

Wis. Stat. §128.21
Wisconsin's Affordable Alternative to Bankruptcy

Mont L. Martin
Chapter 128 Trustee
933 N. Mayfair Rd., Ste. 107
Milwaukee, WI 53226
P: 414-258-5787
F: 414- 258-6510
www.WI128Trustee.com
Mont@WI128Trustee.com

I. Definition

A debt amortization proceeding under 128.21 is a court supervised, trustee administered debt repayment plan that pays 100% of scheduled debts over no more than three years, available to wage earners who are unable to meet their current obligations, but who can afford the payments under such a plan.

II. Eligibility

A. *Any person*

1. Not a LLC. or other corporate entity

B. Wage earner

1. Allowed with few exceptions for persons who are not “wage earners”, but whose income is reliable and for the long term, e.g. sole proprietorship, social security, pension, etc.; but not unemployment compensation.

a. Depends on the judge

C. Unable to meet current debts as they mature.

D. Able to make regular future payments sufficient to amortize the debts over a period of not more than three years.

1. Step up plans acceptable, but state basis in Petition.

E. Attorney's obligations

1. Wis. Stats. §802.05(2): Representations to court. By presenting to the court, whether by signing, filing, submitting, or later advocating a pleading, written motion, or other paper, an attorney or unrepresented party is certifying that to the best of the person's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances, all of the following:

- a. The paper is not being presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation.

- b. The claims, defenses, and other legal contentions stated in the paper are warranted by existing law or by a non-frivolous argument for the extension, modification, or reversal of existing law or the establishment of new law.

- c. The allegations and other factual contentions stated in the paper have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery.

2. Debtor's attorney must gather reliable information about the debtor's income, expenses, assets and all liabilities and analyze the information to determine whether the debtor is eligible.

- a. Filing to stop collection without a reasonable prospect of the debtor being able to make regular future payments sufficient to amortize the debts over a period of not more than three years may be deemed frivolous, subjecting the attorney and debtor to sanctions in accordance with §802.05(3).

III. Filing the Case

A. Venue is with the Circuit Court in the county of the debtor's residence

B. Filing Instructions and Forms (See Exhibits 1.0 - 2.3)

1. Filing fee: \$35 in Milwaukee County; \$31.50 all other counties

2. Get trustee's consent to act

- a. Not required in Milwaukee County

- b. Once you have a working relationship with the trustee, he may give you blanket consent for all cases. Consult with the trustee on this.

- c. Allege consent in Petition

- d. Some courts require Consent form in all cases

C. Proposed Order Enjoining Creditors and Appointing Trustee

1. State the payments: total debt x 1.07 (payroll deduct) or 1.10 (debtor-direct) ÷ 36 (monthly), 72 (semi-monthly), 78 (bi-weekly) or 156 (weekly).

2. Court will state the date the first payment is due

- a. Not more than 30 days from Order, but often less

D. Milwaukee County: Local Rule 3.30 (Exhibit 7)

1. Clerk's office might accept papers submitted for filing, but the court might not consider the case if filing requirements are not met. Must use specified forms and meet filing requirements.
2. Court might dismiss case after 30 days, without notice, if any deficiencies are not corrected.
 - a. Depends on the judge.

IV. Effect of filing: the "stay"

- A. No execution, attachment or garnishment may be levied or enforced by any creditor included in the plan.
 1. Creditors may litigate and take judgment.
- B. Takes effect *upon filing*
- C. Only the listed creditors are bound by stay
- D. Violations of stay: Motion for Contempt
 1. Wis. Stats. §785.01(1)(b): a party is in contempt when there is evidence of intentional "disobedience, resistance or obstruction of the authority, process or order of a court."
 - a. Creditor must be able to comply with the Order Enjoining Creditors
 - i. Actual prior notice of the Order
 - b. Creditor's failure to comply must be willful and intentional.

V. Trustee responsibilities

- A. Appointed by the Court.

1. Any “disinterested” person
2. Out side Milwaukee County, debtor nominates a trustee in the Petition and proposed Order Appointing Trustee.
3. In Milwaukee County, Clerk of Courts assigns trustee from four trustees, but individual judges have discretion to override the appointment.

B. Trustee sends Notice to Creditors. (Exhibit 4.0)

1. Sets Meeting of creditors.
2. Includes debtor’s Affidavit of Debts and gives creditors an opportunity to:
 - a. File a claim, if different amount is due or to provide a different address for payments;
 - 1) Claim balance is as of date of filing
 - b. File an objection to the proceedings or to the trustee appointment.

