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*Pro Hac Vice *application forthcoming*

UNITED STATES DISTRICT COURT
DISTRICT OF MONTANA

WILLIAM WHITE, AVIS BALL, and FRANKLIN NEZPERCE,

Plaintiffs,

v.

BLAINE COUNTY, Montana; MILES HUTTON, DOLORES PLUMAGE, and SHANE FOX in their official capacities as members of the Blaine County Board of Commissioners; PAULY B. MILLER, in his official capacity as the Blaine County Clerk and Recorder; and SAVANNAH WENDELN, in her official capacity as the Elections Manager for Blaine County,

Defendants.

Case No. CV-26-327-GF-SPW

COMPLAINT

INTRODUCTION

1. The U.S. Supreme Court has long recognized "the basic principle of representative government" that "the weight of a citizen's vote cannot be made to depend on where he lives." *Reynolds v. Sims*, 377 U.S. 533, 567 (1964).

2. For over 13 years, the Blaine County Commissioner districts have violated this principle.

3. Blaine County adopted a district-based election system for its County Commission after a 2002 decision from the United States District Court for the District of Montana found that the County's at-large elections diluted American Indian[1] votes. *See United States v. Blaine Cnty.*, 4:99-cv-00122-PMP (D. Mont. 2002) (case number also reported as CV-S-99-122-GF-PMP), Dkt. 101, *aff'd.*, 363 F. 3d 897 (9th Cir. 2004) (affirming the district court's order enjoining the County from using at-large voting systems.).

[1] The terms "Native American," "American Indian," and "Indian," are used interchangeably throughout this Complaint to refer to the Indigenous peoples and tribes in and around Blaine County.

4. Blaine County has operated a district-based election system for its County Commissioner seats since 2002.

5. Since then, Blaine County has twice adopted malapportioned districting plans that diluted the votes of residents of the Fort Belknap Indian Reservation.

6. In January 2024, the Blaine County Commission ("Commission") adopted commissioner districts that were explicitly designed to maintain previously established racial demographics.

7. The 2024 commissioner districts are extremely malapportioned, with a maximum population deviation of 28.41%.

8. District plans that exceed a 10% maximum population deviation are presumptively unconstitutional. *See Evenwel v. Abbott*, 578 U.S. 54, 60 (2016).[2]

9. According to the numbers used by the Commission, Blaine County has a total population of 7,170. As such, the ideal population for each of Blaine County's three commissioner districts is 2,390.

[2] The "[m]aximum population deviation is the sum of the percentage deviation from perfect population equality of the most—and least—populated districts." *Evenwel*, 578 U.S. at 60 n.2.

10. District 1, described by the County as the "Majority American Indian District," has a population of 2,777—more than 16% higher than the ideal. District 1 has an American Indian population of 94.9%.

11. District 2, described by the County as the "majority Non-American Indian" district has a population of 2,098. That is almost 700 fewer people than District 1 and more than 12% lower than the ideal population. District 2 has a Non-American Indian population of 98.2%.

12. District 3, described by the County as the "Mix District," has a population of 2,295. That is almost 500 fewer people than District 1, and is approximately 4% lower than the ideal population. District 3 has an American Indian population of 46.4%.

13. The excessive population deviation between districts is completely unnecessary and violates the Fourteenth Amendment's one-person, one-vote requirement. *See Evenwel*, 578 U.S. at 60.

14. When adopting the 2024 plan, the Commission stated it was required to maintain "essentially the same" population percentages as the 2002 districts. Blaine County Resolution No. 2024-03. In support of this assertion, the Commission cited the 2002 federal court order and the subsequent 2002 Commission Resolution that established the first

Commission districts and set the total American Indian population of District 1 at 91.27%. *Id.*

15. But neither the 2002 court ruling, nor any other applicable law, requires Blaine County to pack American Indian voters into the same district plan that existed in 2002. Nor does the 2002 ruling somehow authorize the County to malapportion its districts in violation of one person, one vote.

16. Plaintiffs ask this Court to declare Blaine County's Commissioner district plan unconstitutional; enjoin Defendants from using the current district plan for the 2028 election and all future elections; and implement a new Commissioner district plan that complies with constitutional requirements.

