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FILED

APR 05 2021

ANGIE SPARKS, Clerk of District Court
By  Deputy Clerk

ORIGINAL

MONTANA FIRST JUDICIAL DISTRICT COURT
LEWIS AND CLARK COUNTY

THE ASSOCIATED PRESS, THE
BILLINGS GAZETTE, THE BOZEMAN
DAILY CHRONICLE, THE HELENA
INDEPENDENT RECORD, THE
MISSOULIAN, THE MONTANA
STANDARD, MONTANA FREE PRESS,
THE RAVALLI REPUBLIC, LEE
ENTERPRISES, HAGADONE MEDIA
MONTANA, THE MONTANA
BROADCASTERS ASSOCIATION, and
THE MONTANA NEWSPAPER
ASSOCIATION,

Petitioners,

vs.

BARRY USHER in his capacity as Chair of
the Montana House of Representatives,
Judiciary Committee,

Respondent.

Cause No. ADV-2021-124

Hon. Mike Menahan

**RESPONDENT'S MOTION
TO DISMISS PURSUANT TO
MONT. R. CIV. P. 12(b)(6)**


Pursuant to Mont. R. Civ. P. 12(b)(6), Respondent Representative Barry Usher, in his capacity as Chair of the Montana House of Representatives Judiciary Committee, moves to dismiss the Petition in this case. Dismissal is appropriate because Petitioners have failed to state a claim upon which relief may be based.

Petitioners admit on the face of their Petition that no quorum was present at the alleged January 21, 2021 discussion and, thus, there was no meeting or deliberation in violation of Montana's open meeting laws. Even if they had otherwise stated a claim, Petitioners' requested relief of reversal of any legislative decision and for attorney fees against Representative Usher cannot be granted because he is entitled to legislative immunity.

A brief in support of this motion is filed simultaneously.

DATED the 1st day of April, 2021.

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By: 

AISLINN W. BROWN
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CERTIFICATE OF SERVICE

I hereby certify that I served a true and correct copy of the foregoing document by email to the following address(es):

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Date: April 1, 2021


ROCHELL STANDISH