

**FILED**

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

**2024 WYCH 8**

SCOTT FRANKEL, individually; SCOTT FRANKEL, derivatively on behalf of and in the right of NORTHSTAR HOSPITAL LLC, a Wyoming Limited Liability Company; and SCOTT FRANKEL, derivatively on behalf of and in the right of GLOBAL X HEALTH LLC, a Wyoming Limited Liability Company,

Plaintiffs,

v.

GUARDIAN LAW; GREG MARCH, individually; DENNIS MARCH, individually; and SAMANTHA HARTLEY, individually,

Defendants.

Case No. CH-2024-000009

---

**Order Granting Defendants' Rule 12(b)(2) Motion to Dismiss  
for Lack of Personal Jurisdiction**

---

[¶ 1] Before the court is Defendants' Rule 12(b)(2) Motion to Dismiss for Lack of Personal Jurisdiction filed August 7, 2024 (FSX No. 73982629). The motion has been fully briefed and argued in a non-evidentiary hearing held on September 16, 2024. For the following reasons, the motion is **GRANTED**.

**INTRODUCTION**

[¶ 2] This case features four individuals, none of whom resides in Wyoming; three entities, none of which conducts business here; and a medical facility, not located in Wyoming. Defendants thus challenge personal jurisdiction, which plaintiffs base on one act: the formation of two limited liability companies under Wyoming law. But Wyoming LLCs are distinct legal entities, separate from their members and organizers. Forming two Wyoming companies alone is not enough to establish personal jurisdiction over non-resident defendants.

## FACTUAL BACKGROUND

[¶ 3] The court bases the following facts of this case on plaintiffs’ complaint and on the affidavits and exhibits presented with the parties’ submissions on the present motion.

### A. The Parties

[¶ 4] This case involves four individuals and three entities—two Wyoming entities, and a third entity based in Washington, D.C.

[¶ 5] None of the four individuals resides in Wyoming. Plaintiff Scott Frankel and Defendant Samantha Hartley reside in Florida. *Compl.* ¶¶ 5,11. Defendants Greg March and Dennis March reside in Maryland. *Id.* ¶¶ 9, 10.

[¶ 6] The individual defendants own entity defendant Guardian Law. *Id.* ¶¶ 9-11. Guardian Law operates out of Washington, DC. *Id.* ¶ 7. Despite owning Guardian Law, the individual defendants do not appear to know what type of entity Guardian Law is.<sup>1</sup>

[¶ 7] Plaintiffs Northstar Hospital, LLC, and Global X Health, LLC, are Wyoming limited liability companies organized in accordance with the Wyoming Limited Liability Company Act, Wyo. Stat. § 17-29-101 *et. seq.* *Compl.* ¶ 1. Both were organized in connection with a business plan to acquire and operate certain behavioral health facilities in Kansas. *Id.*, ¶¶ 2, 15-29.

### B. The Formation of Wyoming LLCs

[¶ 8] The business idea underlying this dispute goes back to June of 2022, when Scott Frankel decided to acquire Dr. Ralph Bharati’s medical practice located in Wichita, Kansas. *Id.* ¶ 15. Sometime thereafter, Frankel solicited investors to fund purchase of Dr. Bharati’s practice. *Id.* ¶ 18. One such investor was Samantha Hartley, who expressed interest on behalf of herself and her two partners in Guardian Law. *Id.* ¶ 19.

[¶ 9] The four individuals met in September of 2023 to discuss the plan. At that meeting, the parties agreed to Northstar and Global X’s roles in the business and decided that Scott Frankel and Guardian Law would each have a 50% ownership interest in Global X.

[¶ 10] Samantha Hartley formed the Wyoming LLCs at the request of Scott Frankel. According to the complaint: “On October 9, 2023, Scott Frankel sent an email to

---

<sup>1</sup>The Affidavit of Dennis March, at ¶ 7, states that “Guardian Law is partnership/llc/corporation formed and doing business in Washington, D.C.” Plaintiff, meanwhile, submitted screenshots from the Office of the Secretary for the District of Columbia indicating that Guardian Law was filed as an L.L.P. The type of entity of Guardian Law is potentially disputed, but resolution of that disputed fact is not necessary to decide whether the court has personal jurisdiction over the entity.

