

**APPLICATION FOR
DISTRICT COURT JUDGESHIP**

A. PERSONAL INFORMATION

1. Full name: **Bradley Harlow Kneeland**
2. Birthdate: [REDACTED]
3. Current home address: [REDACTED]
4. Email address: [REDACTED]
5. Preferred phone number: [REDACTED]
6. Judicial position you are applying for: **13th Judicial District, Departments 9 and 10**
7. Date you became a U.S. citizen, if different than birthdate: **Same as birthdate.**
8. Date you become a Montana resident: **Same as birthdate.**

B. EDUCATIONAL BACKGROUND

9. List the names and location (city, state) of schools attended beginning with high school, and the date and type of degree you received.

Name	Location	Date of Degree	Degree
Custer County District High School	Miles City, MT	May 2009	High School Diploma
The University of Montana	Missoula, MT	May 2013	Bachelor of Arts in Political Science
Western New England University School of Law	Springfield, MA	May 2016	Juris Doctorate

10. List any significant academic and extracurricular activities, scholarships, awards, or other recognition you received from each college and law school you attended.

- **2010 Deans List, The University of Montana**
- **2015 CALI Excellence for the Future Award as the top-ranked student in “Trial Methods”**
- **2016 CALI Excellence for the Future Award as the top-ranked student in “Representing Children”**

C. LEGAL AND PROFESSIONAL EXPERIENCE

11. In chronological order (beginning with most recent), state each position you have held since your graduation from law school. Include the dates, names and addresses of law firms, businesses, or governmental agencies with which you have been affiliated, and your position. Include the dates of any periods of self-employment and the name and address of your office.

Position	Date	Name	Address
Standing Master	February 2022-Present	State of Montana Judicial Branch, 13th Judicial District	217 N. 27th Street, Billings, MT 59101
Deputy City Attorney	September 2020- February 2022	Billings City Attorney's Office	316 N. 26th Street, Billings, MT 59101
Law Clerk to the Honorable Jessica T. Fehr	March 2019- September 2020	State of Montana Judicial Branch, 13th Judicial District Court	217 N. 27th Street, Billings, MT 59101
Assistant Public Defender	January 2017-March 2019	Montana Office of the State Public Defender, Regions 9 & 11	11 S. 7th Street, Ste. 100, Miles City, MT 59301/ 207 N. Broadway, Ste. 201, Billings, MT 59101

12. In chronological order (beginning with most recent), list your admissions to state and federal courts, state bar associations, and administrative bodies having special admission requirements and the date of admission. If any of your admissions have terminated, indicate the date and reason for termination.

State/Court	Date of Admission
Washington State Bar	September 2017-Present
United States District Court, District of Montana	September 2016-Present
Montana State Bar	September 2016-Present

13. Describe your typical legal areas of concentration during the past ten years and the approximate percentage each constitutes of your total practice (i.e., real estate, water rights, civil litigation, criminal litigation, family law, trusts and estates, contract drafting, corporate law, employment law, alternative dispute resolution, etc).

In my capacity as a Standing Master in the 13th Judicial District Court, the primary focus of my legal concentration is on domestic relations matters (family law), where I preside over dissolutions of marriage, parenting plans, property distribution, maintenance and

child support matters. I also conduct temporary, final and modification hearings, contested proceedings, status and scheduling conferences as well as intervention hearings. In addition to my extensive family law caseload, I also preside over a broad range of civil matters, including guardianships, probate matters, debt collections, orders of protection, lower court civil appeals and general civil lawsuits in which the parties have not asserted their right to a jury trial. I regularly conduct settlement conferences, rule on discovery motions, preside over non-jury civil trials and render final judgements. In criminal matters, I review the majority of criminal filings in Yellowstone County to determine probable cause and grant leave for the initiation of criminal proceedings. Most weeks I preside over criminal law and motion where I conduct arraignments, bail hearings, probation revocations and the occasional change of plea. I review petitions for civil commitment for probable cause and conduct initial hearings in sanity and civil commitment proceedings. I frequently cover Emergency Protective Services (EPS) hearings for dependency and neglect matters and assist the district court judges by covering other hearings as needed, including dependency and neglect hearings, detention hearings in juvenile cases and criminal law and motion matters.

In addition to my regular docket responsibilities, I also conduct mediations on behalf of the district court judges, facilitating resolutions in a wide range of cases including civil disputes, family law matters, criminal cases and dependency and neglect proceedings. I have also started serving as a pro tem judge in the Yellowstone County Justice Court, presiding over criminal arraignments and matters as part of newly established Arraignment Court. Across these roles and in my capacity as a Standing Master, I perform legal research, issue findings of fact and conclusions of law and remain dedicated to producing timely, considerate and fair disposition and resolution of the matters before the court.

- **Family law and other civil matters: 75%**
- **Criminal law: 15%**
- **Alternative dispute resolution (mediation): 10%**

As an Assistant City Attorney for the City of Billings, I prepared and prosecuted misdemeanor criminal cases in the Billings Municipal Court and represented the City of Billings in criminal proceedings before the courts. Later in my time with the City Attorney's Office, my caseload focused specifically on the prosecution of domestic violence matters, including the prosecution of misdemeanor partner or family member assault, sexual assault, stalking and related offenses in the Billings Municipal Court.

- **Criminal Law: 100%**

As a law clerk for Judge Jessica T. Fehr of the 13th Judicial District Court, I conducted legal research and provided comprehensive support on a wide range of civil and criminal matters. I drafted legal memoranda on contested motions, prepared sections of court orders and judicial opinions and regularly conferred with the Court regarding legal questions, applicable theories and the content and structure of rulings.

- **Criminal law: 50%**
- **Civil law: 50%**

During my time with the Office of the State Public Defender, I represented indigent clients in a broad range of matters, including felony and misdemeanor criminal charges, delinquent youth proceedings, involuntary mental health commitments, dependency and neglect cases, guardianship and conservatorship matters as outlined by the Montana Public Defender Act. While working for the Public Defender's Office in Billings, I also served as a Treatment Court defense attorney where I advocated for individualized services and consistent supervision to support clients in maintaining sobriety.

- **Criminal law: 70%**
- **Civil matters (dependency and neglect, guardianship, civil commitment): 30%**

14. Describe any unique aspects of your law practice, such as teaching, lobbying, serving as a mediator or arbitrator, etc. (exclude bar activities or public office).

