

07/01/2025

Bowen Greenwood
 CLERK OF THE SUPREME COURT
 STATE OF MONTANA
 Case Number: DA 25-0200

(Boxes for State Bar use only)

	Jurisdiction (s)	
Atty Status	<u>NY DC</u>	__
Discipline	<u>None</u>	__
Appearance: Applicant	<u>2nd</u>	Firm <u>4th</u>
MT Attorney:	SBM <u>__</u>	ODC <u>__</u>

Bar Number:	<u>21686210976</u>
Application Number:	<u>92-25</u>
Date Received	<u>6/27/25</u> Staff <u>KL</u>
Fee Paid	<u>\$515</u> Check No. <u>4713</u>
Date Sent:	<u>6/30/2025</u>

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.

- | | | |
|----------------|----------------|-------------|
| Joseph R. Gay | (703) 682-9320 | jgay@ij.org |
| Applicant Name | Phone | Email |
- | |
|---|
| Institute for Justice |
| Firm Name (List all firm(s) with which you are associated.) |
- | | | | |
|------------------------------|-----------|-------|-------|
| 901 N. Glebe Road, Suite 900 | Arlington | VA | 22203 |
| Office Address | City | State | Zip |
- | | | | |
|------------------------|-----------|-------|-------|
| 6223 22nd Street North | Arlington | VA | 22205 |
| Residence Address | City | State | Zip |
- List the name, address, and telephone 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.

David F. Knobel, Crowley Fleck PLLP	(406) 255-7343
Attorney & Firm Name	Daytime Phone Number
490 N 31st St.	Billings MT 59101
Address	City State Zip

Pro Hac Vice 2024

6. List all state and federal courts in which you have been admitted to practice and the dates of admissions and provide certification of good standing for each state only. **Do not** include Pro Hac Vice admissions.

A. State Courts:

New York State Bar (2/18/2010), DC Bar (11/16/2012).

B. Federal Courts:

U.S. Supreme Court (10/13/2015), U.S. Court of Appeals Federal Circuit (6/7/2013), U.S. Court of Appeals 11th Circuit (7/27/2022), U.S. Court of Appeals 9th Circuit (10/12/2022).

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 or disciplinary documents.

Yes No

8. Are you subject to pending disciplinary proceedings in any jurisdiction? If so, attach a description of the nature and status of each pending disciplinary proceeding.

Yes No

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 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.*)

Please continue onto following page

Pro Hac Vice 2024

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

Title, Court, Cause #	County	Date	Granted: (Yes/No)
A. Previous Cases:			
M.A.I.D., LLC v. State of Montana, Supreme Court of the State of Montana,			
Cause No. DA 24-0039	Gallatin County	4/29/2024	Yes
Bridges, et al. v. Montana Board of Medical Examiners et al., Montana Fourth Judicial District			
Cause No. DV-32-2020-0000647-DK	Missoula County	6/15/2020	Yes
Kendra Espinoza, et al. v. Montana Dept. of Revenue, et al., Montana Eleventh Judicial District			
Cause No. DV 15-1152A	Flathead County	12/18/2015	Yes
B. Current Case: (please include county)			
M.A.I.D. v. State, Supreme Court of the State of Montana,			
Cause No. DA 25-0200	Gallatin County	6/26/2025	Pending

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.)**

Pro Hac Vice 2024

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 Virginia
County of Arlington

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.

Joseph Gray 2025/06/24
Signature of Applicant Date

Subscribed and sworn to) or affirmed) before me this 24th day of June, 2025.
(Seal Below)



Notary Signature: Cara Di Silvio
Printed Name of Notary: Cara Di Silvio
Notary Public for the State of: Virginia
Residing in: Virginia
My commission expires: Nov. 30, 2027

ATTACH: Certificates of Good Standing
\$515.00 Pro Hac Vice Fee

Rules and information about pro hac vice are available on the State Bar's website at www.montanabar.org. Please direct questions to Melissa Dyess Hartze at Mhartze@montanabar.org.



*On behalf of JULIO A. CASTILLO, Clerk of the District of Columbia Court of Appeals,
the District of Columbia Bar does hereby certify that*

Joseph Randall Gay

*was duly qualified and admitted on November 16, 2012 as an attorney and counselor entitled to
practice before this Court; and is, on the date indicated below, an Active member in good
standing of this Bar.*

*In Testimony Whereof,
I have hereunto subscribed my
name and affixed the seal of this
Court at the City of
Washington, D.C., on June 20, 2025.*

Julio A. Castillo
JULIO A. CASTILLO
Clerk of the Court

Issued By:

A handwritten signature in black ink, appearing to read "David Chu".

David Chu - Director, Membership
District of Columbia Bar Membership

***For questions or concerns, please contact the D.C. Bar Membership Office at 202-626-3475 or email
memberservices@dcbbar.org.***



*Appellate Division of the Supreme Court
of the State of New York
Third Judicial Department*

*I, Robert D. Mayberger, Clerk of the Appellate Division of
the Supreme Court of the State of New York, Third Judicial
Department, do hereby certify that*

Joseph Randall Gay

*was duly licensed and admitted to practice as an Attorney and
Counselor at Law in all the courts of this State on February 18,
2010, has duly taken and subscribed the oath of office prescribed
by law, has been enrolled in the Roll of Attorneys and Counselors
at Law on file in this office, is duly registered with the Office of
Court Administration, and according to the records of this Court
is currently in good standing as an Attorney and Counselor-at-
Law.*

*In Witness Whereof, I have hereunto set
my hand in the City of Albany on June
20, 2025.*

Robert D Mayberger

Clerk of the Court



CertID-00237710



State of New York
Supreme Court, Appellate Division
Third Judicial Department
Admissions Office
P.O. Box 7350, Capitol Station
Albany, NY 12224-0350

Robert D. Mayberger
Clerk of the Court

AD3AdmissionsOffice@nycourts.gov
<http://www.nycourts.gov/ad3/admissions>
(518) 471-4778

Anthony A. Moore
Director of Attorney
Admissions

To Whom It May Concern:

An attorney admitted to practice by this Court may request a certificate of good standing, which is the only official document this Court issues certifying to an attorney's admission and good standing.

