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MONTANA THIRTEENTH JUDICIAL DISTRICT COURT  
YELLOWSTONE COUNTY

AMELIA MARQUEZ, an individual;  
and JOHN DOE, an individual,

Plaintiffs,

v.

STATE OF MONTANA; GREGORY  
GIANFORTE, in his official capacity as  
Governor of the State of Montana; et  
al,

Defendants.

DV-21-00873

Hon. Michael G. Moses

**DEFENDANTS' MOTION  
TO DISMISS PLAINTIFFS'  
AMENDED COMPLAINT**

Pursuant to Mont. R. Civ. P. 12(b)(1) and (6), Defendants move this Court to dismiss Plaintiffs' Amended Complaint (Dkt. 42, Ex. A) because Plaintiffs lack standing and fail to state a claim upon which relief can be granted. Defendants' original Motion to Dismiss (Dkt. 23) was fully briefed and argued on December 22, 2021. With permission of this Court, and by agreement of the parties (Dkt. 47) Defendants now move to dismiss Plaintiffs' Amended Complaint. The motion is supported by the accompanying brief, is limited to the two new claims raised in the Amended Complaint, and fully incorporates all arguments made in the original Motion to Dismiss and its related briefing. *See, e.g.*, Dkt. 23, 24, 37, 46.

Counsel for Defendants have contacted opposing counsel regarding this motion, and they consent to the filing of this motion and accompanying brief but oppose dismissing the Amended Complaint.

DATED this 28th day of January, 2022.

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*/s/ Kathleen L. Smithgall*

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## CERTIFICATE OF SERVICE

I, Kathleen Lynn Smithgall, hereby certify that I have served true and accurate copies of the foregoing Motion - Motion to Dismiss to the following on 01-28-2022:

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Electronically signed by Buffy Ekola on behalf of Kathleen Lynn Smithgall  
Dated: 01-28-2022