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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION**

ERIC WILSON and KELSI WILSON,
both as parents and on behalf of their
daughter N.W., a minor; and SANDRA
MARTINEZ-HOWELL, d/b/a ABC 123
UNIVERSITY,

Plaintiffs,

vs.

DENISE JUNEAU, in her official
capacity as Superintendent of the
Montana Office of Public Instruction,
and COLUMBUS PUBLIC SCHOOLS,

Defendants.

Case No. 1:13-cv-00040- DWM-JCL

**NOTICE OF VOLUNTARY
DISMISSAL WITH PREJUDICE**

NOW COME all Plaintiffs, by and through counsel, and pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i), file this voluntary dismissal with prejudice, stating as follows:

1. Plaintiffs filed this lawsuit on March 21, 2013, seeking a preliminary and permanent injunction enjoining Defendants from denying IDEA tuition assistance for otherwise eligible children to families that seek a religious education for their children.
2. Plaintiffs also sought a stay put order requiring Defendants to resume paying N.W.'s tuition costs at ABC 123 University (a Christian-based preschool), and an order requiring the Defendants to reimburse the Wilsons for the costs they have incurred in paying N.W.'s tuition at ABC 123 University.
3. Defendants had initially agreed to pay N.W.'s tuition to attend ABC 123 University in her Individualized Education Plan ("IEP"), but shortly after the school year began stopped tuition payments because ABC 123 is a Christian-based preschool, and conditioned N.W.'s ability to continue to receive tuition aid on her parents' willingness to enroll her in a nonreligious preschool.
4. The parties have amicably settled all of the Plaintiffs' claims.
5. Defendants have agreed to the following language regarding the payment of IDEA tuition assistance to students who qualify for IDEA benefits and attend religious schools:

Defendants hereby agree that they will not apply 34 C.F.R. §§ 76.532 & 76.658 and Article X, Section 6 of the Constitution of the State of Montana in a manner that prevents the use of Individuals with Disabilities Education Act (IDEA) tuition-assistance funds to pay for IDEA eligible students' enrollment at private religious schools when determined by a child's Individualized Education Plan Team to be appropriate for the provision of a child's free appropriate public education, consistent with 34 CFR 300 et seq., including §§ 300.130, 300.137, 300.139 and 300.141, and not inconsistent with controlling court rulings. The Defendants do not interpret current case law to prohibit funding special education services at a religious school under the circumstances described in this paragraph.

6. Defendants also agreed to pay the Wilsons the full tuition for N.W. to attend ABC 123 University, as agreed to in N.W.'s IEP, and to pay attorneys' fees to the Plaintiffs.

Based on the above actions of the Defendants, Plaintiffs hereby voluntarily dismiss this action with prejudice.

DATED this 13th day of May, 2013.

/s/ Matthew G. Monforton

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CERTIFICATE OF SERVICE

I hereby certify that on May 13, 2013, I electronically filed the foregoing paper with the Clerk of Court using the ECF system which will send notification of such filing to the following:

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