

ORIGINAL

FILED

09/30/2025

Bowen Greenwood
CLERK OF THE SUPREME COURT
STATE OF MONTANA

Case Number: DA 25-0617

IN THE SUPREME COURT OF THE STATE OF MONTANA

DA 25-0617

FILED

SEP 30 2025

Bowen Greenwood
Clerk of Supreme Court
State of Montana

EDWARD BUTCHER and RANDY
PINOCCHI,

Plaintiffs and Appellants,

v.

ORDER

JOSH GOSNEY and INFINITY
WELLNESS,

Defendants and Appellees.

Appellees Josh Gosney and Infinity Wellness have moved to dismiss this appeal without prejudice on the grounds that it was prematurely filed since motions for attorney fees and costs remain pending in the District Court. In their motion, the Appellees indicate that Appellants Edward Butcher and Randy Pinocci oppose this motion; however, Butcher and Pinocci have not timely filed a response.

Pursuant to M. R. App. P. 4(5)(a)(iii), an appeal filed in this Court prior to the district court's ruling on any necessary determination of costs and attorney fees may be dismissed sua sponte and shall be dismissed upon the motion of any party. In the present case, neither party disputes that the outstanding determinations are necessary.

IT IS THEREFORE ORDERED that this appeal is DISMISSED WITHOUT PREJUDICE.

IT IS FURTHER ORDERED that this matter is REMANDED to the District Court.

The Clerk is directed to provide copies of this Order to all counsel of record.

Dated this 30th day of September, 2025.



_____ *John F. Doe*

_____ *James Jeremiah Green*

_____ *Kevin M. Lee*

_____ *Katherine M. Bidgway*

Justices