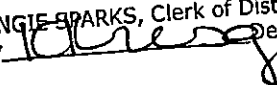


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ANGIE SPARKS, Clerk of District Court  
By  Deputy Clerk

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MONTANA FIRST JUDICIAL DISTRICT COURT  
LEWIS AND CLARK COUNTY

<p>RIKKI HELD, et al.,</p> <p>Plaintiffs,</p> <p>v.</p> <p>STATE OF MONTANA, et al.,</p> <p>Defendants.</p>	<p>Cause No. CDV-2020-307</p> <p>Hon. Kathy Seeley</p> <p><b>PLAINTIFFS' MOTION <i>IN LIMINE</i> NO. 7: REPLY BRIEF IN SUPPORT OF MOTION RE: SELECT DOCUMENT AUTHENTICITY AND FOUNDATION</b></p>
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## I. INTRODUCTION

Plaintiffs' Motion *in Limine* No. 7 seeks to ensure a speedy and efficient bench trial in which the Parties' limited trial time is not consumed by needless evidentiary disputes. The Parties have exchanged a voluminous number of documents during discovery and, through ongoing communication, the Parties have been able to reach agreement as to the authenticity and foundation of a number of these documents. However, despite Plaintiffs' efforts, documented by the submissions of record, Plaintiffs have yet to achieve resolution with Defendants as to the authenticity and foundation of all of the documents in Appendix A. To reiterate, Appendix A consists of only 150 documents, which are sourced from various agencies of the State. In response to Plaintiffs' Motion *in Limine* No. 7, Defendants state that, "in theory, they do not oppose Plaintiffs' Motion in Limine No. 7 . . . ." Doc. 291 at 18. However, the prospects of consummating a stipulation are unlikely until and unless Defendants simply complete their review of the 150 documents, whose review has been pending with Defendants for months.

## II. ARGUMENT

Plaintiffs' reply can be brief. Defendants take no issue with the compelling legal authorities presented in Plaintiffs' opening brief, nor could they. Notwithstanding (1) the substantial documentation submitted by Plaintiffs demonstrating their sustained efforts to achieve a stipulation, Doc. 272 at 5-8; and (2) the legal authority providing for the documents' authentication and foundation, *id.* at 10-12, the gravamen of Defendants' incredulous response is that the ball is in *Plaintiffs'* court to engage in a "narrowing" of the documents, *after* which Defendants will finally undertake review. Doc. 291 at 19. That is putting the proverbial cart before the horse. If Defendants have a substantive objection as to the relevance of a particular document listed in

Appendix A, as they hypothesize they might, *id.*, then the proposed Stipulation and/or Proposed Order clearly reserves Defendants' right to so object.

### III. CONCLUSION

For several months, Defendants have promised Plaintiffs that they are reviewing the documents listed on Appendix A for finalizing a proposed Stipulation and/or Proposed Order as to the admission of those documents. Plaintiffs continue to believe that, *if* Defendants would complete their review of the documents in Appendix A, then the Parties would be capable of reaching a complete document stipulation as to the authenticity, foundation, and admissibility of these documents prior to the Pre-Trial Conference on April 27. While Plaintiffs are willing to withdraw this Motion should the Parties reach such a Stipulation and/or Proposed Order, based on Defendants' response to this Motion, this effort will apparently not come to fruition without the requested Order *in Limine* No. 7.

DATED this 28th day of February, 2023.

/s/ Barbara Chillcott

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**CERTIFICATE OF SERVICE**

I certify that a true and correct copy of the foregoing was delivered by email to the following on February 28, 2023:

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