

PRESS RELEASE

Wage Lawsuit Against Missoula County Filed by Sheriff TJ McDermott and Numerous Affected Missoula County Detention Officers.

Missoula, Montana 10/25/2022

Reep, Bell & Jasper law firm represents 80+ Missoula County detention officers and Sheriff TJ McDermott in a recently filed lawsuit. The case arises out of an illegal wage practice the County is and has been using to give its elected officials raises without corresponding raises to the detention officers as required by law. The County Commission declined the employees' offer to participate in pre-litigation mediation, thereby forcing this case into litigation.

In litigation, the County will be exposed to unpaid back wages for three years, as well as mandatory penalties and payment of the employees' attorney's fees. Early estimates suggest that the County owes \$2-\$3 Million in unpaid wages. Because the County continues in its refusal to pay the wages, it is exposed to wage penalties, which can be awarded up to 110% (potentially an additional \$2.2-\$3.3 million). Wage laws also require a losing employer to pay the employees' attorneys' fees and costs. A more detailed explanation follows.

Detention officer and sheriff deputy salaries are tied to the sheriff's salary as percentages based primarily upon rank. By statute, a County can pay a sheriff *additional compensation* but not less compensation than other specified elected officials. (MCA 7-4-2503(2)(a)). These other elected officials include the treasurer, auditor, clerk and recorder, and county commissioners. (MCA 7-4-2503(2)(a) and 7-4-2107). Thus, if Missoula County wishes to increase the salaries of its elected officials, it must also increase the salary of the sheriff, detention officers and deputies. In other words, an increase in other elected officials' salaries must, as a matter of law, trickle down to detention officers and deputies.

Beginning in fiscal year 2018, the County Compensation Committee—comprised largely of the elected officials who would benefit from salary increases-- voted to pay elected officials additional salary. At that time, the County titled the additional salary a "parity adjustment", and omitted it from calculations of deputy and detention officer pay. By January 1, 2019, this "parity adjustment" amounted to \$6.00 per hour for the elected officials—a nearly 18% salary increase that was not passed on to detention officers or deputies.

In January, 2022, a group comprised of Missoula County Sheriff's Deputies sued Missoula County for its failure to provide this salary increase to the deputies. The County's actions were a clear violation of Montana case law and statutes. In fact, Gallatin County tried something similar in the case of *Swandal et. al. v. Gallatin County* (a copy of the decision in that case is attached) and lost a wage claim brought by its deputies in 2010. Although Missoula County did not admit liability, it settled the deputies' wage claim earlier this year for \$3.45 Million.

For FY 2022, Missoula County replaced the illegal "parity adjustment" with a new bonus system for elected officials, titled "longevity" pay. Interestingly enough, that is exactly what Gallatin

County titled the illegal payments that led to its liability (Gallatin County paid its elected officials “County Longevity”). Missoula County did not, however, pass on County Longevity pay to Sheriff McDermott, thus violating the statutory uniformity requirement. The Compensation Committee apparently recommended this in order to give elected officials a raise without giving the sheriff, deputies or detention officers a raise.

Sheriff McDermott agreed to participate in this case to help vindicate the rights of law enforcement and detention officers who have served under him during his tenure. In addition, Sheriff McDermott has himself been shorted significant sums of his pay. By way of example— Missoula County reduced Sheriff McDermott’s salary by approximately \$5,000/yr from FY 2021 to FY 2022 while the salaries of the elected officials were increased by an average of \$10,427 due directly to the payment of “County Longevity” pay to elected officials. The impact of the “longevity” pay is even more dramatic from FY 2022 to FY 2023— After Sheriff McDermott retires, a new sheriff will be elected. The base salary for a newly elected sheriff will be \$79,726, i.e. \$20,000 less than any of the Commissioners and \$43,000 less than the Clerk & Recorder/Treasurer. All of this flies in the face of the statutory uniformity requirement.

The County is illegally suppressing the wages of its law enforcement and detention officers, while increasing the wages of elected officials and executives. E.g., during this same time period, the County has also increased the salaries of administrative officials:

- County CEO: \$133,120 increased to \$141,440 (\$8,320/yr)
- County COO: \$122,720 increased to \$128,960 (6,240/yr)
- County CFO: \$136,240 increased to \$139,651 (\$3,411/yr)

On the whole, the County’s actions represent an effort to deprioritize law enforcement funding while dramatically increasing the wages of County administrators. Missoula’s deputies and detention officers are first responders with a strong and positive history in this community. Sheriff McDermott and our firm are committed to supporting them and intend to fight vigorously for their rights.