

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

Solicitor General

Office of the Attorney General

P.O. Box 201401

Helena, MT 59620-1401

Telephone: (406) 444-2026

Dale Schowengerdt (MT Bar #30342848)

Ian McIntosh (MT Bar #4384)

Leonard H. Smith (MT Bar #3445)

CROWLEY FLECK PLLP

Helena, MT 59601

P.O. Box 797

Helena, MT 59624-0797

Telephone: (406) 449-4165

*Lead 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 and Mitch Bohn,

Plaintiffs,

Western Native Voice, *et al.*,

Plaintiffs,

Montana Youth Action, *et al.*,

Plaintiffs,

vs.

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

Defendant.

Consolidated Case No. DV 21-0451

Hon. Michael Moses

**DEFENDANT'S MOTION FOR ADVISORY
JURY**

Defendant Christi Jacobsen, pursuant to Mont. R. Civ. P. 39(c), moves the Court for an advisory jury, to the limited extent there are any genuine issues of material fact that must be resolved at trial. Secretary Jacobsen maintains her position that this case involves solely legal

questions, which the Court should decide on summary judgment. If the Court, however, does not resolve all claims on summary judgment, any remaining factual issues concerning the constitutionality of the challenged election laws should be tried before an advisory jury of 12 jurors for the reasons set forth in the brief filed contemporaneously with this motion.¹

Counsel for Defendant contacted counsel for Plaintiffs regarding this motion. Plaintiffs oppose an advisory jury.

Dated this 26th day of May, 2022.

/s/ David F. Knobel

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

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

¹ Defendant stipulates that the trial in this case is a non-jury trial and maintains that the Court has the final say at trial as set forth in the brief. Mont. R. Civ. P. 39(c) authorizes Defendant to request, and the Court to order (with or without the parties' consent), an advisory jury even in an equitable action such as this where the trial is a non-jury trial.

CERTIFICATE OF SERVICE

I, David Francis Knobel, hereby certify that I have served true and accurate copies of the foregoing Motion - Motion to the following on 05-26-2022:

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

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

Ryan Ward Aikin (Attorney)
1018 Hawthorne St.
Missoula MT 59802
Representing: Montana Youth Action, Forward Montana Foundation
Service Method: eService

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

Jonathan Patrick Hawley (Attorney)
1700 Seventh Avenue
Suite 2100
Seattle WA 98101
Representing: Mitch Bohn, Montana Democratic Party
Service Method: eService

Matthew Prairie Gordon (Attorney)
1201 Third Ave
Seattle WA 98101

Representing: Mitch Bohn, Montana Democratic Party
Service Method: eService

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

E. Lars Phillips (Attorney)
1915 S. 19th Ave
Bozeman MT 59718
Representing: Jacobsen, Christi As Secretary Of State Of Mt
Service Method: eService

William McIntosh Morris (Attorney)
1915 S. 19th Ave.
P.O. Box 10969
Bozeman MT 59719
Representing: Jacobsen, Christi As Secretary Of State Of Mt
Service Method: eService

John Mark Semmens (Attorney)
900 N. Last Chance Gulch
Suite 200
Helena MT 59601
Representing: Jacobsen, Christi As Secretary Of State Of Mt
Service Method: eService

Dale Schowengerdt (Attorney)
900 N. Last Chance Gulch
Suite 200
Helena MT 59624
Representing: Jacobsen, Christi As Secretary Of State Of Mt
Service Method: eService

Clayton H. Gregersen (Attorney)
P.O. Box 2529
Billings MT 59101
Representing: Jacobsen, Christi As Secretary Of State Of Mt
Service Method: eService

Leonard Hudson Smith (Attorney)
P.O. Box 2529
Billings MT 59103
Representing: Jacobsen, Christi As Secretary Of State Of Mt
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

Ian McIntosh (Attorney)
1915 S. 19th Ave
P.O. Box 10969
Bozeman MT 59719
Representing: Jacobsen, Christi As Secretary Of State Of Mt
Service Method: eService

Kathleen Lynn Smithgall (Govt Attorney)
215 N. Sanders St.
Helena MT 59601
Representing: Jacobsen, Christi As Secretary Of State Of Mt
Service Method: eService

Electronically Signed By: David Francis Knobel
Dated: 05-26-2022