As a Standing Master in the 13th Judicial District, I carry out many core judicial functions, such as presiding over hearings and non-jury trials, making findings of fact and issuing rulings and judgements. In addition to these judicial responsibilities, I am regularly appointed by the district court judges to serve as a mediator, helping parties reach resolution in complex and often emotionally charged cases including family law disputes, civil matters, dependency and neglect proceedings and select criminal cases. This dual role allows me to support the district court efficiently while promoting fair, timely and meaningful outcomes for the individuals and families we serve.

15. Describe the extent that your legal practice during the past ten years has included participation and appearances in state and federal court proceedings, administrative proceedings, and arbitration proceedings.

In my role as Standing Master, I work for the 13th Judicial District where preside over upwards of a dozen hearings and trials each week, issue orders, findings and final judgements in addition to conducting initial hearings in civil commitment matters, reviewing criminal filings, conducting criminal arraignments and presiding over criminal law and motion multiple times a month. Prior to this judicial role, I served as both a criminal prosecutor and public defender, representing parties in a wide range of matters including criminal cases, dependency and neglect proceedings, civil commitments, juvenile matters and guardianship proceedings, where I practiced before the Billings Municipal Court, the district courts and lower courts throughout and across eastern Montana.

16. If you have appeared before the Montana Supreme Court within the last ten years (including submission of amicus briefs), state the citation for a reported case and the case number and caption for any unreported cases.

Not applicable.

17. Describe three of the most important, challenging, or complex legal issues you have dealt with or legal proceedings in which you have participated during your practice.
1. **In my role as a Standing Master, the majority of my caseload involves domestic relations/family law matters. The majority of the litigants who appear before me are pro se, representing themselves. Litigants who are representing themselves, especially in family law matters, are often appearing before me during one of the most stressful and sometimes traumatic periods of their lives. These cases carry significant weight on me as the decisions I make directly impact not only the litigants before me but also their children. A key component of my job, greatly aided with the recent adoption of the Uniform District Court Rule 17 (Informal Domestic Relations Trials), is to ensure that all parties have equal accessibility to our judicial system to present their cases and to be fully heard. The weight of the decisions I make, especially those affecting children, is something I take incredibly seriously. This experience continually teaches me the importance of rendering rulings that adhere to applicable statutes and that focus on the best interests of the minor children involved.**
 2. **While serving as a defense attorney for the Office of the State Public Defender, I was co-counsel in a serious felony matter in Rosebud County in which our client was charged with two counts of felony sexual intercourse without consent involving two separate victims. I was responsible for defending Count I while my supervisor handled Count II. Through careful investigation and trial preparation, we were able to identify significant and substantial deficiencies in the investigation for Count I, including the failure to investigate available witnesses, collect corroborating evidence and promptly following up with the alleged victim. During my cross examination and in presenting our client's defense, the investigating officer admitted to these crucial oversights. As a result, while our client was ultimately convicted on Count II, I secured an acquittal on Count I. This experience underscored for me the crucial and essential role of the defense holding the State to its burden of proof beyond a reasonable doubt, especially in cases where an individual's liberty is on the line.**
 3. **While serving as a prosecutor, I was often tasked with pursuing justice and accountability using the evidence that was available in my cases. It was an effort that frequently required the balancing of expectations of victims with the legal standards required to secure a conviction. I believed then, as I do now, that a good prosecutor must always respect the burden of proof, especially in criminal matters where one's liberty is at stake and where the decision to charge a case carries lasting consequences. In my time as a prosecutor, I approached each case with the**

understanding and commitment to pursue justice, hold offenders accountable, back victims in their right to be heard and supported while also acknowledging the integrity of our criminal justice system, which demands a careful and thoughtful evaluation of whether the evidence available can meet the standard necessary to support a lawful conviction.

18. If you have authored and published any legal books or articles, provide the name of the article or book, and a citation or publication information.

Not applicable.

19. If you have taught on legal issues at postsecondary educational institutions or continuing legal education seminars during the past ten years, provide the title of the presentation, date, and group to which you spoke.

In April 2024, I participated in a panel alongside Judge Chris Abbott and Judge Jessica Fehr at the Bench & Bar CLE in Bozeman, Montana, where we participated on a panel on Uniform District Court Rule 17 (Informal Domestic Relations Trials), the roles of Standing Masters and various issues related to the family law practice.

20. Describe your pro bono services and the number of pro bono hours of service you have reported to the Montana Bar Association for each of the past five years.

Since I have been licensed to practice law, I have represented two individuals in two separate divorce and parenting matters before the 13th Judicial District Court through the Yellowstone Area Bar Family Law Project in partnership with Montana Legal Services Association. Based on my records, I believe that I provided approximately 40 hours of pro bono service in a case from late 2019 to early 2020, and an additional 6 hours in a case from late 2021 to early 2022. Since becoming a Standing Master in February 2022, I have been ethically unable to represent clients.

21. Describe dates and titles of any offices, committee membership, or other positions of responsibility you have had in the Montana State Bar, other state bars, or other legal professional societies of which you have been a member and the dates of your involvement. These activities are limited to matters related to the legal profession.

Not applicable.

22. Identify any service in the U.S. Military, including dates of service, branch of service, rank or rate, and type of discharge received.

Not applicable.

23. If you have had prior judicial or quasi-judicial experience, describe the position, dates, and approximate number and nature of cases you have handled.

I have served as a Standing Master for the 13th Judicial District since February 2022. In this judicial role, I preside over a wide range of matters referred to me by the district court judges, with the majority of my caseload consisting of domestic relations matters including dissolutions of marriage, parenting plans, property distribution, maintenance and family support. I conduct non-jury trials, modification hearings and issue final orders, findings of fact, conclusions of law, judgements and final decrees. Since assuming this role over three years ago, I have been referred hundreds of cases yearly. In 2024, I was referred approximately 194 cases. This is in addition to handling matters previously referred to the Standing Master's Department that have come back on modification motions. In addition to conducting hearings and non-jury trials in my cases, I also conduct legal research and prepare written rulings to support the timely and fair disposition of these matters.

While presiding over an extensive caseload of domestic relations and civil matters, I also review criminal filings for probable cause to grant leave for the initiation of criminal proceedings and preside over criminal law and motion multiple times a month, including conducting arraignments, probation and release revocations, bail hearings and determination of release conditions. I have also recently begun assisting with the newly established Arraignment Court in Yellowstone County, where in addition to conducting the criminal hearings outlined above, I also serve as pro tem judge for the Yellowstone County Justice Court.

