IN THE SUPREME COURT OF THE STATE OF MONTANA
DA 25-0502

CENTRON SERVICES, INC.
A CORPORATION DBA: ROCKY
MOUNTAIN PROFESSIONAL
SOLUTIONS,

Plaintiff and Appellant,

v.

CHRISTOPHER HOLLEWIJN and
ALYSON C. HOLLEWIJN,

Defendant and Appellee.

OPENING BRIEF OF APPELLANT

On Appeal from the Montana Eighteenth Judicial District Court, Gallatin County, DV-23-153, The Honorable Peter B. Ohman, Presiding

APPEARANCES:

SCOTT B. OWENS
2525 Colonial Drive, Suite C
P.O. Box 875
Helena, MT 59601
Tel: (406) 442-3728
sowens@centronservices.com

GREGORY W. DUNCAN
2525 Colonial Drive, Suite C
Helena, MT 59601
Tel: (406) 442-3728
gduncan@centronservices.com

ATTORNEYS FOR APPELLANT

JEAN FAURE
Faure Holden Henkel Terrazas, P.C.
1314 Central Avenue
P.O. Box 2466
Great Falls, MT 59403
Tel: (406) 452-6500
jean@fhht.law

MICHAEL P. GINTY
1111 Superior Ave. East, Suite 1360
Cleveland, OH 44114
Tel: (216) 539-9370
mginty@koehler.law

ATTORNEYS FOR APPELLEE

TABLE OF CONTENTS

TABLE OF AUTHORITIES

CASES

STATUTES

STATEMENT OF ISSUES

1. Did the district court err when it dismissed the entire suit after granting Appellee's motion for summary judgment which only addressed one of five accounts within the suit?
2. Did the district court err when it granted summary judgment by determining a question of fact?

STATEMENT OF THE CASE

This is an appeal of the June 16, 2025, decision of the Montana Eighteenth Judicial District, Gallatin County, The Honorable Peter B. Ohman presiding, granting Appellee's motion for summary judgment regarding a question of fact. (D.C. Doc. 60, 6/16/25 Order Re Defendants Motion for Summary Judgment, attached as Appendix **Ex. A**).

This appeal stems from a collections matter. Defendants and Appellees, the Hollewijns, received medical services from three (3) separate providers that generated five (5) separate accounts. These accounts were either partially paid or unpaid prior to being assigned to collections, which are the subject matter of this lawsuit.

Plaintiff and Appellant, Centron Services, Inc., a collection company doing business as Rocky Mountain Professional Solutions (hereinafter "Centron"), filed a complaint on the theory of an account stated. Defendants filed their motion for

summary judgment alleging that the matter should be summarily dismissed on the argument that these accounts were timely disputed. However, the motion only asserted information regarding one of the five accounts. The court summarily dismissed the entire suit when granting summary judgment. The court erred in granting this motion because it summarily dismissed the entire case when the motion only addressed one of five accounts.

Whether an account was timely disputed is a question of fact. This issue is a decision for the jury. The court erred when it granted summary judgment based upon a question of fact.

It is from this erroneous decision from which Centron now appeals to this Court.

STATEMENT OF FACTS

From December of 2020 through March of 2022, Defendants received medical services from Bozeman Health, Big Sky Endodontics, and Bridger Orthopedic & Sports Medicine. (D.C. Doc. 4, 6/16/23 Summons and Complaint, attached as Appendix **Ex. B**). These medical services formed the bases for five separate accounts. All three medical providers unsuccessfully attempted to collect fees associated with the services prior to sending the accounts to collections.

The Defendant's summary judgment motion focused exclusively on the fifth account (listed on the Exhibit A, attached to the Complaint), a medical service

provided by Bozeman Health Hospital on November 4, 2021. (*See* **Ex. B**). There were no details in Defendants' motion addressing the remaining four accounts. For that reason, this statement will only address the facts surrounding account number five.

On November 4, 2021, Defendant, Alyson Hollewijn, received services from Bozeman Health. On the same day, Defendant initialed and signed a one-page document, labeled Bozeman Health Conditions of Treatment, indicating (in the pertinent parts): 1) she consents to health care services at Bozeman Health; 2) she understands that it is her responsibility to notify her insurance company if she is admitted to Bozeman Health; and 3) that she assumes full responsibility for any charges not covered by her insurance. (Bozeman Health Conditions of Treatment, attached as Appendix **Ex. C**). The original bill for this service totaled $33,666.76. (Abstract of hospital charges, attached as Appendix **Ex. D**).

