

IN THE SUPREME COURT OF THE STATE OF MONTANA

Supreme Court Cause No. DA 25-0288

NATALIE WEST,

Plaintiff/Appellant,

v.

INTERMOUNTAIN HEALTH,
ST. JAMES ADMINISTRATION,

Defendant/Appellee.

On Appeal from the Montana Second Judicial District Court,
Silver Bow County, Dept. II, Cause No. DV-25-55,
Hon. District Court Judge Robert J. Whelan, Presiding

**DEFENDANT/APPELLEE INTERMOUNTAIN HEALTH, ST. JAMES
ADMINISTRATION'S RESPONSE BRIEF**

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TABLE OF CONTENTS

TABLE OF AUTHORITIES.....	iii
STATEMENT OF ISSUES	1
STATEMENT OF THE CASE.....	1
STATEMENT OF FACTS	6
STANDARD OF REVIEW	7
ARGUMENT	10
I. The District Court’s Orders Granting St. James Hospital’s Motion to Dismiss Are Not Final Appealable Orders and Ms. West’s Appeal is Not Properly Before this Court.	10
II. If the Court Considers the District Court’s Grant of the Motion to Dismiss, the Court Should Affirm the District Court’s Dismissal of Ms. West’s Complaint for Lack of Subject Matter Jurisdiction.....	16
A. Ms. West’s District Court action was subject to the MMLP Act because it alleged medical malpractice against a healthcare provider.....	18
B. Ms. West failed to satisfy the conditions precedent to file a medical malpractice action against St. James Hospital, and her failure deprived the District Court of subject matter jurisdiction.	20
CONCLUSION	21
CERTIFICATE OF COMPLIANCE	23
CERTIFICATE OF SERVICE	24

TABLE OF AUTHORITIES

Cases

<i>Beaver Cnty. v. Qwest, Inc.</i> , 2001 UT 81, 31 P.3d 1147 (Utah 2001).....	14
<i>Brookins v. Mote</i> , 2012 MT 283, 367 Mont. 193, 292 P.3d 347	16
<i>Clark v. Norris</i> , 226 Mont. 43, 734 P.2d 182 (1987)	18
<i>Farmers Union Mut. Ins. Co. v. Bodell</i> , 2008 MT 363, 346 Mont. 414, 197 P.3d 913	14, 15
<i>Flowers v. Bd. of Pers. Appeals</i> , 2020 MT 150, 400 Mont. 238, 465 P.3d 210	20
<i>Gottlob v. DesRosier</i> , 2020 MT 210, 401 Mont. 50, 470 P.3d 188	7
<i>In re B.P.</i> , 2000 MT 39, 298 Mont. 287, 995 P.2d 982	7, 10
<i>In re Estate of Benjamin</i> , 2014 MT 241, 376 Mont. 300, 339 P.3d 1231	11, 13, 14
<i>In re Estate of Big Spring</i> , 2011 MT 109, 360 Mont. 370, 255 P.3d 121	7
<i>In re Estate of Cooney</i> , 2019 MT 293, 398 Mont. 166, 454 P.3d 1190	7
<i>In re Estate of Williams</i> , 2023 MT 72, 412 Mont. 58, 528 P.3d 1087	7
<i>Interstate Explorations, LLC v. Morgen Farm & Ranch, Inc.</i> , 2016 MT 20, 382 Mont. 136, 364 P.3d 1267.....	18
<i>Matter of Litigation Relating to Riot</i> , 283 Mont. 277, 939 P.2d 1013 (1997).....	7

Statutes

Mont. Code Ann. § 27-6-102	17
Mont. Code Ann. § 27-6-103	18, 19
Mont. Code Ann. § 27-6-301	17
Mont. Code Ann. § 27-6-701	17
Mont. Code Ann. § 50-5-101	19

Rules

Mont. R. App. P. 4.....	11
Mont. R. App. P. 6.....	11, 13
Mont. R. Civ. P. 41	13

STATEMENT OF ISSUES

1. Under Montana law, is the District Court's Order Granting Defendant/Appellee Intermountain Health, St. James Administration's Motion to Dismiss Plaintiff/Appellant Natalie West's Complaint for lack of subject matter jurisdiction and dismissing Ms. West's Complaint, properly before the Montana Supreme Court when it is an attempted appeal from an interlocutory order that is not a final judgment or order?

