

*RLC*

HON. JEFFREY H. LANGTON  
District Judge, Department No. 1  
Twenty-first Judicial District  
Ravalli County Courthouse  
205 Bedford Street, Suite A  
Hamilton, MT 59840-2853  
Telephone: (406) 375-6780  
Fax: (406) 375-6785

*[Signature]*  
DEPUTY

MONTANA TWENTY-FIRST JUDICIAL DISTRICT COURT, RAVALLI COUNTY

IN THE MATTER OF RAVALLI	)	Department No. 1
COUNTY JUSTICE COURT,	)	
DEPARTMENTS 1 & 2,	)	Cause No. DV-11-558/8
	)	
Petitioners.	)	<b>FINDINGS OF FACT,</b>
	)	<b>CONCLUSIONS OF LAW,</b>
	)	<b>&amp; ORDER RE: MOTION FOR</b>
	)	<b>PRELIMINARY INJUNCTION</b>

This matter came before the Court on September 23, 2011, for hearing on a motion for preliminary injunction filed by Petitioners Ravalli County Justice Court Departments 1 & 2. Petitioners seek an order enjoining the Ravalli County Board of Commissioners ("Board") from eliminating the position of Receptionist/Clerk from each of their Departments.

Petitioners appeared with counsel George H. Corn of DATSOPOULIS, MacDONALD & LIND, P.C. Ravalli County Commissioners Matt Kanenwisher and Greg Chilcott appeared with Ravalli County Deputy County Attorney Howard F. Recht.

Justices of the Peace Robin Clute and Jim Bailey, and Jennifer Ray, Justice Court Administrator for Department 2, presented testimony and evidence for Petitioners.

*1-1-9*

Commissioners Kanenwisher and Chilcott presented testimony and evidence for the Board.

Based on the parties' testimony and evidence, the Court hereby makes and enters the following:

### FINDINGS OF FACT

1. In spring 2011, "Budget Request Narratives" for Fiscal Year 2011-2012 were submitted by Ravalli County ("County") departments to the Board. These budget requests for the upcoming fiscal year were to provide the Board with information to use in its deliberations and adoption of the County budget for Fiscal Year 2011-2012.
2. Petitioners submitted their respective "Budget Request Narratives" on the two-page form provided by the County, along with attachments. See Pets.' Ex. E (Judge Bailey's "Budget Request Narrative").
3. The Court takes judicial notice of the fact that the County has been operating on a provisional budget since July 1, 2011.
4. On Monday, August 15, 2011, the Board began its four-day budget deliberations on the 2011-2012 budget. The Board's agenda for the multi-day deliberations listed the order in which budgets of the various County departments were to be discussed, along with the time allotted for each budget discussion. See Pets.' Ex. B. The budget for the Ravalli County Justice Court was not included on the agenda.
5. On Wednesday, August 24, 2011, after the close of the business day, Ravalli County Commissioner Chair J.R. Iman left phone messages for Petitioners Ravalli County Justices of the Peace Robin Clute and Jim Bailey informing them that one position was being eliminated from each of their Departments as part of a Reduction in Force ("RIF") across several County departments.

6. These phone messages were the first notice to Petitioners that the Board was considering eliminating positions in the Justice Court.

7. On Thursday, August 25, 2011, the Board met at 9:05 a.m. to continue its final budget deliberations. Pets.' Ex. A-3.

8. On Tuesday, August 30, 2011, in response to a request by Judge Clute, the Board met at 9:00 a.m. to discuss the RIF in the Justice Court. Pets.' Ex. A-4.

9. The Court takes judicial notice of the fact that the Board published a draft of the 2011-2012 County budget on September 1, 2011, and took public comment from September 1-15, 2011.

10. The Court takes judicial notice of the fact that on September 15, 2011, the Board adopted a budget for the 2011-2012 fiscal year.

11. The two Justice Court positions at issue are scheduled to be eliminated at the close of the work day on Friday, September 30, 2011.

12. Currently, each Justice Court Department employs three full-time staff members for a total of six staff positions.

13. Prior to 2001, the Justice Court employed four staff members. The fifth staff position was granted by the Board in 2001. The sixth staff position was granted by the Board in 2005. Since 2005, the Justice Court has operated with six full-time staff positions.

