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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION**

TERI LEA EVENSON-CHILDS,)
DANIEL O'TOOLE, RICHARD)
CHURCHILL, and KEITH LEONARD,)
individually and on behalf of all others)
similarly situated,)

Plaintiffs,)

v.)

RAVALLI COUNTY; STEPHEN)
HOLTON, in his official capacity as)
RAVALLI COUNTY SHERIFF;)
JENNIFER RAY, in her official capacity as)
RAVALLI COUNTY JUSTICE OF THE)
PEACE; JIM BAILEY, in his official)
capacity as RAVALLI COUNTY JUSTICE)
OF THE PEACE; HOWARD RECHT, in)
his official capacity as DISTRICT JUDGE)
FOR THE 21ST JUDICIAL DISTRICT;)
and JENNIFER LINT, in her official)
capacity as DISTRICT JUDGE FOR THE)
21ST JUDICIAL DISTRICT,)

Defendants.)

Case. No. CV 21-89-
M-DLC-KLD

**PLAINTIFFS' RENEWED
MOTION FOR A
PRELIMINARY
INJUNCTION AGAINST
DEFENDANTS HOLTON
AND RAVALLI COUNTY**

Pursuant to Fed. R. Civ. P. 65(a), Plaintiffs Teri Lea Evenson-Childs, Daniel O'Toole, Richard Churchill, and Keith Leonard hereby respectfully move this Court to issue a Preliminary Injunction (1) prohibiting Defendants Holton and Ravalli County from charging any fees associated with the Jail Diversion Program and (2) prohibiting Defendants Holton and Ravalli County from detaining anyone for failure to pay said fees.

In support of this Motion, Plaintiffs rely upon the enclosed Memorandum and accompanying exhibits.

By: /s/ Phil Telfeyan

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By: /s/ Constance Van Kley

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CERTIFICATE OF SERVICE

I hereby certify that on November 18, 2021, I electronically filed the above document with the Clerk of the Court using the ECF System, which will provide electronic copies to the counsel of record.

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**PLAINTIFFS’
MEMORANDUM
IN SUPPORT OF
RENEWED MOTION
FOR A PRELIMINARY
INJUNCTION AGAINST
DEFENDANTS HOLTON
AND RAVALLI COUNTY**

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I. Introduction

In Ravalli County, pre-trial arrestees are treated as guilty until proven innocent. By definition, pre-trial arrestees have not been convicted of a crime, but Defendants Sheriff Stephen Holton and Ravalli County (collectively, “Defendants”)¹ punish pre-trial arrestees by subjecting them to onerous conditions and forcing them to pay exorbitant fees to stay out of jail. For Plaintiffs and putative class members, being in Ravalli County’s “Jail Diversion Program” means losing everything from financial and mental stability to jobs and homes.

To comply with the Jail Diversion Program, pre-trial arrestees must empty their wallets and reorganize their lives. They can face twice-a-day, seven-days-a-week in-person alcohol tests; three-times-a-day, seven-days-a-week at-home breathalyzer tests; 24/7 ankle monitors; drug patches with high false-positive rates; calling in seven days a week for random drug tests; and more. Failure to comply with these conditions can lead to arrest and new criminal charges, even when the failure is not otherwise criminal. Putative class members only face this unusual liability because they are in the Jail Diversion Program. The conditions of this

¹ Although Plaintiffs’ claims against the remaining named Defendants may be relevant for context, injunctive relief is unavailable under § 1983 against a judicial officer acting in their official capacity “unless a declaratory decree was violated or declaratory relief was unavailable.” 42 U.S.C. § 1983. Accordingly, Plaintiffs seek only declaratory relief for their claims against the Defendant judicial officers. *See* Doc. 34. The injunctive relief requested in this motion is limited to Defendants Holton and Ravalli County.

county-wide program also erode existing financial stability while making it exceedingly difficult to find or maintain employment, yet pre-trial arrestees are under constant threat of incarceration for failure to pay.

Defendants' irrational pre-trial scheme is all sticks and no carrots. Pre-trial arrestees have no access to classes, counseling, or other addiction services because Defendants rely exclusively on punishment instead, via mandatory conditions, mandatory fees, and jail. Meanwhile, the conditions and attendant fees push vulnerable pre-trial arrestees into deeper poverty, cause homelessness, and otherwise inflict damage. Despite causing massive destabilization and unconstitutionally depriving pre-trial arrestees of their property and liberty, Defendants persist in operating the Jail Diversion Program. The scheme serves no legitimate government interest and is counter-productive to public safety.

As class representatives, Plaintiffs Teri Lea Evenson-Childs, Daniel O'Toole, Richard Churchill, and Keith Leonard seek a class-wide preliminary injunction to stop Defendants Holton and Ravalli County from treating putative class members as a revenue stream for the county. Specifically, Plaintiffs request a preliminary injunction (1) prohibiting Defendants Holton and Ravalli County from charging any fees associated with the Jail Diversion Program and (2) prohibiting Defendants

Holton and Ravalli County from detaining anyone for failure to pay said fees.²

In support of this motion, Plaintiffs present declarations of nineteen persons, including themselves, who have been subject to Defendants' pre-trial fee scheme.

II. Statement of Facts

Under Montana law, pre-trial release is the default, *see, e.g.*, Mont. Code Ann. § 46-9-106; Mont. Const. art. II, § 21, but Defendants ignore this presumption, instead imposing a money-making pre-trial supervision system called "jail diversion" that treats incarceration as the default. *See* Ex. 1, Sample "Jail Diversion" Order. Plaintiffs and putative class members' experiences (A) illustrate the egregious ways in which Defendants' Jail Diversion Program causes harm. Defendants impose this scheme (B) without regard to pre-trial arrestees' potential indigence, using incarceration to force compliance.

A. Defendants Have Charged Plaintiffs and Putative Class Members Exorbitant Pre-Trial Fees and Jailed Them for Non-Payment, Leading to Job Loss, Homelessness, Mental Health Crises, and Debt

Plaintiffs (i) Teri Lea Evenson-Childs, (ii) Daniel O'Toole, (iii) Richard Churchill, and (iv) Keith Leonard, along with putative class members (v) Tracy Pfau, (vi) Kamila Johnson, and (vi) Zachary Hadley, have suffered and continue to suffer

² While Plaintiffs Evenson-Childs and O'Toole's cases are no longer in pre-trial status, they still serve as class representatives for the injury they experienced, caused by Defendants, during the class period. Which individuals are subject to the Jail Diversion Program is constantly in flux.

under Defendants' pre-trial fees scheme.

i. Teri Lea Evenson-Childs

Plaintiff Evenson-Childs is indigent, has a disability, and has been struggling with homelessness because of the Jail Diversion Program. Ex. 2, Declaration of Teri Lea Evenson-Childs ¶¶ 15–26. Although she posted bail and was ordered released, Defendants, through the Jail Diversion division of the Sheriff's Office, forced Plaintiff Evenson-Childs to pay hundreds of dollars in pre-trial fees before Defendant released her from jail. *Id.* ¶ 5.

While in the Jail Diversion Program, Defendants required Plaintiff Evenson-Childs to blow into a breathalyzer three times a day, every day, seven days a week, at set times. *Id.* ¶¶ 3, 7. Each time, the device shined a light in her face and took her picture. *Id.* Missing a "blow" meant reporting in-person that same day and paying for a drug test, which cost \$35–50. *Id.* ¶ 8. Without having been convicted of a criminal offense, Plaintiff Evenson-Childs was required to repeat the three-times-a-day breathalyzer *for a year and a half*, from April 2020 until September 2021. Ex. 3, Sept. 2021 Declaration of Teri Lea Evenson-Childs ¶¶ 1, 3. Plaintiff Evenson-Childs never had a "hot blow" (positive alcohol test). *Id.* ¶ 3.

Defendant Holton charged Plaintiff Evenson-Childs \$55/month in supervision fees and \$270/month in alcohol monitoring fees, totaling \$325/month in pre-trial fees. Evenson-Childs Decl. ¶ 9. She paid these fees because she feared going back

to jail. *Id.* ¶ 13. In total, Plaintiff Evenson-Childs paid nearly \$6,000 in pre-trial fees — without any criminal conviction. Evenson-Childs Sept. 2021 Decl. ¶ 5.

Paying these fees while on a fixed income, Plaintiff could not afford her own housing and other necessary expenses including food and gas. Evenson-Childs Decl. ¶¶ 15–23. She became homeless and struggled to leave her abusive partner, who used the Jail Diversion Program as leverage over her. *Id.* ¶¶ 14–26.

ii. Daniel O’Toole

Plaintiff O’Toole is indigent. The Jail Diversion Program has pushed him further into poverty, caused him to cycle in and out of jail, and rendered him unable to find and maintain employment. Ex. 4, Declaration of Daniel O’Toole ¶¶ 25–31.

Even after Plaintiff O’Toole had been ordered released and had paid bail, Defendants required that he pay an additional \$600 in pre-trial fees. As a result, Plaintiff O’Toole was forced to remain jailed for an extra week before he managed to gather the money to buy his freedom. *Id.* ¶ 6. On another occasion, Defendants required him to pay an extra \$105 to be released from jail. *Id.* ¶ 21. Defendants repeatedly threatened to jail him for non-payment of pre-trial fees. *Id.* ¶ 28.

While pre-trial fees have introduced an enormous financial burden into Plaintiff O’Toole’s life — at one point costing him approximately \$640/month — the likewise burdensome pretrial requirements have made it extremely difficult for Plaintiff O’Toole to maintain an income to pay for these fees and his other expenses.

Id. ¶¶ 13, 16, 30–31. He has lost jobs because of these requirements, such as having to drop everything and show up in person for a drug test if he missed one of three daily “blows.” *Id.* ¶ 13.

Being in the Jail Diversion Program has even caused Plaintiff O’Toole to pick up a new criminal case. Defendants pressed felony theft charges against him for cutting his alcohol ankle monitor strap earlier this year, even though he returned the device at the time of the arrest. *Id.* ¶ 18.

iii. Richard Churchill

Plaintiff Richard Churchill has been jailed twice for non-payment of pre-trial fees that he cannot afford. Ex. 5, Declaration of Richard Churchill ¶¶ 18–20. When he was first incarcerated for not paying pre-trial fees, Defendants required over \$100 in alleged overdue pre-trial fees before releasing him. *Id.* ¶ 19. On both occasions, Mr. Churchill also paid bail. *Id.* ¶¶ 19–20.

Mr. Churchill is indigent; his only source of income is about \$1,000/month in social security disability payments. *Id.* ¶ 15. He has been charged over \$300/month in pre-trial fees (not including the gas required to go to and from his weekly drug tests), which he cannot afford. *Id.* ¶¶ 12–14. Mr. Churchill was denied testing at a center that accepts Medicaid and Medicare. Instead, he paid \$35–55 per drug test at the Sheriff’s Office or a private drug testing facility, multiple times per week. *Id.* ¶¶ 8–11. He has had to give up his own apartment and move in with a friend. *Id.* ¶ 16.

Being subject to pre-trial conditions and fees has taken a devastating toll on Mr. Churchill's health. He became suicidal due to the stress of the constant threat of being jailed for not paying for fees he cannot afford. *Id.* Making the daily call regarding drug testing has also made it impossible for him to plan or travel, leaving his life in an indefinite holding pattern. *Id.*

iv. Keith Leonard

Plaintiff Keith Leonard is indigent and has disabilities. Ex. 6, Declaration of Keith Leonard ¶¶ 2, 14. He has been in the Jail Diversion Program since January 2021. Mr. Leonard receives about \$700/month in social security disability benefits; Defendants charge him at least \$120/month for twice-daily alcohol tests. *Id.* ¶¶ 10–16. He may not drive, and so must pay to be driven twice a day, seven days a week for his alcohol tests, which costs more than \$500/month in gas. *Id.* ¶¶ 4, 11–12. He has been able to pay pre-trial fees only by going into debt. *Id.* ¶¶ 2, 16.

Like Plaintiff O'Toole, Plaintiff Leonard has also faced new criminal cases resulting from the Jail Diversion Program. He twice “blew hot,” and he was charged with criminal contempt. *Id.* ¶ 17–18. Drinking alcohol is not normally criminal conduct, but it was for Plaintiff Leonard because he is in the Jail Diversion Program. Plaintiff Leonard had to pay bail both times he was arrested on these charges — the result of the Jail Diversion Program — without any criminal conviction. *Id.* ¶ 18.

v. Tracy Pfau

Putative class member Tracy Pfau is indigent, unhoused, and has been in the Jail Diversion Program since May 2021. Ex. 7, Declaration of Tracy Pfau ¶ 3. The Justice Court assigned Plaintiff Pfau to the Jail Diversion Program, requiring pre-trial supervision and alcohol monitoring. *Id.* ¶¶ 4–5. For alcohol monitoring, Mr. Pfau chose twice-a-day, in-person “blow” tests, but Defendants insisted he use the more expensive ankle monitor. *Id.* ¶ 5. Though the court ordered his release, Defendants refused to release Mr. Pfau without an ankle monitor. *Id.*

Defendants next took Mr. Pfau’s money from his jail account, claiming that it would be applied to pre-trial fees. *Id.* ¶ 9. Still unsatisfied, Defendants demanded more than \$1,000 as a “deposit” on the ankle monitor that was not court-mandated *because* he is homeless. *Id.* ¶ 7. While Defendants eventually relented as to the “deposit,” because of these demands based on his homelessness, he spent additional weeks in jail after the court ordered his release and he paid his bail. *Id.* ¶¶ 7–8.

Mr. Pfau only found full-time work as a janitor in August 2021, yet has been required to pay at least \$175/month since May. *Id.* ¶¶ 11, 16, 19. *Twice a day, every day, seven days a week* he must pay \$2 for an alcohol test, on top of the \$55/month he pays in supervision fees. *Id.* ¶¶ 11, 16. If Mr. Pfau misses a “blow,” he must come in-person on the same day and pay for a drug test, which costs \$35. *Id.* ¶¶ 14, 15, 21.

Mr. Pfau is under constant threat of being sent back to jail because he cannot afford these fees. *Id.* ¶¶ 14–15, 26–27. He has had to seek Defendants’ permission

to blow at a later time because his work schedule conflicts with the regular session from 6–8 am. *Id.* ¶¶ 19–20. Even so, Defendants have at least once required him to pay for a drug test (\$35 rather than the \$2 “blow”) when he arrived after 8 am, though he arrived at the agreed-upon time. *Id.* ¶ 21. Mr. Pfau could have housing and a better-paying job in Helena, but Defendants have not granted him permission to move. *Id.* ¶ 25.

The Jail Diversion Program ensures that Mr. Pfau remains unhoused, living out of his van. *Id.* ¶¶ 2, 23, 25, 27. He has fallen behind on child support payments. *Id.* ¶¶ 22–27. Mr. Pfau has been offered no support services — no classes, treatment, or counseling. *Id.* ¶ 26. Nevertheless, he has taken it upon himself to attend Alcoholic Anonymous meetings. *Id.* Meanwhile, Defendants require expensive and burdensome alcohol testing under constant threat of incarceration. *Id.*

vi. Kamila Johnson

Pre-trial incarceration caused putative class member Kamila Johnson to lose her job. Ex. 8, Declaration of Kamila Johnson ¶ 15. Since being released, the Jail Diversion Program has made it impossible to find other work. *Id.* ¶ 16. She must call Jail Diversion five days a week for random drug testing. *Id.* ¶¶ 9–11. On days she will be tested, she must come in person, making a 50-mile round trip from Conner to Hamilton. *Id.* ¶¶ 9–11. Despite having no income, Ms. Johnson pays \$55 per drug test plus the cost of gas. *Id.* ¶¶ 9–11, 15–17. Ms. Johnson has been forced to live

with her parents because she can no longer afford housing. *Id.* ¶¶ 9–11. Recently, her Jail Diversion officer threatened her with arrest if she failed to pay for her next drug test. *Id.* ¶ 13. Ms. Johnson’s mental health has deteriorated because of the Jail Diversion Program; she feels constant anxiety, unable to predict when this ordeal will end or how she will pay for it. *Id.* ¶ 18.

vii. Zachary Hadley

For over a year, putative class member Zachary Hadley has been on twice-a-day, seven-days-a-week alcohol breath tests, *despite not having any positive tests*. Ex. 9, Declaration of Zachary Hadley ¶ 18. His requests to be removed from alcohol testing have been denied. *Id.* Mr. Hadley has been incarcerated for paying pre-trial fees late, even though he cannot afford the fees on his social security disability income. *Id.* ¶¶ 9–11, 15, 17. The Jail Diversion Program has made him less independent; he can no longer afford his own apartment and had to move in with his mother, and he has been unable to supplement his income with other jobs due to Jail Diversion Program conditions. *Id.* ¶¶ 11–12, 19.

