**MONTANA \_\_\_\_\_\_\_\_\_\_ JUDICIAL DISTRICT COURT, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ COUNTY**

|  |  |
| --- | --- |
| In re the Marriage of:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, Petitioner *(you)*,and\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_,Respondent *(your spouse)*. | **Case No:** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ *(leave blank, the clerk will complete)***Summons and Automatic Economic Restraining Order by Clerk of Court** |

**NOTICE: You are named in this family-law lawsuit. The court may make a decision without your involvement unless you submit a written response to the court and to the Petitioner within 21 days. Read the information below.**

A Petition has been filed with the Clerk of District Court asking the court to dissolve your marriage. You are receiving a copy of the Petition for Dissolution with this Summons.

You must submit a written response to the Clerk of District Court and send a copy to the Petitioner within 21 calendar days. Day 1 of the 21-day period is the day after you received this Summons. If the 21st day falls on a weekend or court holiday, you may submit your response on the next business day. You must either pay a fee to submit your response or ask the court in writing to waive the fee. You can find forms for responding to a petition and waiving court fees at: [www.courts.mt.gov](http://www.courts.mt.gov).

If you do not submit a response, the court may give Petitioner everything they asked for in the Petition.

**IMPORTANT: An Automatic Economic Restraining Order is in effect. The Order applies to both the Petitioner and Respondent until this lawsuit is over. The Order means you can’t sell, give away, borrow against, or hide property or money. There are exceptions in the Order. The Petitioner and Respondent can agree in writing to do something with property or money. You can ask the Court to let you do something with property or money. The Order tells you how to ask the Court to let you do something with property or money. If you don’t follow the Order the Court can give you a penalty. Please read the Order carefully. If you have questions you should talk to an attorney.**

**AUTOMATIC ECONOMIC RESTRAINING ORDER**

It is hereby Ordered:

(1) The parties are restrained from transferring, encumbering, concealing, or in any way disposing of, without the written consent of the other party or an order of the court, any marital property, except:

(a) for expenses necessary to reasonably maintain the marital standard of living or for the necessities of life, such as food, clothing, shelter, necessary health care expenses, transportation to and from work, and child care, taking into consideration additional living expenses arising out of a party obtaining a second household and current available income;

(b) in the customary and usual course of operating an existing business; or

(c) for the purpose of paying a reasonable amount for professional fees and costs relating to a proceeding under Title 40, chapter 1, part 4, Title 40, chapter 4, or Title 40, chapter 15.

(2) Each party shall file a notice with the court of any proposed extraordinary expenditure, proposed revocation of a nonprobate transfer, or proposed elimination of a right of survivorship to property at least 14 days before the action is taken.

(a) The notice must include:

(i) the proposed action and when the action is intended to occur;

(ii) how the proposed action may impact the marital estate; and

(iii) why the proposed action is necessary at that time.

(b) The notice is not sufficient unless the notice contains the following statement: "The moving party's proposed action will be permitted without further proceedings or order of the court unless within 14 days of the date of filing of the notice you file with the court and serve on all persons entitled to notice a response objecting to the proposed action, which states the reasons for your objection."

(c) If the other party files an objection to the proposed action before the expiration of the 14-day period, the party proposing to take the action is prohibited from taking the proposed action until the court rules on the proposed action.

(d) The burden of justifying the proposed action is on the party proposing the action. The court may award reasonable attorney fees if a party makes an unreasonable request for or an unreasonable objection to the proposed action.

(e) A "nonprobate transfer" means an instrument, other than a will, that makes a transfer of property on death, including a revocable trust, a pay-on-death account in a financial institution, a transfer on death registration of personal property, or a revocable transfer on death deed.

(3) The parties are restrained from:

(a) canceling jointly held credit cards or terminating signatory authority of the other party on a credit card;

(b) incurring unreasonable debt, including but not limited to further borrowing against any credit line secured by the family residence, further encumbrancing of any assets, or unreasonably using credit cards or cash advances against credit cards, except as provided for in subsections (1)(a) through (1)(c) or subsection (2);

(c) except as allowed by subsections (1)(a) through (1)(c) or subsection (2), making any withdrawal for any purpose or borrowing from any deferred compensation, retirement, profit-sharing, pension, death, or other employee benefit plan or employee savings plan or from any individual retirement account or Keogh account;

(d) except as allowed by subsections (1)(a) through (1)(c) or subsection (2), withdrawing or borrowing in any manner all or any part of the cash surrender value of any life insurance policies on either party or any of their children;

(e) changing or in any manner altering the beneficiary designation on any life insurance policies on either party or their children or changing or in any manner altering the beneficiary on any other account or asset;

(f) canceling, altering, or allowing to lapse any existing property, life, automobile, or health insurance policies insuring the parties' or children's property or persons;

(g) negotiating any instrument, check, draft, income tax refund, insurance payment, or dividends payable jointly to the parties or individually to the other party without the personal signature or prior written consent of the other party;

(h) opening, diverting, or withholding mail, e-mail, or other electronic communications addressed to the other party, except a party may open mail, e-mail, or other electronic communications addressed to both parties or submit a notice of change of the party's individual mail, e-mail, or other electronic address; and

(i) without objectively reasonable justification, intentionally or knowingly damaging or destroying the property of the parties or of either party during the pendency of this action, specifically including but not limited to any electronically stored materials, electronic communications, or financial records, without order of the court or written consent of the other party.

(4) Unless otherwise ordered by the court, a party is not restrained from:

(a) creating, modifying, or revoking a will;

(b) revoking or changing a power of attorney; or

(c) creating an unfunded revocable or irrevocable trust.

(5) This order does not adversely affect the rights, title, or interest of a purchaser, encumbrancer, or lessee for value if the purchaser, encumbrancer, or lessee does not have actual knowledge of this order.

(6) The court may expand, limit, modify, or revoke this order, and nothing prevents either party from requesting such relief. Furthermore, the parties, with joint agreement, may waive in writing some or all of the provisions of this order.

(7) The parties shall serve preliminary financial disclosures within 60 days of service of the petition for dissolution, declaration of invalidity of marriage, or legal separation pursuant to 40-4-252.

(8) This order is binding on the Petitioner on filing of the petition, and this order is binding on the Respondent on service of the petition.

(9) In issuing any temporary orders or in a final decree, the court may consider any action taken by the petitioner within a reasonable time prior to filing of the petition that would otherwise have constituted a violation of this order had this order been issued at the time.

(10) Except as otherwise ordered by the court, this order is dissolved on dismissal of the action or granting of the declaration of invalidity, dissolution of marriage, legal separation, or other final order.

(11) Failure to follow this automatic economic restraining order is subject to enforcement by the court, on a motion to the court. The court may issue any appropriate enforcement order including, if appropriate, sanctions and all remedies for contempt of court.

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

(Seal)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Clerk of Court

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Deputy Clerk