2. If the District Court's Order Granting Intermountain Health, St. James Administration's Motion to Dismiss and dismissing Ms. West's Complaint is properly before the Montana Supreme Court on appeal, did the District Court properly dismiss Ms. West's Complaint for lack of subject matter jurisdiction?

STATEMENT OF THE CASE

On February 10, 2025, Plaintiff/Appellant Natalie West (hereinafter "Ms. West") filed a Complaint in the Montana Second Judicial District Court against Defendant/Appellee Intermountain Health, St. James Administration¹, which was improperly styled and hereinafter referred to as St. James Healthcare dba Intermountain Health St. James Hospital ("St. James Hospital"). Dkt. 3,

¹ In her Brief on Appeal, Ms. West lists Dr. Carlos Albrecht, MD, Sheri Johnson, RN and Intermountain Health Pharmacy as additional "Respondents/Appellees." However, Dr. Albrecht, Nurse Johnson, and Intermountain Health Pharmacy are not parties in the underlying cause (District Court Cause No. DV-25-55) and so are not parties or Appellees in this appeal. Ms. West did bring suit against them in other causes, which she voluntarily dismissed or were dismissed by a different court and, similarly, those matters are not part of this appeal.

Complaint. In her Complaint, Ms. West makes allegations related to the medical care and treatment she received at St. James Hospital, last year, on July 15, 2024. *Id.* The Complaint undisputedly raised allegations of medical malpractice against St. James Hospital, which is a health care provider under Montana law. *Id.* Prior to filing the District Court Complaint at issue in her appeal, Ms. West failed to submit her medical malpractice claim against St. James Hospital to the Montana Medical Legal Panel (“MMLP”) as required by Montana law.

On March 4, 2025, St. James Hospital filed its Motion to Dismiss Ms. West’s Complaint for lack of subject matter jurisdiction, arguing that because Ms. West did not first submit her claim to the MMLP naming St. James Hospital, and because the MMLP had not considered such a claim or rendered a decision, the District Court lacked subject matter jurisdiction over Ms. West’s Complaint. Dkts. 5 and 6.

Pursuant to Rule 2(b) of the Montana Uniform District Court Rules and Rules 5 and 6 of the Montana Rules of Civil Procedure, Ms. West’s response to St. James Hospital’s Motion to Dismiss was due on or before March 21, 2025. Up to and including March 21, 2025, Ms. West did not request an extension to respond to St. James Hospital’s Motion to Dismiss, did not move the Court for an extension to respond, and did not advise that she was not able to respond by the deadline.

On March 25, 2025, after the deadline for Ms. West to file her response to

St. James Hospital's Motion to Dismiss had passed, St. James Hospital filed a Notice of Submission advising the District Court that the Motion to Dismiss was ripe for ruling. Dkt. 7. In its Order dated March 26, 2025, the District Court granted St. James Hospital's Motion to Dismiss and referenced Ms. West's failure to respond to the Motion to Dismiss. Dkt. 8.

In the interim, on March 24, 2025, which was after the deadline by which Ms. West was required to file her response, Ms. West hand-delivered to the Clerk of Court's office her Response Brief to St. James Hospital's Motion to Dismiss ("Response Brief"). Dkt. 6.01. Ms. West's untimely response, although stamped as filed with the District Court, was not listed in the District Court's electronic docket at the time St. James Hospital filed its March 25, 2025, Notice of Submittal. Given the contents of the exhibits to Ms. West's Response Brief included medical records, Ms. West also filed a Motion to Seal Records on that same day, March 24, 2025. Dkt. 6.03. Her Motion to Seal applied to Exhibits A-I of her Response Brief. *Id.*

On March 28, 2025, St. James Hospital submitted a Notice of Errata advising the District Court of the filing of Ms. West's untimely Response Brief on March 24, 2025, of which St. James Hospital had only become aware after filing the Notice of Submittal and after the District Court issued its March 26, 2025, Order Granting St. James Hospital's Motion to Dismiss. Dkt. 10.