B. Defendants Impose Arbitrary Pre-Trial Conditions, Charge Exorbitant Pre-Trial Fees, and Act on Their Threats to Jail Pre-Trial Arrestees for Non-Payment

Defendants (i) impose conditions and fees without findings of guilt, risk assessments, or ability to pay assessments, nor do Defendants have review mechanisms to ensure conditions are appropriate. When pre-trial arrestees inevitably

cannot pay pre-trial fees because of their poverty, Defendants (ii) incarcerate them as a modern-day debtors' prison.

i. Defendants Holton and Ravalli County Charge Fees and Enforce Jail Diversion Program Conditions Without Risk or Ability-to-Pay Assessments

By definition, the Jail Diversion Program and its attendant fees apply only to persons who have not been found guilty of anything. Although pre-trial arrestees are legally innocent, Defendants force them to shoulder the costs of supervision, assessing fees arbitrarily and without regard to ability to pay, risk to the community, or risk of flight.

In charging fees and enforcing pre-trial conditions, Defendants do not consider whether conditions are appropriate or feasible. Defendants require persons prohibited from driving to appear twice a day, seven days a week in person for alcohol testing, no matter where they live. *See, e.g.*, Leonard Decl. ¶¶ 11–12; Hadley Decl. ¶ 6. Defendants impose fees on persons under house arrest who are not allowed to leave, even for work. *See, e.g.*, Ex. 10, Declaration of Michelle Voth ¶¶ 13–19. Regardless of work and other obligations, Defendants require individuals to call daily to see if they have to drug test; if yes, they must drop everything else and test. *See, e.g.*, Johnson Decl. ¶ 16. Defendants do not consider whether pre-trial arrestees are unhoused or have been forced to move in with friends or family to keep up with conditions and fees. *See, e.g.*, Churchill Decl. ¶ 16; Ex. 11, Declaration of Matthew

Turner ¶¶ 2, 21; Johnson Decl. ¶¶ 10, 17; Ex. 12, Declaration of Desiree Evans ¶ 21; Evenson-Childs Decl. ¶¶ 15–18, 22, 25; Hadley Decl. ¶ 12. Defendants do not consider whether pre-trial fees are causing arrestees to fall behind on child support. *See, e.g.*, Pfau Decl. ¶ 22; Evans Decl. ¶¶ 22, 25; Ex. 13, Declaration of Joseph Heinzman ¶¶ 9, 11. Defendants charge fees even when pre-trial arrestees are participating in treatment programs. *See, e.g.*, Ex. 14, Declaration of Roger Sellers ¶ 22; Voth Decl. ¶ 10. Defendants continue to impose conditions even when pre-trial arrestees consistently comply. *See, e.g.*, Evans Decl. ¶ 8; Hadley Decl. ¶ 18; Turner Decl. ¶ 23; Evenson-Childs Sept. 2021 Decl. ¶¶ 3–4; Ex. 15, Declaration of Linda Stewart ¶¶ 9–10. The penalty for non-compliance in every situation is jail. *See* Sample “Jail Diversion Order.”

Defendants Holton and Ravalli County impose these fees on top of bail, but without considering bail amounts already paid when assessing fees. Evenson-Childs Decl. ¶¶ 3–5; O’Toole Decl. ¶¶ 4–6; Pfau Decl. ¶¶ 4–9; Johnson Decl. ¶¶ 4–6; Leonard Decl. ¶¶ 4–10; Churchill Decl. ¶¶ 4–7; Turner Decl. ¶¶ 4–8; Evans Decl. ¶¶ 4–6; Sellers Decl. ¶¶ 4–6; Voth Decl. ¶¶ 3–5; Ex. 16, Declaration of Sandy Sutton ¶¶ 3–4.

Defendants also fail to assess arrestees’ ability to pay and routinely threaten pre-trial arrestees with jail if they do not pay. *See, e.g.*, Evenson-Childs Decl. ¶ 13; O’Toole Decl. ¶¶ 28–29; Evans Decl. ¶¶ 11–13; Johnson Decl. ¶¶ 12–13; Leonard

Decl. ¶¶ 13, 21–22; Turner Decl. ¶¶ 12, 14; Churchill Decl. ¶¶ 14, 18, 21; Sellers Decl. ¶¶ 12, 21; S. Sutton Decl. ¶ 15; Pfau Decl. ¶¶ 13–15, 18; Hadley Decl. ¶¶ 9, 14; Ex. 17, Declaration of Jodi Waliser ¶ 12, 16; Ex. 18, Declaration of Holly Sutton ¶ 12, 14, 16.

Defendants also arbitrarily impose pre-trial conditions not ordered by the court. Defendants mandated a drug patch for putative class member Johnson, which cost \$110, without court authorization. Johnson Decl. ¶ 7. Defendants ordered Plaintiff O’Toole to drug test even though he was not on any drug conditions; when the test came back positive, Defendants obtained a court order to place Plaintiff O’Toole on a drug patch, which costs \$65 every 10 days. Ex. 19, Declaration of Daniel O’Toole Oct. 2021 ¶ 1. Putative class member Talon Goff experienced something similar; after Defendants had him drug test even though he was not on drug conditions, Defendants obtained a court order to have Mr. Goff drug test twice a week, at a cost of \$55/test. Ex. 20, Declaration of Talon Goff ¶ 6. Defendants also impose unauthorized fee “deposits” to release pre-trial arrestees from jail, including unhoused arrestees. *See, e.g.*, Pfau Decl. ¶ 7; Heinzman Decl. ¶ 5.

ii. Defendants Unconstitutionally Imprison Pre-Trial Arrestees, Including Those Who Are Unhoused, Until They Pay Pre-Trial Fees

Plaintiffs Evenson-Childs, O’Toole, and Richard Churchill, and putative class members Tracy Pfau, Zachary Hadley, Matthew Turner, Joseph Heinzman, and

Roger Sellers were all unconstitutionally imprisoned solely because they could not afford pre-trial fees. Evenson-Childs Decl. ¶ 5; O’Toole Decl. ¶¶ 6, 18–21; Churchill Decl. ¶¶ 7, 18–20; Pfau Decl. ¶¶ 7–9; Turner Decl. ¶¶ 7–8; Sellers Decl. ¶ 6; Hadley Decl. ¶¶ 15, 17; Heinzman Decl. ¶ 5. Even after the court ordered their release and they posted bail, they were held in jail because Defendant Holton demanded payment-for-release, and/or they were jailed for falling behind on pre-trial fees they could not afford. Unhoused pre-trial arrestees on certain conditions — including putative class member Pfau — are charged an extra cash “deposit” over a thousand dollars to be released. Pfau Decl. ¶¶ 7–8. Others are charged extra cash “deposits” based on various conditions left to Defendant Holton’s discretion, including non-payment of fees. *See, e.g.*, Ex. 21, Sample Alcohol Ankle Monitor Contract (“I understand Jail Diversion reserves the right to request a cash deposit. . . . Circumstances which may require a deposit could, but is not limited to, include the following: . . . Delinquent Payments (pending circumstances).”

The language of Defendant Holton’s contracts, which class members must sign, impose jail as the penalty for non-payment. *See, e.g.*, Sample Alcohol Monitoring Contract and Ex. 22, Sample Drug Patch Contract (“I understand if I am incarcerated and still affiliated with Jail Diversion [services, I could be held responsible for payments due and *remain incarcerated prior to release until those payments are paid in full.*”) (emphasis added); Ex. 23, Sample 24/7 Sobriety

Program Contract (“**You are required to pay in advance**, or at the time of testing for the PBT [breath alcohol test]. Failure to pay may be considered a violation of your bond condition, and you may be arrested.” (emphasis in original)).

A few months ago, Defendant Holton put up a sign stating that lacking the money to “blow” would result in a violation — meaning individuals could be sent back to jail. Pfau Decl. ¶ 13; Leonard Decl. ¶ 19; Hadley Decl. ¶ 14; Ex. 24, Declaration of Harold Springer ¶ 12.

III. This Court Should Preliminarily Enjoin Defendants from Charging Pre-Trial Fees and Incarcerating Pre-Trial Arrestees for Non-Payment

Plaintiffs’ motion for a preliminary injunction should be granted because (A) Plaintiffs are likely to succeed against Defendants Holton and Ravalli County on the merits of Counts One, Two, Four, Five, Six, and Seven of Plaintiffs’ Second Amended Complaint because Defendants’ scheme violates due process and equal protection; (B) Plaintiffs and other class members will be irreparably harmed without injunctive relief because they will continue to be subject to wealth-based imprisonment, job and income loss, homelessness, and other forms of instability caused by Defendants’ pre-trial fee scheme; (C) Defendants will not be harmed by an injunction because they can still ensure that pre-trial arrestees appear for their court dates and do not pose a safety risk; and (D) an injunction will serve the public interest by stopping Defendants’ criminalization of poverty. *See Doe v. Harris*, 772 F.3d 563, 570 (9th Cir. 2014) (listing factors for a preliminary injunction).

A. Plaintiffs Are Likely to Succeed on the Merits Because Defendants’ Pre-Trial Fee Scheme Exacts Punishment Without Guilt and Criminalizes Poverty in Violation of Plaintiffs’ Due Process and Equal Protection Rights

Plaintiffs are likely to prevail on the merits because Defendants violate their constitutional rights. Defendants’ pre-trial fee scheme unconstitutionally deprives pre-trial arrestees of their property and freedom because, among other reasons, the scheme: (i) exacts punishment without guilt in violation of due process (Counts One and Two) and (ii) criminalizes poverty in violation of due process (Counts Four and Five) and equal protection (Counts Six and Seven).

i. Defendants’ Pre-Trial Scheme Exacts Punishment Without Guilt, Depriving Pre-Trial Arrestees of Their Property Without Due Process

Pre-trial arrestees have a property interest in money paid toward pre-trial fees — often hundreds of dollars per month.³ Evenson-Childs Decl. ¶ 9 (about \$325/month); O’Toole Decl. ¶ 16 (about \$640/month); Evans Decl. ¶¶ 9–10 (about \$380/month); Johnson Decl. ¶ 11 (about \$440/month); Leonard Decl. ¶ 10 (about \$120/month); Turner Decl. ¶ 10 (about \$325/month); Voth Decl. ¶ 7 (about \$380/month); Churchill Decl. ¶ 12 (about \$335/month); Sellers Decl. ¶ 10 (about

³ These fees, exorbitant as they are, are only part of the financial cost of the Jail Diversion Program. For example, pre-trial arrestees routinely spend hundreds of dollars per month in gas transporting themselves to and from alcohol and drug tests. These amounts are never subsidized or reimbursed. *See, e.g.*, Johnson Decl. ¶ 10; Leonard Decl. ¶¶ 11–12; Hadley Decl. ¶ 6; Churchill Decl. ¶ 13; Evans Decl. ¶ 9.

\$325/month); S. Sutton Decl. ¶ 9 (about \$600/month); Pfau Decl. ¶ 16 (about \$175/month); Hadley Decl. ¶ 6 (about \$120/month); Heinzman Decl. ¶ 6 (about \$325/month); Springer Decl. ¶ 6 (about \$230/month); H. Sutton Decl. ¶ 9 (about \$600/month); Goff Decl. ¶ 9 (about \$460/month); Ex. 25, Declaration of Newman Jake Bundy ¶ 8 (about \$350/month). Due process requires that pre-trial arrestees have a meaningful opportunity to challenge deprivations, by a state actor, of their property. *Mathews v. Eldridge*, 424 U.S. 319 (1976).

“Under the *Mathews* balancing test, a court evaluates (A) the private interest affected; (B) the risk of erroneous deprivation of that interest through the procedures used; and (C) the governmental interest at stake.” *Nelson v. Colorado*, 137 S. Ct. 1249, 1255 (2017). Defendants’ pre-trial fee scheme does not withstand the test.

Pre-trial arrestees have “an obvious interest” in their property. *Id.* A state actor may not, consistent with due process, “presume a person, adjudged guilty of no crime, nonetheless guilty *enough* for monetary exactions.” *Nelson*, 137 S. Ct. at 1256. For example, bail payments imposed prior to trial must meet stringent due process requirements. *See U.S. v. Salerno*, 481 U.S. 739, 751–52 (1987). Pre-trial fees are subject to the same constitutional protections because they are also a condition of pre-trial freedom.

Defendants’ pre-trial fee scheme includes no procedural protections, creating great “risk of an erroneous deprivation” of pre-trial arrestees’ property interests.

Mathews, 424 U.S. at 33. First, Defendants impose these fees on pre-trial arrestees, who have not been convicted and are thus legally innocent. Second, Defendants provide no ability to contest these fees. Third, Defendants impose these fees with no end in sight. Unlike bail which, once posted, is satisfied, pre-trial fees remain ongoing until Defendants say otherwise. *See, e.g.*, Evenson-Childs Sept. 2021 Decl. ¶ 4; Hadley Decl. ¶ 18; Heinzman Decl. ¶ 10. This indeterminacy burdens arrestees’ exercise of other constitutional rights, including the right to trial, for example, because going to trial often prolongs the pre-trial phase, increasing the total amount of pre-trial fees. Fourth, pre-trial arrestees are neither credited for fees in cases of ultimate guilt nor refunded where charges are dismissed or an acquittal is obtained. *See, e.g.*, Stewart Decl. ¶ 13; Bundy Decl. ¶ 14. Pre-trial arrestees lack any meaningful opportunity to challenge this government deprivation of their property.

Finally, Defendants have “no interest in withholding . . . money to which [they] . . . ha[ve] zero claim of right.” *Nelson*, 137 S. Ct. at 1257. Defendants unilaterally impose pre-trial fees on legally innocent pre-trial arrestees in violation of their constitutional rights. Defendants have no legitimate claim to pre-trial fees.

Each factor of the *Mathews* test weighs in Plaintiffs’ favor, and the Court should issue a preliminary injunction on Counts One and Two of the Complaint.

ii. Defendants’ Failure to Consider Ability to Pay Violates Due Process and Equal Protection Because It Criminalizes Poverty

Defendants impose baseless pre-trial conditions — which come with exorbitant fees — without considering ability to pay, driving already-indigent arrestees deeper into poverty. The resulting debtors’ prisons deprive pre-trial arrestees of their freedom because they are poor. Defendants know indigent pre-trial arrestees cannot pay these fees because they qualify for a public defender, yet this information is never applied to exempt arrestees from paying fees or considered when Defendants incarcerate arrestees for non-willful non-payment of fees.

Without an exception for indigence, penalties for nonpayment are unconstitutional. *Bearden v. Georgia*, 461 U.S. 660 (1983); *see also Tate v. Short*, 401 U.S. 395, 398 (1971); *Williams v. Illinois*, 399 U.S. 235 (1970); *Griffin v. Illinois*, 351 U.S. 12, 13 (1956).

Because Defendants impose fees and incarceration for non-payment of fees without an indigence exception, their fee scheme is unconstitutional. Fees and incarceration for non-payment amount to wealth-based discrimination and are subject to heightened scrutiny. *See Washington v. Glucksberg*, 521 U.S. 702, 719–20 (1997) (due process clause “provides heightened protection against government interference with certain fundamental rights and liberty interests” such as freedom from detention); *Salerno*, 481 U.S. at 748 (only “compelling” government interests can justify pre-trial detention); *Williams*, 399 U.S. at 241–42 (the “passage of time has heightened rather than weakened the attempts to mitigate the disparate treatment

of indigents in the criminal process”).

“Due process and equal protection principles converge in the Court’s analysis” of cases involving “the treatment of indigents in our criminal justice system.” *Bearden*, 461 U.S. at 664–65. Courts must conduct “a careful inquiry into such factors as” (1) “the nature of the individual interest affected,” (2) “the extent to which it is affected,” (3) “the rationality of the connection between legislative means and purpose,” and (4) “the existence of alternative means for effectuating the purpose.” *Id.* at 666–67. All four *Bearden* factors weigh in favor of finding Defendants’ lack of an indigence exception constitutionally impermissible.

First, the individual interests in the dollar amount of pre-trial fees and in pre-trial freedom are significant. Second, these interests are significantly affected by Defendants’ pre-trial scheme. Pre-trial arrestees are charged exorbitant pre-trial fees, routinely amounting to hundreds of dollars per month. Pre-trial fees alone — excluding other costs of compliance with pre-trial conditions or lost income — regularly amount to a significant percentage of arrestees’ income, particularly for those living on social security disability income and other public programs. *See, e.g.*, Leonard Decl. ¶¶ 10–14 (fees about 17% of income); Hadley Decl. ¶¶ 6, 10 (about 17% of income); Churchill Decl. ¶¶ 12–15 (about 35% of income); Evenson-Childs Decl. ¶¶ 9, 15 (about 40% of income); S. Sutton Decl. ¶¶ 9–10 (about 50% of income); Goff Decl. ¶¶ (about 60% of income). The Jail Diversion Program causes

some pre-trial arrestees to lose income. Evans Decl. ¶¶ 14–17; Johnson Decl. ¶¶ 15–17; Hadley Decl. ¶ 11. These fees massively infringe on pre-trial arrestees’ property interests and livelihoods.