C. After the meeting, the trustee submits a Report of Trustee, recommending either dismissal or a Plan for confirmation;

1. Reports any objections
 - a. Objections are due by the meeting of creditors.
 - i. File with the trustee and court.
 - b. Debtors may object to claims.

Trustee notifies debtor of any claims showing higher balance and gives debtor an opportunity to object.

- i. File with the court and copy the trustee a captioned document entitled “Debtor's Objection to Claim of (creditor)”

ii. State the basis for the objection with particularity.

iii. Request a hearing on the objection.

c. Objections are rare. Trustee will attempt informal dispute resolution before submitting the objection to the court.

D. Court issues Order approving plan

1. Administrative dismissal

E. Upon Order Confirming Plan, the trustee starts paying.

1. Payments to creditors are made pro-rata. 128.21(4)

a. Priority given to debtor's attorney fees in most counties, except Milwaukee County.

2. Payments made quarterly, unless debtor requests monthly.

a. If the debtor's credit rating is still intact, monthly payments will help

3. Typically, payments to creditors start 75 days after first Order is issued.

F. Trustee's fee.

1. 7% if by payroll deduction; 10% if debtor-direct.

2. Postage (usually about \$30, depending on the number of creditors)

VI. Creditors' rights

A. May file objection and ask for a hearing. 128.21(3r)

1. Object to the plan, the amount of the claim or the person appointed as trustee;

2. Objection must be filed by the date of the Meeting of Creditors and request a hearing to reserve opportunity to be heard.

3. Trustee will take active role in mediating disputes

B. May litigate claim and obtain judgment. 128.21(7)

1. Amount of judgment becomes claim

C. Can “realize on any security” after five days notice to trustee. 128.21(8)

1. Still must follow statutory procedures for recovering collateral

2. Debtor should not include secured debt without prior agreement with creditor.

a. Common for loans secured by depreciated personal property, e.g. Auto title loans

VII. Adding/Deleting Creditors

A. Adding Creditors

1. File amended Affidavit of Debts, listing only the added creditors, and proposed

plan increasing plan payments.

2. Trustee issues notice of meeting to any added creditors to allow for claim or objection.

B. Removing Creditors

1. Settling debts included in plan is allowed

2. File amended Affidavit of Debts, listing creditors to be removed.

3. Trustee will recalculate plan payments and issue letter to debtor/debtor’s employer accordingly

VIII. Case dismissed

A. Successful completion

1. Final Order (Exhibit 4)

a. Debts deemed paid in full

i. No discharge

B. Dismissal before completion

1. Upon trustee's motion due to default in payments

2. Upon debtor's request or bankruptcy

a. Debtor files Motion and proposed Order to Dismiss

b. Court might request final accounting from trustee

3. Serial filings allowed

a. Trustee or creditors might object, e.g. feasibility, bad faith

IX. Reasons for filing a Wis. Stats. §128.21 Debt Amortization Case

A. Less harm to credit rating: R-7 "Slow pay"

B. Stop garnishment or execution;

C. Debtor wants to pay debts in full;

D. Debtor has problem with specific debts only;

1. May be selective about which creditors to include,

a. stay does not apply to omitted creditors

E. Debtor doesn't qualify for bankruptcy

X. Specific Types of Debts

A. General unsecured debts are ideal for amortization

1. Credit cards and signature loans

a. No interest, fees or penalties accrue.

2. Medical

B. Secured Claims

1. Get prior consent of creditor; otherwise may “realize on security”
2. Interest can be included in claim
 - a. Claims are paid pro-rata after administrative expense, so the amount of interest is easily calculated.

C. Taxes

1. Federal: IRS not bound
2. State: WDR will honor proceedings, but interest accrues
3. Property taxes: depends on the municipality; interest accrues
4. Student loans
 - a. Private or State guaranteed: will honor
 - b. Federal Guaranteed: not bound
5. Utility shut-offs
 - a. We Energies honors stay, but this may change soon.
 - i. We Energies must receive a copy of the Petition, Affidavit of Debts and proposed Order Enjoining Creditors before it will halt a shut off or reinstate service.
 - a) The proposed Order must indicate the assigned trustee.
 - b. Other utilities do not abide by 128.21 stay

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Filing a Debt Amortization Debt Case Under Wis. Stats. §128.21 Outside of Milwaukee County

1. Petition to Amortize Debts

- A. Include debtor's name and address
- B. In paragraph 4, choose between payroll deduction or making direct payments to the trustee.
- C. In paragraph 5, include the required Trustee information, and that you have his consent to act.

