No. 97835-2

SUPREME COURT
OF THE STATE OF WASHINGTON

SAID FARZAD, individually,

Petitioner,

v.

STATE OF WASHINGTON, DEPARTMENT OF HEALTH – MEDICAL QUALITY ASSURANCE COMMISSION; WASHINGTON PHYSICIANS HEALTH PROGRAM, a Washington non-profit corporation doing business in Washington state; LARRY BERG and "JANE DOE" Berg, and the marital community composed thereof; CHRIS BUNDY and "JANE DOE" BUNDY, and the marital community composed thereof; MOLINA HEALTHCARE OF WASHINGTON, a Washington corporation; JOHN AND JANE DOES 1-10,

Respondents.

RESPONDENT MOLINA HEALTHCARE OF WASHINGTON'S CONSOLIDATED ANSWER TO MOTION FOR EXTENSION OF TIME AND AMENDED PETITION FOR REVIEW

Timothy J. Parker, WSBA No. 8797
Jason W. Anderson, WSBA 30512
CARNEY BADLEY SPELLMAN, P.S.
701 Fifth Avenue, Suite 3600
Seattle, Washington 98104-7010
Telephone: (206) 622-8020
Attorneys for Respondent Molina Healthcare of Washington, Inc.

TABLE OF CONTENTS

Page

Page

INDEX TO APPENDICES

TABLE OF AUTHORITIES

Page(s)

Washington Cases

Federal Cases

Statutes and Court Rules

I. INTRODUCTION

Said Farzad, M.D., appearing pro se, filed a petition for review ten days after the deadline. He did not file a motion for extension of time. After this Court rejected both Dr. Farzad's initial petition and a subsequent amended petition for failure to comply with the Rules of Appellate Procedure, this Court accepted for filing Dr. Farzad's second amended petition, filed well over two months after the deadline, together with a motion for extension of time. His single-paragraph motion, consisting of an unsworn statement citing lack of Internet access, provides no basis to find "extraordinary circumstances" necessitating an extension "to prevent a gross miscarriage of justice." RAP 18.8(b). This Court should dismiss Dr. Farzad's petition as untimely.

Even if this Court were to grant the requested 76-day extension and consider Dr. Farzad's petition, it should decline to grant review of the Court of Appeals' unpublished decision affirming the dismissal of his claims against Molina Healthcare of Washington, Inc. ("Molina"). Dr. Farzad alleged that Molina falsely told a 911 operator that he had called Molina and threatened to kill Molina employees and bomb Molina's office building. Molina moved for summary judgment on multiple grounds, including (1) RCW 4.24.510, which provides immunity from civil liability for reporting information to a government agency, and (2) the preclusive effect of administrative findings that Dr. Farzad had, in fact, threatened Molina. The superior court granted summary judgment, and the Court of Appeals affirmed without reaching the merits, strictly on the basis that Dr.

Farzad's appellate brief was deficient in that it failed to include any argument in support of the issues he raised or to cite any pertinent legal authority.

Dr. Farzad's petition for review is similarly deficient. It raises no issue pertaining to Molina, does not argue the RAP 13.4(b) criteria for acceptance of review, contains no argument regarding Molina's defenses, and cites no legal authority. In addition, because the Court of Appeals did not reach the merits, there is no basis to review the Court of Appeals' decision under the RAP 13.4(b) criteria, and Dr. Farzad does not argue otherwise. This Court should dismiss or deny the petition, decline to accept review, and award Molina the fees it has incurred on appeal under RCW 4.24.510.

II. STATEMENT OF THE CASE

A. Molina called 911 after Dr. Farzad called Molina threatening to kill its employees with machine guns and bomb its office building. Dr. Farzad then sued Molina asserting defamation and other claims.

Dr. Farzad prescribed a non-formulary drug for a Medicaid enrollee without obtaining prior authorization from Molina as required. CP 942. Molina repeatedly notified Dr. Farzad of the need to seek prior authorization. CP 942. The authorization forms Dr. Farzad submitted to Molina omitted critical information. CP 943, 947, 949, 951. Dr. Farzad became angry after Molina rejected his incomplete requests. *See* CP 953, 955. On May 5, 2014, Dr. Farzad called Molina five times within 30 minutes. CP 903. He stated to Molina employees that he was five minutes

away from Molina offices and would bomb the building when he arrived. CP 917, 919, 929-31. He also stated that he had machine guns and would kill everyone at Molina, including specifically the medical director and another Molina employee named Fasil. CP 924, 929-30.

Molina employees locked down its office building and called 911. CP 919, 949. Police interviewed Dr. Farzad the next day and arrested him. Although his convictions were vacated due to superior-court error, Dr. Farzad was twice convicted of felony telephone harassment because of his threats to Molina. CP 937; *Farzad v. Snohomish Cty. Superior Court*, 769 Fed. App'x 499, 2019 WL 1975995 (9th Cir. 2019) (unpublished); *State v. Farzad*, 198 Wn. App. 1018, 2017 WL 1055729 (2017) (unpublished).

