**IN THE CHANCERY COURT, STATE OF WYOMING**

**2022 WYCH 2**



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| Wright McCall LLC<br><br>Plaintiff,<br><br>v.<br><br>DeGaris Law, LLC<br><br>Defendant. | Case No. CH-2022-5 |

## Order Granting Defendant's Motion to Dismiss

[¶ 1] This case comes before the court on Defendant DeGaris Law, LLC's *Rule 12(b)(2) Motion to Dismiss or, in the Alternative, Motion to Compel Arbitration*, filed on September 1, 2022 (FSX No. 68014935). Plaintiff Wright McCall LLC filed a *Response* on September 21, 2022 (FSX No. 68141043). And, on October 6, 2022, Defendant filed a *Reply* (FSX No. 68224330). The court heard oral arguments on the motion on October 17, 2022. The court has considered the motion, response, reply, and arguments, and is fully informed in the premises. For the following reasons, Defendant's motion to dismiss is **GRANTED.**

### INTRODUCTION

[¶ 2] This case presents a dispute between a Wyoming LLC and its nonresident member. The company seeks to expel the member, whom it claims misappropriated client and corporate funds, wrote fraudulent checks, and falsified malpractice documents. The member moved to dismiss for lack of personal jurisdiction or, in the alternative, to compel arbitration. The company responded that the member consented to personal jurisdiction through the Operating Agreement and nevertheless has requisite minimum contacts with Wyoming because it owns a Wyoming company and signed an Operating Agreement deemed to be made and governed by Wyoming law. As to the alternate argument, the company states the agreement does not mandate arbitration for equitable claims like judicial expulsion of a member.

[¶ 3] The present motion comes to this overarching question: Can a non-resident LLC be haled into a Wyoming court to litigate a merit-based suit, despite having no relationship with Wyoming other than becoming a member of a Wyoming LLC by executing an operating agreement deemed to be made in Wyoming and containing Wyoming choice-of-law and mandatory arbitration provisions? The court answers "no" and dismisses the complaint for lack of personal jurisdiction without addressing the alternate arbitration argument.

## FACTUAL BACKGROUND

[¶ 4] The court draws the following facts from Plaintiff's complaint, as well as the parties' submissions on the present motion.

### A. The Parties

[¶ 5] Plaintiff Wright McCall LLC is a two-member, three manager-managed LLC formed under Wyoming law with its principal place of business in San Antonio, Texas. *Compl.* ¶¶ 1-2, 5. One of its two members is Wright Lawyers Mass Tort LLC (Wright Law), a Wyoming LLC owned by Harold McCall, Wyatt Wright, and Wayne Wright. *Id.* ¶¶ 2-3.

[¶ 6] Wright McCall's other member is Defendant DeGaris Law, LLC, a single-member LLC formed under Alabama law and wholly owned by Annesley DeGaris. *Id.* ¶ 2,4.

[¶ 7] Wright McCall has three managers, each drawn from member ownership: Harold McCall, Wyatt Wright, and Annesley DeGaris. *Id.* ¶ 5. These three members make up a board of managers, which controls the company. *Id.* The three-manager board structure means Wright Law exercises 66.6% control over Wright McCall and DeGaris Law exercises just 33.33%. *Resp. to Mot to Dismiss*, 3 n.1.

### B. The Formation of Wright McCall, LLC

[¶ 8] In September 2019, Wright Law and DeGaris Law combined forces to form a national mass tort law firm—Wright McCall. *Compl.* ¶¶ 5-6 As part of the LLC formation process, Wright Law and DeGaris Law entered into an Operating Agreement. *Id.* ¶ 5. Of that agreement's many provisions, two are most germane to the present motion: governing-law and dispute-resolution.

[¶ 9] The governing-law provision deems the agreement made in Wyoming and governed by Wyoming law. It states, in full:

> Irrespective of the place of execution or performance, this Agreement is irrevocably deemed to have been made in the State of Wyoming pursuant to the [Wyoming Limited Liability] Act and shall be governed, construed, and interpreted in accordance with the laws of the State of Wyoming, without regard to principles of conflict of laws.

*Ex. C to Resp. to Mot. to Dismiss*, at Art. 9.04.

