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**Lobbying**

**Complaint Form (10/09)**

Type or print in ink all information on this form except for verification signature

**Person bringing complaint (Complainant):**

Complete Name ARLEN E. MAGILL  
Complete Mailing Address 807 WISCONSIN AVE  
LIBBY, MT. 59923  
Phone Numbers: Work 406-283-1621 Home 406-293-3109

**Person or organization against whom complaint is brought (Respondent):**

Complete Name JAMES D. REINTSMA  
Complete Mailing Address 120 W. 5TH ST STE 3  
LIBBY, MT. 59923  
Phone Numbers: Work 406-293-2731 Home 406-334-1003

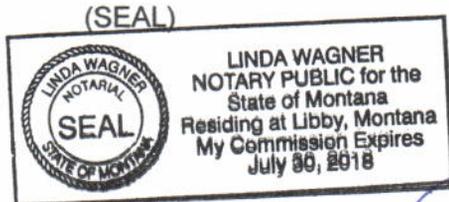
*Please complete the second page of this form and describe in detail the facts of the alleged violation.*

**Verification by oath or affirmation**

State of Montana, County of LINCOLN

I, ARLEN E. MAGILL, being duly sworn, state that the information in this Complaint is complete, true, and correct, to the best of my knowledge and belief.

Arden E. Magill  
Signature of Complainant



Subscribed and sworn to before me this 12 day of September, 2014.

Linda Wagner  
Notary Public

My Commission Expires:

Statement of facts:

Describe in detail the alleged violation(s) and cite the statute or statutes you believe have been violated. Please attach copies of documentary evidence to support the facts alleged in your statement.

If the space provided below is insufficient, you may attach additional pages as necessary.

JAMES D. REINTSMA HAS ILLEGALLY LOBBIED ON BEHALF OF DOUG ROLL MAYOR OF LIBBY, MT. 59923. BY FILING A FRIVOLOUS LAWSUIT AGAINST ALLEN OLSEN BEFORE THE 2013 MAYORIAL ELECTION. THEN MR. REINTSMA DROPPED THE LAWSUIT AFTER VOTERS BALLOTS WERE CAST. I BELIEVE JAMES D. REINTSMA HAS VIOLATED MCA 13-35-218. INCLUDED IN MY COMPLAINT ARE A COPY OF JAMES REINTSMA'S OCT. 18, 2013 MEMORANDUM. ALSO INCLUDED IS JUDGE JAMES B WHEELIS VERDICT AND RULING IN A SEPERATE CASE ABOUT ALLEN OLSEN. HAD JAMES D. REINTSMA NOT FILED HIS ORIGINAL CASE IN OCT. BEFORE THE 2013 ELECTION THE OUTCOME OF THE 2013 LIBBY, MT. MAYORIAL RACE MIGHT HAVE BEEN DIFFERENT. JAMES D. REINTSMA THREATENS ALLEN OLSEN IN HIS MEMO AND ALSO OFFERS TO DROP THE CASE IF ALLEN QUILTS THE CITY COUNCIL. ALSO VIOLATING MCA # 13-35-218. JAMES D REINTSMA HAD NO BUSINESS FILING EITHER SUIT BECAUSE THERE WAS NOT A FILED COMPLAINT FROM A LIBBY CITY RESIDENT.

Complaint must be:

- signed
- notarized
- delivered in person or by certified mail.

## Montana Code Annotated 2013

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**13-35-218. Coercion or undue influence of voters.** (1) A person, directly or indirectly, individually or through any other person, in order to induce or compel a person to vote or refrain from voting for any candidate, the ticket of any political party, or any ballot issue before the people, may not:

(a) use or threaten to use any force, coercion, violence, restraint, or undue influence against any person; or

(b) inflict or threaten to inflict, individually or with any other person, any temporal or spiritual injury, damage, harm, or loss upon or against any person.

