

FILED

MAR 20 2023

ANGIE SPARKS, Clerk of District Court  
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INDEXED

**MONTANA FIRST JUDICIAL DISTRICT COURT,  
LEWIS AND CLARK COUNTY**

RIKKI HELD, *et al.*,

Plaintiffs,

vs.

STATE OF MONTANA, *et al.*,

Defendants.

Cause No.: CDV-2020-307

**JOINT MOTION FOR ORDER  
WAIVING MEDIATION  
REQUIREMENT**

Plaintiffs and Defendants jointly submit this motion for an order waiving the necessity to conduct mediation in this case, because after much thought and discussion, the parties believe that a mediation would not succeed in settling the case. The parties appreciate the value of mediation and therefore do not make this motion lightly; the reasons for it are discussed in more detail below. A proposed order is submitted herewith.

**DISCUSSION**

The current scheduling order requires the parties to have conducted a mediation or settlement conference by March 31, 2023. In their effort to identify a mutually agreeable

mediator and to do the planning with conducting a mediation, the parties have discussed the possibility of settlement and what that might look like. The plaintiffs' claims are in the main constitutional in nature, seeking a declaration from the Court on that legal point. Defendants assert legal defenses including jurisdictional defenses. With legal claims such as these, there is no middle ground to explore in mediation.

The parties are also concerned about the time and expense that will be incurred in a mediation that has no chance of producing a settlement. The parties are mindful that in their collective and considerable experience, mediations do sometimes result in settlement where no one may have predicted that could happen. Here, however, all parties feel that resolving this case will require the Court's assistance through dispositive motions as asserted by Defendants or trial as asserted by Plaintiffs.

DATED the 17th day of March, 2023.

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By /s/ Mark L. Stermitz  
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**CERTIFICATE OF SERVICE**

I hereby certify that on the 17<sup>th</sup> day of March, 2023, a copy of the foregoing document

was served on the following persons by the following means:

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