

IN THE SUPREME COURT OF THE STATE OF MONTANA

Cause No. DA 24-0075

VERNON STENSVAD,

Plaintiff/Appellee,

v.

NEWMAN AYERS RANCH, INC.

Defendant/Appellant.

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APPELLEE'S BRIEF

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On Appeal from the Montana Seventh Judicial District Court, Prairie County  
Cause No. DV 2023-08,  
Before the Honorable Olivia Rieger

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## STATEMENT OF ISSUES

**ISSUE I:** The agister's lien is not exempt from preliminary injunction.

**ISSUE II:** The District Court correctly determined that Stensvad was entitled to injunctive relief staying the execution of the agister's lien.

**ISSUE III:** The District Court correctly found that Stensvad is at risk of irreparable harm in the absence of injunctive relief.

## STATEMENT OF THE CASE

The Plaintiff, Vernon Stensvad (Vern), filed a Verified Petition seeking a preliminary injunction pursuant to Section 27-19-201, MCA, in the Montana Seventh Judicial District, Prairie County, to prevent the sale of his cattle herd. The Defendant, Newman Ayers Ranch, Inc. (Ayers), claims that it is entitled to sell Vern's cattle to enforce an agister's lien pursuant to Section 71-3-1213, MCA.

On December 20, 2023, a hearing was held before the Honorable Olivia Rieger. On January 8, 2024, the district court declared that Ayers was restrained from selling, moving, hiding, or otherwise disposing of Vern's cattle, and ordered that the cattle be put into the custody of a third-party feed lot, at Vern's expense, pending resolution of the case. Ayers appealed.

## STATEMENT OF FACTS

The Plaintiff, Vernon Stensvad (Vern) is a resident of Wibaux County, Montana. Transcript (Tr.) p. 17, l. 1-3. Vern owns a small cattle herd, a business he

started and built with his parents. Tr. p. 18, l. 7-9; Tr. p. 9, l.6-19. For the past twelve years Vern has selectively bred his cattle and has developed a herd to maximize his commercial success. Conclusion of Law (COL) 5; Tr. p. 20, l.1-12.

The Defendant Newman Ayers Ranch, Inc. (Ayers), is a Montana corporation located in Custer and Prairie Counties. The corporation is run by its President, Courtney Ayers, and its manager, Nancy Ayers. Tr. p.102, l. 1-2; Tr. p. 148, l. 4-9. Ayers raises its own livestock and takes in cattle on grazing leases. Tr. p. 119, l. 22-24.

In 2022 Vern and Ayers met through their mutual ranch consultant, Jim Altenhofen (Altenhofen). On July 5, 2022, Ayers drafted and the parties signed a grazing lease for the pasturing of Vern's cattle on Ayer's property. Finding of Fact (FOF) 1; Tr. p.25, l.3-11; Trial Exhibit (Tr. Ex.) 3. Two days later Vern delivered his cattle herd to the Ayers property, where they remained until December, 2023. FOF 4; Tr. p.27, l.10-16. At the time of the injunction hearing Vern's records showed that he had 79 cow-calf pairs, five replacement heifers, four bulls, and two horses with Ayers. FOF 15; Tr. p.29, l.19-25.

The parties' lease specified a grazing rate of \$45.00 per animal unit month (AUM). FOF 2. The lease can be modified only in a mutually signed writing. FOF 2. Although the lease referenced the potential of a different lease rate in the

winter months, the parties did not discuss or agree on any so-called “winter rate”.

FOF 2, 3; Tr. p. 37, 1.7-22.

Ayers hired Vern to work on the ranch, promising to offset his wages against his lease payment. FOF 6; Tr. p.33, 1.18-21. Since there was to be a credit adjustment made to his bill, Ayers did not send Vern an invoice after October, 2022. FOF 5; Tr. p.71, 1.1-12. Ayers inexplicably failed to document Vern’s time, and later decided not to pay him or credit him for his labor; Ayers did not tell Vern of this decision. Tr. p.155, 1.12-16. The district court calculated that Vern worked more than 144 hours for Ayers. Tr. p.156, 1.1-7; p.163, 1.4-6.