Samantha Hartley, requesting she proceed with the formation of Global X as the ‘parent company’ and Northstar as the ‘Operating Company.’” *Id.* ¶ 27.

[¶ 11] Samantha Hartley and Guardian Law organized Global X on October 13, 2023, and are listed as its “organizers” in the Wyoming Secretary of State’s records. *Pl. Resp.*, pg. 10;<sup>2</sup> *Compl.* ¶ 28. Northstar was organized shortly thereafter. *Compl.* ¶ 29.

[¶ 12] At formation, Global X had two members managing the LLC’s affairs: its operating agreement states that Scott Frankel and Guardian Law each own 50% of the company. *Id.* ¶¶ 3, 6; *Pl. Resp., Ex. 4* ¶¶ 2, 6. Samantha Hartley, as Guardian Law’s authorized member, and Scott Frankel, individually, signed Global X’s operating agreement. *Compl.* ¶¶ 30, 36. The operating agreement provides an address of 5830 E 2nd St, Ste 7000 #12185, Casper, WY 82609 for both members. *Pl. Resp., Ex. 4* ¶ 2. It states that Global X was “formed under the laws of the State of Wyoming by filing Articles of Organization (or similar organizing document) with the Secretary of State (or other appropriate office) on 11/15/2023” but does not include a governing-law provision. *Id.* ¶ 1.

[¶ 13] Northstar is a wholly owned subsidiary of Global X. *Compl.* ¶ 4.

### **C. The Purchase of Kansas Property and Ouster of Scott Frankel**

[¶ 14] In December of 2023, Greg March and Scott Frankel (on Northstar’s behalf) agreed to certain purchase terms for the Wichita property where Dr. Bharati operated his practice, including Greg March’s funding of \$1,252,069.20 plus startup costs. *Id.* ¶¶ 37-42. Later that month, Global X closed the transaction using money sent from Greg March, acquiring title to 8911 E. Orme St., Wichita, KS 67207, for \$1,150,000. *Id.* ¶¶ 39, 43. Soon thereafter, Greg March indicated that Guardian Law was having financial difficulties. *Id.* ¶ 47. Although later promising to wire \$25,000 to Frankel for startup costs, neither Guardian Law nor Greg March ever sent any more funds. *Id.* ¶¶ 50-52. Frankel instead received an email from Samantha Hartley suggesting that Frankel had been removed from the companies. *Id.* ¶ 52. Meeting minutes of March 22, 2024, show that Greg March, Dennis March, and Samantha Hartley, as “Board of Directors” of an unspecified entity, voted to remove Frankel from Global X and Northstar. *Id.* ¶ 59. *Pl. Resp., Ex. 4.* The meeting was held remotely. *Id.*

[¶ 15] The complaint includes no allegations that any of the individual defendants have visited Wyoming. They each submitted affidavits with their motion stating that they

---

<sup>2</sup> The parties have not provided a copy of Global X’s articles of incorporation, but the court sees no reason to doubt plaintiffs’ description of the Wyoming Secretary of State’s records.

indeed have not. Their affidavits also indicate that Guardian Law has never conducted business in Wyoming.

[¶ 16] The complaint bases the court’s jurisdiction solely in the organization of the two Wyoming LLCs under Wyoming Law: “This Court has proper jurisdiction and venue over Plaintiffs’ claims against Defendants as Northstar and Global X were organized pursuant to the provisions of the Wyoming Limited Liability Company Act[.]” *Compl.* ¶ 14.