JURISDICTION AND VENUE

17. Plaintiffs bring this action under 42 U.S.C. § 1983 to redress the deprivation of rights secured by the United States Constitution.

18. This Court has jurisdiction over this action under 28 U.S.C. §§ 1331 and 1343 because this case arises under the Constitution and the laws of the United States, and Plaintiffs seek equitable relief to redress the deprivation of their right to vote.

19. This Court is authorized to grant declaratory and injunctive relief pursuant to 28 U.S.C. §§ 2201 and 2202, the Declaratory Judgment Act, and Federal Rules of Civil Procedure 57 and 65.

20. Plaintiffs bring their claim for costs and attorneys' fees pursuant to Federal Rule of Civil Procedure 54, 42 U.S.C. § 1988, and 52 U.S.C. § 10310(e).

21. This Court has personal jurisdiction over all Defendants because Defendants reside and maintain their offices within Montana.

22. Venue is proper in this District under 28 U.S.C. § 1391(b) because a substantial part of the events or omissions giving rise to Plaintiffs' claims occurred and will occur in this District.

PARTIES

23. Plaintiff Avis Ball is a United States citizen and a resident of Blaine County. Plaintiff Ball is a qualified registered voter in Blaine County and lives in District 1.

24. Plaintiff Ball is an enrolled member of the Fort Belknap Indian Community.

25. Plaintiff Ball has voted in Blaine County Commissioner elections and intends to vote in future elections for Blaine County Commissioner.

26. Plaintiff Ball's right to vote has been violated because she has been forced to vote in a malapportioned district.

27. Plaintiff William White is a United States citizen and a resident of Blaine County. Plaintiff White is a qualified registered voter in Blaine County and lives in District 1.

28. Plaintiff White is an enrolled member of the Fort Belknap Indian Community.

29. Plaintiff White's right to vote has been violated because he has been forced to vote in a malapportioned district.

30. Plaintiff Franklin Nezperce is a United States citizen and a resident of Blaine County. Plaintiff Nezperce is a qualified registered voter in Blaine County and lives in District 2.

31. Plaintiff Nezperce is an enrolled member of the Fort Belknap Indian Community.

32. Plaintiff Nezperce's right to vote has been violated because he has been forced to vote in a malapportioned district.

33. Defendant Blaine County is a political and geographical subdivision of the State of Montana.

34. The official governing authority of Blaine County established under the laws of the State of Montana consists of the Blaine County Board of Commissioners, which exercises the legislative and executive powers of the county.

35. Defendants Miles Hutton, Dolores Plumage, and Shane Fox are members of the Blaine County Board of Commissioners. Each of these defendants resides in Blaine County and is sued in their official capacity.

36. Defendant Pauly B. Miller is the Clerk and Recorder and Election Administrator for Blaine County, Montana. He is responsible for and oversees the elections department, including administering elections for the Blaine County Commission. Defendant Miller is being sued in his official capacity.

37. Defendant Savannah Wendeln is the Election Manager and in that capacity is responsible for the administration of federal, state, county, city, and school district elections in Blaine County according to federal and state election law. Defendant Wendeln is a resident of Blaine County and is sued in her official capacity.

LEGAL BACKGROUND

38. In *Reynolds v. Sims*, 377 U.S. 533 (1964), the Supreme Court held that the Fourteenth Amendment's Equal Protection Clause required the apportionment of state government representation to be done on the basis of population such that each person's vote would be weighed as equally as practicable as another person's vote.

39. The Court extended this requirement to local governing bodies in *Avery v. Midland Cnty.,* 390 U.S. 474, 479 (1968).

40. Apportionment plans with a maximum population deviation over 10% "create[] a prima facie case of discrimination and therefore must be justified by the State." *Brown v. Thomson*, 462 U.S. 835, 842–843 (1983). To justify such extreme population deviation, a jurisdiction must show that it made a "good faith effort" to achieve "as nearly of equal population as is practicable." *Reynolds,* 377 U.S. at 577.

FACTUAL ALLEGATIONS

I. Blaine County Demographics

41. Over the past two decades, Blaine County's Native American population has increased, while the white, non-Hispanic population has decreased.