On March 31, 2025, the District Court then granted Ms. West's Motion to Seal and issued the Order Sealing Ms. West's exhibits. Dkt. 11. The Order Sealing the exhibits was dated April 1, 2025. *Id.*

Given the Court's grant of Ms. West's Motion to Seal, St. James Hospital filed its Reply in Support of its Motion to Dismiss on April 7, 2025. Dkt. 14. On April 10, 2025, St. James Hospital then filed a Notice of Submittal advising the District Court that its Motion to Dismiss Ms. West's Complaint was fully briefed. As part of the Notice of Submittal, St. James Hospital listed all briefing, including Ms. West's untimely Response Brief, advised that neither party had requested oral argument, and advised that the motion was ripe for ruling by the District Court. Dkt. 15.

On April 10, 2025, the District Court issued its Order substantively granting St. James Hospital's Motion to Dismiss Ms. West's Complaint for lack of subject matter jurisdiction and dismissing Ms. West's Complaint. Dkt. 16. In the Order, the District Court specifically listed Ms. West's Response Brief and described the exhibits she submitted as part of the relevant filings. *Id.*, at 1-2. The Court's Order substantively addressed Ms. West's allegations and arguments, noting that Ms. West did "not address, or respond to, St. James Hospital's argument that she has not completed the mandatory conditions precedent under Montana law to bring a medical malpractice action against a health care provider such as St. James

Hospital, in this district court.” *See* Order, Dkt. 16, at 4.

The Order further includes a detailed analysis of how Ms. West failed to satisfy Montana law before filing her Complaint, and the District Court discussed the exhibits Ms. West submitted with her Response Brief. *See* Order, Dkt. 16, at 6-8. The Court discussed, in part:

Ms. West does not dispute, or even address in her Response, that she has not completed the conditions precedent with the MMLP before filing the instant action in this Court. None of the documents Ms. West submitted as exhibits to her Response establish that she satisfied the conditions precedent with regard to the MMLP before filing this district court complaint against St. James Hospital. ...

Ms. West’s failure to file an application for review of claim with the MMLP naming St. James Hospital as a “health care provider,” and her failure to complete the MMLP process as to St. James Hospital, including the MMLP consider her claims and issuing a decision, deprives this Court of subject matter jurisdiction over Ms. West’s complaint. Given this Court lacks subject matter jurisdiction over Ms. West’s complaint, under Montana law, the only remaining action this Court can take is to dismiss the complaint. *See Lurie* at 409, 948 P.2d at 1164.

See Order, Dkt. 16, at 7-8 (underline emphasis in original). The Court granted St. James Hospital’s Motion and dismissed Ms. West’s Complaint. *Id.*, at 8.

Ms. West’s Notice of Appeal filed on April 17, 2025, indicates that she is appealing “from the final judgement or order entered in such action on the 7th day of April 2025.” MTSC Dkt. 1. It is not clear what Order Ms. West refers to because the District Court did not enter any order on April 7, 2025. *See* DC Dkt.

Ms. West's Brief on Appeal argues only that the District Court should have considered her Response Brief to the Motion to Dismiss. MTSC Dkt. 9. Ms. West's Brief on Appeal does not acknowledge or address the District Court's grant of her Motion to Seal, consideration of her Response Brief and exhibits, or the Order granting the Motion to Dismiss, which addressed her Response Brief, arguments, and exhibits in its analysis. *See* Dkts. 11 & 16.

STATEMENT OF FACTS

This alleged medical malpractice action arises from the medical care and treatment Ms. West received at St. James Hospital on July 15, 2024. Dkt. 3, Complaint. St. James Hospital is a health care facility located in Butte, Montana, and through its health care providers, provides health services, medical treatment, and medical care to individuals such as Ms. West. Dkt. 6, at 5-6.

Ms. West's allegations in her Complaint generally relate to the administration of medications to her on July 15, 2024, and in relation to a planned procedure. Dkt. 3, Complaint, at ¶¶ 1-5. Ms. West alleges she was allergic to certain medications, that her "patient rights" were violated, and that she suffered emotional distress and pain and suffering as a result. *Id.*, at 2. Accordingly, Ms. West's allegations and claims against St. James Hospital relate to the medical care and treatment she received at St. James Hospital on July 15, 2024.

