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** Pro Hac Vice admitted*

MONTANA EIGHTH JUDICIAL DISTRICT COURT
COUNTY OF CASCADE

SHAUNA YELLOW KIDNEY, as next)
friend of C.Y.K. and S.Y.K.; CAMMIE)
DUPUIS-PABLO and ROGER PABLO, as)
next friends of K.W.1, K.W.2, K.D., K.P.1,)
and K.P.2; HALEIGH THRALL and)
DURAN CAFERRO, as next friends of A.E.,)
D.C., and C.C.; AMBER LAMB, as next)
friend of K.L.; RACHEL KANTOR, as next)
friend of M.K.1, and M.K.2; CRYSTAL)
AMUNDSON and TYLER AMUNDSON, as)
next friends of C.A. and Q.A.; JESSICA)
PETERSON, as next friend of A.C.; and)
DAWN SKERRITT, as next friend of S.S.)
and M.S; on behalf of themselves and all)
others similarly situated,)

Cause No. DDV-21-0398

Hon. Amy Eddy

FORT BELKNAP INDIAN COMMUNITY)
OF THE FORT BELKNAP RESERVATION)
OF MONTANA; CONFEDERATED)
SALISH AND KOOTENAI TRIBES OF)
THE FLATHEAD RESERVATION;)
ASSINIBOINE AND SIOUX TRIBE OF)
THE FORT PECK INDIAN RESERVA-)
TION, MONTANA; NORTHERN)
CHEYENNE TRIBE OF THE NORTHERN)
CHEYENNE INDIAN RESERVATION,)
MONTANA; LITTLE SHELL TRIBE OF)
CHIPPEWA INDIANS OF MONTANA; and)
CROW TRIBE OF MONTANA)

**PLAINTIFFS' OPPOSED
MOTION UNDER
M. R. CIV. P. 23 FOR ORDER
CERTIFYING CLASS, APPOINTING
CLASS REPRESENTATIVES, AND
APPOINTING CLASS COUNSEL**

ORAL ARGUMENT REQUESTED

Plaintiffs,)

vs.)

MONTANA OFFICE OF PUBLIC)
INSTRUCTION; ELSIE ARNTZEN, in her)
official capacity as the Superintendent of)
Public Instruction; MONTANA BOARD OF)
PUBLIC EDUCATION; and DARLENE)
SCHOTTLE, in her official capacity as)
Chairperson of the Montana Board of Public)
Education,)

Defendants.)

Plaintiffs Shauna Yellow Kidney, C.Y.K., S.Y.K., Cammie L. DuPuis-Pablo, Roger A. Pablo Jr., K.W.1, K.W.2, K.D., K.P.1, K.P.2, Haleigh Thrall, Duran Caferro, C.C., D.C., A.E., Amber Cruz Lamb, K.L., Rachel Kantor, M.K. 1, M.K. 2, Tyler Amundson, Crystal Amundson, C.A., Q.A., Jessica Peterson, A.C., Dawn Skerritt, M.S., and S.S. (hereinafter collectively referred to as “Individual Plaintiffs”), are enrolled students, in grades ranging from Kindergarten to 12th grade, of various elementary, middle, and high schools in the Montana public school system and their parents. First Amended Complaint (“FAC”) (Doc. 29) at ¶¶ 8-38. Plaintiffs also include 6 federally recognized Indian tribes located in Montana: the Fort Belknap Indian Community, the Confederated Salish Kootenai Tribes, the Assiniboine and Sioux Tribe of the Fort Peck Indian Reservation, the Northern Cheyenne Tribe, the Little Shell Tribe of Chippewa Indians of Montana and the Crow Tribe of Montana. *Id.* at ¶¶ 41-65.

Pursuant to M. Rs. Civ. P. 7(b) and 23, Plaintiffs respectfully move this Court for an Order: 1) certifying this action as a class action under M. R. Civ. P. 23(b)(2), with a Class consisting of all Montana K-12 public school system enrolled students, now and in the future; 2) appointing Individual Plaintiffs as representatives of the Class; and 3) appointing the American Civil Liberties Union-Montana, the American Civil Liberties Union Foundation, and the Native American Rights Fund, as Class Counsel. Pursuant to Rule 2, U.Dist.Ct.R. and M. R. Civ. P. 7(b), the grounds in support of this Motion are stated with particularity in the Brief supporting and submitted with this Motion. For the Court’s convenience, a Proposed Order granting this Motion also is submitted herewith.

Defendants' counsel were contacted and oppose this motion.

Pursuant to M. R. Civ. P. 2(d) and L.R.7(E), Plaintiffs request oral argument on this Motion which raises important claims about the threatened “fundamental constitutional [and statutory] right[s]” of all K-12 public school students in Montana, Order of April 19, 2023 at 10, Doc. 77 (denying Defendants' motion to dismiss the FAC), and which will assist the Court in resolution of these claims.

Respectfully submitted this 13th day of July, 2023.

/s/ Alex Rate
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ACLU of Montana
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406-224-1447

Attorney for Plaintiffs

CERTIFICATE OF SERVICE

I, Krystel Pickens, hereby certify on this date I filed a true and accurate copy of the foregoing document with the electronic filing system for Montana courts and electronic service was sent to:

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Electronically signed by Krystel Pickens on behalf of Alex Rate.
Dated July 13, 2023

CERTIFICATE OF SERVICE

I, Alexander H. Rate, hereby certify that I have served true and accurate copies of the foregoing Motion - Motion to the following on 07-13-2023:

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Electronically signed by Krystel Pickens on behalf of Alexander H. Rate
Dated: 07-13-2023