2. Affidavit of Debts

- A. List all of the creditors to be included in the plan.
- B. State the balance due each creditor and the account number.
- C. State the total of all the debts.
- D. It must be notarized.

3. Proposed Order Appointing Trustee and Enjoining Creditors and a Consent to Act

- A. Provide the requested trustee information.
- B. Choose between payroll deduction or making direct payments to the trustee.
- C. State the amount to be deducted from each paycheck OR a monthly amount to be paid directly to the trustee. Total debt x 1.07 (payroll deduct) or 1.10 (debtor-direct) ÷ 36 (monthly), 72 (semi-monthly), 78 (bi-weekly) or 156 (weekly)

4. Obtain the Written Consent of the Trustee to act in your case.

Forward the copy of your Petition, Affidavit of Debts, Proposed Order to the Trustee. The Trustee will return the Consent to Act to you or decline to act, in which case, you must find a different Trustee.

5. Make two copies of the Petition to Amortize Debts, the Affidavit of Debts and the Proposed Order Appointing Trustee and Enjoining Creditors.

6. Prepare three (3) stamped envelopes

- A. Two should be addressed to you and another to the Trustee, so the court can send you and the Trustee authenticated copies of the petition, affidavit and order appointing trustee.

7. Cover letter to Clerk of Court with instructions

8. **File your papers with the Clerk of Circuit Court for the county where the debtor lives and the \$31.50 filing fee.**
 - A. The original and two copies of your Petition to Amortize Debts
 - B. The original and two copies of your Affidavit of Debts
 - C. The original and three copies of Proposed Order Appointing Trustee and Enjoining Creditors
 - D. The Written Consent to Act signed by the proposed Trustee.
 - E. Your three stamped envelopes, two addressed to you and one addressed to the trustee.
9. **Calendar file for 25 days from filing to confirm that Order is signed.**
10. **Once the court issues the Order, the Court will return copies to you and the trustee.**
11. **Send Order to employer/debtor with cover letter instructing payments**

In the Matter of the Voluntary Amortization of Debts of:

_____ Debtor

Case No. _____

_____ Codebtor

Street Address

City, State, Zip

Petition to Amortize Debts – Wis. Stats. §128.21

The above debtor(s) petition the court as follows:

1. Debtor(s) reside(s) in _____ County at the above address.
2. Debtor is indebted beyond debtor’s ability to pay debts as they mature, and the assistance of the court is needed in the amortization of such indebtedness pursuant to Wis. Stats. §128.21.
3. Debtor(s) believe that unless the assistance of the court is obtained for the amortization of indebtedness pursuant to Wis. Stats. §128.21, creditors will continue to harass debtor(s) by the issuance of garnishment, attachment or execution. Debtor(s) is/are of the opinion and belief that debtor(s) will be able to make future payments at regular intervals according to a plan of amortization so as to amortize debtor(s) indebtedness over a period of not more than three (3) years.
4. Debtor(s) request(s) [that the court enter an order that a portion of debtor(s) payroll checks be assigned directly to the trustee in this proceeding] or [that debtor pay to the trustee directly] (Choose one) in an amount set-forth in the proposed order submitted with this petition.
5. Debtor(s) request that Mont L. Martin, correspondence address: 933 N. Mayfair Rd. Ste 107, Milwaukee, WI 53226, payment address: P.O. Box 681108 Milwaukee, WI

53268-1108; 414-258-5787; admin@Wi128trustee.com be appointed Trustee in this proceeding. [My attorney certifies below that he/she has contacted the proposed Trustee and the proposed Trustee has consented to act] or [I have personally spoken with the proposed Trustee and attached is the Trustee's written consent to act as Trustee.] (Choose one)

6. Attached is my affidavit of debts to be included in the plan.
7. Debtor(s) request that he/she/they be permitted to amortize debtor(s) debts pursuant to Wis. Stats. §128.21, and that a plan of amortization as may be proposed by the Trustee, and submitted to the creditor(s) be approved by the court.
8. Debtor(s) have submitted a proposed Order appointing the Trustee and enjoining the creditors listed in this petition from further collection procedures.

Dated: _____ 201__.

Debtor name

Debtor name

Subscribed and sworn to before me
this ___ day of _____, 201__

Notary Public, Milwaukee, WI
My Commission expires: _____, 201__, or is permanent.

The undersigned attorney for the debtor(s) certifies that the proposed Trustee has consented to act as Trustee in this proceeding.