STANDARD OF REVIEW

“Whether a court has subject matter jurisdiction is a question of law that we review for correctness.” *In re Estate of Williams*, 2023 MT 72, ¶ 15, 412 Mont. 58, 528 P.3d 1087 (quoting *In re Estate of Cooney*, 2019 MT 293, ¶ 4, 398 Mont. 166, 454 P.3d 1190). “Subject matter jurisdiction is the threshold authority of a court to consider and adjudicate particular types or classes of cases, controversies, or proceedings regardless of the procedural or substantive sufficiency of particular claims.” *Gottlob v. DesRosier*, 2020 MT 210, ¶ 7, 401 Mont. 50, 470 P.3d 188. “[O]nce a court determines that it lacks subject matter jurisdiction, it must dismiss the action.” *In re Estate of Big Spring*, 2011 MT 109, ¶ 23, 360 Mont. 370, 255 P.3d 121.

An appeal from a non-final and non-appealable order interlocutory order that is *not* specified as an appealable interlocutory order is not properly before the Court, is “premature,” and “must be dismissed for lack of jurisdiction to entertain it.” *In re B.P.*, 2000 MT 39, ¶ 16, 298 Mont. 287, 995 P.2d 982 (citing *Matter of Litigation Relating to Riot*, 283 Mont. 277, 281, 939 P.2d 1013, 1016 (1997)).

SUMMARY OF ARGUMENT

Ms. West’s appeal fails as a matter of law and should be dismissed for multiple reasons. While it is not clear what District Court Order Ms. West intends to appeal, Ms. West’s appeal should be dismissed because it is a premature and

improper appeal of an interlocutory order. Under this Court's precedent, the Montana Supreme Court lacks jurisdiction to consider Ms. West's appeal. The District Court's Orders dismissing Ms. West's Complaint are not final adjudications on the merits and, thus are not appealable. Ms. West also did not seek or obtain certification of any order under Montana Rule of Appellate Procedure 6(6). Because the District Court's Orders are not final appealable orders, this presents an absolute bar to Ms. West's appeal and under this Court's precedent, it lacks jurisdiction to entertain her premature appeal.

Although the District Court's Orders granting St. James' Motion to Dismiss do not specify whether the dismissal was with or without prejudice, an order granting a motion to dismiss for lack of subject matter jurisdiction, and which dismisses a claim without an adjudication on the merits, is a dismissal without prejudice, which is not a final or immediately appealable order. Whether a court has subject matter jurisdiction is a preliminary question, which a court must determine before adjudicating the merits of a claim. The District Court's Orders dismissing Ms. West's Complaint for lack of subject matter jurisdiction are interlocutory orders because they did not adjudicate the merits of a claim. Preliminary questions and dismissals without prejudice are non-final orders and are not appealable.

On appeal, Ms. West does not contend or establish that the District Court's

Orders are a final adjudication on the merits. Nor does she establish that the dismissal Orders are final appealable orders. Instead, Ms. West incorrectly argues that the District Court erred because it did not consider her untimely Response Brief to St. James Hospital's Motion to Dismiss. MTSC Dkt. 9, at 6-7. This argument should be rejected. Ms. West's Response Brief to St. James Hospital's Motion to Dismiss was undisputedly untimely. The District Court has the authority to control trial administration and case deadlines, to include the deadline for Ms. West respond to St. James Hospital's Motion to Dismiss which is set by rule. Ms. West did not seek an extension of the response deadline and her Response Brief was untimely. Further, Ms. West's arguments ignore that the District Court granted her Motion to Seal, and then in its Order Granting St. James Hospital's Motion to Dismiss Plaintiff's Complaint for Lack of Subject Matter Jurisdiction, the District Court considered her Response Brief to St. James Hospital's Motion to Dismiss, the exhibits to her Response Brief, and her arguments raised therein. Dkt. 16, at 1-2 & 6-8.

Second, the District Court properly dismissed Ms. West's medical malpractice claims for lack of subject matter jurisdiction based on her failure to complete the necessary and requisite conditions precedent before filing her medical malpractice action against St. James Hospital in District Court. The District Court correctly determined it lacked subject matter jurisdiction to adjudicate the merits of

Ms. West's medical malpractice claim.

