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OFFICE CLERK OF DISTRICT COURT
VALLEY COUNTY
FILED

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SHELLEY BRYAN

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**Pro hac vice pending*

MONTANA SEVENTEENTH JUDICIAL DISTRICT COURT
COUNTY OF VALLEY

SARIAH RED EAGLE, TERRY THOMPSON,
JOSEPH DOLEZILEK, ANGIE TOCE, DELANE
BLOUNT and BRANDI LONG-WHITE,

Plaintiffs,

v.

CHRISTI JACOBSEN, in her official capacity as
Montana Secretary of State, ROOSEVELT
COUNTY, GARY MCDONALD, in his official
capacity as ROOSEVELT COUNTY
COMMISSIONER, ROBERT TOAVS in his official
capacity as ROOSEVELT COUNTY
COMMISSIONER, GORDON OELKERS, in his
official capacity as ROOSEVELT COUNTY
COMMISSIONER, TRACY MIRANDA, in her
official capacity as ROOSEVELT COUNTY CLERK
AND RECORDER, VALLEY COUNTY, MARK
ARMSTRONG, in his official capacity as VALLEY
COUNTY COMMISSIONER, PAUL TWETON, in
his official capacity as VALLEY COUNTY
COMMISSIONER, JOHN FAHLGREN, in his
official capacity as VALLEY COUNTY

Consolidated Case No. DV-2024-101

Hon. Laird

**COMPLAINT FOR INJUNCTIVE
AND DECLARATORY RELIEF**

COMMISSIONER, and MARIE PIPPEN, in her official capacity as VALLEY COUNTY CLERK AND RECORDER.

Respondents.

Plaintiffs and enrolled members of the Fort Peck Assiniboine & Sioux Tribes, Sariah Red Eagle, Terry Thompson, Joseph Dolezilek, Angie Toce, Delane Blount, and Brandi Long-White (collectively, the "Plaintiffs"), by and through their undersigned counsel, hereby file this Complaint for Injunctive and Declaratory Relief against Respondents, and in support thereof allege as follows:

INTRODUCTION

1. The State of Montana has historically imposed significant barriers to the franchise for Indians. This practice of denying Tribal members equal access to the ballot box and imposing unconstitutional burdens on Indians' fundamental right to vote is still practiced today.

2. Plaintiffs are committed to removing all barriers of discrimination in the democratic process, and therefore, are challenging Respondents' abject refusal to establish a satellite county clerk and recorder office (hereinafter "satellite office") on the Fort Peck Indian Reservation in Frazer, Montana and Poplar, Montana for in-person late registration and in-person absentee voting. Establishment of such satellite offices is required by the Montana Constitution.

3. Respondents' refusal to establish satellite offices at Frazer, Montana and Poplar, Montana has a significant disparate impact on Indians' voting power, denies the Plaintiffs' voting rights and is an apparent effort to dilute Indian voting strength. Plaintiffs allege that this action, if allowed, would reinforce the long history of official racial discrimination in voting practiced in the State of Montana.

4. If left in effect, the failure to establish satellite offices at these locations on the Fort Peck Indian Reservation will make it harder, if not impossible, for the Plaintiffs and other Tribal members to exercise their right to vote and elect candidates of their choice for federal, state, and county offices.

5. The Valley County Clerk and Recorder's office is open year-round at the Valley County Courthouse located in Glasgow, Montana, which is 30.6 miles (one way) from Frazer. Because this distance is a systematic barrier to voting, Plaintiffs seek declaratory and injunctive relief, both temporary and permanent, compelling Respondents to establish a satellite office in Frazer, Montana on the Fort Peck Indian Reservation (i) that is open the same hours for in-person voter registration as the Valley County Courthouse on September 23-30, 2024; October 1-4, 2024 and October 7, 2024 (11 days); and (ii) that is open the same hours for late registration and in-person absentee ballot voting as the Valley County Courthouse on October 8 through November 4, 2024.

6. The Roosevelt Clerk and Recorder's office is open year-round at the Roosevelt County Courthouse located in Wolf Point, Montana, which is 21.4 miles (one way) from Poplar. Because this distance is a systematic barrier to voting, Plaintiffs seek declaratory and injunctive relief, both temporary and permanent, compelling Respondents to establish a satellite office in Poplar, Montana (i) that is open the same hours for in-person voter registration as the Roosevelt County Courthouse on September 23-30, 2024; October 1-4, 2024 and October 7, 2024 (11 days); and (ii) that is open the same hours for late registration and in-person absentee ballot voting as the Roosevelt County Courthouse on October 8 through November 4, 2024.

7. This relief is sought on the grounds that failure to open the satellite office is a denial of the equal right to vote and dilutes the voting strength of the Tribes' members, the lack of a satellite office location has a disparate impact upon Indians, and the policy of denying satellite office locations in Frazer, Montana and Poplar, Montana on the Fort Peck Indian Reservation was adopted for a discriminatory purpose.

JURISDICTION AND VENUE

8. This Court has original jurisdiction over this matter pursuant to Article VII, Section 4 of the Montana Constitution and Mont. Code Ann. § 3-5-302(1)(b).

