

IN THE SUPREME COURT OF THE STATE OF MONTANA
No. OP 21-0395

L.B., individually and on behalf of D.B., a minor,

Plaintiff-Appellant,

v.

United States of America; Bureau of Indian Affairs; Dana Bullcoming, agent of the
Bureau of Indian Affairs sued in his individual capacity,

Defendants-Appellees.

**UNOPPOSED MOTION FOR LEAVE OF THE ACLU OF MONTANA
FOUNDATION AND THE AMERICAN CIVIL LIBERTIES UNION TO
APPEAR AS *AMICI CURIAE***

APPEARANCES:

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Attorneys for Proposed Amici

**Pro hac vice application pending*

American Civil Liberties Union (“ACLU”) and ACLU of Montana Foundation, Inc. (“ACLU-MT”) (together, “*Amici*”), respectfully request leave to submit a brief as *amici curiae* in support of Plaintiff-Appellant, L.B., pursuant to Montana Rule of Appellate Procedure 12(7).

Statement of Interest

ACLU is a nationwide, non-partisan organization with nearly two million members and supporters dedicated to preserving the principles of liberty and equality embodied in the Constitution and U.S. civil rights laws. ACLU-MT is the state affiliate of the ACLU whose mission is to support and protect civil liberties in the State of Montana. *Amici* have a long history of advocating in support of the rights of Indigenous peoples, those whose constitutional rights have been violated by law enforcement officers, and victims of gender based violence, particularly through the ACLU’s Racial Justice Program and Women’s Rights Project. *Amici* regularly appear as *amici* before state and federal courts, and ACLU-MT regularly appears before this Court both as direct counsel and as *amicus*. *Amici* believe their extensive experience in advocating for government accountability to Indigenous people, those who come into contact with law enforcement, and victims of sexual assault will assist the Court in reaching a just decision.

Reasons Why the *Amicus* Brief is Desirable

Amici have a strong interest in this case and can assist the Court in the resolution of the significant issues of public importance that it raises. In particular, *Amici* can provide the Court with expertise on the application of Montana vicarious liability law and the effect that the imposition of *respondeat superior* liability on federal agents will have on Indigenous Montanans, in particular women, living and working on tribal lands.

Identity of the Party Whose Position the *Amici* Supports

Amici support the position of Plaintiff-Appellant, L.B.

The Proposed Date for Filing the *Amicus* Brief

If this Motion for Leave to Participate is granted, *Amici* propose to file an *amicus* brief on the same date on which Plaintiff-Appellant, L.B.'s opening brief is due (currently due on October 15, 2021). *Amici* will conform to any schedule adopted by the Court.

Contact with Plaintiff-Appellant and Defendants-Appellees

Counsels for Plaintiff-Appellant, Timothy Bechtold and John Heenan, and counsel for Defendants-Appellees, Tim Tatarka, have been contacted and do not object to this Motion.

DATED this 7th day of October, 2021.

Respectfully submitted,

By: /s/ Alex Rate
*Attorney for Amicus ACLU of
Montana Foundation, Inc.*

CERTIFICATE OF SERVICE

I, Alex Rate, hereby certify that I have served true and accurate copies of the foregoing Motion - Unopposed to the following on 10-7-2021:

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Electronically Signed By: Alex Rate
Dated: 10-7-2021

CERTIFICATE OF SERVICE

I, Alexander H. Rate, hereby certify that I have served true and accurate copies of the foregoing Motion - Unopposed to the following on 10-07-2021:

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Dated: 10-07-2021