[¶ 10] Slightly longer, the dispute-resolution provision provides for adjudication of disputes before a single, agreed-upon arbitrator in Cheyenne, or an arbitration panel in Denver. It also permits use of a judicial injunction in any court of competent jurisdiction. The provision follows, in relevant part:

> The exclusive forum for adjudication of any disputes among the Company, the Members (including those claiming by, under or through a Member), the Managers, or among any of them, with respect to this Agreement, to the Company, and/or any Company business (excepting foreclosure of a written security interest, or of a promissory note, against the Company, a Member, or a Manager pursuant to the terms of the document creating such security interest or promissory note) shall be arbitration proceedings conducted by an agreed single arbitrator in Cheyenne, Wyoming, or if no agreement, then conducted by a three-person arbitration panel of the American Arbitration Association (the "AAA"), held in Denver, Colorado in accordance with the AAA's rules and regulations. A final arbitration award may be entered for judgment in accordance with the Federal Arbitration Act, or other law. Nothing herein prevents the use of judicial injunction in any court of competent jurisdiction (which shall include the District Court of Laramie County, Wyoming) as warranted-and the use of such will not waive arbitration pursuant to this section.

*Id.* at Art. 9.05.

### C. The Alleged Misconduct by DeGaris Law, LLC

[¶ 11] Less relevant to the jurisdictional analysis, but pertinent to the merits of Plaintiff's claim, are Operating Agreement provisions governing company property and cash distributions. Generally, these provisions prohibit possession, use, sale, transfer, and assignment of company property for personal benefit or purpose without manager consent. *Id.* at Art. 2.08. They also state that managers alone decide whether to retain earnings or distribute cash. *Id.* at Art. 7.08.

[¶ 12] Plaintiff alleges Defendant has breached these provisions by taking company money without manager approval. *Compl.* ¶ 41. More specifically, Plaintiff alleges Defendant directed law firms and other payors to pay settlement funds directly to Defendant and directed referring law firms to send attorney's fees directly to Defendant rather than Plaintiff. *Id.* ¶¶ 11-19.

[¶ 13] Plaintiff further alleges Defendant has written fraudulent checks, falsified malpractice documents, violated attorney ethical rules, jeopardized the company's relationship with referral law firms, exposed the company to significant liability, and competed with the company. *Id.* ¶¶ 37-44.

## PROCEDURAL HISTORY

[¶ 14] Plaintiff filed its *Complaint* on July 5, 2022. (FSX No. 67789209). By its complaint, Plaintiff seeks an order expelling DeGaris Law from Wright McCall under Wyo. Stat. § 17-29-602(a)(v). Generally, that statute permits expulsion of a member from an LLC when the member has engaged in wrongful conduct adverse to the company, breached an operating agreement and fiduciary duty, or engaged in other conduct making its impracticable for the company to continue with the member. Wyo. Stat. § 17-29-602(a)(v).

[¶ 15] In response to the complaint, on September 1, 2022, Defendant moved this court to dismiss the complaint for lack of personal jurisdiction or, in the alternative, to compel arbitration under the Operating Agreement's dispute-resolution clause. (FSX No. 68014935). Plaintiff filed a response on September 21, 2022 (FSX No. 68141043), and Defendant a reply on October 6, 2022. (FSX No. 68224330). This court heard oral arguments on October 17, 2022 and took the matter under advisement.

[¶ 16] Before initiating this action, Plaintiff filed claims in a proceeding before the American Arbitration Association. *Ex. D to Def's Rply*. Those arbitration proceedings are ongoing.

## LEGAL STANDARD

[¶ 17] Like its Wyoming and federal counterparts, Chancery Court Rule 12(b)(2) requires dismissal of a case when the court lacks personal jurisdiction. The legal standard governing Rule 12(b)(2) motions is well-established.

