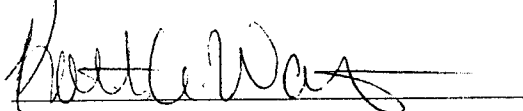


WRITTEN STATEMENT OF PETITIONER

I, Katherine Amelia Walter, a qualified elector in the County of Meagher, State of Montana, being first sworn, deposes and says the following is true based upon my personal knowledge:

1. I am the Petitioner in the recall of Kimberly Deschene who holds the office of County Attorney in Meagher County, Montana.
2. Kimberly Deschene should be recalled for the following reasons:
 - 1) Montana Bar Rules of Professional Conduct violations: Rule 1.1, Rule 1.3, Rule 1.4 (3), Rule 1.6 (a), Rule 4.1 (a), Rule 3.6 (a), Rule 3.8 (f), Rule 5.3 (b)(c)(1)(2), Rule 8.4 (a)(c)(d)
 - 2) Shown a lack of competence and diligence by failing to adequately prepare for trial.
 - 3) Failure to communicate to appropriate people about court proceedings.
 - 4) Failure to protect confidential information.
 - 5) Failure to recuse herself when there is a conflict of interest.
 - 6) Misrepresented the law in her statements to others.
 - 7) Misrepresented the truth in an effort to mislead the Attorney General's office in providing a supporting opinion.
 - 8) Admitted to threatening the Meagher County Commissioners on May 6, 2014.
 - 9) Numerous complaints have been made to the Attorney General, the Montana Bar, and Meagher County Commissioners.
 - 10) Irresponsibility with public funds in her refusal to return the office of County Attorney to the courthouse at the request of commissioners.

DATED this 17th day of June, 2016.



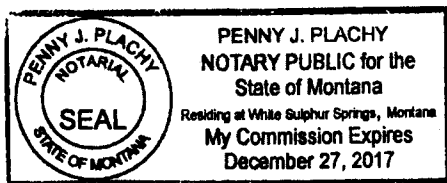
Katherine Amelia Walter

STATE OF MONTANA)

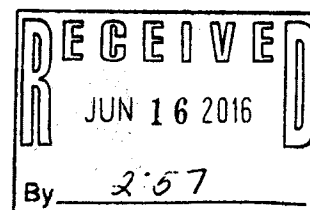
:ss

County of Meagher)

This instrument was acknowledged before me on the 17th day of June, 2016, by Katherine Amelia Walter.



Notary Public for the State of Montana



Terry F. Schaplow, P.C.
3825 Valley Commons Drive, Suite 1
Bozeman, MT 59718
Phone: (406) 587-2767 *
Fax: (406)-587-3033
Attorney for Plaintiff

Number DV-16-11
Filed 13th
Day of July, 20 16
Donna Morris
Clerk of District Court

14TH JUDICIAL DISTRICT MEAGHER COUNTY

KIMBERLY DESCHENE,
Plaintiff

vs.

KATHERINE SAEMAN WALTER AND
DAYNA OGLE, ELECTION
ADMINISTRATOR,
Defendants.

Cause No. DV-2016-11

VERIFIED APPLICATION FOR
INJUNCTION AND REQUEST FOR
ORDER TO SHOW CAUSE AND
TEMPORARY RESTRAINING
ORDER

Comes now the Plaintiff through the undersigned, and respectfully requests this Court to issue a Temporary Restraining Order Without Notice, and Order to Show Cause setting a hearing requiring both parties to appear and show cause why a preliminary injunction should not be granted in favor of Plaintiff.

This application is based on MCA 27-19-315(TRO without notice) and MCA 27-19-102 and -201 (preliminary injunction). In support of her application, the plaintiff has filed an affidavit which is incorporated herein by reference as though fully set forth.

In addition, the Plaintiff alleges as follows:

1. The Plaintiff herein is the appointed Meagher County Attorney.
 2. Defendant Dayna Ogle is the Meagher County Election Administrator and her capacity as the elected Clerk and Recorder of Meagher County
 3. Defendant Katherine Saeman Walter claims to be a citizen and registered voter of Meagher County.
- A. Defendant Walter's Sole Motive is Retaliation.

