failed to meet three of the four criteria.

2 With respect to the second criteria, Intervenor do not have
3 an interest in the subject matter of this action. The mere claim
4 of interest is insufficient to confer standing to intervene as a
5 matter of right under M.R.Civ.P. 24(a). In Re Adoption of
6 C.C.L.B., 2001 MT 66, ¶16, 355 Mont. 316, 227 P.3d 1030. Rather,
7 the party seeking intervention "must make a prima facie showing
8 of a direct, substantial, legally-protectable interest in the
9 proceedings" Id. The intervenors make a slim showing of the
10 facts which would justify their intervention as of right in this
11 case. At page 3 of intervenors' Memorandum, intervenors state:

12 Intervenor have shown that they have loaned money to
13 the parties to this action. Said loans are evidenced
14 by Promissory Notes but are otherwise unsecured against
15 the property that is now being contested in the marital
estate and the funds can be traced from the Trusts into
the real property.

16 The intervenors failed to attach any documentation demonstrating
17 their position as creditors. Nonetheless, taking intervenors'
18 statement at face value, intervenors are unsecured creditors. As
19 a result, they have no claim of ownership in the property. As
20 unsecured creditors, they lack an interest in the subject matter
21 of the dissolution of marriage proceedings.

22 Two Montana Supreme Court cases are directly on point. In
23 In Re Marriage of Aniballi (1992), 255 Mont. 384, 842 P.2d 342,
24 parents loaned their son money for improvements to the son and
25 daughter-in-law's home. The parents moved to intervene in their
26 son and daughter-in-law's dissolution of marriage action as a
27 matter of right. The District Court denied their motion to
28 intervene. The Montana Supreme Court affirmed the District Court

1 and found that the parents failed to make a prima facie showing
2 of a direct interest. Aniballi v. Aniballi (1992), 255 Mont.
3 384, 387, 842 P.2d 342, 344.

4 The more recent case of In Re Marriage of Heidema, 2007 MT
5 20, 335 Mont. 362, 152 P.3d 112, is similar. In that case, a
6 ranch hand was injured on the Heidema's ranch. The ranch hand
7 brought suit against the ranch which was held by two
8 partnerships. Shortly thereafter, the Heidemas filed for divorce
9 and the ranch hand sought to intervene claiming that he had in
10 interest in the Heidema's property. When the District Court
11 granted the Decree of Dissolution of Marriage over the ranch
12 hand's objection, the ranch hand appealed. In affirming the
13 District Court's ruling, the Montana Supreme Court set forth the
14 basis of a Dissolution action. The Montana Supreme Court stated:

15 Marriage arises out of a civil contract between a man
16 and woman and requires the consent of both parties.
17 Section 40-1-103, MCA. When one or both of those
18 parties finds the marriage is irretrievably broken,
19 that party has a basis for dissolution. Section 40-4-
20 101, MCA. Dissolutions are statutory proceedings. The
21 questions to be determined in a dissolution action are
22 whether the marriage is irretrievably broken, and if
23 so, how to allocate marital assets between the parties
24 and provide maintenance and child support if
25 applicable. Section 40-4-107, 40-4-202, 40-4-203, 40-
26 4-204, MCA. In a dissolution proceeding, the only
27 proper parties are the spouses seeking to be divorced.
28 Citations omitted.

22 In Re Marriage of Heidema, 2007 MT 20, ¶13, 335 Mont. 362, 152
23 P.3d 112.

24 The Court further stated:

25 In a dissolution proceeding, the Court has authority to
26 apportion marital assets only between the parties. . .
27 [The ranch hand] must pursue, and is pursuing, the
28 other remedies he has available to him. Emphasis added.
29 In Re Marriage of Heidema, 2007 MT 20, ¶14, 335 Mont. 362, 152
30 P.3d 112.

1 The questions in any dissolution of marriage case are
2 whether the marriage is irretrievably broken, how to divide the
3 parties' property and debt, and whether maintenance or attorney's
4 fees are appropriate. Resolution of these questions simply does
5 not involve the intervenors. The intervenors do not have an
6 interest in the subject matter of this action.

7 Next, intervenors must show that the protection of their
8 interest may be impaired by the disposition of the action. The
9 intervenors are unsecured creditors. Their rights are determined
10 under the instruments by which they allegedly became a creditor
11 and by Montana law. Like any creditor, the intervenors have
12 recourse commiserate with their creditor status. Just as in
13 Heidema and Aniballi, it is not enough to be a creditor. Just as
14 in Heidema and Aniballi, intervenors have recourse elsewhere.
15 The intervenors cite Loftis as their authority. In Loftis the
16 intervenor was denied the right to intervene as intervenor failed
17 the four part criteria required under M.R.Civ.P. 24(a).
18 Intervenors fail to demonstrate that their interests will be
19 impaired.

20 Finally, intervenors must demonstrate that their interest is
21 not adequately protected by another party. Intervenors fail to
22 disclose that the trustee of all three entities seeking
23 intervention is Jonathan, respondent herein. As a party to this
24 action, it is expected that Jonathan will attempt to protect the
25 entities for which he serves as trustee. Perhaps Jonathan did
26 not attach the alleged Promissory Notes so as to mask the real
27 party in interest to the intervenors' request. Further, it
28 should be noted by the Court that Katherine had no knowledge that

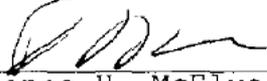
1 these alleged debts existed.

2 CONCLUSION

3 Intervenor's fail to meet the criteria to intervene as a
4 matter of right. Katherine respectfully requests the Court deny
5 intervenor's Motion to Intervene.

6 RESPECTFULLY SUBMITTED this 14 day of February, 2011.

7 BERG, LILLY & TOLLEFSEN, P.C.

8
9 By: 
10 Rienne H. McElyea
11 Attorneys for Petitioner

11 CERTIFICATE OF SERVICE

12 I hereby certify that, on the 14th day of February, 2011, a
13 true and correct copy of the foregoing document was duly served
14 on the following by:

15 U. S. Mail [] Hand Delivery [] FAX [] _____

16 Kevin Brown
17 Paoli & Brown, P.C.
18 120 West Callender St.
19 Livingston, MT 59047

20 Mr. Karl Knuchel
21 116 West Calender
22 Post Office Box 953
23 Livingston, Montana 59047

24
25
26
27
28

Laura Young