Dated: _____, 201__

Signature
Name, bar number, address, phone number and e-mail address

In the Matter of the Voluntary Amortization of Debts of:

_____,

Case No. _____

Debtor(s)

Order Appointing Trustee and Enjoining Creditors

This matter is before the court on petition of the debtor(s) listed above for the amortization of indebtedness pursuant to Wis. Stats. §128.21;

NOW THEREFORE, IT IS ORDERED, that:

1. The petitioner(s) are allowed to proceed with the amortization of debts pursuant to the provisions of Wis. Stats. §128.21;
2. Mont L. Martin,, correspondence address: 933 N. Mayfair Rd. Ste 107, Milwaukee, WI 53226, payment address: P.O. Box 681108 Milwaukee, WI 53268-1108; 414-258-5787; admin@Wi128trustee.com, is appointed Trustee in this proceeding. The Trustee is directed to comply with §128.21(3) and (3g), Wis. Stats.;
No distributions shall be made before a plan is approved;
3. Upon the filing of this Order and while the case is proceeding, no execution, attachment, activation of wage assignment or garnishment to collect the scheduled debts may be initiated or enforced by creditors, their agents, assigns or successors.
4. As requested by the debtor in the petition filed with the court, Debtor(s) employer_____, (List employer) or debtor(s) current employer, shall, until otherwise directed by the Trustee or further order of the court, deduct \$_____ from each of debtor(s) payroll checks and mail that sum directly to the Trustee named above, starting with the debtor's next paycheck.] **or** [The debtor shall, until otherwise directed by the Trustee or further order of the court, pay directly to the Trustee, named above, the sum of \$_____ per month. The first payment shall be remitted within no more than 30 days of the date of this order.(Choose one)

Date: _____

By the Court

Circuit Judge

Filing a Debt Amortization Debt Case Under Wis. Stats. §128.21 – IN MILWAUKEE COUNTY

1. **Petition to Amortize Debts**
 - A. Include debtor's name and address
 - B. In paragraph 2 state the debtors' employer
 - C. In paragraph 6, choose between payroll deduction or making direct payments to the trustee.

2. **Affidavit of Debts**
 - A. List all of the creditors to be included in the plan.
 - B. State the balance due each creditor and the account number.
 - C. State the total of all the debts.
 - D. It must be notarized.

3. **Proposed Order Appointing Trustee and Enjoining Creditors**
 - A. Choose between payroll deduction or making direct payments to the trustee.
 - B. State the amount to be deducted from each paycheck OR a monthly amount to be paid directly to the trustee. Total debt x 1.07 (payroll deduct) or 1.10 (debtor-direct) ÷ 36 (monthly), 72 (semi-monthly), 78 (bi-weekly) or 156 (weekly)

4. **Make two copies of the Petition to Amortize Debts, the Affidavit of Debts and the Proposed Order Appointing Trustee and Enjoining Creditors.**

5. **Prepare three (3) stamped envelopes**
 - A. Two should be addressed to you, so you can receive a signed order from the court
 - B. Another is blank for the Clerk to stamp the Trustee's information.

6. **File your papers with the Clerk of Circuit Court and pay the \$35 filing**
 - A. The original and two copies of your Petition to Amortize Debts
 - B. The original and two copies of your Affidavit of Debts
 - C. The original and three copies of Proposed Order Appointing Trustee and Enjoining Creditors
 - D. Your three stamped envelopes, two addressed to you and a blank one for the Trustee.

7. **Cover letter to Clerk of Court with instructions**

8. **Calendar file for 25 days from filing to confirm that Order is signed.**

9. **Once the court issues the Order, the Court will return copies to you and the trustee.**

10. **Send Order to employer/debtor with cover letter instructing payments**

In the Matter of the Voluntary Amortization of Debts of:

_____ Case No. _____
Debtor(s) – Name and Address

Petition to Amortize Debts under Wis. Stat. §128.21

1. Debtor is an adult resident of Milwaukee County, Wisconsin, residing at _____
_____ (state address).
2. Debtor is employed by _____
_____ (state full name and address of each employer).
3. Debtor is indebted beyond debtor's ability to pay debts as they mature, and the assistance of the court is needed in the amortization of such indebtedness pursuant to Wis. Stat. § 128.21.
4. Debtor believes that unless the assistance of the court is obtained for the amortization of indebtedness pursuant to Wis. Stat. §128.21, creditors will continue to harass debtor by the issuance of garnishment, attachment or execution.
5. Debtor is of the opinion and belief that debtor will be able to make future payments at regular intervals according to a plan of amortization so as to amortize debtor's indebtedness over a period of not more than three (3) years.
6. Debtor requests that (choose one):
 the court enter an order that a portion of debtor's payroll checks be assigned directly to the trustee in this proceeding in an amount set forth in the proposed order submitted with this petition.
 debtor pay to the trustee directly an amount set forth in the proposed order submitted with this petition.
7. Attached is my affidavit of debts to be included in the plan.
8. Debtor requests to be permitted to amortize debts pursuant to Wis. Stat. § 128.21, and that a plan of amortization as may be proposed by the Trustee and submitted to the creditor(s) be approved by the court.
9. Debtor has submitted a proposed Order appointing the Trustee and enjoining the creditors listed in this petition from further collection procedures.