(2) A person may not, by abduction, duress, or any fraudulent contrivance, impede or prevent the free exercise of the franchise by any voter at any election or compel, induce, or prevail upon any elector to give or to refrain from giving the elector's vote at any election.

(3) A person may not, in any manner, interfere with a voter lawfully exercising the right to vote at an election in order to prevent the election from being fairly held and lawfully conducted.

(4) A person on election day may not obstruct the doors or entries of any polling place or engage in any solicitation of a voter within the room where votes are being cast or elsewhere in any manner that in any way interferes with the election process or obstructs the access of voters to or from the polling place.

**History:** En. [23-47-126](#) by Sec. 26, Ch. 334, L. 1977; R.C.M. 1947, [23-47-126](#); amd. Sec. 1, Ch. 561, L. 1981; amd. Sec. 99, Ch. 56, L. 2009; amd. Sec. 59, Ch. 336, L. 2013.

*Provided by Montana Legislative Services*

**JAMES D. REINTSMA**  
**LIBBY CITY ATTORNEY**  
120 W. 5<sup>th</sup> St. Ste 3, Libby, Montana  
(406)334-1003

»»» <<<

**MEMORANDUM**

**DATE: October 18, 2013**  
**RE: COUNCILMAN OLSEN; RESIDENCY**

Mr. Mayor and Council Members:

There has been a long-simmering issue as to whether or not Allen Olsen is a resident of the City of Libby and thus even eligible to sit on the Libby City Council. Mr. Olsen is also running for the position of Mayor in the upcoming election. The two issues are both substantively linked by Mr. Olsen's need to be a resident of the City to hold either post.

Members of the general public, Council and Mr. Olsen have attempted to ineffectually address the issue as Mr. Olsen is adamant that he maintains a residence in the City in spite of substantial circumstantial evidence to the contrary. To quote Mr. Olsen from the Council's public meeting on the issue last year, 'No one can tell me where I live and where I don't.'

The issue of Mr. Olsen's residency, especially given his possible elevation to the post of Mayor, requires a firm answer if the City is to avoid potential challenges to city business and (more problematically) the legality of contracts and bonds which he would be required to sign as the Mayor.

Until very recently there has been little hard evidence in which to pursue the truth of Mr. Olsen's residence as most tangible documentation is protected by his rights of privacy. Information has come to light in the last couple weeks, however, which provides the basis for a District Court examination of Mr. Olsen's veracity and residency.

It is my intention as City Attorney to request that the Court make a declaratory ruling on Mr. Olsen's residency. As part of this suit, I intend to subpoena supporting materials from the State of Montana which will hopefully assist in clarifying Mr. Olsen's status. If Mr. Olsen is declared not to be a resident of Libby, then I will also ask the Court to issue an injunction removing him from his current Council seat and disallowing his current candidacy. If Mr. Olsen is declared a resident, then the City has protected itself from litigation when and if he is elected Mayor.

In anticipation of Mr. Olsen's question, no current member of the Libby City Council, Mayor or candidate for such position has requested this action.

## **LEGAL REFERENCES**

### **Sections of the Montana Code:**

- 7-3-708(2) Charter forms[of city government] are subject to state laws establishing elections [...]
- 7-1-114 Mandatory provisions. A local government with self-governing powers is subject to the following provisions:
- (b) Title 7, chapter 3, part 1;
  - (c) all laws establishing legislative procedures or requirements for units of local government;
  - (d) all laws regulating the election of local officials.
- 7-4-4104 General qualifications for municipal office. No person is eligible to any municipal office, elective or appointive;
- (2) who has not met the qualifications prescribed by law or by ordinance adopted by the governing body of a city or town.
- 7-4-4301. Qualifications for mayor.
- (1) a person is not eligible for the office of mayor unless the person:
    - (c) has been a resident for at least 2 years preceding the election to office of the city or town [...].
  - (2) The office of mayor of a city or town is considered vacant if the individual elected as mayor ceases to be a resident of the city or town.
- 7-4-4401. Qualifications for city council member. A person is not eligible for the office of city council member unless the person is a resident for at least 60 days preceding the election to office of the ward electing the person [...]
- 1-1-215. Residence—rules for determining. Every person has, in law, a residence. In determining the place of residence, the following rules are to be observed:
- (1) It is the place where a person remains when not called elsewhere for labor or other special or temporary purpose and to which the person returns in seasons of repose.
  - (2) There may be only one residence. If a person claims a residence within Montana for any purpose, then that location is the person's residence for all purposes unless there is a specific statutory exception.
- 13-35-103. Violations as misdemeanor. A person who knowingly violates a provision of the election laws of this state for which no other penalty is specified is guilty of a misdemeanor.