9. Declaratory relief is authorized under the Montana Uniform Declaratory Judgments Act. Mont. Code Ann. §§27-8-201 through 202 and M.R.Civ.P. 57.

10. This Court has the authority to issue injunctive relief under Mont. Code Ann. § 27-19-101 *et seq.*

11. The Agencies and Officials named as Respondents are being sued for "administrative actions undertaken in execution of law or public policy," § 2-9-111, MCA, and as such, sovereign immunity from suit does not bar the relief sought in this action.

12. Venue is proper in Valley County because the claim arose in Valley County and one of the political subdivisions is located in Valley County. Mont. Code Ann. § 25-2-126(1).

Venue in this action is further proper in Valley County because one or more Plaintiffs reside in

Valley County. § 25-2-126, MCA, ("In an action brought by a resident of the state, the county of

the plaintiff's residence is also a proper place of trial.").

PARTIES

13. Plaintiff SARIAH RED EAGLE is an enrolled member of Fort Peck Assiniboine and Sioux Tribes who lives in Roosevelt County and is not registered to vote.

14. Plaintiff TERRY THOMPSON is an enrolled member of Fort Peck Assiniboine and Sioux Tribes who lives in and is registered to vote in Roosevelt County.

15. Plaintiff JOSEPH DOLEZILEK is an enrolled member of Fort Peck Assiniboine and Sioux Tribes who lives in Roosevelt County and his voter status is “inactive.”

16. Plaintiff ANGIE TOCE is an enrolled member of Fort Peck Assiniboine and Sioux Tribes who lives in Valley County and her voter status is “inactive.”

17. Plaintiff DELANE BLOUNT is an enrolled member of Fort Peck Assiniboine and Sioux Tribes who lives in Valley County and her voter status is “inactive.”

18. Plaintiff BRANDI LONG-WHITE is an enrolled member of Fort Peck Assiniboine and Sioux Tribes who lives in and is registered to vote in Valley County.

19. Defendant Montana Secretary of State CHRISTI JACOBSEN is the chief state election official for Montana. The Secretary of State has the authority to clarify that Clerk and County Recorders have the discretion to open satellite offices. As the chief election officer, the Secretary’s responsibilities include preparing written directives and instructions relating to and based on election laws and advisory opinions on the effect of election laws. MONT. CODE ANN. § 13-1-202. *See also* MONT. CODE ANN. § 13-1-203 (“The secretary of state *shall* advise and assist election administrators[...], with regard to: the application, operation, and interpretation of [Montana election laws].”) (emphasis added).

20. Defendant Roosevelt County is a political and geographical subdivision of the State of Montana.

21. Defendant GARY MCDONALD is a Member of the Roosevelt County Commission.

22. Defendant ROBERT TOAVS is a Member of the Roosevelt County Commission.

23. Defendant GORDON OELKERS is a Member of the Roosevelt County Commission.

24. Defendant TRACY MIRANDA is the Clerk and County Recorder for Roosevelt County. Unless otherwise designated, the Clerk and County Recorder serves as the county “election administrator.” Mont. Code Ann. § 13-1-301(2). The Clerk is “responsible for the administration of *all* procedures relating to registration of electors and conduct of elections.” Mont. Code Ann. § 13-1-301(2) (emphasis added). *See also* 38 Op. Mont. Att’y Gen. 105 (1980) (*citing* Mont. Code Ann. § 13-1-101 that gives the Clerk responsibility “for *all* election administration duties”) (emphasis in original). Election administrators are also required to “assist the Secretary of State in making recommendations to improve voter confidence in the integrity of the election process.” Mont. Code Ann. 13-1-202 (2011).

25. Defendant Valley County is a political and geographical subdivision of the State of Montana.

26. Defendant MARK ARMSTRONG is a Member of the Valley County Commission.

27. Defendant PAUL TWETON is a Member of the Valley County Commission.

28. Defendant JOHN FAHLGREN is a Member of the Valley County Commission.

29. Defendant MARIE PIPPEN is the Valley County Clerk and County Recorder.

APPLICABLE LAW

30. Article II, Section 13 of the Constitution of the State of Montana provides that “[a]ll elections shall be free and open, and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage.”

31. Article IV, Section 2 of Montana’s Constitution sets forth the qualifications to vote in elections:

Any citizen of the United States 18 years of age or older who meets the registration and residence requirements provided by law is a qualified elector unless he is serving a sentence for a felony in a penal institution or is of unsound mind as determined by a court.

32. Mont. Code Ann. § 13-1-111 further clarifies who may cast a ballot as follows:

(1) A person may not vote at elections unless the person is: (a) registered as required by law; (b) 18 years of age or older; (c) a resident of the state of Montana and of the county in which the person offers to vote for at least 30 days, except as provided in 13-2-514; and (d) a citizen of the United States. (2) A person convicted of a felony does not have the right to vote while the person is serving a sentence in a penal institution. (3) A person adjudicated to be of unsound mind does not have the right to vote unless the person has been restored to capacity as provided by law.

33. The Clerk and County Recorder must permit eligible voters to cast in-person absentee ballots at the Clerk’s office at least 30 days prior to a federal election. Mont. Code Ann. § 13-13-205; Mont. Code Ann. § 13-13-222.

