

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA

**FILED**

SEP 11 2017

Clerk, U.S. District Court  
District Of Montana  
Helena

**HELENA DIVISION**

MONTANA CITY MEATS, INC., and  
GARRY M. WHEELOCK,

Plaintiff,

vs.

GARY HAMEL, Individually and as  
Bureau Chief of the Meat Inspection  
Bureau of the Montana Department of  
Livestock, CHRISTIAN MACKAY,  
Individually and as the Executive  
Officer of the Montana Department of  
Livestock, MONTANA  
DEPARTMENT OF LIVESTOCK, a  
state agency of Montana,

Defendants.

No. CV 16-02-H-SEH

**ORDER**

A hearing on the parties' cross-motions for summary judgment on Count I  
was held on August 29, 2017.

Upon the record made in open court:

ORDERED

1. Plaintiffs' Motion for Partial Summary Judgment<sup>1</sup> on Count I of the Second Amended Complaint is DENIED.

2. Defendants' Motion for Summary Judgment<sup>2</sup> on Count I is DENIED in part and GRANTED in part as follows:

a. Defendants Gary Hamel and Christian Mackay are dismissed as to all claims against them in their individual capacities in Count I on grounds of qualified immunity grounds.

b. All claims against the State of Montana Department of Livestock, a state agency of the State of Montana, asserted under 42 U.S.C. § 1983 are dismissed.

c. Any and all claims against the State of Montana grounded in 42 U.S.C. § 1983 are dismissed.

d. It having been established of record that Christian Mackay is no longer employed as the Executive Officer of the Montana Department of Livestock, all claims against him grounded in 42 U.S.C. § 1983 are dismissed.


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<sup>1</sup> Doc. 56.

<sup>2</sup> Doc. 60.

e. Plaintiffs shall have to and including September 15, 2017, in which to name and move for substitution of parties under Rule 17(a)(3) and (d),<sup>3</sup> the replacement of Mackay as the Executive Officer of the Montana Department of Livestock.

DATED this 11<sup>th</sup> day of September, 2017.

  
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SAM E. HADDON  
United States District Judge

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<sup>3</sup> Federal Rules of Civil Procedure.