## **DOCUMENTS**

The following documents are attached for review:

1. Allen Olsen voter registration card.
2. Allen Olsen C-1-A Candidate forms for 2011 Council election and 2013 Mayor election (2).

3. Court documents DV-13-55 Complaint, Summons and Amended Complaint, filed March 14, March 14 and April 4, 2013 (respectively).
4. Court document (cover) DR-13-66 Petition for Parenting Plan; *Olsen and Britton*, Filed May 28, 2013.
5. Court document DR-13-66 Affidavit Of Allen Olsen [...], Filed August 6, 2013.
6. Western News Article September 13, 2013 regarding an alleged hunting infraction.
7. Affidavit of Jami Britton, October 5, 2013
8. Selected pertinent sections of certified transcript of October 3, 2013 19<sup>th</sup> Judicial District Court parenting hearing DR-13-66, *Olsen and Britton*.

### DISCUSSION

Mr. Olsen's property at 33692 Highway 2 is outside of the Libby city limits. He has owned and resided at the property since 2004. Mr. Olsen has recently, however, claimed to rent and reside at 703 Louisiana Avenue which *is* in the city limits. Mr. Olsen changed his voter residency from the former to the latter address just in time to qualify for the 2011 Libby City Council election. This 703 Louisiana address is owned and allegedly occupied by another adult who does not appear to be a relative or dependent of Mr. Olsen. As far as counsel knows at this time, the only documents upon which Mr. Olsen declares his residency to be on Louisiana Avenue are the documents attached as 1 & 2 (voter registration and official candidate forms) which are required to run for city election.

As seen in most of the rest of the documents attached to this memorandum, Mr. Olsen repeatedly swears his residence is located at 33692 Highway 2. These documents are directly written and/or notarized by Mr. Olsen and have been filed in the 19<sup>th</sup> Judicial District Court. Each document is an official, public record in which Mr. Olsen repeatedly contradicts the voter and election registration form. As an aside (and in support of the proposition that Mr. Olsen resides outside the city) the Western News quoted Mr. Olsen in September of this year as visiting with state officials 'at his residence' on Highway 2.

Perhaps more dramatically, on October 3, 2013 Mr. Olsen swore (under oath and subject to perjury) in District Court that his residence was at 33692 Highway 2. Given that this testimony was given during a contested custody proceeding in which his living circumstances would be closely examined for raising an infant child, he did not discuss the Louisiana Avenue property or how he would be raising a baby in someone else's house.

Finally, Jami Britton, the woman who is the mother of Mr. Olsen's infant son (not to mention official treasurer of his 2011 city council campaign) submitted an affidavit to the city attorney in which she outright claims Mr. Olsen intentionally lied about his residency at the Louisiana Avenue property for purposes of gaining a seat on the Libby City Council. She further alleges that Mr. Olsen did not live at the Louisiana Avenue property during the 2011 election cycle or at any time since. Ms. Britton is prepared to testify, in substantially more detail, as to this deceit and has first-hand knowledge of Mr. Olsen and his activities having lived with him in his residence on Highway 2 for twenty months (which coincides with the time he has been on the City Council).