14. The eliminations represent a reduction in staffing by one-third.

15. Petitioners assert all three staff positions in each Justice Court Department are vital in order for the Justice Court to adequately conduct business; Petitioners further assert the salaries for these six positions are essential expenses of the Justice Court.

16. Petitioners assert the Board's decision to eliminate these two positions violates Article VII, § 5 of the Montana Constitution, which provides in relevant part:

**Section 5. Justices of the peace.** (1) There shall be elected in each county at least one justice of the peace with qualifications, training, and monthly compensation provided by law. There shall be provided such facilities that they may perform their duties in dignified surroundings.

(Emphasis added.)

17. Petitioners assert the Board's decision to eliminate these two positions violates § 3-10-103, MCA, which provides:

**3-10-103. County to provide facilities.** The board of county commissioners of the county in which the justice of the peace has been elected or appointed:

(1) shall provide for the justice's court:

(a) the office, courtroom, and clerical assistance necessary to enable the justice of the peace and the clerk of justice's court, if any, to conduct business in dignified surroundings;

(b) the books, records, forms, papers, stationery, postage, office equipment, and supplies necessary in the proper keeping of the records and files of the court and the transaction of the business; and

(c) the latest edition of the Montana Code Annotated and all official supplements; and

(2) may provide a clerk of justice's court.

(Emphasis added.)

18. Petitioners assert the Board's decision to eliminate these positions ignores opinions rendered by the Montana Attorney General and the Montana Supreme Court. See 49 Mont. Op. Atty. Gen. 19 (July 16, 2002); *State ex rel. Browman v. Wood*, 168 Mont. 341, 543 P.2d 184 (1975).

19. Petitioners assert the elimination of these two positions will have a negative impact on the County both financially and legally.

20. Petitioners assert the elimination of these two positions will result in an injustice to the justice system and to the community.

21. Petitioners assert legislation that took effect on July 1, 2011 that increased the jurisdictional limits for civil lawsuits from \$7,000 to \$12,000, and for small claims lawsuits from \$3,000 to \$7,000, will result in an increase in their caseloads.

22. The Board asserts the issue before the Court is a political issue and is nonjusticiable.

23. The Board asserts it appropriately exercised its discretion to allocate funding and eliminate positions in the adoption of its 2011-2012 budget.

24. The County's budget includes reserve funds which exist to provide a cushion for cash flow ebbs and flows in tax revenues.

25. Commissioner Kanenwisher, who has served as a Commissioner since January 1, 2011, testified that in the recent past, the County's budget reserves have been sufficient to fund County government for less than three weeks, and maybe for only two weeks.

26. Commissioner Kanenwisher testified that in order to increase budget reserves to a level sufficient to fund County government for somewhere between three and four weeks, the Board made the decision to implement a RIF of 22 County positions. Commissioner Kanenwisher testified that not all of the positions slated for elimination are currently filled.

27. Petitioners' first opportunity to discuss the necessity of their staffing was at the August 30, 2011 meeting scheduled per Judge Clute's request.

28. Commissioner Kanenwisher testified the Justice Court was not singled out as a special target for cuts.

29. Commissioner Chilcott, who has served as a Commissioner since January 1, 2003, testified he was on the Board that approved the Justice Court's sixth staff position in 2005.

30. Commissioner Chilcott testified he had never heard of the provision codified at § 3-10-103, MCA, and its requirement that the Board provide the Justice Court with clerical assistance necessary to conduct its business, until receipt of a memo from Judge Bailey dated August 29, 2011, after the Judges had been informed of the cuts to their staff. See *Pets. ' Mot. of Certification of Justice Ct., Depts. 1 and 2, Staff Requirements and Prel. Inj., Ex. A.*

The Court having made and entered its Findings of Fact, now makes and enters the following:

#### CONCLUSIONS OF LAW

1. To the extent that any of the Court's findings of fact are or may be construed as conclusions of law, such findings are incorporated herein as conclusions of law in order to give full effect to the Court's decision.