The Bozeman Health Conditions of Treatment form allows the hospital to bill the patient's insurance coverage directly. At the time, Defendant was covered under an employer-sponsored "Open Access" health plan, 6 Degrees Health. This plan is not an insurance company; it is a health insurance brokerage and a healthcare cost containment company that works with third-party administrators. This plan uses a Reference Based Pricing ("RBP") model. Under the RBP model, 6 Degrees Health does not contract with the local hospital. Instead, 6 Degrees

Health uses RBP to set its own reimbursement rate which is assessed based on Medicare costs. The hospital is under no obligation to accept these reimbursement rates as full satisfaction of the medical accounts. There is no contract or agreement between the local hospitals and health plans like 6 Degrees Health.

Directly following Hollewijn's medical visit, the hospital processed the bill through her provided "insurance", 6 Degrees Health. On March 21, 2022, over four months later, 6 Degrees Health issued the hospital a partial payment accompanied with a Summary of Benefits.[1] (Check and Summary of Benefits from 6 Degrees Health, attached as Appendix **Ex. E**). On this summary, 6 Degrees Health outlines the total charged amount, assigns a fraudulent provider discount,[2] and indicates patient responsibility and health plan payment amounts. With no contractual authority, 6 Degrees Health assigned its own $21,196.04 provider discount. A check was then sent to Bozeman Health in the amount of $10,494.13. The summary indicated that the patient was only responsible for $1,976.59.[3]

Bozeman Health never agreed to the statement totals indicated on the 6 Degrees Health summary. After receiving the check, a partial payment was applied to the Hollewijn's account. The remaining $23,127.63 was determined, by

[1] The Summary of Benefits appears to be very similar to an Explanation of Benefits that an insurance company would provide. However, this summary has no bearing on the hospital.

[2] This health plan does not have a contract with Bozeman Health. There is no authority for assigning this provider discount.

[3] This "patient responsibility" payment was never made to the hospital.

the hospital, to be patient responsibility in accordance with the Bozeman Health Conditions of Treatment form. (*See* **Ex. C**). On April 5, 2022, Bozeman Health issued its first billing statement directly to the Defendants. (Bozeman Health Billing Statement dated April 5, 2022, attached as Appendix **Ex. F**). Additionally, billing statements were sent to the Defendant on May 3, May 31, and June 28 of 2022. (Bozeman Health Billing Statements, attached as Appendix **Ex. G**).

On July 7, 2022, Bozeman Health received a dispute letter from Koehler Fitzgerald, an out-of-state law group that represents self-insured health plans and their members. This dispute was lodged approximately eight (8) months after services were rendered and over three (3) months after Bozeman Health issued its first full billing statement to Defendants. On July 29, 2022, this account was assigned to Centron for collections. From April 5 until July 7 of 2022, ninety-three (93) days elapsed without an objection from the Defendant.

Both Defendants were personally served with the Complaint on June 13, 2023. (*See* **Ex. B**). Defendants filed their Answer on July 3, 2023. (D.C. Doc. 5, 7/3/23 Answer to Complaint, attached as Appendix **Ex. H**). On February 12, 2025, Defendants filed their Motion for Leave to File Motion for Summary Judgment along with its motion and brief for summary judgment. (*See* D.C. Doc. 48). Plaintiff timely responded with its objection. (*See* D.C. Doc. 50).

In support of the motion, Defendants alleged that an account stated was never established because they timely objected to one of the bills from Bozeman Health. While Defendant's motion mentions the other two providers associated with the case, the facts within the motion only address one account from Bozeman Health. (*See* D.C. Doc. 48). In its response, Plaintiff asserted that Defendants failed to timely object to Bozeman Health's billing statement and an account stated was established. In granting the summary judgment, the district court agreed that Defendants timely objected and summarily dismissed the entire case.

STANDARD OF REVIEW

The grant or denial of a summary judgment is reviewed *de novo* using the same *Mont. R. Civ. P.* 56(c) criteria applied by the district court. *Lone Moose Meadows, LLC v. Boyne USA, Inc.*, 2017 MT 142, ¶ 7, 387 Mont. 507, 396 P.3d 128. This Court reviews a district court's findings of fact for clear error and conclusions of law for correctness. *Id.*at ¶ 17. Summary judgment is only appropriate where there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. *Mont. R. Civ. P.* 56(c).