### CONCLUSION

It is reasonable to believe that Mr. Olsen is not a resident of the city of Libby and, as such, not eligible to sit as a Council member *or* to be elected Mayor. Since election fraud is a

criminal matter and he is subject to perjury inquiries in District Court, Mr. Olsen has much to explain.

Mr. Olsen has the option of resigning his seat on the Council and removing his name from consideration in the upcoming election or he can have the District Court make a determination for him. Either way, the issue of Mr. Olsen's residency needs to come to a close so that the City can move forward.

I will file the appropriate paperwork in District Court next week if Mr. Olsen does not concede the points in this memorandum.

Thank you,



1 4. Defendant conducts a business outside the Libby city limits at 33692  
2 Highway 2 (the Highway Property) and owns the property where it is situated.

3 5. Defendant executed a rental agreement for 703 Louisiana Avenue, Libby,  
4 Montana in June, 2010. It has remained in effect. Defendant commenced spending nights  
5 there shortly after the agreement was signed. The property is owned by Laura Tindall, who  
6 resides in Florida but has family and other property in the Libby area and visits during the  
7 year.

8 6. The rental agreement provides that Defendant may reside at the property  
9 with his young child in exchange for \$1.00 a month rent and services such as inspection,  
10 maintenance, and repairs, which he has satisfied throughout the term of the agreement.

11 7. In June, 2011, Defendant filed a voter registration form and candidate form  
12 for the 2011 city council election. He listed his residence for purposes of § 7-7-4401, MCA,  
13 as 703 Louisiana Avenue. He asserted his intent was to reside at 703 Louisiana. The court  
14 finds this assertion to have been credible.

15 8. During his business's busy season, generally April, May, June, and December,  
16 Defendant spends most nights at the Highway Property. The balance of the year he eats and  
17 sleeps at 703 Louisiana.

18 9. On June 27, 2013, Defendant registered as a candidate for the Libby mayoral  
19 position. He listed 703 Louisiana as his residence.

20 10. Beginning in late 2011, Defendant commenced a relationship with Jami  
21 Britton, who became pregnant and thereafter stayed on occasion at the Highway Property  
22 with Defendant until their relationship soured. She stayed there two or three nights a week.  
23 She did not reside at 703 Louisiana. She did not know where Defendant spent his nights  
24 when she was not with him.

25 11. In May, 2013, Ms. Britton and Defendant separated. They had a custody  
26 dispute, which this court's law clerk, Barbara Benson, heard as a special master. Lincoln  
27 County Cause No. DR 13-66.

28 12. Ms. Britton testified that Defendant did not intend to reside at 703 Louisiana.  
The court sustained an objection to this testimony, concluding it was speculation. Her only  
significant and admissible testimony in this regard was that she overheard Defendant and the  
owner of 703 Louisiana joking about whether coffee should be spilled on the agreement to  
make it look as if it had been printed earlier. Her testimony was that the conversation  
occurred after Defendant had assumed office. Defendant denied this took place, asserting  
that the document had been submitted to him over the internet before the residency period  
required by § 7-4-4401. Neither Ms. Britton's nor Defendant's testimony struck the court as  
entirely credible on this topic, but even accepting Ms. Britton's as the truth, the testimony  
was not dispositive. Her assessment of what she reports she heard was speculation. Even if  
true, it could also be the case that Defendant, who could not have been unaware that his

1 election was resented by some members of the Council who would take every opportunity to  
2 remove him from office, was joking about bolstering his contention that he indeed had  
3 resided at 703 Louisiana as he represented when he filed for office. Since there is no  
4 requirement that lease agreements be in writing before an agreement exists and a renter is  
actually residing in the property, Ms. Britton's testimony, even if wholly accurate, does not  
supply Plaintiff the necessary evidence to sustain its burden of proof.

