

ORIGINAL

FILED

04/25/2025

Bowen Greenwood
CLERK OF THE SUPREME COURT
STATE OF MONTANA

Case Number: DA 25-0088

IN THE SUPREME COURT OF THE STATE OF MONTANA
No. DA 25-0088

FILED

APR 25 2025

AUSTIN LAKE
Appellant,

v.

MONTANA DEPT. OF LABOR
& INDUSTRY
Appellee.

Not a reply brief
- Response to Department's
Motion to Dismiss -

Greenwood
Supreme Court
Montana

Reply

BRIEF OF APPELLANT

On Appeal from the Montana Twentieth Judicial District Court, Sanders County,
The Honorable Molly Owen, Presiding

APPEARANCES

Bill Williams
Aleea Sharp
Agency Counsel
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IN THE SUPREME COURT OF THE STATE OF MONTANA
No. DA 25-0088

AUSTIN LAKE
Petitioner/Appellant,

v.

MONT. DEPARTMENT OF LABOR & INDUSTRY
And ALEEA SHARP, AGENCY COUNSEL
Respondent's/Appellees.

Appellant's Reply Brief (Rule 11) and Pursuant to Rule 16(2) Objection to Attorney William's motion to Strike and motion to dismiss Appellant Lake's Opening Brief filed on April 17, 2025. Appellant's Motion to accept DA 25-0198 as timely briefed for this matter. April 14, 2025.

Pursuant to Mont. R. App. P, 16(1), Appellant reached out to Heidi Clark regarding her position on Lake's motion to accept DA 25-0198 in this matter, she wasn't allowed to allow or oppose; Lake attempted to reach Attorney Samuel A. Fossum on the motion with no response. Lake assumes Samuel A. Fossum opposes.

Appellant Austin Lake moves for this court to order DA 25-0198 as a timely briefed opening if Lake's DA 25-0088 is rejected or if it is stricken.

ARGUMENT

Lake over-night mailed his opening brief on April 15, 2025 (attached), as for the nature of Lake's objection to William's motions of dismissal and strike Lake's brief there is an outstanding issue/matter for which a correct of "conclusion of law" must be addressed. This matter was presented to the Sander's County District Court in Lake's Opposition and "notice of issues" Dec. 9, 2024 (O.B. also DA 25-0198, relevant), Lake also submitted a motion for Default Judgement with an attached order in DV 24-97 and DV 24-96 which were rejected by the district court and in DV 24-97 not returned.

By simply overlooking or ignoring prior actions by the Department for its failure "to adhere to procedural rules" unless the Dep't is exempt and granted "a latitude so wide as to prejudice the other party," *Greenup v Russell*, 2000 MT 154, 15, 300 Mont. 136, 3Pd 124, with total disregard or concern for the other party or for judicial fairness and "failure of consideration" to the other parties and courts by disregarding "conclusions of law for correctness" and justice. If the Department is able to recover from being prejudiced and presenting "opinion" regarding Lake's "procedural history" for the opportunity to dis-credit the opposition since that is its' only strategy for there is no factual or substantial argument for Counsel but rather magnify the errors of the opposing party to minimize or eliminate all attention and accountability for failure to comply with statutory requirements for which "statutory deadlines are important and must be strictly enforced," *Green v*

Gerber 2013 MT 35, 27, 369 Mont. 20, 303 P.3d 729 and “the statutes do not exempt the Dep’t from compliance with M.R. Civ. P.5,” op 20-0276 MT. DLI Employment Relations Division v MT. 13 Judicial Ct.

The parties and this Court must first address issues that should not be allowed to continue to be ignored or “swept under the rug,” a violation of a statutory requirement cannot be skipped over to address another matter. The Department “failed to submit an answer brief and did not serve parties as required” in both district court cases DV 24-96 & DV 24-97 (D.C. Doc 3 & DA 25-0198) which were “conclusions of law” and was upon Lake’s notice to the district court “subject to summary ruling by the district court” Rule 14(c) and “the jurisdiction of the court is confined to questions of law” and must be addressed with “no exceptions.”

Attorney Williams moves on to address issues that have been filed in Lake’s opening brief case no. DA 25-0198 raising those issues therefore allowing matters to be addressed pursuant to Rule 11 and 13 that pertain to both cases. Williams “recap’s” for this court Lake’s previous petitions and appeals for some reason since the “underlying dispute with the Department’s Unemployment Insurance Appeals Board” were not the correct issues presented in Lake’s petitions regarding those cases as they are not the issues of this case either, nor has those issues been reviewed or ruled upon. (D.C. Doc. # 3). As Attorney Williams continues in his argument (P.4) again by claiming “The Department is prejudiced” with “no

finality” (“that conclusion became final when the Dept. failed to submit an answer brief” in both cases) (however the Dept. doesn’t acknowledge its’ own history) and argues as to Lake’s (Opening brief at 3) (DA 25-0198) which Williams argues some of Lake’s opening brief but not all of it Rule 14(b) “shall be deemed well taken” for the rest and for which Williams also takes out of context by not including that the biggest contributing factor for “multiple filings” has been the direct result of inaccurate interpretation of the issues by the Department, also preventing Lake from stating his claim. These specific actions by the Department is the reason for multiple filings placing additional economic burdens on all parties and courts.

