



COMMISSION ON CHARACTER AND FITNESS
OF THE SUPREME COURT OF THE STATE OF MONTANA

33 South Last Chance Gulch, Suite 1B • P.O. BOX 577 • HELENA, MONTANA 59624
(406) 442-7660 Fax (406) 442-7763 Web Site: www.montanabar.org

FILED

03/08/2024

Bowen Greenwood
CLERK OF THE SUPREME COURT
STATE OF MONTANA
Case Number: DA 23-0287

C&F COMMISSION:

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P.O. Box 1131
Helena, MT 59601

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Butte, MT 59703

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Helena, MT 59624

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Helena, MT 59601

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Bozeman, MT 59771

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Helena, MT 59624

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klynch@montanabar.org

BAR ADMISSIONS
COORDINATOR

LAURA FROVARP
P.O. Box 577
Helena, MT 59624
lfrovarp@montanabar.org

March 6, 2024

Clerk of the Montana Supreme Court
Bowen Greenwood
PO Box 203003
Helena, MT 59620-3003

RE: Montana *Pro Hac Vice* Application

Dear Clerk:

Enclosed is a copy of an application to appear *pro hac vice* before your court or agency from the attorney listed below:

Nicole A. Saharsky
Mayer Brown LLP
1999 K Street NW
Washington, DC 20006

The attorney has complied with the rules governing a *pro hac vice* appearance and is currently in good standing with the other state or jurisdiction(s) in which they are admitted. Further, the Montana counsel listed in the application is in good standing with the State Bar of Montana.

This is the 2nd appearance for the attorney and the 5th appearance for the firm. under the *pro hac vice* rules. Section VI(C) of the Rules for Admission to the State Bar of Montana states: *Except upon a showing of good cause, no attorney or firm may appear pro hac vice in more than two actions or proceedings in any state court or administrative agency in Montana.* Please provide my office with a copy of your decision to grant or deny this application. Please contact me at (406) 447-2210 if you have questions or need further information.

Sincerely,

Kathie Lynch
Bar Admissions Administrator

Enclosure

Cc: Nicole A. Saharsky
Rylee Sommer-Flanagan

FILED

MAR - 8 2024

Bowen Greenwood
Clerk of Supreme Court
State of Montana

Atty Status	Jurisdiction(s) DC ✓ VA ✓
Discipline	None
Appearance: Applicant	2 nd Firm 5 th
MT Attorney	SBM ✓ ODC ✓

(Boxes for State Bar use only.)

P68806950

21-24
Application Number 3/5/24 KL
Date Received \$155 #1217725
Fee Paid 3-6-24 Check No.
Date Sent to Court or Agency

STATE BAR OF MONTANA
P.O. Box 577, Helena, MT 59624
Street Address: 33 S. Last Chance Gulch, Suite 1B, Helena, MT 59601
Telephone: (406) 442-7660
Fax: (406) 442-7763

PRO HAC VICE APPLICATION

The original application must be submitted to the State Bar of Montana with a fee of \$515.00 for each *pro hac vice* appearance requested and a certificate of good standing from each state the attorney is a member of.

- | | | |
|--------------------|--------------|--------------------------|
| Nicole A. Saharsky | 202-263-3052 | nsaharsky@mayerbrown.com |
| Applicant's Name | Phone | E-Mail |
- | |
|---|
| Mayer Brown LLP |
| Firm Name (List all firm(s) with which you are associated.) |
- | | | | |
|------------------|------------|-------|-------|
| 1999 K Street NW | Washington | DC | 20006 |
| Office Address | City | State | Zip |
- | | | | |
|-----------------------|------------|-------|-------|
| 309 Holland Lane #131 | Alexandria | VA | 22314 |
| Residence Address | City | State | Zip |
- List the name, address, and telephone number of the active member of the State Bar of Montana who is the attorney of record in the case for which this application is being made.

Rylee Sommers-Flanagan, UPPER SEVEN LAW	406-396-3373
Attorney & Firm Name	Daytime Phone Number
P.O. Box 31	Helena
Address	City
	MT 59624
	State Zip
- List all state and federal courts in which you have been admitted to practice and the dates of admission **and provide certification of good standing for each State only.** Do not include pro hac vice admissions.