Vern uses his cattle as collateral on two loans with the Farm Service Agency (FSA) and relies on the sale of his calves to service the debt. FOF 18. The agency requires Vern to verify his debts. In December, 2022, Altenhofen submitted a Debt Verification to the FSA showing that Vern owed Ayers \$28,000 for winter feed. FOF 19; Tr. p.77, 1.1-9. Courtney Ayers signed the verification form in blank in front of Altenhofen, who testified that he inserted a feed amount with which Courtney agreed. FOF 20; Tr. p.79,1.14-18. Vern believed that this was the amount he owed Ayers for winter feed. FOF 19; Tr p.66, 1.14-24.

On October 13, 2023, Vern notified Nancy Ayers that he would be removing his cattle from Ayers’ property to sell his calves, and he requested a final bill so that he could make payment. FOF 12; Tr. p.44, 1.2-21; Ex. 3. Instead of a bill, on

October 13, 2023, Ayers prepared an agister's lien claiming \$78,662.50 based on a higher non-contract rate that Ayers determined unilaterally for feed and equipment. FOF 17; Tr. p. 129, l. 10-25. Ayers then seized Vern's entire herd. Tr. p.47, l.20-23; Ex. 4. Vern was given no notice of the lien and was barred from the Ayers property. FOF 14; Tr.p.50, l.6-24; Tr. p.141, l.13-15. Ayers claims that the lien amount continues to accrue at \$105 per day, but Courtney Ayers could not explain what that number was or how it was calculated. Tr. p. 143, l. 13-18.

Courtney Ayers testified that he did not know how many of Vern's cattle the corporation possessed prior to preparing the lien. FOF 16; Tr. p.139, l. 21-25. Both Courtney Ayers and Nancy Ayers testified that it was in the corporation's interest not to bear any ongoing cost of pasturing Vern's cattle. Tr. p.165, l.15-17.

Ayers prepared to enforce its lien and sell Vern's cattle. To preserve his business Vern sought a preliminary injunction to stop the sale. Following an evidentiary hearing on December 20, 2023, the district court granted Vern a preliminary injunction, directing that the cattle be retained in a third-party feed lot pending resolution of the parties' dispute. Ayers appealed the injunction.

### **STANDARD OF REVIEW**

The purpose of a preliminary injunction is "to maintain the status quo pending trial", which is "the last actual, peaceable, noncontested condition which preceded the pending controversy." **Planned Parenthood of Montana v. State,**

409 Mont. 378, 515 P.3d 301 (2022). A district court has broad discretion to grant injunctive relief, and its order will not be disturbed absent a manifest abuse of discretion, which is an obvious, evident, or unmistakable error. **Yockey v. Kearns Properties, LLC**, 326 Mont. 28, 106 P.3d 1185 (2005).

The district court's fact findings are reviewed for clear error, which is a lack of substantial evidence, misapprehension of the effect of the evidence, or if the Court is left with a definite and firm conviction that the district court made a mistake. **Whitehorn v. Whitehorn Farms, Inc.**, 346 Mont. 394, 195 P.3d 836 (2008). Substantial evidence is evidence reasonably sufficient to support a conclusion; it is more than a scintilla of evidence but may be less than a preponderance. **Barret v. Asarco, Inc.**, 245 Mont. 196, 799 P.2d 1078 (1990). The Court reviews a district court's conclusions of law for correctness. **Hidden Hollow Ranch v. Fields**, 311 Mont. 505, 92 P.3d 1185 (2004).

At the injunction stage neither the Court nor the district court are to determine the merits of the underlying case, which are reserved for trial. **Stand Up Mont. v. Missoula Public Schools**, 409 Mont. 330, 514 P.3d 1062 (2022).

