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Attorney for Amicus Montana Family Foundation

IN THE SUPREME COURT OF THE STATE OF MONTANA

BOB BROWN, DOROTHY)
 BRADLEY, VERNON FINLEY, MAE)
 NAN ELLINGSON, and the LEAGUE)
 OF WOMEN VOTERS OF)
 MONTANA,)
)
 Petitioners,)
)
 -vs-)
)
 GREG GIANFORTE, Governor of)
 Montana,)
)
 Respondent.)
)
)

No. OP 21-0125

**UNOPPOSED MOTION OF
MONTANA FAMILY
FOUNDATION FOR LEAVE TO
APPEAR AS *AMICUS CURIAE***

COMES NOW the Montana Family Foundation (MFF), respectfully seeking leave of the Court to file an *amicus curiae* brief in this matter pursuant to Mont. R. App. P. 12(7). In support, MFF states the following:

Statement of Interest

The Montana Family Foundation (“MFF”) is “a non-profit, research and education organization dedicated to supporting, protecting and strengthening Montana families.” MFF is organized as a non-profit corporation under 26 U.S.C.

501(c) (4). It regularly participates as *amicus* in litigation involving issues of importance to Montana families. *See eg. ESPINOSA v. Montana Department of Revenue*, 140 S.Ct. 2246 (2020). MFF views the family as “a fundamental institution in a civil society” and asserts the “government should promote and protect [the family’s] formation and well-being.” It believes that “[a]n informed and politically active citizenry is the best means for shaping pro-family public policy.”

An integral part of MFF’s pro-family political philosophy is to promote and protect the free exercise of religion, holding it to be central both to families and to a to a fair and free society. A closely linked corollary, in MFF’s opinion, is that a politically-independent judiciary is necessary for the protection of the right to the free exercise of religion. MFF’s interest here is to argue that the impression Petitioners advance that the previous process for selecting Judges to fill vacancies is beyond reproach from the perspective of religious freedom and political independence. Petitioners argue that the previous selection method is so vastly superior in both intent and operation that it *ipso facto* secured an independent judiciary and, therefore, it has evolved into a constitutional requirement.

Reasons Why an MFF *Amicus* Brief Is Desirable

Though never having had the privilege of being invited by this Court to participate as an *amicus*, MFF has in fact filed *amicus curiae* briefs in this Court

and in District Court cases, and in the U.S. Supreme Court. MFF is specifically interested in this matter because the challenge to the statutory process created by the enactment of SB 140 specifically rests on the false premise that the previous system was “superior” in its vetting of judicial nominees and secured an independent judiciary. Petitioners assert SB 140 “threatens to politicize an otherwise nonpartisan, independent, and effective means of filling judicial vacancies.” Pet. at 3. MFF will argue that premise is incorrect logically and false factually. Should the Court grant its motion to file *amicus curiae*, MFF will specifically address these two errors.

Identity of Party Whose Position MFF Support

MFF supports the position of the Respondent Governor of Montana.

Whether the Parties Object to MFF’s Participation

Both the Petitioners and Respondent have been contacted and do not object this motion.

The Proposed Date for Filing MFF’s *Amicus* Brief

MFF proposes to file its *amicus* brief on or before the date that Respondent’s Summary Response is due or at the pleasure of the Court.

WHEREFORE, based on the foregoing, MFF respectfully requests leave from the Court to participate in this matter as *amici curiae*. A proposed order to allow MFF's participation is submitted herewith.

RESPECTFULLY SUBMITTED this 14th day of April, 2021.

Metropoulos Law Firm
/s/ Jon Metropoulos
Attorney for Montana Family Foundation

CERTIFICATE OF SERVICE

I, Jon Metropoulos, hereby certify that I have served true and accurate copies of the foregoing Motion to the following via the Court's efile service on April 14th, 2021:

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Representing the Montana State Legislature

/s/ Jon Metropoulos

CERTIFICATE OF SERVICE

I, KD Feeback, hereby certify that I have served true and accurate copies of the foregoing Motion - Unopposed to the following on 04-14-2021:

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Electronically Signed By: KD Feedback
Dated: 04-14-2021