

03/02/2022

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CLERKYellowstone County District Court  
STATE OF MONTANABy: Pamela Owens

DV-56-2021-0000451-DK

Moses, Michael G.

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MONTANA THIRTEENTH JUDICIAL DISTRICT COURT  
COUNTY OF YELLOWSTONE

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Montana Democratic Party and Mitch Bohn,	)	
	)	
Plaintiffs,	)	Cause No. DV 21-0451
	)	
Western Native Voice, Montana Native Vote,	)	Hon. Michael Moses
Blackfeet Nation, Confederated Salish and	)	
Kootenai Tribes, Fort Belknap Indian	)	
Community, and Northern Cheyenne Tribe,	)	<b>DECLARATION OF ALEX RATE IN</b>
	)	<b>SUPPORT OF PLAINTIFFS'</b>
Plaintiffs,	)	<b>MOTION FOR PRELIMINARY</b>
	)	<b>INJUNCTION</b>
Montana Youth Action, Forward Montana	)	
Foundation, and Montana Public Interest	)	
Research Group,	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	
	)	
CHRISTI JACOBSEN, in her official	)	
capacity as Montana Secretary of State,	)	
	)	
Defendant.	)	
	)	

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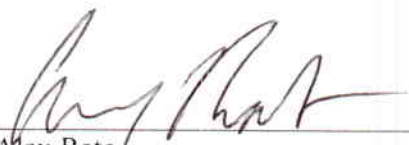
I, Alex Rate, submit the following Declaration in support of Plaintiffs' Motion for Preliminary Injunction. I am the Legal Director of the American Civil Liberties Union of Montana (ACLU-MT) and counsel to Western Native Voice et al. Plaintiffs in the above-captioned case. If called upon to testify, I could competently testify to the matters set forth in this Declaration.

1. This case was filed on May 17, 2021.
2. Between May 17, 2021 and September, 2021, the Parties briefed a Motion to Consolidate Cause No. DV 21-0560 with Cause No. DV 21-0451.
3. On September 17, 2021, Western Native Voice et al. Plaintiffs served their First Combined Discovery Requests on Defendant.
4. Those Discovery Requests were critical to Plaintiffs' case because the requested voter files and associated data were necessary for compiling expert witness reports.

5. In turn, those expert reports provided the underpinnings for Plaintiffs' Motion for Preliminary Injunction.
6. On October 18, 2021, Counsel for Defendant requested an extension of time for providing discovery responses up to November 5, 2021.
7. Counsel for Plaintiffs requested a "rolling production" of documents but, in an effort to be collegial, agreed to the extension.
8. When the State finally did respond to Plaintiffs Discovery Requests, they did not provide any response to Plaintiffs' Request for Production No. 8.
9. Finally, on November 11, 2021, Defendant finally produced documents responsive to Request for Production No. 8.
10. On November 16, 2021, Counsel for Plaintiffs sent Counsel for Defendants a letter identifying numerous deficiencies in the State's Discovery Responses.
11. After Counsel for Plaintiffs executed a Protective Order at the State's insistence, on November 19, 2021 the State finally produced the materials Plaintiffs requested with their First Combined Discovery Requests (including, most importantly, the Montana Voter File in its native format).
12. Meanwhile, in the associated case *Montana Democratic Party et al. v. Jacobsen*, Cause No. DV 21-0451, the same Defendant sought to stay discovery altogether while a Motion to Dismiss was pending.
13. On January 7, 2022, the Parties to the Consolidated Action filed a Joint Stipulation setting forth, in relevant part, a stipulated Preliminary Injunction briefing schedule and date for oral argument on Plaintiffs' Motion.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, based on my personal knowledge.

Executed in Livingston, Montana on March 2, 2022.

  
\_\_\_\_\_  
Alex Rate

## **CERTIFICATE OF SERVICE**

I, Alexander Rate, hereby certify that I have served true and accurate copies of the foregoing Affidavit - Affidavit to the following on 03-02-2022:

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Electronically signed by Krystel Pickens on behalf of Alexander Rate  
Dated: 03-02-2022