### SUMMARY OF THE ARGUMENT

The standards to be applied to the interpretation and application of the 2023 revision of Section 27-19-201, MCA, are yet to be determined. Prevailing Montana case law is most like the substantial questions test applied by multiple

federal circuits. This is a sliding scale interpretation of the statutory factors originally established by the U.S. Supreme Court and allows courts to weigh the relative strength of each. This is a flexible approach that is easily reconciled with long-standing state practice.

The district court correctly determined that injunctive relief is appropriate. The lower court found facts supporting each factor, and determined that Vern had a likelihood of success under various contract and tort theories. The district court correctly found that Vern would suffer irreparable harm if he lost his cattle business in that he confronted losses that were not readily calculable or amenable to mere money damages. The district court's preliminary injunction should remain in effect and its order affirmed.

## ARGUMENT

### **I. The agister's lien is not exempt from injunction.**

Ayers claims that the agister's lien is not subject to injunction because: (1) the agister's lien statute provides that a claimant is entitled to possession of the livestock, and "expeditious action" is required to enforce the lien to ensure that feed costs do not exceed the value of the animals; and (2) injunction is against public policy. Both claims fail.

There is no statutory exemption supporting Ayers' claim. The Court first examines a statute according to its plain meaning. "If [legislative intent] can be

determined from the plain meaning of the words used in the statute, the plain meaning controls, and this Court need go no further nor apply any other means of interpretation.” **B.Y.O.B., Inc. v. State**, 405 Mont. 88, 493 P.3d 318 (2021). The plain meaning of the relevant statutes show that injunctive relief is available to restrain an agister’s lien.

Injunctive relief is an equitable remedy governed by Title 27, Chapter 19, and is not reliant upon the nature of the underlying claim. **Davis v. Westphal**, 389 Mont. 251, 405 P.3d 73 (2017). An injunction is available “as an alternative or supplemental remedy to those ordinarily available by statute or common law.” **Id.** An injunction is unavailable only in specifically defined circumstances: (1) to stay a judicial proceeding pending at the commencement of an action in which the injunction is demanded, unless such restraint is necessary to prevent a multiplicity of such proceedings; (2) to stay proceedings in a court of the United States; (3) to stay proceedings in another state upon a judgment of a court of that state; (4) to prevent the execution of a public statute by officers of the law for the public benefit; (5) to prevent the breach of a contract the performance of which would not be specifically enforced; (6) to prevent the exercise of a public or private office, in a lawful manner, by the person in possession; (7) to prevent a legislative act by a municipal corporation; (8) in labor disputes under any other or different circumstances or conditions than if the controversy were of another or different

character or between parties neither or none of whom were laborers or interested in labor questions; or (9) to prevent the secretary of state from issuing a temporary or final administrative rule before the administrative rule is issued. Section 27-19-103(1-9), MCA. None of these exemptions bars the grant of equitable relief to stay the enforcement of an agister's lien.

The Court has previously determined that injunctive relief is an available, albeit imperfect, tool with which to obtain court review of agister's liens prior to enforcement. **Cf., Rose v. Myers**, 223 Mont. 13, 724 P.2d 176 (1986). Without a statutory process to obtain a timely court review of the lien, Vern availed himself of the most expeditious process to preserve his property interests and legal rights.

Nothing in the agister's lien statute exempts agister's liens from injunction. The legislature declared only that "expeditious action" is needed to protect the creditor and the animals; there is no specific bar to the use of injunction. Section 71-3-1211, MCA. The emergency nature of the injunction balances the competing interests of creditors and putative debtors in an expedited fashion and is consistent with the legislature's general policy statement.

The public interest supports the availability for an applicant to obtain injunctive relief to stay the operation of an agister's lien. While prompt enforcement of **valid** agister's liens is important, claims like Ayers' are an entirely different matter. An agister's lien is not presumptively valid, and the property interests at issue often

constitute the livestock owner's livelihood. A fraudulent lien can threaten the very existence of a family ranch. The district court found that Ayers' agister's lien was based on a feed rate that was not part of the parties' written contract, and that the immediate sale of Vern's livestock was likely to cause him irreparable harm beyond the value of the animals. The district court correctly balanced the parties' interests and granted the preliminary injunction.

