

ORIGINAL

FILED

AUSTIN KNUDSEN
Montana Attorney General

KRISTIN HANSEN
Lieutenant General

DAVID M.S. DEWHIRST
Solicitor General

BRENT MEAD
Assistant Solicitor General

PATRICK M. RISKEN
Assistant Attorney General

P.O. Box 201401
Helena, MT 59620-1401
Phone: (406) 444-2026
david.dewhirst@mt.gov
brent.mead2@mt.gov
priskens@mt.gov

NOV 17 2021
ANGIE SPARKS, Chief of District Court
Deputy Clerk

Attorneys for Defendant

MONTANA FIRST JUDICIAL DISTRICT COURT
LEWIS AND CLARK COUNTY

FORWARD MONTANA; LEO
GALLAGHER; MONTANA
ASSOCIATION OF CRIMINAL
DEFENSE LAWYERS; GARY ZADICK,

Plaintiffs,

vs.

THE STATE OF MONTANA, by and
through GREG GIANFORTE, Governor,

Defendant.

Cause No. ADV-2021-611

Hon. Mike Menahan

STATE OF MONTANA'S
ANSWER TO VERIFIED
AMENDED COMPLAINT

INTRODUCTION

The first two pages of "Introduction" in the Verified Amended Complaint are editorial comment that does not require a response. To the extent that the "Introduction" section of the Verified Amended Complaint states facts in support of that editorial, those facts are denied. If a response to the "Introduction" is required, it is denied in full as argumentative.

PARTIES

1. Defendant is without sufficient information to form a belief as to the truth or accuracy of the allegations stated in Paragraphs 1, 2, 3, 4 and 5 of the Verified Amended Complaint, except that Defendant admits that Leo Gallagher is the duly elected and acting County Attorney for Lewis & Clark County, Montana. Each and every allegation within those Paragraphs not specifically admitted is denied.

2. Defendant denies the liability allegations of Paragraph 5 of the Verified Amended Complaint.

3. Defendant admits Paragraph 6 of the Verified Amended Complaint.

JURISDICTION AND VENUE

4. Defendant admits the allegations of Paragraphs 7, 8, and 9 of the Verified Amended Complaint.

COMMON FACTUAL ALLEGATIONS

5. To the extent that the allegations of Paragraphs 10 through 38 are in the form of argument, as a brief, those allegations violate the spirit and intent of Mont. R. Civ. P. 8(a) calling for "a short and plain statement of the claim." It is not the responsibility of the answering Defendant to perform legal research to answer

allegations such as those. Objection to that section of the Verified Amended Complaint is therefore submitted.

6. To the extent that a response to Paragraphs 10 through 38 of the Verified Amended Complaint is required, Defendant asserts that the statutes, constitutional provisions, cases, legislative histories, and other materials accessed through cited web sites speak for themselves. If any statute, constitutional provision, case, legislative history, or any materials accessed through cited web sites is alleged in an incomplete, misleading, or otherwise argumentative manner those allegations are denied. Unless specifically admitted herein, Defendant is without sufficient information to form a belief in the truth or accuracy of the allegations stated in Paragraphs 10 through 38 of the Verified Amended Complaint and therefore deny same.

COUNT ONE

(Violation of the Single Subject Rule, art. V, § 11(3))

7. Defendant restates Paragraphs 1 through 6 above as if fully stated herein.

8. Insofar as Paragraphs 40 through 42 and 46 of the Verified Amended Complaint recite provisions of the Montana Constitution, bills and legislative actions, those provisions speak for themselves and no response is required. To the extent that a response to Paragraphs 40 through 42 and 46 of the Verified Amended Complaint is required, any statute, constitutional provision, case, legislative history, or any materials accessed through cited web sites is alleged in an incomplete, misleading or otherwise argumentative manner those allegations are denied.

9. Defendant denies the allegations in Paragraphs 43 through 45 and 47 of the Verified Amended Complaint.

COUNT TWO
(Change of Original Purpose, art. V, § 11(1))

10. Defendant restates Paragraphs 1 through 9 above as if fully stated herein.

11. Insofar as Paragraphs 49 through 53 of the Verified Amended Complaint recite provisions of the Montana Constitution, bills and legislative actions, those provisions speak for themselves and no response is required. To the extent that a response to Paragraphs 49 through 53 of the Verified Amended Complaint is required, any statute, constitutional provision, case, legislative history or bill is alleged in an incomplete, misleading or otherwise argumentative manner those allegations are denied.

12. Defendant denies the allegations in Paragraphs 54 through 56 of the Verified Amended Complaint.

COUNT THREE
(Restriction on Political Speech and Assembly, art. II, §§ 6 and 7)

13. Defendant restates Paragraphs 1 through 12 above as if fully stated herein.

14. Insofar as Paragraphs 58, 59 and 62 of the Verified Amended Complaint recite provisions of the Montana Constitution and case law, those provisions speak for themselves and no response is required. To the extent that a response to Paragraphs 58, 59 and 62 of the Verified Amended Complaint is required, any statute,

constitutional provision, case, legislative history or bill is alleged in an incomplete, misleading or otherwise argumentative manner those allegations are denied.