A. State Courts: District of Columbia Court of Appeals, Supreme Court of Virginia

B. Federal Courts: U.S. Supreme Court, USCA 1st Cir., USCA 2nd Cir., USCA 3rd Cir., USCA 4th Cir., USCA 5th Cir., USCA 6th Cir., USCA 7th Cir., USCA 9th Cir., USCA 10th Cir., USCA 11th Cir., USCA D.C. Cir., USCA Fed. Cir., USDC Northern District of Illinois

7. Are you currently suspended, disbarred, or otherwise not licensed to practice in any of the above courts?
If so, attach copies of all relevant court documents or disciplinary documents. ☐ Yes ☒ No
8. Are you subject to pending disciplinary proceedings in any jurisdiction? ☐ Yes ☒ No
If so, attach a description of the nature and status of each pending disciplinary proceeding.
9. Do you maintain a residence in Montana? ☐ Yes ☒ No
10. Are you regularly employed in Montana? ☐ Yes ☒ No
11. Are you regularly engaged in the practice of law or in substantial business or professional activities in Montana? ☐ Yes ☒ No
12. Do you have an application for admission to the State Bar of Montana pending? ☐ Yes ☒ No
13. List the title of each state court and cause in Montana in which you **OR YOUR FIRM** have filed an application to appear as counsel pro hac vice, the date of each application, and whether it was granted or denied. (Do not list Federal court pro hac vice appearances.)

List the current title, court, and cause number for which you are applying.

Title, Court, Cause #	County	Date	Granted: (Yes, No)
A. Previous Cases: <u>None</u>			
<u> </u>			
<u> </u>			
<u> </u>			
B. CURRENT Case: (please include County) <u> </u>			
<u>Planned Parenthood of Montana, et al. v. State of Montana, et al., No. DA 23-0287,</u>			
<u>Supreme Court of the State of Montana</u>			

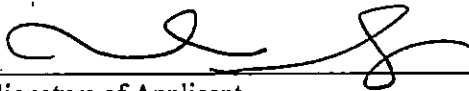
14. I agree to comply with the applicable statutes, laws, and procedural rules of the State of Montana. I further agree to be bound by the Montana Rules of Professional Conduct (except as to Rules 6.1-6.4) and will submit to the jurisdiction of the Montana courts, the Montana disciplinary process, and the State Bar of Montana with respect to acts and omissions occurring during admission under this application.
15. I understand that a lawyer not admitted to practice in Montana is subject to the disciplinary authority of Montana for conduct that constitutes a violation of the Montana Rules of Professional Conduct and that: a) involves the practice of law in Montana by that lawyer; or b) involves that lawyer holding himself or herself out as practicing law in Montana; or c) involves the practice of law in Montana by another lawyer over whom this lawyer has the obligation of supervision or control.
16. I state that payment has been made to the State Bar of Montana in accordance with the requirements of Section IV of the Rules for Admission and in accordance with the requirements of Rule 6 of the Rules for Lawyer Disciplinary Enforcement.
17. I understand I have an on-going obligation to advise the State Bar of Montana and court/administrative agency if my standing or status changes in any of the jurisdictions in which I am admitted during the term of my pro hac vice admission.

18. I agree to provide the State Bar of Montana with the court or administrative agency's order to grant or deny this application. (All applications will be counted as an appearance unless the State Bar of Montana is advised the application was denied by the Court.)
19. I agree to notify the State Bar of Montana of any appeals if the case is referred to a higher court. (If the above action proceeds to a court of higher jurisdiction, I understand the appealed case will not be counted as an additional appearance.)
20. I agree to provide current certificates of good standing from the jurisdiction(s) in which I am admitted.
21. I understand that the \$515.00 assessment is an annual assessment and agree to promptly pay the assessment as long as this proceeding is pending before a Montana administrative agency or any Montana court (except federal court).

State of District of Columbia

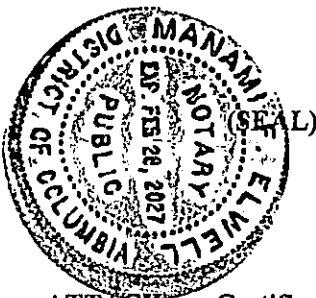
County of _____

The above statements are true based upon applicant's knowledge and belief. Further, I agree to submit to the pro hac vice rules, the Montana Rules of Professional Conduct, and the Montana Rules for Lawyer Disciplinary Enforcement.

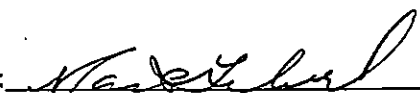


Signature of Applicant Date 2/27/24

Subscribed and sworn to (or affirmed) before me this 27th day of February, 2024.



