

**IN THE SUPREME COURT OF THE STATE OF MONTANA  
OP 25-0757**

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PROS, INC.,

Petitioner,

v.

MONTANA ELEVENTH JUDICIAL DISTRICT COURT,  
FLATHEAD COUNTY, HONORABLE PAUL SULLIVAN, Presiding.

Respondent.

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**PLAINTIFF'S RESPONSE TO  
PETITION FOR WRIT OF SUPERVISORY CONTROL**

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## **INTRODUCTION**

The district court correctly applied Montana's personal jurisdiction test, finding that PROS purposefully availed itself of Montana by knowingly hiring and maintaining a long-term employment relationship with Plaintiff, paying Montana payroll taxes, and benefiting from Plaintiff's Montana-based work. The district court properly distinguished precedent including the U.S. Supreme Court's decision in *Ford Motor Co. v. Montana Eighth Judicial District Court*, and rejected PROS' reliance on *Isakson*, which is factually distinguishable. Exercising jurisdiction over PROS comports with constitutional due process and Montana's long-arm statute, ensures Montana's legitimate interest in protecting its resident employees, and preserves judicial economy.

## **BACKGROUND**

Plaintiff is a resident of Flathead County. Plaintiff's family relocated to Montana in 2018, and Plaintiff permanently moved to Montana in August 2019. On August 1, 2019 Defendant offered Plaintiff a position with the understanding that Plaintiff's employment services would be performed from Flathead County. Defendant agreed to this arrangement at the outset. Throughout his tenure, Plaintiff worked exclusively from Montana, performing executive-level duties including managing major airline and enterprise accounts, leading renewal strategies, and overseeing substantial corporate revenue.

PROS actively facilitated Plaintiff's Montana-based employment by paying Montana state payroll and unemployment taxes and supporting his travel from Montana, incurring significant expenses. Plaintiff received multiple promotions with all promotions based on his performance while working from Montana.

Plaintiff alleges that PROS' termination of his employment on July 15, 2024 was not for good cause, causing economic harm in Montana. The district court denied PROS' motion to dismiss for lack of personal jurisdiction. The Court distinguished this case from *Isakson v. Roberts Markel Weinberg Butler Hailey PC*, 2024 U.S. Dist. LEXIS 64860 (D. Mont. 2024), where jurisdiction was denied because the employee unilaterally relocated to Montana mid-employment. The district court found *Ford Motor Co. v. Montana Eighth Judicial District Court*, 592 U.S. 351 (2021) more applicable, emphasizing the close relationship among PROS, Montana, and the litigation. The court concluded that exercising jurisdiction comports with due process and is consistent with Montana's long-arm statute, and granted Plaintiff leave to file a Second Amended Complaint.

### **SUMMARY**

This Court should deny PROS' petition for three key reasons. First, supervisory control is an extraordinary remedy that is inappropriate here. The district court's ruling was well-reasoned and based on established precedent regarding personal jurisdiction.

Second, the district court correctly found that specific jurisdiction exists under Montana's long-arm statute. PROS transacted business in Montana by knowingly hiring Plaintiff to work from Montana, paying taxes, and supporting his Montana-based work for nearly five years. Additionally, Plaintiff's wrongful discharge claim accrued in Montana, where he performed all his work and where he experienced harm from his termination.

Third, exercising jurisdiction over PROS comports with due process. PROS purposefully availed itself of the privilege of conducting activities in Montana through a deliberate formation and maintenance of an employment relationship centered in Montana. Exercising jurisdiction is reasonable given Montana's strong interest in protecting its residents from wrongful discharge.