Ms. West undisputedly did not submit a claim to the MMLP naming St. James Hospital as a health care provider before filing District Court action against St. James Hospital. Completion of the MMLP process is a condition precedent before a plaintiff may file a medical malpractice claim in district court. At the time of filing her Complaint with the District Court, Ms. West had not submitted a claim or an Application for Review to the MMLP naming St. James Hospital. She had not completed the MMLP process with respect to St. James Hospital before to filing her District Court Complaint. She accordingly did not complete the necessary conditions precedent to bring a medical malpractice action against St. James Hospital, and the action was properly dismissed by the District Court for lack of subject matter jurisdiction.

ARGUMENT

I. The District Court's Orders Granting St. James Hospital's Motion to Dismiss Are Not Final Appealable Orders and Ms. West's Appeal is Not Properly Before this Court.

The District Court's Orders dismissing Ms. West's Complaint for lack of subject matter jurisdiction are not a final judgment or final order and therefore are not appealable. An appeal from an interlocutory order, such as this, is "premature" and "must be dismissed for lack of jurisdiction to entertain it." *See In re B.P.*, ¶ 16. The District Court's Orders dismissed Ms. West's Complaint without prejudice. A

dismissal without prejudice for lack of subject matter jurisdiction is not immediately appealable. *In re Estate of Benjamin*, 2014 MT 241, ¶ 13, 376 Mont. 300, 339 P.3d 1231. The District Court’s Orders are not final adjudication on the merits and they did not determine the parties’ rights or address the merits of the claims. They are, instead, interlocutory orders and are not among the types of immediately appealable orders outlined in Montana Rule of Appellate Procedure 6. Given the Orders are not final adjudications on the merits and are not immediately appealable, Ms. West’s appeal is premature. The District Court orders are not properly before this Court, and Ms. West’s appeal should be dismissed.

Montana Rule of Appellate Procedure Rule 6 outlines the scope of this Court’s review on appeal. Rule 6 expressly provides that a “party may appeal from a final judgment in an action or special proceeding and from those final orders specified in sections (2), (3), and (4) of this rule.” Mont. R. App. P. 6(1) (underline emphasis added). A “final judgment conclusively determines the rights of the parties and settles all claims in controversy in an action or proceeding, including any necessary determination of the amount of costs and attorney’s fees awarded or sanction imposed.” Mont. R. App. P. 4(1)(a). In contrast, an interlocutory judgment or order “determines a preliminary or subordinate question or issue” but it “does not finally decide the cause.” Mont. R. App. P. 4(1)(b).

Montana Rule of Appellate Procedure Rule 6(3) governs the types of orders

that are appealable “in civil cases.” Rule 6(3) limits the orders from which an “aggrieved party may appeal” in a civil action to the following:

- (a) From an order made after final judgment, including an order vacating or refusing to vacate a default judgment, and an order granting or denying a motion for new trial or to alter or amend a judgment;
- (b) From a “deemed denied” motion that was made pursuant to M. R. Civ. P. 50(b), 52(b), 59, or 60(b);
- (c) From an order denying a motion to dismiss for lack of subject matter jurisdiction;
- (d) From an order permitting or refusing to permit an action to be maintained as a class action, or an order finally and definitively rejecting a proposed class action settlement;
- (e) From an order granting or dissolving, or refusing to grant or dissolve, an injunction or an attachment;
- (f) From an order granting or denying a motion to change venue on the basis that the county designated in the complaint is not the proper county;
- (g) From an order appointing or refusing to appoint a receiver, or giving directions with respect to a receivership, or refusing to vacate an order appointing or affecting a receiver;
- (h) From an order directing the delivery, transfer, or surrender of property;
- (i) From an order in a partition action directing or refusing to direct a partition to be made;
- (j) From a contempt judgment or order in a family law proceeding when, and only when, the judgment or order appealed from

includes an ancillary order entered as a result of the contemptuous conduct which affects the substantial rights of the parties involved; and

- (k) From an order granting or denying a motion for substitution of judge.