Exhibit 2.1

Dated: _____, 20__.

Debtor Name

Debtor Name

Subscribed and sworn to before me

this _____ day of _____, 20__.

Notary Public, State of Wisconsin
My commission expires _____, 20__
or is permanent

If debtor is represented by an attorney the attorney must complete the following:

Dated: _____, 20__.

Signature
Print: Name, Bar number, address, phone and email address:

Note: Include two (2) stamped envelopes – one to be sent to Trustee (name and address will be filled in by the court) and one self-addressed to Debtor’s attorney or, if no attorney, to Debtor

STATE OF WISCONSIN

CIRCUIT COURT
CIVIL DIVISION

MILWAUKEE COUNTY

In the Matter of the Voluntary Amortization of Debts of:

Debtor(s) Name and Address

Case No.

Affidavit of Debts under Wis. Stat. §128.21

State of Wisconsin)
) SS
Milwaukee County)

_____ (Debtor's name), being first duly sworn upon oath, deposes and states:

He/she/they is/are the debtor(s) in the above-entitled proceeding. The following is a true list of the debts debtor desires to be included in the amortization plan to be formulated by the Trustee.

Instructions:

1. List each creditor by name and address and identify any account number you have for that creditor unless there would be an identity theft issue, i.e. the account number is a social security number.
2. List the amount due each creditor.
3. List a total of all debts to be included in the plan.
4. Each debtor must sign and each signature must be notarized.
5. Attach additional sheets if necessary to complete the list.

List of Creditors and Debts:

List of Creditors and Debts, cont'd:

Total Amount of Debts: \$_____

Dated: _____, 20__.

Debtor Name

Debtor Name

Subscribed and sworn to before me

this _____ day of _____, 20__.

Notary Public, State of Wisconsin

My commission expires _____, 20__ or is permanent

 In the Matter of the Voluntary Amortization of Debts of:

 Debtor(s) Name and address

Case No. _____

Order Appointing Trustee and Enjoining Creditors

This matter is before the court on petition of the debtor(s) listed above for the amortization of indebtedness pursuant to Wis. Stat. § 128.21.

NOW THEREFORE, IT IS ORDERED, that:

1. The petitioner(s) are allowed to proceed with the amortization of debts pursuant to the provisions of Wis. Stat. § 128.21.
- 2.

is appointed Trustee in this proceeding. The Trustee is directed to comply with Wis. Stat. §§ 128.21(3) and (3g). (Clerk will stamp original and copies)

3. No distributions shall be made before a plan is approved.
4. Upon the filing of this Order and while the case is proceeding, no execution, attachment, activation of wage assignment or garnishment may be initiated or enforced by creditors of the above-named debtor unless such creditor is not included in the plan.
5. Choose one:

As requested by the debtor in the petition filed with the court, debtor's employer, _____ (list employer) or debtor's current employer, shall, until otherwise directed by the Trustee or further order of the court, deduct \$ _____ from each of debtor's payroll checks and mail that sum directly to the Trustee named above.

- The debtor shall, until otherwise directed by the Trustee or further order of the court, pay directly to the Trustee, named above, the sum of \$ _____ monthly, on or before 15 days after the date of this order.

Dated: _____, 20__.

BY THE COURT:

 Circuit Court Judge

Exhibit 2.3

Date

Clerk of Courts
_____ County
Address
City, State, Zip

RE: Voluntary Amortization of Debts

Dear Clerk:

Enclosed you will find the following documents for filing:

1. The original and two copies of the Petition to Amortize debts under Wis. Stats. §128.21;
2. The original and two copies of the Affidavit of Debts;
3. The original and three copies of the proposed Order Appointing Trustee and Enjoining Creditors;
4. Three stamped envelopes, two addressed to my office and one for the Trustee.