Moreover, the liberty interest in freedom is among the strongest constitutional interests. *See Lee v. City of L.A.*, 250 F.3d 668, 683 (9th Cir. 2001) (“The Supreme Court has recognized that an individual has a liberty interest in being free from incarceration absent a criminal conviction.”). Time that pre-trial arrestees spend incarcerated due to non-willful non-payment of fees can range from days to weeks. *See* Section II.B.ii, *supra*. Even one night in jail constitutes irreparable harm. *See* Section III.B, *infra*. Pre-trial arrestees’ property and liberty interests are significantly affected by Defendants’ scheme.

As to the third *Bearden* factor, Defendants’ scheme does not rationally promote the legislative purpose of pre-trial freedom, which “is to honor the presumption of innocence and to allow a defendant to prepare his case.” *Montana v. Seybert*, 745 P.2d 687, 688 (Mont. 1987). Defendants’ scheme subverts public safety and does nothing to ensure arrestees appear for court. *See* Section III.C, *infra*. Conditions such as 24/7 house arrest prevent work but make no fee accommodation; these conditions are irrational. Voth Decl. ¶¶ 13–19.

Fourth and finally, many alternatives exist that would promote pre-trial freedom. The Hamilton City Court does not use the Jail Diversion Program. If pre-

trial supervision is necessary in certain cases, Defendants must find a way to fund it that does not involve shifting the financial burden onto individual pre-trial arrestees. The federal system shows that pre-trial supervision can be accomplished within constitutional bounds. *See* Section III.C, *infra*. The *Bearden* factors counsel in favor of a preliminary injunction as to Counts Four through Seven of the Complaint.

B. Without a Preliminary Injunction, Class Members Will Suffer Irreparable Harm Because Pre-Trial Fees Are Causing Poverty, Homelessness, Joblessness, and Unconstitutional Incarceration

Without intervention from this Court, Class Members will continue to be charged exorbitant fees that wreak irreparable havoc on their lives. They will remain under threat of detention and will be detained for no reason other than their poverty. Defendants' pre-trial scheme causes irreparable harm and requires urgent relief.

“Freedom from imprisonment — from government custody, detention, or other forms of physical restraint — lies at the heart of the liberty that [the Due Process] Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992) (“Freedom from bodily restraint has always been at the core of the liberty protected by the Due Process Clause from arbitrary governmental action.”). Even one additional night in jail constitutes irreparable harm. *See, e.g., Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012) (unlawful detention constituted irreparable harm); *U.S. v. Bogle*, 855 F.2d 707, 710–11 (11th Cir. 1988) (“unnecessary deprivation of liberty clearly constitutes irreparable

harm”); *Gilman v. Brown*, No. CIV S-05-830, 2011 WL 3163260 at *6 (E.D. Cal. July 25, 2011) (“[P]rolonged incarceration is an irreparable harm.”); *Wanatee v. Ault*, 120 F. Supp. 2d 784, 789 (N.D. Iowa 2000) (“[U]nconstitutional incarceration generally constitutes irreparable harm.”); *SEC v. Bankers Alliance Corp.*, 1995 WL 317586 at *3 (D.D.C.1995) (“As for the question of irreparable harm...clearly Mr. Lee will be harmed by being incarcerated.”); *Lake v. Speziale*, 580 F. Supp. 1318, 1335 (D. Conn. 1984) (unlawful incarceration would be irreparable harm); *Cobb v. Green*, 574 F. Supp. 256, 262 (W.D. Mich. 1983) (“There is no adequate remedy at law for a deprivation of one’s physical liberty.”); *cf. U.S. v. Estrada de Castillo*, 549 F.2d 583, 586 (9th Cir. 1976) (“[I]f a defendant, because of his financial inability to pay a fine, will be imprisoned longer than someone who has the ability to pay the fine, then the sentence is invalid.”).

Each jailing inflicts indignities on Class Members, including intrusive body searches and “crowded, unsanitary, and dangerous living conditions.” *Florence v. Bd. of Chosen Freeholders of Cty. of Burlington*, 566 U.S. 318, 333 (2012) (acknowledging standard jail conditions); *see also* Charles Bolte, *Growing Inmate Numbers Fuel COVID-19 Concerns in Montana’s Already Crowded Jails*, Mont. Pub. Radio (July 24, 2020), <https://www.ypradio.org/2020-07-24/growing-inmate-numbers-fuel-covid-19-concerns-in-montanas-already-crowded-jails> (describing conditions in Montana jails). Then, pre-trial arrestees are invariably charged bail to

be released from jail for alleged violations of pre-trial conditions based on poverty (inability to afford pre-trial fees) or alleged non-compliance with pre-trial conditions that are not inherently criminal. *See, e.g.*, Leonard Decl. ¶¶ 17–18; Hadley Decl. ¶¶ 15–17; Churchill Decl. ¶¶ 18–20. No money is refunded, even where no conviction results. *See, e.g.*, Evans Decl. ¶ 24.

There is no refund for paid fees. There is no compensation for jobs, homes, or health lost. Ms. Evans lost her job and her home, plus thousands of dollars in pre-trial fees, though her case was dismissed. Evans Decl. ¶¶ 14–25. Plaintiff Evenson-Childs became homeless and paid thousands of dollars in pre-trial fees without *once* violating her pre-trial alcohol monitoring condition. Evenson-Childs Decl. ¶¶ 14–24; Evenson-Childs Sept. 2021 Decl. ¶ 5. A preliminary injunction would stop this senseless, ongoing harm.

C. A Preliminary Injunction Will Not Harm Defendants Because Pre-Trial Fees Neither Promote Public Safety nor Ensure Court Appearances

Pre-trial freedom is the default under Montana law, Mont. Code Ann. § 46-9-106, Mont. Const. art. II, § 21, and the purpose of pre-trial freedom “is to honor the presumption of innocence and to allow a defendant to prepare his case.” *Seybert*, 745 P.2d at 688. The Jail Diversion Program does neither. Nor does it promote public safety or ensure pre-trial arrestees will appear for court dates. Defendants have no interest in maintaining an unconstitutional pre-trial fee scheme. *Rodriguez v.*

Robbins, 715 F.3d 1127 (9th Cir. 2013) (Defendants “cannot suffer harm from an injunction that merely ends an unlawful practice.”).

The Jail Diversion Program harms public safety by undermining pre-trial arrestees’ ability to be stable, to stay employed, to pay for their fees and other expenses, and to remain healthy. As a result of the Jail Diversion Program, arrestees have lost jobs, O’Toole Decl. ¶¶ 13, 31; Evans Decl. ¶¶ 14–16; Voth Decl. ¶¶ 6, 16, 19; Hadley Decl. ¶¶ 11; lost business, Turner Decl. ¶ 19; lost their homes and apartments, Churchill Decl. ¶ 16; Turner Decl. ¶¶ 2, 21; Johnson Decl. ¶¶ 10, 17; Evans Decl. ¶ 21; Evenson-Childs ¶¶ 15–18, 22, 25; Hadley Decl. ¶ 12; suffered mental health crises, Churchill Decl. ¶ 21; Voth Decl. ¶¶ 7–9, 19, 23; Johnson Decl. ¶¶ 6, 18; Hadley Decl. ¶ 19; gone into debt, Pfau Decl. ¶¶ 14, 21–22; S. Sutton Decl. ¶¶ 5, 11–12, 14; Leonard Decl. ¶ 16; Evans Decl. ¶¶ 19–22; Bundy Decl. ¶ 9; and struggled to financially support their children, Pfau Decl. ¶¶ 22, 27; Evans Decl. ¶¶ 22, 25; Heinzman ¶¶ 9, 11; Bundy Decl. ¶¶ 9–10; Waliser Decl. ¶¶ 17, 20. Returning pre-trial arrestees to jail during a global pandemic—where social distancing is impossible and outbreaks common—further harms public safety.

Defendants’ punitive pre-trial conditions also fail to aid pre-trial arrestees in obtaining community-based support. Pre-trial arrestees are not offered classes, counseling, mentoring, or treatment on any regular basis. Instead, conditions focus on compliance paired with the threat of incarceration. Some arrestees still seek help,

in spite of Defendants' unhelpful scheme. Turner Decl. ¶ 25; Sellers Decl. ¶¶ 21–22; Pfau Decl. ¶ 26; H. Sutton Decl. ¶ 12.

Courts can impose pre-trial supervision where appropriate, but pre-trial arrestees cannot bear the burden of funding it. Debt, homelessness, and unemployment do not further public safety nor increase the likelihood that pre-trial arrestees will appear in court.

D. An Injunction Serves the Public Interest by Protecting Pre-Trial Arrestees' Constitutional Rights and Stopping Defendants' Criminalization of Poverty

A preliminary injunction will serve the public interest because Defendants' conduct violates the constitutional rights of Plaintiffs and hundreds of putative class members. Preventing constitutional violations is "always in the public interest." *Melendres*, 695 F.3d at 1002; *see also Phelps-Roper v. Nixon*, 545 F.3d 685, 694 (8th Cir. 2008), *overruled on other grounds by Phelps-Roper v. City of Manchester*, 697 F.3d 678, 692 (8th Cir. 2012) ("[T]he public is served by the preservation of constitutional rights"); *Giovani Carandola v. Bason*, 303 F.3d 507, 521 (4th Cir. 2002) (same).

Furthermore, it does not serve the public interest to push already vulnerable individuals into poverty or to criminalize their indigence.

IV. Conclusion

For these reasons, Plaintiffs respectfully request that this Court grant their

Renewed Motion for Preliminary Injunction.

Respectfully submitted,

By: /s/ Phil Telfeyan

Phil Telfeyan
Natasha Baker
Equal Justice Under Law

By: /s/ Constance Van Kley

Constance Van Kley
Rylee Sommers-Flanagan
Upper Seven Law

Attorneys for Plaintiffs

WORD COUNT CERTIFICATION

Per Local Rule 7.1(d)(2)(E), I hereby certify that this memorandum in support of Plaintiffs' motion for a preliminary injunction is composed of 6,363 words, excluding caption, certificate of compliance, table of contents and authorities, exhibit list, and certificate of service, as counted by Microsoft Word's word count feature.

/s/ Natasha Baker
Attorney for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on November 18, 2021, I electronically filed the above document with the Clerk of the Court using the ECF System, which will provide electronic copies to the counsel of record.

/s/ Natasha Baker
Attorney for Plaintiffs

EXHIBIT 1
SAMPLE JAIL
DIVERSION ORDER

Judge: Jennifer A. Ray

Defendant's Name: **Sandy L Sutton**

Defendant's Address: [REDACTED]

Contact Phone #: [REDACTED]

Cause Number: **CR-705-2021-0000071**

Offense: obstructing justice

THIS COURT HEREBY ORDERS THAT:

- Immediately after Hearing Immediately upon Release Prior to Release

You shall participate in the Ravalli County Jail Diversion Program as a condition of:

- Bond or Pretrial Release; or Suspended Sentence or Probation

24/7 Sobriety Program

- Twice daily PAST tests
 SCRAM Cam Bracelet
 Remote Breath

Pre-Trial Supervision with alcohol monitoring

Misdemeanor Probation with alcohol monitoring

GPS

Drug Patch

Urinalysis _____ times per week

Community Service _____ hours; to be completed by _____

Pivot Program; to be completed by _____

You must appear in person at the address stated above. Beginning immediately and continuing until further order of this Court, you must abide by the Program's requirements, comply with all conditions of the Contract for Supervision and you must sign the Release of Information Form.

This Order shall remain in effect until bond is exonerated or until further order of this Court. If you violate any condition of the Jail Diversion Program, you shall be transported to the Ravalli County Detention Center and held without bond until this matter is brought before this Court.

If probable cause exists to believe that a violation has occurred in the presence of a peace officer, the officer is authorized to detain you and transport you to the Ravalli County Detention Center.

Failure to appear on a violation may result in a warrant for your arrest.

3/26/2021

VIDEO ARRAIGNMENT

Defendant

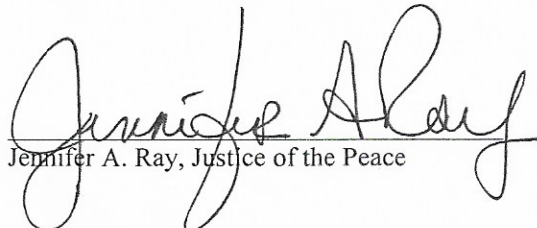

Jennifer A. Ray, Justice of the Peace

EXHIBIT 2

DECLARATION OF

TERI LEA EVENSON-

CHILDS

DECLARATION OF TERI LEA EVENSON-CHILDS

I, Teri Lea Evenson-Childs, state and declare as follows:

1. I am over the age of 18, and I am a resident of Montana.
2. In March 2020, I was arrested and taken to jail related to domestic violence. I now have a criminal case that I have to pay hundreds of dollars in pre-trial fees every month for, which I can't afford. But if I don't pay, I'll be sent back to jail.
3. When I went to court for my arraignment, the judge set a \$30,000 bond and required pre-trial supervision and alcohol monitoring. The judge did not say how much this would cost.
4. I hired Bond Squad to post my bond. I paid \$3,500 out of my tax-refund to hire Bond Squad. Because I am indigent, I would not have been able to afford this amount had I not received my tax-refund around that time. Without my refund, I would have stayed in jail.
5. My bond was posted on a Friday in April 2020, but the jail would not release me until the following week because Pre-Trial Services had to locate someone to put a SCRAM alcohol monitoring device on my ankle before I was released. I was required to pay the first month of fees before I was released, even though this was the first time I was told that there would be any cost for pre-trial

supervision and alcohol monitoring. My daughter went to the Pre-Trial Services office to pay the fees so that I could be released.

6. After about a week on the ankle monitor, Pre-Trial Services switched me to the SCRAM breathalyzer device, which costs \$270 per month.

7. I am required to blow into the breathalyzer device three times a day at 9am, 3pm, and 9pm.

8. If I miss a “blow,” I have to come in person to do a urine analysis, which I have to pay for, and which costs \$35–50 each time. I was told that if I miss a “blow” and don’t do the urine analysis, I would go back to jail.

9. Every month, I am required to pay \$55 in pre-trial supervision fees and \$270 in alcohol monitoring fees, totaling \$325 per month in pre-trial fees (not including any fees I would have to pay for urine analysis).

10. To pay my fees, I call the sheriff’s office and pay with a debit card. I am charged a 3% transaction fee for paying with a debit card, but I prefer to pay by debit card because the alternatives are either to go in person to the Pre-Trial Services office (which is only open during normal business hours and will cost extra money for transportation) or to mail a money order, and I fear the money order getting lost in the mail, which is a risk I can’t take because I would be sent back to jail.

11. I have been paying pre-trial fees since April 2020 because my case is still in pre-trial status over a year after my arrest. My trial is currently scheduled for later this month. Because I have asserted my constitutional right to a trial, I have been forced to remain on pre-trial conditions for longer, exacting an enormous financial and emotional toll on me.

12. My public defender has attempted to have my pre-trial fees reduced due to financial hardship, but the only response she has received is that \$55 per month is the lowest fee possible for supervision fees and that alcohol monitoring fees cannot be reduced.

13. To this day, I continue to pay pre-trial fees out of fear of going back to jail. Even if I can't make the full payment amount (I am about \$200 behind on pre-trial fees), I pay whatever I can to avoid going back to jail.

14. This case and the financial burden of these fees have made it extremely difficult for me to leave an abusive relationship related to my case and get on my feet.

15. My only consistent sources of income are disability benefits, which amount to approximately \$750 per month, and food stamps, which are approximately \$88 per month.

16. My essential living expenses routinely exceed my monthly income. I pay approximately \$300 per month for my car payment, \$400–500 per month for

car insurance, and \$55 per month for my cell phone. That alone consumes my income, without considering food, housing, and other necessary and essential expenses.

17. Since this case began, I have been bouncing from place to place, staying at my abuser's home, friend's couches, shelters, my car, motels, and campgrounds.

18. I cannot find stable housing because of my ongoing case and pre-trial fees. I cannot afford any weekly hotel rentals and no apartments will rent to me with my pending criminal charges, which are showing up in background checks.

19. For about a month from late June 2021 to mid-July 2021, I was living at various camp sites in the Lolo Hot Springs area with my daughter and granddaughter. It was the only housing we could find. Campsites range in cost from \$7.50 to \$27 per day and vary as to whether they offer showers. To live on a campground, I had to spend about \$20/week for propane, \$40–50/week for wood, \$5/day for ice, and \$100–125/week on food.