4. On the 25th day of August, 2016, Defendant Walter's husband, Michael, was the alleged victim of an assault at the hands of Joe Robert Davis Jr.
5. Plaintiff discussed with Michael the difficulty of proving aggravated assault and the ease of proving simple assault.
6. Plaintiff consulted the Attorney General's office who gave her a written opinion that Mr. Davis' charge should be reduced from aggravated assault to simple assault, Plaintiff affidavit paragraph 11.
7. Michael disagreed with this assessment, even though he was not a lawyer. Michael did not consult any other lawyers in reaching his position that aggravated assault was the proper charge.
8. Defendant Katherine also disagreed with this assessment even though she is not a lawyer either. Katherine did not consult any other lawyers in reaching her position that aggravated assault was the proper charge.
9. In the Plaintiff's mind, coupled with the written opinion from the Attorney General's office, a simple assault was the proper charge against Mr. Davis. As a result she reduced his aggravated assault charge to assault.
10. On June 1, 2016, the Plaintiff sent an email to the victim in the case explaining that she had sent all the evidence to the Attorney General's office for review and that the head of Prosecution Services had issued an opinion stating that the charge should be a misdemeanor assault and criminal trespass.
11. Shortly after receiving this email, Defendant Katherine called the Plaintiff at her office. She yelled at the Plaintiff for approximately ten minutes. During her call, Katherine threatened her by saying, "If you do not charge this case as a felony, I will see to it that you lose your job."

12. On July 1, 2016, Mr. Davis signed a written Plea Agreement in which he agreed to plead guilty to assault and criminal trespass to property.
- B. Defendant Katherine Carries Out Her Retaliatory Threat To Remove the Plaintiff from Her Public Office.
13. In keeping with her retaliatory threat to remove the Plaintiff from office, Defendant Katherine signed a "Written Statement of Petitioner" on June 16, 2016, Plaintiff affidavit exhibit 7.
14. In said Statement, Defendant Katherine states that she was the Petitioner in a recall effort of the Plaintiff. Also in said petition, Defendant Katherine listed ten different reasons why the Plaintiff should be recalled.
- C. Defendant Katherine Has No Personal Knowledge of Any of Her Claims.
15. In the accompanying Plaintiff's affidavit, the Plaintiff discusses each of Defendant Katherine's ten claims against her. As noted there, Defendant Katherine has no personal knowledge of any of these ten claims.
16. Personal knowledge by Defendant Katherine is required for each and every allegation for her Statement, see Plaintiff's accompanying Memorandum of Law.
17. On 6/23/16 Defendant Ogle issued a letter to Defendant Katherine finding Defendant Katherine's forms in substantial compliance with MCA Title 2, Chapter 16, Part 6, Plaintiff's affidavit paragraph 7.
18. However, Defendant Ogle's letter also contained these two statements:
- "Although this form has been approved, this approval is not a determination of the constitutionality or legal validity of the substance of the petition. This office also does not pass judgment on the truth or accuracy of the statements presented in this petition.", *id*
19. In addition, the Defendant Katherine has placed a post on the Meagher

County Classified page on Facebook indicating that she is attempting to drum up support for her defective Statement by collecting signatures at the bar called the Montana Roadhouse parking lot on Friday July 1, 2016 from six to eight pm, Plaintiff's affidavit paragraph 9.

20. Also, Defendant Katherine indicates that there will be more such dates and locations to collect signatures for her defective Statement.

D. Defendant Katherine Has Carried Her Retaliatory Smear Campaign Into Statewide Newspapers.

21. Defendant Katherine has contacted at least two Statewide newspapers, one in Billings, and one in Great Falls.

22. In said contacts, Defendant Katherine had perpetuated her retaliatory smear campaign against the Plaintiff by advising said entities of more falsehoods, half-truths, and other retaliatory statements, all to the Plaintiff's injury and prejudice.

E. Defendant Katherine Should Be Immediately Enjoined

23. Plaintiff has been adversely affected by Defendant Katherine's wrongful actions.

24. Plaintiff is in need of Judicial intervention to issue an Temporary Restraining Order Without Notice and Preliminary Injunction prohibiting Defendant Katherine from proceeding with her retaliatory actions.

25. Defendant Katherine's actions have and will continue to cause irreparable injury to the Plaintiff both monetarily and emotionally as well as depriving her from her Constitutional right to pursue her profession. Defendant Katherine's actions will also cause irreparable harm and damage to Meagher County if an unnecessary election is

called.