34. A voter may mail an application for absentee voting “directly to the election administrator or deliver the application in person to the election administrator. An agent designated pursuant to 13-1-116 or a third party may collect the elector’s application and forward it to the election administrator.” Mont. Code Ann. 13-13-213 (2011).

35. A voter may also return an absentee ballot by delivering it to “a polling place within the elector’s county.” Mont. Code. Ann. § 13-13-201 (2011).

36. Montana law requires all questions of authority to be resolved in favor of the local government. Mont. Code Ann. § 7-1-106 (“The powers and authority of a local government unit

with self-government powers shall be liberally construed. Every reasonable doubt as to the existence of a local government power or authority shall be resolved in favor of the existence of that power or authority.”)

HISTORY OF DISCRIMINATION IN MONTANA

37. The Territory of Montana was organized in 1864, and the authorizing legislation limited the franchise "to citizens of the United States, and those who have declared their intentions to become such."¹ Since Indians were not citizens, they were not entitled to vote in territorial elections. Territorial legislation also provided that voting in all elections - congressional, territorial, county, and precinct - was limited to "white male citizens of the United States."²

38. Subsequent federal legislation enacted in 1867 continued the exclusion of non-citizen Indians from voting, while the territory passed laws the same year limiting voting and service on grand and trial juries to "white male citizens."³

39. The territorial legislature also made it a misdemeanor to establish a voting precinct "at any Indian agency, or at any trading post in the Indian country, or on any Indian reservation whatever."⁴

40. The federal legislation admitting Montana to statehood in 1889 continued the existing restrictions on voting and directed that the state constitution make no distinction in civil or political rights based upon race, "except as to Indians not taxed."⁵

¹ Act of 1864, 13 Stat. 85.

² Acts, Resolutions and Memorials of the First Legislative Assembly of the Territory of Montana, at 875-76 (1864).

³ Act of 1867, 14 Stat. 426; General Laws, and Memorials and Resolutions of the Territory of Montana, 4th Sess., at 69-70, 96-97 (1867).

⁴ Laws, and Memorials and Resolutions of the Territory of Montana, 7th Sess., at 459-60, 471, 506 (1871); Laws, and Memorials and Resolutions of the Territory of Montana, Extra Sess., at 70-1 (1873).

⁵ Montana Enabling Act of February 22, 1889, 25 Stat. 676.

41. State law provided that voters must be resident freeholders, while the Montana Constitution restricted the franchise to male citizens of the United States 21 years of age or older.⁶ These provisions excluded non-citizen, non-property owning Indians from voting. Voter registrars were required to be resident freeholders, qualified voters, and citizens, which excluded Indians from any role in the registration process.⁷

42. The Montana Constitution of 1889 provided that no person could be a representative, senator, governor, lieutenant governor, superintendent of public instructions, a justice of the supreme court or a member of the militia who was not a "citizen of the United States;" an 1891 law limited voting in school elections to citizen taxpayers; an 1897 law limited the right to vote on municipal bond issue to "tax payers;" a 1901 law limited voting in road district elections to property taxpayers and provided for voter challenges on the basis of non-citizenship; a 1903 statute made it a misdemeanor for an Indian off the reservation to carry a firearm; a 1915 law made it a crime to sell or give liquor to an Indian; a 1919 law prohibited the establishment of voting precincts "within or at the premises of any Indian agency or trading post;" and, a 1923 law made it criminal to possess peyote, a substance used in Indian religious ceremonies.⁸

43. Theoretically, Indians could become citizens and voters through service in the Armed Forces or operation of the Dawes Act of 1887 and the Burke Act of 1906, *i.e.*, by accepting allotments of land and severing all tribal ties. The State of Montana, however, effectively nullified these provisions of federal law by enacting a statute in 1911 providing that no person living upon an Indian reservation could be deemed a resident of Montana for purposes

⁶ Mont. Laws 1889, p. 124; Mont. Const. Art. IX § 2 (1889).

⁷ Laws, Resolutions and Memorials of the State of Montana, 3rd Sess., at 78-91 (1893)

⁸ Mont. Const. of 1889, Art. V, § 3, Art. VII, § 3, Art. VIII, § 10, Art. XIV, § 1; Mont. Laws 1891, pp. 243-45; Mont. Laws 1897, pp. 226-28; Mont. Laws 1901, pp. 29, 115-16; Mont. Laws 1903, pp. 158-59; Mont. Laws 1915, p. 60; Mont. Laws 1919, p. 235; Mont. Laws 1923, p. 40.

of voting unless the person had acquired a residence in some county in Montana prior to taking up residence upon the reservation.⁹

44. The Attorney General of Montana issued several opinions that Indian reservations should not be included in a voting precinct, that "wards" of the federal government could not vote, and that even those Indians who owned land in fee patent could not vote if they took part in the transactions of the tribe.¹⁰

45. Public schools in Montana were traditionally segregated on the basis of race and no Indian child was allowed to attend public school unless under white guardianship or unless the child had severed tribal relations.¹¹

46. All Indians born within the United States were granted citizenship by the Indian Citizenship Act of 1924, 8 U.S.C. § 1401(a)(2). Local Montana officials, however, opposed the granting of equal voting rights to Indians. C. H. Asbury, Superintendent of Crow Agency, wrote a letter to the Commissioner of Indian Affairs on June 9, 1924, after passage of the act, in which he said the state legislature would be justified in making an educational requirement for new voters, "as there are certainly many Indians that are absolutely incapable of voting intelligently."¹²

47. Others suggested it would be proper for the states to "discriminate" against Indians by enacting literacy tests or poll taxes or by denying the franchise outright to Indians living on reservations and enjoying immunity from state authority.¹³

⁹ Mont. Laws 1911, p. 223.