20. At the campsites, we did not have regular access to showers and there was inconsistent cell phone reception. Since the campsites do not have electricity, every day I had to scramble to find a place to charge the breathalyzer, which could be at the Lolo Hot Springs truck stop, a McDonald's, a friend's house, or wherever else I could find an outlet to use.

21. I was offered a part-time job at Missoula Textiles through LaborMAX Staffing company, which pays \$13.25/hour, but I could not afford the commute. From the campsites we were living at, it's more than 60 miles round trip and it costs me about \$45 to fill up my gas tank.

22. I have now found some part-time work at a hotel in Great Falls paying \$12/hour, but I still do not have enough money to pay for stable housing. I continue to couch surf and sometimes can spend the night in a motel. I am now several hours outside of Ravalli County, making it difficult for me to attend court hearings and to be near my family.

23. I am constantly trying to stabilize myself for the sake of myself and my family, but the financial and emotional burden of this case make it very difficult.

24. I want to leave the abusive relationship I am in. But being on pre-trial monitoring makes it very difficult. Not only am I unable to secure my own housing because of this ongoing case and pre-trial fees, but my boyfriend also uses the fact that I am on pre-trial monitoring to control me. He threatens to call Pre-Trial Supervision if I do not do exactly as he demands. Sometimes he will tell me to come stay with him or he will report me, and then he kicks me out. This case has given him more power to control and scare me, making it harder for me to walk away once and for all.

25. Having the \$325 per month that I spend on pre-trial fees would allow me to afford to stay in a hotel in or near Missoula so that I can then secure work to make enough income to cover my expenses. Having the \$325 per month that I spend on pre-trial fees would mean that I could properly house my family and be able to better walk away from this abusive relationship.

26. Pre-Trial Services has provided me with no resources to help me get back on my feet and out of the abusive situation I am experiencing. I would prefer classes and support, but instead I am being criminalized and kept in poverty, which is making it extremely difficult for me to leave an abusive situation and provide for myself and my family. I would be in a much better position to leave this abusive relationship if I had the money that was currently going into pre-trial fees so I could move into stable housing. Pre-trial fees are keeping me in a cycle of abuse because I cannot afford to properly house myself and my family and being on pre-trial gives him power to threaten me.

I declare under penalty of perjury that the statements above are true and correct.

Executed on this 6th day of August, 2021, in Missoula, Montana.

Teri L Childs - Evenson

Teri Lea Evenson-Childs

EXHIBIT 3

DECLARATION OF

TERI LEA EVENSON-

CHILDS SEPT. 2021

SEPTEMBER 2021 DECLARATION OF TERI LEA EVENSON-CHILDS

I, Teri Lea Evenson-Childs, state and declare as follows:

1. I was on pre-trial supervision in Ravalli County from April 2020 to September 2021.
2. I took a plea in my case in September 2021.
3. During the year and a half that I was on pre-trial supervision — which involved blowing into a breathalyzer three times a day at set times — I never “blew hot,” meaning I never had a positive alcohol test.
4. On two occasions, I asked my judge to remove me from alcohol monitoring, given my compliance. On the first occasion, I was denied. On the second occasion, the judge said my only option was to switch to in-person drug testing, which would cost even more than the breathalyzer.
5. While on pre-trial supervision, I paid nearly \$6,000 in pre-trial fees.

I declare under penalty of perjury that the statements above are true and correct. Executed on
9/28/2021, in Cascade county, Montana.

DocuSigned by:
Teri L. Childs
A83DE81D338E44A...

Teri Lea Evenson-Childs

EXHIBIT 4
DECLARATION OF
DANIEL O'TOOLE

DECLARATION OF DANIEL O'TOOLE

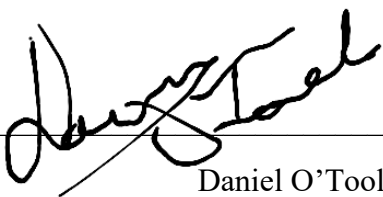
I, Daniel O'Toole, state and declare as follows:

1. I am over the age of 18, and I am a resident of Montana.
2. I have been subject to pretrial fees in Ravalli County for years. I even have a criminal case because of being on pretrial supervision in another case. I cannot afford these fees, yet I pay them as best I can because I am constantly threatened with being sent back to jail if I do not pay.
3. In October 2018, I was arrested on a domestic violence matter, which I later pleaded guilty to in September 2020 (one misdemeanor count of PFMA).
4. When I went to court for my arraignment, the judge set bail at \$2,500 and required pre-trial supervision and a drug patch. The judge did not say how much this would cost.
5. I hired Bond Squad to post my bail. My family posted the bail of \$1,000 for me because I could not afford it.
6. Before Pre-Trial Supervision would release me from the jail, Pre-Trial Supervision told me that I would need to pay \$800 towards pretrial fees. It was later reduced to \$600, but I spent an extra week in jail while I gathered the money to pay these fees.
7. On this first PFMA case, I was charged \$105/month in supervision fees and \$65 for the drug patch every 10 days, so I was charged \$300 total every 30 days.
8. I paid approximately \$3,000 in fees over the course of this case (my first PFMA case).
9. In October 2020, I was arrested on a separate domestic violence matter, which I later pleaded guilty to in May 2021 (one misdemeanor count of PFMA).
10. When I went to court for my arraignment, the judge set bail and required pre-trial supervision and alcohol monitoring. The judge did not say how much this would cost.
11. I hired Bond Squad to post my bail. My family posted bail for me because I could not afford it.
12. I was initially required to use a SCRAM breathalyzer device, which required that I blow into it three times a day. However, this device cost around hundreds of dollars to set up. I did not have the money, so I was first required to go to the Sheriff's Office twice a day to "blow" at a cost of \$4/day (7 days/week) until I could get the money together for the SCRAM breathalyzer device.

13. Once I was on the breathalyzer device, I missed a few blows because of being at work. My pretrial supervision officer would require me to report in person that very same day as the missed blow and pay for a drug test (which cost \$35 each), which I could not do and keep my job.
14. I was eventually switched to an alcohol ankle monitor instead of the breathalyzer.
15. The alcohol ankle monitor costs approximately \$390 per month and supervision costs \$55/month when you're also on an alcohol ankle monitor, so I was charged approximately \$445 every month.
16. In late 2020/early 2021, I failed a random drug test, so I was required to also have a drug patch, which costs \$65 every 10 days. So now with supervision (\$55/month), the ankle monitor (\$390/month), and the drug patch, I was charged approximately \$640 every month.
17. In this case (my second PFMA case), I paid approximately \$2,000 in fees over the course of the case.
18. In February 2021, I cut the strap off of my ankle alcohol monitor. I was later charged with felony theft and taken to jail, even though I returned the device at the time of my arrest.
19. When I went to court for my arraignment in the felony theft case, the judge initially set bail at \$2,500. I was also required that I be on the same pretrial conditions as I was for my second PFMA case, but by the time I was released, I had pleaded guilty in my second PFMA case, so there were no remaining supervision conditions. So, for my felony theft case, pretrial supervision was my (only) condition. The judge did not say how much this would cost.
20. I hired Bond Squad to post my bail. My family paid for me because I could not afford it.
21. Before Pre-Trial Supervision would release me from the jail, Pre-Trial Supervision told me that I would have to pay \$1,200 in pretrial fees first, which was what my balance was from my second PFMA case. They did not ask if I could afford the fees. However, because I pleaded guilty to my second PFMA case before I was released, there was no more pretrial fees balance for that case. Instead, Pre-Trial Supervision charged me about \$105 to be released, which is the cost of one month of supervision fees.
22. In this latest case (the felony theft case), I am charged \$105/month in supervision fees.
23. I have paid nothing in supervision fees because I cannot afford them.
24. Throughout all of my cases, I have had to pay for some drug tests, too, which cost \$35 each.

25. I have gone back to jail many times because of pretrial supervision. Most recently, I went to jail in August 2021 because my pretrial officer, Shane Fisher, wrongly stated that I missed a phone-call check-in with her. I had called at the appointed date and time, which was around June 20th, but she did not answer. I left voicemails for her. She called me back on July 7th and said that if I did not show up to her office by 4:30pm that day (which was within a few hours of her call), she would report me as absconding. I did not get the message until the next day as I was working at the time she called.
26. As I was working with my public defender and the prosecutor on a plea deal, the prosecutor did not initially put out a warrant for my arrest based on this one meeting that my pretrial officer wrongly claimed I missed. However, he later did issue the warrant and I went to jail — all because my pretrial officer wrongly reported me for one missed check-in (which I did not miss).
27. Almost every time I am jailed, even if it is just on alleged violations of pretrial supervision conditions, the court imposes bail.
28. My pretrial officer regularly threatens to send me back to jail. When I met with her on August 9, 2021, she told me that if I did not pay \$200 in pretrial fees by my next check-in appointment, she would file a report to send me back to jail.
29. At no point has Pre-Trial Supervision asked me if I can pay these fees.
30. I cannot afford these fees. I have qualified for a public defender in each of my cases. It is impossible for me to hold down a job and comply with Pre-Trial Supervision's requirements and having to go back to jail constantly. I live with my girlfriend and she has financially supported me throughout this, in addition to family help.
31. I have lost out on many job opportunities because of being on pretrial supervision. For example, I was working at Euphoria Wellness in early 2020, but lost my job because I was sent to jail after failing drug tests through the drug patch I was required to wear. I pick up odd jobs here and there when I can, but it isn't consistent or sustainable because I am on pretrial supervision and cycling in and out of jail as a result.
32. I would not have pleaded guilty in my first and second PFMA cases — and would have instead exercised my right to trial — were it not for pretrial supervision and the financial and emotional toll that pretrial supervision has taken on my life.

I declare under penalty of perjury that the statements above are true and correct. Executed on this 12th day of August, 2021, in Missoula, Montana.



Daniel O'Toole

EXHIBIT 5
DECLARATION OF
RICHARD
CHURCHILL

DECLARATION OF RICHARD CHURCHILL


I, Richard Churchill, state and declare as follows:

1. I am over the age of 18, and I am a resident of Montana.
2. I have been on pre-trial supervision in Ravalli County since the end of last year, with currently no end in sight to how long I am going to continue to be subject to supervision even though I haven't been found guilty of anything. Pre-trial supervision has taken an enormous financial and emotional toll on me. I am disabled and have had to go into debt and move out of my apartment to afford pre-trial fees. The stress of pre-trial supervision has led me to contemplate suicide.
3. In December 2020, I was arrested for traffic violations and possession of drugs (for which I had a prescription).
4. When I went to court for my arraignment, which was by video conference in the jail, the judge set bail at \$1,000 and required pre-trial supervision and at least twice-weekly drug testing (urine analysis, or UA). The judge did not mention anything about cost.
5. I could not afford my bail, so I hired Lucky Bond to post my bail.
6. Before I left the jail, Pre-Trial Supervision required me to sign contracts. It was very confusing and I wasn't given a choice of whether to sign. I understood that if I did not sign, I would not be released from jail.
7. Pre-Trial Supervision also required me to pay around a few hundred dollars in pre-trial fees before they would release me, saying it was to cover the cost of setting up the UA's. This was the first time I heard that pre-trial supervision would cost money.
8. For the first few months of pre-trial supervision, I had to do my UA's at the Sheriff's Office. I was tested 2-3 times a week, at a cost of \$55/each. I was required to call the Sheriff's Office every day, Monday through Friday, to see if I would have to test that day. If I called and was told that it was my testing day, I would have to show up the same day and pay before getting tested. The Sheriff's Office allows payment in cash or debit/credit card and the only way I was able to pay for my tests was to go into credit card debt, which I still have until this day.
9. I couldn't afford these fees so through my public defender, I was able to get switched to Western Montana Mental Health Center to do my UA's, which are covered for those on Medicaid or Medicare, which includes me.

10. I went to Western Montana Mental Health Center for a few months, but then my judge said that he didn't like how the Center did the testing, so I was then sent to a private company called Compliance Monitoring that charges \$35 per UA.
11. I have been testing with Compliance Monitoring since July 2021, and with Compliance Monitoring, I have to call every day seven days a week to see if I have to test that day. If I call and am told that it's my testing day, I have to show up the same day and pay in cash before getting tested.
12. I am also charged \$55/month in supervision fees, so with that plus at least two UA's a week at a cost of \$35/each, I am charged at least \$335/month in pre-trial fees.
13. To do the UA's, I normally have to drive about 50 miles each way, or about 100 miles roundtrip, from Missoula to Hamilton, which costs me \$20–30 each trip in gas.
14. I can't afford these fees and no one asked me if I could afford these fees.
15. I am disabled and my only source of consistent income is social security disability payments, which are about \$1,000/month.
16. I used to rent my own place for \$350/month plus \$100/month in utilities, but because of pre-trial fees, I could no longer afford to live on my own. I had to move out of my apartment and move in with a friend.
17. Because I can't afford pre-trial fees, I've started going to a methadone clinic once a week to get drug testing because Medicare and Medicaid cover once test per week. I'm unsure if Pre-Trial Supervision and the court will accept these tests.
18. I have been arrested twice since being on pre-trial supervision because I can't afford these pre-trial fees.
19. In February 2021, I was arrested for not paying for my drug tests. I actually turned myself in because I had heard there was a warrant out for my arrest. To get out of jail, I had to pay \$200 in bail plus \$110 to Pre-Trial Supervision, because Pre-Trial Supervision claimed I owed \$110 in overdue supervision fees.
20. In August 2021, I was arrested again and told that there was a warrant out for me for contempt because I was not paying for my drug tests. I was taken to jail and had to pay \$400 in bail to get out. I was only able to afford to bail out because I borrowed money from a friend.
21. Since I have to call in every day to see if I have to drug test that day, I can't make plans and I can't travel. My life is stuck in a holding pattern. I feel constantly on edge, wondering

when I'm going to be taken back to jail because I can't afford pre-trial fees. A few months ago, I was suicidal, as I felt my life spiraling out of control because of pre-trial supervision. I would likely be homeless right now if I didn't have a friend who took me in.

I declare under penalty of perjury that the statements above are true and correct. Executed on
9/14/2021, in Missoula, Montana.

DocuSigned by:

99FAFB0841054B5

Richard Churchill

EXHIBIT 6
DECLARATION OF
KEITH LEONARD

DECLARATION OF KEITH LEONARD

I, Keith Leonard, state and declare as follows:

1. I am over the age of 18, and I am a resident of Montana.
2. I have been on pre-trial supervision in Ravalli County for months. I am indigent and disabled. I have picked up two new criminal cases because of being on pre-trial supervision. The only way that I have not become homeless because of pre-trial supervision is because I've gone into debt.
3. In January 2021, I was arrested for a DUI.
4. When I went to court for my arraignment, the judge set bail at \$10,000, prohibited me from driving, and required pre-trial supervision and alcohol monitoring. The judge did not say how much this would cost.
5. Before I left the jail, Pre-Trial Supervision required me to sign contracts for the 24/7 Sobriety Program and supervision. I was not given a choice of whether to sign. I understood that if I did not sign, I would not be released from jail.
6. The 24/7 Sobriety Program contract I was forced to sign says, in bold letters, that if I miss an alcohol test or if I test positive, I will go to jail. The contract also says I have to pay in advance for the tests and if I don't, it may be considered a violation and I may be arrested.
7. I was only released from jail because my sister posted my bail, in the amount of \$1,000 plus she put up her house as collateral.
8. When I was first released, I was on supervision plus twice-daily, in-person alcohol testing ("blows") at the Sheriff's office.
9. For a short period of time, I was switched to twice-weekly drug tests, at \$35/test.
10. Now I am back to the twice-daily, in-person alcohol tests. Every day, seven days a week, I have to go between 6–8am *and* 5–7pm to the Pre-Trial Supervision office to "blow." Every test costs \$2, so I have to pay \$120 every 30 days.
11. I cannot drive, so I have to find someone to take me to these twice-daily, every day alcohol tests. I pay approximately \$140/week or \$560/month to cover the cost of transportation of these rides.
12. Between the cost of the alcohol tests (\$120/month) and the cost of transportation to and from the tests (\$560/month), I pay approximately \$680/month to comply with pre-trial supervision.

13. I cannot afford pre-trial fees, yet no one has asked me if I could afford them.
14. I am disabled and my only steady source of income is social security disability benefits, which are about \$700/month. I sometimes can find odd jobs to bring in additional income.
15. I own an RV and rent a spot in an RV park for \$440/month. I have to buy my own propane, which comes out to about \$50/month.
16. The only way I can afford to pay my pre-trial fees and not become homeless is by overdrafting on my bank account several hundred dollars every month and then paying the overdraft fee when I can.
17. Being on pre-trial supervision has pulled me further into the criminal legal system. On two separate occasions, I "blew hot," meaning I had a positive alcohol test. For each occasion, I was charged with criminal contempt.
18. On each of those occasions, I was jailed and had to post bail (\$100) to be released.
19. At one point recently, the Pre-Trial Supervision office posted a sign on their door saying that if you didn't have the money to pay for the alcohol test, you would be violated (meaning they would report you to the court to send you back to jail). They took it down a few days later.
20. I receive my disability benefits on the first of each month. I pay about \$40 in cash at the beginning of the month to Pre-Trial Supervision to cover my fees and I pay more when I can.
21. I pay my fees out of fear of being sent back to jail, despite the financial and emotional toll that pre-trial supervision has taken on my life.
22. At no point were any services offered to me to help me, such as classes, treatment, or counseling. All that the court system and Pre-Trial Supervision have offered is alcohol testing, which I must pay for under threat of being sent back to jail.