## **ARGUMENT**

### **ISSUE 1: PROS' PETITION SHOULD BE DENIED.**

#### **A. Legal Standard.**

The Montana Supreme Court's authority to exercise supervisory control over other courts, while broad, is exercised only in extraordinary circumstances. *Stokes v. Mont. Thirteenth Judicial Dist. Court*, 2011 MT 182, ¶ 5, 361 Mont. 279, 281, 259 P.3d 754, 756. Rule 14(3) establishes the specific requirements that must be met before the Court will grant a writ of supervisory control: (1) urgency or emergency factors exist making the normal appeal process inadequate; (2) the case

involves purely legal questions; and (3) one of three additional criteria is met: (a) the other court is proceeding under a mistake of law causing a gross injustice; (b) constitutional issues of state-wide importance are involved; or (c) the other court has granted or denied a motion for substitution of a judge in a criminal case. *Ramsey v. Yellowstone Cty. Just. Court*, 2024 MT 116, ¶ 8, 416 Mont. 472, 477, 549 P.3d 458, 462. Supervisory control is available “only in the most extenuating circumstances” and “is not to be used as a means to circumvent the appeal process.” *Volkswagen Aktiengesellschaft v. Mont. First JDC*, 401 Mont. 556, ¶ 6, 472 P.3d 1151 (2020). This Court refrains from exercising supervisory control when the petitioner has an adequate remedy of appeal. *Ramsey*, 2024 MT 116, 416 Mont. 472, 549 P.3d 458.

**B. PROS' Petition Fails to Meet the Requirements for Supervisory Control.**

**1. The District Court's Ruling Does Not Constitute a Mistake of Law Causing a Gross Injustice.**

The denial of PROS' motion to dismiss was not a mistake of law causing a gross injustice to warrant supervisory control. *Park v. Mont. Sixth Judicial Dist. Court*, 1998 MT 164, ¶ 13, 289 Mont. 367, 961 P.2d 1267, 1270. A court may exercise specific personal jurisdiction over a nonresident defendant when the plaintiff's cause of action arises from the circumstances set forth in Montana's long-arm statute, M. R. Civ. P. 4(b)(1). A Montana court may "exert long-arm

jurisdiction over any person if the claim arises out of that person's transaction of business within the state." *Buckles v. Cont'l Res., Inc.*, 2020 MT 107, ¶ 14, 400 Mont. 18, 25, 462 P.3d 223, 229.

The district court's finding aligns with the established three-part test for determining whether exercising personal jurisdiction comports with due process: "(1) the nonresident defendant purposefully availed itself of the privilege of conducting activities in Montana, thereby invoking Montana's laws; (2) the plaintiff's claim arises out of or relates to the defendant's forum-related activities; and (3) the exercise of personal jurisdiction is reasonable." *Groo v. State Eleventh Judicial Dist. Court*, 2023 MT 193, ¶ 42, 413 Mont. 415, 428, 537 P.3d 111, 121.

## **2. There are No Constitutional Issues of State-Wide Importance.**

While personal jurisdiction involves constitutional considerations, PROS' petition does not present novel constitutional issues of state-wide importance to warrant control. The district court's Order represents a straightforward application of the "minimum contacts" standard articulated in *International Shoe* and its progeny, which requires that a defendant have "certain minimum contacts such that the maintenance of the suit does not offend 'traditional notions of fair play and substantial justice.'" *Creative Games Studio LLC v. Alves*, 2024 MT 100, ¶ 6, 416 Mont. 381, 384, 548 P.3d 408, 412.

### **3. The Normal Appeal Process is Adequate.**

PROS has failed to demonstrate that the normal appeal process would be inadequate to address its jurisdictional challenge. "[C]onserving resources, without more, is insufficient grounds to justify supervisory control where a party can seek review of the lower court's ruling on appeal and there is no evidence that relief on appeal would be inadequate." *Volkswagen*, 401 Mont. at ¶ 7. Moreover, PROS has not identified any urgent or emergency factors that would make the normal appeal process inadequate, as required by Rule 14(3). *A.J.B. v. Mont. Eighteenth Judicial Dist. Court*, 2023 MT 7, ¶ 8, 411 Mont. 201, 205, 523 P.3d 519, 522. The mere fact that PROS may have to litigate the case in Montana before an opportunity to appeal a jurisdictional ruling does not constitute the kind of extraordinary circumstance to justify supervisory control.

