

9:21-cv-00108

Montana Free Press consolidation of bench trial minute entries

MINUTE ENTRY for proceedings held before Judge Donald W. Molloy: Final Pretrial Conference and Bench Trial (day 1) held on 10/24/2022. Counsel Katie Mahe and Justin Cole present on behalf of Plaintiffs. Counsel Raph Graybill present on behalf of Plaintiff-Intervenor. Counsel Brent Mead and Michael Russell present on behalf of Defendants. Final pretrial conference held in courtroom. Final pretrial order signed by the Court and counsel. Exhibits listed on exhibit list without object are admitted; written order with admitted exhibits forthcoming. Sworn affidavit testimony and expert reports will be admitted. The Court reviews trial procedures. Manner and mode of examination is controlled by Rule 611, 403, and 102. Rule 615 not invoked. 15 minutes per side for opening statements. Plaintiffs' foundation objection to Defendants' exhibit 200 is waived. Bench trial begins. Counsel Graybill makes joint opening statement for Plaintiffs and Plaintiff-Intervenor. Counsel Mead makes opening statement on behalf of Defendants. Plaintiffs call witness Dr. David King; Dr. King's expert report submitted in lieu of direct testimony; sworn testimony provided for cross-examination. Following noon break, Plaintiffs call witness Mark Carpenter; sworn testimony provided. Plaintiffs call witnesses Dr. David Taylor, followed by Dr. Lauren Wilson, expert reports submitted for both in lieu of direct testimony; sworn testimony provided for cross-examinations. Parties submit expert reports of Dr. Duriseti and Dr. Bhattacharya as direct testimony with cross-examination not expected; no objection. Plaintiffs call Dr. Gregory Holzman. Defendants object to Dr. Holzman's testimony as cumulative; overruled. Dr. Holzman's expert report submitted in lieu of direct testimony; sworn testimony provided for cross-examination, redirect. Testimony ends for the day. Parties review witness lists. Day 2 of bench trial to begin at 8:45 a.m. on 10/25/22. Hearing commenced at 8:58 a.m. and concluded at 4:53 p.m. (Court Reporter: JoAnn Corson) (Law Clerk: N. Goldberg-Jaffe) (Hearing held in Missoula) (NOS) (Entered: 10/24/2022)

MINUTE ENTRY for proceedings held before Judge Donald W. Molloy: Bench Trial (day 2) held on 10/25/2022. Counsel Katie Mahe and Justin Cole present on behalf of Plaintiffs. Counsel Raph Graybill present on behalf of Plaintiff-Intervenor. Counsel Brent Mead, Michael Russell, and Christian Corrigan present on behalf of Defendants. Plaintiffs call witnesses Wallace Page and Diana Joe Page via Zoom; sworn testimony provided. Plaintiffs call Dr. Bonnie Stephens, expert report submitted in lieu of direct testimony; sworn testimony provided for cross-examination. Plaintiffs call witnesses Meghan Morris, Vicky Byrd, Kirk Bodlovic, Marieke Beck, and John O'Connor; sworn testimony provided. Following afternoon break, parties advise that live testimony is complete. Parties stipulate to the submission of Carter Anderson's declaration and deposition designations of Mr. Anderson, John Elizandro, and Derek Oestreicher (see attached). The parties further stipulate to the admission of exhibits 36 and 37. Exhibits 49, 50, 228, and 229 admitted in conjunction with deposition designations. Each side allowed 45 minutes for closing arguments. Trial to resume at 9:00 a.m. on October 25, 2022. Hearing commenced at 8:45 a.m. and concluded at 3:06 p.m. (Exhibits 75, 76, 77, 80, 121, 125, 200, 216, 217, 218, 220, 222, 225 admitted without objection.) (Court Reporter: JoAnn Corson) (Law Clerk: N. Goldberg-Jaffe) (Hearing held in Missoula) (Attachment(s): # [1](#) Anderson Deposition Designation, # [2](#) Defendants' Anderson Deposition Designation, # [3](#) Elizandro Deposition Designation, # [4](#) Oestreicher Deposition Designation) (Modified to updated admitted exhibits; NEF regenerated.) (NOS) (Entered: 10/25/2022)

MINUTE ENTRY for proceedings held before Judge Donald W. Molloy: Bench Trial (day 3) held on 10/26/2022. Counsel Katie Mahe and Justin Cole present on behalf of Plaintiffs. Counsel Raph Graybill present on behalf of Plaintiff-Intervenor. Counsel Brent Mead, Michael Russell, and Christian Corrigan present on behalf of Defendants. Closing arguments made by Counsel Cole and Counsel Mead. The preliminary injunction remains in place pending findings by the Court. Hearing commenced at 9:00 a.m. and concluded at 10:22 a.m. (Court Reporter: JoAnn Corson) (Law Clerk: N. Goldberg-Jaffe) (Hearing held in Missoula) (NOS) (Entered: 10/26/2022)