5 13. Credible eyewitnesses who came unannounced at various times to 703  
6 Louisiana testified that the state of the home was consistent with someone living there with  
7 a small child. It is unlikely that the Defendant contrived the living conditions they observed,  
8 such as piled-up laundry, dirty dishes in the sink, and a child's scattered effects, to give the  
9 appearance of a home without it actually being one. This testimony established that  
10 Defendant used 703 Louisiana as a home, including housing and care for his son. His  
11 absences were related to work, repairs on water damage to 703 Louisiana, and the demands  
of his personal life. No credible evidence showed that Defendant did not intend to persist in  
maintaining 703 Louisiana as his residence. His use of other addresses as a mailing or  
business address did not contradict his declaration of 703 Louisiana as a residence.

12 14. Defendant incurred attorney's fees and costs in defending this action. The  
13 action was brought without sufficient evidence to sustain Plaintiff's burden of proof under  
the relevant statutory requirements for residency in a city council election.

14 From the above, the court enters these

#### 15 CONCLUSIONS OF LAW

16 1. The court has jurisdiction over the parties and the subject matter of this cause  
17 under § 13-35-108, MCA, which provides, "In any action brought under the election laws of  
18 this state, the appropriate district court may enjoin any person to prevent the doing of any  
19 prohibited act or to compel the performance of any act required by the election laws."  
Further, § 27-8-201, MCA, provides:

20 Courts of record within their respective jurisdictions shall have power  
21 to declare rights, status, and other legal relations whether or not further relief  
22 is or could be claimed. No action or proceeding shall be open to objection on  
23 the ground that a declaratory judgment or decree is prayed for. The  
declaration may be either affirmative or negative in form and effect, and such  
declarations shall have the force and effect of a final judgment or decree.

24 2. Plaintiff seeks a declaratory judgment on whether Defendant's rental at 703  
25 Louisiana Avenue constituted a residence meeting the requirements of § 7-4-4401 or § 7-4-  
4111.

26 3. The standards for a residency in general are set forth in § 1-1-215, MCA. As  
27 noted in the court order denying Defendant's motion for summary judgment, the Montana  
28 Supreme Court has stated in interpreting § 1-1-215, "We have held the above-quoted

1 statutory language merely provides a district court with guidelines in determining a person's  
2 place of residence. Hence, each case regarding a person's place of residence must stand on  
3 its own facts." *Umland v. National Cas. Co.*, 2003 MT 356, ¶ 25, 319 Mont. 16, 81 P.3d 500  
4 (citation omitted). *Accord, McCone County Federal Credit Union v. Gribble*, 2009 MT 290, ¶ 15,  
5 352 Mont. 254, 216 P.3d 206 (citation omitted), which said that a debtor's claim for the  
6 purpose of tracing proceeds from the sale of an exempt homestead was not defeated by his  
7 traveling for business and his use of his mother's address or a post office box address for  
8 mail. *See also, State v. Britton*, 2001 MT 141, ¶¶ 9, 11, 306 Mont. 24, 30 P.3d 337, in which the  
9 Court noted the different ways residency is defined according to the governing statute's  
10 purpose. Among other authorities, *Britton* cited 41.15.102, M.R.A., which related to residency  
11 for taxation purposes. That administrative rule was repealed in 2004, but it simply restates  
12 what § 1-1-215 provides or the Court's decisions have held—that a domicile, once  
13 established, continues until abandoned and a new one is acquired, which can be  
14 accomplished only by a union of act and intent. *Britton* also observed that citizens should  
15 take care to note that the requirements for residency vary according to a governing statute's  
16 purpose, usually by adding specific requirements—as, for example, in this case, where a  
17 contestant for a city council seat must have resided within the relevant ward for at least 60  
18 days before the election. *See also, Myers v Dee*, 2011 MT 244, ¶ 21, n.2, 362 Mont. 178, 261  
19 P.3d 1054. Temporary absences do not change an established residence. *Marriage of Bernethy*,  
20 206 Mont. 402, 860 P.2d 157 (1993). Travel to other states for employment does not void  
21 Montana residency. *Burchett v. Mastec North America, Inc.*, 2004 MT 177, ¶¶ 22-24, 322 Mont.  
22 93, 93 P.3d 1247. While not binding authority on the court, *In re Ed McCrone*, 5/24/2005 Op.  
23 Mont. Comm. Political Practices, accurately states that it is proper, in general, to rely on the  
24 intent of the elector and the elector's acts to gauge intent to create a residency.

