

IN THE SUPREME COURT OF THE STATE OF MONTANA  
No. DA \_\_\_\_\_

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MARK HUELSKAMP,

Defendant/Appellant,

v.

MATTHEW "MATT" OLDS,

Plaintiff /Appellee.

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**NOTICE OF APPEAL**

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On Appeal from the Fourth Judicial District Court, Missoula County  
Cause No. DV-19-1036  
The Honorable Jason Marks, Presiding

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Scott M. Stearns  
Zach A. Franz  
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*Counsel for Appellee/Plaintiff*

**NOTICE IS HEREBY GIVEN** that Mark Huelskamp, the Appellant above-named and the Defendant in the cause of action filed in the Montana Fourth Judicial District, in and for the County of Missoula as Cause No. DV-19-1036, hereby appeals to the Supreme Court of Montana from the final judgment entered in such action on March 3, 2023 (Doc. 109), attached hereto as Exhibit A. Pursuant to Mont. R. App. P. 6(1),(3) and 4(4)(a), this appeal encompasses all previous orders and rulings excepted to or objected to which led to and resulted in the final judgment, including those made before and during trial. These include, but are not limited to, the District Court's Combined Order on Motions in Limine (Doc. 47); Order of Defendant's Motion for Judgment as a Matter of Law or for Rule 59 or Rule 60 Relief (Doc. 80); and the Court's verbal rulings precluding testimony from Appellant's expert witness and granting Plaintiff's motion for judgment as a matter of law under Mont. R. Civ. P. 50(a).

Pursuant to Mont. R. App. 4, Appellant certifies that:

1. This appeal is subject to the mediation process required by Mont. R. App. P. 7. The money judgment being sought is not less than \$5,000.
2. This appeal is not an appeal from an order certified as final under Mont. R. Civ. P. 54(b).

3. No notice to the Montana Attorney General is required under Mont. R. App. 27 because Appellant is not challenging the constitutionality of any act of the Montana legislature.

4. The \$100.00 filing fee is included herewith.

5. A copy of this Notice has been filed with the clerk of the District Court and served on all counsel of record.

Dated: April 3, 2023

BOONE KARLBERG P.C.

/s/ Scott M. Stearns\_\_\_\_\_

Scott M. Stearns

Zach A. Franz

*Attorneys for Appellant/Defendant Mark Huelskamp*

## CERTIFICATE OF SERVICE

I hereby certify that I have filed a true and accurate copy of the foregoing NOTICE OF APPEAL with the Clerk of the Montana Supreme Court; and that I have served true and accurate copies of the foregoing NOTICE OF APPEAL upon the Clerk of the District Court, each attorney of record, and each party not represented by an attorney in the above-referenced District Court action, through the electronic filing system, as follows:

Shirley Faust  
Clerk of District Court  
Missoula County  
200 W. Broadway  
Missoula, MT 59802

Carey B. Schmidt  
David C. Berkoff  
SCHMIDT BERKOFF, PLLC  
1917 South Higgins Ave.  
Missoula, MT 59801  
Phone: (406) 552-1450  
carey@blackfootlaw.com  
david@blackfootlaw.com

Dated: April 3, 2023.

BOONE KARLBERG P.C.

/s/ Scott M. Stearns\_\_\_\_\_

Scott M. Stearns

Zach A. Franz

*Attorneys for Appellant/Defendant Mark Huelskamp*

**EXHIBIT**

**A**

Hon. Jason Marks, District Court Judge  
Fourth Judicial District, Dept. No. 4  
Missoula County Courthouse  
200 West Broadway  
Missoula, Montana 59802  
(406) 258-4774

## MONTANA FOURTH JUDICIAL DISTRICT COURT, MISSOULA COUNTY

MATTHEW OLDS,

Plaintiff,

v.

MARK HUELSKAMP,

Defendant.

Dept. No. 4

Cause No. DV-19-1036

**ORDER ENTERING JUDGMENT**

This matter was tried before a jury beginning November 17, 2021, with a jury verdict rendered on November 19, 2021. Post-trial motions were filed by both parties, including the Defendant's *Motion to Reduce Punitive Damage Award* (Doc. No. 64), the Plaintiff's *Motion to Increase Punitive Damages Award* (Doc. No. 65.10), the Plaintiff's *Motion for Attorney Fees* (Doc. No. 68), and the Defendant's *Renewed Motion for Judgment as a Matter of Law or, in the Alternative, for Rule 59 or Rule 60 Relief* (Doc. No. 72).