Beyond my courtroom responsibilities, I also conduct mediation services for the district court judges across a broad range of cases, including family law, criminal, dependency and neglect and civil matters. I was referred approximately 27 mediations from the district court judges in 2024. I also preside over initial hearings in civil commitment matters, occasionally assist with presiding over Emergency Protective Service hearings and cover juvenile, dependency and neglect hearings and additional criminal hearings if requested by the district court judges.

24. Describe any additional business, agricultural, occupational, or professional experience (other than legal) that could assist you in serving as a judge.

During my time as a student at the University of Montana, I worked for three years in Residence Life, first as a Resident Assistant and later as an assistant undergraduate hall director and then as an undergraduate hall director. In these roles, I was responsible for upholding the Student Conduct Code, conducting investigatory meetings, adjudicating violations of the Student Conduct Code and planning educational programming to support the academic and professional development of students. I worked closely with university administration on sensitive matters involving Title IX, the Violence Against Women Act (VAWA), the Clery Act and other applicable and mandated state and federal laws. All of this gave me an early experience in balancing procedural fairness and accountability. During my time in Residence Life, I was also assisted the team that developed and

implemented PETSA (Personal Empowerment Through Self-Awareness), which was a sexual assault awareness and prevention program designed for students, faculty and staff.

Later as a law student, I interned with my university’s Title IX office, assisting with the design of a campus climate survey aimed at understanding how sexual misconduct and institutional culture affected the student experience. These experiences, both in undergraduate and law school, taught me how to approach complex and emotionally charged circumstances and situations with fairness, neutrality and attention to both individual rights as well as institutional responsibilities. This continues to serve and inform my work on the bench today where I often find myself tasked with making decisions and rulings that require impartial judgment and respect for due process.

D. COMMUNITY AND PUBLIC SERVICE

25. List any civic, charitable, or professional organizations, other than bar associations and legal professional societies, of which you have been a member, officer, or director during the last ten years. State the title and date of any office that you have held in each organization and briefly describe your activities in the organization and include any honors, awards or recognition you have received.

Title	Date	Description
Lay Leader, Hope United Methodist Church, Billings, MT	January 2025-Present	Assist in supporting church governance and staff relations through serving on the Church Administrative Council and Staff-Parish Relations Committee.

26. List chronologically (beginning with the most recent) any public offices you have held, including the terms of service and whether such positions were elected or appointed. Also state chronologically any unsuccessful candidacies you have had for elective office or unsuccessful nominations for appointed office.

In March 2023, I applied for appointment to 13th Judicial District Court, Department 3. I was not selected for the position.

E. PROFESSIONAL CONDUCT AND ETHICS

27. Have you ever been publicly disciplined for a breach of ethics or unprofessional conduct (including Rule 11 violations) by any court, administrative agency, bar association, or other professional group? If so, provide the details.

No.

28. Have you ever been found guilty of contempt of court or sanctioned by any court for any reason? If so, provide the details.

No.

29. Have you ever been arrested or convicted of a violation of any federal law, state law, or county or municipal law, regulation or ordinance? If so, provide the details. Do not include traffic violations unless they also included a jail sentence.

No.

30. Have you ever been found liable in any civil proceedings for damages or other legal or equitable relief, other than marriage dissolution proceedings? If so, provide the citation of a reported case or court and case number for any unreported case and the year the proceeding was initiated (if not included in the case number).

No.

31. Is there any circumstance or event in your personal or professional life that, if brought to the attention of the Governor or Montana Supreme Court, would affect adversely your qualifications to serve on the court for which you have applied? If so, provide the details.

No.

F. BUSINESS AND FINANCIAL INFORMATION

32. Are you currently an owner, officer, director, or otherwise engaged in the management of any business other than a law practice? If so, please provide the name and locations of the business and the nature of your affiliation, and state whether you intend to continue the affiliation if you are appointed as a judge.

No.

33. Have you timely filed appropriate tax returns and paid taxes reported thereon as required by federal, state, local and other government authorities? If not, please explain.

Yes.

34. Have you, your spouse, or any corporation or business entity of which you owned more than 25% ever filed under title 11 of the U.S. Bankruptcy Code? If so, give details.

No.

G. JUDICIAL PHILOSOPHY

35. State the reasons why you are seeking office as a district court judge.

I am seeking office as a district court judge because I feel deeply called to serve; called in a manner that has shaped every chapter and aspect of my professional life and career. The call to public service is not a passing impulse to me. Rather, it is a steady and abiding commitment that has guided my professional choices and has kept me grounded in a sense of purpose. Service to my community is rooted in the values that I was raised with as a Methodist and in the urging of John Wesley to do all the good we can for all those we can for as long as we ever can. Those words are more than a moral compass for me; they are a daily call to act with intention, compassion and integrity.

That call is what led me to serve as a public defender, advocating for indigent clients in rural communities throughout eastern Montana and later in Billings. It is what brought me to the Billings City Attorney's Office where I prosecuted misdemeanor offenses and later domestic violence offenses on behalf of our community while working to protect the integrity of our city and citizens. That call is what brought me to the bench as a Standing Master, helping families find resolutions, enforcing the law fairly and striving to ensure that every party feels seen, heard and respected.

In my work as a Standing Mater, I have gained a deeper understanding of the work required of a judge and it has reinforced my belief in calm, impartial and balanced decision making. I have built strong working relationships with attorneys, agencies and court personnel who work in and serve the 13th Judicial District and I have come to know firsthand the gravity and grace of this heavy responsibility. I am proud of the demeanor I bring to the bench as well as my commitment to rendering timely, thoughtful decisions in the hundreds of cases assigned to me out of the thousands of cases that pass through the 13th Judicial District each year.

Each step of my career, as a public defender, law clerk, prosecutor and now as a Standing Master, has prepared me for this next step. I believe that serving as a district court judge is a natural continuation of the work that I am currently doing and my dedication to my community and the rule of law. Should I be entrusted with this role, I would bring not only my experience and preparedness to hit the ground running on day one, but I would also bring the same sense of calling and commitment that has defined my public service from the beginning.

