

David M.S. Dewhirst (MT Bar #65934132)

Solicitor General

Kathleen L. Smithgall (MT Bar #67323943)

Office of the Attorney General

P.O. Box 201401

Helena, MT 59620-1401

Telephone: (406) 444-2026

Austin Markus James (MT Bar #58422031)

Chief Legal Counsel

Office of the Secretary of State

Montana Capitol Building, Room 260

P.O. Box 202801

Helena, MT 59620-2801

Telephone: (406) 444-6197

Dale Schowengerdt (MT Bar #30342848)

Ian McIntosh (MT Bar #4384)

David F. Knobel (MT Bar #212614)

Clayton Gregersen (MT Bar #36387689)

CROWLEY FLECK PLLP

Helena, MT 59601

P.O. Box 797

Helena, MT 59624-0797

Telephone: (406) 449-4165

*Attorneys for Defendant Christi Jacobsen, in her
official capacity as Montana Secretary of State*

**IN THE MONTANA THIRTEENTH JUDICIAL DISTRICT COURT,
YELLOWSTONE COUNTY**

Montana Democratic Party,

Plaintiff,

vs.

Christi Jacobsen, in her official capacity as
Montana Secretary of State,

Defendant.

Cause No.: DV-56-2021-451

Hon. Michael Moses

**DEFENDANT’S MOTION FOR
SUMMARY JUDGMENT**

WESTERN NATIVE VOICE, Montana Native
Vote, Blackfeet Nation, Confederated Salish
and Kootenai Tribes, Fort Belknap Indian
Community, and Northern
Cheyenne Tribe,

Plaintiffs,

vs.

Christi Jacobsen, in her official capacity as
Montana Secretary of State,

Defendant.

Montana Youth Action, Forward Montana
Foundation, and Montana Public Interest
Group,

Plaintiffs,

vs.

Christi Jacobsen, in her official capacity as
Montana Secretary of State,

Defendant.

Defendant Christi Jacobsen, in her official capacity as Montana Secretary of State, submits this Motion for Summary Judgment pursuant to Montana Rule of Civil Procedure 56(c)(3). Summary judgment is appropriate because there are no genuine issues of material fact, and Defendant is entitled to judgment as a matter of law.

Defendant specifically requests the Court enter summary judgment in her favor on all claims Plaintiffs have pled in this consolidated docket. The factual and legal bases for Defendant's Motion for Summary Judgment are set out in detail in Defendant's Brief in Response to Plaintiffs' Preliminary Injunction Motions and in Support of Defendant's Motion for Summary Judgment, which is filed concurrently with this Motion. Boiled down, the

undisputed material facts at issue confirm Plaintiffs cannot carry their “heavy burden” of proving the various statutes they have challenged are “unconstitutional ‘beyond a reasonable doubt.’” *Brown v. Gianforte*, 2021 MT 149, ¶ 32, 404 Mont. 269, 488 P.3d 548 (citations omitted). Defendant also has filed a Statement of Undisputed Facts, with attached exhibits, in support of this Motion.

Counsel for all Plaintiffs in this matter have been contacted, and all Plaintiffs all oppose Defendant’s Motion for Summary Judgment.

Dated this 16th day of February, 2022.

By Dale Schowengerdt

CROWLEY FLECK PLLP
P.O. Box 797
Helena, MT 59624-0797

Attorney for Defendant Christi Jacobsen, in her
official capacity as Montana Secretary of State

CERTIFICATE OF SERVICE

I, Dale Schowengerdt, hereby certify that I have served true and accurate copies of the foregoing Motion - Motion for Summary Judgment (Government) to the following on 02-17-2022:

Alexander H. Rate (Attorney)
713 Loch Leven Drive
Livingston MT 59047
Representing: Western Native Voice
Service Method: eService

Ryan Ward Aikin (Attorney)
1018 Hawthorne St.
Missoula MT 59802
Representing: Blackfeet Nation
Service Method: eService

Rylee Sommers-Flanagan (Attorney)
40 W. Lawrence Street
Helena MT 59601
Representing: Forward Montana Foundation, Montana Public Interest Reserch Grp., Blackfeet Nation,
Montana Youth Action
Service Method: eService

Matthew Prairie Gordon (Attorney)
1201 Third Ave
Seattle WA 98101
Representing: Montana Democratic Party
Service Method: eService

John C. Heenan (Attorney)
1631 Zimmerman Trail, Suite 1
Billings MT 59102
Representing: Montana Democratic Party
Service Method: eService

Peter M. Meloy (Attorney)
2601 E. Broadway
2601 E. Broadway, P.O. Box 1241
Helena MT 59624
Representing: Montana Democratic Party

Service Method: eService

David M.S. Dewhirst (Govt Attorney)

215 N Sanders

Helena MT 59601

Representing: Jacobsen, Christi As Secretary Of State Of Mt

Service Method: eService

Austin Markus James (Attorney)

1301 E 6th Ave

Helena MT 59601

Representing: Jacobsen, Christi As Secretary Of State Of Mt

Service Method: eService

David Francis Knobel (Attorney)

490 N. 31st St., Ste 500

Billings MT 59101

Representing: Jacobsen, Christi As Secretary Of State Of Mt

Service Method: eService

Confederated Salish And Kootenai Tribes (Plaintiff)

Service Method: Other Means by Consent

Fort Belknap Indian Community (Plaintiff)

Service Method: Other Means by Consent

Northern Cheyenne Tribe (Plaintiff)

P.O. Box 128

Lame Deer 59043

Service Method: Other Means by Consent

Jonathan Topa (Attorney)

125 Broad Street 18th Floor

New York 10004

Representing: Western Native Voice

Service Method: Other Means by Consent

Kathleen Lynn Smithgall (Attorney)

P.O. Box 201401

Helena 59620

Representing: Jacobsen, Christi As Secretary Of State Of Mt

Service Method: Other Means by Consent

Ian McIntosh (Attorney)

1915 S. 19th Ave

P.O. Box 10969

Bozeman MT 59719

Service Method: eService

E-mail Address: imcintosh@crowleyfleck.com

Electronically Signed By: Dale Schowengerdt
Dated: 02-17-2022