Injunctive relief is one of the few remedies available to a property owner to challenge an agister's lien. The statutory scheme of Section 71-3-1213, MCA, provides a property owner with no opportunity to contest it, and in this regard is an unconstitutional denial of procedural due process. **See Cox v. Yellowstone County**, 795 F. Supp. 2d 1128 (D. Mont. April 26, 2011); **adopted by Cox v. Yellowstone County**, 795 F. Supp 1128 (D. Mont. June 13, 2011). Justice Hunt summarized the suspect nature of the lien and sale provision, as follows:

"I would hold that § 71-3-1203, MCA [the predecessor of 71-3-1213, MCA], is clearly unconstitutional. The statute violates the due process clauses of the state and federal constitutions. ...There is no requirement for a verified affidavit, no participation by a judge, no mandatory bond, and no procedure to seek an immediate halt of the sale. Further, there are no other legal remedies available to sufficiently guarantee due process. The legal procedures available to the owner, such as the institution of an action for conversion or for declaratory relief, are insufficient substitutes for a pre-sale hearing. There is little probability that trial of a contested lien claim can be held within the minimum period preceeding (sic) transfer to the buyer, and injunctions or other extraordinary remedies are discretionary with the trial court and thus lack the certainty necessary to insure a hearing prior to permanent deprivation."

**Rose, supra**, (J. Hunt, concur.). In response to the **Rose** and **Cox** decisions the legislature amended Section 71-3-1203, MCA, to provide for a pre-deprivation hearing prior to sale. Hearings like the preliminary injunction hearing in this case are equivalent to a show-cause hearing and provide livestock owners with access to the courts prior to loss of their livestock.

Contemporaneously with the amendment of Section 71-3-1203, the legislature enacted Section 71-3-1213, MCA, separating livestock liens from other possessory liens. However, the current statute contains the same deficient procedure as the former 71-3-1203, making no provision for prompt judicial review. The legislature found only that creditors need to enforce liens before the cost exceeded the value of the livestock. **See** Section 71-3-1211(1), MCA. No consideration was given to the dangers of a fraudulent or otherwise invalid lien. This oversight has never been corrected. Given the importance of these interests and Montana’s commitment to the preservation of family-based agricultural operations an injunction is a reasonable, and necessary, safeguard against an improper agister’s lien.

**II. The District Court correctly determined that Stensvad was entitled to injunctive relief staying the execution of the agister’s lien.**

In 2023 Section 27-19-201, MCA, was revised to clarify the standards to be applied to preliminary injunctions. The statute now incorporates the U.S. Supreme Court’s “**Winter** test”, which balances the parties’ competing interests by analyzing four factors: (1) the applicant is likely to succeed on the merits; (2) the

applicant is likely to suffer irreparable harm; (3) the balance of hardships between the parties tips in the applicant’s favor; and (4) an injunction is in the public interest. Section 27-19-201(1), MCA; **Winter v. NRDC**, 555 U.S. 7, 129 S. Ct. 365 (2008). The factors are to be applied by the district court in a fashion that “mirror[s] the federal preliminary injunction standard, and application of subsection (1) [is] to closely follow United States supreme court case law.” Section 27-19-1213(4), MCA. The Court has not yet reconciled this revised statutory approach with established case law.

The federal and state tests for injunctive relief are similar. Both state and federal courts grant injunctive relief to maintain the status quo between parties until the merits of a case can be considered. **Univ. of Texas v. Camenisch**, 451 U.S. 390, 101 S. Ct. 1830 (1981); **Davis, supra**. The required analysis is inherently fact-specific and flexible, as befits the exercise of a court’s equity jurisdiction. **Weinberger v. Romero-Barcelo**, 456 U.S. 305, 102 S. Ct. 1798 (1982).