36. What three qualities do you believe to be most important in a good district court judge?

1. **I believe that it is crucial for a good district court judge to uphold the Constitution and to apply statutes as they were written. The judiciary has a duty to respect the limits of their role within the framework of our constitutional system and to interpret the law faithfully- not to rewrite it. A district court judge's personal views or opinions should never override the plain meaning of the law.**
2. **I believe that it is essential that a district court judge to exhibit fairness, humility and impartiality. A judge should strive to ensure that every party and individual is afforded a meaningful opportunity to be heard and that they are treated with dignity and respect while also maintaining discipline and composure. This includes listening carefully, considering each matter thoughtfully and maintaining an environment in the courtroom that reflects integrity and professionalism. It also requires fidelity to the responsibility of setting aside personal opinions, maintaining composure to manage difficult and challenging proceedings and having the humility to recognize the weight of the decisions being made and the impact that these decisions have on the litigants appearing before the Court.**
3. **I believe that it is important for a district court judge to respect precedent and to have a principled and consistent approach to decision making and to issuing rulings. This should not be done by a desired outcome, but rather by a faithful interpretation of the law. A judge's role is not to reach a particular result, but rather it is to faithfully interpret and apply the law as the law stands. In doing this, the judiciary helps ensure stability and consistency in our legal system and helps to sustain public trust in our courts and judicial system.**

37. What is your philosophy regarding the interpretation and application of statutes and the Constitution?

I believe in a principled and restrained approach to interpreting the law. I believe that when a judge is tasked with applying statutes and the Constitution, they must first begin with the text, giving words their plain meaning at the time that they were written while also taking into consideration the context, the structure and the purpose of the statute that was enacted. I respect the separation of powers and I respect the independence of the role of the legislature as being the branch of government tasked with making policy. It is not the role of judges or the courts to rewrite laws to reflect personal beliefs or evolving societal preferences. At the same time, I also recognize that the Constitution was designed by our framers to endure and that those original concepts must be applied to modern circumstances that we face today. Where there is silence or ambiguity to a statute, I believe that it is important to seek guidance from case precedent and historical understanding and to strive to render rulings and interpretations that promote stability, fairness and

adherence to our democratic principles. I believe that it should be the goal of every judge to uphold the rule of law by applying the law consistently so as to preserve separation of powers, to prevent judicial overreach, to maintain public trust in the judiciary and to protect the constitutional liberties provided to the citizens of our great State.

H. MISCELLANEOUS

38. Attach a writing sample authored entirely by you, **not to exceed 20 pages**. Acceptable samples include briefs, legal memoranda, legal opinions, and journal articles addressing legal topics.

Please see attached.

39. Please provide the names and contact information for three attorneys and/or judges (or a combination thereof) who are in a position to comment upon your abilities.

4. Hon. Ashley Harada

- a. District Court Judge, Montana's 13th Judicial District**
- b. 217 N. 27th Street, Billings, MT 59101**
- c. 406-869-8012**

5. Hon. Jessica T. Fehr

- a. District Court Judge, Montana's 13th Judicial District Court**
- b. 217 N. 27th Street, Billings, MT 59101**
- c. 406-256-2916**

6. Scott Twito

- a. Yellowstone County Attorney**
- b. 217 N. 27th Street, Billings, MT 59101**
- c. 406-256-2870**

CERTIFICATE OF APPLICANT

I hereby state that to the best of my knowledge the answers to all questions contained in my application are true. By submitting this application I am consenting to investigation and verification of any information listed in my application and I authorize a state bar association or any of its committees, any professional disciplinary office or committee, educational institutions I have attended, any references furnished by me, employers, business and professional associates, law enforcement agencies, all governmental agencies and instrumentalities and all other public or private agencies or persons maintaining records pertaining to my citizenship, residency, age, credit, taxes, education, employment, civil litigation, criminal litigation, law enforcement investigation, admission to the practice of law, service in the U. S. Armed Forces, or disciplinary history to release to the Office of the Governor of Montana or its agent(s) any information, files, records, or reports requested in connection with any consideration of me as a possible nominee for appointment to judicial office.

I further understand that the submission of this application expresses my willingness to accept appointment as District Court Judge if tendered by the Governor, and my willingness to abide by the Montana Code of Judicial Conduct and other applicable Montana laws (including the financial disclosure requirements of MCA § 2-2-106).

8/5/25

(Date)

(Signature of Applicant)

A signed original **and** an electronic copy of your application and writing sample must be submitted by
5:00 p.m. on Tuesday, August 26, 2025.

Mail the signed original to:

Hannah Slusser
Governor's Office
P.O. Box 200801
Helena, MT 59620-0801

Send the electronic copy to: hannah.slusser@mt.gov

interchangeably as “poultry”) as well as a chicken coop/greenhouse. Ms. Todd’s property is next to Daniel’s.

2. Dustyn filed a complaint in the 13th Judicial District Court of Montana, Yellowstone County, on May 17, 2022. Dustyn alleged that Daniel negligently left his dogs out off of Daniel’s property unleashed, which resulted in Daniel’s dogs killing Dustyn’s poultry. Dustyn sought unspecified damages¹, including money for the loss of his poultry (as well as the time, feed and gas to take care of the poultry), damage to Dustyn’s chicken coop/greenhouse, for Daniel to pay for half of the fencing to block off their respective properties to prevent further instances of this occurring and for Daniel’s dogs to be euthanized if they keep attacking Dustyn’s birds. Daniel filed his Answer on August 26, 2022, in which he denied the substance of Dustyn’s Complaint.
3. On September 6, 2022, this matter was referred to the Standing Master by *Standing Master Referral Order*. The Court held a Status/Scheduling Conference with the parties on October 3, 2022. Both parties appeared *pro se* and advised the Court that they would be proceeding *pro se* in this matter. On October 3, 2022, the Court issued its *Order Setting Trial and Case Management*, in which a non-jury trial was set for February 6, 2023.
4. On February 6, 2023, both parties appeared *pro se* for trial of this matter. Testimony and evidence were presented by both the parties and their respective witnesses.
5. Ms. Todd owns Lot 21 located at 26 East Sunshine Road, Roundup Montana, in the Mesa Area. Dustyn pays his mother \$500.00 a month to keep chicken, turkey and ducks on her property. Dustyn has celiacs disease and eats the eggs from the poultry he raises, as well

¹ Dustyn testified at trial that he was seeking \$20,680 in actual damages as well as punitive damages of \$34,000 for a total request of \$54,680 in damages.

as the actual poultry themselves. Dustyn began this enterprise around February 2021 and has a chicken coop and greenhouse on the property as well.