42. In 2010, the total population of Blaine County was 6,491 according to the 2010 Decennial Census.

43. Native Americans made up 48.3% of the total population in 2010, while non-Hispanic white residents made up 47.9%.

44. From 2010 to 2020, the Native American population grew by about 4%, while the white population decreased by about 6%.

45. In 2020, the total population of Blaine County was 7,044 according to the 2020 Decennial Census.

46. By 2020, Blaine County's Native American population was 3,621 or 51.4%, while the non-Hispanic white population decreased to 2,942 or 41.8%.

47. Native Americans in Blaine County are about 45.9% of the total Citizen Voting Age Population ("CVAP") based on the American Community Survey ("ACS") 2023 5-year estimates.

48. According to the ACS 5-year estimates for 2023, non-Hispanic white voters in Blaine County comprise 49.0% of the total CVAP.

II. Post 2020 Census Redistricting

49. After every decennial census, all districted legislative bodies are required to redistrict to ensure that they satisfy United States constitutional requirements.

50. Montana law provides that "[i]n each county of the state, following each federal decennial census, the board of county commissioners shall divide their respective counties into as many commissioner districts as there are county commissioners and ensure that the districts are as compact and equal in population and area as possible." Section 7-4-2102(1), MCA.

51. Blaine County last redistricted in 2024.

52. In the redistricting resolution, Resolution No. 2024-03, the County detailed its approach or lack thereof.

53. The Commissioners stated, "Blaine County is required to maintain commissioner districts having essentially the same population percentages recognized in Resolution 2002-06[.]" Blaine County Resolution No. 2024-03.

54. The Commissioners cited the 2002 district court ruling enjoining the use of at-large elections and the subsequent 2002 County resolution adopting a district plan for this proposition. *Id.*

55. The Commissioners described the districts as "District #1–Majority American Indian," "District #2–Majority Non-American Indian," and "District #3–Mix District."

56. Attached to the 2024 Resolution is the 2023 Blaine County Court Order that approved the Commissioner Districts.

57. According to the 2023 Court Order, the current Blaine County Commissioner Districts were created in 2013.

58. The Court documented disproportionate population changes within districts between 2013 and 2023 but found, without explanation, that "the county commissioner districts . . . are as compact and equal in population and area as possible." Resolution 2024-03 at 4.

59. It appears that the Commissioners did not make any changes to the 2013 districts, despite the disproportionate population growth within the districts. *Id.*

60. The 2013 districts were also malapportioned.

61. The 2013 plan over-populated the Majority-American Indian district and underpopulated the Majority Non-American Indian district. The maximum population deviation in 2013 was 14.70%.

62. A 14.70% deviation is presumptively unconstitutional.

63. Instead of rectifying the malapportionment from the 2013 plan, the Commissioners appeared to keep the same districts in 2024, which made the malapportionment worse.

64. The 2024 district plan has a maximum population deviation of at least 28.41%. *See* Blaine County Resolution No. 2024-03.

65. The table below uses the numbers cited by the county and shows the district populations and percent deviation from the ideal population for each district in the 2024 plan.

District	Total Population	Percent Deviation
1	2,777	+16.19%
2	2,098	-12.22%
3	2,295	-3.97%

66. With a population of 2,098, District 2 is the least populous and has a negative 12.22% deviation from the ideal population of 2,390.

67. The most populous district, District 1, has a plus 16.19% deviation from the ideal population, with a population of 2,777.

68. The maximum population deviation is the sum of the deviation from the ideal in the most and least populated districts. As such, the maximum population deviation for the 2024 plan is 28.41%—the sum of the deviations in Districts 1 and 2.

69. The population deviation between Districts 1 and 3 is also significant, at 20.16%.

70. The total population and district numbers cited by the Commissioners in the 2024 Resolution are different from the total population and district population numbers provided by the United States Census Bureau and Montana State Library's Geo-Enabled Elections Information Hub.