[¶ 18] Once a defendant contests jurisdiction, the burden falls on plaintiff to show jurisdiction exists over the nonresident defendant. *Amoco Prod. Co. v. EM Nominee P'ship Co.*, 886 P.2d 265, 267 (Wyo. 1994). In determining whether the plaintiff has made that showing, the court "has considerable leeway." *Cheyenne Publ'g, LLC v. Starostka*, 2004 WY 88, ¶ 10, 94 P.3d 463, 469 (Wyo. 2004). It may resolve the motion "on the basis of pleadings and other materials called to its attention; it may require discovery; or it may conduct an evidentiary hearing." *Id.* Plaintiff's exact burden turns on the court's approach. *Id.* When, as here, the court resolves a Rule 12(b)(2) motion solely on written submissions and oral argument without an evidentiary hearing, the plaintiff need only establish a *prima facie* case of personal jurisdiction. *Id.* Under this *prima facie* standard, the court views the allegations in the light most favorable to the plaintiff and resolves all reasonable inferences in plaintiff's favor. *Id.* But the court need not accept as true legal conclusions unsupported by factual allegations. *Gas Sensing Tech. Corp. v. Ashton*, No. 16-CV-272-F, 2017 WL 2955353, at *13 (D. Wyo. June 12, 2017).

## DISCUSSION

### A. Personal Jurisdiction Law

[¶ 19] Wyoming's long-arm statute authorizes this court to exercise personal jurisdiction over a defendant on any basis which is not inconsistent with the Wyoming and United States Constitutions. Wyo. Stat. Ann. § 5-1-107(a). Accordingly, in exercising personal jurisdiction, the court must "not offend the Due Process Clause of the Fourteenth Amendment to the United States Constitution." *Amoco Prod. Co.*, 886 P.2d at 267.

[¶ 20] The Due Process Clause limits "the jurisdiction of state courts to enter judgements effecting rights or interests of nonresident defendants." *State ex rel.*

*State Treasurer of Wyoming v. Moody's Invs. Serv.*, 2015 WY 66, ¶ 13, 349 P.3d 979, 983 (Wyo. 2015) (quoting *O'Bryan v. McDonald*, 952 P.2d 636, 638 (Wyo.1998)). It does so by requiring nonresident defendants to have "minimum contacts" with Wyoming such that maintenance of the lawsuit does not offend "traditional notions of fair play and substantial justice." *Amoco Prod. Co.*, 886 P.2d at 267 (quoting *Int'l Shoe Co. v. Washington*, 326 U.S. 310, 316 (1945)). This minimum-contacts requirement safeguards non-resident defendants' "liberty interest in not being subject to the binding judgments of a forum with which [they have] established no meaningful contacts, ties, or relations." *H&P Advisory Ltd. v. Randgold Res. Ltd.*, 2020 WY 74, ¶ 10, 465 P.3d 433, 437 (Wyo. 2020) (brackets in original) (quoting *Burger King Corp. v. Rudzewicz*, 471 U.S. 462, 471–72 (1985)).

[¶ 21] In contesting Defendant's motion to dismiss, Plaintiff asserts two jurisdictional theories: consent and specific jurisdiction.

### B. Personal Jurisdiction by Consent

[¶ 22] The court begins with the jurisdiction-by-consent theory. If a defendant consents to jurisdiction, a minimum contacts analysis is not required. *DeLeon v. BNSF Ry. Co.,* 2018 MT 219, ¶ 11, 426 P.3d 1, 5–6 (Mont. 2018). It is not required because the constitutional due process protections secured by the personal jurisdiction requirement are waivable. *Ins. Corp. of Ireland, Ltd. v. Compagnie des Bauxites de Guinee*, 456 U.S. 694, 703-04 (1982). A non-resident defendant may waive the personal jurisdiction requirement explicitly or implicitly through appearance, stipulation, or contract. *Id.*

[¶ 23] Plaintiff contends that Defendant consented to personal jurisdiction through the Operating Agreement. More specifically, Plaintiff points to the agreement's dispute-resolution and governing-law provisions. The court will take each provision in turn.

#### i. Dispute-Resolution Provision

[¶ 24] Found at Article 9.05 of the Operating Agreement, the dispute-resolution provision identifies arbitration in Cheyenne or Denver as the "exclusive forum for adjudication of any disputes" between the company and members. It also permits use of a judicial injunction in any court of competent jurisdiction.