26. Plaintiff is entitled to the relief demanded and is likely to prevail on the merits of her claims under state law.
27. Plaintiff has no other adequate remedy at law for the harm caused by Defendant Katherine and no other way to prevent her from proceeding with her retaliatory actions.
28. Plaintiff further seeks an Order that prevents Defendant Katherine from proceeding with her retaliatory actions.
29. Plaintiff further seeks a Temporary Restraining Order Without Notice. It is clear from the facts from this verified application and the accompanying affidavit of the Plaintiff that delay in preventing Defendant Katherine from proceeding with her retaliatory actions is causing immediate and irreparable damage to the Plaintiff and her ability to pursue her profession.
30. If Defendant Katherine's recall petition is allowed to go further, requiring an election and further process, the Plaintiff as well as Meagher County, will suffer damages for which there is not a plain, speedy, and adequate remedy in the ordinary course of law.

COUNT 1- INJUNCTIVE RELIEF

31. Plaintiff realleges all prior allegations of this application as though the same were fully set forth herein.
32. An Injunction should be issued to Defendant Katherine prohibiting her from further actions on her recall petition, including but not limited to further collection of signatures.
33. An Injunction should be issued against Defendant Dayna Ogle, Meagher County Election Administrator, to prohibit the further processing of the

recall petition.

COUNT 2-DECLARATORY RELIEF

34. Plaintiff realleges all prior allegations of this application as though the same were fully set forth herein.
35. Plaintiff seeks a declaration that, based upon the true facts (and not the reckless and or malicious allegations of Defendant Katherine), that the recall petition prepared and circulated by Defendant Katherine is improper under the Montana Recall Act, MCA 2-16-601 et. seq.
36. Plaintiff also seeks a further declaration that there are no legal grounds for the Recall Petition since the allegations of the Recall Petition (claiming a violation of MCA 45-7-401-Official Misconduct) are false and not true.
37. The Court is also requested to award supplemental relief under the Uniform Declaratory Judgment Act by awarding attorney fees and costs to Plaintiff against Defendant Katherine.

WHEREFORE Plaintiff respectfully requests:

1. That this Court issue an order to show cause requiring Defendant Katherine to appear and show cause why a Final Injunction should not be entered.
2. That this Court issue a Temporary Restraining Order without Notice to the Defendant Katherine, prohibiting her from proceeding with her retaliatory action of her recall petition.
3. That the Temporary Restraining Order be issued without notice to Defendant Katherine on the basis that any delay will cause immediate and irreparably injury to Plaintiff and Meagher County.

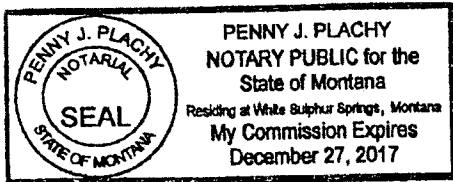
4. That this Court issue a Final Injunction permanently restraining Defendant Katherine from proceeding with any further efforts to collect signatures or otherwise proceeding on her recall petition.
5. That the Court issue a Final Injunction permanently restraining Defendant Ogle from further processing of Defendant Katherine's Recall Petition.
6. The Plaintiff requests that the Court waive any security for damages as allowed by MCA 27-19-306 in the interest of Justice and based on the Plaintiff's affidavit and attachments thereto. These establish that the Plaintiff is likely to prevail in this action and that the statement of Defendant Katherine is false, defamatory and that the filing of the Recall Petition is an abuse of process.
7. For declaratory relief declaring Defendant Katherine's Recall Petition void under the Montana Recall Act, MCA 2-16-601 et. seq.
8. For supplemental relief under the Uniform Declaratory Judgment Act by awarding attorney's fees to Plaintiff from and against Defendant Katherine.
9. For costs of suit.
10. For such other and further relief that this Court deems equitable and just.

Dated this 8th day of July, 2016

Terry F. Schaplow PC
Attorney for Plaintiff

Kimberly Deschene
KIMBERLY DESCHENE

On the 13th day of July, 2016, before me, a notary public for the State of Montana, personally appeared Kimberly Deschene, known to be to be the person identified above, and acknowledged to me that she signed the same.



