

IN THE SUPREME COURT OF THE STATE OF MONTANA
No. DA 23-0572

SCARLET VAN GARDEREN, a minor by and through her guardians, Jessica van Garderen and Ewout van Garderen; JESSICA VAN GARDEREN, an individual; EWOUT VAN GARDEREN, an individual; PHOEBE CROSS, a minor by and through his guardians Molly Cross and Paul Cross; MOLLY CROSS, an individual; PAUL CROSS, an individual; JANE DOE, an individual; JOHN DOE, an individual; JUANITA HODAX, on behalf of herself and her patients, KATHERINE MISTRETТА, on behalf of herself and her patients,

Plaintiffs and Appellees,

v.

STATE OF MONTANA; GREGORY GIANFORTE, in his official capacity as Governor of the State of Montana; AUSTIN KNUDSEN, in his official capacity as Attorney General; MONTANA BOARD OF MEDICAL EXAMINERS; MONTANA BOARD OF NURSING; MONTANA DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES; CHARLIE BRERETON, in his official capacity as Director of the Montana Department of Public Health and Human Services,

Defendants and Appellants.

On appeal from the Montana Fourth Judicial District Court, Missoula County
Cause No. DV 2023–541, the Honorable Jason Marks Presiding

AMENDED NOTICE OF APPEAL

Austin Knudsen
Montana Attorney General
Thane Johnson
Michael D. Russell
Alwyn Lansing
Michael Noonan
Assistant Attorneys General
MONTANA DEPARTMENT OF
JUSTICE
PO Box 201401
Helena, MT 59620-1401
Phone: 406-444-2026
thane.johnson@mt.gov
michael.russell@mt.gov
alwyn.lansing@mt.gov
michael.noonan@mt.gov
Attorneys for Defendants/Appellants

Emily Jones
Special Assistant Attorney General
JONES LAW FIRM, PLLC
115 N. Broadway, Suite 410
Billings, MT 59101
Phone: 406-384-7990
emily@joneslawmt.com

Akilah Deernose
Alex Rate
ACLU of Montana
PO Box 1968
Missoula, MT 59806
Phone: 406-203-3375
deernosea@aclumontana.org
ratea@aclumontana.org

Malito Picasso*
Arijeet Sensharma*
ACLU Foundation
125 Broadway Street
New York, NY 10004
Phone: 212-549-2561
mpicasso@aclu.org
asensharma@aclu.org

Matthew P. Gordon
Heather Shook*
Courtney Schirr*
Sara Cloon*
Kayla Lindgren*
Perkins Coie LLP
1201 Third Avenue, Suite 4900
Seattle, WA 98101
Phone: 206-359-8000
mgordon@perkinscoie.com

Peter C. Renn*
Kell Olson*
Lambda Legal Defense and Education
Fund
800 S. Figueroa Street, Suite 1260
Los Angeles, CA 90017
Phone: 213-382-7600
prenn@lambdalegal.org
kolson@lambdalegal.org

Elizabeth O. Gill*
ACLU Foundation
39 Drumm Street
San Francisco, CA 94109
Phone: 415-343-1237
egill@aclunc.org

Attorneys for Plaintiffs/Appellees

Nora Huppert*
Lambda Legal Defense and Education
Fund
65 E. Wacker Place, Suite 2000
Chicago, IL 60601
Phone: 312-663-4413
nhuppert@lambdalegal.org

* admitted pro hac vice

NOTICE is given that the State of Montana, Gregory Gianforte, in his official capacity as Governor of the State of Montana, Austin Knudsen, in his official capacity as Attorney General, Montana Board of Medical Examiners, Montana Board of Nursing, Montana Department of Public Health and Human Services, Charlie Brereton, in his official capacity as Director of the Montana Department of Public Health and Human Services, the Appellants above-named and who are the Defendants in that cause of action filed in the Fourth Judicial District, in and for the County of Missoula, as Cause No. DV 23–541, hereby appeals to the Montana Supreme Court from the Order Granting Plaintiffs’ Motion for Preliminary Injunction filed September 27, 2023.

THE APPELLANT FURTHER CERTIFIES:

1. That this appeal is not subject to the mediation process required by Mont. R. App. P. 7.
2. That this appeal is not an appeal from an order certified as final under Mont. R. Civ. P. 54(b).
3. That all available transcripts of the proceedings in this case have been ordered from the court reporter contemporaneously with the filing of this notice of appeal.
4. That the Appellant is exempt from filing fee requirements.