I declare under penalty of perjury that the statements above are true and correct. Executed on

Aug. 21, 2021, in Hamilton, Montana.



Keith Leonard

EXHIBIT 7
DECLARATION OF
TRACY PFAU

DECLARATION OF TRACY PFAU

I, Tracy Pfau, state and declare as follows:

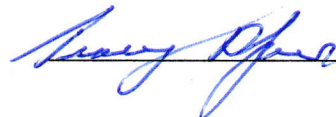
1. I am over the age of 18, and I am a resident of Montana.
2. I have been on pre-trial supervision in Ravalli County for months. I am homeless and I was kept in jail longer because I'm homeless. Pre-trial supervision has taken an enormous financial and emotional toll on me. Because of pre-trial supervision, I have fallen into debt and have struggled to get better-paying jobs that would allow me to no longer be homeless.
3. In May 2021, I was arrested and charged with a DUI. I have yet to be convicted of anything.
4. When I went to court for my arraignment, which was by video conference in the jail, the judge set bail at \$1,000 and required pre-trial supervision and alcohol monitoring.
5. The judge gave me three choices for alcohol monitoring: an ankle monitor, a remote breathalyzer, or twice-a-day in-person testing. I picked the cheapest one (the twice-a-day in-person testing) because I had lost my job while in jail and I was (and remain) homeless. However, Pre-Trial Supervision insisted I be on the ankle monitor, which was more expensive, and put one on my ankle before releasing me. My public defender was able to get Pre-Trial Supervision to switch me to the in-person testing a few days after my release.
6. I hired Lucky Bond to post my bail. I had to pay Lucky Bond \$100.
7. Even though I had posted bail, Pre-Trial Supervision refused to release me because I am homeless (I have no physical address) and because I was homeless, I was going to have to pay a \$1,500–\$1,800 deposit for the alcohol ankle monitor before Pre-Trial Supervision would release me. I couldn't afford this deposit.
8. My public defender eventually worked something out so that I could get released without having to pay the deposit, but I ended up spending weeks in jail because of Pre-Trial Supervision.
9. Before Pre-Trial Supervision released me, they also took all of the money I had on the books (about \$1,000) and applied it to pre-trial fees.
10. Before I left the jail, Pre-Trial Supervision also required me to sign contracts. I wasn't given a choice of whether to sign. I understood that if I did not sign, I would not be released from jail.

11. Since my release, I am required to show up every day, twice a day, seven days a week to “blow,” meaning to test my blood alcohol level. I have to show up between 6–8am and 5–7pm every day. Monday through Friday I have to go to the Sheriff’s Office and Saturday and Sunday I have to go the lobby of the jail to test. Each test costs \$2, or \$4/day, about \$120/month.
12. I have to pay for these tests, but I don’t always have the money.
13. Recently, Pre-Trial Supervision put up a sign on their office saying that if you couldn’t pay, you couldn’t blow, which meant they would violate you and send you back to jail. They later took down the sign.
14. On a few occasions, Pre-Trial Supervision has required me to also do drug testing (UA’s), which cost \$35/each. When I’ve had to do that, I have borrowed money to cover the cost because I didn’t want to go back to jail for not paying.
15. Just last week, I was unable to make the morning “blow” because my ride home from work (I work the graveyard shift) was having car issues. I called Pre-Trial Supervision and was told that I had to come in as soon as I could and pay \$35 for a UA. I didn’t have the money, though, and was afraid that I would be violated and sent back to jail. Pre-Trial Supervision gave me a week to pay for it or they will violate me.
16. I am also charged \$55/month in supervision fees, so every month I am charged at least \$175 in pre-trial fees (about \$120 for blows and \$55 in supervision).
17. I pay my pre-trial fees whenever I can, sometimes \$20 at a time when I get paid through work.
18. I can’t afford these fees, but no one has asked me if I can afford them.
19. About four weeks ago, I got my first full-time job since this case started back in May. I now work as a janitor on the graveyard shift. I make \$12/hour, or about \$1,920/month pre-tax. I sleep during the day, in between my twice-daily alcohol tests.
20. I had to get permission from Pre-Trial Supervision to test between 9am–10am because I don’t get back into Hamilton from my job until around 9am.
21. However, Pre-Trial Supervision doesn’t always honor our arrangement that allows me to keep my job. This week, when I arrived to do my morning blow, I was told that I had to be there by 9am and would have to do a UA because I was late. I didn’t have the money and now I am in even further debt with Pre-Trial Supervision.

22. I need a cellphone for work and that costs me about \$140/month, but sometimes more in late fees as I try to juggle my various expenses. I also have child support payments of about \$180/month, but pre-trial fees have put me behind on payments, so I can't see my daughter.
23. I am homeless and live out of my van.
24. I don't eat much and will largely rely on fast food when I do have money to spare.
25. I have the opportunity to have a place to live and better pay if I move to Helena with my job, but I need Pre-Trial Supervision's permission to do so and so far, they haven't given it.
26. I have not been offered any services to help me, such as classes, treatment, or counseling. The only person who has offered me anything helpful has been my public defender, who put me on the waitlist for a program. I've been going to Alcoholics Anonymous meetings on my own. All that the court system and Pre-Trial Supervision have offered is alcohol testing, which I must pay for under threat of being sent back to jail.
27. This case is making it so much more difficult for me to get on my feet. I want to move out of my van and catch up on my child support so I can see my daughter. I want to be able to make plans and not live under constant threat of jail. But as long as I'm on Pre-Trial Supervision, I can't get on my feet.

I declare under penalty of perjury that the statements above are true and correct. Executed on

September 2, 2021, in Missoula, Montana.



Tracy Pfau

EXHIBIT 8

DECLARATION OF

KAMILA JOHNSON

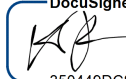
DECLARATION OF KAMILA JOHNSON

I, Kamila Johnson, state and declare as follows:

1. I am over the age of 18, and I am a resident of Montana.
2. I am on pre-trial supervision in Ravalli County and being on pre-trial supervision has taken an enormous financial and emotional toll on me.
3. In July 2021, I was arrested on drug charges.
4. When I went to court for my arraignment, which was by video conference in the jail, the judge, Judge Ray, set bail at \$2,500 and required that I do twice-weekly drug testing (UAs). The judge did not say how much this would cost.
5. My dad paid for my bail through a bail bond company so that I could be released, though both my dad and mom live on a fixed income (social security and disability).
6. Before I left the jail, Pre-Trial Supervision required me to sign a contract for drug testing. I was not given a choice of whether to sign. Having to sign the contract made me extremely anxious, but I understood that if I did not sign, I would not be released from jail. In signing the contract, it was also the first time I learned that these drug tests were going to cost money.
7. Once released, I did two UAs (which cost \$55/each) and then Pre-Trial Supervision told me I had be on a drug patch, even though the court had not ordered it. I was charged \$110 for the drug patch.
8. At my next court hearing, I was able to get off the drug patch and go back to the twice-weekly UAs.
9. For the twice-weekly UAs, I have to call every day, five days a week and see if I have to drug test that day. Each drug test costs \$55 and I have to pay before getting tested.
10. Because of this case, I moved back in with my parents in Conner, Montana, and it's about 25 miles away from the testing center in Hamilton, Montana. If I have to drug test that day, I have to scrounge up a ride and cover gas, which is usually \$20–30 for each trip. I live my life on hold and can't make plans nor hold down a job with these random drug tests.
11. I have to pay \$55 for each test, two times a week, so about \$440/month, plus gas to get to and from the drug tests, which costs about \$160–240/month.
12. I can't afford the fees and the related expenses, but no one has asked me if I can afford them.

13. Pre-Trial Supervision Officer Shane Fisher has told me that if I don't pay, I will be violated and be sent back to jail. Just this week, Officer Fisher told me that if I don't pay the \$55 fee for my next drug test, I will be arrested.
14. So far, I have been charged about \$770 in pre-trial fees in less than two months, even though I can't afford the fees and thus haven't been able to pay the fees.
15. Right now, I have no income. I was fired from my job while I was incarcerated on this case because jail staff refused to let me call my employer and notify them of my situation.
16. I still haven't found other work and having to be on call for twice-weekly drug tests involving a 50-mile round trip makes it extremely difficult for me to find anything. I also fear that employers are turning me away because my name appears on the jail roster, even though I haven't been convicted of anything and this is my first time having any contact with the criminal system.
17. Prior to my arrest, I was living with my partner in Hamilton, but since then, I have had to move in with my parents in Conner or stay with friends in Hamilton. Otherwise, I would be homeless because I have no income and can't afford rent.
18. Because of Pre-Trial Supervision, I feel constant anxiety. It has been hell for my mental health. I feel like I'm in purgatory, trapped and unable to get on my feet. Every time I go in for a drug test, I fear being sent back to jail. Pre-trial supervision is keeping me in poverty. I don't know how long I will be on pre-trial supervision and I feel like I'm being punished before being found guilty of anything.

I declare under penalty of perjury that the statements above are true and correct. Executed on
9/14/2021, in Conner, Montana.

DocuSigned by:

350449DC85424A5

Kamila Johnson

EXHIBIT 9

DECLARATION OF

ZACHARY HADLEY

DECLARATION OF ZACHARY HADLEY

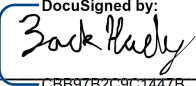
I, Zachary Hadley, state and declare as follows:

1. I am over the age of 18, and I am a resident of Montana.
2. I have been on pre-trial supervision in Ravalli County since August 2020. Pre-trial supervision has taken an enormous financial and emotional toll on me.
3. In July 2020, while driving in Ravalli County, I was run off the road and my car rolled down a mountain. I was able to free myself from the car and I called the police for help. Instead of helping me, the police arrested me when they arrived. I was taken to the jail but immediately released. About a week later, I received a copy of my charges in the mail, which included a DUI.
4. When I went to court for my arraignment, the judge, Judge Bailey, required alcohol monitoring. The judge did not mention anything about cost.
5. Only when I later went to the Pre-Trial Supervision office to start alcohol monitoring did I learn that it would cost me money.
6. Every day, twice a day, I have to go in person to take a breath alcohol test between 6–8am and 5–7pm. Every test cost \$2, or \$120 every 30 days. My driver’s license is currently suspended, so I have to get rides for every test. It costs me about \$5/day in gas to cover the cost of others driving me to and from these twice-daily tests. I often see people walking to take their tests, so I will offer them a ride when I can. So, between the cost of the tests themselves and the gas to get to and from the tests, I spend about \$270/month.
7. If I leave the area and cannot “blow,” such as on a few occasions when I’ve gone camping, I have had to rent a breathalyzer device, which costs \$9/day and I have to blow into it three times a day.
8. Earlier this year, I went to Pre-Trial Supervision to rent a breathalyzer device to take with me on a camping trip, but I was told I was too late to rent the device so I would instead have to take and pay for a drug test (UA) after the weekend upon my return. The UA costs \$35 and Pre-Trial Supervision still required me to take – and pay for – the \$2 breath test in addition to paying for the UA.
9. I qualified for a public defender and I cannot afford pre-trial fees, yet no one has asked me if I can afford them.

10. My only consistent source of income is social security disability income, which is less than \$700/month.
11. I sometimes do odd jobs to supplement my income, but I have lost multiple jobs as a result of having to test twice a day, seven days a week for pre-trial supervision. One of the odd jobs I used to take on was taking soil samples for the National Park Service, but I haven't been able to do that since being on pre-trial supervision, because that work requires that I go into remote areas of the forest for extended periods of time. I cannot blow twice a day in Hamilton while doing that or use a breathalyzer device, because those devices require a satellite signal, which can be difficult to find in the remote areas this work requires.
12. I used to have my own apartment in Hamilton, Montana, but because of the expense of pre-trial supervision, I had to move in with my mother, who lives in Corvalis, Montana.
13. All told, I have spent close to \$4,000 so far to comply with pre-trial supervision.
14. Even though I can't afford these fees and the related costs, like gas, I pay what I can out of fear of going back to jail. A few months ago, there was a sign on Pre-Trial Supervision's door that said that if you didn't have the money to blow, you would be violated, which means you would go back to jail.
15. I have been back to jail twice since being on pre-trial supervision, including for being late in paying pre-trial fees.
16. In September 2020, I was arrested and taken to jail because I had allegedly missed a court date, even though that was not true. I had to pay \$300 in bail to get out of jail.
17. I usually pay my pre-trial fees in \$25 increments and later in 2020, I was arrested and taken to jail because I was one week late in making my payment. I had to pay another \$300 in bail to get out of jail.
18. In the nearly fourteen months that I have been doing breathalyzer tests, I have not once had a positive test. I have twice asked to be removed from the breathalyzer, but Judge Bailey has denied my requests.

19. Being on Pre-Trial Supervision has taken a devastating toll on my mental health. I am a mountain man and have not been able to be in nature in the way that I was before I was arrested, which is critical to my well-being. I have had to miss part of my niece's funeral because I had to take a breath alcohol test during the ceremony. I am less independent as a result of pre-trial supervision because it has caused me to lose out on job opportunities and to lose my apartment. I have had to sell personal possessions to pay for pre-trial fees. I have had thoughts of harming myself. I feel constant anxiety, like I have a target on my back.

I declare under penalty of perjury that the statements above are true and correct. Executed on 9/13/2021, in Corvallis, Montana.

DocuSigned by:

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Zachary Hadley

EXHIBIT 10
DECLARATION OF
MICHELLE VOTH

DECLARATION OF MICHELLE VOTH

I, Michelle Voth, state and declare as follows:

1. I am over the age of 18, and I am a resident of Montana.
2. I was on pre-trial supervision in Ravalli County from March 2019 through June 2020. I was indigent and homeless at the time, and I remain indigent and homeless. Even though I am no longer on pre-trial supervision and have been incarcerated since June 2020, I still owe \$1,500 for my period of supervision, which I can't afford. These fees continue to cause me great stress, and they are a major barrier to financial independence and self-sufficiency.
3. I was arrested in October 2019 on drug charges. Justice of the Peace Jennifer Ray initially set bail at \$75,000. I could not afford to post bond and spent over 50 days in the Ravalli County jail as a result.
4. District Judge Recht lowered bail to \$25,000 in early December 2019 because I could not meet the \$75,000 bail set by Judge Ray. I hired a commercial bond company to post my bail, and my grandfather had to pay the nonrefundable deposit of \$1700. Judge Recht ordered me to participate in Pre-Trial Supervision and to take two UAs a week.
5. Although I had posted bail, Pre-Trial Supervision refused to release me from the jail until I had signed a contract requiring me to pay a monthly supervision fee of \$100 and take two in-person UAs a week. Each UA cost \$35. Although I had been in jail for nearly two months, I had to take one UA before I could be released. Because I could not pay the \$35 for that UA at the time, I had to pay for it with my next test.
6. Every weekday while on supervision, I had to call a phone number to find out whether I needed to take a UA that day. If I learned that I did have to take a UA that day, I was required to travel to the Sheriff's Office to take a UA before 2:00 pm that day. It could take as long as 45 minutes to be tested, depending on whether other people arrived before me for testing. This schedule made it impossible to maintain a job with regular working hours.
7. Each month on supervision, I had to pay approximately \$380 in pre-trial fees. I could not afford these fees. I was homeless and living in motel rooms and friends' homes during this time.
8. I asked Judge Recht if I could take UAs at Western Montana Addiction Services, which would have billed Medicaid for the tests, but Judge Recht ordered me to take UAs through Pre-Trial Supervision instead.