71. Using the 2020 Decennial Census numbers, the maximum population deviation of the 2024 plan is even higher at 32.07%.

72. The 2024 plan is presumptively unconstitutional because its population deviation exceeds 10%. *Evenwel,* 578 U.S. at 60; *see also Brown v. Jacobsen*, 590 F. Supp. 3d 1273, 1286 (D. Mont. 2022) (finding the Montana Public Service Commission Districts unconstitutional because they had not been redrawn since 2003 and had a maximum population deviation of roughly 24%).

73. Blaine County lacks a good faith basis for the excessive population deviation because it adopted the 2024 districts based on express racial targets.

74. The County's stated reasoning for adopting its district plan was that the district court rulings in *Blaine County* and the subsequent County resolution adopting a district-based plan required the County to maintain "essentially the same population percentages" for each district as in the 2002 plan. Blaine County Resolution No. 2024-03.

75. Neither the 2024 Resolution nor the court order adopting it references any "population percentage" other than the American Indian and Non-American Indian population percentage for each district.

76. Nothing in the *Blaine County* Court's 2002 findings of fact and conclusions of law, nor its order adopting the remedial district plan, sets a racial target for Commissioner districts. This is because racial targets are unconstitutional. *Cf. Cooper v. Harris*, 581 U.S. 285, 299–301 (2017) (striking down electoral districts drawn using express racial target).

77. Even if the County's consideration of a racial target was permissible, the County bypassed traditional redistricting principles, including equalizing the population and area across districts.

78. Indeed, the County's map does not attempt to equalize the land area of the districts.

79. A districting map that equalizes the land area of the districts, while also being nearly equal in total population is possible.

80. If the district populations were equalized, American Indians would likely be able to elect candidates of choice in two districts, rather than being packed into one district.

CLAIMS FOR RELIEF

COUNT I
Violation of One Person, One Vote
Fourteenth Amendment Equal Protection Clause
42 U.S.C. § 1983

81. Plaintiffs repeat, replead, and incorporate by reference, as though fully set forth in this paragraph, all allegations in this Complaint.

82. States and political divisions may not "deny to any person within its jurisdiction the equal protection of the laws." U.S. Const. amend. XIV. Voters "ha[ve] the constitutional right to have [their] vote counted with substantially the same weight as that of any other voter."

Hadley v. Junior Coll. Dist. of Metro. Kansas City, Mo., 397 U.S. 50, 53 (1970). Local jurisdictions are subject to one person, one vote requirements. *Avery,* 390 U.S. at 479-481; *Bd. of Estimate of City of New York v. Morris*, 489 U.S. 688, 692 (1989).

83. A county commission district plan with a maximum population deviation exceeding 10% is presumptively unconstitutional. *Brown*, 462 U.S. at 842–43; *Evenwel*, 578 U.S. at 60.

84. Districted jurisdictions must demonstrate that they attempted to equalize population in good faith. *See Kirkpatrick v. Preisler*, 394 U.S. 526, 530–31 (1969) (concluding the state is required to "make a good-faith effort to achieve precise mathematical equality").

85. The current Blaine County Commission map has a total population deviation between 28.41 and 32.07%.

86. Defendants achieved this deviation by simply maintaining the previously enacted districts without accounting for population changes.

87. Defendants did so based on the incorrect presumption that they were required to maintain "essentially the same" racial population percentages as the districts first drawn in 2002.

88. Blaine County's Commissioner district map is unconstitutionally malapportioned. There is no legitimate justification for the Commissioners' failure to equalize population.

89. Continued use of Blaine County's Commissioner district map would violate Plaintiffs' Fourteenth Amendment rights.

PRAYER FOR RELIEF

Plaintiffs respectfully request that the Court:

A. Declare that the 2024 Blaine County Commissioner district map violates the Fourteenth Amendment for malapportionment because the map's maximum population deviation exceeds 10%, and there is no legitimate governmental reason for the population disparities;

B. Permanently enjoin Defendants from administering, enforcing, preparing for, or in any way permitting the nomination or election of members of the Blaine County Commission from the illegal Commissioner districts under the 2024 Blaine County Commissioner map. Plaintiffs have no adequate remedy at law other than the judicial relief sought herein, and unless Defendants are enjoined from using the 2024 Blaine County Commissioner district map, Plaintiffs will be irreparably injured by the continued violation of their statutory rights;