### PROCEDURAL HISTORY

[¶ 17] Plaintiffs filed their complaint on May 3, 2024. (FSX No. 72892149). The complaint alleges nine causes of action: (1) Breach of Operating Agreement (Individually and Derivatively), (2) Breach of Fiduciary Duty (Individually and Derivatively), (3) Conversion (On Behalf of Scott Frankel Individually), (4) Breach of Contract (Individually and Derivatively), (5) Oppression (Individually and Derivatively), (6) Fraud and Constructive Fraud (Individually and Derivatively), (7) Declaratory Judgment (Individually and Derivatively), (8) Injunctive Relief (Individually and Derivatively), and (9) Breach of Implied Covenant of Good Faith and Fair Dealing (Individually and Derivatively). All of these claims stem from Scott Frankel’s removal—reflected in the March 22, 2024 meeting minutes—and defendants’ resulting takeover of Global X.

[¶ 18] Movants now seek dismissal for lack of personal jurisdiction over the defendants,<sup>3</sup> arguing that all four defendants lack the minimum contacts necessary to satisfy due process of law as articulated by the Wyoming Supreme Court and the United States Supreme Court.

[¶ 19] In response, plaintiffs propose that the court adopt the “Delaware rule” articulated most recently by Delaware’s chancery court in *Harris v. Harris*, 289 A.3d 277 (Del. Ch. 2023). Under that rule, “the act of forming a Delaware entity constitutes the transaction of business” sufficient under Delaware’s long-arm statute to support “personal jurisdiction for claims that are sufficiently related to the formation of the entity.” *Id.* at 302.

---

<sup>3</sup> Defendants also raise insufficient service of process. Concluding that it lacks personal jurisdiction, the court does not reach this second issue.

## LAW

### A. Rule 12(b)(2) motion to dismiss standard

[¶ 20] This court has “considerable leeway” and “extreme latitude” in selecting how it will assess whether it has personal jurisdiction over defendants. *Shaw v. Smith*, 964 P.2d 428, 433 (Wyo. 1998) and *Meyer v. Hatto*, 2008 WY 153, ¶ 11, 198 P.3d 552, 555 (Wyo. 2008). The court may decide the issue based on the pleadings and the materials submitted in connection with the motion whenever the “material factual allegations” presented can “be harmonized.” *Id.* (citations omitted). When the court chooses to not hold an evidentiary hearing, a plaintiff “need make only a *prima facie* showing of jurisdiction through its own affidavits and supporting materials.” *PanAmerican Min. Servs., Inc. v. KLS Enviro Res., Inc.*, 916 P.2d 986, 989 (Wyo. 1996) (citations omitted). Such a showing requires evidence “sufficient to establish a given fact, or the group or chain of facts constituting the party’s claim or defense, and which if not rebutted or contradicted, will remain sufficient.” *Kruzich v. Martin-Harris Gallery, LLC*, 2006 WY 7, ¶ 16, 126 P.3d 867, 874 (Wyo. 2006) (cleaned up). A ruling based on the pleadings and affidavits before the court is appropriate in this case.

### B. Wyoming’s Long-Arm Statute

[¶ 21] Under Wyoming’s long-arm statute, the court “may exercise jurisdiction on any basis not inconsistent with the Wyoming or United States constitution.” Wyo. Stat. § 5-1-107. The court has personal jurisdiction over defendants only if they established “minimum contacts” with Wyoming “such that the exercise of jurisdiction does not offend “traditional notions of fair play and substantial justice.” *Shaw v. Smith*, 964 P.2d 428, 433 (Wyo. 1998) (citing *Amoco Prod. Co. v. EM Nominee P’ship Co.*, 886 P.2d 265 (Wyo. 1994) (in turn quoting *International Shoe Co. v. State of Wash., Office of Unemployment Compensation and Placement*, 326 U.S. 310, 316, 66 S.Ct. 154, 158, 90 L.Ed. 95 (1945))). The court must apply this due process standard to each defendant individually. *See Rush v. Savchuk*, 444 U.S. 320, 332, 100 S. Ct. 571, 579, 62 L. Ed. 2d 516 (1980) (“Naturally, the parties’ relationships with each other may be significant in evaluating their ties to the forum. The requirements of *International Shoe*, however, must be met as to each defendant over whom a state court exercises jurisdiction.”). Only conduct *initiated by defendants* counts; conduct involving defendants but prompted by plaintiffs does not. *Meyer v. Hatto*, 2008 WY 153, ¶ 19, 198 P.3d 552, 556 (Wyo. 2008) (“[T]he constitutional right to exercise personal jurisdiction hinges upon a sufficient contact *initiated by the defendant*. Affiliations with Wyoming that involve Design Workshop but are instituted by the Meyers do not meet the constitutional minimum. “The unilateral activity of those

who claim some relationship with a nonresident defendant cannot satisfy the requirement of contact with the forum state.”) (emphasis in original) (citations omitted).