Dr. Farzad made his threats to Molina while he was under investigation by the state disciplinary authority for medical practitioners, the Medical Quality Assurance Commission (MQAC), for inappropriate behavior toward patients. *See Slip Op.* at 2. His alleged threats against Molina employees were also investigated and, after a contested administrative hearing, MQAC entered a final order suspending Dr. Farzad's license to practice medicine, subject to conditions that had to be satisfied before he could seek reinstatement, including obtaining a favorable mental-health examination. CP 907-09. The final order included findings that Molina employees were credible in their accounts of Dr. Farzad's threats. CP 903. A superior court affirmed MQAC's order. CP 743-44.

MQAC ultimately rejected Dr. Farzad's repeated requests to reinstate his license. *Slip Op.* at 4. Dr. Farzad then sued Molina, MQAC,

and other defendants, asserting numerous claims and seeking damages and reinstatement of his license. CP 12-21.

B. The superior court granted Molina summary judgment, dismissing Dr. Farzad's claims.

Molina moved for summary judgment on multiple grounds, including immunity under RCW 4.24.510 and collateral estoppel based on MQAC's administrative determination. CP 880-94. The trial court granted Molina's motion, dismissing Dr. Farzad's claims. CP 967-69. MQAC and the other defendants similarly obtained summary judgment, based on various immunity defenses. CP 758-60, 874-76; *see also* RP 18-19.

C. On appeal, Dr. Farzad made no pertinent arguments and cited no legal authorities.

Although represented by counsel in the trial court, Dr. Farzad was pro se on appeal. His appeal brief suffered from numerous deficiencies. Most significantly, while Dr. Farzad assigned error generally to the dismissal of his claims on summary judgment, he made no arguments pertaining to the legal bases for the summary judgment. Nor did he cite any pertinent legal authorities, other than a single case cited for the summary-judgment standard. As the Court of Appeals observed, "Instead of addressing the legal issues regarding the defendants' immunity from suit, Farzad simply provide[d] a litany of factual assumptions he believes were perpetuated by the defendants and which he disputes." *Slip Op.* at 6.

D. Disposing of Dr. Farzad's appeal in an unpublished decision, the Court of Appeals affirmed because his appellate brief was deficient. The Court of Appeals did not reach the merits of any of the defenses underlying the summary judgment.

Determining Dr. Farzad's appeal without oral argument, the Court of Appeals issued an unpublished decision affirming the summary-judgment orders. The appellate court declined to reach the merits of any of the grounds upon which summary judgment had been sought and granted. Instead, the court affirmed on the basis that Dr. Farzad's appeal brief was deficient in that it included no arguments or citations to authority to support the issues he raised. The court explained:

> Because Farzad does not provide any argument or citation to authority regarding the defendants' claims of immunity we decline to consider his assignment of error relating to immunity. … Therefore, we affirm the superior court's orders granting the defendants' motions for summary judgment.

Slip Op. at 6-7 (citing RAP 10.3(a)(6) and cases).

E. After rejecting two prior untimely petitions for review, this Court accepted Dr. Farzad's second amended petition and motion for extension of time, filed 76 days after the deadline.

The Court of Appeals issued its unpublished decision on September 24, 2019. No motion for reconsideration or motion to publish was filed. Any petition for review was thus due on October 24, 2019. *See* RAP 13.4(a). Dr. Farzad filed nothing on that date. Five days after the deadline, on October 29, Dr. Farzad emailed this Court stating, "Since I have not been able to find an attorney to my [sic] case, hereby I request a two-week extension for my case to appeal to the supreme court." This Court

responded by informing Dr. Farzad that a request for extension must be made by formal motion addressing the standard in RAP 18.8(b).

Dr. Farzad initially filed a petition for review on November 8, 2019, ten days after the deadline. He did not then file a motion for extension of time or pay the filing fee. This Court rejected the petition as untimely and for failing to comply with formatting and citation requirements. This Court allowed Dr. Farzad until November 26 to file an amended petition and motion for extension of time and to pay the filing fee. He filed nothing on that date.

The next day, November 27, Dr. Farzad called this Court stating that a motion for extension of time was in the mail and that a friend would pay the filing fee on his behalf. This Court received the filing fee on December 10. Not having received an amended petition or motion for extension, this Court then set the matter on a clerk's motion calendar for dismissal, scheduled for December 26. On December 23, this Court received an amended petition for review, but still no motion for extension of time. This Court rejected the amended petition for failing to comply with formatting requirements. Yet rather than dismiss, because Dr. Farzad had made "some attempts" to comply, this Court allowed Dr. Farzad until January 8, 2020, to file yet another amended petition and a motion for extension of time.

On January 8, seventy-six days after the deadline under RAP 13.4(a), Dr. Farzad filed a second amended petition (with nine "exhibits" attached) and a single-paragraph motion for extension of time. This Court accepted the documents for filing.

III. ANSWER TO MOTION FOR EXTENSION OF TIME

A. This Court rarely extends the deadline to file a petition for review, and "only in extraordinary circumstances and to prevent a gross miscarriage of justice."

