

CLERK OF THE  
DISTRICT COURT  
TERRY HALPIN

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MONTANA THIRTEENTH JUDICIAL DISTRICT COURT, YELLOWSTONE COUNTY

GARY McDANIEL, SUSAN McDANIEL, on  
behalf of themselves and all others similarly  
situated,

Plaintiffs,

-v-

CITY OF BILLINGS,

Defendant.

2023 JUL 27 P 4: 20  
FILED  
Cause No. DV 19-1444  
BY \_\_\_\_\_  
DEPUTY

**PARTIAL SUMMARY JUDGMENT  
AND ORDER OF DISMISSAL**

**COUNTS IV AND V  
DUE PROCESS**

On July 20, 2022, the Court entered a Corrected Decision and Order on the Motion of the City of Billings for Summary Judgment: Counts IV and V – Due Process Under Mont. R. Civ. P. 56. Ct. Doc. 135. The Court granted the City’s Motion for partial summary judgment in part and denied the Motion in part. Based upon the Court’s Decision and Order, the Court enters the following:

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED:

1. Partial Summary Judgment is entered in favor of Defendant City of Billings and against Plaintiff Susan McDaniel on Counts IV and V of Plaintiff’s Complaint. Plaintiff’s claims under Counts IV and V that accrued prior to August 2, 2015 are DISMISSED, with prejudice.

2. Partial Summary Judgment is entered in favor of Defendant City of Billings and against Plaintiff Susan McDaniel on Counts IV and V of Plaintiff’s Complaint. Plaintiff’s federal and state Due Process claims shall be governed by a three-year statute of limitations, under 11 U.S.C. § 1983 and Mont. Const. Art. II § 17, respectively.

3. Partial Summary Judgment is entered in favor of Defendant City of Billings and against Plaintiffs Gary McDaniel. Gary McDaniel’s claims under Counts IV and V are DISMISSED, with prejudice.

4. Under Rule 54 Mont. R. Civ. P., this is not a final judgment.

Dated July 27, 2022.

  
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Hon. Mike Salvagni

cc: Matthew G. Monforton  
Doug James  
Bryce Burke