

BEFORE THE MONTANA DEPARTMENT  
OF LABOR AND INDUSTRY

IN THE MATTER OF HUMAN RIGHTS BUREAU CASE NOS. 0098013823,  
0098013824, & 0098013826:

JOHN SMITH,	)	Case Nos. 1098-2010, 1100-2010,
	)	1101-2010
Charging Party,	)	
	)	
vs.	)	ORDER DISMISSING
	)	
YELLOWSTONE COUNTY,	)	
YELLOWSTONE COUNTY SHERIFF'S	)	
OFFICE, AND UNDERSHERIFF JAY BELL,	)	
	)	
Respondents.	)	

\* \* \* \* \*

The charging party and respondents have jointly requested that the Department of Labor & Industry (Department) dismiss the above entitled action. As the parties have stipulated, and the hearings officer finds, a period of 12 months has elapsed from the filing of a complaint and neither the Department nor the Human Rights Commission has held a hearing pursuant to Mont. Code Ann. §49-2-505 or an informal hearing pursuant to Mont. Code Ann. §49-2-505. In addition, all of the issues presented in this proceeding are presently pending before the United States District Court in the case of Smith v. Yellowstone County, 10-CV-100-BLG-RFC (District of Montana) which is scheduled for depositions on April 11, 2011, and for a settlement conference on April 21, 2011. That federal court case addresses all claims including the claims in this proceeding, and if settlement efforts are not successful, a four day jury trial will commence in that matter on August 29, 2011. The parties have further agreed, and the hearings officer finds, that proceeding with this contested case in this administrative forum at this time and failing to allow an opportunity to consolidate it with the federal civil action would necessitate a duplication of substantial time and effort, require piecemeal and possible contradictory findings on the same issues, and be contrary to the doctrine of judicial economy in terms of public resources and the resources of the parties.

In light of these concerns, while the hearings officer has the discretion to keep the matter before this tribunal, dismissal under Mont. Code Ann. §49-2-512 is

appropriate. The Human Rights Bureau has been contacted regarding this dismissal and has indicated that it does not object. In accordance with the parties' joint motion, this matter is dismissed. The charging party is advised that he has 90 days time from the date of this order to file civil action as provided in Section 49-2-512(3). To the extent that there are any extant protective orders and/or sealed documents and evidence, the hearings officer maintains all such matters as protected in accord with the orders until such time as a tribunal with jurisdiction shall vacate or modify the orders.

DATED this 15th day of April, 2011.

/s/ GREGORY L. HANCHETT

Gregory L. Hanchett, Hearings Officer  
Hearings Bureau

\* \* \* \* \*

CERTIFICATE OF MAILING

The undersigned hereby certifies that true and correct copies of the foregoing document were, this day, served upon the parties or their attorneys of record by depositing them in the U.S. Mail, postage prepaid, and addressed as follows:

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The undersigned hereby certifies that true and correct copies of the foregoing document were, this day, served upon the parties or their attorneys of record by means of the State of Montana's Interdepartmental mail service.

KATHE KOUNTZ, BUREAU CHIEF  
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MARIEKE BECK  
LEGAL SERVICES BUREAU  
PO BOX 1728  
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Signed this 15th day of April, 2011.

/s/ SANDRA PAGE  
Legal Secretary, Hearings Bureau  
Montana Department of Labor and Industry