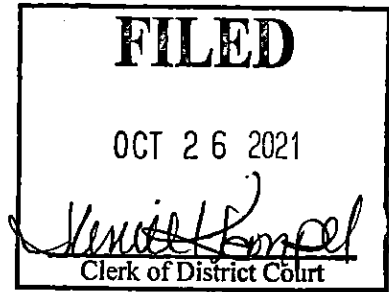


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MONTANA SEVENTH JUDICIAL DISTRICT COURT, RICHLAND COUNTY

<p>NETZER LAW OFFICE, P.C. and DONALD L. NETZER,</p> <p>Plaintiffs,</p> <p>vs.</p> <p>STATE OF MONTANA, by and through AUSTIN KNUDSEN, in his official capacity as Attorney General and LAURIE ESAU, Montana Commissioner of Labor and Industry,</p> <p>Defendants.</p>	<p>Cause No. DV-21-89</p> <p>APPLICATION FOR PRELIMINARY INJUNCTION</p> <p>Hon. Katherine M. Bidegaray</p>
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The Plaintiffs, Netzer Law Office, P.C., and Donald L. Netzer (collectively, "Netzer Law") by its attorneys Joel G. Krautter and Jared R. Wigginton move for a preliminary injunction.¹

¹ State Defendants have not yet answered Netzer Law's initial complaint nor has counsel for State Defendants otherwise entered an appearance before this Honorable Court. As a result, counsel has not been able to consult with opposing counsel as to their position on Netzer Law's application for a preliminary injunction. With that said, counsel assumes that State Defendants will oppose this application.

14

Netzer Law has “demonstrated either a prima facie case that [it] will suffer some degree of harm and [is] entitled to relief (§ 27-19-201(1), MCA) or a prima facie case that [it] will suffer an ‘irreparable injury’ through the loss of a constitutional right (§ 27-19-201(2), MCA).”

Driscoll v. Stapleton, 2020 MT 247, ¶ 17, 401 Mont. 405, 414, 473 P.3d 386, 392.

First, Netzer Law has made prima facie showings that House Bill 702 (“HB 702”) violates (1) its constitutional rights under Article II, Sections 3, 4, 34 and Article IX, Section 1 of the Montana Constitution; and (2) Article V, Section 11, Clause 3 of the Montana Constitution. HB 702 infringes on Netzer Law’s inalienable rights to a clean and healthful environment; to enjoying and defending its and its employees’ existence; to fully possessing and protecting its property; to seeking safety and health for its owner, its employees, and its clients; and to its other unenumerated rights. Mont. Const. art. II, §§ 3, 34. HB 702 also interferes with the State’s and Netzer Law’s ability to fulfill its constitutional responsibility to maintain and improve a clean and healthful environment for “this and future generations.” Mont. Const. art. IX § 1. HB 702 also denies Netzer Law equal protection of the law by treating it differently than other similarly situated entities (*e.g.*, schools, day-cares, nursing homes, long-term care providers, assisted living providers and health care facilities) without adequate justification. Mont. Const. art. II, § 4. Finally, HB 702 violates the Montana Constitution’s requirement in Article V, Section 11, Clause 3 that a bill’s title embrace all the bill’s subjects because HB 702 failed to include any information about vaccine-mandate bans in its title.

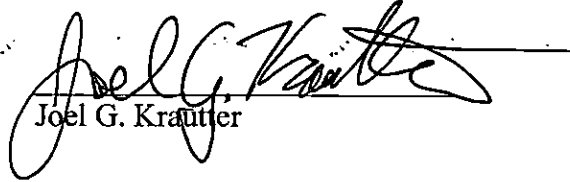
Second, a preliminary injunction is warranted because Netzer Law has shown irreparable injury due to HB 702 violating its constitutional right and, independently, preventing Netzer Law from implementing measures needed to protect its business, owners, employees, clients, and others amid the ongoing pandemic. Furthermore, given the surging COVID-19 pandemic in

Montana, HB 702's prohibitions on employers, businesses, and governments being able to require vaccinations or take protective measures based on an individual's vaccination status seriously harms the public interest. HB 702 should therefore be enjoined pending litigation in this matter to prevent irreparable injury that cannot be remedied in a final judgment.

Accordingly, and for the reasons outlined in the concurrently filed brief, the Court should issue an order requiring cause to be shown that a preliminary injunction should not be granted.

Dated this 26 day of October, 2021.

NETZER LAW OFFICE, P.C.


Joel G. Krautter

GOOD STEWARD LEGAL, PLLC

/s/ Jared R. Wigginton
Jared R. Wigginton

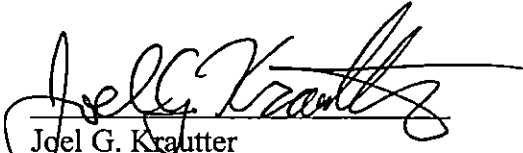
Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the above was duly served upon the following on the 26 day of October, 2021, by U.S. certified mail in a sealed, postage paid envelope.

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