The **Winter** test is not writ in stone. Many federal courts, including those in the Second, Seventh, and Ninth Circuits, evaluate the **Winter** factors on a sliding scale referred to as the “serious questions” test. This modified review requires an applicant to make some showing for each factor but allows a stronger showing on one factor to offset a weaker showing on another. **Alliance for the Wild Rockies v.**

**Cottrell**, 32 F.3d 1127 (9<sup>th</sup> Cir. 2011). The serious questions test supports the issuance of an injunction:

“ . . . when there are serious questions going to the merits and the balance of hardships tips strongly towards the plaintiff, a preliminary injunction may issue if the plaintiff also shows that there is a likelihood of irreparable injury and the injunction is in the public interest.”

**Olson v. Puckett**, 2023 U.S. Dist. LEXIS 22954 (E.D. Calif., February 9, 2023).

“Serious questions” are those “that cannot be resolved one way or another at the hearing on the injunction because they require more deliberative investigation.”

**Flathead-Lolo Bitterroot Citizen Task Force v. Montana**, 98 F.4<sup>th</sup> 1180 (9<sup>th</sup> Cir. April 23, 2024). An injunction should issue if there is a “fair chance” of success, a less exacting standard than a likelihood of success on the merits. **Id.** This makes sense as no final adjudication of fact or law is possible or advisable at the stage of preliminary injunction. **Stand Up Mont., supra.** The serious questions analysis preserves Montana’s policy favoring decisions on the merits and affords courts sitting in equity with the flexibility needed to render justice.

When evaluating applications for injunction Montana courts have traditionally required proof of: (1) a probable right; (2) probable danger that the right will be denied in the absence of an injunction; and (3) a showing of a prima facie case on the underlying claim, or at least a showing that it is doubtful if the applicant will suffer irreparable injury before a hearing on the merits. **M.H. v. Mont. High School Ass’n**, 280 Mont. 123, 929 P.2d 239 (Mont. 1996).

Montana's traditional approach to injunctive relief is like the substantial questions test. Montana courts have consistently required a showing of only one of the (former) statutory factors as a basis to grant injunctive relief. **Sweet Grass Farms, Ltd., v. Bd. of Cty. Comm'rs**, 300 Mont. 66, 2 P.3d 825 (Mont. 2000). Often decisions would identify the primary factor upon which a decision was based; this practice mirrors the substantial question test by allowing the court to balance the relative strengths of the individual test factors.

Preliminary injunction is an equitable remedy. **Davis, supra**. The Court may consider all relevant factors in evaluating the propriety of relief afforded by a preliminary injunction. Section 3-2-204(5), MCA. The district court's order references breach of contract and tort theories. Vern also has a potential due process claim challenging the application of the agister's lien statute. Even if the district court did not expressly consider each specific cause of action, or the constitutional implications of the statute, this Court may do so if it deems appropriate, being careful not to substitute its own judgment for that of the lower court. Injunctive relief is proper.

The district court properly analyzed the facts of this case:

**1. Likelihood of success/serious questions going to the merits.**

Vern established a prima facie case of breach of contract and demonstrated that he has the probable right to enforce the parties' agreement. **Kostelecky v. Peas**

**in a Pod, LLC**, 410 Mont. 239, 518 P.3d 840 (2022)(elements of breach of contract). The Grazing Lease is an enforceable written contract with identifiable parties, signature consent, a lawful subject, and good consideration. The terms of the lease can be changed only with a mutual written agreement. Ayers attempted to change the lease rate without notice or Vern's written agreement, and then used the unilaterally changed rate to calculate the sums claimed under the agister's lien. The district court found the potential harms Vern faced from his inability to sell his calves, control his livestock, or challenge the agister's lien to be compelling.

Vern has tort claims independent of the contract. The lower court found facts indicating that Ayers was likely negligent in its care of Vern's cattle.