### **4. Distinction from Cases Where Supervisory Control Was Exercised.**

This case is distinguishable from instances where this Court has exercised supervisory control. The Court has found supervisory control appropriate in cases involving "purely legal questions" where "judicial economy and inevitable procedural entanglements" justified intervention. *Stokes*, 2011 MT 182, ¶ 5. In *Stokes* the Court exercised supervisory control to address a question of first impression regarding statutory construction that would govern whether the trial

proceeded on one or both of the plaintiff's legal theories. *Id.*, 2011 MT 182, ¶ 7, 361 Mont. 279, 282, 259 P.3d 754, 757.

In contrast, PROS' petition involves the application of well-established personal jurisdiction principles to the specific facts of this case. The district court's determination here does not present the kind of novel legal question or procedural entanglement that would warrant supervisory control.

#### **5. The District Court's Ruling Was Well-Reasoned and Based on Established Precedent.**

Specific jurisdiction exists "when the suit itself 'arises from the specific circumstances set forth in Montana's long-arm statute, M. R. Civ. P. 4(b)(1).'" *DeLeon v. BNSF Ry. Co.*, 2018 MT 219, ¶ 9, 392 Mont. 446, 449, 426 P.3d 1, 5. The exercise of specific personal jurisdiction "depends on whether the defendant's 'suit-related conduct' created a substantial connection with" Montana. *Id.* The district court correctly found that PROS created a substantial connection with Montana by knowingly hiring Plaintiff to work from Montana, facilitating this arrangement for years, and benefiting from it; all of which is consistent with the principle that "a Montana court has specific personal jurisdiction over a defendant only when both the defendant and the underlying controversy are appropriately affiliated with Montana." *Id.*

Further, the ruling aligns with the established principle that a court may exercise specific jurisdiction over a nonresident defendant when "jurisdiction

comports with M. R. Civ. P. 4(b)(1)(A) if the nonresident business conducts 'substantial' business activity in the state" from which the claim arises. *Buckles*, 2020 MT 107, ¶ 14, 400 Mont. 18, 25, 462 P.3d 223, 229. By knowingly employing Vatti in Montana for years, PROS engaged in substantial business activity in the state from which Plaintiff's wrongful discharge claim arises.

**ISSUE 2: THE DISTRICT COURT CORRECTLY FOUND SPECIFIC JURISDICTION UNDER MONTANA'S LONG-ARM STATUTE.**

Montana courts apply a two-part analysis to determine whether personal jurisdiction exists over a nonresident. First, the court determines whether personal jurisdiction exists pursuant to Montana's long-arm statute, M. R. Civ. P. 4(b)(1). Second, if jurisdiction exists under the long-arm statute, the court determines whether exercising personal jurisdiction comports with traditional notions of fair play and substantial justice embodied in the Due Process Clause of the Fourteenth Amendment. *Buckles*, 2020 MT 107, ¶ 12.

Montana's long-arm statute provides that "any person is subject to the jurisdiction of Montana courts as to any claim for relief arising from the doing personally, or through an employee or agent, of any of the following acts: (A) the transaction of any business within Montana; (B) the commission of any act resulting in accrual within Montana of a tort action." *Id.*, 2020 MT 107, ¶ 13.

**A. PROS Transacted Business in Montana under Rule 4(b)(1)(A).**

## **1. PROS' Substantial Montana-Related Activities.**

A Montana court may "exert long-arm jurisdiction over any person if the claim arises out of that person's transaction of business within the state." *Buckles*, 2020 MT 107, ¶ 14. "Jurisdiction comports with M. R. Civ. P. 4(b)(1)(A) if the nonresident business conducts 'substantial' business activity in the state" from which the claim arises. *Id.*

Jurisdiction under Rule 4(b)(1)(A) requires examining "the nature and extent of the nonresident defendant's contact with the state." *Grizzly Sec. Armored Express, Inc. v. Armored Grp., LLC*, 2011 MT 128, ¶ 23, 360 Mont. 517, 521, 255 P.3d 143, 147. Here, PROS' contacts with Montana were substantial, intentional, and ongoing for nearly five years. PROS knowingly hired Vatti, a Montana resident, to work from Montana, paid Montana payroll and unemployment taxes, supported Montana-based travel with significant expenditures, and benefitted from Vatti's Montana-based work for nearly five years. Thus, PROS purposefully directed its business activities toward Montana. PROS did not merely enter into a contract with a Montana resident; rather, it established and maintained a continuous business relationship within Montana through its employment of Vatti.