9. While waiting for a bed at a rehab facility, I relapsed on December 31, 2019. The stress of having to pay hundreds of dollars in pre-trial fees each month contributed to my relapse.
10. Following my relapse, I failed a UA but was not arrested before I went to a thirty-day inpatient rehab program in early January. I was charged the \$100 supervision fee during my time in rehab.
11. When I left rehab, I went back on pre-trial supervision. For two weeks, I had to take two UAs a week at my own expense. I did not fail any UAs after I left rehab.
12. Despite going to treatment and staying clean, I was arrested in February 2020 as a result of the UA I took before I went to rehab. I was booked into the Ravalli County jail. My bail doubled to \$50,000. I could not afford to post bond and remained in jail until March 2020.
13. In March 2020, I was released due to concerns regarding COVID-19 and placed on house arrest.
14. Being on house arrest meant that I was effectively imprisoned at my own expense. To be on house arrest, Judge Recht required that I wear an ankle monitor that I had to pay for. I did not appear before the judge prior to being put on house arrest but learned of the arrangement from my public defender. The monitor cost \$15 each day, or approximately \$450 each month.
15. Because I was homeless, I lived in a friend's camper for the first part of my time on house arrest. That situation ended up becoming unhealthy for me, so I had to move into another friend's home. I could not afford to live in a motel during this time.
16. While on house arrest, I was not allowed to go anywhere. I could not get a job and go to work to make money to pay for pre-trial fees. I could not go to the grocery store. I could not even go to substance abuse counseling sessions.
17. In addition to having to wear and pay for an ankle monitor, Judge Recht also required me to wear and pay for a drug patch. As with the ankle monitor, I did not appear before Judge Recht before he imposed this condition on me, and I only learned of it from my public defender. The patch cost \$65 every ten days, or approximately \$195 each month.
18. Between the ankle monitor and the patch, my pre-trial fees totaled approximately \$645 a month during this time.
19. I was unable to pay these fees. When I asked Pre-Trial Supervision how I was supposed to pay supervision fees without working, the officers told me to figure it out. I had no way of making money, so Pre-Trial Supervision billed me for these fees. It was deeply stressful

to watch the balance continue to climb, not knowing when, if ever, I would be able to pay the supervision fees.

20. I signed a plea agreement at the end of May 2020 and was sentenced in June 2020 to 15 years, 10 suspended. At sentencing, my Pre-Trial Supervision officer informed Judge Recht that I still owed \$1,650 in supervision fees. As part of my sentence, Judge Recht ordered me to pay \$1,650 to the Ravalli County Sheriff's Office.
21. I have been incarcerated since I was sentenced in June 2020. I have paid \$150 of the fees thus far. I paid \$100 initially and since have sent checks for \$5 at a time.
22. I currently am incarcerated through the Department of Corrections as an inmate worker at Passages. I make \$6 a day as an inmate worker, and I am required to use at least 5% of my earnings to pay for the pre-trial fees.
23. The pre-trial fees I owe continue to cause significant stress and emotional pain. I don't know when or how I will be able to pay off the balance. The debt will interfere with my ability to pay for housing and other necessities post-release. I fear that, because of this pre-trial fee debt, I will leave prison and be homeless once again.

I declare under penalty of perjury that the statements above are true and correct. Executed on
9/1/2021 in Billings, Montana.

DocuSigned by:

Michelle Voth

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Michelle Voth

EXHIBIT 11
DECLARATION OF
MATTHEW TURNER

DECLARATION OF MATTHEW TURNER


I, Matthew Turner, state and declare as follows:

1. I am over the age of 18, and I am a resident of Montana.
2. I have been on pre-trial supervision in Ravalli County for months. The financial toll of my case has resulted in me having to move my son and me out of our apartment into a friend's house and I have also lost out on work because of pre-trial supervision conditions.
3. In May 2021, I was arrested on DUI, assault on a police officer, and headlight charges.
4. When I went to court for my arraignment, the judge set bail at \$5,000 and required pre-trial supervision and alcohol monitoring. The judge did not say how much this would cost.
5. Before I left the jail, Pre-Trial Supervision required me to sign a SCRAM alcohol monitoring contract. I was not given a choice of whether to sign it. I understood that if I did not sign it, I would not be released from jail.
6. In addition to signing the contract, Pre-Trial Supervision attached an alcohol monitor to my ankle before I left the jail.
7. Pre-Trial Supervision also required me to pay around \$500 in pre-trial fees before they would release me. This was the first time I heard that pre-trial supervision would cost money.
8. I was only released because I had a friend who paid for my pre-trial fees and my bail. I used Lucky Bond to post my bail and they charged me \$500. Thus it cost around \$1,000 for me to get out of jail.
9. After about one month on the ankle alcohol monitor, I was switched to the breathalyzer, which requires me to blow into the device three times a day every day seven days a week.
10. The breathalyzer costs \$9 per day, or \$270 per month. My supervision fees are \$55 per month, so I am charged \$325 per month in pre-trial fees.
11. If I miss a "blow," I am required to go in person and do a drug test, which I also have to pay for. These drug tests cost \$35 each.
12. At no point has anyone asked me if I can afford these fees.
13. I pay my fees by going in person to the Pre-Trial Supervision office because if I pay over the phone, Pre-Trial Supervision charges a 3% processing fee on top of whatever fees I owe.

14. I pay my fees out of fear of being sent back to jail, despite the financial and emotional toll that pre-trial supervision has taken on my life.
15. Based on the release paperwork I received at my arraignment, if I do get sent back to jail for an alleged violation of pre-trial release conditions, my bail will be set at a minimum of \$20,000.
16. I am a wilderness guide and do tile work in the off-season. My monthly income is approximately \$4,000 per month.
17. My ability to work has been negatively impacted by this case.
18. When I was first arrested, my driver's license was suspended as well, so for two weeks I could not work until I got my driver's license back.
19. Because the breathalyzer requires that I have cell phone service and it must be plugged in every night to charge, I have had to turn down work as a wilderness guide, because there are certain parts of the state where I used to work that do not have cell reception and/or outlets for me to charge the breathalyzer.
20. I did not qualify for a public defender, so I have had to hire an attorney to represent me in my criminal case, at a cost of \$700/month (\$8,000 total). Thus, between my pre-trial fees (\$325/month) and my attorney's fees, I am paying approximately \$1,025/month for my case.
21. I used to pay \$825/month in rent for a one-bedroom apartment for my son and me (I am a single dad) plus around \$230/month in utilities, but because of the financial toll of this case, we moved out of our apartment and are living with a friend of mine.
22. I pay \$410/month in car payments plus \$200/month in car insurance. I need my car to be able to work and to take my son to school, in addition to other necessities like going to the grocery store, medical appointments, and court hearings.
23. I have made all of my pre-trial fee payments and complied with pre-trial conditions. I have paid approximately \$1,300 so far in pre-trial fees and will have to continue paying fees until my case resolves.
24. I do not know how I would be able to make it if I did not have steady employment and a friend to help me.
25. At no point were any services offered to me to help me. I have been attending Alcoholics Anonymous meetings on my own accord since I was arrested. All that the court system and

Pre-Trial Supervision have offered are the alcohol ankle monitor and the breathalyzer, which I must pay for under threat of being sent back to jail.

I declare under penalty of perjury that the statements above are true and correct. Executed on this
8/20/2021, in Stevensville Mt, Montana.

DocuSigned by:

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Matthew Turner

EXHIBIT 12
DECLARATION OF
DESIREE EVANS

DECLARATION OF DESIREE EVANS

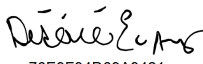
I, Desiree Evans, state and declare as follows:

1. I am over the age of 18, and I am a resident of Montana.
2. I was on pre-trial supervision in Ravalli County from March through August 2019. Because of pre-trial supervision, I lost my job and then my home. I am still dealing with the financial and emotional toll that pre-trial supervision took on my life.
3. In March 2019, I called the police to report my brother who was beating me and who had been driving drunk. Instead of helping me, the police arrested me for defending myself from my brother.
4. When I went to court for my arraignment, the judge, Judge Ray, set bail at \$1,000 and required that I do weekly drug testing (UAs) and be on pre-trial supervision. I was not allowed to be anywhere where alcohol was served. I didn't understand why I was being required to drug test and barred from any place serving alcohol since I was sober when I was arrested. The judge did not mention anything about pre-trial fees.
5. A friend of mine went to Lucky Bail Bond and paid \$100 to get me out of jail.
6. Before I left the jail, Pre-Trial Supervision required me to sign a contract for drug testing. I was not given a choice of whether to sign. In signing the contract, it was also the first time I learned that these drug tests were going to cost money.
7. Once I was released, I was required to call Pre-Trial Supervision five days a week to find out if I had to drug test that day. If I had to drug test that day, I had to rearrange my plans to go that same day or else it would count as a violation of my pre-trial supervision, which I could be sent back to jail for.
8. My drug tests consistently came back clean. The one time I had a "dirty" test was from when I had taken Nyquil because of a cold. I came into the Pre-Trial Supervision Office to test but my Pre-Trial Supervision Officer, Shane Fisher, sent me home because I was sick and told me to report the next day. I came back the next day and my drug test came back positive because of the Nyquil. Even so, Officer Fisher reported me to the court. Judge Ray accused me of being an alcoholic. She threatened to send me back to jail, but my case was dismissed shortly thereafter.
9. Each UA costs \$35 and I had to test one to two times per week. Between gas to get to and from the UAs (I was living in Victor, Montana at the time) and the cost of the UAs, I was spending about \$100 per week, or \$400 per month on the drug tests alone.
10. I was also on pre-trial supervision and charged over \$100/month in supervision fees.

11. If I couldn't pay or fell behind on my payments, my pre-trial supervision officer threatened to revoke me and send me back to jail.
12. During the roughly six months that I was on pre-trial supervision, I paid close to \$4,000 in pre-trial fees. I paid my fees to the extent I could out of fear of going back to jail.
13. I couldn't afford these fees but no one asked me if I could afford them.
14. Because of pre-trial conditions, I lost my job. I was working as a bartender but could no longer work there because I was not allowed to be anywhere where alcohol was served.
15. I tried applying for other jobs in my industry (hospitality), but Pre-Trial Supervision kept saying no because all of the jobs (including restaurant jobs) were places that served alcohol.
16. In April 2019, I started working at an auto parts store, but I lost that job because I had to be absent from work so much for the drug tests.
17. To make money, I took on whatever side jobs I could find, including mowing lawns, but it was never enough to cover my expenses.
18. While I was on pre-trial supervision, I had a \$1,200/month mortgage, \$200–300/month electricity bill, \$75–100/month water bill, \$150/month car insurance bill, \$50/month phone bill, \$350/month car payment, and \$300/month child support.
19. Without a steady job, I could not afford my bills, nor the roughly \$500/month I had in pre-trial fees and related expenses (gas to get to and from the drug tests).
20. Because of pre-trial fees and pre-trial supervision, I got behind on my car insurance, resulting in me getting a \$280 ticket for driving without insurance.
21. Because of pre-trial fees and pre-trial supervision, I got so behind on my mortgage that in November 2019, I lost my house.
22. Because of pre-trial fees and pre-trial supervision, I also had to ask for a reduction in how much I was paying in monthly child support, because I could no longer afford it.
23. My son lives in Washington with his father and I had planned to see him in August 2019. Pre-Trial Supervision refused to let me go visit him but I got permission from the prosecutor to go. I took a UA right before I left.
24. My case was dismissed in August 2019. I paid thousands of dollars in pre-trial fees and lost my job and house over something I was never guilty of and never convicted for.

25. I am still piecing my life back together from being on pre-trial supervision. After losing my house, I slept on friends' couches for a while and have been picking up work wherever I can so that I can get back on my feet and be involved in my son's life.

I declare under penalty of perjury that the statements above are true and correct. Executed on
9/8/2021, in Sitka, AK, Alaska.

DocuSigned by:

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Desiree Evans

EXHIBIT 13

DECLARATION OF

JOSEPH HEINZMAN


DECLARATION OF JOSEPH HEINZMAN

I, Joseph Heinzman, state and declare as follows:

1. I am over the age of 18, and I am a resident of Ravalli County, Montana.
2. I have been on pre-trial supervision in Ravalli County for over a year. I have had to pay thousands of dollars in pre-trial fees without being convicted of anything.
3. In May 2020, while asleep in my truck in my driveway, I was arrested and charged with a DUI.
4. When I went to court for my arraignment, the judge set bail at \$10,000 and required pre-trial supervision and alcohol monitoring. The judge did not say anything about how much this would cost.
5. Even though the judge had ordered my release and I had paid my bond (with the help of my girlfriend), Pre-Trial Supervision would not let me leave the jail until I had paid them over a thousand dollars in pre-trial fees for a breathalyzer device. I could only afford this money with my girlfriend's help.
6. Until a few weeks ago, I was required to blow into the breathalyzer every day, seven days a week, three times a day. I was charged \$325/month between supervision fees and breathalyzer fees. A few months ago, I was no longer charged the supervision fee, so I was charged \$270/month in breathalyzer fees.
7. I cannot afford these fees and I qualified for a public defender, but no one asked me if I could afford them.
8. I pay what I can out of fear of being sent back to jail. Sometime during summer 2020, I went to Pre-Trial Supervision's Office and asked for a copy of my paperwork. I was told that I had pay whatever fees I allegedly owed or else I would go back to jail. I had \$100 on me in cash and I offered it but they wouldn't take it. I paid later in the week by card.
9. Since I have been on pre-trial supervision, I have worked as a roofer and framer, making \$17–20/hour. My hours vary, so my income fluctuates, and half of whatever I do make goes to child support. I also pay \$275/month for rent and utilities. I live in a rural area, about 30 miles from work, and I have to pay for gas and rides to get to and from work, which amounts to several hundred dollars per month. With the hundreds of dollars per month I have to pay in pretrial fees, I can't afford my basic expenses.
10. In April 2021, when I had already been on the breathalyzer for close to a year, I asked the court to remove that pre-trial condition, but my request was denied.

11. A few weeks ago, I was switched to the alcohol ankle monitor, but I am not sure how much that costs. The week my ankle monitor was put on, Pre-Trial Supervision told me I had to pay \$300 by the end of the week for the monitor. I did not have the money but I paid what I could, which was \$150, out of fear of being sent back to jail. I had not worked much in the prior weeks because I was quarantining because I had COVID-19, and so out of my \$176 paycheck, I paid \$150 to Pre-Trial Supervision for my ankle monitor. That money could have instead gone towards child support, food, rent, or any of my other basic expenses.
12. This week, Pre-Trial Supervision called me and told me I had to pay the other \$150 for the ankle monitor because I have to pay a month in advance.
13. Being on pre-trial supervision is really stressful. I have been on pre-trial supervision for more than a year and I still haven't been convicted of anything. I have had to pay thousands of dollars in pre-trial fees without being convicted of anything.

I declare under penalty of perjury that the statements above are true and correct. Executed on
9/28/2021, in Stevensville, Montana.

DocuSigned by:

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Joseph Heinzman

EXHIBIT 14
DECLARATION OF
ROGER SELLERS

DECLARATION OF ROGER SELLERS


I, Roger Sellers, state and declare as follows:

1. I am over the age of 18, and I am a resident of Washington.
2. I was on pre-trial supervision in Ravalli County, Montana for several months and it has taken an enormous toll on my family and me.
3. In September 2020, I was arrested for a DUI and resisting arrest, even though I wasn't driving. At the time I was homeless and living out of my car.
4. When I went to court for my arraignment, which was by video conference in the jail, the judge, Judge Bailey, set bail at \$15,000 and required pre-trial supervision and 24/7 alcohol monitoring. Judge Bailey gave me three options: twice-a-day in-person alcohol testing, three times a day remote alcohol testing, or an alcohol ankle monitor. I chose the in-person testing option. The judge did not mention anything about cost.
5. I hired Lucky Bond to post my bail. I had to pay Lucky Bond \$140 and borrowed the money from family.
6. Even though I had paid my bail, Pre-Trial Supervision would not release me from the jail until I had paid them about \$325 in pre-trial fees. This was the first that I learned that pre-trial cost money.
7. Pre-Trial Supervision also required me to sign contracts before I left the jail. I understood that if I didn't sign, I wouldn't be released.
8. When I was released, I began going in-person to the Sheriff's Office, every day, twice a day to "blow" (check my alcohol level), but because my driver's license had been suspended as a result of my arrest and I lived in Darby, which is about 20 miles from Hamilton where I had to blow, it was impossible for me to consistently get rides twice a day for 40-mile round trips.
9. I then switched to the three times a day remote breathalyzer.
10. The breathalyzer costs \$9 per day, or \$270 per month. My supervision fees were \$55 per month, so I was charged \$325 per month in pre-trial fees.
11. If I missed even one blow, I had to call Pre-Trial Supervision right away. Depending on what time I called, Pre-Trial Supervision would either reset the machine and allow me to blow, or tell me I had to come in person that day and take a drug test (UA), which costs \$35 for each test.

