

IN THE SUPREME COURT OF THE STATE OF MONTANA  
No. \_\_\_\_\_

---

BOARD OF REGENTS OF HIGHER OF THE STATE OF MONTANA,

Plaintiffs and Appellees,

v.

STATE OF MONTANA, by and through Austin  
Knudsen, Attorney General of the State of Montana in  
his official capacity,

Defendant and Appellant.

---

**NOTICE OF APPEAL**

---

On Appeal from the Montana First Judicial District Court,  
Lewis and Clark County, The Honorable Michael McMahon, Presiding

---

APPEARANCES:

AUSTIN KNUDSEN

Montana Attorney General

KRISTIN HANSEN

*Lieutenant General*

DAVID M.S. DEWHIRST

*Solicitor General*

KATIE SMITHGALL

*Assistant Solicitor General*

P.O. Box 201401

Helena, MT 59620-1401

Phone: 406-444-2026

david.dewhirst@mt.gov

kathleen.smithgall@mt.gov

*Attorneys for Defendant and  
Appellant*

NOTICE is given that the State of Montana by and through Austin Knudsen, the Defendant in Cause No. BDV 2021-598, First Judicial District, Lewis & Clark County, hereby files this appeal to the Supreme Court of the State of Montana from the Summary Judgment Order entered on November 30, 2021.

**THE APPELLANT FURTHER CERTIFIES:**

1. That this appeal is not subject to the mediation process required by Mont. R. App. P. 7.
2. That this appeal is not an appeal from an order certified as final under Mont. R. Civ. P. 54(b).
3. That all available transcripts of the proceedings in this cause have been ordered from the court reporter contemporaneously with the filing of this notice of appeal.
4. That the Appellant is exempt from filing fee requirements.

DATED the 30th day of November, 2021.

AUSTIN KNUDSEN  
Montana Attorney General

KRISTIN HANSEN  
*Lieutenant General*

DAVID M.S. DEWHIRST  
*Solicitor General*

/s/ Katie Smithgall

KATIE SMITHGALL

*Assistant Solicitor General*

215 North Sanders

P.O. Box 201401

Helena, MT 59620-1401

p. 406.444.2026

Kathleen.smithgallmt.gov

*Attorney for Defendant and Appellant*

## CERTIFICATE OF SERVICE

I, Kathleen Lynn Smithgall, hereby certify that I have served true and accurate copies of the foregoing Notice - Notice of Appeal to the following on 11-30-2021:

David M.S. Dewhirst (Govt Attorney)  
215 N Sanders  
Helena MT 59601  
Representing: State of Montana  
Service Method: eService

Martha Sheehy (Attorney)  
P.O. Box 584  
Billings MT 59103  
Representing: Board of Regents of Higher Education  
Service Method: eService

Emily Jayne Cross (Attorney)  
401 North 31st Street  
Suite 1500  
P.O. Box 639  
Billings MT 59103-0639  
Representing: Board of Regents of Higher Education  
Service Method: eService

Brianne McClafferty (Attorney)  
401 North 31st Street, Suite 1500  
P. O. Box 639  
Billings MT 59103-0639  
Representing: Board of Regents of Higher Education  
Service Method: eService

Kyle Anne Gray (Attorney)  
P.O. Box 639  
Billings MT 59103  
Representing: Board of Regents of Higher Education  
Service Method: eService

Ali Bovingdon (Attorney)  
1301 E. 6th Street  
P.O. Box 200801

Helena MT 59620-0801  
Representing: Board of Regents of Higher Education  
Service Method: E-mail Delivery

Electronically signed by Buffy Ekola on behalf of Kathleen Lynn Smithgall  
Dated: 11-30-2021