[¶ 25] Unsurprisingly, the parties differ in their interpretation of the dispute-resolution provision. Plaintiff asserts the provision provides personal jurisdiction by consent for two reasons. First, "because the arbitration was to be conducted in Cheyenne, Defendant had to have consented to a Wyoming court's jurisdiction." Second, the provision specifically contemplates a Wyoming' court's jurisdiction over actions for judicial injunctions, like this one.

[¶ 26] Defendant argues an agreement to private arbitration in Cheyenne or Denver is not consent to adjudicate a merit-based suit in a Wyoming court. In Defendant's view, at most, the dispute-resolution provision constitutes consent to suit in a Wyoming court for the limited purpose of enforcing the arbitration requirement by injunction.

[¶ 27] The parties' dueling interpretations present two questions: (1) does consent to arbitrate in Cheyenne constitute consent to adjudicate claims on the merits in this court, and (2) does the judicial-injunction clause of the dispute-resolution provision constitute Defendant's consent to submit to this statutory action for judicial expulsion? The answer to both questions is no.

[¶ 28] To answer the first question: consent to arbitrate in a particular state is not consent to litigate claims on the merits in the courts of that state. *A-1 Nat'l Fire Co. LLC v. Freedom Fire LLC*, No. 20-CV-1706 (WMW/DTS), 2020 WL 5105793, at *4 (D. Minn. Aug. 31, 2020) (collecting cases standing for this proposition).

[¶ 29] The dispute-resolution provision nowhere reflects agreement to submit to a suit on the merits in a Wyoming court. Rather, by its plain terms, it reflects agreement that arbitration in Cheyenne or Denver is "[t]he exclusive forum for adjudication of any disputes" among the company and its members related to the company. *Ex. C to Resp. to Mot. to Dismiss*, at Art. 9.05.

[¶ 30] The dispute-resolution provision's only reference to a court proceeding is a clause permitting "the use of judicial injunction in any court of competent jurisdiction (which shall include the District Court of Laramie County, Wyoming) as warranted and the use of such will not waive arbitration pursuant to this section." *Id.* This brings the court to the second question—does this clause constitute consent to submit to this action for judicial expulsion?

[¶ 31] In interpreting the judicial-injunction clause, the court applies established contract interpretation principles. The guiding principle is determining the intent of

the contracting parties. *See N. Silo Res., LLC v. Deselms*, 2022 WY 116, ¶ 14, 518 P.3d 1074, 1081 (Wyo. 2022). Ascertaining intent begins with the contractual language. *Id.* at ¶ 15, 1081. If this language is clear and unambiguous, the court limits its "inquiry to the four corners of the document, giving the words contained therein their ordinary meaning." *M & M Auto Outlet v. Hill Inv. Corp*., 2010 WY 56, ¶ 15, 230 P.3d 1099, 1105 (Wyo. 2010) (citing *Christensen v. Christensen*, 2008 WY 10, ¶ 13, 176 P.3d 626, 629 (Wyo.2008). If the language is ambiguous, the court resorts to rules of construction. *Id.* Subsequent disagreement between the parties does not create ambiguity. *Bergantino v. State Farm Mut. Auto. Ins. Co*., 2021 WY 138, ¶ 9, 500 P.3d 249, 253–54 (Wyo. 2021) (quoting *Cathcart v. State Farm Mut. Auto. Ins. Co*., 2005 WY 154, ¶ 18, 123 P.3d 579, 587-88 (Wyo. 2005)).

[¶ 32] Importantly, the court must interpret the "contract as a whole, reading each provision in light of all others to find plain meaning." *Holding v. Luckinbill*, 2022 WY 10, ¶ 14, 503 P.3d 12, 17 (Wyo. 2022) (quoting *Wallop Canyon Ranch, LLC v. Goodwyn*, 2015 WY 81, ¶ 35, 351 P.3d 943, 953 (Wyo. 2015)). In looking at the contract as a whole, the court must "presume each provision . . . has a purpose," and it must "avoid interpreting a contract so as to find inconsistent provisions or so as to render any provisions meaningless." *Id.*

[¶ 33] When read together with the plain and unambiguous meaning of the phrase "exclusive forum for adjudication of any disputes," the judicial-injunction clause constitutes limited consent to be sued in Wyoming for an injunction enforcing arbitration. The plain meaning of the terms "exclusive" and "any" shows why this must be so.