Please return a date stamped copy of the Petition, Affidavit of Debts and Order Appointing Trustee and Enjoining Creditors to acknowledge your receipt of same. Please have the Order signed and a complete authenticated copy of all the documents sent to the Trustee and a copy of the signed Order sent to me in the envelopes provided.

Very truly yours,

LAW OFFICES OF
WIERNICK, MARTIN & NEUMAIER, S.C.

Mont L. Martin

MLM:bjf
Enc

Exhibit 2.4

Date

Employer
Attn: Payroll Dept
Address
City, State, zip

RE: Your employee:
Social Security No.
Chapter 128 Case No.

Dear Paymaster:

Pursuant to the terms of the enclosed Circuit Court Order, please deduct \$__ from each of the referenced employee's paychecks and forward the funds to Mont L. Martin, the Trustee appointed to administer the Plan.

Your checks should be made out to "**Mont L. Martin, Trustee for (employee)**" and mailed to the following address:

Mont L. Martin, Trustee
P.O. Box 681108
Milwaukee, WI 53268-1108

The Court Order also restrains creditors from garnishing wages. Should you receive a garnishment, or otherwise have any questions, please contact my office.

Thank you.

Very truly yours,

enc. Order
Cc: Client

Exhibit 3.0

Date

Debtor
Address
City, State, Zip

Re: Chapter 128 Proceedings
Case No.

Dear :

Pursuant to the enclosed Order, the Circuit Court has appointed Mont L. Martin me to serve as Trustee in your Chapter 128 proceedings. Trustee Mont L. Martin is to receive payments from you sufficient to pay your creditors in full in no more than three years.

Refer to the court's Order for the amount you are to pay. Trustee Mont L. Martin must receive your first payment by and subsequent payments every thirty days. Payments should be made in the form of a money order or cashier's checks, payable to "Trustee Mont L. Martin", and sent to:

P.O. Box 681108
Milwaukee, WI 53268-1108

Do not send cash or personal checks.

Please know that the amount of your payments is based on the balances shown in your Affidavit of Debts, which sometimes reflects estimated balances or balances that were not current at the time the case was filed. Your plan payment is subject to change, if the creditor files a claim for a different amount that you do not dispute. You will receive notice of any and all such claims and given an opportunity to object.

If you have any questions, please contact my office.

Very truly yours,

Exhibit 3.1

IN THE MATTER OF THE PROCEEDINGS FOR
THE AMORTIZATION OF DEBT OF:

Case No.

NOTICE TO CREDITORS

TO ALL CREDITORS OF _____:

Upon a Petition to Amortize Debts filed by the debtor(s), the Circuit Court has ordered relief under §128.21 Wis. Stats. A copy of the Order, entered _____ is enclosed. The Order appoints the undersigned as Trustee to administer the Plan.

PLEASE TAKE NOTICE that a creditor's meeting will be held at the office of the undersigned trustee at the address given below on _____, 2011, at _____ a.m., for the purpose of considering an amortization plan and determining the claims to be covered by said plan. Creditors are not required to attend the meeting. The plan shall have the debtor pay sums sufficient to pay all creditors and administrative fees and costs within a three year period. Disbursements will begin after the Plan is approved by the Circuit Court following the meeting. Funds will be disbursed every 90 days on a pro-rated basis among all scheduled creditors, after administrative fees and costs have been paid, [including any debtor attorneys fees]. A copy of the quarterly disbursements report will be forwarded to you upon request.

You are currently scheduled to be paid the amount set forth in the attached Affidavit of Debts. **The amount due is the balance as of _____ (date of petition).** If the amount of debt as of the date of filing or address shown is incorrect, file a claim by the date of the meeting of creditors set forth above. Simply mail or fax your most recent statement, invoice, ledger or other proof of the debt. The fax number is (414)258-6510; the mailing address is given below. Please state on your claim the address where payments should be sent. If no claim is filed, the amount of indebtedness set forth on the affidavit shall be considered the amount due, and payment of said amount shall constitute payment of the debt in full.

If you object to these proceedings, submit your objection in writing to the trustee no later than the date of the creditor's meeting given above. Objections filed after the conclusion of the meeting will not be considered. You must state the grounds for your objection in detail, and if you want the court to conduct a hearing, you must request one in your written objection.

PLEASE TAKE FURTHER NOTICE that, pursuant to the Order, no execution, attachment, wage assignment or garnishment or other collection actions may be taken against the debtor(s). **Further, this is not a bankruptcy and should not be reported as one.**

Dated at Milwaukee, Wisconsin, this _____ day of _____, 2011.