ATTACH: Certificate(s) of Good Standing
\$515.00 Pro Hac Vice Fee

Notary Signature: 
Printed Name of Notary: Manami F. Elwell
Notary Public for the State of: District of Columbia
Residing in: _____
My commission expires: February 28, 2027

Manami F. Elwell
Notary Public of District of Columbia
My Commission Expires February 28, 2027

Rules and information about pro hac vice are available on the State Bar's website at www.montanabar.org. Please direct questions to Sean O'Connor: soconnor@montanabar.org or (406) 447-2204.

IN THE SUPREME COURT OF THE STATE OF MONTANA

DA 23-0287

PLANNED PARENTHOOD OF MONTANA,
et al.,

Plaintiffs and Appellees,

v.

STATE OF MONTANA et al.,

Defendants and Appellants.

**AFFIDAVIT OF NICOLE A. SAHARSKY IN SUPPORT OF
APPLICATION FOR ADMISSION TO APPEAR *PRO HAC VICE***

WASHINGTON, D.C.

NICOLE A. SAHARSKY, being first duly sworn, deposes and states as follows:

1. I, Nicole A. Saharsky, by and through Montana counsel, respectfully apply to this Court to appear *pro hac vice* in the above-captioned matter on behalf of *amici curiae* American College of Obstetricians and Gynecologists, the Society for Maternal-Fetal Medicine, and the Society of Family Planning.

2. I am a Partner at the law firm Mayer Brown LLP. Before filing for *pro hac vice* admission in *Planned Parenthood of Montana, et al. v. State of Montana, et al.*, No. DA 23-0272, I had not previously sought *pro hac vice* admission in Montana. Although I have not previously received *pro hac vice* admission in the

courts of Montana, attorneys affiliated with Mayer Brown LLP have received more than two such admissions within the last twenty-five years. Pursuant to Rule VI(c) of the Rules of Admission to the Bar of Montana, I therefore make the following submission of good cause for my admission *pro hac vice* in this matter.

3. Before the Court are three abortion-related cases (*Planned Parenthood of Montana et al. v. State of Montana et al.*, No. DA 23-0272; *Planned Parenthood of Montana et al. v. State of Montana et al.*, No. DA 23-0287, and *Planned Parenthood of Montana et al. v. State of Montana et al.*, No. DA 23-0288). I am working with *amici* to file briefs in all three cases.

4. Good cause for my admission *pro hac vice* exists because I have longstanding relationships representing *amici*, as well as deep subject matter expertise on the issues presented in this matter.

5. I have represented *amici* since 2020. In that time, I have filed briefs on behalf of *amici* and other medical organizations in many matters that present issues relating to abortion regulation in courts across the country. Those matters include:

- *Planned Parenthood Center of Tucson, Inc. v. Mayes*, Ariz. No. CV-23-0005-PR
- *Planned Parenthood of the Heartland, Inc. v. Reynolds*, Iowa No. 22-2036
- *Kaul v. Urmanski*, Wis. Cir. Ct. Dane Cty. No. 2022CV1594

- *Planned Parenthood Great Northwest, Hawaii, Alaska, Indiana, Kentucky, Inc. v. Members of the Medical Licensing Board of Indiana*, Ind. No. 22S-PL-00338
- *State ex rel. Preterm-Cleveland v. Yost*, Ohio No. 2022-0803
- *Robinson v. Attorney General*, 11th Cir. No. 20-11401
- *Adams & Boyle, P.C. v. Slatery*, 6th Cir. No. 20-5408
- *In re Rutledge*, 8th Cir. No. 20-1791
- *South Wind Women's Center, LLC v. Stitt*, 10th Cir. No. 20-6045
- *In re Abbott*, 5th Cir. No. 20-50264

6. In each matter, the brief I submitted on behalf of *amici* addressed complex medical and scientific evidence related to abortion. The briefs thus require technical subject-matter expertise.

7. This experience with *amici* and expertise in the subject matter is not commonly available among the membership of the State Bar of Montana.

8. For these reasons, I respectfully request that the Court find good cause for my admission *pro hac vice* in these matters.

DATED this 27th day of February, 2024.



Nicole A. Saharsky

Subscribed and sworn to before me
this 27th day of February, 2024.



Notary Public



Manami F. Elwell
Notary Public of District of Columbia
My Commission Expires February 28, 2027