5. That pursuant to Mont. R. App. P. 4(4)(d) a copy of the Amended Notice of Appeal will be served by mail to the Clerk of the Fourth Judicial District Court and counsel of record, as well as via electronic filing.

DATED this 28th day of September, 2023.

Austin Knudsen
MONTANA ATTORNEY GENERAL

/s/ Michael Russell

Michael Russell
Thane Johnson
Alwyn Lansing
Michael Noonan
Assistant Attorneys General
PO Box 201401
Helena, MT 59620-1401

Emily Jones
Special Assistant Attorney General
JONES LAW FIRM, PLLC
115 N. Broadway, Suite 410
Billings, MT 59101

ATTORNEYS FOR
DEFENDANTS/APPELLANTS

CERTIFICATE OF SERVICE

I, Michael D. Russell, hereby certify that I have served true and accurate copies of the foregoing Notice - Amended Notice of Appeal Filed to the following on 09-28-2023:

Alwyn T. Lansing (Govt Attorney)
215 N. Sanders St.
Helena MT 59620

Representing: Charlie Brereton, Greg Gianforte, Austin Miles Knudsen, Montana Board of Medical Examiners, Montana Board of Nursing, MT Dept of Public Health & Human Services, State of Montana

Service Method: eService

Thane P. Johnson (Govt Attorney)
215 N SANDERS ST
P.O. Box 201401
HELENA MT 59620-1401

Representing: Charlie Brereton, Greg Gianforte, Austin Miles Knudsen, Montana Board of Medical Examiners, Montana Board of Nursing, MT Dept of Public Health & Human Services, State of Montana

Service Method: eService

Emily Jones (Attorney)
115 North Broadway
Suite 410
Billings MT 59101

Representing: Charlie Brereton, Greg Gianforte, Austin Miles Knudsen, Montana Board of Medical Examiners, Montana Board of Nursing, MT Dept of Public Health & Human Services, State of Montana

Service Method: eService

Michael Noonan (Govt Attorney)
215 N SANDERS ST
HELENA MT 59601-4522

Representing: Charlie Brereton, Greg Gianforte, Austin Miles Knudsen, Montana Board of Medical Examiners, Montana Board of Nursing, MT Dept of Public Health & Human Services, State of Montana

Service Method: eService

Matthew Prairie Gordon (Attorney)
1201 Third Ave

Seattle WA 98101

Representing: Molly Cross, Paul Cross, Phoebe Cross, Juanita Hodax, Katherine Mistretta, Ewoyt Van Garderen, Jessica Van Garderen, Scarlet Van Garderen

Service Method: eService

Akilah Maya Deernose (Attorney)

1121 Knight St.

Helena MT 59601

Representing: Molly Cross, Paul Cross, Phoebe Cross, Juanita Hodax, Katherine Mistretta, Ewoyt Van Garderen, Jessica Van Garderen, Scarlet Van Garderen

Service Method: eService

Alexander H. Rate (Attorney)

713 Loch Leven Drive

Livingston MT 59047

Representing: Molly Cross, Paul Cross, Phoebe Cross, Juanita Hodax, Katherine Mistretta, Ewoyt Van Garderen, Jessica Van Garderen, Scarlet Van Garderen

Service Method: eService

Kell Olson (Attorney)

3849 E. Broadway Blvd. #136

Tucson AZ 85716

Representing: Molly Cross, Paul Cross, Phoebe Cross, Juanita Hodax, Katherine Mistretta, Ewoyt Van Garderen, Jessica Van Garderen, Scarlet Van Garderen

Service Method: eService

Peter C. Renn (Attorney)

800 South Figueroa St., Suite 1260

Los Angeles CA 90017

Representing: Molly Cross, Paul Cross, Phoebe Cross, Juanita Hodax, Katherine Mistretta, Ewoyt Van Garderen, Jessica Van Garderen, Scarlet Van Garderen

Service Method: eService

Angie Sparks (Clerk of District Court)

Clerk of District Court

228 Broadway

Helena MT 59601

Service Method: eService

E-mail Address: clerkofcourt@lccountymt.gov

Catherine Rebish (Court Reporter)

200 West Broadway

Missoula MT 59802

Service Method: eService

E-mail Address: CRebish@mt.gov

Electronically signed by Deborah Bungay on behalf of Michael D. Russell
Dated: 09-28-2023