- The plain meaning of "exclusive" is "excluding or having the power to exclude," or "limiting or limited to possession, control or use" or "excluding others from participation." *See Hunker v. Whitacre-Greer Fireproofing Co*., 155 Ohio App. 3d 325, 328, 801 N.E.2d 469, 471 (Ohio Ct. App. 2003) (quoting Webster's Collegiate Dictionary (10th Ed.1998) 404); *see also* Exclusive, Black's Law Dictionary (11th ed. 2019) (defining "exclusive" as "[l]imited to a particular . . . thing;" and "whole, undivided.").

- The plain meaning of "any" is "all or every," suggesting a "broad and comprehensive grasp" *See Garton v. State*, 910 P.2d 1348, 1353 (Wyo. 1996) (*quoting McKay v. Equitable Life Assurance Soc'y of the United State*s, 421 P.2d 166, 169 (Wyo.1966)).

Accordingly, the phrase "exclusive forum for adjudication of any disputes" means just that—arbitration is the only forum for any and all merit-based disputes. Given this plain meaning, the judicial-injunction clause serves to enforce the arbitration requirement, not to rob it of its intended meaning.

[¶ 34] Limiting the judicial-injunction clause to permitting injunctive suits enforcing the arbitration requirement does not read words into the dispute-resolution provision. Rather, it furthers the parties' intent, which is the touchstone of contractual interpretation. Consider an arbitration provision's purpose of avoiding litigation in court. Plaintiff's interpretation permitting an action on the merits for equitable relief in any court runs contrary to this purpose. Or more properly stated in the language of contract interpretation principles, Plaintiff's interpretation is inconsistent with the dispute-resolution provision as a whole and it renders meaningless the language identifying arbitration as the "exclusive forum for adjudication of any disputes."

### ii. Governing-Law Provision

[¶ 35] The court turns to the governing-law provision. Found at Art. 9.04, the governing-law provision deems the agreement made in Wyoming and governed by Wyoming law.

[¶ 36] Again, the parties disagree on the meaning of this provision. Emphasizing the governing-law provision provides the Operating Agreement will be interpreted and governed by the laws of Wyoming and is deemed to have been made in Wyoming, Plaintiff states "[i]t makes the most sense for a Wyoming Court to apply Wyoming law." Defendant counters that a choice-of-law provision does not constitute consent to personal jurisdiction. Defendant has the better argument because agreeing to governing law and the place of contracting is not the same as consenting to personal jurisdiction.

[¶ 37] The concepts of governing law and personal jurisdiction differ. *Kulko v. Superior Ct. of Cal.,* 436 U.S. 84, 98 (1978); *see also Torco Oil Co. v. Innovative Thermal Corp.*, 730 F. Supp. 126, 132 (N.D. Ill. 1989) ("[T]he concept of choice-of-law is distinct from consent to personal jurisdiction."). Accordingly, a choice-of-law provision stating a specific state's law will apply does not constitute consent to personal jurisdiction in that state. *See, e.g., McShan v. Omega Louis Brand et Frere, S.A.*, 536 F.2d 516, 518 (2d Cir. 1976).

[¶ 38] Personal jurisdiction and liability also differ. Because jurisdiction and liability are two separate inquiries, the statute on which the action is based and from which liability would arise is irrelevant to the jurisdictional analysis. *See Cent. States, Se. & Sw. Areas Pension Fund v. Reimer Express World* Corp., 230 F.3d 934, 944 (7th Cir. 2000).

[¶ 39] And, finally, a marked difference exists between agreeing a contract is made in a state and agreeing to voluntarily submit to personal jurisdiction in that state. *See Sungard Data Sys., Inc. v. Cent. Parking Corp*, 214 F.Supp. 2d 879, 881 (N.D. Ill. 2002) ("that fact that the contract was executed in Illinois is not dispositive [of personal jurisdiction]."). As the Wyoming Supreme Court recently remarked, "personal jurisdiction cannot turn on . . . 'conceptualistic . . . theories of the place of contracting or of performance.'" *H&P Advisory Ltd.*, ¶ 15, 465 P.3d at 439 (quoting *Burger King*., 471 U.S. at 478.).