## **2. Distinguishing from Cases with Insufficient Contacts.**

This case is distinguishable from situations where courts have found insufficient contacts for jurisdiction. For example, this Court noted that "a non-

resident does not subject himself to Montana jurisdiction by merely entering into a contract with a resident" and that "interstate communication is an almost inevitable accompaniment to doing business in the modern world, and cannot by itself be considered a 'contact' for justifying the exercise of personal jurisdiction." *Cimmaron Corp. v. Smith*, 2003 MT 73, ¶ 14, 315 Mont. 1, 5, 67 P.3d 258, 261.

PROS' activities in Montana went far beyond merely entering into a contract or engaging in interstate communications. The dispositive question for specific personal jurisdiction is "whether a relationship exists 'among [] [the defendant], the forum, and the litigation,' not just with [the defendant's] contacts with Montana in general." *Buckles*, 2020 MT 107, ¶ 14. Here, there is a clear relationship among PROS, Montana, and Vatti's wrongful discharge claim, as the claim arises directly from PROS' employment of Vatti in Montana.

**B. Vatti's Wrongful Discharge Claim Accrued in Montana under Rule 4(b)(1)(B).**

Jurisdiction may be established through "the commission of any act resulting in accrual within Montana of a tort action." *Phila. Indem. Ins. Co. v. O'Leary*, 2024 MT 235, ¶ 12, 418 Mont. 306, 311, 557 P.3d 946, 950. "Whether a tort accrued in Montana is highly fact-specific and dependent on the nature of the alleged tort at issue." *Id.* The Court's "analysis of accrual has focused on where the events giving rise to the claims occurred, rather than where the plaintiffs allegedly experienced or learned of their injuries." *Id.*

A civil action accrues "when all elements of the claim or cause exist or have occurred." §27-2-102, MCA. For purposes of the Wrongful Discharge from Employment Act, "severance of the employment relationship occurs when the employee is no longer earning compensation from the employer, and thus, has incurred damages." *Allison v. Jumping Horse Ranch*, 255 Mont. 410, 414, 843 P.2d 753, 756 (1992). Plaintiff's wrongful discharge claim accrued where he performed his work and where he experienced the severance of the employment relationship (Montana). The mere fact that PROS may have made the termination decision in Texas does not negate that the effects of that decision occurred in Montana.

The Court has recognized that in determining where a tort accrues, courts should consider "the 'act' at issue" and whether it "was calculated to result in actual damage or loss" to the plaintiff. *Groo*, 2023 MT 193, ¶ 32, 413 Mont. 415, 425, 537 P.3d 111, 119. Here, Vatti's discharge was calculated to and did result in actual damage to Vatti in Montana.

This case is analogous to where the Montana Supreme Court has found jurisdiction based on a nonresident defendant's actions that were "calculated to have an effect" in Montana and "did cause injury in Montana to a Montana resident." *Bi-Lo Foods v. Alpine Bank*, 1998 MT 40, ¶ 21, 287 Mont. 367, 373, 955

P.2d 154, 157. Indeed, the discharge of Vatti had its primary effect in Montana, where Vatti was located and where he performed his work for PROS.

### **ISSUE 3: EXERCISING JURISDICTION OVER PROS COMPORTS WITH DUE PROCESS.**

#### **A. Due Process Requirements for Exercising Personal Jurisdiction.**

The exercise of personal jurisdiction over a nonresident defendant is limited by the Fourteenth Amendment's Due Process Clause. *Groo*, 2023 MT 193, ¶ 42. To determine whether personal jurisdiction comports with due process, Montana courts apply a three-part test: "(1) the nonresident defendant purposefully availed itself of the privilege of conducting activities in Montana, thereby invoking Montana's laws; (2) the plaintiff's claim arises out of or relates to the defendant's forum-related activities; and (3) the exercise of personal jurisdiction is reasonable." *Sw. Distrib. Co. v. Mont. Nineteenth Judicial Dist. Court*, 2024 MT 320, ¶ 31, 420 Mont. 31, 46, 562 P.3d 199, 209.