Mont L. Martin, Trustee

P.O. ADDRESS:
933 North Mayfair Road, Suite 107
Milwaukee, WI 53226
(414)258-5787

STATE OF WISCONSIN : CIRCUIT COURT : _____ COUNTY

IN THE MATTER OF THE VOLUNTARY
AMORTIZATION OF THE DEBTS OF:

Case No. _____

PROOF OF CLAIM

Please insert correct account number here: _____

I/We _____ whose address is: _____

states as follows:

- (1) At the time the debtor's petition was filed, the above debtor was indebted to you in the amount of \$_____.
- (2) Proof of your claim/how you arrived at the amount of your claim must be included with this completed Proof of Claim.
- (3) No judgment has been rendered relating to this debt except as follows: (attached copy of judgment). _____
- (4) if nothing is owed, and/or this account has been paid, indicate here: _____
- (5) Do NOT submit claims or expect payment on debts not listed in the Affidavit of Debts.
- (6) Return (or fax) this claim to the address below.

PLEASE PRINT LEGIBLY

Your Name (person completing form) Telephone Number

Title: _____

Fax Number

Address: _____

Today's Date

TO CREDITORS: MAIL OR FAX THIS COMPLETED FORM PRIOR TO CREDITORS'
MEETING TO:

Mont L. Martin, Trustee
933 N. Mayfair Road. Ste 107
Milwaukee, WI 53226
Phone: (414)258-5787
Fax No. 414-258-6510

Exhibit 4.1

STATE OF WISCONSIN : CIRCUIT COURT : MILWAUKEE COUNTY

IN THE MATTER OF THE PROCEEDINGS
FOR THE AMORTIZATION OF THE DEBTS
OF:

Case No. _____

COMPLETED PLAN
ORDER FOR DISMISSAL

Upon the petition of Mont L. Martin, Trustee, and upon the records and files herein,

IT IS ORDERED as follows:

1. The Trustee's Final Report is approved; and the paid claims are deemed paid in full. No further action to collect said debts may be taken.
2. This case is dismissed;
3. All interested parties shall be notified of the dismissal herein; and
4. Upon providing notice of dismissal to all interested parties, Mont L. Martin shall be discharged as trustee.

Dated this ____ day of _____, 2011.

BY THE COURT:

Circuit Court Judge

Exhibit 5.0

Hon. Timothy G. Dugan

Thomas A. Malkiewicz
Court Reporter

Jennifer A. Dembowski
Deputy Court Clerk

STATE OF WISCONSIN

FIRST JUDICIAL DISTRICT

MILWAUKEE COUNTY COURTHOUSE
901 N. 9th St., Room 402
MILWAUKEE, WISCONSIN 53233-1425

TELEPHONE (414) 278-4496

Re: Chapter 128 Procedures

Dear Counsel:

This letter is to advise you that the Civil Division in Milwaukee County has changed the procedures for Chapter 128 cases effective immediately. We recruited and approved four people to serve as Chapter 128 Trustees. They are: Mont Martin, Robert Storm, Joanne Lipo Zovic and Robert Haney. The trustees will be randomly appointed on a pro rata basis to assure that each is appointed in 25% of the cases filed. Petitioners/debtors will no longer request a specific trustee in the petition.

As noted below the cashier clerk will stamp the name of the trustee on the original and copies of the order appointing trustee. The trustees are in the process of providing the clerk's office with self-inking stamps to accomplish this procedure. However, in the interim until we get the trustee's stamps you should use the attached proposed order that lists all four trustees. The cashier clerk will circle the appointed trustee for each file. The envelope that you submit for the trustee should have a mailing stamp on it and the court will supply the name and address of the trustee. Once we get the trustee stamps the procedure below will be used with the blank space for the trustee to be stamped on the order. You may want to call the clerk's

Exhibit 6.0

office prior to sending petitions to be filed to determine whether they have the trustee stamps.

We have changed the form of the petition in several ways, but most directly we deleted the reference to a request for a specific trustee. Additionally, if an attorney is representing debtor the attorney must sign the petition. Further, notary signature must have the name of the notary printed below the signature and the notary seal must bear the name of the notary. The form order appointing trustee will have a blank space for the Clerk of Court to stamp the name of the trustee in the original order and on the copies. The debtor must still file 3 copies of the proposed order, a copy of the original petition and affidavit of debts that will be sent directly to the trustee by the court and a self-addressed stamped envelope and a blank stamped envelope to be mailed to the trustee. The new forms are attached to this letter. You must use these forms for all new filings.