16 4. The facts found above establish that Defendant created a residence within  
17 Libby under § 7-4-4401 60 days before the election for that seat on the City Council. He has  
18 not abandoned his residency.

19 5. The Plaintiff has not sustained its burden of proof under the complaint.  
20 There was no credible evidence supporting Plaintiff's contentions that Defendant either did  
21 not establish a residency under § 7-4-4401 or that he abandoned it under § 7-4-4111.

22 6. Defendant requests fees under § 13-36-205, MCA, which provides, "In any  
23 contest, the prevailing party may recover the party's costs, disbursements, and reasonable  
24 attorney fees. Costs, disbursements, and attorney fees in all cases must be in the discretion of  
25 the court. If judgment is rendered against the petitioner, it must also be rendered against the  
26 sureties on the bond." Chapter 36 of Title 13 commences with § 13-36-101, MCA:

27 An elector may contest the right of any person to any nomination or  
28 election to public office for which the elector has the right to vote if the  
29 elector believes that:

(1) a deliberate, serious, and material violation of any provision of the  
law relating to nominations or elections has occurred;

(2) the person was not, at the time of the election, eligible to be a  
candidate for the office;

1 (3) votes were cast illegally or were counted or canvassed in an  
2 erroneous or fraudulent manner.

3 Further, § 13-36-102, MCA, provides:

4 (1) Five days or less after a candidate has been certified as nominated,  
5 a person wishing to contest the nomination to any public office shall give  
6 notice in writing to the candidate whose nomination the person intends to  
7 contest, briefly stating the cause for the contest. The contestant shall make  
8 application to the district court in the county where the contest is to be had.  
9 The judge shall then set the time for the hearing. The contestant shall serve  
10 notice 3 days before the hearing is scheduled. The notice must state the time  
11 and place of the hearing.

12 (2) Any action to contest the right of a candidate to be declared  
13 elected to an office or to annul and set aside the election or to remove from  
14 or deprive any person of an office of which the person is the incumbent for  
15 any offense mentioned in this title must, unless a different time is stated, be  
16 commenced within 1 year after the day of election at which the offense was  
17 committed.

18 7. The file reflects that this action was not brought by an "elector" as defined by  
19 § 13-1-101(10), MCA, "Elector" means an individual qualified to vote under state law." This  
20 action was filed on October 24, 2013, obviously more than one year after the November 8,  
21 2011 election. It does not appear that § 13-36-205 applies to this suit, which is not a  
22 "contest" within the meaning of Title 13, Chapter 36.

23 Costs, however, are allowed under § 25-10-102, MCA, and § 27-8-311, MCA. And,  
24 attorney's fees may be awarded in this cause against Plaintiff under § 25-10-711, MCA,  
25 which provides:

26 (1) In any civil action brought by or against the state, a political  
27 subdivision, or an agency of the state or a political subdivision, the opposing  
28 party, whether plaintiff or defendant, is entitled to the costs enumerated in  
25-10-201 and reasonable attorney fees as determined by the court if:

(a) the opposing party prevails against the state, political subdivision,  
or agency; and

(b) the court finds that the claim or defense of the state, political  
subdivision, or agency that brought or defended the action was frivolous or  
pursued in bad faith.

(2) Costs may be granted pursuant to subsection (1) notwithstanding  
any other provision of the law to the contrary.

