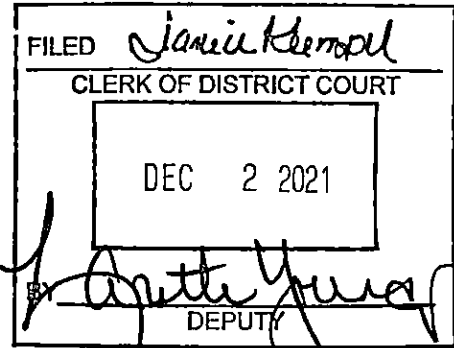


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MONTANA SEVENTH JUDICIAL DISTRICT COURT, RICHLAND COUNTY

<p>NETZER LAW OFFICE, P.C. and DONALD L. NETZER,</p> <p style="text-align: center;">Plaintiffs,</p> <p style="text-align: center;">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 style="text-align: center;">Defendants.</p>	<p>Cause No. DV-21-89</p> <p>CROSS-MOTION FOR SUMMARY JUDGMENT</p> <p>Hon. Olivia Rieger</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, pursuant to Mont. R. Civ. P. 56, move this Honorable Court for summary judgment on all counts of the First Amended Complaint.

I. Motion for Summary Judgment

No material facts are in dispute, leaving only questions of law. Summary judgment on this issue is appropriate because "there are no genuine issues of material fact and the moving party is

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entitled to judgment as a matter of law.” *Brishka v. Dep’t of Transp.*, 2021 MT 129, ¶ 9, 404 Mont. 228, 487 P.3d 771.

Netzer Law further requests that, if the Court grants this motion, that it provide Netzer Law with the full relief sought in its First Amended Complaint, including by entering a declaratory judgment in Netzer Law’s favor, ruling that House Bill 702 (“HB 702”) has violated (1) Netzer Law’s 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.

This motion is supported by Plaintiffs’ Brief in Opposition to State Defendants’ Motion to Dismiss and in Support of Plaintiffs’ Cross-Motion for Summary Judgment. Netzer Law also respectfully requests a hearing on this motion. Counsel for Plaintiffs have contacted opposing counsel, who oppose this cross-motion for summary judgment.

II. Resolution of Pending Motions Going Forward

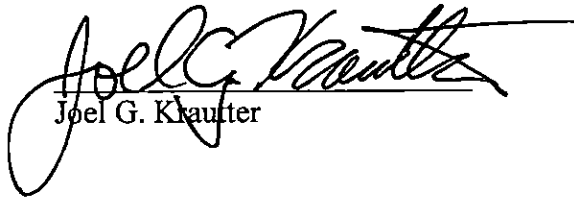
Now pending before the Court are three motions: (1) Netzer Law’s fully briefed motion for a preliminary injunction, (2) Netzer Law’s partially briefed motion for summary judgment, and (3) State Defendants’ partially briefed motion to dismiss. In terms of resolving these pending motions, Netzer Law’s respectfully submits its positions as follows: (1) a hearing should be held on the fully briefed motion for a preliminary injunction at the Court’s earliest opportunity; and (2) a separate combined hearing on the pending motion to dismiss and cross-motion for summary judgment should occur after the briefing for each of these motions has been completed.

Separately, if the Court does not rule on the merits of each of Netzer Law’s claims in resolving the pending motion for summary judgment under Rule 56, Netzer Law respectfully requests that the Court take judicial notice of the relevant facts set forth Netzer Law’s briefing in support of its application for a preliminary injunction and the Affidavit of Donald L. Netzer and

Supplemental Affidavit of Donald L. Netzer (including exhibits) in resolving the then remaining claims on the motion to dismiss. *Davis v. HSBC Bank Nevada, N.A.*, 691 F.3d 1152, 1160 (9th Cir. 2012) (Rule 12(b)(6) “gives courts the discretion to accept and consider extrinsic materials offered in connection with these motions.”); *see also Tellabs, Inc. v. Makor Issues & Rts., Ltd.*, 551 U.S. 308, 322 (2007) (“[C]ourts must consider the complaint in its entirety, as well as other sources courts ordinarily examine when ruling on Rule 12(b)(6) motions to dismiss, in particular, documents incorporated into the complaint by reference, and matters of which a court may take judicial notice.”). Finally, if after resolving the pending Rule 56 motion, this Court determines that any of Netzer Law’s claims are subject to 12(b)(6), Netzer Law respectfully requests leave to file an amended complaint. *Bitterroot Int’l Sys., Ltd. v. W. Star Trucks, Inc.*, 2007 MT 48, ¶ 50, 336 Mont. 145, 157, 153 P.3d 627, 638 (“Rule 15(a) favors allowing amendments”).

Respectfully submitted this 2nd day of December, 2021.

NETZER LAW OFFICE, P.C.


Joel G. Krautter

GOOD STEWARD LEGAL, PLLC

/s/ Jared R. Wigginton
Jared R. Wigginton

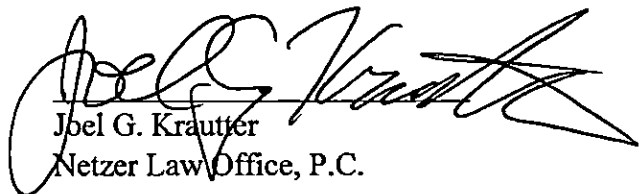
Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the above was duly served upon the following on the 2nd day of December, 2021, by email and by first class mail in a sealed, postage paid envelope.

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