C. Order Blaine County to implement and use a valid Commissioner District plan that equalizes the total population;

D. Award Plaintiffs their costs, expenses, disbursements, and reasonable attorneys' fees pursuant to Fed. R. Civ. P. 54, 42 U.S.C. § 1988, and 52 U.S.C. § 10310(e);

E. Retain jurisdiction and render any and all further orders that the Court may find necessary to cure the violation; and

F. Grant any and all further relief to which Plaintiffs may show themselves to be entitled or that the Court deems Plaintiffs entitled to including actual damages, compensatory damages, nominal damages, punitive damages, statutory interest, and injunctive relief.

Dated: November 4, 2026.

Respectfully submitted,

/s/ Molly E. Danahy

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JS 44 (Rev. 03/24)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. *(SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)*

I. (a) PLAINTIFFS

WILLIAM WHITE, AVIS BALL, and FRANKLIN NEZPERCE

(b) County of Residence of First Listed Plaintiff Blaine County, MT
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys *(Firm Name, Address, and Telephone Number)*

Molly E. Danahy, Rylee Sommers-Flanagan Upper Seven Law, P.O. Box 31, Helena, MT 59601

DEFENDANTS

Blaine County, Miles Hutton, Dolores Plumage, Shane Fox, Paully R. Miller, Savannah Wendeln

County of Residence of First Listed Defendant Blaine County, MT
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys *(If Known)*

Kelsie Harwood, Blaine County Attorney

II. BASIS OF JURISDICTION *(Place an "X" in One Box Only)*

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question *(U.S. Government Not a Party)*
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity *(Indicate Citizenship of Parties in Item III)*

III. CITIZENSHIP OF PRINCIPAL PARTIES *(Place an "X" in One Box for Plaintiff and One Box for Defendant)*

(For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	☐ 1	☐ 1	Incorporated *or* Principal Place of Business In This State	☐ 4	☐ 4
Citizen of Another State	☐ 2	☐ 2	Incorporated *and* Principal Place of Business In Another State	☐ 5	☐ 5
Citizen or Subject of a Foreign Country	☐ 3	☐ 3	Foreign Nation	☐ 6	☐ 6

IV. NATURE OF SUIT *(Place an "X" in One Box Only)*

Click here for: Nature of Suit Code Descriptions.

CONTRACT
- ☐ 110 Insurance
- ☐ 120 Marine
- ☐ 130 Miller Act
- ☐ 140 Negotiable Instrument
- ☐ 150 Recovery of Overpayment & Enforcement of Judgment
- ☐ 151 Medicare Act
- ☐ 152 Recovery of Defaulted Student Loans (Excludes Veterans)
- ☐ 153 Recovery of Overpayment of Veteran's Benefits
- ☐ 160 Stockholders' Suits
- ☐ 190 Other Contract
- ☐ 195 Contract Product Liability
- ☐ 196 Franchise

TORTS

PERSONAL INJURY
- ☐ 310 Airplane
- ☐ 315 Airplane Product Liability
- ☐ 320 Assault, Libel & Slander
- ☐ 330 Federal Employers' Liability
- ☐ 340 Marine
- ☐ 345 Marine Product Liability
- ☐ 350 Motor Vehicle
- ☐ 355 Motor Vehicle Product Liability
- ☐ 360 Other Personal Injury
- ☐ 362 Personal Injury - Medical Malpractice

PERSONAL INJURY
- ☐ 365 Personal Injury - Product Liability
- ☐ 367 Health Care/ Pharmaceutical Personal Injury Product Liability
- ☐ 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
- ☐ 370 Other Fraud
- ☐ 371 Truth in Lending
- ☐ 380 Other Personal Property Damage
- ☐ 385 Property Damage Product Liability

FORFEITURE/PENALTY
- ☐ 625 Drug Related Seizure of Property 21 USC 881
- ☐ 690 Other