**Kostelecky, supra.** As the party in possession and control of Vern's cattle Ayers had a duty under the parties' lease to care for the animals properly. The district court found that Ayers did not count the animals in its care for at least six months prior to the injunction hearing and did not know how many of Vern's cattle it had when it filed its lien. Ayers claimed a lien on only 70 cow-calf pairs, not the 79 pairs that Vern's records showed were on the premises. This is a loss of 11% of Vern's pairs, plus his replacement heifers, nearly twenty-five animals in total, and appears to be proximately caused by Ayer's lack of care and attention.

The district court received facts indicating that Ayers has quite possibly engaged in fraudulent conduct. Ayers induced Vern to work for it on the promise

that his labor would be offset against his lease, and then decided not to compensate him for his labor. Whether this was done to obtain free labor, or as a trick to claim breach of contract by prompting Vern to delay payment while awaiting a final bill crediting his work, is a matter that demands further examination and evidence.

As discussed **infra**, Vern has a potential procedural due process claim challenging the constitutionality of the current agister's lien statute.

Vern is likely to succeed on the merits of his claims and establish that the agister's lien is void on its face. The district court made extensive findings of fact, but substantial questions remain. The parties have not had the opportunity to discover and present all relevant facts. Vern must be allowed to preserve his property and business until he can prove his claims. If Vern loses his cows any success on the merits will be largely moot as he will have already incurred devastating loss.

## **2. Likelihood of irreparable harm.**

Vern will lose important legal rights in the absence of injunction. The district court specifically found that he is facing significant and irreparable harm if his cattle are sold. He will lose a viable business, thousands of dollars' worth of livestock that are a family legacy and which were selectively bred over the course of more than a decade. The loss of business assets is but one category of injury.

Vern is contemplating other injuries beyond the loss of his stock. If the lien is enforced Vern will lose the goodwill of his customers and business community. Having the lien publicly foreclosed will hurt Vern's business reputation. He will lose his significant investment of time, effort, and money spent developing his herd. **Yatsko v. Cascade Cnty.**, 411 Mont. 383, 518 P.3d (2022)(identifying compensable categories of harm). Vern will face devastating injury to his credit from the foreclosure of his FSA loans that will inevitably follow the loss of the collateral securing those loans. These losses are extremely difficult to quantify and are not readily compensable with an award of money damages. **Cf., Stuhlberg Int'l Sales Co. v. John D. Brush & Co.**, 240 F.3d 832 (9<sup>th</sup> Cir. 2013)(loss of customer goodwill is an example of unquantifiable injury).

Vern's property interests are threatened without substantive due process. The process specified by the agister's lien statute has been previously declared unconstitutional. **Cox v. Yellowstone County, supra; Rose v. Myers, supra.** Vern's right to due process is, of course, enshrined in Art. II, Sec. 17, of the Montana Constitution; as a fundamental right it is arguably entitled to strict scrutiny analysis. **Stand Up Mont., supra.** The importance and value of a fundamental right is incalculable. Money damages alone are insufficient.

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### **3. Balance of hardships.**

Considering the threat of significant losses, whether pecuniary, non-pecuniary, or constitutional, the balance of hardships tips sharply in Vern's favor. The injunction preserves the status quo and protects Vern's property and constitutional rights, and places upon him the costs of care of the cattle, until the parties' rights are finally adjudicated. Ayers will experience a potential delay in payment, but it is the same delay it would face during litigation; even if the cattle were sold it is most likely that any sale proceeds would be held until after trial. Ayers has no ongoing costs, which have been shifted to Vern. The district court appropriately balanced the equities.

### **4. Public Interest.**

It is in the public interest for the injunction to issue. The enforcement of contracts is a public interest, as is the payment of government loans like Vern's FSA obligations. **Million Source, Ltd., v. Plastic-View A.T.C., Inc.**, 2022 U.S. Dist. LEXIS 81212 (C.D. Cal. 2022). While protection of a creditor's rights is important, the preservation of a small family ranch operation is more compelling than the enforcement of a highly suspect agister's lien. Finally, the public has a vested interest in preserving the integrity of the federal and state constitutions, and the individual rights and liberties enshrined therein. The enforcement of the agister's lien should be enjoined until the court can determine the parties' rights.