Penny J. Plachy
Signature

Penny J. Plachy
Printed Name

Residing at White Sulphur Springs
My Commission expires 12-27-2017

KATHERINE SAEMAN WALTER
479 Newlan Creek Rd.
White Sulfur Springs, MT 59645
(406) 547-3955

Pro Se Defendant

Number DV- 16-11
Filed 18th
Day of July, 20 16
Donna Morris
Clerk of District Court

MONTANA FOURTEENTH JUDICIAL DISTRICT COURT, MEAGHER COUNTY

KIMBERLY DESCHENE,
Plaintiff,

vs.

KATHERINE SAEMAN WALTER AND
DAYNA OGLE, ELECTION
ADMINISTRATOR,

Defendants.

Cause No. 2016-11

**ANSWER TO VERIFIED APPLICATION
FOR INJUNCTION AND REQUEST FOR
ORDER TO SHOW CAUSE AND
TEMPORARY RESTRAINING ORDER**

COMES NOW DEFENDANT KATHERINE AMELIA WALTER¹ and answers
the Application for Injunction and Request for Order to Show Cause and Temporary
Restraining Order:

1. Defendant admits paragraphs 1-4, 14, 17, and 18.
2. Defendant lacks sufficient information to admit or deny paragraphs 5-7, 9, 10, 12,
15, 23, and denies the same.
3. Defendant denies paragraphs 8, 11, 13, 16, 21, 22, and 24-37.

¹ Plaintiff incorrectly identified Defendant as Katherine Saeman Walter

4. Regarding paragraph 19, Defendant admits to collecting signatures and denies the remaining allegations in this paragraph not expressly admitted.
5. Regarding paragraph 20, Defendant admits to collecting signatures and denies the remaining allegations in this paragraph not expressly admitted.
6. Defendant denies Paragraph headings A, B, C, D, and E.

Affirmative Defenses:

1. That under MCA 2-16-603 (Officers subject to recall- grounds for recall)
Kimberly Deschene occupies an elected position subject to recall.
2. That under MCA 2-16-617 (From of circulation sheets) The Defendant has
already sworn to the truth of the facts on the petition statement.
3. That under MCA 2-16-621 (Notification to officer-statement of justification)
Kimberly Deschene is provided the means by which to challenge the recall.

PRAYER FOR RELIEF

WHEREFORE, Defendant KATHERINE AMELIA WALTER requests the following relief:

1. That Plaintiff's complaint be dismissed and she take nothing by it and be denied all requested relief;
2. That Defendant be awarded costs of suit;
3. That Defendant be awarded attorney fees for this vexatious and frivolous lawsuit filed against her, forcing her to incur attorney fees and costs; and
4. Such further and other relief as this Court deems necessary, just, and proper.

DATED THIS 18 day of July, 2016

By: Katherine Amelia Walter

KATHERINE AMELIA WALTER
PRO SE DEFENDANT

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing was mailed, first class, this 18 of July, 2016 to:

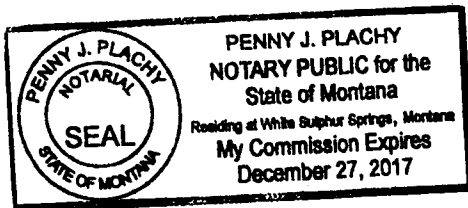
Terry F. Schaplow, P.C.
3825 Valley Commons Drive, Suite 1
Bozeman, MT 59718

Attorney for Plaintiff

By: Katherine Amelia Walter

State of Montana
County of Meagher

Signed before me, a Notary Public, by Katherine Amelia Walter this 18th day of July, 2016



Penny J. Plachy

Terry F. Schaplow, P.C.
3825 Valley Commons Drive, Suite 1
Bozeman, MT 59718
Phone: (406) 587-2767
Fax: (406)-587-3033
Attorney for Plaintiff

14TH JUDICIAL DISTRICT MEAGHER COUNTY

KIMBERLY DESCHENE,
Plaintiff

vs.

KATHERINE SAEMAN WALTER AND
DAYNA OGLE, ELECTION
ADMINISTRATOR,
Defendants.

Cause No. DV-2016- 11

**TEMPORARY RESTRAINING
ORDER ISSUED WITHOUT NOTICE**

An application for Injunction and Request for Order to Show Cause was filed by Plaintiff on the 13th day of July, 2016 supported by the Affidavit of Kimberly Deschene. Plaintiff has alleged that the Defendant Katherine Saeman Walter has acted illegally in her Written Statement because the Defendant Katherine Saeman Walter has no personal knowledge of her allegations.