The Plaintiff moves this Court for its Order Entering Judgment against the Defendant, upon consideration of the jury's Special Verdict (Doc. No. 61), the jury's Punitive Damages Verdict Form (Doc. No. 62), the Court's Order Reducing Compensatory Damages (Doc. No. 80), the Court's Order on Reasonable Attorney Fees (Doc. No. 104), and the Court's Order Reducing Punitive Damages (Doc. No. 105).

IT IS HEREBY ORDERED that judgment is entered in favor of the Plaintiff as follows:

DOCUMENT	ORIGINAL AMOUNT	ORDER	CURRENT AMOUNT
Special Verdict Form (Doc. No. 61)	\$13,700.00	Order on Defendant's Motion for Judgment as a Matter of Law or for Rule 59 or Rule 60 Relief (Doc. No. 80) (reducing damages by \$3,200.00).	\$10,500.00
Punitive Damages Form (Doc. No. 62)	\$75,000.00	Order Granting Defendant's Motion to Reduce Punitive Damages (Doc. No. 105) (reducing punitive damages by \$61,300.00).	\$13,700.00
<b>VERDICT TOTAL</b>			<b>\$24,200.00</b>
Plaintiff's Motion for Attorney's Fees (Doc. No. 69)	\$105,869.00	Order Re: Reasonableness of Attorney's Fees (Doc. No. 104) (calculating attorneys' fees in the amount of \$91,300.00).	\$91,300.00
<b>TOTAL</b>			<b>\$115,500.00</b>

Compensatory Damages: \$10,500.00  
Punitive Damages: \$13,700.00  
Attorney Fees: \$91,300.00

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**Total Judgment: \$115,500.00**, together with interest in accordance with  
Mont. Code Ann. § 25-9-205, which states:

interest is payable on judgments recovered in the courts of this state  
and on the cost incurred to obtain or enforce a judgment at a rate equal  
to the rate for bank prime loans published by the federal reserve  
system in its statistical release H. 15 Selected Interest Rates or in any  
publication that may supersede it on the day judgment is entered, plus  
3%. The interest may not be compounded.

Mont. Code Ann. § 25-9-205 (2021). The date that the Plaintiff's right to recover  
the aforementioned damages is not uniform in this matter. Accordingly, accrual of  
interest began on the following dates:

**1. Compensatory Damages:** November 19, 2021, the date the jury  
returned its Special Verdict Form, is the date the Plaintiff's right vested and  
interest began to accrue. The 2021 prime rate was 3.25%, plus 3% equals a 6.25%  
interest rate. Now, 469 days have elapsed; interest will continue to accrue until  
payment is made.

**2. Punitive Damages:** January 25, 2023, the date this Court issued its  
Order Granting Defendant's Motion to Reduce Punitive Damages Award, is the  
date the Plaintiff's right vested and interest began to accrue. The 2023 prime rate is  
7.75%, plus 3% equals a 10.75% interest rate. Now, 37 days have elapsed; interest  
will continue to accrue until payment is made.

**3. Attorney Fees:** January 25, 2023, the date this Court issued its Order  
Re: Reasonableness of Attorneys' Fees, is the date the Plaintiff's right vested and  
interest began to accrue. The 2023 prime rate is 7.75%, plus 3% equals a 10.75%  
interest rate. Now, 37 days have elapsed; interest will continue to accrue until  
payment is made.



1 Finally, IT IS HEREBY ORDERED that, if an appeal is taken, the  
2 Defendant must obtain a stay by supercedeas bond in accordance with M. R. Civ.  
3 P. 62(d).

4 DATED this \_\_\_\_\_ day of March, 2022.

5  
6 \_\_\_\_\_  
7 Hon. Jason Marks  
8 District Court Judge

9  
10 cc: Scott M. Stearns, Esq.  
11 Zachary Aaron Franz, Esq.  
12 David C. Berkoff, Esq.  
13 Carey Schmidt, Esq.

## **CERTIFICATE OF SERVICE**

I, Scott M. Stearns, hereby certify that I have served true and accurate copies of the foregoing Notice - Notice of Appeal to the following on 04-03-2023:

Carey Schmidt (Attorney)  
1917 S. Higgins  
Missoula MT 59801  
Representing: Matthew Olds  
Service Method: eService

David C. Berkoff (Attorney)  
1917 S. Higgins  
Missoula MT 59801  
Representing: Matthew Olds  
Service Method: eService

Zachary Aaron Franz (Attorney)  
201 W. Main St.  
Suite 300  
Missoula MT 59802  
Representing: Mark Huelskamp  
Service Method: eService

Electronically signed by Kate Palmer on behalf of Scott M. Stearns  
Dated: 04-03-2023