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Pro Querente

**MONTANA FOURTH JUDICIAL DISTRICT COURT
MISSOULA COUNTY**

SINCLAIR BROADCAST GROUP, INC., dba NBC MONTANA, Plaintiff, v. CITY OF MISSOULA, MONTANA, Defendants.	Cause No. DV-18-1094 Dept. No. 2 <i>MOTION TO LIFT STAY AND ENTER SCHEDULING ORDER</i>
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Plaintiff Sinclair Broadcast Group, Inc., through counsel, states as follows:

1. **Motion.** The Court is requested to lift the stay entered by Order dated November 9, 2018. (Doc. 19.) The Court is further requested to issue a scheduling order under Mont. R. Civ. P. 16, so this case can be adjudicated on its merits in the foreseeable future.

2. **Certificate of Conference.** Counsel for Defendant has been contacted and opposes the Motion.

3. **Brief.** The Court entered an order on November 9, 2018, staying this action pending final resolution of *City of Missoula v. Mountain Water Co. et al.*, Cause No. DV 14-352 (Mont. 4th Jud. Dist.) (Condemnation Case). The Court's concern that this action should be stayed until Judge Townsend could rule on the attorney fee issues in the Condemnation case. As the Court stated: "But, for the reasons above, there is no need for the Court to specifically identify those documents now when that same task is currently being undertaken in the Condemnation Case.) (Order, p. 16.)

On August 1, 2019, a final order was entered in the Condemnation Case and no appeal has been filed. (See copies of order and ROA, attached as Exs. 1 and 2, respectively.) This action should not be allowed to languish given fundamental Constitutional rights of the press and the public to review public information at issue herein. Now that the final order regarding fees is entered, and with Judge Townsend now having completed her work on the issue, there is no reason to continue to hide the information requested in this case from public view.

The Right to Know in the Montana Constitution “presume[s] the openness of government documents and operations” to effectively contend with the “government’s sheer bigness, [which] threatens the effective exercise of citizenship.” Montana Constitutional Convention, Committee Proposals, February 22, 1972, p. 631. As the Montana Supreme Court has stated:

[T]he delegates to the Constitutional Convention made a clear and unequivocal decision that **government operates most effectively, most reliably, and is most accountable when it is subject to public scrutiny....**

While on any given occasion there may be legitimate arguments for handling government operations privately, the delegates to our Constitutional Convention concluded that in the long-term those fleeting considerations are outweighed by the dangers of a government beyond public scrutiny.

Great Falls Tribune v. Day, 1998 MT 133, ¶¶ 34–35, 289 Mont. 155, 959 P.2d 508 (emphasis added).

Given that (a) a “fundamental right subject to the highest degree of protection” is at issue, see *Nelson v. City of Billings*, 2018 MT 36, ¶ 13, 390 Mont. 290, 412 P.3d 1058, and (b) the underlying attorney fee issue in the Condemnation Case is resolved, it is time to allow public scrutiny of the billing records. Recall that the attorneys charged the City of Missoula, as of May 2018, a sum of \$9.1 million in legal and professional fees and expenses, or just short of 23 times more than the City’s original estimate.

Since the median household income in the City of Missoula is \$43,602,¹ it would take the entire annual income from 209 average Missoulians to pay these fees. The ratepayers and taxpayers have a right to know just how their money was spent, especially given the wild and troubling discrepancy between the original estimate and the final bill.

CONCLUSION

Accordingly, pursuant to Mont. R. Civ. P. 16(b), Plaintiff Sinclair Broadcast Group, Inc., through counsel, respectfully requests the Court to lift the stay issued on November 9, 2018 and issue a scheduling order forthwith.

DATED this 25th day of September 2019.

Respectfully Submitted,
RHOADES SIEFERT & ERICKSON PLLC

By: /s/ Quentin M. Rhoades
Quentin M. Rhoades
Pro Querente

¹ <https://datausa.io/profile/geo/missoula-mt/> (accessed 9/25/2019)

CERTIFICATE OF SERVICE

I, Quentin M. Rhoades, hereby certify that I have served true and accurate copies of the foregoing Motion - Motion to the following on 09-25-2019:

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Dated: 09-25-2019