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**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MONTANA**

In re

HUNTER ANTON OLSON,

Debtor.

Case No. **19-60001-13**

HUNTER ANTON OLSON,

Plaintiff.

Adv. No. **19-00036-BPH**

-vs-

**PRO CO-OP, WESTERN BANK OF
WOLF POINT, and UNITED
STATES FARM SERVICE
AGENCY**

Defendants.

ORDER

In this adversary case the parties agreed to submit the matter for resolution on their briefs and an agreed statement of stipulated facts. Accordingly, Hunter Anton Olson (“Debtor”), Pro Co-Op, Opportunity Bank, formerly Western Bank of Wolf Point (“Bank”) and United States Farm Service Agency (“FSA”) jointly moved the Court to approve a Statement of Stipulated Facts at ECF No. 18 (“Joint Motion”). According to the Joint Motion, the parties agree that the facts included in their “Statement of Facts” are true and require no further proof.

The Parties filed the Joint Motion following this Court’s scheduling conference. At the scheduling conference, the Court established deadlines for submission of “agreed facts” and a

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briefing schedule. Based on the representations of counsel, the Court anticipated the parties would agree to those facts necessary to a determination of the legal issues present in this case. The Joint Motion concludes by stating, “the Statement of Stipulated Facts does not limit or prohibit any party from submitting additional evidence for the Court’s consideration on Bank’s Motion for Summary Judgment.” This reservation of rights to “submit new evidence” which may be tantamount to merely new allegations that are contested, gives the Court pause.

Ordinarily, pursuant to Mont. LBR 7056-1(a)(1), the moving party submits a Statement of Uncontroverted Facts. The party opposing summary judgment is obligated to file with the brief a Statement of Genuine Issues, “setting forth the specific facts which the opposing party asserts establish a genuine issue of material fact precluding summary judgment in favor of the moving party.” Mont. LBR 7056-1(a)(2). Finally, all “material facts in the moving party’s Statement of Uncontroverted Facts are deemed to be admitted unless controverted by a Statement of Genuine Issues filed by the opposing party.” Mont. LBR 7056-1(a)(3). The Court cannot discern from the Parties’ reservation of rights, whether they actually agree on the facts necessary for submission on the briefs or not.

First, what additional evidence do the parties anticipate submitting? Is it testimony, or documents? What form will the evidence be submitted in? How will a party object to this newly submitted “evidence,” within the parameters of the established briefing schedule? Will the party file a Statement of genuine issues and seek a trial date at that stage of the proceedings? If so, and there are disputed factual issues that are necessary to resolving this case, then a trial date should be set now, and parties afforded an opportunity to conduct discovery. Alternatively, the Parties should agree on all necessary facts, and submit the case for a decision on the briefs, consistent with the remarks at the scheduling conference. If agreement cannot be reached on the facts, a new scheduling conference should be requested.

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Accordingly, IT IS ORDERED, approval of the Joint Motion is **GRANTED** in part and the Parties' agreement that the Statement of Stipulated Facts are true and require no further proof is approved, and shall be the basis upon which the issues in the briefs are adjudicated. Approval of the Parties' reservation of rights is **DENIED** without prejudice, subject to the Parties more fully explaining the intent and purpose of the reservation of rights, and procedurally how the Court is expected to proceed if any newly submitted evidence is not agreed to by the other parties.

DATED January 27, 2020.

BY THE COURT:



Hon. Benjamin P. Hursh
United States Bankruptcy Court
District of Montana