This test ensures that a defendant has "certain minimum contacts" with Montana such that "the maintenance of the suit does not offend traditional notions of fair play and substantial justice." *Buckles*, 2017 MT 235, ¶ 11. The focus of this inquiry is the defendant's relationship to Montana. If the plaintiff demonstrates that the defendant purposefully availed itself of the privilege of conducting activities in Montana, "a presumption of reasonableness arises, which the

defendant can overcome only by presenting a compelling case that jurisdiction would be unreasonable." *Id.*

**B. PROS Purposefully Availed Itself of the Privilege of Conducting Activities in Montana.**

A nonresident defendant purposefully avails itself of the benefits and protections of Montana law when it "takes voluntary action designed to have an effect in the forum." *B.T. Metal Works v. United Die & Mfg. Co.*, 2004 MT 286, ¶ 35, 323 Mont. 308, 318, 100 P.3d 127, 134. Conversely, a defendant does not purposefully avail itself of Montana's laws when its contacts with Montana are "random, fortuitous, attenuated, or due to the unilateral activity of a third party." *Id.*

Here, PROS knowingly hired Vatti as a Montana resident, agreed he would work from Montana, paid local taxes for him, and supported Montana-based travel with significant expenditures; all of which demonstrates that PROS took "voluntary action designed to have an effect" in Montana. *Id.* By knowingly employing a Montana resident to work Montana, PROS invoked the benefits and protections of Montana law.

PROS' contacts with Montana were not random, fortuitous, or attenuated. Unlike cases where courts have found insufficient purposeful availment, PROS' connection to Montana was not merely the result of "unilateral activity of another party." *Buckles*, ¶ 37. A defendant does not purposefully avail itself of the forum

state where "its only contact with the state is a connection with a person who resides in it." *Creative Games Studio LLC*, 2024 MT 100, ¶ 15.

PROS' contacts with Montana went beyond merely employing a Montana resident. PROS actively facilitated Vatti's work from Montana by supporting his Montana-based travel and paying Montana taxes, demonstrating a deliberate decision to conduct business activities in Montana.

### **1. Vatti's Claims Arise out of or Relate to Montana-Based Activities.**

For a court to exercise specific personal jurisdiction, "the suit must arise out of or relate to the defendant's contacts with the forum." *Bristol-Myers Squibb Co. v. Superior Court*, 582 U.S. 255, 262, 137 S. Ct. 1773, 1780 (2017). This requires "an affiliation between the forum and the underlying controversy, principally, an activity or an occurrence that takes place in the forum State and is therefore subject to the State's regulation." *Id.*

Due process requires "a connection between the defendant's in-state actions and the plaintiff's claim." *Gateway Hosp. Grp. Inc.*, 2020 MT 125, ¶ 37, 400 Mont. 80, 101, 464 P.3d 44, 58. This connection exists when the suit "arise[s] out of or relate[s] to the defendant's contacts with the forum." *Id.* The Court's use of the disjunctive "or" is significant, which indicates that a claim need not strictly "arise out of" the defendant's forum contacts, but may also "relate to" those contacts. *Ford Motor Co. v. Mont. Eighth Judicial Dist. Court*, 592 U.S. 351, 362.

Here there is a strong relationship among PROS, Montana, and the litigation. Vatti's claims directly relate to his employment with PROS, which was centered in Montana. This creates the necessary affiliation between the forum and the underlying controversy required for specific jurisdiction.

If the termination decision was made in Texas, the relevant inquiry is still whether there is a connection between PROS' Montana-based activities and Vatti's claims. The claims in this case relate directly to the employment relationship that PROS established and maintained in Montana. The dispositive question is "whether a relationship exists 'among the defendant, the forum, and the litigation,'" not just the defendant's contacts with Montana in general. *Buckles*, ¶ 14.