6. Around February 2021, Dustyn noticed dog feces in the shop which he believed to be from Daniel's dogs. Dustyn complained to the Roundup Mesa Landowners Association ("Landowners Association") and was told to address Daniel about it. Dustyn testified that at the time, Daniel was a part of the Board of the Landowners Association and felt that he could not address someone on the Board.
7. Dustyn wrote Daniel a letter as he was advised to by the Landowners Association in which he sought compensation for damages lost. Dustyn came up with an initial offer for of settlement for \$1,600, which included damages as well as compensation for court related costs. When pressed by the Court as to how Dustyn got from the initial request of \$1,600 in damages to \$20,680, Dustyn said that he began to itemize how many chickens were gone and googled how much it would cost to replace the chickens, as well as costs of travel from his residence to Billings (where he purchased the chickens) and costs of transporting the chickens from Billings to his property. Dustyn clarified that initially he was not seeking compensation for damages to his greenhouse, but that he is now. Dustyn also testified that he wanted compensation for the pain and suffering from losing his animals, stressing that this (his assertion of Daniel's dogs killing his chickens) has been going on for two years and that he (Dustyn) believes punitive damages are appropriate.
8. Dustyn googled the cost to replace his chickens. Dustyn estimates that he has lost 50 chickens and the total cost to replace the chickens came out to approximately \$3,450.00.
9. Petitioner's Exhibit 2 was admitted, showing Dustyn's calculations for damages sought. Dustyn testified that his calculations show a rough estimate for the price of chickens in

the United States, but it is not specific to Billings. Dustyn testified that he purchased his chickens from Shipton's in Billings and his calculations show the cost of raising chicks to chickens. Dustyn estimates costs to repair his greenhouse at approximately \$8,000.00 and testified that he did not factor in expenses for repairs he had already made.

10. Dustyn did not have insurance for his animals or his structures and testified that he has suffered emotionally from his poultry being killed.
11. Dustyn testified that Lot 21 is subject to the rules and regulations of the Landowners Association, even though he does not reside on the property. While neither party presented the Court with a copy of the covenant rules, Dustyn testified that the Landowners Association can fine members and put liens on their property if members do not follow the rules.
12. Dustyn testified that he was told by the Landowners Association that he had to pursue civil relief for the loss of his animals because the Landowners Association did not want to get involved.
13. Dustyn identified the dogs on his mother's property as Daniel's dogs. Petitioner's Exhibit 4 was admitted, which shows pictures of two black dogs on Dustyn's mother's property and depicts the dogs chasing, harassing and killing Dustyn's poultry. Dustyn was able to identify the dogs as belonging to Daniel from a Facebook post from April 2022 post that Daniel had made on a community page asking for help locating his dogs as they had gotten out. Daniel later testified that he recognized the dogs in Dustyn's pictures as being his dogs. The pictures in question were taken from a trail camera owned by Chuck Gettleman, who is a neighbor of Dustyn and who lives north of Lot 21.

14. Dustyn testified that the first time he found dead poultry in his property was in April 2021 when he discovered his chickens had been killed. He was not sure at the time whether the chickens had been killed by other animals and that he put up the trail camera to try and see what was killing his poultry.
15. Dustyn testified that there was a Landowners Association meeting in January 2021 where it was discussed that Daniel's dogs were roaming around without leashes and had been seen on Dustyn's mother's property. Dustyn asserts that Mr. Gettleman had told him that he had seen Daniel's dogs on Dustyn's mother's property, though Mr. Gettleman was not present at the trial to testify as to his personal observations. Dustyn admitted that he has never personally seen Daniel's dogs on the property in person.
16. Daniel previously served as an interim Landowners Association Board Member, having moved to the area in August 2019. Daniel lost election to serve as an elected member but was subsequently selected to serve as President of the Landowners Association. Daniel asserts that he was off the board in 2021 when Dustyn's poultry began to die.
17. Daniel testified that he got his dogs, Charlie and Bailey, in December 2020. Charlie and Bailey were new puppies when Daniel got them.
18. Daniel acknowledged at least one occasion in April 2022 when his dogs escaped from their pen and acknowledged that he had put up a Facebook post asking for contact information for anyone who may have found Charlie and Bailey. Charlie and Bailey were subsequently retrieved from the Homestead Vet in Roundup. Daniel testified that it was fair to say that his dogs had escaped from his property but could not say how many times this has happened.

19. Daniel testified that fence repairs on his property were an “ongoing project” and stated that Charlie and Bailey did not spend much time alone outside until about June 2021, at which time Daniel put up deer fencing on his property. Daniel said the deer fencing had worked for a while until Charlie and Bailey were able to get out, at which point he moved to chicken wire. Daniel testified that Charlie and Bailey were eventually able to get past the chicken wire, so he continued to build his fence higher.
20. Daniel received Dustyn’s initial letter in late January 2022 and by April 2022, out of an abundance of caution, Charlie and Bailey were not taken outside alone unless they were on leash. Daniel testified that if Charlie and Bailey did get out, they usually ended up at Warren Hansen’s house- a neighbor who lived a few lots down. Daniel said Charlie and Bailey would often end up at Mr. Hansen’s house if they got out because Mr. Hansen had new puppies. Daniel would be notified by Mr. Hansen if Charlie and Bailey were at his house and Daniel would immediately go and retrieve them from his property.
21. Petitioner’s Exhibit 1 was admitted, which shows a map of the area in question. Dustyn’s mother’s lot is directly next to Daniel’s lot. Daniel acknowledged that he has seen Bailey and Charlie on Dustyn’s mother’s lot once or twice but stated that he has immediately gone and retrieved them. Daniel estimated that any time Charlie and Bailey have escaped, he has generally found them within 30 minutes.
22. Daniel testified that if he is unavailable to care for Charlie and Bailey, his wife and children take care of them and stated that he does not believe that Charlie or Bailey killed Dustyn’s chickens.
23. Michael Pratt was a previous member of the Landowners Association Board and is no longer serving as a member.