BANKRUPTCY
- ☐ 422 Appeal 28 USC 158
- ☐ 423 Withdrawal 28 USC 157

OTHER STATUTES
- ☐ 375 False Claims Act
- ☐ 376 Qui Tam (31 USC 3729(a))
- ☐ 400 State Reapportionment
- ☐ 410 Antitrust
- ☐ 430 Banks and Banking
- ☐ 450 Commerce
- ☐ 460 Deportation
- ☐ 470 Racketeer Influenced and Corrupt Organizations
- ☐ 480 Consumer Credit (15 USC 1681 or 1692)
- ☐ 485 Telephone Consumer Protection Act
- ☐ 490 Cable/Sat TV
- ☐ 850 Securities/Commodities/ Exchange
- ☐ 890 Other Statutory Actions
- ☐ 891 Agricultural Acts
- ☐ 893 Environmental Matters
- ☐ 895 Freedom of Information Act
- ☐ 896 Arbitration
- ☐ 899 Administrative Procedure Act/Review or Appeal of Agency Decision
- ☐ 950 Constitutionality of State Statutes

REAL PROPERTY
- ☐ 210 Land Condemnation
- ☐ 220 Foreclosure
- ☐ 230 Rent Lease & Ejectment
- ☐ 240 Torts to Land
- ☐ 245 Tort Product Liability
- ☐ 290 All Other Real Property

CIVIL RIGHTS
- ☐ 440 Other Civil Rights
- ☒ 441 Voting
- ☐ 442 Employment
- ☐ 443 Housing/ Accommodations
- ☐ 445 Amer. w/Disabilities - Employment
- ☐ 446 Amer. w/Disabilities - Other
- ☐ 448 Education

PRISONER PETITIONS

Habeas Corpus:
- ☐ 463 Alien Detainee
- ☐ 510 Motions to Vacate Sentence
- ☐ 530 General
- ☐ 535 Death Penalty

Other:
- ☐ 540 Mandamus & Other
- ☐ 550 Civil Rights
- ☐ 555 Prison Condition
- ☐ 560 Civil Detainee - Conditions of Confinement

LABOR
- ☐ 710 Fair Labor Standards Act
- ☐ 720 Labor/Management Relations
- ☐ 740 Railway Labor Act
- ☐ 751 Family and Medical Leave Act
- ☐ 790 Other Labor Litigation
- ☐ 791 Employee Retirement Income Security Act

IMMIGRATION
- ☐ 462 Naturalization Application
- ☐ 465 Other Immigration Actions

INTELLECTUAL PROPERTY RIGHTS
- ☐ 820 Copyrights
- ☐ 830 Patent
- ☐ 835 Patent - Abbreviated New Drug Application
- ☐ 840 Trademark
- ☐ 880 Defend Trade Secrets Act of 2016

SOCIAL SECURITY
- ☐ 861 HIA (1395ff)
- ☐ 862 Black Lung (923)
- ☐ 863 DIWC/DIWW (405(g))
- ☐ 864 SSID Title XVI
- ☐ 865 RSI (405(g))

FEDERAL TAX SUITS
- ☐ 870 Taxes (U.S. Plaintiff or Defendant)
- ☐ 871 IRS—Third Party 26 USC 7609

V. ORIGIN *(Place an "X" in One Box Only)*

☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District *(specify)* ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing ***(Do not cite jurisdictional statutes unless diversity)***:
42 U.S.C. 1983, Fourteenth Amendment

Brief description of cause:
Fourteenth Amendment for violation of one-person, one-vote.

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A **CLASS ACTION** UNDER RULE 23, F.R.Cv.P.

DEMAND $

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE _____ DOCKET NUMBER _____

DATE 11/4/2026

SIGNATURE OF ATTORNEY OF RECORD Molly E. Danahy

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I.(a) Plaintiffs-Defendants. Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. Jurisdiction. The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below**; NOTE: federal question actions take precedence over diversity cases.**)

III. Residence (citizenship) of Principal Parties. This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. Nature of Suit. Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: Nature of Suit Code Descriptions.

V. Origin. Place an "X" in one of the seven boxes.
Original Proceedings. (1) Cases which originate in the United States district courts.
Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.
Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.

VI. Cause of Action. Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service.

VII. Requested in Complaint. Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. Related Cases. This section of the JS 44 is used to reference related cases, if any. If there are related cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

WILLIAM WHITE, AVIS BALL, and FRANKLIN NEZPERCE

Plaintiff(s)

v.