¹⁰ 1 Ops. Mont. Atty. Gen'l 362 (1906); 5 Ops. Mont. Atty. Gen'l 240 (1913); 8 Ops. Mont. Atty. Gen'l 195 (1919).

¹¹ 1 Ops. Mont. Atty. Gen'l 60 (1905); 5 Ops. Mont. Atty. Gen'l 460 (1914).

¹² C.H. Ashbury, letter to the Commissioner of Indian Affairs, June 9, 1924, National Archives, Rocky Mountain Region, Denver, Colo.

¹³ N. D. Houghton, "The Legal Status of Indian Suffrage in the United States," 19 *Calif. L. Rev.* 507, 520 (1931).

48. Despite passage of the Indian Citizenship Act, Montana continued to restrict access by Indians to voter registration. It enacted a statute in 1937 requiring all deputy voter registrars to be "qualified, taxpaying" residents of their precincts.¹⁴ Since Indians living on the reservations were exempt from some local taxes, the requirement excluded virtually all Indians from serving as deputy registrars and denied Indians access to voter registration in their own precincts on the reservation. This provision of state law remained in effect until it was repealed in 1975.¹⁵

49. Also in 1937, the state enacted a statute cancelling all voter registration as of June 1, 1937, and requiring the re-registration of all voters. It also adopted a requirement that county clerks cancel any registration when three qualified electors presented an affidavit challenging a voter's qualifications.¹⁶

50. Discrimination in the State of Montana was so prevalent even the federal judicial system took note. In *Old Person v. Cooney*, 230 F.3d 1113, 1129 (9th Cir. 2000), the court acknowledged "[t]here was a history of discrimination by the Federal Government and the State of Montana from the 1860s until as recently as 1971."

51. Indians also occasionally ran for public office, but without success. Robert Yellowtail ran for the state senate in 1954 and was defeated.¹⁷ William Wall, the Crow Tribal Chair, ran unsuccessfully for Congress in 1956.¹⁸

52. In November 1954, the Montana Human Relations Committee (HRC) issued a report, "Fort Peck Caravan: A Study of the Fort Peck Indian Reservation". The Institute of Indian Affairs organized the HRC to study the "problems" of Indians on the Fort Peck Indian

¹⁴ Mont. Laws 1937, p. 527.

¹⁵ Mont. L. 1975, ch. 205.

¹⁶ Mont. Laws 1937, p. 523-27.

¹⁷ "Riley, Greenwald, Kalberg and Iverson Nominated," *Hardin Tribune-Herald*, July 22, 1954.

¹⁸ "Hawks and Miller Win Nomination," *Hardin Tribune-Herald*, June 7, 1956.

Reservation.¹⁹ The HRC conducted a three-day study and interviewed numerous people. Most of its findings consist of quotes from members of the Caravan:

- “One cannot miss the feeling of injustice which most every Indian feels he has had at the hands of the white man.”
- “I see children suffering because of the inability of the parent.”
- “I see mothers holding together the family unit in spite of almost incredible living conditions.”
- “Recognizing that the sanitary conditions are what may influence the high infant mortality rates and high tuberculosis rate, we must realize how severe the problem is. For example, the majority of deaths seems to be between one month and one year which indicates the need for more home visiting and public health in general.”
- “It is our feeling that there is quite a bit of discrimination found in the churches against Indians.”
- “There is insufficient medical and paramedical personnel in the community to operate even the limited equipment available.”

53. The HRC concluded “that starting a local committee on human relations would be an excellent way to move forward from the present point.”

54. As the Montana legislature has recognized, Indians “are caught in a network of mutually reinforcing handicaps ranging from material poverty to racism, illness, geographical and social isolation, language and cultural barriers, and simple hunger.”²⁰

55. The division between the tribes and non-Indian communities is further evident from the number of “states’ rights” groups with a distinctly anti-Indian agenda organized in Montana in the 1970s. The United States Commission on Civil Rights reported in 1981 that:

During the second half of the seventies a backlash arose against Indians and Indian interests. Anti-Indian editorials and articles appeared in both the local and the national media. Non-Indians, and even a few Indians as well, living on or near Indian reservations organized to oppose tribal interests. . . . Senator Mark Hatfield (R-Ore.), during Senate

¹⁹ The report does not contain page numbers.

²⁰ Senate Joint Resolution no. 2, Laws of the State of Montana, 44th Sess. (1975), 1723-24.

hearings in 1977, said, ‘We have found a very significant backlash [against Indians] that by any other name comes out as racism in all its ugly manifestations.’²¹

56. These states’ rights groups have included Montanans Opposed to Discrimination (MOD) organized in 1974, the Citizens Rights Organization (CRO), which was formed in Big Horn County, and the Interstate Congress for Equal Rights and Responsibilities (ICERR) formed in 1976. These organizations are interested in eliminating or terminating the Indian reservations.

