

Memo

To: SAVA Committee  
Re: Litigation update  
From: Jonathan Motl  
Date: July 29, 2015

I write in response to the request (from Ginger) for an update of litigation involving the COPP. The following is that update.

Enforcement Actions Brought by COPP

1. *COPP v. Miller* BDV-2014-62 1<sup>st</sup> Judicial District Lewis and Clark County (Judge Sherlock). **Settled 1/23/15 with settlement posted on the COPP website.**
2. *COPP v. Murray* BDV-2014-170 1<sup>st</sup> Judicial District Lewis and Clark County (Judge Sherlock). **All counterclaims dismissed by Court, leaving only COPP enforcement claims. No trial date.** Pro-bono legal counsel (Adam Duerk) engaged by COPP as special attorney general to litigate this matter.
  - 2a. *Murray v. Motl* No. DV-14-36A 18<sup>th</sup> Judicial District Gallatin County **Dismissed 9/22/14**; Dismissal appealed to Montana Supreme Court by Murray in *Murray v. Motl* DA 14-0699. **Appeal dismissed by Montana Supreme Court on 7-28-15.** Only remaining matter is *COPP v. Murray* in the 1<sup>st</sup> Judicial District.
3. *COPP v. Bannan* BDV-2014-178 1<sup>st</sup> Judicial District Lewis and Clark County (Judge Seeley). **Bannan's motion to dismiss denied 9/30/2014.** An appeal of the dismissal was filed by Bannan in the Supreme Court: *Bannan v COPP* DA 14-0716. Awaiting decision by Supreme Court.
  - 3a. *Bannan v. Motl* No. DV-14-143B 18<sup>th</sup> Judicial District Gallatin County **Dismissed 9-22-14.**
4. *COPP v. Wittich* BDV-2014-251 1<sup>st</sup> Judicial District Lewis and Clark County (Judge Sherlock). **Wittich's motions to dismiss denied 7/08/2014; COPP motion to dismiss 3<sup>rd</sup> party complaints granted 8/27/2014; Wittich motion to amend 3<sup>rd</sup> party complaints denied 10/8/2014.** A jury trial is set for February 22, 2014. Case is currently in discovery. Pro-bono legal counsel (Gene Jarussi and John Heenan) engaged by COPP as special attorney general to litigate this matter.
5. *COPP v. Wagman* BDV-2014-267 1<sup>st</sup> Judicial District Lewis and Clark County (Judge Sherlock). **Wagman's counterclaims dismissed 5/11/2015.** No scheduling Order has been entered.
  - 5a. *Wagman v. Motl* No. DV-2014-53 6<sup>th</sup> Judicial District Park County **Dismissed 9/12/14**; Dismissal appealed to Montana Supreme Court by Murray in *Wagman v. Motl* DA 14-0619. **Appeal denied by Supreme Court on June 23, 2015.** Only remaining matter is *COPP v Wagman* as filed in the 1<sup>st</sup> Judicial District.

6. *COPP v. Boniek* XADV-2014-202 1<sup>st</sup> Judicial District Lewis and Clark County (Judge Pinski, by substitution). **Boniek motions to strike, and dismiss denied. Park County motion to intervene denied. Default against Boniek entered 12/17/14. A related settlement of the Soady's (Bonieks treasurers) has been entered and is posted on the COPP website.** A penalty stage trial was held in a Great Falls courtroom on June 2, 2015 before the Honorable Judge Pinski. The COPP has submitted proposed findings of fact and conclusions of law and is awaiting a Decision of the Court.
7. *COPP v. Kennedy* BDV-2014-234 1<sup>st</sup> Judicial District Lewis and Clark County (Judge Sherlock). **Kennedy motion to change venue denied.** There is no current trial schedule in this matter.
8. *COPP v. Sales* BDV-2014-283 1<sup>st</sup> Judicial District Lewis and Clark County (Judge Sherlock). **Settled 12/19/14 with settlement posted on the COPP website.**
9. *COPP v. Prouse* DDV-2014-250 1<sup>st</sup> Judicial District Lewis and Clark County (Judge Reynolds). **Default entered 11/21/14.** There is no current trial schedule in this matter. Pro-bono legal counsel (Gene Jarussi and John Heenan) engaged by COPP as special attorney general to litigate this matter.
10. *COPP v. WTP et. al.* DDV-2014-351 1<sup>st</sup> Judicial District Lewis and Clark County (Judge Reynolds). There is no current trial schedule in this matter.
11. *COPP v. Lair, Faw and Baird* ADV-2014-352 1<sup>st</sup> Judicial District Lewis and Clark County (Judge Menahan). There is no current trial schedule in this matter.

#### Actions Brought Against The COPP

1. *Powell v. COPP* OP14-0711 and OP14-0664. Original proceedings brought against the COPP at the Montana Supreme Court. **The Supreme Court denied the petition on 10-17-14.**
2. *Montanans for Community Development v. COPP* 6:14-cv-00055 US District Court for the District of Montana. **The US District Court denied preliminary injunction on 10/22/14 and the 9<sup>th</sup> circuit denied emergency motion for injunction on 10/30/14.** The case is currently in discovery.
3. *Lair v. COPP* 9<sup>th</sup> circuit Court of Appeals 12-35809 and 35889. The 9<sup>th</sup> circuit reversed a 2012 Federal District Court Order finding Montana's contribution limits as unconstitutional. The Decision is now under consideration for review by the 9<sup>th</sup> circuit sitting *en banc*.

4. *Skattum v. Motl* No. DV-14-32 6<sup>th</sup> Judicial District, Park County. **Order changing venue to Lewis and Clark County issued September 22, 2014.**  
There is no scheduling Order in the case.