BLAINE COUNTY, Montana; MILES HUTTON, DOLORES PLUMAGE, and SHANE FOX in their official capacities as

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* Blaine County
Blaine County Courthouse
420 Ohio St, Third Floor
Chinook, MT 59523

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

_____
Signature of Clerk or Deputy Clerk

Civil Action No.

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____ was received by me on *(date)* _____ .

❒ I personally served the summons on the individual at *(place)* _____ on *(date)* _____ ; or

❒ I left the summons at the individual's residence or usual place of abode with *(name)* _____ , a person of suitable age and discretion who resides there, on *(date)* _____ , and mailed a copy to the individual's last known address; or

❒ I served the summons on *(name of individual)* _____ , who is designated by law to accept service of process on behalf of *(name of organization)* _____ on *(date)* _____ ; or

❒ I returned the summons unexecuted because _____ ; or

❒ Other *(specify):*

My fees are $ _____ for travel and $ _____ for services, for a total of $ 0 .

I declare under penalty of perjury that this information is true.

Date: _____

_____
Server's signature

_____
Printed name and title

_____
Server's address

Additional information regarding attempted service, etc:

Print Save As... Reset

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

WILLIAM WHITE, AVIS BALL, and FRANKLIN NEZPERCE

Plaintiff(s)

v.

Blaine County, Miles Hutton, Dolores Plumage, & Shane Fox, in their official capacities as Blaine County Commissioners,

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* DOLORES PLUMAGE, in their official capacity as members of the Blaine County Board of Commissioners
Office of County Commissioners
Blaine County Courthouse
420 Ohio St, Third Floor
Chinook, MT 59523

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

_____
Signature of Clerk or Deputy Clerk

Civil Action No.

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____ was received by me on *(date)* _____ .

❒ I personally served the summons on the individual at *(place)* _____ on *(date)* _____ ; or

❒ I left the summons at the individual's residence or usual place of abode with *(name)* _____ , a person of suitable age and discretion who resides there, on *(date)* _____ , and mailed a copy to the individual's last known address; or

❒ I served the summons on *(name of individual)* _____ , who is designated by law to accept service of process on behalf of *(name of organization)* _____ on *(date)* _____ ; or

❒ I returned the summons unexecuted because _____ ; or

❒ Other *(specify):*

My fees are $ _____ for travel and $ _____ for services, for a total of $ 0 .

I declare under penalty of perjury that this information is true.

Date: _____

_____
Server's signature

_____
Printed name and title

_____
Server's address

Additional information regarding attempted service, etc:

Print Save As... Reset

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

WILLIAM WHITE, AVIS BALL, and FRANKLIN NEZPERCE,

Plaintiff(s)

v.

Blaine County; Miles Hutton, Dolores Plumage, & Shane Fox, in their official capacities as Blaine County Commissioners; Pauly B. Miller, in his official capacity as the Blaine County Cler and Recorder; and Savanna

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* MILES HUTTON, in their official capacity as members of the Blaine County Board of Commissioners
Office of County Commissioners
Blaine County Courthouse
420 Ohio St, Third Floor
Chinook, MT 59523

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

_____
Signature of Clerk or Deputy Clerk

Civil Action No.

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____ was received by me on *(date)* _____ .

❒ I personally served the summons on the individual at *(place)* _____ on *(date)* _____ ; or

❒ I left the summons at the individual's residence or usual place of abode with *(name)* _____ , a person of suitable age and discretion who resides there, on *(date)* _____ , and mailed a copy to the individual's last known address; or

❒ I served the summons on *(name of individual)* _____ , who is designated by law to accept service of process on behalf of *(name of organization)* _____ on *(date)* _____ ; or

❒ I returned the summons unexecuted because _____ ; or

❒ Other *(specify):*

My fees are $ _____ for travel and $ _____ for services, for a total of $ 0 .

I declare under penalty of perjury that this information is true.

Date: _____

_____
Server's signature

_____
Printed name and title

_____
Server's address

Additional information regarding attempted service, etc:

Print Save As... Reset

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

WILLIAM WHITE, AVIS BALL, and FRANKLIN NEZPERCE

Plaintiff(s)

v.