57. Wolf Point is the county seat of Roosevelt County. As of 2022, the population was 2,634 with 49% of the residents listed as Indian, 35% as white, and 14% listed as comprised of two races.²² Wolf Point’s status as being the largest community on the Fort Peck Indian Reservation does not shield its majority Indian population from being subjected to discriminatory practices adopted by the minority non-Indian residents. “The racial line is evident here.” A four lane section of US 2 divides Wolf Point, and “Most Indians live on the South Side, most whites on the North Side.” “Most Indian children attend the older Southside School for their first six years, while most whites went to Northside.” Wolf Point also has a chapter of Montanans Opposing Discrimination “with the stated purpose of fighting tribal claims to stronger governing powers on reservations.” “Most city leaders, both in government and business say that . . . they are in agreement with MOD’s stand on jurisdictional issues.”²³

58. A November 2024 audio records Montana U.S. Senate Republican Candidate Tim Sheehy talking about ranching on Crow reservation:

My ranching partner and really good friend, Turk Stovall, he’s a Crow Indian and we ranch together on the Crow Reservation. So I’m pretty involved down there, going to the Crow Reservation and their annual Crow parade this year. I rope and brand with them every year. So, it’s a great way to bond with all the Indians being out there while they’re

²¹ United States Commission on Civil Rights, *Indian Tribes: A Continuing Quest for Survival* (1981), 1.

²² [Wolf Point, MT - Profile data – Census Reporter](#)

²³ An article in the *Great Falls Tribune*, “Racial line heightens Wolf Point Controversy,” January 29, 1979 noted that:

drunk at 8 a.m., and you're roping together. Every one that you miss, you get a Coors Light on the side of your head."

Sheehy then appears to make similar comments at an event in Hamilton:

I strapped on a Sheehy sign to a horse and rode through the Crow Parade and if you know a tough crowd, that's (it). They let you know if they like you or not. There's Coors Light cans flying by your head as you're riding by. You know they respect that. You go where the action is and they say, 'You know, the guy's not that bad. He rode the horse through the parade. That's cool.

Healy Affidavit Ex. 5

JUDICIAL ACKNOWLEDGMENT OF DISCRIMINATION

59. In *Old Person v. Cooney*, 230 F.3d at 1129, the Court acknowledged "American Indians have a lower socio-economic status than whites in Montana." It further held "these social and economic factors hinder the ability of American Indians in Montana to participate fully in the political process." *Id.* There is agreement among social scientists that socio-economic status has a major impact on political participation, and those with fewer resources are less likely to participate in the process.²⁴

60. In *Windy Boy v. County of Big Horn*, 647 F.Supp. 1002 (D. Mont. 1986), the court held at-large elections for the county commission and school board diluted Indian voting strength in violation of Section 2. In doing so, it made extensive findings of past and continuing discrimination against Indians. *Id.* at 1008-09, 1013, 1016-18, 1022.

61. In *United States v. Blaine County, Montana*, 363 F.3d 897, 900, 909-11 (9th Cir. 2004), both the district court and court of appeals agreed that at-large elections for the county commission violated Section 2:

there was "extensive evidence of official discrimination by federal, state, and local governments against Montana's American Indian population;" there was racially polarized voting which "made it impossible for an American Indian to succeed in an at-

²⁴ See, e.g., Jane Junn, "Participation in Liberal Democracy," 42 *American Behavioral Scientist* 1420 (1999).

large election," "the County's enormous size [which] makes it extremely difficult for American Indian candidates to campaign county-wide;" depressed socio-economic conditions existed for Indians; and, there was a tenuous justification for the at-large system, in that at-large elections were not required by state law.

Id. at 913-14. The court adopted a single member district plan as a remedy, and at the next election an Indian was elected from the majority Indian district.

62. Rosebud County, home to the Northern Cheyenne Reservation, and Ronan School District 30, on the Flathead Indian Reservation, were also sued for their use of at-large elections as diluting Indian voting strength. Rather than proceeding with litigation, they entered into settlement agreements adopting district elections.²⁵

FORT PECK TRIBES

63. The Fort Peck Indian Reservation is home to two separate Indian nations, the Assiniboine Sioux and the Yanktonai Sioux, each composed of numerous bands and divisions.²⁶

64. The present-day lands of the Fort Peck Indian Reservation were included in the Assiniboine lands as outlined in the Fort Laramie Treaty of 1851.²⁷ An agency was established in 1871 to serve the Assiniboine and Sioux Indians but afforded little protection from the atrocities committed by non-Indians against Indians. *Id.* For example, in 1873 forty lodges of Assiniboine were massacred by hunters. *Id.* Although the action was condemned, the perpetrators were never tried. *Id.* In 1878, the Fort Peck Agency was relocated to its present-day location in Poplar. *Id.*

65. By 1881, all the buffalo were gone from the region, and by 1883-84, over 300 Assiniboines died of starvation in Wolf Point. *Id.*

²⁵ *Alden v. Rosebud County Board of Commissioner*, Civ. No. 99-148-BLG (D. Mont. May 10, 2000); *Matt v. Roman School District*, Civ. No. 99-94 (D. Mont. Jan. 13, 2000).

