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CONTACT: Constance Van Kley, constance@vankleylaw.com, (605) 517-0673

MONTANA COALITION SUES TO RESTORE FUSION VOTING

Lawsuit challenges century-old ban, seeking broader voter choice and greater accountability

Plaintiffs include the new Make Ends Meet Party, created out of frustration with the two major parties, and the Montana Libertarian Party

HELENA, Mont. — A broad coalition of political parties, voters, and candidates from across the political spectrum filed a lawsuit today challenging Montana's ban on fusion voting—a practice allowing multiple political parties to cross-nominate the same candidate.

A Constitutional Challenge

Filed in Montana's First Judicial District Court in Lewis and Clark County, the lawsuit argues that the ban violates the Montana Constitution's protections for free speech and assembly, equal protection, and the right to vote. The plaintiffs contend that the ban suppresses the development of political parties and forces voters to choose between supporting a party that reflects their values and supporting a candidate with a meaningful chance of winning.

Fusion voting allows voters to support their preferred candidate using the ballot line of the political party that best represents their priorities. A candidate can appear on more than one party's ballot line, with votes on those lines counted separately but ultimately combined toward the candidate's total. Fusion enables voters to support a smaller party and send a signal about what their votes stand for without splitting the vote between separate candidates. This differs from traditional third parties that run their own candidates but often "waste" votes on candidates with little chance of winning, or "spoil" an election by helping to elect one's least preferred candidate.

"Montanans need affordable homes, healthcare, and child care," said Timaree Driscoll, co-chair of the Make Ends Meet Party, "Fusion voting lets voters organize around real priorities and back viable candidates without wasting their vote."

"We want to move past partisan fighting and prioritize the needs of ourselves and our neighbors over party loyalty. The Make Ends Meet Party aims to create a Montana that works for us, not just the uber-wealthy and politically well-connected," said Jeanne Carter, co-chair of the Make Ends Meet Party. The majority of the Make Ends Meet Party's leadership are residents of manufactured homes. "We'll support candidates of all stripes who are aligned with our platform."

The Montana Libertarian Party joins the challenge from a different perspective. Its platform emphasizes personal liberty, free markets, and a non-interventionist foreign policy. The complaint explains that the party would continue to nominate its own candidates while also considering cross-nominations when candidates from other parties share its values.

"Parties should be free to choose their candidates, and voters free to support them under the party label that fits their beliefs," said Melissa Wong, Chair of the Montana Libertarian Party.

“The government shouldn't block that cooperation and decide who we must or cannot associate with just to protect a two-party monopoly.”

Montana’s Fusion Tradition and Historical Irony

Montana once had a vigorous tradition of fusion voting. The complaint notes that fusion candidates won offices ranging from governor and members of Congress to state Supreme Court justices and local officials. Third parties used cross-nominations to influence the major parties and advance worker-focused reforms.

In a striking piece of historical irony, the legislature banned fusion in 1907 by overriding the veto of Governor Joseph Toole—who had himself been elected on a fusion ticket. The complaint notes that the ban was designed to curb third-party influence and consolidate power among the major parties. Four subsequent bipartisan efforts to restore fusion—in 2003, 2005, 2007, and 2011—stalled in committee. Plaintiffs contend the ban violates the Montana Constitution and that the major parties have used the political process to prevent meaningful competition.

Legal Claims and Broad Support

The lawsuit challenges two statutes that prohibit candidates from seeking more than one party’s nomination and require candidates nominated by multiple parties to choose a single party affiliation for the general-election ballot.

The plaintiffs argue that those restrictions interfere with political association and expression, discriminate against third parties and their voters on the basis of political ideas, and prevent voters from freely exercising their right to vote. Their claims rely on the Montana Constitution, including its express prohibition on discrimination based on political ideas and its guarantee that elections shall be “free and open.”

The individual plaintiffs reflect a range of political backgrounds. Voter plaintiffs are independent congressional candidate Michael Eisenhauer; Former Republican Legislator Geraldine Custer of Forsyth, Ben Johnson of Philipsburg, a small business employee, and Nina Aune, a voter from Clinton. Other candidate plaintiffs are Democratic state Senate candidate Carl Anderson; former Belgrade mayor and Republican primary candidate Russ Nelson; and independent state House candidate Shayne Morgan.

The major parties are not responsive to the needs of the voters. They are far more interested in promoting or preserving their duopoly – which is really about power and money – and not about honestly representing Montanans. We need more meaningful opportunities for independents and minor party candidates to participate in this process,” said Eisenhauer.

Custer, a Republican from Forsyth, said, “Politics has become far more polarized than the founding fathers ever contemplated. Reviving the Montana tradition of viable third parties would help restore the more constructive democracy they designed.”

The plaintiffs seek a declaration that the challenged statutes are unconstitutional and a permanent injunction against their enforcement. They request a decision in time to participate in the 2028 general election.

Restoring fusion would allow parties across the political spectrum to use cross-nominations. The complaint argues that this would give homegrown Montana parties a greater opportunity to influence elections and make candidates more responsive to voters' needs.

Read the complaint **here**. An expert report by political scientist Lee Drutman on the destabilizing effects of our current two-party political system supported the plaintiffs' complaint.

About the Make Ends Meet Party

The Make Ends Meet Party is a new Montana political party centered on affordability. It supports accessible and affordable housing, child care and healthcare; good jobs with wages and benefits; and affordable, healthy food that supports farmers, ranchers and consumers. Its leadership includes Montanans with varied political affiliations and life experiences, united by a desire for politics that responds to working people's needs. Learn more at www.makeendsmeetmt.org

About the Montana Libertarian Party

The Montana Libertarian Party is Montana's third-largest political party. Its platform emphasizes personal liberty, non-interventionist foreign policy and free markets. It supports free speech and association and opposes government interference with political speech. Learn more at www.mtlp.org

About Fusion Voting

Visit the following links for more information on how fusion voting works and its benefits:

- Protect Democracy: Fusion voting, explained
- New America: The Case for Fusion Voting and a Multiparty Democracy in America
- The Wall Street Journal: Fusion Voting Could Lower the Temperature