24. Mr. Pratt testified that it was not uncommon for the Board to receive complaints about people's dogs running around the area off leash.
25. Mr. Pratt testified that he received a complaint towards the end of January 2022 about suspected dogs being on Dustyn's mother's property and that, at the time, there had been seven (7) chickens killed. At the time of this incident, Daniel was President of the Landowners Association. Mr. Pratt testified that it had been the position of the Board that the issue was a civil matter between the two landowners and that no formal action was taken at that time.
26. Mr. Pratt testified that there had not been mention of any particular dog when the complaint was brought but testified that Dustyn's mother had called and said that she had found dead chickens and observed dog prints and dog feces on her property. Mr. Pratt testified that at the time, they did not know if the culprit was coyotes, badgers, dogs or other predators on the land.
27. Mr. Pratt testified that as February 2022 came around, more poultry was being killed. Mr. Pratt testified that there were multiple complaints over the preceding nine (9) months, but that none of the complaints were ever formally recorded. Mr. Pratt testified that eventually Mr. Gettelman provided a trail camera which subsequently captured Daniel's dogs on the property (Petitioner's Exhibit 4). Mr. Pratt testified that he was familiar with Daniel's dogs and was able to identify them from their respective collars- a red collar and a dark collar.
28. Ms. Todd testified that she is the owner of Lot 21 and that she lets Dustyn keep chicken, turkeys and ducks on her property in exchange for Dustyn paying her \$500.00 a month.

Ms. Todd testified that she believed that Dustyn's poultry was brought onto the property in March 2020.

29. Ms. Todd testified first Dustyn had purchased the chickens from Shipton's and that she recalls Dustyn taking at least four (4) boxes of chickens from Shipton's to the property as well as purchasing a chicken coop for the chickens. Ms. Todd testified that she estimates at least 70 chickens have been killed, attacked or harassed and stated that Dustyn has had to fix his fence for the chickens at least four times, asserting that Dustyn did attempt to keep wildlife out. Ms. Todd testified that attacks on the poultry have since ended. Ms. Todd also believes that Charlie and Bailey have damaged the greenhouse, but did not specify as to how.
30. Ms. Todd testified that Dustyn used to get 20 eggs a day during egg laying season, which Ms. Todd stated is from roughly February to June.
31. Ms. Todd testified that when purchasing poultry, Dustyn purchased two (2) of every chicken from Shipton's as well as turkeys and ducks. Ms. Todd testified that the chickens are \$10.00 a piece, the ducks are \$18.00 a piece and the turkeys are more.
32. Daniel testified for his case in chief in which he stated that in January 2022, he first became aware of a complaint against him that his dogs had killed some of Dustyn's poultry. Daniel was first made aware via email from Mr. Pratt to all members of the Board as well as the corporate officers. In that complaint, there were some allegations that a conversation had taken place between Daniel and Dustyn inferring that Daniel had made threats towards Dustyn after Dustyn contacted Daniel about Daniel's dogs allegedly killing Dustyn's poultry.

33. Subsequent to that email, Daniel received both a letter and an email from Dustyn containing the same information, alleging that Daniel's dogs had killed a number of Dustyn's poultry. Daniel testified that Dustyn first demanded \$1,600 in damages for lost poultry or else Dustyn would pursue legal action against Daniel. Daniel testified that at the time, he viewed this demand as extortion.
34. The proceeding month, Daniel and Dustyn had an in-person conversation about Dustyn's assertion that Daniel's dogs had killed his poultry. Daniel described this conversation as tense. Daniel testified he later received pictures from Mr. Gettleman's trail camera showing his dogs on Dustyn's property. Daniel testified that every time he was contacted by Dustyn, the number of poultry being claimed by Dustyn as well as his demand for restitution went up. Daniel testified that he has never seen dead animals in his yard, nor has he ever seen his dogs with blood on them.
35. Daniel testified as to conflict within the Landowners Association Board, which he concedes may have "colored" how he received news of reports of his dogs allegedly killing Dustyn's poultry. Daniel agreed that Dustyn has never been a member of the Board, so he never had any knowledge of conflict within the Landowners Association Board.
36. Daniel further did not dispute that the pictures in Petitioner's Exhibit 4 show Charlie and Bailey on Dustyn's property. Aside from the pictures from the trail cameras, there was no other definitive evidence or testimony presented to show Charlie and Bailey were on Dustyn's property other than the one incident.

37. Mr. Pratt was called by Daniel to provide additional testimony. Respondent's Exhibit A was admitted, showing the email Mr. Pratt had sent out to Board Members after receiving Dustyn's initial complaint.
38. Mr. Pratt testified that the Landowners Association Board could not do anything to address this situation until a formal complaint had been made. Mr. Pratt could not recall when the formal complaint was officially made.
39. Mr. Pratt has seen Daniel's dogs on Roundup Mesa Road and Sunshine Trail but has only seen them on Dustyn's property once.

DISCUSSION

1. The Court has jurisdiction over the subject matter and the parties.
2. The Court concludes as a matter of law that the above-referenced facts were established by a preponderance of the evidence.
3. Conflicts in testimony may be corroborated by other facts or witnesses who support the witness' testimony. *State v. McCollom*, 2005 MT 61, PP13-14, 326 Mont. 251, PP13-14, 109 P.3d 215 PP13-14 (2005).
4. All relevant evidence is admissible, except as otherwise provided by the constitution, statute, these rules, or other rules applicable in the courts of this state. MRE 402.

Relevant evidence...may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury." MRE 403.

MCA §81-7-402(1) provides that "The owner of livestock or poultry injured or killed by any dog may recover as liquidated damages from the owner of the dog the actual value of the animals

killed or the value of the damages sustained by reason of the injuries as the case may be....It is no defense to the action that the owner or keeper of the dog had know knowledge of the dog's whereabouts at or prior to the time when the dog injured or killed livestock or poultry or that the owner or keeper of the dog had no knowledge of the dog's disposition or inclination to worry, kill, or injury livestock or poultry. This statute creates strict liability in the owner of a dog that causes worry, death or injury to livestock. *Knudsen Brother P'ship v. Carlson*, 2004 ML 2203, 27, 2004 Mont. Dist. LEXIS 3214, *14. Regardless of the owner's knowledge of the dog's whereabouts, they are liable for any injury caused by the dog. In the present matter, it is of no consequence whether Daniel let the dogs out or whether the dogs escaped on their own and went onto Ms. Todd's property. As the owner of the dogs, Daniel is strictly liable for any damages done by his dogs to Dustyn's poultry. The testimony and evidence show, by a preponderance of evidence, that at least on one occasion in March 2022, Daniel's dogs were caught on Ms. Todd's property chasing and attacking Dustyn's poultry. Daniel does not dispute that it his dogs pictured in Petitioner's Exhibit 4 attacking Dustyn's poultry. The testimony and evidence shows that Daniel's dogs had a history of escaping his property, notably around the same timeframe as when the dogs were photographed on Ms. Todd's property. The Court finds, by a preponderance of evidence, that Daniel's dogs killed Dustyn's poultry on one occasion. Dustyn's request for damages related to his deceased poultry is **GRANTED**.