²⁶ [Fort Peck Tribes | Tribal History](#)

²⁷ [Fort Peck Indian Reservation \(aanativearts.com\)](#)

66. The modern boundaries of the Fort Peck Indian Reservation were ratified by the Act of May 1, 1888. *Id.* It was not long, however, before pressure was placed on Congress to open up the Fort Peck Reservation. To appease non-Indian homesteaders, the Congressional Act of May 30, 1908, the *Fort Peck Allotment Act*, was passed, calling for the allotment of lands and the sale of all the surplus lands after allotment. *Id.* By 1913, approximately 1,348,408 acres of “surplus” lands were available for settlement by the non-Indian homesteaders. *Id.*

67. Currently, the Fort Peck Indian Reservation consists of 2,094,000 acres, making it the ninth largest reservation in the United States and the second in the State of Montana. The Reservation spreads across parts of Roosevelt, Valley, Daniels, and Sheridan Counties. *Id.*

68. The Fort Peck Tribes adopted their first written constitution in 1927 and voted to reject a new constitution under the Indian Reorganization Act in 1934. The official governing body of the Fort Peck Tribes is the Tribal Executive Board, composed of twelve voting members, plus a chairman, vice-chairman, secretary-accountant, and sergeant-at-arms. *Id.*

69. The Fort Peck Tribes has an estimated enrollment of 10,126 with an unemployment rate of 34.3%.²⁸

FRAZER MONTANA

70. Frazer, Montana in Valley County is one of the most significant communities on the Reservation with a population of 365 – 93% of which are recognized as Indian and 56.2% identify as of voting age.²⁹

71. Statistics from the 2022 Census identify the following:³⁰

Demographic	Frazer	Valley County	State of Montana
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²⁸ [My Tribal Area \(census.gov\)](https://mytribalarea.census.gov)

²⁹ [Frazer, MT - Profile data - Census Reporter](#)

³⁰ All statistics were retrieved from [Frazer, MT - Profile data - Census Reporter](#)

Per Capita Income	\$11,856.00 (2/5 of Valley County and 1/3 of Montana)	\$30,941.00	\$37,837.00
Median Income	\$34,375.00 (3/5 of Valley County and 1/2 of Montana)	\$59,725.00	\$66,341.00
Persons Below Poverty Line	34.1% (more than double amount in Valley County and in Montana)	12.3%	12.4%
Educational Attainment Bachelor's Degree or Higher	12.2% (3/5 of those in Valley County and 1/3 of Montana)	19.6%	34%
Moved Since Previous Year	12.9% (More than double in Valley County and almost 90% of the entire state)	6.4%	14.8%

72. The median travel time to work for residents in Frazer is 23.4. *Id.* 19% of the employed residents carpool, 1% use public transportation, 22% walk to work, and 5% work at home. *Id.*

VALLEY COUNTY

73. Valley County is comprised of 4,926.1 square miles which makes it the 6th largest county in Montana.³¹

74. The population of Valley County is 7,578 with 696 individuals categorized as Indian and 6,392 as white. *Id.* Despite comprising almost 10% of the entire population, Valley County has not accommodated the needs of its Indian residents. It has only established four (4) satellite offices – all at the Courthouse in Glasgow.

³¹ [Valley County, Montana - Census Bureau Profile](#)

ROOSEVELT COUNTY

75. According to the most recent census, the total population of Roosevelt County is 10,799 with 56% of that number classified as Indian and 32% as white.³² Indians in Roosevelt County have a depressed socio-economic status compared to whites. Based on the 2010 census data, 15.3% of Indians 25 years or older had not finished high school, compared to 7.8% of whites. Healy Aff. ¶3 Report of Frederick McBride, p. 7.

76. The unemployment rate of working age Indians was 16.6% compared to 2.5% for whites. *Id.* p. 7-8. The median family income for Indians was \$31,439 compared to \$61,212 for whites. *Id.* p. 9. The Indian per capita income was \$12,163 compared to \$26,735 for whites. *Id.* 28.2% of Indians had incomes below the poverty level compared to 5.3% of whites. *Id.* 45.3% of Indian children under 18 lived in poverty compared to 7.4% of white children. *Id.* 10% of Indians moved in Roosevelt County over the previous year compared to 3.8% of whites. *Id.* p. 10. Renters comprised 48.9% of Indian households compared to 24.4% of white households. *Id.*, p. 10. In District 45A, renters comprised 68.2% of Indian households compared to 26.6% of white households. *Id.* p. 11.

77. 9.8% of Indian workers 16 years and over drove to work alone (car, truck, van) compared to 76.6% of non-Hispanic whites. 15.4% of Indians carpooled, while 9.45 of non-Hispanic whites carpooled. *Id.* at p. 10.