It is important to note that this Court's "*de novo*" standard of review "for correctness" is not one of deference and affords no discretion to the district court's rationale or decision. *Planned Parenthood v. State*, 2015 MT 31, ¶ 25, 378 Mont. 151, 342 P.3d 684 ("review de novo [means] without deference to the trial court's

decision"); *Siebken v. Voderberg*, 2012 MT 291, ¶ 20, 367 Mont. 344, 291 P.3d 572 ("[a] *de novo* review affords no deference to the district court's decision and we independently review the record…"). Rather, it reviews the applicable law and determines whether the district court erred.

SUMMARY OF ARGUMENT

The district court's decision was in error and must be reversed. This lawsuit asserted five (5) separate accounts stated from three (3) separate providers. First, the Defendants' motion for summary judgment only addressed facts surrounding one of the five accounts and the entire matter was summarily dismissed. This was an error. Second, determination of whether the Defendants lodged a timely objection to the Bozeman Health billing statement is an issue of material fact, not a matter of law. This is a question for the jury and district court erred in making that determination.

ARGUMENT

I. THE DISTRICT COURT ERRED WHEN IT DISMISSED THE ENTIRE SUIT THROUGH SUMMARY JUDGMENT WHEN ONLY ONE OF THE FIVE ACCOUNTS WAS ADDRESSED IN THE DEFENDANT'S MOTION FOR SUMMARY JUDGMENT.

Summary judgment "should be rendered if the pleadings, the discovery and disclosure of materials on file, and any affidavits show that there is no genuine issue as to any material fact and that the movant is entitled to judgment as a matter of law." *Mont. R. Civ. P.* 56(c)(3). "The initial burden is on the moving party to

establish that no genuine issue of material fact exists." *Estate of Wilson v. Addison*, 2011 MT 179, ¶ 13, 361 Mont. 269, 258 P.3d 410 (2011). If the moving party meets its burden, "the burden then shifts to the non-moving party, who must set forth specific facts showing that there is a genuine issue for trial." *Id.*

"Summary judgment is not appropriate if any material issue of fact remains which would entitle the nonmoving party to recover." *Howard v. Conlin Furniture No. 2, Inc.* (1995), 272 Mont. 433, 436, 901 P.2d 116. "Summary judgment motions, however, clearly are not favored." *Jarvenpaa v. Glacier Elec. Coop.* (1995), 271 Mont. 477, 898 P.2d 690. "The procedure is never to be a substitute for trial if a factual controversy exists." *Id.* "If there is any doubt as to the propriety of a motion for summary judgment, it should be denied." *Id.*

Here, Defendants failed meet their initial burden of establishing no genuine issues of material facts exist regarding any of the accounts listed within the complaint. Defendants failed to even discuss the circumstances surrounding four of the five separate accounts. Without any details regarding the separate accounts, the district court erred when it summarily dismissed the entire suit. As argued below, the district court further erred when it granted summary judgment pertaining to the fifth account within the complaint.

II. THE DISTRICT COURT ERRED WHEN IT DETERMINED A QUESTION OF FACT ASSOCIATED WITH THE ESTABLISHMENT OF AN ACCOUNT STATED.

> The basic ingredient of an account stated is an agreement between the parties that the items of account and the balance struck are correct and an express or implied agreement for the payment of the balance. Implied agreement for the payment of the balance may be presumed where there is a course of dealing, an antecedent indebtedness, and retention of a statement of the account for an unreasonable length of time without objection.

Able, Inc. v. Kuzara (1990), 241 Mont. 155, 156-157, 785 P.2d 1021.

An express contract is one the terms of which are stated in words. *Mont. Code Ann.* § 28-2-103. An implied contract is one the existence and terms of which are manifested by conduct. *Id.* "Implied agreements arise not from consent of the parties but from the principles of natural justice and equity, based on the doctrine of unjust enrichment." *Brown v. Thornton* (1967), 150 Mont. 150, 432 P.2d 386.

In the present matter, there was an express and an implied agreement to pay the balance. In the summary judgment motion, Defendants admitted to receiving medical services from Bozeman Health. On November 4, 2021, Defendant, Alyson Hollewijn, signed Bozeman Health's Conditions of Treatment form, consenting to medical services and indicating that she assumed full responsibility for paying any medical bills not covered by her insurance. This signed document, in and of itself, demonstrates an express promise to pay for services. Defendant

knew, or should have known, that there was going to be a bill following this procedure and she expressly agreed to pay the remaining balance.

As this matter qualifies as an implied agreement, the trier of fact needs to determine whether there was: 1) a course of dealing; 2) an antecedent indebtedness; and 3) a retention of a statement of the account for an unreasonable length of time without objection. *Able*, 241 Mont. at 156-157. A jury trial was requested in this matter.