1. Compensatory Damages for Lost Poultry

Every person who suffers detriment from the unlawful act or omission of another may recover from the person in fault a compensation for it in money, which is called damages. MCA §27-1-202. Damages must be reasonable and, where an obligation of any kind appears to create a right to unconscionable and grossly oppressive damages contrary to substantial justice, no more

than reasonable damages can be recovered. MCA §27-1-302. Ms. Todd testified that Dustyn had purchased two (2) of every kind of chickens from Shipton's in Billings, Montana, as well as turkeys and ducks. The chickens went for \$10 apiece, the ducks went for \$18 a piece and the turkeys cost even more. Dustyn testified that in total, he estimated that he has lost about 50 chickens, estimating the total cost to replace all of the lost poultry was \$3,540.00. As referenced above, the evidence presented shows that Daniel's dogs were on Ms. Todd's property at least once. While the Court finds sufficient evidence has been presented to show that Daniel's dogs attacked Dustyn's poultry on one occasion, the Court does not find sufficient evidence presented to show that Daniel's dogs killed Dustyn's poultry in every instance. As noted by Mr. Pratt in his testimony, there are other factors that may be attributable to the loss of poultry; coyotes, badgers or other predators on the land. The Court finds by a preponderance of the evidence that Daniel's dogs are responsible for killing Dustyn's poultry on one occasion. The Court finds insufficient evidence to support Dustyn's claim that Daniel's dogs killed his Dustyn's poultry on every occasion. The Court does note that Dustyn originally requested \$1,600 as compensation for his lost poultry. The Court finds \$1,600 as compensation for the killed poultry to be reasonable, not unconscionable, not grossly oppressive or contrary to substantial justice and commensurate with the damages suffered. The Court awards Dustyn \$1,600 for loss of his poultry.

2. Compensatory Damages for Damage to the Chicken Coop/Greenhouse and Request for Dogs to be Put Down

The Court does not find by a preponderance of evidence that Daniel's dogs are in any way responsible for damage to Dustyn's chicken coop or greenhouse. Dustyn presented no evidence outlining what damage, if any, Daniel's dogs inflicted on the chicken coop. Dustyn did not present testimony or evidence as to the condition of the chicken coop and greenhouse prior to

this incident, nor did he present testimony or evidence specifying what damages had been done. Review of the pictures from the trail camera shows what appears to be chicken wire fencing around the chicken coop and greenhouse with a folding chair, pieces of lumber and other debris around the exterior of the fence. The Court finds insufficient evidence to show that Daniel's dogs inflicted damage upon Dustyn's chicken coop/greenhouse. Additionally, Dustyn asks that Daniel be ordered to pay for half of the fencing to block off their respective properties so as to prevent Daniel's dogs from coming on Ms. Todd's property again and that, should Daniel's dogs attack Dustyn's chicken's again, that Daniel's dogs be euthanized. Dustyn fails, however, to cite to any applicable statute or case law that would warrant this relief available to him. Dustyn's request for restitution for his chicken coop/greenhouse, request that Daniel be ordered to pay for half of a fence to divide off their respective properties and order to euthanize Daniel's dogs should they attack Dustyn's chickens again are **DENIED**.

3. Punitive Damages

Punitive damages may only be awarded when a Defendant has been found guilty of actual fraud or malice. MCA §27-1-221(1). A Defendant is guilty of actual malice if the Defendant has knowledge of facts or intentionally disregards facts that create a high probability of injury to the Plaintiff and a) deliberately proceeds to act in conscious or intentional disregard of the high probability of injury to the Plaintiff or deliberately proceeds to act with indifference to the high probability of injury to the Plaintiff. All elements of the claim for punitive damages must be proved by clear and convincing evidence. Punitive damages are imposed to make an example of and to punish a Defendant, or to modify the behavior of the Defendant. *Czajkowski v. Meyers*, 2005 ML 2241, 56-57, 2005 Mont. Dist. LEXIS 1230, *21-22. Actual fraud is not applicable, nor has it been alleged, in this matter, leaving the Court to consider the applicability

of actual malice in this matter. In the present matter, the evidence overwhelmingly shows that Daniel had knowledge of facts that would create a high probability of injury to Dustyn; specifically, Daniel had knowledge of the fact that his dogs had a history of escaping his property- be it wandering over to Warren Hansen's property, ending up at the Homestead Vet (as was the case in April 2022) or ending up on Ms. Todd's property (as captured by the trail camera). Daniel had knowledge of these occurrences based on both his own observations (such as when Mr. Hansen would notify Daniel or his wife that their dogs were at his property) and when it was brought to his attention, such as when Dustyn notified him directly or when notice was provided by the Landowners Association, as was the case on January 30, 2022 (referencing Defendant's Exhibit A). However, the Court does not find that Daniel deliberately proceeded to act in conscious or intentional disregard of the high probability of injury to Dustyn, nor that Daniel deliberately proceeded to act with indifference to the high probability of injury to Dustyn. Daniel provided unrefuted testimony that fence repairs on his property were an "ongoing project" and provided testimony that he on more than one occasion attempted to remedy his dogs escaping by modifying and making repairs to his fence. Daniel further testified that for a period of time after receiving Dustyn's initial demand letter in January 2022, he ceased letting his dogs outside unless they were on a leash. While disputing Dustyn's assertion that it was his dogs killing Dustyn's chickens, the testimony shows that Daniel did not act with conscious or intentional disregard of the high probability of injury to Dustyn, nor did he act with indifference to the high probability of injury to Dustyn. Dustyn's request for punitive damages must be denied as the requisite satisfaction of every element of MCA §27-1-221 has not been met. Dustyn's request for punitive damages is **DENIED**.