[¶ 40] The court is sympathetic to Plaintiff's point that it makes most sense for a Wyoming court to apply Wyoming law. But whether something makes the most sense is not the same question as whether someone consented to personal jurisdiction. Here, Plaintiff has not shown that Defendant consented to personal jurisdiction to a merits-based suit in Wyoming.

### C. Jurisdiction by Minimum Contacts

[¶ 41] Because Plaintiff's jurisdiction-by-consent theory fails, the court turns to Plaintiff's specific jurisdiction theory. Plaintiff fares no better under this theory.

[¶ 42] Wyoming courts apply a three-part test to determine whether specific jurisdiction exists. *Id.,* ¶ 12, 438. First, defendant must have "purposefully availed [itself] of the privilege of acting in Wyoming or causing important consequences in Wyoming." *Id.* Second, the "cause of action must arise from consequences in Wyoming of [defendant's] activities." *Id.* And, third, the defendant's "activities or the consequences of those activities must have a substantial enough connection with Wyoming to make the exercise of jurisdiction over [defendant] reasonable." *Id.*

[¶ 43] Purposeful availment. This first, and threshold, requirement ensures "that a defendant will not be haled into a jurisdiction solely as a result of random, fortuitous, or attenuated' contacts." *Id.*, ¶ 14, 439 (internal quotation omitted).

[¶ 44] In evaluating purposeful availment, Wyoming courts have considered factors such as "the residency of each party at the time of contracting; the location of future performance detailed by the contract; whether defendants voluntary owned property or a property interest in Wyoming; whether defendants incurred obligations in Wyoming; and whether defendants have offices, property, agents, representatives, or employees in Wyoming." *Id.*, ¶ 16, 439.

[¶ 45] This court's purposeful availment analysis begins with the premise, well-established across jurisdictions, that personal jurisdiction over an LLC does not extend to members of the company. *See Shaffer v. Heitner,* 433 U.S. 186, 213-14 (1977); *see also Mountain Funding, LLC v. Blackwater Crossing, LLC*, No. 3:05 CV 513 MU, 2006 WL 1582403, at *2-3 (W.D.N.C. June 5, 2006). This premise is so for two related reasons.

[¶ 46] First, and most fundamentally, an LLC is a distinct entity, separate from its managers and members. *Unger v. Granite Nursing & Rehab. Ctr.*, LLC, No. 3:20-CV-805-MAB, 2021 WL 1589349, at *5 (S.D. Ill. Apr. 23, 2021). S*ee also, cf., TEP Rocky Mountain LLC v. Rec. TJ Ranch Ltd. P'ship*, 2022 WY 105, ¶ 25, 516 P.3d 459, 470 (Wyo. 2022) (acknowledging Wyoming LLCs are separate and district from their members) (citing Wyo. Stat. Ann. §17-29-104(a)).

[¶ 47] Second, the legal nature of limited liability companies protects members from liability for company obligations. *Graymore, LLC v. Gray*, No. CIVA06CV00638-EWNCBS, 2007 WL 1059004, at *8 (D. Colo. Apr. 6, 2007). *See also, cf., TEP Rocky Mountain LLC,* ¶ 25, 516 P.3d at 459 (noting that the "separateness of identity insulates the entity's owners from personal liability for the entity's obligations, liabilities, and debts.") (quoting *Mantle v. N. Star Energy & Constr. LLC*, 2019 WY 29, ¶ 126, 437 P.3d 758, 798-99 (Wyo. 2019)).

[¶ 48] Because personal jurisdiction cannot be premised on mere membership in a Wyoming LLC, Defendant must have minimum contacts with Wyoming independent of the company. *See e.g., Amerireach.com, LLC v. Walker*, 719 S.E.2d 489, 495–96 (Ga. 2011). Confronted with this principle, Plaintiff points to Defendant's execution of the Operating Agreement with Wyoming-centric provisions and a Wyoming company, Wright Law. But executing an Operating Agreement is part and parcel of membership in an LLC. The complaint makes no allegations that Defendant came to Wyoming to negotiate or execute the Operating Agreement or that the agreement contemplates the parties would undertake any activities in

Wyoming. And, as detailed above, the agreement's dispute-resolution and governing-law provisions do not establish personal jurisdiction. *See A-1 Nat'l Fire Co.* LLC, 2020 WL 5105793, at *3-4 (holding choice-of-law and arbitration-forum-selection provisions did not confer personal jurisdiction to a merit-based suit). Lastly, without more, Defendant's relationship with Wright Law "is an insufficient basis for jurisdiction." *See Moody's,* ¶ 17, 349 P.3d at 984.