A "course of dealing" is a sequence of conduct concerning previous transactions between the parties to a particular transaction that is fairly to be regarded as establishing a common basis of understanding for interpreting their expression and other conduct. *Mont. Code Ann.* § 30-1-205(2). A course of dealing between the parties … or of which they are or should be aware is relevant in ascertaining the meaning of the parties' agreement. *Mont. Code Ann.* § 30-1-204 (4).

Whether insured or not, it is common knowledge that a patient will likely be required to pay a bill after receiving medical services (whether self-pay, co-pay, co-insurance, or a deductible, all of which is determined by the patient's insurance). Defendants received medical services and knew, or should have known, that the hospital would issue a bill that would need to be paid for any uncovered medical services. In fact, in this lawsuit, Defendant, Alyson Hollewijn,

had been to doctors' offices on four separate occasions prior to this bill and she should have understood the course of dealing. The jury could easily conclude that there was a course of dealing with an antecedent indebtedness.

This leads to the final issue of whether or not the Defendant failed to object in a reasonable amount of time. Failure to object to an account does not conclusively establish its character as an account stated, but merely raises a rebuttable presumption. *Holmes v. Potts* (1957), 132 Mont. 477, 493, 319 P.2d 232. An account stated is not established until the element of unreasonable time is either admitted or established by a preponderance of the evidence. *Id.* at 493-494. This is a matter to be determined by the jury under the proper standard of proof.

The hospital sent four (4) statements to the Defendant in a period of over three (3) months without objection. It is Plaintiff's contention that this is an unreasonable amount of time to ignore a bill; therefore, Defendant has acquiesced to the account rendered. A jury could reasonably conclude that ninety-three (93) days is an unreasonable amount of time to ignore a bill.

In granting summary judgment, the district court criticized the hospital for waiting five months before sending the first billing statement to the Defendants. However, the hospital was not dealing with an insurance company. It was processing the bill through a cost-containment company. It was anticipated that the Plaintiff's witnesses would have testified, at trial, about the complexities of

billing employer-based health plans, such as 6 Degrees Health. The testimony would have explained why this delay was necessary. That information was not before the judge prior to his decision. Furthermore, this decision was for the jury, not the judge.

In this case, there was a course of dealing, an antecedent indebtedness, and a retention of a statement of the account for an unreasonable amount of time without objection. The account listed within the Plaintiff's complaint could certainly qualify as an account stated. However, this is a matter for the jury to decide. Summary judgment was not appropriate for this matter.

CONCLUSION

As established by the above arguments and legal authorities, the district court erred in granting summary judgment. Accordingly, the appropriate remedy on appeal is for this Court to reverse the district court's decision in granting summary judgment. Plaintiff respectfully requests this relief from the Court.

Respectfully submitted this 19th day of September, 2025.

By: /s/ *Scott B. Owens*
Scott B. Owens

By: /s/ *Greg W. Duncan*
Greg W. Duncan

CERTIFICATE OF COMPLIANCE

Pursuant to Rule 11 of the Montana Rules of Appellate Procedure, I certify that this principal brief is printed with a proportionately spaced Times New Roman text typeface of 14 points; is double-spaced except for footnotes and for quoted and indented material; and the word count calculated by Microsoft Word for Windows is less than 10,000 words, excluding Table of Contents, Table of Authorities, Certificate of Service, Certificate of Compliance, and Appendices

/s/ *Scott B. Owens*
Scott B. Owens

APPENDIX

CERTIFICATE OF SERVICE

I, Scott B. Owens, hereby certify that I have served true and accurate copies of the foregoing Brief - Appellant's Opening to the following on 09-19-2025:

Gregory Wade Duncan (Attorney)
9 Fiddlersgreen
PO BOX 875
Clancy MT 59634
Representing: Centron Services, Inc., DBA Rocky Mountain Professional Solutions
Service Method: eService

Jean Elizabeth Faure (Attorney)
P.O. Box 2466
1314 Central Avenue
Great Falls MT 59403
Representing: Alyson C Hollewijn, Christopher Hollewijn
Service Method: eService

MICHAEL P GINTY
1111 SUPERIOR AVE E STE 1360
CLEVELAND OH 44114
Service Method: E-mail Delivery
E-mail Address: mginty@koehler.law

Electronically signed by Kathleen Glover on behalf of Scott B. Owens
Dated: 09-19-2025