15. Defendant denies the allegations in Paragraphs 60, 61, 63 and 64 of the Verified Amended Complaint.

COUNT FOUR

(Restriction on Political Speech and Assembly, U.S. Const. amend. 1)

16. Defendant restates Paragraphs 1 through 15 above as if fully stated herein.

17. Defendant denies the allegations in Paragraphs 66 through 68 of the Verified Amended Complaint.

COUNT FIVE

(Restricting Access to Courts, Speedy Remedy, the Right to be Defended by Counsel, and Other Court Access and Procedural Rights, art. II, §§ 16, 17 and 24)

18. Defendant restates Paragraphs 1 through 17 above as if fully stated herein.

19. Defendant denies the allegations stated in Paragraphs 70 through 73 and 80 and 81 of the Verified Amended Complaint.

20. Insofar as Paragraphs 74 through 77 of the Verified Amended Complaint recite provisions of the Montana Constitution, those provisions speak for themselves and no response is required. To the extent that a response to Paragraphs 74 through 77 of the Verified Amended Complaint is required, any constitutional provision, case, legislative history or bill is alleged in an incomplete, misleading or otherwise argumentative manner those allegations are denied. Insofar as the remainder of the allegations stated in Paragraphs 74 through 77 of the Verified

Amended Complaint, Defendant is without sufficient information to form a belief as to the truth or accuracy of the allegations stated therein and therefore deny same. Any allegation stated in Paragraphs 74 through 77 of the Verified Amended Complaint that is not specifically admitted is denied.

21. Paragraphs 78 and 79 of the Verified Amended Complaint is a legal argument in the form of a brief and does not require a response. To the extent that Paragraphs 78 and 79 require a response, any constitutional provision, case or argument therefrom alleged in an incomplete, misleading or otherwise argumentative manner those allegations is denied.

COUNT SIX
(Restriction on Free Speech, U.S. Const. amend. 1)

22. Defendant restates Paragraphs 1 through 21 above as if fully stated herein.

23. Defendant denies the allegations in Paragraphs 83 through 86 of the Verified Amended Complaint.

COUNT SEVEN
(Injunction)

24. Defendant restates Paragraphs 1 through 23 above as if fully stated herein.

25. Insofar as Paragraphs 88 and 89 of the Verified Amended Complaint recite Montana statute and case law, those provisions speak for themselves and no response is required. To the extent that a response to Paragraphs 88 and 89 of the Verified Amended Complaint is required, any statute, case or other authority alleged

in an incomplete, misleading or otherwise argumentative manner those allegations is denied.

26. Defendant denies the allegations in Paragraphs 90 through 95 of the Verified Amended Complaint.

GENERAL DENIAL

27. Except as expressly admitted herein, Defendant denies every allegation in the Complaint.

PLAINTIFFS' PRAYER FOR RELIEF

Defendant denies that the Plaintiffs are entitled to any of the relief claimed in Paragraphs 1 through 4 of the Prayer for Relief.

AFFIRMATIVE DEFENSES

WHEREFORE, having fully answered the allegations and claims stated in the Plaintiffs' Verified Amended Complaint, and as Affirmative Defenses thereto, Defendant states:

1. Failure to state a claim upon which relief may be granted;
2. Lack of case or controversy;
3. Plaintiffs' causes of action and claims are not ripe;
4. Failure to join all necessary parties;
5. Lack of standing by any or all Plaintiffs; and
6. Defendant reserves the right to amend this Answer to allege and state additional affirmative defenses as they might arise or become known through discovery or further investigation, including but not limited to waiver, laches and/or estoppel.

DEFENDANT'S PRAYER FOR RELIEF

Based on the Answer to the allegations of the Verified Amended Complaint and the affirmative defenses thereto, Defendant respectfully requests that the Court enter judgment as follows:

- (a) Deny Plaintiffs and all of them all requests for relief;
- (b) Dismiss the Verified Amended Complaint with prejudice, and without an award of costs or attorney's fees; and
- (c) Award such further relief as the Court may find to be just and equitable.

DATED this 16th day of November, 2021.

AUSTIN KNUDSEN
Montana Attorney General

KRISTIN HANSEN
Lieutenant General

DAVID M.S. DEWHIRST
Solicitor General



BRENT MEAD
Assistant Solicitor General
215 North Sanders
P.O. Box 201401
Helena, MT 59620-1401
p. 406.444.2026
brent.mead2@mt.gov

Attorney for Defendant

CERTIFICATE OF SERVICE

I hereby certify that I served a true and correct copy of the foregoing document by email to the following addresses:

Raph Graybill
Graybill Law Firm, PC
300 4th Street North
PO Box 3586
Great Falls, MT 59403
rgraybill@silverstatelaw.net

Rylee Sommers-Flanagan
Constance Van Kley
Upper Seven Law
1008 Breckenridge Street
Helena, MT 59601
rylee@uppersevenlaw.com
constance@uppersevenlaw.com

Date: November 16, 2021


ROCHELL STANDISH