12. I can't afford these fees and no one has asked me if I can afford them.
13. Because my driver's license was suspended, I lost my job. I work in construction and I tried to pick up part-time work when I could, but I had to either rely on rides or it had to be somewhere I could walk to, so I could not find consistent work.
14. My wife and daughters had moved to Washington earlier in the year and I wanted to join them, so I asked Pre-Trial Supervision in December 2020 if I could move to Washington and do my supervision from there. Pre-Trial Supervision denied my request, saying there was no 24/7 alcohol monitoring program in Washington, which I later found out was a lie.
15. I moved to Washington anyway in December 2020 and continued to do the three-times-a-day remote breathalyzer blows.
16. Each time I blow, the breathalyzer device shines a light in my face and takes my picture, which then gets sent to Pre-Trial Supervision. The breathalyzer device kept malfunctioning and taking bad pictures, which I told Pre-Trial Supervision about. Instead of sending me a new device, they told me that I had to do UAs. I looked for places in Washington to do UAs, but I was unsuccessful because either the location would not accept new people due to the COVID-19 pandemic or the cost was something I couldn't afford.
17. I went back to Ravalli County in March 2021 to take a plea. My public defender had worked out a deal that I would serve 8 days in jail, but the judge rejected the plea and ordered me to be jailed for 43 days and to still continue to be on the three-times-a-day breathalyzer as part of my sentence.
18. After being released from jail in April 2021, I went to my mother-in-law's house and called Pre-Trial Supervision, which was still handling my case even though I had been sentenced. Pre-Trial Supervision was mad that I had not gone to their office right away and demanded that I come down to their office. I did go to their office as ordered, and I was charged thousands of dollars to be "reinstated" into supervision. I had to pay \$1,500 right then and there and then was also expected to pay what they alleged I owed in overdue fees. My Pre-Trial Supervision Officer, Shane Fisher, said that if I did not pay I would be sent back to jail.
19. Fortunately, my dad was able to pay the fees so that I did not have to go back to jail.
20. I went back to Washington in April 2021 and continued doing three-times-a-day remote blows. Yet no matter what I do, Pre-Trial Supervision is not satisfied. For example, on one occasion, I missed a blow because my daughter had gone missing and I was out looking for her. I alerted Pre-Trial Supervision and even shared the missing person's report, but they refused to excuse my missed blow.

21. I have not been offered any services to help me, such as classes, treatment, or counseling. All that the court system and Pre-Trial Supervision have offered is alcohol testing, which I must pay for under threat of being sent back to jail.
22. On my own initiative, I enrolled in a 3-month outpatient drug and alcohol program, but Pre-Trial Supervision refuses to recognize it. The program also costs \$250/month and I can't afford the program plus the breathalyzer fees, in addition to my other necessary expenses.
23. Until last week, my family and I have been living out of a camper. We just moved into an apartment, where rent is \$1,300/month. My wife and I pay about \$120/month for car insurance. We are on food stamps, but they are never enough to cover our food needs. We now have custody of our grandson, so we spend an additional \$300–400/month for food and baby expenses, such as diapers and formula.
24. I have tried to look for work, but I did not get my driver's license back until July 2021, so it has been very difficult for me to find work. I am working odd jobs to cover our expenses, but it's not enough.
25. Being on pre-trial supervision has caused me enormous financial and emotional stress. I feel like I can't get ahead and my efforts to do right are ignored. I am trying to provide for my family and start fresh, but Pre-Trial Supervision is keeping me in a holding pattern.

I declare under penalty of perjury that the statements above are true and correct. Executed on
9/8/2021, in Washington, Washington.

DocuSigned by:

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Roger Sellers

EXHIBIT 15
DECLARATION OF
LINDA STEWART

DECLARATION OF LINDA STEWART

I, Linda Stewart, state and declare as follows:

1. I am over the age of 18, and I am a resident of Ravalli County, Montana.
2. I have been subject to pre-trial conditions and fees more than once, despite my compliance and despite the negative affect they have had on my health.
3. In March of 2021, I was cited on disorderly conduct charges.
4. When I went to court for my arraignment, Justice of the Peace Ray ordered that I immediately be breathalyzed, I complied, and I did not have alcohol in my system. Despite my negative breathalyzer test, Justice of the Peace Ray ordered that I be put on pre-trial supervision with random alcohol monitoring.
5. After I was arraigned, I had to meet with pre-trial supervisor Ron Jessop and he told me that I would have to do random urinalysis testing as my alcohol monitoring and made me sign a contract about the tests.
6. For this testing, I had to go online or call every day, five days a week, to see if I had to test that day.
7. If I was told that I had to test on a particular day, I had to report to the Pre-Trial Supervision office between 8am and 4pm and pee in a cup in front of someone.
8. I was charged \$35 every time I had to do urinalysis testing. I was also charged a \$55 monthly supervision fee. In an average month, I was charged approximately \$150 in pre-trial fees between testing and supervision.
9. During the four months that I had to test, I never had a positive test.
10. My lawyer requested that I be taken off the testing requirement after about 6 or 8 weeks, but the court denied my request, even though I had no positive tests.
11. This testing was extremely disruptive to my life because I could not make any plans since I had no idea when I would have to report for testing. I often felt distress, anxiety, and panic over the disruption that the testing requirements caused and the constant threat of being sent back to jail.
12. Because of the disruption to my life, I felt pressure to take a plea deal just to make these burdensome requirements go away.
13. As part of my sentence, the court fined me \$370. This fine was less than the amount I had to pay in pre-trial fees, which added up to over \$600. I was not given any credit or reimbursement for the pre-trial fees that I paid.

14. In October of 2021, I was arrested and charged in a new case.
15. At my arraignment, Justice of the Peace Bailey made note of the fact that I was retired on a fixed income and set bond at \$2,500. I hired Lucky Bail Bonds and paid them \$250, which I charged to my credit card.
16. Justice of the Peace Bailey also ordered me to be on pre-trial supervision and alcohol monitoring, but asked me nothing about my ability to pay for these pre-trial conditions. He also said nothing about how long I was going to have to be on these conditions.
17. Pre-Trial Supervision made me sign a contract before releasing me from jail even though I had already posted my bond. According to the contract, missing a test is a violation that could send me back to jail, a positive test is a violation that could send me back to jail, and not paying for a test may be considered a violation that could send me back to jail.
18. To do my alcohol monitoring, Pre-Trial Supervision told me that I would have to do random breathalyzers (“blows”) two times per week.
19. To do my “blows,” I have to call a phone number every day except Saturday and Sunday to find out if I have to test that day. If I do have to test, I have to report to the Sherriff’s building to take the “blow” test.
20. Each “blow” costs \$2. I am also charged a monthly supervision see of \$55. So, in an average month, I am charged \$71 in pretrial fees.

I declare under penalty of perjury that the statements above are true and correct. Executed on
11/1/2021 in Corvallis, Montana.

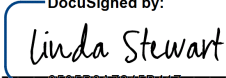
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6595B3A7245B417...
Linda Stewart

EXHIBIT 16
DECLARATION OF
SANDY SUTTON


DECLARATION OF SANDY SUTTON

I, Sandy Sutton, state and declare as follows:

1. I am over the age of 18, and I am a resident of Montana.
2. I have been on pre-trial supervision in Ravalli County since March 2021. I am indigent and retired. I live on a fixed income of less than \$1,200 each month. The emotional and financial toll of pre-trial supervision on my life has been severe, and I can't even afford upkeep on the home I shared with my late husband for decades.
3. On March 25, 2021, I was arrested for obstruction of justice. I spent the night in the Ravalli County Jail and appeared before Justice of the Peace Jennifer Ray on March 26, 2021. My bail was set at \$5,000. I hired a commercial bond company to post my bail and I had to pay the bond company a non-refundable amount of \$500 for that service.
4. Even though I had posted bail, Pre-Trial Supervision would not let me leave the jail until I had signed a contract with Pre-Trial Supervision. I had no choice but to sign the contract. Under the contract, I was required to pay \$105 a month in supervision fees.
5. In May 2021, while I was still on pre-trial supervision, I was arrested and charged with one count of possession of dangerous drugs and one count of possession of paraphernalia after the Ravalli County Sheriff's Office executed a search warrant for my home. My bail was set at \$15,000 for these charges. I hired a commercial bond company to post my bail, and I had to pay the bond company a non-refundable amount of \$1,520 for that service. I had to borrow money from my son to help pay this amount.
6. On June 14, 2021, I appeared before Judge Ray on the second charge. Judge Ray ordered me to be on pre-trial supervision and a drug patch. Before I could go home, Pre-Trial Supervision forced me to sign another contract in order to avoid being sent back to jail. The new contract included the same \$105 monthly supervision fee.
7. Pre-trial Supervision also forced me to sign a drug patch participation agreement. Under the terms of the drug patch participation agreement, I was required to agree to pay a \$75 "One-time Administration Fee" and \$65 for each patch. I was forced to pay \$140 on June 14, 2021 in order to avoid being sent back to jail.
8. I had a total of three patches placed. I learned from others that the patches have a high rate of false-positive results. With the assistance of my public defender, I was able to have the patch removed in lieu of in-person, twice-weekly UA testing on July 7, 2021. In order to make that switch, I had to have three UAs in a row. In total, during the week of July 4, 2021, I had to pay \$230 for drug testing just that week—\$65 for a patch on July 6 and \$55 each for three UAs, which were performed on July 7, July 8, and July 9, 2021.

9. Each UA test costs \$55, so the weekly charge for testing is \$110. Monthly, the charge ranges from \$440 to \$495. With the added cost of the \$105 supervision fee, I pay between \$545 and \$600 a month in pre-trial fees.
10. I can't afford these fees. I am retired and live on a fixed income. My husband was disabled prior to his death approximately nine years ago, and my sole source of income is survivor's benefits from the Social Security Administration. Each month, I receive approximately \$1,185. Approximately half of my income goes to the Ravalli County Sheriff's Office for pretrial fees.
11. My husband and I purchased our home 32 years ago, and I still owe approximately \$8,000 on the home. My monthly mortgage payment was \$504 between March 2021 and August 2021. On average, I pay about \$300 a month for utilities. I pay about \$200 a month on groceries for the household; because this amount is not enough to feed my family, my son contributes an additional \$200. My cell phone costs approximately \$35 each month, and internet service costs approximately \$80 each month. I spend approximately \$100 a month on gasoline for my vehicle. Between the cost of my mortgage, pre-trial fees, and necessary expenses, I am unable to pay for home insurance and necessary repairs to my home. I may need to refinance or take out a second mortgage in order to make ends meet, but I am unsure of whether my bank will be willing to work with me.
12. The financial toll of pre-trial fees has been so severe that when my brother died in April 2021, I sold his personal items to pay for pre-trial fees.
13. I have not been convicted of any of the charges that require my participation in pre-trial supervision, yet I am still charged pre-trial fees.
14. As of today, I have paid over \$1,300 in pre-trial fees, and I am still being forced to pay more for supervision fees and UAs. In order to pay these fees, I have borrowed money from family members, even though it will be extremely difficult to repay, given my limited, fixed income.
15. Pre-Trial Supervision has never asked me whether I can afford these fees and they have never adjusted my fees in response to the fact that I can't afford them.

I declare under penalty of perjury that the statements above are true and correct. Executed on August 27, 2021 in Hamilton, Montana.

DocuSigned by:

51BE09CA45D04E3

Sandy Sutton

EXHIBIT 17
DECLARATION OF
JODI WALISER

DECLARATION OF JODI WALISER

I, Jodi Waliser, state and declare as follows:


1. I am over the age of 18, and I am a resident of Montana.
2. I have been on pre-trial supervision in Ravalli County since May 27, 2021. I am indigent and qualify for a court-appointed attorney. I am forced to pay fees that I cannot afford and comply with burdensome testing requirements. Pre-trial supervision interferes with my ability to support myself and my child, maintain employment, and hold my head high in the small town I have lived in my entire life.
3. On May 26, 2021, I was involved in a single-car accident on a dirt road in the outskirts of Hamilton, Montana. When the police arrived, they arrested me.
4. The police took me to the hospital following the arrest because I was injured in the car accident. I had stitches placed in my ear. I was later diagnosed by my doctor with a severe concussion.
5. After leaving the hospital, I was booked into the Ravalli County jail, and I spent the night in jail.
6. I appeared before Justice of the Peace Jennifer Ray the following day, on May 27, 2021. Judge Ray set bond and ordered me to be on pre-trial supervision and undergo alcohol testing twice a day.
7. I could not afford bond, so I had to hire a private bail bond company, Lucky Bail Bonds. I could not afford to pay the deposit on the bond, so a friend paid it for me.
8. Although I had posted my bond, Pre-Trial Supervision forced me to sign a contract in order to remain out of jail. The contract stated that I would have to pay for supervision and alcohol testing. This was when I learned that I would have to pay for these pre-trial conditions.
9. I am charged \$55/month for pre-trial supervision.
10. From May 27, 2021 until July 28, 2021, I was required to take breath tests twice each day seven days a week on site at the Sheriff's Office. I was required to pay \$2 for each test. All total, I paid approximately \$124 each month for alcohol testing.
11. Between supervision fees and alcohol testing, I was charged about \$180/month in pre-trial fees.
12. No one asked me if I could afford these fees. I am unable to afford these fees.

13. In August 2021, my court-appointed lawyer asked the judge to reduce my testing requirements, and the judge granted the request. I am now on a random testing program. I must call a toll-free number every morning before 8:00 a.m. If I learn that I must test that day, I have to appear at the courthouse for a test during work hours, between 9:00 a.m. and 4:00 p.m. for a breathalyzer test. I am required to take a test two times each week.
14. Until recently, I did not have a vehicle and had to walk to the Sheriff's Office for testing. The walk takes approximately 15 minutes in each direction. When I was forced to undergo twice-daily testing, I spent over an hour each day traveling to and from the Sheriff's Office. After considering the time spent paying for and performing the test (in two separate locations), I spent approximately an hour and a half each day complying with the twice-daily testing condition.
15. Because Hamilton is a small town and because I have lived in Hamilton my whole life, people I know see me walking to and from the Sheriff's Office. I feel ashamed that these people know I was arrested and charged with a crime, and I am embarrassed every time I am forced to go to the Sheriff's Office.
16. I cannot afford pre-trial fees, but I pay what I can because I do not want to go back to jail or face the humiliation of not being able to pay the fees.
17. I have had to save loose change and sell personal items in order to pay the fees. This year, I was unable to buy school clothes for my daughter because every extra dollar must go to the Sheriff's Office.
18. I make approximately \$1,200 to \$1,300 each month. During the week, I clean houses and perform landscaping. On Saturdays and Sundays, I am paid \$11/hour to work from 8:00 a.m. to 4:00 p.m. at the casino and liquor store inside the Edge Restaurant and Sports Bar. My work schedule often conflicts with testing requirements, and I have to seek special accommodations in order to do my jobs and comply with the mandatory conditions of pre-trial supervision. I worry about whether I am going to be able to keep my jobs because of pre-trial supervision.
19. My rent alone consumes most of my income and is \$800/month for a 2-bedroom apartment, which I share with my daughter. My cell phone bill is \$40/month, and electricity costs approximately \$25/month. I recently replaced the car that was involved in the May 26, 2021 accident. I used the insurance proceeds from the accident to place a down payment of \$5,000 on the car, and I financed the remaining \$9,200. My monthly car payment is \$142, and car insurance costs an additional \$140/month. I also have student loans, which are currently in forbearance, but which continue to accrue interest.

20. In the roughly four months that I have been on pre-trial supervision, I have paid over \$500 in pre-trial fees. I need this money to pay for my necessary expenses, including providing for my daughter. Being on pre-trial supervision makes it difficult for me to keep my jobs and I suffer more and more humiliation for each day I remain on pre-trial supervision.

I declare under penalty of perjury that the statements above are true and correct. Executed on
9/26/2021 in Hamilton, Montana.

DocuSigned by:



91B5053B0D8047B...

Jodi Waliser

EXHIBIT 18
DECLARATION OF
HOLLY SUTTON


DECLARATION OF HOLLY SUTTON

I, HOLLY SUTTON, state and declare as follows:

1. I am over the age of 18, and I am a resident of Ravalli County, Montana.
2. I was on Ravalli County's pre-trial supervision from December 2020 through September 2021. I was unemployed and indigent when I was on pre-trial supervision, and the fees assessed by Pre-Trial Supervision pushed me further into poverty. Pre-Trial Supervision also did nothing to help me with my struggles with addiction and I had to seek help on my own.
3. I was arrested in December 2020 on a single count of obstruction of justice.
4. I spent several days in the Ravalli County jail. At my arraignment, the judge set bail and put me on pre-trial supervision.
5. I could not afford bail, so I hired a commercial bond company, and a family member paid the deposit for me.
6. Even though the judge had ordered my release and I had posted bail, Pre-Trial Supervision would not release me until I had signed a contract saying that I would have to pay \$105 every month in pre-trial supervision fees.
7. I was arrested on two additional counts of obstruction of justice in March 2021.
8. I spent about a week in the Ravalli County jail following the second arrest. My bond was set at approximately \$30,000. I could not afford bail, so I hired a commercial bond company, and a family member paid the deposit of approximately \$3,000.
9. Once again, even though the court had ordered my release and I had posted bail, Pre-Trial Supervision would not release me until I had signed additional contracts. One of the contracts was about pre-trial supervision and I was forced to continue paying a monthly supervision fee of \$105. In the other contract, I was forced to take and pay for two drug tests (UAs) every week at a cost of \$55 per test. My monthly supervision fees during this time totaled \$545 to \$600 each month.
10. Because I had no income, I asked the court to allow me to take UAs through Western Montana Addiction Services so that Medicaid would pay for the tests. The court refused my request.
11. Between March and September 2021, I was revoked twice and sent back to the Ravalli County jail as a result of ongoing addiction issues. Stress related to supervision fees harmed my efforts at recovery.