Plaintiff has also alleged that the Defendant Katherine Saeman Walter's actions are purely retaliatory for the Plaintiff's actions (which were supported by the written opinion of two other lawyers). Plaintiff has alleged that the Defendant Katherine Saeman Walter's continues to act illegally by collecting signatures and otherwise by proceeding with her Recall Petition.

This injury to the Plaintiff is irreparable in that pecuniary compensation would not afford adequate relief and would be extremely difficult to ascertain the amount of compensation which would afford adequate relief for the Defendant Katherine Saeman Walter's wrongful actions.

Therefore, this court enters this Temporary Restrain Order without notice

to the Defendant Katherine Saeman Walter in accordance with MCA 27-19-315.

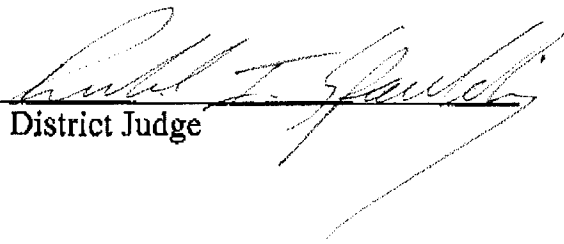
Defendant Katherine Saeman Walter is

HEREBY RESTRAINED AS FOLLOWS:

1. Defendant Katherine Saeman Walters is prohibited from proceeding in any manner in her Recall Petition, including to but not limited to gathering signatures.

This Temporary Restraining Order shall continue in full force and effect for ten days unless sooner replaced by the final Order of this Court.

Dated this 20th day of July, 2016 at the hour of 11:05 o'clock a m.


District Judge

cc: Terry Schaplow

Defendants
Hon. Randal F. Spaulding

Terry F. Schaplow, P.C.
3825 Valley Commons Drive, Suite 1
Bozeman, MT 59718
Phone: (406) 587-2767
Fax: (406)-587-3033
Attorney for Plaintiff

14TH JUDICIAL DISTRICT MEAGHER COUNTY

KIMBERLY DESCHENE,
Plaintiff

vs.

KATHERINE SAEMAN WALTER AND
DAYNA OGLE, ELECTION
ADMINISTRATOR,
Defendants.

Cause No. DV-2016- 11

**ORDER TO APPEAR AND SHOW
CAUSE**

An Application for Injunction and Request for Order to Show Cause was
filed by Plaintiff on the 13th of July, 2016, requesting that this Court order the
following.

1. That this Court issue an Order to Show Cause requiring the
Defendant Katherine Saeman Walter to show cause why Final
Injunction should not be entered;
2. That this Court issue a Temporary Restraining Order Without
Notice to the Defendant Katherine Saeman Walter prohibiting her
from proceeding in any way in her Recall Petition, including but
not limited to gathering signatures.
3. That the Temporary Restraining Order be issued without notice to
the Defendant Katherine Saeman Walter on the basis that any
delay will cause immediate and irreparable injury to the Plaintiff.
4. That this Court issue a Final Injunction prohibiting Katherine
Saeman Walter from proceeding further on her Recall Petition

and prohibiting Defendant Dayna Ogle for further processing Defendant Katherine Saeman Walter's Recall Petition.

5. For a Declaratory Judgment that the Defendant Katherine Saeman Walter's actions are void as a matter of law and for attorney's fees against Katherine Saeman Walter.
6. For such other and further relief that the Court deems equitable and just.

After considering Plaintiffs application for Injunction and Request for Order to Show Cause, in accordance with MCA 27-19-310,

IT IS ORDERED that the Defendant Katherine Saeman Walter shall appear and show cause, if any she may have, on the 26th day of July, 2016, at the hour of 2:00 o'clock pm. at the Meagher County Court house in White Sulphur Springs, Montana why this Final Injunction should not be granted against the Defendant Katherine Saeman Walter.

Plaintiff shall cause this order to be served upon the Defendant Katherine Saeman Walter in accordance with Rule 4 M.R.Civ.P

Dated this 20th day of July, 2016


District Judge

cc: Terry Schaplow

Defendants
Hon. Randal I. Paulding