I'd also like to let you know what the common errors are in filing Chapter 128 petitions in hopes that they can be corrected so that matters will not be dismissed. Pursuant to Local Rule 3.30A.6. "If the requirements of this rule are not met, the court will not act on the petition. If more than 30 days passes after filing without these requirements being met, the case shall be dismissed without further notice and without prejudice."

The most common errors include:

1. Copies of the Petition to Amortize Debts are not filed;
2. The Petition does not list the debtor's employer and address;
3. A copy of the Affidavit of Debts is not filed and there is no total of the debts listed in the affidavit;

4. An original and two copies of the Order Appointing Trustee and Enjoining Creditors are not filed or the order contains additional language that is not permitted regarding enjoining collections, particularly adding “or any other collection actions; and
5. Two stamped envelopes are not filed.

Lastly, we are finding an increase in cases where petitioner has failed to make the initial payment directed by the court in the order appointing trustee and enjoining creditors. If payment is by wage assignment directly to the Trustee the 1st payment is to be made from the next paycheck following the order of the court appointing the Trustee. I have advised the trustees that if the initial payment is not timely received and petitioner has not contacted the trustee about the payment, the trustee must report the fact to the court and make a recommendation.

If you have any procedural questions please feel free to contact me.

June 22, 2011

Timothy G. Dugan, Br. 10
Hon. Timothy G. Dugan
Circuit Judge Br. 10

Cc: see attached list

3.30 Chapter 128 Proceedings for Amortization of Debts

A. The court will not hear or act on a petition filed under Wis. Stat. § 128.21 unless, in addition to the requirements stated in Wis. Stat. § 128.21, all of the following are filed with the court:

1. A Petition to Amortize Debts in the form prescribed by the court (see Form CV 5 in the Appendix of Forms), which shall include:

a. a statement signed by the debtor verifying that the statements made in the petition are true;

b. the name and full address of the debtor;

c. the name and full address of each employer of the debtor;

d. the name and full address of a proposed trustee; and

e. a statement signed by an attorney or by the proposed trustee that the proposed trustee agrees to act as trustee.

2. An Affidavit of Debts, in the form prescribed by the court (see Form CV 6 in the Appendix of Forms) which shall list:

a. each creditor by name and full address;

b. the amount owed to or claimed by each creditor; and

c. the total amount of all debts and/or claims to be included in the amortization plan.

3. An Order Appointing Trustee and Enjoining Creditors (see Form CV 7 in the Appendix of Forms) which shall state:

a. the name and full address of the proposed trustee;

b. the name and full address of debtor's employer; and

c. the amount of money the debtor proposes either (1) to have deducted from each paycheck or (2) to pay directly to the trustee, until otherwise directed by the trustee;

1. if the amount is paid once per month, the amount shall not be less than 1/36th of the total of (1) all debts and/or claims to be included in the amortization plan plus (2) the anticipated trustee fees and costs, unless the court approves a different amount;

2. if the amount is paid twice per month, the amount shall not be less than 1/72nd of the total of (1) all debts and/or claims to be included in the amortization plan plus (2) the anticipated trustee fees and costs, unless the court approves a different amount;

3. if the amount is paid every other week, the amount shall not be less than 1/78th of the total of (1) all debts and/or claims to be included in the amortization plan plus (2) the anticipated trustee fees and costs, unless the court approves a different amount;

4. if the amount is paid weekly, the amount shall not be less than 1/156th of the total of (1) all debts and/or claims to be included in the amortization plan plus (2) the anticipated trustee fees and costs, unless the court approves a different amount.

4. Number of copies required for filing:

a. The signed original and one copy of the Petition to Amortize Debts.

b. The signed original and one copy of the Affidavit of Debts.

c. Three copies of the Order Appointing Trustee and Enjoining Creditors.

d. Two stamped envelopes, one addressed to the proposed trustee and one addressed to the debtor or the debtor's attorney.

5. The court will send copies of the required documents to the trustee appointed by the court.

6. If the requirements of this rule are not met, the court will not act on the petition. If more than 30 days passes after filing without these requirements being met, the case shall be dismissed without further notice and without prejudice.

B. The court shall maintain a list of individuals registered under Rule 3.31 ("Qualifications for Appointment as a Chapter 128 Trustee") and make the list available on-line and in the Milwaukee Justice Center.

C. The court is not required to appoint the trustee proposed by the debtor.

D. To comply with the requirements stated in Wis. Stat. § 128.21, the trustee shall file with the court a Report of Trustee, Plan and Proposed Order Approving Plan in the form prescribed by the court (see Forms CV 8, CV 9 and CV 10 in the Appendix of Forms).