## **2. Exercise of Jurisdiction over PROS is Reasonable.**

Once a plaintiff establishes that the defendant has purposefully availed itself of the privilege of conducting business in Montana, there is a presumption that jurisdiction is reasonable. *Bitterroot Int'l Sys. v. W. Star Trucks, Inc.*, 2007 MT 48, ¶ 27, 336 Mont. 145, 151, 153 P.3d 627, 634. The defendant can overcome this presumption only by presenting "a compelling case that jurisdiction would be unreasonable." *Buckles*, ¶ 26. The reasonableness of exercising jurisdiction over a nonresident defendant depends on several factors, including: "(1) the extent of the defendant's purposeful interjection into Montana; (2) the burden on the defendant of defending in Montana; (3) the extent of conflict with the sovereignty of the

defendant's state; (4) Montana's interest in adjudicating the dispute; (5) the most efficient resolution of the controversy; (6) the importance of Montana to the plaintiff's interest in convenient and effective relief; and (7) the existence of an alternative forum." *Ford Motor Co.*, 2019 MT 115, ¶ 29.

PROS' purposeful interjection into Montana was substantial. PROS knowingly established and maintained an employment relationship in Montana for nearly five years, paid Montana taxes, and supported Montana-based travel. While PROS may face some burden in defending in Montana, this burden is not so substantial as to make jurisdiction unreasonable, especially given modern communication and transportation technologies.

Montana has a strong interest in adjudicating disputes involving its residents, particularly in the employment context. A state has an interest in "protect[ing] and compensat[ing] its residents." *Buckles v. BH Flowtest, Inc.*, 2020 MT 291, ¶ 43, 402 Mont. 145, 162, 476 P.3d 422, 430. The interest is particularly strong here because the employment relationship was centered in Montana.

Vatti, as a Montana resident, has a significant interest in obtaining convenient and effective relief in Montana. Requiring Vatti to litigate outside this jurisdiction would impose a substantial burden on him, whereas PROS is better positioned as a corporation to bear the burden of litigating in this forum.

### **3. *Ford Motor Co.* Provides More Applicable Guidance than *Isakson*.**

The U.S. Supreme Court's decision in *Ford Motor Co.* provides more applicable guidance for this case than *Isakson*. In *Ford Motor Co.*, the Court rejected a strict "causation-only" approach to specific jurisdiction, clarifying that a claim need not strictly "arise out of" the defendant's forum contacts, but may also "relate to" those contacts. *Ford Motor Co.*, 592 U.S. 351, 362. This broader understanding of the connection required between the defendant's forum contacts and the plaintiff's claims is relevant here, where Vatti's claims relate directly to the employment relationship that PROS established and maintained in Montana.

*Isakson* is distinguishable because:

- *Isakson* unilaterally relocated to Montana mid-employment, whereas PROS knew from the outset that Vatti would work from Montana and explicitly agreed to this arrangement.
- PROS maintained this Montana-based employment relationship for nearly five years, promoting Vatti and paying Montana taxes, demonstrating a more substantial connection to Montana than the employer in *Isakson*.
- PROS actively facilitated Vatti's Montana-based work through significant travel expenditures, showing it was actively supporting this location in this jurisdiction.

PROS argues that *Ford Motor Co.* is inapplicable because it involved physical products and systematic marketing, the underlying principle (that jurisdiction is proper when there is a close relationship among the defendant, the forum, and the litigation) applies equally to the employment context.

DATED this 8<sup>th</sup> day of December 2025.

FRAMPTON PURDY LAW FIRM



By: \_\_\_\_\_

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**CERTIFICATE OF COMPLIANCE**

I, Doug Scotti, attorney for Plaintiff, hereby certify that this brief complies with the Montana Rules of Appellate Procedure:

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DATED this 8<sup>th</sup> day of December 2025

FRAMPTON PURDY LAW FIRM

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**CERTIFICATE OF MAILING**

The undersigned does hereby certify that on the 8<sup>th</sup> day of December 2025, a true and correct copy of the foregoing document was served upon the persons named below, at the addresses set out below their names, as indicated below.

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## CERTIFICATE OF SERVICE

I, Douglas Scotti, hereby certify that I have served true and accurate copies of the foregoing Response/Objection - Petition for Writ to the following on 12-08-2025:

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