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MONTANA THIRTEENTH JUDICIAL DISTRICT COURT,
YELLOWSTONE COUNTY

AMELIA MARQUEZ, AN INDIVIDUAL;
AND JOHN DOE, AN INDIVIDUAL,

Plaintiffs,

vs.

STATE OF MONTANA, ET AL.,

Defendants.

Cause No.: DV 21-873

Judge Michael G. Moses

**ORDER RE: RULE 23 CLASS
CERTIFICATION**

Plaintiffs filed their Motion for Rule 23 Class Certification on October 28, 2022.

They filed a brief in support.

Defendants filed their Response in Opposition on December 5, 2022.

Plaintiffs reply was filed January 9, 2023.

This Court has denied Plaintiffs' Motion for Leave to File their Second Amended Complaint. (See Order dated March 2, 2023) Plaintiffs' First Amended

1 Complaint remains in effect. It alleges six counts and the relief sought is found on
2 page 21 in their prayer for relief. See Document 42 Exhibit A.

3 Plaintiffs request that this Court declare “the Act” (SB 280) unconstitutional,
4 illegal under MHRA, illegal under the Code of Fair Practices, request a permanent
5 injunction to enjoin Defendants from enforcing the Act, as well as other equitable relief
6 the Court deems just.

7 Class actions are authorized pursuant to Rule 23 M.R.Civ.P. “A class action may
8 be maintained if Rule 23(a) is satisfied and if: (1) prosecuting separate actions by or
9 against individual class members would create risk of: (A) inconsistent or varying
10 adjudications with respect to individual class members that would establish
11 incompatible standards of conduct for the party opposing the class; or (B)
12 adjudications with respect to individual class members that, as a practical matter,
13 would be dispositive of the interests of the other members not parties to the individual
14 adjudications or would substantially impair or impede their ability to protect their
15 interests.”

16 Here, there is no risk of inconsistent or varying adjudications with respect to
17 individual class members that would establish incompatible standards of conduct for
18 the party opposing the class. Further there is no risk that a decision here would
19 substantially impair or impede other individuals’ ability to protect their interests.
20

1 If the Act is constitutional and lawful, it is constitutional and lawful to all. If it
2 is unconstitutional or unlawful, it is unconstitutional or unlawful to all. A class action
3 is not warranted here.

4 Plaintiffs' Motion for Class Certification as to the Amended Complaint is
5 DENIED.

6

7 DATED March 2, 2023

/s/ Michael G. Moses
District Court Judge

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10 cc: Elizabeth Halverson
Alexander Rate
11 Akilah Lane
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12 Tina Solis
F. Thomas Hecht
13 Seth Horvath
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