[¶ 22] Plaintiffs assert that defendants’ contacts with Wyoming are related to plaintiffs’ causes of action—which could result in the court having “specific personal jurisdiction” over defendants. *Amoco Prod. Co. v. EM Nominee P’ship Co.*, 886 P.2d 265, 267 (Wyo. 1994). Wyoming has adopted a three-part “traditional test” for specific personal jurisdiction:

- First, the defendant must have purposefully availed itself of the privilege of acting in Wyoming or of causing important consequences in Wyoming.
- Second, the plaintiff’s cause of action must arise from consequences in Wyoming of the defendant’s activities.
- Finally, 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 the defendant reasonable.

*TEP Rocky Mountain LLC v. Rec. TJ Ranch Ltd. P’ship*, 2022 WY 105, ¶ 20, 516 P.3d 459, 468–69 (Wyo. 2022) (cleaned up). Specific personal jurisdiction may arise from a single act, but not “if the nature of the act creates only an ‘attenuated’ connection with the forum.” *H&P Advisory Ltd. v. Randgold Res. Ltd.*, 2020 WY 74, ¶¶ 14, 465 P.3d 433, 439 (Wyo. 2020) (citations omitted).

[¶ 23] The single act plaintiffs raise in support of specific personal jurisdiction is the formation of two Wyoming LLCs, involving signing of two operating agreements and registration of the entities with the Wyoming Secretary of State. *Compl.* ¶ 14.<sup>4</sup>

[¶ 24] Wyoming limited liability companies are entities distinct from their members. Wyo. Stat. § 17-29-104(a). As a result, personal jurisdiction generally does not extend to an LLC’s members. *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).

[¶ 25] As the name suggests, an LLC is typically organized when a company organizer signs and delivers to the Wyoming Secretary of State the company’s articles of organization. Wyo. Stat. § 17-29-201. Likewise, an LLC’s operations—including

---

<sup>4</sup> In their response, plaintiffs raise a third defendant-formed Wyoming LLC, Northstar Integrated Care, LLC, but recognize (1) that the entity was organized after the conduct giving rise to plaintiffs’ causes of action in this lawsuit and (2) that their pleadings do not mention that entity.

“[r]elations among the members as members and between the members and the limited liability company”—are governed by its operating agreement. Wyo. Stat. § 17-29-110.

[¶ 26] “An LLC operating agreement is a contract[.]” *Thorkildsen v. Belden*, 2011 WY 26, ¶ 11, 247 P.3d 60, 63 (Wyo. 2011). Personal jurisdiction analysis in contract disputes “cannot turn on attenuated connections or on conceptualistic theories of the place of contracting or of performance[.]” but instead requires “a ‘highly realistic’ approach that recognizes that a ‘contract’ is ‘ordinarily but an intermediate step serving to tie up prior business negotiations with future consequences which themselves are the real object of the business transaction.’” *H&P Advisory Ltd.*, ¶ 15, 465 P.3d at 439.

[¶ 27] The court must assess the parties’ “prior negotiations and contemplated future consequences, along with the terms of the contract and the parties’ actual course of dealing” to determine whether defendants “purposefully established minimum contacts” with Wyoming. *Id.* And in so doing, the court must “evaluate the real object” of the operating agreement “and the parties’ actual course of dealing” with reference to “the following nonexclusive factors:”

- the residency of each party at the time of contracting;
- the location of future performance detailed by the contract;
- whether defendants voluntarily owned property or a property interest in Wyoming;
- whether defendants incurred obligations in Wyoming;
- whether defendants have offices, property, agents, representatives, or employees in Wyoming[.]
- ‘whether the parties contractually agreed that the law of the forum state would govern disputes,’ and
- ‘the nature, quality and extent of the parties’ communications about the business being transacted.’