78. In *United States v. Roosevelt County, Montana*, Civ. No. 00-50-BLG-JOS (D. Mont. Mar. 24, 2000), the parties entered into a consent decree that at-large elections for the Roosevelt County Commission violated Section 2 of the Voting Rights Act. The parties agreed “there is a strong likelihood that Plaintiff could present evidence sufficient to establish a prima facie showing” that Indians in Roosevelt County are politically cohesive and non-Indian vote as

³² [Roosevelt County, MT - Profile data - Census Reporter](#)

a bloc usually to defeat the candidates of choice of Indian voters. *Id.* at p. 3. The parties further agreed:

Plaintiff could present evidence sufficient to establish a prima facie showing the Indian citizens in Montana and Roosevelt County have suffered from a history of racial discrimination in voting and other areas. There is a likelihood that Plaintiff could show that in Roosevelt County, the effects of this past discrimination continue to hinder Indian citizens' present-day ability to participate effectively in the political process.

Id.

EARLY VOTING IN MONTANA

79. The State of Montana has 56 counties. Of the 20 largest cities in Montana, sixteen of them are also the county seat representing a total population of 407,985 Montanans who can vote in-person absentee in their principal residence; provided, they meet the other eligibility requirements for absentee voting. No county seat also serves as the Tribal Headquarters for any of the Montana tribes.

80. Over the past two decades, Montana voters' reliance on absentee voting has dramatically increased.

81. In contrast, voting participation through absentee balloting is significantly lower in Valley and Roosevelt Counties.

FACTS

82. Both Valley County and Roosevelt County are geographically large and sparsely populated. Each county also contains a substantial Indian population, most of which live on or near the Fort Peck Indian Reservation at a distance greater than sixteen (16) miles from the county seat.

83. On January 31, 2024, Justin Gray Hawk, Sr., Chairman of the Fort Peck Tribes, notified the Valley County Clerk of Court Recorder's Office, that the Tribes had identified a

potential satellite office in Frazer. Affidavit of Bret Healy (“Healy Aff.”), Ex. 1. On that same day, the Tribes notified the Secretary of State and the Valley County Commission that a satellite office was identified in Frazer. *Id.* Ex. 20.

84. In response to the Tribe’s request, Defendant Phippen notified the Tribes on September 11, 2024, that her office could not provide more than one day in Frazer, because Valley County only contains a small part of the Reservation and her office is operated by herself and two part-time employers. *Id.* Ex. 8. Her office was too busy to be run by one person. *Id.*

85. On September 16, 2024, Plaintiffs submitted letters to both Counties requesting the establishment of satellite offices in Frazer and at the Tribal headquarters in Poplar. *Id.* Ex. 2 and 3.

86. Defendant Pippin responded four days later that she could only open a satellite office in Frazer for one day. *Id.* Ex. 12.

87. On September 23, 2024, the Roosevelt County attorney declared that no action was being taken, because they were waiting for a response from the Tribes. *Id.* Ex. 18.

88. The Tribes responded to Defendant Miranda that it required equal access to a satellite office in Poplar. *Id.* Ex. 17. A place in Poplar was identified meeting all the standards referenced in Election Directive #01-2015. *Id.*

89. The following day, the Fort Peck Tribes notified Respondents that it supported the Plaintiffs’ requests for satellite offices and asked for copies of the analysis required by the Secretary of State’s Election Directive. *Id.* Ex. 9 and 10.

90. Plaintiffs’ designee, Bret Healy (“Mr. Healy”), met in-person with Defendant Miranda from Roosevelt County on September 20, 2024, where he learned: (a) Roosevelt County would offer no late registration and early voting outside of the county seat; (b) Defendant

Miranda believed that Election Directive #01-2015 only applied to the counties that had been Respondents in *Wandering Medicine et. al. v. McCulloch et. al*, Case No. 1:12-CV-135-DWM.; and (c) Defendant Miranda and Defendant McDonald would consult with the rest of the Board of Commissioners on Monday, September 23, 2024, to reconsider the request made by Roosevelt County plaintiffs. Healy Aff. ¶ 9.

91. Mr. Healy personally met with Defendant Pippen from Valley County on September 20, 2024, and learned: (a) There would be only 4.5 hours of late registration and in-person absentee balloting offered at a satellite location in Frazer, Montana for the 2024 election cycle; (b) All in-person election day voting in Valley County occurs at the Valley County Courthouse; (c) There is no in-person voting location on-Reservation in Valley County on election day; (d) Defendant Pippen did not present the request dated September 16, 2024, for a satellite location to the Valley County Commissioners; (e) Ballot on demand software and printing is not utilized by Valley County; (f) Valley County did not comply with Montana Secretary of State Election Directive 01-2015 paragraph 1, having not conducted “an analysis under the Voting Rights Act to determine whether a satellite office would be appropriate or required to protect the voting rights of Tribal members” – an analysis that required consultation with the Fort Peck Tribes, to be completed prior to January 1, 2024; and (g) Defendant Pippen made no budget request to the Valley County Board of Commissioners to hire additional temporary staff for a satellite office for the 2024 general election. Healy Aff. ¶ 10.

92. Travel costs place an undue burden on Fort Peck Tribal members, i.e., round trip from Frazer to Glasgow, round trip from Poplar to Wolf Point, round trip from Fort Kipp and Brockston to Wolf Point, and round trip from Oswego to Glasgow. Healy Aff. Ex. 13

93. Respondents have arbitrarily denied Plaintiffs' request even though the Fort Peck Tribes has adhered to all published and/or enacted rules and regulations justifying the establishment of a polling location on the Reservation.