The evidence revealed that under pertinent authorities on residency, Plaintiff had no  
non-frivolous basis to pursue this action against Defendant. The court will defer ruling on  
whether attorney's fees may be awarded after the Defendant's counterclaims are resolved  
because the evidence brought forward on the complaint did not demonstrate malice.

1  
2 Further, § 27-8-313, MCA, which provides for “supplemental relief” in a declaratory  
3 judgment action, may supply a basis for attorney’s fees. “Supplemental relief” includes  
4 attorney’s fees. See *Foy v. Anderson*, 176 Mont. 507, 511-12, 580 P.2d 114, 116-17 (1978). The  
5 Court has interpreted *Foy* somewhat strictly, citing it in support of the statement that it had  
6 “recognized equitable exceptions to the general rule when a party is forced to defend a  
7 wholly frivolous or malicious action[.]” *Harland v. Anderson Ranch Co.*, 2004 MT 132, ¶ 44,  
8 321 Mont. 338, 92 P.3d 1160. See also, *Trustees of Indiana University v. Buxbaum, Goodover v.*  
9 *Lindey’s*, 255 Mont. 430, 446, 843 P.2d 765, 774 (1992):

7 In isolated instances, a district court may award attorney’s fees to  
8 make an injured party whole under its powers. *Foy v. Anderson* (1978), 176  
9 Mont. 507, 511-12, 580 P.2d 114, 116-17; *Holmstrom Land Co. v. Hunter* (1979),  
10 182 Mont. 43, 48-49, 595 P.2d 360, 363; *Stickney v. State, County of Missoula*  
11 (1981), 195 Mont. 415, 418, 636 P.2d 860, 862. We have invoked the  
12 “equitable” exception to the general rule infrequently, however, and only in  
13 cases with particularly limited facts.

14 See also, *Pankratz Farms, Inc., v. Pankratz*, 2004 MT 180, ¶ 94, 322 Mont. 133, 95 P.3d 671.

15 Whether § 27-1-202, MCA, also urged by Defendant, applies is doubtful, from what  
16 the court discerns in discussions by the Montana Supreme Court.

17 If the court determines attorney’s fees may be properly awarded, their assessment  
18 must await a separate hearing.

19 In general, we review a district court’s award of reasonable attorney’s  
20 fees for an abuse of discretion. *Chase v. Bearpaw Ranch Ass’n*, 2006 MT 67,  
21 ¶ 15, 331 Mont. 421, ¶ 15, 133 P.3d 190, ¶ 15. The reasonableness of  
22 attorney’s fees should be assessed relative to the facts of each case, and the  
23 district court should consider a number of factors when deciding to grant an  
24 award of attorney’s fees. *Chase*, ¶ 38 (describing some of the factors to be  
25 considered by a district court when awarding reasonable attorney’s fees).  
26 Moreover, an evidentiary hearing is required before attorney’s fees can be  
27 granted. *Glaspey v. Workman*, 234 Mont. 374, 377-78, 763 P.2d 666, 668 (1988).

28 *Good Schools Missoula, Inc., v. Missoula County Pub. Sch. Dist. No. 1*, 2008 MT 231, ¶ 16, 344  
Mont. 374, 188 P.3d 1013.

From the above, the court issues this

#### ORDER

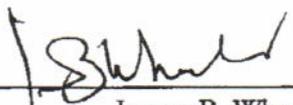
1. The complaint is dismissed with prejudice.

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2. Whether attorney's fees may be assessed against Plaintiff will await the resolution of the bifurcated counterclaims and a separate hearing on their amount, if any.

3. Defendant shall have his costs as allowed by law.

Dated this 29<sup>th</sup> day of August, 2014.

  
James B. Wheelis  
District Judge

pc: James D. Reinstma, Esq.  
Doug Scotti, Esq.

cc: Cassidy  
Bischoff  
8-29-14 jr