

IN THE SUPREME COURT OF THE STATE OF MONTANA
OP 21-0125

DOROTHY BRADLEY, BOB BROWN, MAE NAN ELLINGSON, VERNON
FINLEY, and MONTANA LEAGUE OF WOMEN VOTERS,

Petitioners,

v.

GREG GIANFORTE,

Respondent.

**MONTANA STATE LEGISLATURE'S
RESPONSE IN OPPOSITION TO NON-PARTY'S
SECOND EMERGENCY MOTION TO QUASH**

Original Proceeding in the Montana Supreme Court

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ATTORNEYS FOR MONTANA
STATE LEGISLATURE

Non-party Beth McLaughlin’s second Emergency Motion to Quash Revised Legislative Subpoena should be immediately denied for the following reasons:

- Ms. McLaughlin is not a party to this case. She has not been granted leave of the Court to participate in this case. She has not made any showing that she has an interest in the outcome of the constitutionality of SB 140,¹ the law being challenged by the Petition. Her continued attempts to interject herself and irrelevant issues in this case are procedurally and substantively infirm.
- Ms. McLaughlin continues to raise complaints about subpoenas that are not at issue in this case.² The Legislature has opened an investigation that is separate from, and broader than, the narrow issues before the Court in this matter. The special committee is formed.³ The hearing is set. Any legal questions regarding that investigation, including the propriety, scope, and purpose of legislative subpoenas, are not at issue here and do not belong here. Ms. McLaughlin admitted this when she filed a separate legal action – OP 21-0173 – specifically raising the subpoena issue. Additionally, such

¹ A non-party may only intervene in a case upon a showing of an “asserted interest in the outcome” (Mont. R. App. P. 2(1)(f)), which Ms. McLaughlin has failed to make.

² See Petitioner’s Petition for Original Jurisdiction (Mar. 17, 2021).

³ Seaborn Larson, *Montana GOP Lawmakers Subpoena Supreme Court Justices, Administrator*, Billings Gazette, Apr. 15, 2021.

questions raise myriad fact issues, rendering them inappropriate for disposition by this Court's exercise of original jurisdiction.⁴

- The undersigned counsel's scope of representation of the Legislature is limited to the issues raised by the Petition in this case, namely questions involving the Court's exercise of original jurisdiction and the constitutionality of SB 140.⁵ This counsel has not been retained to represent the Legislature with regard to any other issues. The Legislature has retained separate counsel to address the subpoena issues.⁶ Ms. McLaughlin cannot force this counsel to respond to legal issues that she has not been retained to address. Likewise, Ms. McLaughlin cannot force the counsel retained to address the subpoena issues to appear in this case.
- Counsel for Ms. McLaughlin failed to contact or notify counsel for the Legislature in this case before filing her Motion, subjecting it to summary dismissal.⁷

⁴ See Mont. R. App. P. 14(4) (Original proceedings for declaratory judgment in this Court are only proper "when the case involves purely legal questions of statutory or constitutional interpretation which are of state-wide importance.") (Emphasis supplied).

⁵ See Mot. to Intervene (Apr. 13, 2021).

⁶ *Id.*; see also OP 21-0173 (Mot. to Dismiss (Apr. 14, 2021).)

⁷ Mont. R. App. P. 16(1) ("Counsel shall also note therein that opposing counsel has been contacted concerning the motion and whether opposing counsel objects to the motion. Failure to include this statement may result in denial of the motion.") (Emphasis supplied).

The Legislature joins in the Governor’s Motion to Strike and Vacate (Apr. 13, 2021) and requests that the Court apply the same arguments advanced by the Governor to Ms. McLaughlin’s second emergency motion. Additionally, the Legislature joins in any response to Ms. McLaughlin’s second motion that the Governor may file. Finally, the Legislature requests that the Court direct Ms. McLaughlin and her counsel to cease making any further filings in this case unless and until Ms. McLaughlin can meet her burden of showing an “asserted interest in the outcome”⁸ of this case sufficient to allow her proper intervention.

Respectfully submitted this 16th day of April, 20201.

/s/ Emily Jones

EMILY JONES

TALIA G. DAMROW

Attorneys for Montana State Legislature

⁸ Mont. R. App. P. (2)(1)(f).

CERTIFICATE OF COMPLIANCE

Pursuant to Mont. R. App. P. 16(3), I certify that this Motion is printed with proportionately-spaced, size 14 Times New Roman font, is double spaced, and contains 593 words, excluding the cover page, certificate of service, and certificate of compliance, as calculated by Microsoft Word.

DATED this 16th day of April, 2021.

/s/ Emily Jones

EMILY JONES

TALIA G. DAMROW

Attorneys for Montana State Legislature

CERTIFICATE OF SERVICE

I, Emily Jones, hereby certify that I have served true and accurate copies of the foregoing Response/Objection - Response to Motion to the following on 04-16-2021:

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Electronically Signed By: Emily Jones
Dated: 04-16-2021