See Mont. R. App. P. 6(3) (underline emphasis added). Although the denial of a motion to dismiss for lack of subject matter jurisdiction is immediately appealable pursuant to Rule 6(3), an order granting a motion to dismiss for lack of subject matter jurisdiction without prejudice is not appealable. *See* Mont. R. App. P. 6(3); *see In re Estate of Benjamin*, ¶ 13. Here, Ms. West seeks to appeal the dismissal of action without prejudice. The District Court's Orders dismissing the action did not address or determine the rights of the parties' or the merits of the action.

Accordingly, the Orders are not appealable under Montana law or the Montana Rules of Appellate Procedure. Thus, Ms. West's appeal is premature and is properly dismissed.

Under Montana law, "any dismissal . . . except one for lack of jurisdiction . . . operates as an adjudication on the merits." *See* Mont. R. Civ. P. 41(b) (underline emphasis added). This Court holds that a dismissal for lack of subject matter jurisdiction is not an adjudication on the merits because, when the district court lacks subject matter jurisdiction, it is "powerless to adjudicate the merits." *See In re Estate of Benjamin*, ¶ 13. Accordingly, a dismissal that is not based on the merits is generally considered to be a dismissal without prejudice. *Id.* (holding that

the district court's dismissal with prejudice for lack of subject matter jurisdiction was improper). This Court has determined that the "dismissal of a claim 'with prejudice' for lack of subject matter jurisdiction is improper because a dismissal for lack of subject matter jurisdiction does not go to the merits of the case." *Id.*, ¶ 12 (quoting *Beaver Cnty. v. Qwest, Inc.*, 2001 UT 81, 31 P.3d 1147, 1152 (Utah 2001)).

An order dismissing an action without prejudice is interlocutory and therefore not appealable absent special circumstances, such as a statute of limitations issue. *Farmers Union Mut. Ins. Co. v. Bodell*, 2008 MT 363, ¶ 13, 346 Mont. 414, 197 P.3d 913. In *Bodell*, this Court reasoned that an order that does not determine the rights of the parties or merits of the litigation, that does not prevent the plaintiff from litigating the issue in Montana state courts, and that does not prevent refiling of the action, is interlocutory and, therefore, not appealable. *Id.* The same reasoning applies here.

In granting St. James Hospital's Motion to Dismiss and dismissing Ms. West's Complaint for lack of subject matter jurisdiction, the District Court did not issue a final judgment conclusively determining the rights of the parties or dismiss Ms. West's matter with prejudice. The District Court's Order did not settle all the parties' claims in controversy. The District Court did not adjudicate the merits of Ms. West's claim, and in fact, there is no language in the District Court's Order

addressing the merits of the Ms. West's medical malpractice claim at all. The District Court's Order granting St. James Hospital's Motion to Dismiss rests squarely on the lack of subject matter jurisdiction and Ms. West's failure to satisfy the necessary conditions precedent before filing her complaint in district court against St. James Hospital.

This Court has considered special circumstances that may give rise to an interlocutory appeal. These "special circumstances" can include:

The running of a statute of limitations, language in the order of dismissal indicating that the complainant will not be permitted to re-plead, or where the practical effect of the order of dismissal terminates the litigation in the complainant's chosen forum.

See Bodell, at ¶ 18.

The District Court's Order does not include any of the special circumstances outlined in the *Bodell* case. The Court's Order is not an adjudication on the merits. It is not a dismissal with prejudice. The Order does not determine the rights of the parties or the merits of the litigation. It does not include any language preventing Ms. West from litigating the merits of her claims in Montana state courts. It does not prevent Ms. West from refiling. There are no special circumstances that justify allowing Ms. West to proceed with her appeal of an interlocutory and non-final order.

Although Ms. West makes the unsupported argument on appeal that the

District Court erred because she claims the District Court did not consider her untimely Response Brief, this argument fails for multiple reasons. First, Ms. West's Response Brief to St. James Hospital's Motion to Dismiss was untimely. Critically, Ms. West does not dispute that her Response Brief was untimely but instead argues the District Court should have considered it anyway. In Montana, the District Court has the inherent authority and power to control trial administration and case deadlines. *See Brookins v. Mote*, 2012 MT 283, ¶ 21, 367 Mont. 193, 292 P.3d 347. This would include whether to consider Ms. West's untimely Response Brief. Ms. West did not seek an extension to submit her Response Brief, and it was undisputedly untimely. However, the District Court did actually consider Ms. West's untimely Response Brief, the exhibits she submitted, and the arguments she made in her Response Brief. Dkt. 16, at 1-2, & 6-8.