4. Damages for Emotional Distress

Dustyn further requests damages for emotional distress. Courts have allowed recovery for emotional distress in limited cases; cases where the genuineness of the mental distress could be adequately determined, such as recovery for emotional distress damages upon proof of another cause of action and by plaintiffs who have suffered physical impact, or a physical manifestation of the emotional distress claimed. *Sacco v. High Country Indep. Press*, 896 P.2d 411, 418, 1995 Mont. LEXIS 95, *18, 271 Mont. 209, 52 Mont. St. Rep. 407, 10 I.E.R. Cas. (BNA) 1041 (citing Clinch and Johnson, *Compensation of Emotional Distress in Montana: Distinctions Between Bystanders and Direct Victims*, 47 Mont.L.R. 480-481 (1986)). Courts have allowed recovery for emotional distress but only in limited cases where the genuineness of the mental distress alleged could be adequately determined, such as recovery for emotional distress damages upon proof of another cause of action by the plaintiffs who have suffered physical impact, or a physical manifestation of the emotional distress claimed. Clinch and Johnson at 480-481. Damages for emotional distress with a host cause of action are known as parasitic damages. Parasitic damages have been recovered even in cases where the independent action giving rise to the emotional distress damages is trivial. *Sacco v. High Country Indep. Press* *18-19. While Montana Courts have historically dealt with the issue of damages for emotional distress as they relate to death or physical injury, the Courts have also upheld the award for damages related to pain and mental anguish with a host cause of action involving real property in the form of nuisance, trespass and negligent claims. *French v. Ralph E. Moore, Inc.* (1983), 203 Mont. 327, 661 P.2d 844. (“...damages for mental anguish are recoverable in a negligence action where the claim is that the defendant has interfered with the use and enjoyment of plaintiff’s land. No sound reason exists to hold otherwise.” *French*, 661 P.2d at 848). A district court has the duty of determining

the threshold question of whether any proof of such severe emotional distress exists sufficient to raise a question of fact for the jury or factfinder.

In the present matter, Dustyn's claim for emotional distress damages falls under classification as parasitic damages; the host cause of the emotional distress being Daniel's dog's escaping Daniel's property and going onto Ms. Todd's property, resulting in the dogs killing Dustyn's poultry. The instances for which the Court has recognized the availability of parasitic emotional distress damages are: (i) disrupting the quiet use and enjoyment of real property, *Maloney v. Home & Inv. Ctr., Inc.*, 2000 MT 34, ¶¶ 71, 72, 298 Mont. 213, 994 P.2d 1124; (ii) discrimination and civil right violations, *Vortex Fishing Sys. v. Foss*, 2001 MT 312, ¶ 34, 308 Mont. 8, 38 P.3d 836; (iii) bad faith and insurance fraud under the Montana Unfair Trade Practice Act, [****6] *Jacobsen*, ¶ 67; and (iv) wrongful death, *Dawson v. Hill & Hill Truck Lines*, 206 Mont. 325, 333, 671 P.2d 589, 594 (1983). *Childress v. Costco Wholesale Corp.*, 2021 MT 192, P9, 405 Mont. 113, 117, 493 P.3d 314, 316, 2021 Mont. LEXIS 639, *5-6. While the Montana Supreme Court has extended parasitic emotional distress damages to the loss of the use and enjoyment of land, the Court has never explicitly foreclosed parasitic emotional distress as an element of damage for loss to personal property.² *Id.* In the present instance, Dustyn has failed to establish the basis for parasitic emotional distress damages; the loss of Dustyn's poultry as enjoyment of personal property do not fall under one of the subsections prescribed in *Childress*. Further, as outlined in *Childress*, in the rare instances where parasitic emotional distress damages have been awarded for the loss of personal property, the Court have ruled that there is a required showing of a "subjective relationship with the (personal) property on a 'personal identity' level" for recovery of parasitic emotional distress damages as they relate to

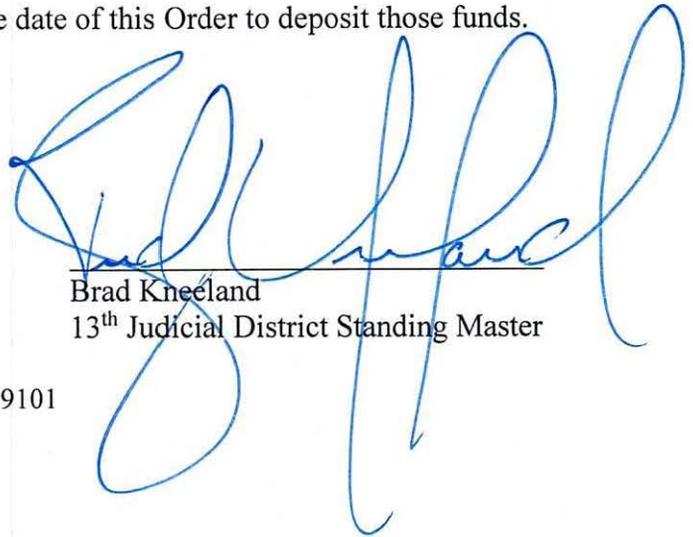
² Property interests may exist to chickens as personal property M.C.A. 70-1-104(2).

personal property. *Maloney*, ¶ 71. Dustyn has not provided sufficient facts to show that his personal identity would be irreparably impacted by Daniel's dogs killing his poultry; rather, in this instance, Dustyn was deprived of personal property- its value being of utility-, rather than the intrinsic value of the property itself. Dustyn's request for emotional distress damages is **DENIED.**

ORDER

IT IS HEREBY ORDERED ADJUDGED AND DECREED that judgement is hereby entered in favor of the Plaintiff Dustyn Todd in the amount of \$1,600. Pursuant to M.C.A. §25-8-103 *et seq.*, Defendant Daniel Main shall deposit the \$1,600 with the Yellowstone County Clerk of District Court. The Yellowstone County Clerk of District Court shall distribute those funds to Dustyn Todd. Daniel Main shall have 90 days from the date of this Order to deposit those funds.

DATED this 5th day of February, 2024.



Brad Kneeland
13th Judicial District Standing Master

cc: Dustyn Todd, 120 North 24th Street #15, Billings, MT 59101
Daniel Main, 5 Sunshine Trail, Roundup, MT 59072

The above stamped date indicates the date the Master's Report was filed. As of this date, the Order is immediately effective and enforceable as an Order of the Court. This judgment is final without a specific, written, timely objection. Mont. Code Ann., §3-5-126(2).

CERTIFICATE OF SERVICE:

This is to certify that the foregoing was duly served upon the parties or their counsel of record at their address. Dated this 5th day of February, 2024.

By: Martha Jonest-Martin