*Id.*, at ¶16 (cleaned up).

### **C. Delaware Law**

[¶ 28] Plaintiffs raise the “Delaware rule” for personal jurisdiction based on entity formation. In particular, plaintiffs point the court to the Delaware Chancery Court case *Harris v. Harris*, 289 A.3d 277 (Del. Ch. 2023), which noted that “the act of forming a Delaware entity constitutes the transaction of business within this state for purposes of the Long-Arm Statute and will support personal jurisdiction for claims that are sufficiently related to the formation of the entity.” *Id.* at 302.

[¶ 29] The court is cognizant that Delaware law—especially that of Delaware’s chancery court—is persuasive in Wyoming. *See Mantle v. N. Star Energy & Constr. LLC*, 2019 WY 29, ¶ 145, 437 P.3d 758, 805 (Wyo. 2019) (disregarding precedent decided before Delaware’s chancery court had spoken to the pertinent issue and quoting a Delaware Journal of Corporate Law article recognizing Delaware’s “central role, historically, in expounding corporate law”). But this court should not follow Delaware law blindly, especially when its statutes differ from our own. *See Spence v. Sloan*, 2022 WY 96, 515 P.3d 572, 586 (Wyo. 2022) (“[W]e are unpersuaded by the Delaware authority the Spence Group cites. The Delaware law does not contain the same language as Wyoming’s Act[.]”).

[¶ 30] Unlike Wyoming’s long-arm statute, which “expressly incorporated the due process standard[,]” Delaware’s long-arm statute specifies behavior supporting jurisdiction, providing that Delaware courts “may exercise personal jurisdiction over any nonresident . . . who in person or through an agent: (1) Transacts any business or performs any character of work or service in the State[.]” Del. Code Ann. tit. 10, § 3104(c). *See also* § 1069 Modern Principles of Personal Jurisdiction, 4A Fed. Prac. & Proc. Civ. § 1069 (4th ed.). Subsection (c) of the Delaware statute lists five additional categories of behavior supporting personal jurisdiction.

[¶ 31] As noted by *Harris*, however, Delaware’s long-arm statute is only the first in a two-step jurisdictional analysis. *Harris* quotes the Delaware Supreme Court’s description of that analysis, which, like Wyoming, incorporates *International Shoe’s* due process standards:

Trial courts must give a broad reading to the terms of the long-arm statute in order to effectuate the statute’s intent to ensure that this state’s court may exercise jurisdiction to the full limits permissible under the Due Process Clause. In other words, the Supreme Court has instructed that trial courts should permit service under § 3104 if the statutory language plausibly permits service, and rely upon a Due Process analysis to screen out uses of the statute that sweep too broadly.

*Harris*, 289 A.3d at 302 (quoting *Sample v. Morgan*, 935 A.2d 1046, 1056 (Del. Ch. 2007) (cleaned up)). *See also Registered Agents, Ltd. v. Registered Agent, Inc.*, 880 F. Supp. 2d 541, 545 (D. Del. 2012) (“To establish personal jurisdiction [in Delaware], a plaintiff must produce facts sufficient to satisfy two requirements by a preponderance of the evidence, one statutory and one constitutional. With respect to the statutory requirement, the court must determine whether there is a statutory basis for jurisdiction under the forum state’s long-arm statute. The constitutional basis requires the court to determine



whether the exercise of jurisdiction comports with the defendant's right to due process.”) (internal citations omitted).

### ANALYSIS

[¶ 32] Plaintiffs have not shown that defendants established sufficient contacts with the State of Wyoming for the court to have personal jurisdiction over them.