Ms. West's appeal, which seeks to appeal from an interlocutory and non-appealable order, is properly denied under Montana law.

II. If the Court Considers the District Court's Grant of the Motion to Dismiss, the Court Should Affirm the District Court's Dismissal of Ms. West's Complaint for Lack of Subject Matter Jurisdiction.

The District Court undisputedly lacked subject matter jurisdiction to consider and adjudicate the merits of Ms. West's Complaint. The District Court, therefore, properly dismissed Ms. West's Complaint for lack of subject matter jurisdiction, and this Court should affirm that dismissal.

Critically, before the District Court and on appeal, Ms. West does not dispute that her claims against St. James Hospital are subject to the MMLP Act, or that she failed to satisfy the statutorily required conditions precedent to file her Complaint against St. James Hospital in district court.

The purpose of the MMLP Act is:

[T]o prevent where possible the filing in court of actions against health care providers and their employees for professional liability in situations where the facts do not permit at least a reasonable inference of malpractice and to make possible the fair and equitable disposition of such claims against health care providers as are or reasonably may be well founded.

Mont. Code Ann. § 27-6-102 (underline emphasis added).

Pursuant to Mont. Code Ann. § 27-6-301, the plaintiff in an action alleging medical malpractice against a health care provider “shall submit a case for the consideration of the panel prior to filing a complaint in any district court or other court sitting in Montana[.]” Mont. Code Ann. § 27-6-301 (underline emphasis added). In fact, “[n]o malpractice claim may be filed in any court against a health care provider before an application is made to the panel and its decision is rendered.” Mont. Code Ann. § 27-6-701 (underline emphasis added).

The conditions precedent to bringing a medical malpractice claim against a health care provider in district court are clear: the plaintiff must first submit the claim to the MMLP for consideration and must also complete the MMLP process

until the MMLP panel has rendered a decision. *See Clark v. Norris*, 226 Mont. 43, 50, 734 P.2d 182, 186 (1987) (“Proceedings before the panel therefore are a condition precedent to and an integral part of the litigation process”). Further, “to determine whether or not [a party] must exhaust administrative remedies, we look first to the statutory language, and where that is unclear, to legislative intent.

Interstate Explorations, LLC v. Morgen Farm & Ranch, Inc., 2016 MT 20, ¶ 10, 382 Mont. 136, 364 P.3d 1267. In Montana, the statutory language is clear here.

A. Ms. West’s District Court action was subject to the MMLP Act because it alleged medical malpractice against a healthcare provider.

The District Court correctly determined that St. James Hospital is a health care provider under Montana law and that Ms. West asserted medical malpractice claims against St. James Hospital, such that her claims are subject to the MMLP Act. Dkt. 16, at pg. 3-5. Ms. West did not dispute this before the District Court and does not do so now on appeal. The District Court correctly determined Ms. West’s medical malpractice action against St. James Hospital was governed by the MMLP Act and subject to the mandatory conditions precedent before proceeding in district court. Dkt. 16, at pg. 5.

Pursuant to Mont. Code Ann. § 27-6-103(5) the MMLP Act defines a “medical malpractice claim” as:

a claim or potential claim of a complaint against a health care provider for medical or dental treatment, lack of medical or dental treatment, or

other alleged departure from accepted standards of health care that proximately results in damage to the claimant...

Id.

The District Court correctly determined that Ms. West's allegations against St. James Hospital related to the medical care and treatment she received at St. James Hospital. Dkt. 16, at pg. 3-5. Her claims against St. James Hospital fall squarely within the definition of a "medical malpractice claim." Dkt. 3. Her claims are focused on the administration of medications to her during her treatment at St. James Hospital. *Id.* Ms. West at no time has disputed that her claims and allegations meet the definition of alleged "malpractice" under the MMLP Act.