[¶ 49] The principle remains: Defendant must have its own contacts with Wyoming. Such allegations are notably missing from Plaintiff's complaint. Plaintiff makes no allegations that Defendant ever resided in Wyoming, practiced law in Wyoming, represented clients from Wyoming, advertised or solicited business in Wyoming, owned property in Wyoming, or had offices, property, agents, representatives, or employees in Wyoming. Plaintiff does not allege that any of the alleged misconduct occurred in Wyoming. The affidavit submitted by Defendant suggests such allegations are missing from the complaint because Defendant has no independent contacts with Wyoming. *See Ex. C to Resp. to Mot. to Dismiss* (swearing Defendant is an Alabama LLC with its principal place of business in Alabama and without any property, locations, employees, clients, business, or history in Wyoming).

[¶ 50] To be sure, as Plaintiff has emphasized, Wyoming is front and center in this case. A Wyoming LLC initiated this suit under Wyoming law to expel a member who allegedly breached an Operating Agreement governed by Wyoming law and deemed to have been made in Wyoming. But a proper personal jurisdiction analysis focuses on defendant's contacts, not the company's contacts or the state statute animating plaintiff's claims. *See Cent. States, Se. & Sw. Areas Pension Fund*, 230 F.3d at 944 (Finding "[t]he laws on which the suit are based would be irrelevant" to a personal jurisdiction analysis because "statute cannot transmogrify insufficient minimum contacts into a basis for personal jurisdiction."); *Amerireach.com, LLC v. Walker*, 719 S.E.2d at 495–96 ("[T]o be subject to the forum court's jurisdiction, a member's own activities must satisfy the minimum contacts test) (citing Carter G. Bishop & Daniel S. Kleinberger, Limited Liab. Co. ¶ 6.07 (2009)).

[¶ 51] The Wyoming Supreme Court put it like this: "Wyoming 'does not acquire [personal] jurisdiction by being the 'center of gravity' of the controversy .... [The issue] is resolved in this case by considering the acts of the [defendant].'" *Meyer v. Hatto*, 2008 WY 153, ¶ 19, 198 P.3d 552, 556 (Wyo. 2008) (brackets in original) (quoting *Hanson v. Denckla*, 357 U.S. 235, 254 (1958). Placing the focus where it

belongs (Defendant's acts), the Court finds insufficient allegations to establish purposeful availment. *See V-E2, LLC v. Callbutton, LLC*, No. 3:10CV538, 2012 WL 6108245, at *3 (W.D.N.C. Dec. 10, 2012) (finding plaintiff failed to carry its burden of showing defendant had its own minimum contacts with the forum state).

[¶ 52] In reaching this finding of no purposeful availment, the court is cognizant of the Rule 12(b) motion standard. Though this court must accept as true all factual allegations, it need not accept bare legal conclusions. Beyond alleging Defendant is a member of a Wyoming LLC governed by a Wyoming operating agreement, Plaintiff makes no factual jurisdictional allegations for this court to treat as true and view in the light most favorable to Plaintiff.

[¶ 53] Because there are no such allegations, and Plaintiff has not established the threshold requirement of purposeful availment, this court will dispense with the remainder of the three-part specific jurisdiction analysis. Further, because the court dismisses the complaint for lack of personal jurisdiction, it will not, and need not, address Defendant's alternate motion to compel arbitration.

## CONCLUSION

[¶ 54] For the above reasons, Plaintiff has not established a *prima facie* case of personal jurisdiction over Defendant based on consent or minimum contacts. Accordingly, the court **GRANTS** *Defendant DeGaris Law, LLC's Rule 12(b)(2) Motion to Dismiss*

**IT IS SO ORDERED.**

**DATED:** 11/28/2022

/s/ Steven K. Sharpe
CHANCERY COURT JUDGE