12. At no point did Pre-Trial Supervision or the court offer me counseling, treatment, classes, or anything else that would have helped me. Instead, I was forced to pay hundreds of dollars in fees every month that I could not afford or else be sent back to jail. I sought out drug counseling on my own, without assistance from Pre-Trial Supervision, because I wanted to get better and be involved in my children's lives.
13. After I was released from jail in May 2021 following one of my revocations, the court ordered me to be on a drug patch. Pre-Trial Supervision forced me to sign a contract regarding the drug patch and to pay a one-time administrative fee of \$75, plus \$65 every ten days for a new drug patch. I continued to have to pay the \$105 supervision fee as well, so during this time I had to pay approximately \$300 every month in pre-trial fees.
14. In the summer of 2021, Pre-Trial Supervision told me that it received a report that I had removed a patch and that I would need to have the patch replaced and take a UA, even though the patch was still attached to my arm and I was not due for a new patch (which are replaced every ten days). Pre-Trial Supervision charged me for both the UA (\$55) and a new patch (\$65). I did not have money to pay for the UA. Pre-Trial Supervision told me that if I did not find the money, I would be violated and sent back to jail. I had no way to make \$55 that day, so a family member gave me money for the UA. The UA was negative.
15. While on pre-trial supervision, I had no income and no money to pay the fees. Family members, who were themselves low-income, covered all of my fees. Having to rely on family to pay hundreds of dollars in fees every month caused financial stress for my family and strained our relationships.
16. At no point did anyone ask me if I could afford these fees.
17. I signed a plea agreement and was sentenced on September 16, 2021. The fees that I must pay now that I am on probation are much lower than they were before conviction. Although I must take UAs regularly, I do not have to pay for the costs of testing, which are covered by the probation office.

I declare under penalty of perjury that the statements above are true and correct. Executed on
9/29/2021 in Hamilton, Montana.

DocuSigned by:

51BE09CA45D04E3

Holly Sutton

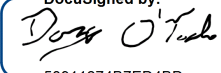
EXHIBIT 19
DECLARATION OF
DANIEL O'TOOLE
OCTOBER 2021

OCTOBER 2021 DECLARATION OF DANIEL O'TOOLE

I, Daniel O'Toole, state and declare as follows:

1. While I was still on pre-trial supervision, Pre-Trial Supervision made me do a drug test even though I wasn't on any drug conditions. When my drug test came back positive, Pre-Trial Supervision obtained a court order requiring me to be on a drug patch, which costs \$65 every 10 days.
2. Each time I was jailed on an alleged violation of pre-trial supervision, I was required to take a drug test at the jail regardless of what my pre-trial conditions were. If I refused, it was considered a violation of my pre-trial supervision.
3. In August 2021, I took a plea in my latest criminal case in Ravalli County. As part of my plea, I have to pay pre-trial fees that Pre-Trial Supervision says I owe.

I declare under penalty of perjury that the statements above are true and correct. Executed on
10/7/2021 in Florence, Montana.

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Daniel O'Toole

EXHIBIT 20
DECLARATION OF
TALON GOFF

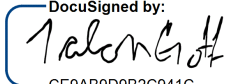
DECLARATION OF TALON GOFF

I, Talon Goff, state and declare as follows:

1. I am over the age of 18, and I am a resident of Ravalli County, Montana.
2. I am on pre-trial supervision in Ravalli County and I am being forced to pay hundreds of dollars per month in pre-trial fees that I can't afford.
3. In late August/early September 2021, I was arrested and jailed in Ravalli County.
4. On September 8, 2021, I had my initial appearance before Justice of the Peace Ray. She set bail at \$10,000 and ordered me to be on pre-trial supervision. The judge said nothing about pre-trial supervision costing money.
5. I posted bail (with my own money and by borrowing from a family member), but before Pre-Trial Supervision would release me from the jail, Pre-Trial Supervision made me sign a contract regarding pre-trial supervision. Pre-Trial Supervision also took the money I had in my wallet and applied it towards the jail booking fee.
6. During my first week of pre-trial supervision, my Pre-Trial Supervision Officer, Shane Fisher, ordered me to take a drug test (UA) even though it was not authorized by the court. The drug test came back positive and Officer Fisher went to court to get an order putting me on drug testing. The district court ordered me to drug test twice a week, at a cost of \$55 per test.
7. I was also arrested and jailed because of the drug test that Pre-Trial Supervision forced me to take without court authorization and the court doubled my bail to \$20,000. I was in jail for over two weeks and borrowed money to post my bail.
8. Even though I had posted bail, Pre-Trial Supervision made me sign contracts again and this is when I first learned that pre-trial supervision and the drug tests were going to cost me money. Pre-Trial Supervision explained to me that I have to pay my fees or I'll go back to jail.
9. I am charged \$25/month for supervision and about \$440/month for drug testing (each drug test costs \$55 and I have to test twice a week), totaling \$465/month in pre-trial fees.
10. The drug tests are random. I have to check five days a week (Monday through Friday) and if I have to test that day, I have to drop everything and show up that same day at Pre-Trial Supervision's Hamilton office. To get to and from my drug tests, I either walk or get rides. If I don't have the money for the drug test, they will violate me.

11. I cannot afford these fees yet no one has asked if I can afford them, even though Pre-Trial Supervision knew from the beginning that I am on SSI disability.
12. My only source of income is SSI disability, which is less than \$800/month. I pay rent for myself and help my mom with her rent as she recovers from cancer, so I pay about \$500/month in rent. My cell phone bill is about \$45/month. Pre-trial fees are more than half of my income and I cannot meet my basic needs and pay for pre-trial fees.
13. I am searching for other work to be able to afford pre-trial fees, but I have to find something that accommodates my disability and that doesn't jeopardize my disability income.
14. I pay what I can for my pre-trial fees because I do not want to go back to jail.

I declare under penalty of perjury that the statements above are true and correct. Executed on
10/12/2021, in Hamilton, Montana.

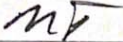
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Talon Goff

EXHIBIT 21
SAMPLE ALCOHOL
ANKLE MONITOR
CONTRACT

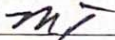
I understand if I Abscond and do not return the SCRAM CAM or I do not return the equipment in good working condition, I could be charged for the following:

- 1) Theft: MCA 45-6-301
- 2) Criminal Mischief: MCA 45-6-101



Initial Here

I understand if I am incarcerated and still affiliated with Jail Diversion services, I could be held responsible for payments due and remain incarcerated prior to release until those payments are paid in full.



Initial Here

I understand Jail Diversion reserves the right to request a cash deposit for the SCRAM CAM (SCRAM CAM: \$1500, SCRAM Base Station: \$700, Strap Replacement: \$100.00). Circumstances which may require a deposit could, but not limited to, include the following:

- 1) Fail to Pay Fines
- 2) Fail to Appear
- 3) Absconding
- 4) Eluding a Peace Officer
- 5) Resisting Arrest
- 6) Obstructing
- 7) Residing outside the state of Montana
- 8) Residing outside Ravalli County (pending circumstances)
- 9) Delinquent Payments (pending circumstances)



Initial Here

While participating in the Program, I agree to wear the non-removable SCRAM CAM Bracelet that will be attached by my Probation Officer or other authorized agency personnel. I agree not to remove, tamper with, or place any obstruction material between the SCRAM CAM Bracelet and my leg.



Initials Here

EXHIBIT 22
SAMPLE DRUG
PATCH CONTRACT

I understand that tampering with or removal of the patch by me or anyone other than the Ravalli County Sheriff's Office will result in a violation sent to the Court.



Initial Here

I understand that if my drug patch comes back positive for any illegal substances or substance in which I do not have a valid prescription for will result in a violation to be sent to the Court.




Initial Here

I understand that if my patch comes back positive for any illegal substance and I advise the Court that I did not consume such substance in any way, but that I was around others that did, I am subject to a positive patch and a violation will be sent out to the Court



Initial Here

I understand if I am incarcerated and still affiliated with Jail Diversion services, I could be held responsible for payments due and remain incarcerated prior to release until those payments are paid in full.



Initial Here

I acknowledge that I have received a copy of this Agreement and that it has been explained to me before signing. I understand that I must comply with the requirements of this Agreement until notified otherwise by the Court or my monitoring agent. I agree to call my monitoring agent immediately if I have any questions about this Agreement. I further understand that any violation of this Agreement will constitute a violation of the Program and may cause immediate adverse legal action to be taken against me.

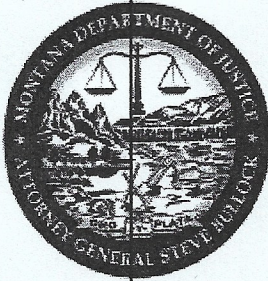

Participant's Signature

6-14-21
Date


Jail Diversion Officer

6/14/2021
Date

EXHIBIT 23
SAMPLE 24/7
SOBRIETY
PROGRAM
CONTRACT



Montana Department of Justice 24/7 Sobriety Program PARTICIPATION AGREEMENT

Date: 10/15/2021

This is an agreement between Linda Stewart (participant) and the 24/7 Sobriety Program. A court has ordered you to participate in this program as a bond condition.

REQUIREMENTS: Participants are required to accomplish two breath alcohol tests (PBTs) each day, once in the morning test session and once in the evening test session,

LOCATIONS: You have been ordered to participate in the 24/7 Sobriety Program at the following location(s):
**Ravalli County Sheriff's Office – Jail Diversion
24/7 Sobriety Program
205 Bedford Street
Hamilton, MT 59840
406-375-4097**

HOURS: 7 days/week, 365 days a year
Morning Testing Session: 6:00 a.m. to 8:00 a.m.
Evening Testing Session: 5:00 p.m. to 7:00 p.m.

COSTS: \$2 per PBT (cash, check)
You are required to pay in advance. or at the time of testing for the PBT. Failure to pay may be considered a violation of your bond condition, and you may be arrested.

MISSING TESTS: A No Show during your designated testing hours is a violation of the 24/7 Program
If you are on bond and you miss a test, YOU WILL GO TO JAIL.

POSITIVE TESTS
If the PBT indicates the presence of alcohol, YOU WILL GO TO JAIL.

TESTS PERFORMED AT ANOTHER FACILITY
Unless prior arrangements have been made, tests performed at a facility not listed in this Agreement will not be considered as part of this program and a No Show violation will be the result. If you must leave the area, you must coordinate with your attorney and the 24/7 Sobriety Program testing facility to make sure that the facility has the appropriate paperwork at least one week before you leave.

TESTING INSTRUCTIONS:
30 Minutes prior to testing you should not consume food or beverages or use any tobacco products, cough drops, mouthwash or toothpaste.

Any use of alcohol products constitutes a violation of the 24/7 Sobriety Program. This includes, but is not limited to, mouthwash, cough syrup and other commercial products containing alcohol (including cold medicines such as Nyquil).

[Signature]
Participant Signature / Date

R. Jussop 10/15/2021
Jail Diversion Officer Signature / Date

EXHIBIT 24
DECLARATION OF
HAROLD SPRINGER

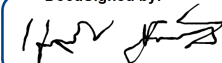
DECLARATION OF HAROLD SPRINGER

I, Harold Springer, state and declare as follows:

1. I am over the age of 18, and I am a resident of Ravalli County, Montana.
2. I was on pre-trial supervision from May through August 2021. I was charged pre-trial fees even though I am homeless and out of work.
3. In May 2021, I was arrested and jailed on an alleged DUI. I had pulled into a store parking lot and had called the police to see if they could drive me home. I thought I was doing the responsible thing, but when the police showed up, instead of driving me home, they arrested me and took me to jail.
4. I bailed out before my first court hearing and I paid my bail directly to the court. I had recently sold my trailer, and I used part of the money from that sale to post bail.
5. When I went to court for my initial appearance, Justice of the Peace Ray put me on pre-trial supervision and said I would have to “blow” (do alcohol tests) twice a day every day.
6. I am charged \$2/test and I have to test twice a day, seven days a week, so I paid about \$128/month for blows while on pre-trial supervision.
7. I was also charged \$105/month in supervision fees. In total, I was charged about \$233/month in pre-trial fees (\$128/month in blows and \$105/month in supervision fees).
8. I can't afford these fees. I am homeless and my only sources of income are about \$300/month from my ex-wife and \$250/month in food stamps. I have to pay for insurance on my truck (about \$100/month) and my cell phone bill (about \$120/month) but I fell behind on my bills because of pre-trial fees. I have been living at a men's shelter, and I am supposed to contribute \$200/month towards my stay, but because of pre-trial fees, I haven't been able to contribute.
9. I also had to spend about \$30–40/month in gas to get to and from my twice-daily tests.
10. There was also a two-week period when I was on an alcohol ankle monitor and no longer blowing. I was charged \$115 for the ankle monitor.
11. I paid what I could in pre-trial fees out of fear of going back to jail. I even sold some personal belongings to be able to pay for the fees. The pre-trial supervision officers tell you that if you can't pay, it's a violation, just like blowing dirty (having a positive alcohol test), and you can go to jail for violations.

12. Over the summer, there was a note on the window of the Pre-Trial Supervision Office from Supervisor Chris that said that if you didn't have the money to blow, you can't blow and that's a violation, which means you can go to jail.
13. Being on pre-trial supervision pulled me further into the criminal legal system. Over the summer, because I "blew dirty," I was arrested, jailed, and charged with criminal contempt. I had to bail out and I hired Lucky Bail Bonds. I paid Lucky \$100 for my bail.
14. In August 2021, I took a plea to a DUI. I was not given credit for the blows I did during my months on pre-trial supervision and I still have to blow for one year and pay for the blows. I was given jail time and did get credit for my jail time when I was arrested. I still have to pay a monthly supervision fee, but I now pay \$25/month for misdemeanor probation supervision, rather than \$105/month for supervision as I did when on pre-trial supervision. I also have to take alcohol classes, which I must pay for. I also have fines and I don't know how I will pay for them.
15. While I was on pre-trial supervision, no services were offered to me to help me, such as classes, treatment, or counseling. All that the court system and Pre-Trial Supervision offered was alcohol testing, which I had to pay for under threat of being sent back to jail.

I declare under penalty of perjury that the statements above are true and correct. Executed on
10/8/2021, in Hamilton, Montana.

DocuSigned by:

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Harold Springer

EXHIBIT 25
DECLARATION OF
NEWMAN JAKE
BUNDY

DECLARATION OF NEWMAN JAKE BUNDY

I, Newman Jake Bundy, state and declare as follows:

1. I am over the age of 18, and I am a resident of Ravalli County, Montana.
2. I was on pre-trial supervision in Ravalli County from August 2019 to July 2020. Being on pre-trial supervision put me into debt, which I am still paying off, and resulted in me missing out on important family events.
3. In August 2019, I was arrested and charged with a DUI, despite a blood test demonstrating my blood alcohol level was below the legal limit.
4. I posted bail the same day I was arrested and jailed.
5. Later, at my arraignment, Judge Bailey ordered me to be on 24/7 alcohol monitoring. He didn't explain what it involved. He didn't explain that it would cost money. He didn't ask me if I could afford it.
6. I went over to the Pre-Trial Supervision office to enroll in 24/7 alcohol monitoring. I had to sign a contract and that was when I first learned that pre-trial supervision was going to cost money. The contract also said that not paying pre-trial fees was a violation and I could go back to jail. Pre-Trial Supervision made me pay a certain amount in pre-trial fees right then and there, but I can't remember how much. Pre-Trial Supervision didn't ask if I could afford the fees.
7. Pre-Trial Supervision told me that I was going to have to come in twice a day for a few days and do breathalyzer tests ("blows"). Each test cost \$2.
8. After a few days, I was switched to an alcohol ankle monitor. I was charged \$350/month for the monitor.
9. I paid my fees because I didn't want to go back to jail, even though it meant making financial sacrifices for basic necessities. For example, I started using a credit card to keep up with my bills and to buy groceries for my kids, but I ended up going into debt. To this day, I'm still paying off the credit card debt I accumulated because of pre-trial fees.
10. I work in construction and half of my paycheck automatically goes to child support. I take home about \$1,600-\$1,800/month after child support. My rent is \$1,250/month and utilities are \$200-300/month. My rent, utilities, and pre-trial fees alone consumed my income, not to mention groceries, gas, my cell phone bill, etc.
11. Being on pre-trial supervision wasn't just costly financially. Because of all the rules regarding the alcohol ankle monitor, including the fact that it can't be submerged in water,