An attorney's registration status, date of admission and disciplinary history may be viewed through the attorney search feature on [the website of the Unified Court System](#).

New York State does not register attorneys as active or inactive.

An attorney may request a disciplinary history letter from the [Attorney Grievance Committee of the Third Judicial Department](#).

Bar examination history is available from the [New York State Board of Law Examiners](#).

Instructions, forms and links are available on [this Court's website](#).

Robert D. Mayberger
Clerk of the Court

IN THE SUPREME COURT OF THE STATE OF MONTANA
Cause No. DA 25-0200

MONTANANS AGAINST IRRESPONSIBLE DENSIFICATION, LLC,

Plaintiff and Appellee/Cross-Appellant,

v.

STATE OF MONTANA,

Defendant and Appellant/Cross-Appellee,

SHELTER WF, INC.,

Defendant-Intervenor and Appellant/Cross-Appellee,

DAVID KUHNLE, CLARENCE KENCK, MONTANA LEAGUE OF CITIES
AND TOWNS,

Defendant-Intervenors/Cross-Appellees.

On Appeal from the Montana Eighteenth Judicial District Court,
Gallatin County, DV-16-2023-1248DK,
Hon. Michael Salvagni, Presiding Judge

**AFFIDAVIT OF JOSEPH R. GAY IN SUPPORT OF APPLICATION FOR
ADMISSION TO APPEAR *PRO HAC VICE***

I, JOSEPH R. GAY, declare under penalty of perjury that the following is true:

1. I, Joseph R. Gay, by and through Montana counsel, respectfully apply to this Court to appear *pro hac vice* in the above-captioned matter on behalf of *amicus curiae* the Institute for Justice.

2. I am an attorney with the Institute for Justice. Before filing for *pro hac vice* admission in this case, I previously sought *pro hac vice* admission in the State of Montana in *M.A.I.D., LLC v. State of Montana*, Supreme Court of the State of Montana, Cause No. DA 24-0039. I was granted *pro hac vice* admission in that case on May 10, 2024. Additionally, attorneys affiliated with the Institute for Justice have appeared *pro hac vice* in two other proceedings before Montana state courts since November 17, 1998. Pursuant to Rule VI(C) of the Rules of Admission to the Bar of Montana, I hereby make the following submission of good cause for my admission *pro hac vice* in this matter.

3. Good cause for my admission *pro hac vice* exists because of my subject-matter expertise with issues presented in this matter and because of my relationship with *amicus*.

4. *Amicus* Institute for Justice (IJ) is a national civil liberties law firm that seeks to secure constitutional rights that everyday people use to pursue their dreams. It pursues its mission by, among other things, filing lawsuits in state and federal courts across the country seeking to vindicate its clients' constitutional rights. Those cases often include claims under the federal and state due process and equal protection clauses, including several challenges to irrational zoning and land-use laws. As an attorney at IJ working on these issues, I have developed subject-matter expertise on the constitutionality of zoning laws under due process and equal

protection clauses. That expertise is implicated by this lawsuit's due process and equal protection challenges to state legislation that regulates how local governments exercise zoning powers.

5. IJ also pursues its mission through public advocacy and by filing amicus briefs in cases that raise important constitutional issues. As a nonprofit, public-interest organization, IJ has a distinct and constitutionally protected interest in pursuing and expressing its advocacy through its own attorneys, who are intimately familiar with its mission and who associate with IJ for the purpose of advancing that mission.

6. I have been an attorney with IJ since May 2021. In that role, I am responsible for working on litigation and public outreach relating to constitutional rights, including on subjects relating to zoning and property rights. In fulfilling these responsibilities, I have become intimately familiar with IJ's public advocacy, litigation, and public-interest goals relating to, among other things, zoning, procedural and substantive due process protections, equal protection guarantees, and property rights.

7. This expertise in the subject matter and experience working on behalf of *amicus* are not commonly available among the membership of the State Bar of Montana. *See, e.g., Application to Appear Pro Hac Vice, Planned Parenthood of Montana v. State*, DA 23-0272 (Mont. Mar. 8, 2024) (stating good cause based on

four-year relationship with *amici* associations and experience with similar cases); Order, *Planned Parenthood of Montana v. State*, DA 23-0272 (Mont. Mar. 12, 2024) (finding good cause and granting application); Application to Appear *Pro Hac Vice*, *Planned Parenthood of Montana v. State*, DA 23-0272 (Mont. Sept. 11, 2023) (application by attorney employed by nonprofit organization that was representing a local affiliate, with no separate discussion of good cause); Order, *Planned Parenthood of Montana v. State*, DA 23-0272 (Mont. Sept. 12, 2023) (finding good cause and granting application).

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

Dated this 24 day of June, 2025.



Joseph R. Gay

Subscribed and sworn to before me
This 24th day of June, 2025.



Notary Public

