

Wandering Medicine v. McCulloch, 906 F.Supp.2d 1083, 1089 (D. Mont. 2012).

1. Montana's Class C athletics inspire passion and bring communities together. During the cold winter months, fans of Class C basketball pack gymnasiums throughout the state.
2. Plenty Coups High School is a Class C school located on the Crow Reservation in Pryor, Montana.
3. Fans of the Plenty Coups travel many hundreds of miles during the winter months to cheer on their high school basketball teams.
4. The Plaintiffs - four Native Americans – are the parents of high school basketball players on the Plenty Coups team.
5. On a cold day in January, 2017, the Plaintiffs eagerly traveled nearly ninety miles to Reed Point to watch the Class C basketball matchup between the Warriors and the Renegades.
6. As they attempted to enter the gymnasium, Plaintiffs were denied entry. They were informed by the Reed Point athletic director, "we don't have any workers yet so we are only letting white people in."
7. Plaintiffs were stunned and embarrassed. Plaintiffs' eager anticipation for the game was abruptly snuffed out.
8. Plaintiffs bring this action to vindicate their right to be free from the pervasive effects of racial discrimination. They are taking a stand on behalf of their families and their community.

PARTIES

9. Plaintiff Brandy GoesAhead ("Brandy") is a member of the Blackfeet and Cherokee Tribes.
10. Plaintiff Elsworth GoesAhead ("Elsworth") is a member of the Crow Tribe.

11. Elsworth and Brandy are married, and have a son who attends the Plenty Coups High School and plays on the high school basketball team.
12. Brandy and Elsworth have resided in Billings, Montana since 2005.
13. Brandy and Elsworth provide transportation for their son to attend school in Pryor, Montana. Each trip takes 45 minutes each way, every day.
14. Elsworth served as a Combat Engineer in the United States Marine Corps. He currently is the Warehouse Manager for a flooring company in Billings. Brandy is employed at Century Gaming Technology in Billings. She and Elsworth have been married for 12 years.
15. Plaintiffs Whitney Holds (“Whitney”) and Emerine Whiteplume (“Emerine”) are members of the Crow Tribe and live in Pryor, Montana.
16. Whitney and Emerine’s children attend Plenty Coups High School.
17. Emerine is a homemaker. Whitney works for Pryor Senior Citizens and distributes Meals on Wheels for the Elders of Pryor and the surrounding communities. Emerine and Whitney have been together for 12 years.
18. Plaintiffs belong to a protected class based on their race. Plaintiffs are Native American.
19. Defendant Reed Point School District is a unit of local government operating in Reed Point, Stillwater County, Montana.
20. Defendant Teresa Bare (“Bare”) is the Co-Athletic/ Activities Director of Reed Point High School (“RPHS”). She was responsible for setting-up the gymnasium before the Class C basketball game in January, 2017.
21. Defendant Mike Ehinger (“Ehinger”) is the Superintendent of RPHS and is the top administrator for implementing school policies and handling decisions for the School District.

JURISDICTION AND VENUE

22. Plaintiffs incorporate herein by reference the allegations in all proceeding Paragraphs set forth above.
23. Original jurisdiction is conferred to this Court through Article VII, section 4 of the Montana Constitution and Mont. Code Ann. § 3-5-302.
24. Venue is proper pursuant to Mont. Code Ann. § 25-2-122, as the primary act complained of took place in Stillwater County, and all Defendants reside in or are located in Stillwater County.

FACTUAL ALLEGATIONS

25. Plaintiffs incorporate herein by reference the allegations in all proceeding Paragraphs set forth above.
26. Plaintiffs arrived at RPHS on January 21, 2017 to watch a basketball game between Reed Point and Plenty Coups high school teams.
27. The group of four approached the entrance doors to RPHS on January 21, 2017, before tip-off and were denied entrance by Bare.
28. As Plaintiffs waited outside the gymnasium, a group of white Reed Point community members were allowed to enter the school.
29. The Reed Point staff member at the door, later identified as Bare, was overheard saying to the white community members, “we don’t have any workers yet so we are only letting white people in.”
30. All four of the Plaintiffs, as well as their young son, clearly heard Bare’s statement.
31. The Plaintiffs were stunned by Bare’s comments.
32. Emerine turned to Whitney and asked, “did she really just say that?”

