

IN THE SUPREME COURT OF THE STATE OF MONTANA

No. DA 21-0521

PLANNED PARENTHOOD OF MONTANA, and JOEY BANKS, M.D., on
behalf of themselves and their patients,

Plaintiffs/Appellees

VS.

STATE OF MONTANA, by and through AUSTIN KNUDSEN, in his official
capacity as Attorney General,

Defendant/Appellant

ON APPEAL FROM THE MONTANA SECOND JUDICIAL DISTRICT COURT,
YELLOWSTONE COUNTY, HON. MICHAEL G. MOSES, PRESIDING
CASE No. 21-0521

**MOTION FOR MONTANA CONSTITUTIONAL CONVENTION
DELEGATES AND RESEARCH STAFF TO PARTICIPATE AS AMICUS
CURIAE**

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Admitted Pro Hac Vice
*** Application for Admission Pro Hac*
Vice Pending

Pursuant to Montana Rule of Appellate Procedure 12(7), counsel for applicant *amici* Montana Constitutional Convention Delegates and Research staff (collectively, the “Delegates”) respectfully move this Court for leave to participate as *amicus curiae* in this matter in support Plaintiffs/Appellees Planned Parenthood of Montana and Joey Banks, M.D. (“Appellees”).

I. Applicants.

Applicant *Amicus* Mae Nan Ellingson was the youngest delegate to the 1972 Montana Constitutional Convention, and she later became a member of the State Bar of Montana. Ms. Ellingson practiced law with the firm of Dorsey & Whitney. Ms. Ellingson is co-author with her fellow Delegate, Fritz Snyder, of *The Lawyer-Delegates of the 1972 Montana Constitutional Convention: Their Influence and Importance*, 72 Mont. L. Rev. 53 (Issue 1, Winter 2011).

Applicant *Amicus* Lyle Monroe was working in the area of health and social services in Great Falls and just two years out of college when he was elected as a Delegate. He served on the Bill of Rights Committee alongside Bob Campbell.

Applicant *Amicus* Bob Campbell was an attorney in private practice in Missoula, Montana when he was elected as a Delegate to the Constitutional Convention. He served on the Bill of Rights Committee.

Although applicant *Amicus* Rick Applegate was not a delegate to the Montana Constitutional Convention, he played a significant and integral role in the drafting of the Constitution as a research analyst for the Bill of Rights Committee.

II. Interest of the Delegates.

The Delegates are vitally interested in maintaining the integrity of Montana's Constitution, which they helped draft and have championed, interpreted, and/or authored scholarship regarding over the past several decades since its promulgation and enactment in 1972. The Delegates agree that the integrity of Montana's Constitution and its many guarantees of fundamental rights and freedoms can only be preserved if the original intent of the Delegates and the principle of *stare decisis* are respected and upheld.

III. Reasons Why A Brief of the Delegates is Desirable.

As Delegates to the Constitutional Convention fifty years ago, the Delegates are uniquely situated to assist this Court in this matter regarding the meaning and interpretation of the provisions of the Montana Constitution, including the Article of Rights therein. Based on their experience, the Delegates are in the best position to, *inter alia*, proffer and put into context background facts surrounding the framing of the 1972 Constitution and its submission to the people, what the Delegates intended to convey via the language adopted for the rights and freedoms set forth in the Constitution, and how they intended their words to be interpreted

when those words are before this Court for interpretation and enforcement, as they are now.

IV. Party Supported.

The Delegates support the position of the Appellees.

V. Date Brief Can be Filed.

The Delegates seek to file their *amicus* brief on or before March 24, 2022, which is also Appellee’s deadline to file an opening brief.

VI. Unopposed Motion

The undersigned has contacted Appellees and Defendant/Appellant State of Montana (“Appellant”) in regard to this Motion. Appellees consent to the submission of this Motion, and Appellant takes no position.

Respectfully submitted this 16th day of March, 2022.

/s/ Emily J. Cross

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CERTIFICATE OF SERVICE

I, Emily Cross, hereby certify that I have served true and accurate copies of the foregoing Motion - Amicus to the following on 03-16-2022:

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