

FILED
SUPREME COURT
STATE OF WASHINGTON
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NO. 97694-5

SUPREME COURT OF THE STATE OF WASHINGTON

ROXANNE JONES, individually,

Petitioner,

v.

ROBERT BEREZCZ, M.D., individually; and
BRUCE KUHLMAN, D.O., individually,

Respondents.

RESPONDENT ROBERT BEREZCZ, M.D.'S
ANSWER TO PETITION FOR REVIEW

Mark B. Melter, WSBA #46262
Attorneys for Respondent Robert Berezcz,
M.D.
FAIN ANDERSON VANDERHOEF ROSENDAHL
O'HALLORAN SPILLANE, PLLC
701 Fifth Avenue, Suite 4750
Seattle, WA 98104
(206) 749-0094

TABLE OF CONTENTS

I. IDENTITY OF RESPONDING PARTIES..... 1

II. COURT OF APPEALS DECISION 1

III. COUNTERSTATEMENT OF ISSUES PRESENTED FOR
REVIEW..... 1

IV. COUNTERSTATEMENT OF THE CASE 1

V. ARGUMENT WHY REVIEW SHOULD BE DENIED 2

VI. CONCLUSION..... 3

TABLE OF AUTHORITIES

RULES	Page(s)
CR 12	2
CR 56	2
RAP 13.4(b).....	1, 2, 3
RAP 18.9	2

I. IDENTITY OF RESPONDING PARTIES

Respondent Robert Berez, M.D., submits this Answer to Petition for Review.

II. COURT OF APPEALS DECISION

Respondent opposes review of the Division One Court of Appeals' decision in *Roxanne Jones v. Robert Berez, M.D., et ano.*, Supreme Court No. 97694-5, Court of Appeals No. 78693-8-1.

III. COUNTERSTATEMENT OF ISSUES PRESENTED FOR REVIEW

Should this Court deny the petition when Petitioner Jones has not established any basis for review under RAP 13.4(b)?

IV. COUNTERSTATEMENT OF THE CASE

This is a medical negligence case filed by Petitioner arising from medical care provided by Dr. Berez and Dr. Bruce Kuhlman in 1985. Order, Aug. 5, 2019, at 1. Petitioner came to believe the care was improper and obtained her medical file. *Id.* She reviewed it and came to the conclusion that her care, including a cholecystectomy, was the result of a scam and fraud. She filed a complaint against Dr. Kuhlman with the Washington Medical Quality Assurance Commission in 1994, which concluded without any discipline. *Id.* at 1-2.

In 2018, Petitioner filed a complaint in King County Superior Court against Dr. Berez and Dr. Kuhlman. *Id.* at 2. Dr. Berez moved to dismiss

the complaint pursuant to CR 12, and Dr. Kuhlman moved for summary judgment dismissal under CR 56. *Id.* After oral argument, the trial court granted both defendants' motions, finding the statute of limitations had run. *Id.*

Petitioner filed an appeal, which the Division One Court of Appeals rejected. *Id.* at 5. In affirming the dismissal of her complaint, the Court of Appeals awarded Dr. Berecz and Dr. Kuhlman their attorney fees and costs for having to respond to Petitioner's frivolous appeal, finding it "so totally devoid of merit so as to warrant the imposition of sanctions under RAP 18.9." *Id.* at 5-6. Petitioner moved for reconsideration (or, to be more accurate, moved to "remove" Justices Dwyer, Applewick, and Hazelrigg-Hernandez "for perjury"), which the court denied. Order Denying Mot. for Recon., Sept. 5, 2019 at 1. Petitioner then filed a motion to reverse the commissioner's ruling awarding Dr. Berecz and Dr. Kuhlman their attorney fees and costs. That motion is pending.

Petitioner filed this petition for discretionary review.

V. ARGUMENT WHY REVIEW SHOULD BE DENIED

Petitioner's request for review should be denied because she has not established any basis for review under RAP 13.4(b). The Court of Appeals' decision affirming dismissal of her complaint is not in conflict with a decision of this Court; the decision does not conflict with any published

decision of the Court of Appeals; it does not involve a significant question of law under the Constitution of the State of Washington or of the United States; and it does not involve an issue of substantial public interest that should be determined by the Supreme Court. Offering no basis for this Court to accept review under RAP 13.4(b), this Court should deny the petition.

VI. CONCLUSION

For all these reasons, the Petition for Review should be denied.

RESPECTFULLY SUBMITTED this 5th day of November, 2019.

FAIN ANDERSON VANDERHOEF ROSENDAHL
O'HALLORAN SPILLANE, PLLC

s/Mark B. Melter

Mark B. Melter, WSBA #46262
Attorneys for Respondent
701 Fifth Avenue, Suite 4750
Seattle, WA 98104
Ph: 206.749.0094
Email: mark@favros.com

CERTIFICATE OF SERVICE

I hereby certify under penalty of perjury that under the laws of the State of Washington that on the 5th day of November, 2019, I caused a true and correct copy of the foregoing document, "Respondent Robert Berez, M.D.'s Answer to Petition for Review," to be delivered in the manner indicated below to the following counsel of record:

Pro Se Plaintiff:

Roxanne Jones
1000 Moon Circle, Unit 1024
Folsom, CA 95630
Ph: 425.681.6445

SENT VIA:

- Fax
- ABC Legal Services
- Express Mail
- Regular U.S. Mail
- E-file / E-mail

Counsel for Defendant Bruce W.

Kuhlmann, D.O.:
Amber L. Pearce, WSBA #31626
FLOYD PFLUEGER & RINGER, P.S.
200 West Thomas Street, Suite 500
Seattle, WA 98119-4296
Ph: 206.441.4455
Email: APearce@floyd-ringer.com

SENT VIA:

- Fax
- ABC Legal Services
- Express Mail
- Regular U.S. Mail
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DATED this 5th day of November, 2019, at Seattle, Washington.

s/Carrie A. Custer

Carrie A. Custer, Legal Assistant

FAVROS LAW

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Transmittal Information

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SEATTLE, WA, 98104
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