94. The Fort Peck Tribes has offered to provide ADA compliant facilities in Frazer and Poplar with adequate occupancy. Healy Aff. Ex.10 and 20.

95. The Fort Peck Tribes has timely requested a satellite office in Frazer, Montana and Poplar, Montana providing in-person voter registration, late registration and in-person absentee voting.

96. Valley County currently, other than 4.5 hours on one day in the on-reservation community of Frazer, limits late registration and early voting to the county seat.

97. Roosevelt County currently limits late registration and early voting to the county seat of Wolf Point, Montana.

98. Respondents have no legitimate reason for refusing Plaintiffs' request.

CLAIMS

99. "Having once granted the right to vote on equal terms, the State may not, by later arbitrary and disparate treatment, value one person's vote over that of another." *Bush v. Gore*, 531 U.S. 98, 104-05 (2000). It is therefore unconstitutional for states to "accord[] arbitrary and disparate treatment to voters in ... different counties," and for counties to "use[] varying standards to determine what was a legal vote." *Id.* at 107.

100. The legitimate interests of the Respondents will not be undermined in the event that the Court grants the relief prayed for herein.

101. The Plaintiffs have no adequate remedy at law.

102. The Plaintiffs will suffer irreparable harm as a result of the violations complained of herein, and that harm will continue unless Respondents are compelled to establish a satellite office in Frazer and Poplar within the Fort Peck Indian Reservation.

**CLAIM ONE
VIOLATION OF THE MONTANA CONSTITUTION**

103. Plaintiffs incorporate by reference all preceding paragraphs as if fully set forth herein.

104. The Respondents have acted under color of state law to deprive Plaintiffs equal elections by arbitrarily failing to establish a satellite office providing in-person voter registration, late registration and in-person absentee voting in violation of the Constitution of the State of Montana.

**CLAIM TWO
DECLARATORY RELIEF**

105. The allegations contained in the preceding paragraphs of this Complaint are incorporated herein by this reference.

106. A dispute has arisen, and actual controversy now exists between the Plaintiffs and Respondents, and each of them, as to their rights and liabilities with respect to the Plaintiffs' rights protected under Montana law. Based on the lack of response or actions to address these issues to date, Respondents dispute the Plaintiffs' claims. Therefore, an actual controversy exists relative to the legal duties and rights of the respective parties, which the Plaintiffs request the Court resolve.

107. The Respondents' actions and/or inactions have created an actual justiciable controversy ripe for judicial determination between the Plaintiffs and the Respondents. All of the rights and obligations of the parties arise out of one series of events or happenings, all of which

can be settled and determined in a judgment in this one action. Plaintiffs allege that an actual controversy exists between the parties under the circumstances alleged. A declaration of rights, responsibilities and obligations of the parties is essential to determine their respective obligations in connection with Plaintiffs' rights to participate in the decision as to the establishment of a satellite office and to have such a site established. Plaintiffs have no true and speedy remedy at law of any kind.

108. Further, Plaintiffs are entitled to an award of reasonable attorney fees and costs for having to obtain counsel in this matter to protect their rights and prosecute this matter.

**SECOND CLAIM FOR RELIEF
INJUNCTIVE RELIEF**

109. The allegations contained in the preceding paragraphs of this Complaint are incorporated herein by this reference.

110. Respondents' refusal to establish a satellite office in the absence of a determination that establishment of such a site is not logistically feasible constitutes irreparable harm to Plaintiffs with no adequate remedy at law.

111. Plaintiffs have a reasonable probability of success on the merits of their underlying claims. Public interest favors the Plaintiffs because absent injunctive relief, the inconsistent and unlawful practices that prevent Plaintiffs from participating in the election will negatively impact the integrity of the election process and ultimately result in harm to the general public.

112. Due to the immediate and ongoing damages that Plaintiffs will sustain by virtue of the Respondents' actions and/or inactions, immediate injunctive relief is necessary and appropriate.

113. Therefore, Plaintiffs are entitled to preliminary injunctive relief, requiring the Respondents to establish a satellite office in Frazer, Montana providing in-person voter registration, late registration and in-person absentee voting in accordance with the laws of the State of Montana.


RELIEF

WHEREFORE, Plaintiffs pray for judgment as follows:

1. For a declaration of rights and obligations as between the Plaintiffs and Respondents;
2. For entry of an order compelling Respondents to establish a satellite office in Frazer, Montana and Poplar, Montana that is open the same hours for in-person voter registration as the Valley and Roosevelt County Courthouses on September 23-30, 2024; October 1-4, 2024 and October 7, 2024.
3. For entry of an order compelling Respondents to establish a satellite office at Frazer, Montana and Poplar, Montana that is open the same hours for late registration and in-person absentee ballot voting as the Valley and Roosevelt County Courthouses on October 8 through November 4, 2024.
4. For entry of an order compelling Respondents to pay the Plaintiffs' costs and attorneys' fees; and
5. For such other and further relief as the Court may deem just and proper.

Dated this 30th day of September, 2024.

Respectfully Submitted,



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