

IN THE SUPREME COURT OF THE STATE OF MONTANA
Supreme Court Cause No. DA 23-0215

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PARKER NOLAND,
Appellant,

v.

STATE OF MONTANA, et. al.,
Appellees,

v.

EVERGREEN DISPOSAL, INC.,
Appellee-Intervenor.

MOTION FOR LEAVE TO APPEAR AS *AMICUS CURIAE*

The Cato Institute and Mountain States Legal Foundation, by and through the undersigned counsel of record, respectfully seek leave under Rule 12(7) of the Montana Rules of Appellate Procedure to file an *amicus curiae* brief in support of the Appellant in the above-captioned matter. The Cato Institute has contacted

counsel for the parties, none of whom oppose this motion, though they do reserve the right to respond to the substance of *amici*'s brief.

I. Statements of Interest.

The Cato Institute is a nonpartisan public policy research foundation founded in 1977 and dedicated to advancing the principles of individual liberty, free markets, and limited government. Cato's Robert A. Levy Center for Constitutional Studies was established in 1989 to promote the principles of limited constitutional government that are the foundation of liberty. In pursuit of these goals, Cato publishes books and studies, conducts conferences, produces the annual *Cato Supreme Court Review*, and files *amicus* briefs.

Mountain States Legal Foundation ("MSLF") is a nonprofit, public-interest law firm organized under the laws of the state of Colorado. MSLF is dedicated to bringing before the courts issues vital to the defense and preservation of individual liberties, the right to own and use property, the free enterprise system, and limited and ethical government. Since its creation in 1977, MSLF attorneys have been active in litigation regarding the proper interpretation and application of statutory, regulatory, and constitutional provisions. *See, e.g., Adarand Constructors, Inc. v. Pena*, 515 U.S. 200 (1995) (MSLF serving as lead counsel); *Am. Legion v. Am. Humanist Ass'n*, 139 S. Ct. 2067 (2019) (*amicus curiae* in support of petitioner). MSLF has litigated cases related to property rights. *See, e.g., Brandt v. United*

States, 710 F.3d 1369 (Fed. Cir. 2013) (represented Plaintiff); *Horne v. Dep't of Agric.*, 576 U.S. 350 (2015) (as *amicus curiae*). MSLF has also been active in the Montana Supreme Court. *Brown v. Gianforte*, Nos. OP 21-0125, OP 21-0173, 2021 Mont. LEXIS 356 (Apr. 16, 2021). This case concerns Amici because it involves the opportunity to vindicate citizens' right to pursue a calling which provides for their wellbeing, a recognized fundamental right in Montana.

II. Identity of party whose position *amici* support.

Amici support the position of Appellant.

III. Date of filing. Amici will file on or before October 31, 2024.

IV. Whether parties consent to filing.

The Cato Institute contacted all parties, none of whom oppose this motion.

The parties reserve the right to respond to the substance of the *amicus* brief.

V. Desirability of *amicus curiae* brief.

Amici desire to participate to offer unique insight on the constitutional deficiencies of Montana's license regime for Class D garbage haulers. Both Cato and the MSLF are troubled by the heavy-handed regulation and protectionism of Montana's trash collection services market. If permitted to file, *Amici* will broaden the information available to the Court, shedding light on the relevant constitutional theories and economic doctrines and drawing on the expertise of *Amici*'s fellows and scholars.

DATED THIS 31st day of October, 2024.

MONFORTON LAW OFFICES, PLLC

/s/ Matthew G. Monforton

Matthew G. Monforton

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Bozeman, MT 59718

Attorney for the Cato Institute and MSLF

CERTIFICATE OF SERVICE

I, Matthew G. Monforton, hereby certify that I have served true and accurate copies of the foregoing Motion - Unopposed to the following on 10-31-2024:

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Electronically Signed By: Matthew G. Monforton

Dated: 10-31-2024