The District Court likewise correctly determined that St. James Hospital is a "health care provider" as defined by the MMLP Act. The MMLP Act defines a "health care provider" to include a "health care facility." Mont. Code Ann. § 27-6-103(3). A "health care facility," in turn, is "all or a portion of an institution, building, or agency . . . that is used, operated, or designed to provide health services, medical treatment, or nursing, rehabilitative, or preventative care to any individual." Mont. Code Ann. § 50-5-101(20)(a). St. James Hospital is used to provide health services and medical treatment to individuals, such as Ms. West. The District Court accordingly also correctly determined that St. James Hospital met the definition of a "health care provider" and more specifically a "health care facility." Dkt. 16, at 5-6. Ms. West did not dispute these points before the District

Court and she does not dispute them now on appeal.

B. Ms. West failed to satisfy the conditions precedent to file a medical malpractice action against St. James Hospital, and her failure deprived the District Court of subject matter jurisdiction.

The District Court noted that it was undisputed by Ms. West that she did not submit an Application for Review to the MMLP naming St. James Hospital as a healthcare provider prior to filing her District Court action. Dkt. 16, at pg. 7. The District Court accordingly correctly determined it lacked subject matter jurisdiction to consider her claims against St. James Hospital.

The District Court went on to reason that even if Ms. West had named St. James Hospital as a health care provider in her claim to the MMLP, which she did not, this too was insufficient to satisfy the conditions precedent to bringing the district court action because the MMLP did not render a decision as to St. James Hospital prior to Ms. West filing with the District Court. Dkt. 16, at pg. 7-8.

Ms. West undisputedly did not complete the conditions precedent as to St. James Hospital prior to filing her district court action. Her failure to complete these necessary administrative procedures before filing in district court deprived the District Court of subject matter jurisdiction to consider her claims. *See Flowers v. Bd. of Pers. Appeals*, 2020 MT 150, ¶¶ 6, 17, 400 Mont. 238, 465 P.3d 210. Accordingly, the District Court correctly dismissed Ms. West's Complaint for lack of subject matter jurisdiction. If this Court considers the District Court's

dismissal of Ms. West's action, the Court should affirm the District Court's Order granting St. James Hospital's Motion to Dismiss and dismissal of Ms. West's Complaint.

CONCLUSION

Based on the foregoing, this Court should dismiss Ms. West's premature appeal for lack of jurisdiction to consider it. The District Court Orders dismissing Ms. West's Complaint were interlocutory and not immediately appealable. The District Court did not render a final adjudication on the merits or determine the rights of the parties. Ms. West did not seek or receive certification of any order as final for purposes of appeal. The District Court's dismissal of Ms. West's Complaint for lack of subject matter jurisdiction was without prejudice and, accordingly, was not a final appealable decision. Montana does not allow interlocutory appeals of dismissals without prejudice absent special circumstances. There are no special circumstances justifying consideration of Ms. West's appeal, and her premature and improper appeal is properly dismissed.

Alternatively, if the Court considers Ms. West's appeal, the Supreme Court should affirm the District Court's Order granting St. James Hospital's Motion to Dismiss and dismissing Ms. West's Complaint. Ms. West undisputedly did not satisfy the conditions precedent to filing an action for medical malpractice against St. James Hospital in any court. Thus, the District Court lacked subject matter

jurisdiction over Ms. West's Complaint and properly dismissed it.

DATED this the 6th day of October, 2025.

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CERTIFICATE OF COMPLIANCE

Pursuant to Rule 11 of the Montana Rules of Appellate Procedure, I certify that this brief is printed with a proportionately spaced Times New Roman text typeface of 14 points; is double spaced; and the word count calculated by Microsoft Word is 5,209 words, excluding Table of Contents, Table of Authorities, Certificate of Compliance and Certificate of Service.

Dated this the 6th day of October, 2025.

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The undersigned hereby certifies that the foregoing was served upon the following by the means designated below, this the 6th day of October, 2025.

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CERTIFICATE OF SERVICE

I, Kristen Zadick Meredith, hereby certify that I have served true and accurate copies of the foregoing Brief - Appellee's Response to the following on 10-06-2025:

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