### **III. The District Court correctly found that Stensvad is at risk of irreparable harm in the absence of injunctive relief.**

The district court correctly found that Vern was at risk of irreparable harm. Irreparable harm, as that phrase is used in 27-19-201, MCA, is an injury that: (1) cannot be remedied by compensatory damages; (2) adequate, non-speculative compensation is difficult to determine; or (3) is of a recurring or continuous nature such that effective redress would require a multiplicity of successive legal actions. **Davis, supra.** Damages of this type include damage to business reputation and loss of goodwill. **Adidas Am. Inc. v. Skechers USA, Inc.**, 890 F.3d 756 (9<sup>th</sup> Cir. 2018). Section 27-19-201(1)(b), MCA, requires only that Vern show that he is “likely” to suffer irreparable harm. The district court found that Vern established facts, or at least raised substantial questions, showing that he was at substantial risk of harms of this nature.

Ayers wants this Court to limit Vern’s claims to those related to breach of contract, which would traditionally be ineligible for injunctive relief, but ignores other potential claims that give rise to injunctive relief, including multiple tort claims like negligence and fraud.

Vern is at risk of substantial business injury that cannot be readily valued and compensated, like business reputation and goodwill. He faces default of his FSA loans and corresponding damage to his creditworthiness. The specter of a due process violation is not limited to Vern, but extends to the greater public. To argue

that Vern would be fully compensated by recovering the market value of his cattle herd ignores these other foreseeable consequences of sale.

**CONCLUSION**

The district court correctly issued a preliminary injunction preventing the sale of the Appellee’s cattle herd. The lower court found that the agister’s lien was suspect, that the Appellee had identified rights and demonstrated that he was likely to succeed on the merits, and that he was at risk of irreparable injury in the absence of relief. The Appellant ignores the required analysis of the statutory factors. Finally, the public interest supports a reasonable process to balance a creditor’s rights and the due process interests of livestock owners. The Appellee requests that the Court affirm the district court’s order.

DATED this 24<sup>th</sup> day of June, 2024.



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## CERTIFICATE OF COMPLIANCE

I HEREBY CERTIFY that the foregoing Respondent's Brief complies with Rule 27, M.R.App.P. The brief is double-spaced, except for indented material that has been single spaced. The brief is proportionately spaced using Microsoft Word 2003, using a 14-point Times New Roman font. The total word count is 4,598. The page count of the brief is 19 pages, exclusive of covers, Table of Contents, Table of Authorities, Certificate of Service, Certificate of Compliance, and Appendix.

DATED this 24<sup>th</sup> day of June, 2024.



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Albert R. Batterman  
Attorney for the Plaintiff and Appellee,  
Vernon K. Stensvad

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I sent a true and correct copy of the foregoing Appellee's Brief via U.S. Mail, with first class postage prepaid, to the following:

Shandor Badaruddin, Esq.  
736 South Third Street West  
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shandor@shandorlaw.com

this 28<sup>th</sup> day of June, 2024.



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## **TABLE OF APPENDIX**

1. Order Granting Preliminary Injunction, Montana Seventh Judicial District Court, Prairie County, Cause No. DV 2023-08
2. Grazing Lease, July 5, 2022, between the Appellant and Appellee, Tr. Ex. 1
3. Agister's Lien, October 13, 2023, Tr. Ex. 4
4. Title 71, Part 12, Montana Code Annotated (2011)
5. Sections 71-3-1211, 71-3-1212, and 71-3-1213, MCA (2023)

## **CERTIFICATE OF SERVICE**

I, Albert R Batterman, hereby certify that I have served true and accurate copies of the foregoing Brief - Appellee's Response to the following on 06-28-2024:

Shandor Badaruddin (Attorney)  
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Representing: Newman Ayers Ranch, Inc.  
Service Method: eService

Electronically signed by Ramona Madler on behalf of Albert R Batterman  
Dated: 06-28-2024