

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MONTANA,
MISSOULA DIVISION

Kurt Matt Rosbarsky v. Mira, Inc. and The Schepens Eye Research
Institute, Inc., f/k/a Eye Research Institute of Retina Foundation

Rosbarsky · No. CV 25-80-M-DWM · Decided February 27, 2026

SUMMARY

The opinion addresses Defendants’ motions to dismiss a strict products liability action arising from the implantation and later degradation of MIRAgel eye implants. The court grants the motions, concluding that it lacks personal jurisdiction over Mira, Inc. and The Schepens Eye Research Institute, Inc., because the allegations do not establish that either defendant took actions directed at Montana.

CASE DETAILS

COURT	United States District Court for the District of Montana, Missoula Division
WRITING FOR THE COURT	Donald W. Molloy
JURISDICTION	United States District Court for the District of Montana, Missoula Division
DECIDED	February 27, 2026
DOCKET	CV 25-80-M-DWM
DISPOSITION	dismissed
PROCEDURAL POSTURE	Plaintiff brought strict products liability, warranty, fraudulent concealment, and constructive fraud claims against two Massachusetts defendants. The defendants moved to dismiss under Federal Rule of Civil Procedure 12(b)(2), and Mira alternatively moved under Rule 12(b)(6).
STANDARD OF REVIEW	On a Rule 12(b)(2) motion decided without an evidentiary hearing, the plaintiff must make a prima facie showing of jurisdictional facts. Uncontroverted allegations are taken as true, but allegations contradicted by affidavit are not assumed true; conflicts between affidavits are resolved in the plaintiff’s favor.
PRECEDENTIAL VALUE	nonprecedential

PARTIES

Kurt Matt Rosbarsky v. Mira, Inc., The Schepens Eye Research Institute, Inc., f/k/a Eye Research Institute of Retina Foundation

TOPICS

personal jurisdiction motions to dismiss products liability strict liability civil procedure

PRACTICE AREAS

personal jurisdiction products liability civil procedure strict liability

QUESTIONS PRESENTED

1. Whether the District of Montana could exercise specific personal jurisdiction over the Institute under Montana's long-arm statute and the Due Process Clause.
2. Whether the District of Montana could exercise specific personal jurisdiction over Mira under Montana's long-arm statute and the Due Process Clause.
3. Whether Rosbarsky was entitled to jurisdictional discovery concerning the Institute's involvement in distributing MIRAgel to Montana.
4. Whether Mira's alternative statute-of-limitations and failure-to-state-a-claim arguments required resolution.

HOLDINGS

1. The court lacked specific personal jurisdiction over the Institute because, even assuming Montana's long-arm statute reached the Institute, Rosbarsky failed to show that the Institute purposefully directed an intentional act expressly at Montana.
2. The court lacked specific personal jurisdiction over Mira because Rosbarsky failed to show that Mira expressly aimed its manufacturing, marketing, or sales activities at Montana.
3. Rosbarsky was not entitled to jurisdictional discovery concerning whether the Institute worked jointly with Mira to distribute MIRAgel.

KEY QUOTATIONS

“Due process ‘depends on the defendant’s having such ‘contacts’ with the forum State that ‘the maintenance of the suit’ is ‘reasonable, in the context of our federal system of government,’ and ‘does not offend traditional notions of fair play and substantial justice.’” (31)

“However, ‘if the plaintiff fails at the first step, the jurisdictional inquiry ends and the case must be dismissed.’” (36)

“‘[A] defendant’s awareness that the stream of commerce may or will sweep the product into the forum state does not convert the mere act of placing the product into the stream of commerce into an act purposefully directed toward the forum state.’” (41)

FACTUAL BACKGROUND

Rosbarsky, a Montana resident, received MIRAgel hydrogel scleral buckling implants in both eyes in 1989. The Institute designed and developed the product, while Mira manufactured, marketed, and sold it under a licensing agreement. The implants allegedly degraded, swelled, fragmented, and caused repeated removal surgeries and severe loss of vision in Rosbarsky's right eye. The complaint did not allege that either defendant specifically targeted Montana, although jurisdictional materials showed that a distributor served ophthalmologists in Missoula.

PROCEDURAL HISTORY

Rosbarsky filed suit in the District of Montana on June 10, 2025. Mira moved to dismiss for lack of personal jurisdiction and failure to state a claim, and the Institute moved to dismiss for lack of personal jurisdiction. The court granted both motions for lack of personal jurisdiction, denied Rosbarsky's request for jurisdictional discovery, denied other pending motions as moot, vacated deadlines, and directed entry of judgment and closure of the case.

DISPOSITION

dismissed

CASES CITED

- *Schwarzenegger v. Fred Martin Motor Co.*, 374 F.3d 797, 800 (9th Cir. 2004)
- *ZNS Enters. LLC v. Cont'l Motors, Inc.*, 22 F.4th 852, 858 (9th Cir. 2022)
- *Caruth v. Int'l Psychoanalytical Ass'n*, 59 F.3d 126, 128 (9th Cir. 1995)
- *Picot v. Weston*, 780 F.3d 1206, 1211 (9th Cir. 2015)
- *Milky Whey, Inc. v. Dairy Partners, LLC*, 342 P.3d 13, 17 (Mont. 2015)
- *Ford Motor Co. v. Montana Eighth Judicial District Court*, 592 U.S. 351, 358-59 (2021)
- *International Shoe Co. v. State of Washington*, *International Shoe Co. v. Washington*, 326 U.S. 310, 316-17 (1945)
- *Ford Motor Co. v. Montana Eighth Judicial District Court*, 443 P.3d 407, 412 (Mont. 2019)
- *Impossible Foods Inc. v. Impossible X LLC*, 80 F.4th 1079, 1086, 1099 (9th Cir. 2023)
- *Boschetto v. Hansing*, 539 F.3d 1011, 1016 (9th Cir. 2008)
- *Dole Food Co. v. Watts*, 303 F.3d 1104, 1111 (9th Cir. 2002)
- *Calder v. Jones*, 465 U.S. 783 (1984)
- *Holland Am. Line, Inc. v. Wartsila N. Am., Inc.*, 485 F.3d 450, 459 (9th Cir. 2007)
- *Asahi Metal Indus. Co. v. Superior Ct.*, 480 U.S. 102, 112 (1987)
- *World-Wide Volkswagen Corp. v. Woodson*, 444 U.S. 286, 297-98 (1980)
- *J. McIntyre Machinery, Ltd. v. Nicastro*, 564 U.S. 873, 882 (2011)
- *Yamashita v. LG Chem, Ltd.*, 62 F.4th 496, 507 (9th Cir. 2023)

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