BLAINE COUNTY, Montana; MILES HUTTON, DOLORES PLUMAGE, and SHANE FOX in their official capacities as

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* SHANE FOX, in their official capacity as members of the Blaine County Board of Commissioners
Office of County Commissioners
Blaine County Courthouse
420 Ohio St, Third Floor
Chinook, MT 59523

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

_____
Signature of Clerk or Deputy Clerk

Civil Action No.

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____ was received by me on *(date)* _____ .

❒ I personally served the summons on the individual at *(place)* _____ on *(date)* _____ ; or

❒ I left the summons at the individual's residence or usual place of abode with *(name)* _____ , a person of suitable age and discretion who resides there, on *(date)* _____ , and mailed a copy to the individual's last known address; or

❒ I served the summons on *(name of individual)* _____ , who is designated by law to accept service of process on behalf of *(name of organization)* _____ on *(date)* _____ ; or

❒ I returned the summons unexecuted because _____ ; or

❒ Other *(specify):*

My fees are $ _____ for travel and $ _____ for services, for a total of $ 0 .

I declare under penalty of perjury that this information is true.

Date: _____

_____
Server's signature

_____
Printed name and title

_____
Server's address

Additional information regarding attempted service, etc:

Print Save As... Reset

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

WILLIAM WHITE, AVIS BALL, and FRANKLIN NEZPERCE

Plaintiff(s)

v.

BLAINE COUNTY, Montana; MILES HUTTON, DOLORES PLUMAGE, and SHANE FOX in their official capacities as

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* PAULY B. MILLER, in his official capacity as the Blaine County Clerk and Recorder
Office of Coounty Clerk & Recorder
Blaine County Courthouse
420 Ohio St, Third Floor
Chinook, MT 59523

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

_____
Signature of Clerk or Deputy Clerk

Civil Action No.

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____ was received by me on *(date)* _____ .

❒ I personally served the summons on the individual at *(place)* _____ on *(date)* _____ ; or

❒ I left the summons at the individual's residence or usual place of abode with *(name)* _____ , a person of suitable age and discretion who resides there, on *(date)* _____ , and mailed a copy to the individual's last known address; or

❒ I served the summons on *(name of individual)* _____ , who is designated by law to accept service of process on behalf of *(name of organization)* _____ on *(date)* _____ ; or

❒ I returned the summons unexecuted because _____ ; or

❒ Other *(specify):*

My fees are $ _____ for travel and $ _____ for services, for a total of $ 0 .

I declare under penalty of perjury that this information is true.

Date: _____

_____
Server's signature

_____
Printed name and title

_____
Server's address

Additional information regarding attempted service, etc:

Print Save As... Reset

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

WILLIAM WHITE, AVIS BALL, and FRANKLIN NEZPERCE

Plaintiff(s)

v.

BLAINE COUNTY, Montana; MILES HUTTON, DOLORES PLUMAGE, and SHANE FOX in their official capacities as

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* SAVANNAH WENDELN, in her official capacity as the Elections Manager for Blaine County, Montana
Office of Coounty Clerk & Recorder
Blaine County Courthouse
420 Ohio St, Third Floor
Chinook, MT 59523

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

_____
Signature of Clerk or Deputy Clerk

Civil Action No.

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____ was received by me on *(date)* _____ .

❒ I personally served the summons on the individual at *(place)* _____ on *(date)* _____ ; or

❒ I left the summons at the individual's residence or usual place of abode with *(name)* _____ , a person of suitable age and discretion who resides there, on *(date)* _____ , and mailed a copy to the individual's last known address; or

❒ I served the summons on *(name of individual)* _____ , who is designated by law to accept service of process on behalf of *(name of organization)* _____ on *(date)* _____ ; or

❒ I returned the summons unexecuted because _____ ; or

❒ Other *(specify):*

My fees are $ _____ for travel and $ _____ for services, for a total of $ 0 .

I declare under penalty of perjury that this information is true.

Date: _____

_____
Server's signature

_____
Printed name and title

_____
Server's address

Additional information regarding attempted service, etc:

Print Save As... Reset