2. An injunction is an order requiring a person or entity to refrain from a particular act. Section 27-19-101, MCA; *State v. BNSF Ry. Co.*, 2011 MT 108, ¶ 17, 360 Mont. 361, 254 P.3d 561.

3. "An applicant for a preliminary injunction must either establish a prima facie case, or show that it is at least doubtful whether or not he will suffer irreparable injury before his rights

//

6 of 9

can be fully litigated.” *Id.*, citing *Benefis v. Great Falls Clinic LLP*, 2006 MT 254, ¶ 14, 334 Mont. 86, 146 P.3d 714.

4. A district court has discretion to grant a preliminary injunction in any of five circumstances. Section 27-19-201, MCA; *American Music Co. v. Higbee*, 1998 MT 150, ¶¶ 11-12, 289 Mont. 278, 961 P.2d 109. Testimony presented at the hearing implicates the following statutory circumstances:

(1) when it appears that the applicant is entitled to the relief demanded and the relief or any part of the relief consists in restraining the commission or continuance of the act complained of, either for a limited period or perpetually;

(2) when it appears that the commission or continuance of some act during the litigation would produce a great or irreparable injury to the applicant[.]

Section 27-19-201(1)-(2), MCA.

5. Findings that satisfy only one situation are sufficient for an injunction to issue. *Sweet Grass Farms, LTD. v. Bd. of County Commrs. of Sweet Grass County*, 2000 MT 147, ¶ 27, 300 Mont. 66, 2 P.3d 825.

6. In determining whether to grant a preliminary injunction, a court should not decide the ultimate issues, but decide merely whether a sufficient case has been made out to warrant the preservation of the status quo until trial. *Id.*

7. An injunction is improper without evidence demonstrating, beyond mere speculation, that a plaintiff stands to suffer some injury that would be irremediable by a future award of legal or equitable relief. *Benefis*, ¶ 26.

8. Petitioners, in reliance on Article VII, § 5 of the Montana Constitution; § 3-10-103, MCA; and other legal authorities, have made out a prima facie case. This showing entitles Petitioners to injunctive relief under § 27-19-201(1), MCA.

12

7 of 9

9. Petitioners' testimony regarding the operations of their Departments, their caseloads, and the great or irreparable injury that will occur to their ability to conduct business if one-third of their staff is eliminated satisfies the circumstances set forth in § 27-19-201(2), MCA.

Petitioners have shown that it is at least doubtful whether the Justice Court will suffer irreparable injury before the matter can be fully litigated.

10. "The limited function of a preliminary injunction is to preserve the *status quo* and to minimize the harm to all parties pending full trial; findings and conclusions directed toward the resolution of the ultimate issues are properly reserved for trial on the merits." *Yockey v. Kearns Properties, LLC*, 2005 MT 27, ¶ 18, 326 Mont. 28, 106 P.3d 1185, citing *Porter v. K & S Partnership*, 192 Mont. 175, 183, 627 P.2d 836, 840 (1981). "If a preliminary injunction will not accomplish those purposes then it should not issue." *Porter*, 192 Mont. at 183, 627 P.2d at 840. Here, an injunction will minimize the harm to Petitioners' ability to conduct business and will protect the Board from wage claims should trial result favorably for Petitioners.

11. Because Petitioners have shown the circumstances set forth in § 27-19-201(1) and (2), MCA, are present, Petitioners' motion for preliminary injunction should be granted.

The Court having made and entered its Conclusions of Law, now makes and enters the following:

**ORDER**

IT IS THEREFORE ORDERED that Petitioners' *Motion for Preliminary Injunction* is hereby **GRANTED**.

IT IS FURTHER ORDERED that during the pendency of this action, or until this Court shall otherwise order, the Ravalli County Commissioners, and their agents, employees and attorneys, are hereby enjoined and restrained from terminating or modifying the conditions of employment of any employee of the Ravalli County Justice Court, Departments One and Two, without prior written consent of the Justice of the Peace of the Department in question or by order of this Court.

DATED this 27<sup>th</sup> day of September, 2011.

  
HON. JEFFREY H. LANGTON, District Judge

AR 92741  
cc: counsel of record