33. Whitney and Emerine's young son was present. When he heard Bare's statement he asked his mother if all white people say such things.
34. Nevertheless, Plaintiffs continued to wait patiently by the door. Bare, who was seated near the entrance to the gymnasium, saw and heard Plaintiffs knock politely, and refused to come to the door and offer Plaintiffs entrance or explain further why Plaintiffs were not allowed in the building. Plaintiffs have since been told that there were already other community members seated in the gymnasium who had been allowed to enter before Bare was present.
35. Plaintiffs made contemporaneous statements about the January 21 incident.
36. The same day, Elsworth posted on Facebook: "I'm afraid to walk out to my car.... Hahaha I know this is in bad taste & 2 wrongs don't make a right but I lived with discrimination my whole life... I've learned to live in today's society & function in today's society.... My feelings are hurt because today I was reminded my skin is my sin."
37. Brandy also posted on Facebook: "I never post this type of stuff but some times these things need to be said. We came to Reed Point to watch our boy play basketball. We get to the door and there is another set of parents standing at the door and said they won't let us in because there aren't any workers there. Meanwhile, a reed point parent walks past us and as the lady lets the gentleman in she says, 'we don't have any workers here yet so we are only letting the white people in.' Ummmmmm, what? What the heck is wrong with people? Holy crap prejudice is alive and well in small town Montana. I am so mad, appalled, disgusted and beside myself."
38. Emerine posted: "just waiting here outside of reed point gym they won't let us in because they don't have door workers but yet a white guy shows up and they open the door no

problem and say we're just letting the white people in. Feel free to share racism at its finest."

39. On January 24, 2017 Plaintiffs sent a letter to Ehinger, explaining what happened and asking that Bare's behavior be handled in a fair and appropriate manner.

40. On January 24, 2017, Ehinger responded, thanking Plaintiffs for bringing the incident to his attention, informing them that he had heard about the incident but did not know who was involved, implying that he would "check tapes" to see if any insight could be garnered, and assuring Plaintiffs that the incident was not being taken lightly. Ehinger also implied that any disciplinary proceedings against staff would be confidential.

41. Plaintiffs did not hear anything further from Ehinger until he made a public statement on the school's Facebook page, suggesting that he did not think the incident in question actually happened, and shaming Plaintiffs for contacting the ACLU of Montana after they did not receive any follow-up response regarding discipline for Bare.

42. On February 15, 2017, Ehinger stated, "The Reed Point staff member who let the bus driver in does not remember saying anything at all to the assembled fans when she let the bus driver in."

43. On May 22, 2017, Plaintiffs filed a complaint of discrimination against Defendants with the Montana Human Rights Bureau.

44. On January 2, 2018, the Human Rights Bureau issued a *Notice of Dismissal and Notice of Right to File Civil Action in District Court*, a copy of which is attached.

45. Defendants illegally discriminated against the Plaintiffs based on their race. Plaintiffs, all Native Americans, were denied entry to the gymnasium when white community members were allowed to enter. Defendants' actions were intended to embarrass Plaintiffs and subject them to personal humiliation, and have caused them personal harm.

46. The circumstances of the unlawful and discriminatory acts of Defendants require an order that will prevent it from acting in a similar discriminatory and unlawful manner in the future.

CLAIMS FOR RELIEF

COUNT I – RACE DISCRIMINATION

47. Plaintiffs incorporate herein by reference the allegations in all proceeding Paragraphs set forth above.

48. The actions of Defendants violated the Montana Human Rights Act, Mont. Code Ann. § 49-1-102, 49-2-304, 49-2-308.

49. Plaintiffs are members of a protected class based on their race.

50. Plaintiffs were denied a service or opportunity that was made available to persons who do not belong to the same protected class.

51. Where, as here, there is direct evidence of unlawful discrimination, the burden is on Defendants to prove that “an unlawful motive played no role in the challenged action or that the direct evidence of discrimination is not credible and is unworthy of belief.”

52. Defendants cannot articulate a legitimate, nondiscriminatory reason for denying entry to the Plaintiffs.

53. The actions of Defendants violated the Governmental Code of Fair Practices §§ 49-3-102, 49-3-205, and 49-3-208.

54. Plaintiffs were subjected to discriminatory conduct based on their race.

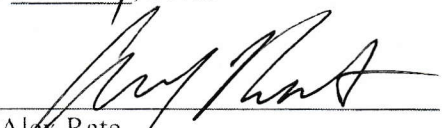
55. Defendants unlawfully discriminated against the Plaintiffs in the area of governmental services and/ or public accommodation based on their race.

RELIEF REQUESTED

WHEREFORE, Plaintiffs pray for:

1. An order finding judgment in favor of Plaintiffs and against Defendants on the charge that Defendants unlawfully discriminated against Plaintiffs on the basis of their race.
2. An order enjoining Defendants from discriminating against Native Americans or any other protected class.
3. An order prescribing affirmative relief for Plaintiffs, including, but not limited to, implicit bias training for agents and employees of the Reed Point School District, training on harassment and discrimination, and such other and further affirmative relief as the Court deems just and proper.
4. An order requiring a report on the manner of compliance.
5. An order awarding Plaintiffs \$1.00 in damages against Defendants for their discriminatory conduct;
6. An order awarding Plaintiffs reasonable costs and attorney's fees;
7. An order awarding such other and further relief as the Court deems just and proper.

DATED THIS 23rd day of February, 2018.


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