[¶ 33] Greg March and Dennis March have participated in some capacity in the Washington, D.C. entity Guardian Law, which in turn has been a member of a Wyoming LLC. But jurisdiction over an LLC in Wyoming does not extend jurisdiction to its members. The evidence shows no other contacts Greg or Dennis March have with Wyoming, so the court concludes that it may not exercise personal jurisdiction over them. Neither has purposefully availed himself of the privilege of acting in Wyoming or of causing important consequences in Wyoming.

[¶ 34] The same goes for Samantha Hartley. Although more involved than Greg or Dennis March in forming the two Wyoming LLCs, the evidence suggests that Hartley oversaw those formations at the request of plaintiff Scott Frankel and on behalf of Guardian Law. Again, jurisdiction over an entity does not extend jurisdiction to that entity’s members. And even if Hartley’s participation as organizer could be attributed solely to Hartley, filing an LLC with the secretary of state is an attenuated connection with Wyoming—an insufficient contact to support personal jurisdiction. Hartley did not purposefully avail herself of the privilege of acting in Wyoming or of causing important consequences in Wyoming.

[¶ 35] The March 22, 2024, meeting and the alleged conversion of Scott Frankel’s membership interests are also unconnected with Wyoming. The call-in meeting occurred outside of the state, and at bottom stripped Scott Frankel of his ability to oversee operation of the Kansas medical facility. Wyoming law may govern the internal affairs of Global X, but personal jurisdiction must be based on the defendants’ contacts with the state. The meeting created no contacts between the individual defendants and the State of Wyoming.

[¶ 36] As to Guardian Law, the court finds that its signing of Global X’s operating agreement and articles of organization is likewise insufficient contact for personal jurisdiction. The evidence reflects only an attenuated connection to Wyoming. The “prior negotiations and contemplated future consequences, along with the terms of the contract and the parties’ actual course of dealing” show that Frankel and Guardian Law—as operator and investor—came together to purchase and run a behavioral health facility in Kansas. Guardian Law has only ever been a Washington, D.C. entity owning no

Wyoming property or obligations and having no offices, property, agents, representatives, or employees in Wyoming. And nothing before the court suggests that the parties ever considered any business activity in Wyoming; if anything, Wyoming appears to have been an afterthought unrelated to the parties' business plans. The operating agreement was obviously a template filled in with the state name, as shown by its statement that Global X was "formed under the laws of the State of Wyoming by filing Articles of Organization (or similar organizing document) with the Secretary of State (or other appropriate office)[.]" As in *H&P Advisory Limited*, Global X's operating agreement "did not address a choice of law or any other provision tying future performance or obligations to Wyoming." ¶ 17, 465 P.3d at 440.<sup>5</sup>

[¶ 37] True, the operating agreement lists a Casper address for Guardian Law. But personal jurisdiction based on recitation of a physical address in the state—when it is undisputed that no defendant ever visited that address—would betray the "highly realistic" lens the court must use to review the evidence. The "real object" of the operating agreement reveals a Kansas business, and the evidence otherwise shows no way in which Guardian Law purposefully availed itself of the privilege of acting *in Wyoming*. The consequences of Guardian Law's activities do not have a substantial enough connection with the state to make jurisdiction reasonable.

[¶ 38] Delaware law does not say otherwise. Even if it were appropriate to apply Delaware's long-arm statute here, the court would still then have to perform the same due process analysis required of Wyoming courts. Plaintiffs would fare no better under Delaware law.

### CONCLUSION

[¶ 39] The court concludes that—without more—participating in the formation of Wyoming LLCs that conduct business in Kansas is insufficient contact with Wyoming for the exercise of jurisdiction to not offend traditional notions of fair play and substantial justice. Plaintiffs have failed to make a *prima facie* showing of personal jurisdiction. Defendants' motion is **GRANTED** and the case is **DISMISSED**.

**IT IS SO ORDERED.**

**DATED:** October 15, 2024

/s/ Richard L. Lavery  
CHANCERY COURT JUDGE

---

<sup>5</sup> Wyoming law governs Wyoming LLCs' internal affairs by virtue of Wyo. Stat. § 17-29-106, but the absence of a choice-of-law provision in the operating agreement sheds light on the parties' intent.