

INSTRUCTIONS FOR COMPLETING APPEARANCE AND PRELIMINARY PREHEARING STATEMENT FORM

You or your attorney are required to file an appearance and preliminary prehearing statement within 20 days of the date you were mailed the Notice of Hearing. **Failure to file this document may result in dismissal of the complaint if you are the charging party or judgment against you by default if you are the respondent.** This outline is to assist you to provide the information required in this form. Please contact the Hearings Bureau at (406) 444-3805 or (406) 444-4662 if you have questions.

THERE ARE TWO VERSIONS OF THE APPEARANCE AND PRELIMINARY PREHEARING STATEMENT FORM – ONE FOR INDIVIDUALS WHO ARE PARTIES [“APPEAR.NEW”] AND THE OTHER FOR ENTITIES (CORPORATIONS, ASSOCIATIONS, PARTNERSHIPS, ETC.) [“APPEAR2.NEW”]. PLEASE USE THE CORRECT FORM.

PARAGRAPH 3a OF APPEARANCE FORM: CONTENTIONS OF FACT. The charging party must provide a statement of the essential facts which are relied upon for each claim that is asserted against the respondent. The respondent must provide a statement of the essential facts for each defense that is presented in response to each of the charging party's claims.

PARAGRAPH 3b OF APPEARANCE FORM: CONTENTIONS OF LAW. The charging party must briefly describe the legal theory upon which each claim is based. The respondent must briefly describe the legal theory upon which each defense is based. If a party has an alternative legal theory to support any claim or defense, then also describe that alternative legal theory. Citations to legal authority should be provided when a reasonable person would not understand the theory without those citations.

PARAGRAPH 3c OF APPEARANCE FORM: WITNESSES AND PERSONS WITH KNOWLEDGE OF THE CASE. Each party to this action must identify all persons whom the party intends to call as witnesses at the hearing. Each party must also identify all persons known to have, or believed to have, discoverable information about any claim or defense being presented in this case. In identifying each of those persons, state the name, last known address and phone number, and summarize the information that he or she has or is believed to have.

PARAGRAPH 3d OF APPEARANCE FORM: EXHIBITS AND EVIDENCE RELEVANT TO THE CASE. Each party to this action must identify all documents or other tangible evidence which the party intends to use as an exhibit in the hearing. Each party must also identify all documents or other tangible evidence that are reasonably likely to be relevant to any claim or defense being presented in this case. In identifying each document or other items of evidence, state its last known location and identify the person who has or had possession or control over it.

PARAGRAPH 3e OF APPEARANCE FORM: ADMITTED FACTS. Each party to this action must identify all of the material facts which the party reasonably believes are not disputed by the opposing party.

PARAGRAPH 3f OF APPEARANCE FORM: RELIEF SOUGHT. The charging party must provide a description of the relief (monetary and affirmative relief) that he or she is requesting for each claim presented. The description must include the total amount requested as damages. It must also include the precise manner in which the amount was calculated including the time periods involved, the values assigned to each category of damage, how those values were determined, and a description of the evidence (expert testimony, paid receipt, contract provision, custom and practice, etc.) which charging party intends to present in support of the damage calculation.

PARAGRAPH 4 OF APPEARANCE FORM: PREHEARING MOTIONS. Each party to this action must identify all motions which that party intends to make or expects to make before the hearing.

PARAGRAPH 5 OF APPEARANCE FORM: SIGNATURE AND FILING. Each party to this action, or the party's attorney, must personally sign the appearance and preliminary prehearing statement. You are required to file the original with the Department of Labor and Industry, Hearings Bureau, P.O. Box 1728, Helena, Montana 59624.

OTHER MATTERS

DISCOVERY: To prepare for hearing, you have a right to engage in discovery. The hearing officer will issue an order governing discovery. You should proceed with discovery as soon as possible, however. The standard provisions regarding discovery are available on this web site.

Generally, the investigative file completed by the Human Rights Bureau is not admissible in evidence and will not be part of the record in this case. If you need a copy of the investigative file to assist in your hearing preparation, you must request a copy of the file by writing to the Human Rights Bureau Chief at: P.O. Box 1728, Helena MT 59624. There is a charge of .25 per page for these copies.

DUTY TO SUPPLEMENT: Each party has an ongoing duty to supplement or correct the information contained in the appearance and preliminary prehearing statement in a timely manner if the party learns that the information provided is not complete and correct or is no longer complete and correct.

FILING AND SERVICE OF HEARING DOCUMENTS FOLLOWING THE APPEARANCE AND PRELIMINARY PREHEARING STATEMENT: The parties are required to file an original of all hearing documents in this case. Each hearing document must also be served on all other parties or their counsel and must contain a certificate of service showing that service has been made. Do not file discovery documents with the Hearings Bureau without prior permission.