“Plaintiffs have litigated this matter for over two years & are on the precipice of a default judgement and even if the court were to determine it had jurisdiction to consider dealing with the exercise of supplemental jurisdiction such a decision is not warranted in the present context.” Ryan Birmingham, etc. v Alex Doe Case No. 1:21-cv-23472-RNS. Doc. 247, FLSD 12/20/23 (cited) (1332(a) “Pleading a specific jurisdictional basis is not required for the court to determine it has jurisdiction and it is sufficient that petitioner alleged uncontested facts showing the existence of jurisdiction.” Bernath v Am. Legion 704 Fed. App’x 917, 918 11th cir. 2017.

As Attorney Williams has “taken out of context (at 5 motion) (DA 25-0198 O.B. at 3; 4-14) Dep’t infringed on Lake’s opposition (pg. 4,7,10,11,14) simply ignoring filings (facts) submitted to court (B) “district court is proceeding under a mistake of law & is causing a gross injustice.” Rule 14(3)(a)

The Department not only has taken Lake’s arguments and issues out of context counsel has accused Lake of attempting to “blame Dep’t staff or clerk of court creating confusion causing filing errors” (pg. 25,26 Doc. 4,5,6 D.C.) The Department was allowed this incorrect opinion without supporting evidence in its “brief to dismiss and declare Lake a Vexatious Litigant” (at 4, O.B. Apr. 14) And for which the Dept. then asserts no other sanction then a pre-filing order will be adequate to address Lake’s vexatious litigation.” In retrospect, Lake asserts, no other sanction will be adequate to address the departments “strain on judicial resources” and unsupported accusations against petitioner, would be for the Dept. to take accountability while it also requested “relief” for obligations of any additional filings.

Not only has the departments actions placed the economic burdens on the courts it has placed that blame on Lake also placing restrictions and infringing Lake’s access to the courts, rejecting, refusing filings by Lake causing dismissal and further restrictions on Lake (and preventing a defense), then even ignoring Lake’s pre-fling request (attached) then after DV 24-96 was dismissed due to those

restrictions. (see case Lundeen v Lake County). Documents filed and not filed or returned by district court.

The restrictions and pre-filing requirements order only pertain to Sanders County District Court, but it has allowed continued retaliation and harassment by the Dept., which Lake has fully briefed and supported in both cases for which are the issues of Lake's petition (DA 25-0088 & DA 25-0198) (original complaint with HRB provided in both as well, Appendix).

CONCLUSION

Attorney Williams arguments (in DA25-0198) presented in support of his motion to strike and dismiss Lake's opening brief (for DA25-0088) confirms that he received Lake's opening brief in a timely manner prior to the deadline and since both briefs pertain to evidence and argument to support this Court for review of the "issues" I move for this Court to accept DA 25-0198 as a timely served and filed brief on April 14, 2025 in the event this Court determines DA 25-0088 is untimely.

Respectfully submitted this 23rd day of April, 2025.



Austin Lake
Petitioner/Appellant

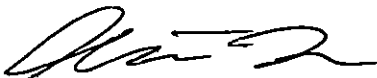
CERTIFICATE OF SERVICE

I, Austin Lake, hereby certify that I have served true and accurate copies by U.S. Mail, pre-paid postage of the foregoing; Appellant's objection to Respondents motion to strike, Appellants motion allowing DA 25-0198 as timely brief to the following on 4-23-2025:

Ben Williams
Aleea Sharp
Agency Counsel
Mont. Dept. Labor & Ind.
P.O. Box 1728
Helena, MT. 59624-1728

CERTIFICATE OF COMPLIANCE

Pursuant to Rule 11&13 I certify that this Reply Brief is printed with proportionally spaced Times New Roman of 14 points; is double spaced and does not exceed 5,000 words and is no longer than 14 typewritten pages. This 23rd day of April 2025.


Austin Lake

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MONTANA TWENTIETH JUDICIAL DISTRICT COURT
SANDERS COUNTY

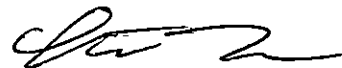
AUSTIN LAKE
Petitioner,
vs.
MT. DLI, HRB,
Shaunie Aklestad,
Kimberly Comb.
Respondent's.

Cause No. DV 24-96
Hon. Molly Owen

Petitioner's Request
Leave to File

Petitioner Austin Lake submits this motion requesting a pre-filing order from the Sanders County Court in regards to case no. DV 24-96. The proposed filing is strictly for compliance and mandates of the Court, and with due respect of the Order issued by this Court Petitioner will be mindful as to the core issues needing addressed refraining from "duplication of previous claims," and it's contents will not be "frivolous" or "harassing" towards the Department.

Respectfully submitted this 4th day of February 2025,



Austin Lake

Staples

1290 Highway 2 East
Kalispell, MT 59901
406-257-8200

Sale

Store: 830 Register: 5
Date: 7/15/25 Time: 4:46 PM
Transaction: 35636 Cashier: 3024165

REWARDS NUMBER *****8247

Qty	Item	Price	Amount
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***** Order Number 6869085766*****

1	NEXT DAY AIR LETTE 389772	37.85	37.85 N
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Questions on Customer Order 6869085766
Call your local Staples Store

Subtotal 37.85

Total 37.85

Cash 50.00

Change (12.15)

Easy Rewards Point Summary

Points Redeemed Today	0
Points Remaining	161
Dollars Remaining	\$0.00

Points will post within 5 business days.