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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.

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

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 to creditors 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

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

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 4.0

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).