Ordinarily, the Rules of Appellate Procedure are "liberally interpreted to promote justice and facilitate the decision of cases on the merits" and "[c]ases and issues will not be determined on the basis of compliance or noncompliance with [the] rules except in compelling circumstances where justice demands[.]" RAP 1.2(a). A different standard applies where one seeks an extension of the deadline for filing either a notice of appeal or a petition for review. In these circumstances, RAP 18.8(b) applies. *See* RAP 1.2(a); RAP 18.8(b).

Under RAP 18.8(b), the deadline to file a notice of appeal or a petition for review will be extended "only in extraordinary circumstances and to prevent a gross miscarriage of justice." RAP 18.8(b). This standard reflects a vastly different policy choice than the usual liberal-interpretation standard. In applying RAP 18.8(b), the appellate court "will ordinarily hold that the desirability of finality of decisions outweighs the privilege of a litigant to obtain an extension of time under this section." RAP 18.8(b). The rule "expresses a policy preference for the finality of judicial decisions over the competing policy of reaching the merits in every case." *Shumway v. Payne*, 136 Wn.2d 383, 395, 964 P.2d 349 (1998).

The RAP 18.8(b) standard for extensions is a stringent one and is "rarely satisfied." *Shumway*, 136 Wn.2d at 395. Lack of reasonable diligence *never* amounts to "extraordinary circumstances." *Beckmann ex*

rel. Beckman v. State, Dep't of Soc. & Health Servs., 102 Wn. App. 687, 695, 11 P.3d 313 (2000) (dismissing the State's appeal of a $17.76 million judgment filed ten days late where the State failed to discover that judgment had been entered). Extraordinary circumstances have been limited to circumstances in which "the filing, *despite reasonable diligence*, was defective due to excusable error or circumstances beyond the party's control." *Reichelt v. Raymark Indus., Inc.*, 52 Wn. App. 763, 765, 764 P.2d 653 (1988) (emphasis added).

B. Dr. Farzad fails to demonstrate extraordinary circumstances warranting an extension where he fails to provide any basis to find that he acted with reasonable diligence.

Dr. Farzad asserted in correspondence with this Court that he needed an extension because he had been unable to find a lawyer willing to handle his case. Yet Dr. Farzad provided no information about his efforts to find counsel that could support a finding of reasonable diligence. Moreover, because representation is not a precondition to filing a petition for review, as demonstrated by Dr. Farzad's pro se filings, inability to find a lawyer plainly is not an extraordinary circumstance that can justify Dr. Farzad's untimely filings.

Although Dr. Farzad asserts in an unsworn statement in his motion for extension that he currently lives in the Middle East and his workplace lacks Internet access, he does not explain specifically how this prevented him from filing a timely petition. Moreover, he again makes no attempt to argue that he acted with reasonable diligence. Indeed, where Dr. Farzad has managed to communicate with this Court repeatedly and file petitions for

review on three separate occasions, it is far from clear that his living circumstances provide any impediment at all to complying with applicable deadlines.

In sum, Dr. Farzad does not assert that he acted with "reasonable diligence, confusion about the method of seeking review, excusable error in interpreting the rules, or circumstances beyond [his] control." *Shumway*, 136 Wn.2d at 396. He does not even claim to have "attempted in good faith to secure review." *Id*. This Court should deny Dr. Farzad's motion for a 76-day extension of time to file his petition for review.

IV. ANSWER TO PETITION FOR REVIEW

A. Dr. Farzad's petition raises no issue pertaining to Molina or the bases for its dismissal from the case and fails to include any pertinent argument or citation to authority.

Although Dr. Farzad's petition identifies Molina as a "Respondent," the sole issue he raises pertains strictly to MQAC, not Molina. *See Petition* at 2. For that reason alone, this Court should dismiss Dr. Farzad's petition as to Molina.

Even assuming that Dr. Farzad's petition raised an issue regarding Molina or its dismissal on summary judgment, the petition includes no related argument. Under RAP 13.4(b)(7), a petition for review must contain "[a] direct and concise statement of the reason why review should be accepted under one or more of the tests established in section [13.4](b), with argument." The single-paragraph "argument" section in Dr. Farzad's petition addresses neither the merits nor the RAP 13.4(b) criteria. Instead, Dr. Farzad complains that he "lost all his wealth, went through divorce and

bankruptcy, and remains a destitute [sic]" because of a "severe injustice…done by MQAC." *Petition* at 19. His petition cites not a single case, statute, court rule, or other legal authority.

Although Dr. Farzad's petition mentions Molina a few times, he never challenges the trial court's granting of summary judgment to Molina. Nor does he dispute that Molina is immune under RCW 4.24.510 from liability for its report to police or that the doctrine of collateral estoppel precludes him from denying that he threatened Molina and its employees. In fact, Dr. Farzad effectively admits that he made the threats, stating that he wears his telephone-harassment convictions "like a badge of hon[o]r." *Petition* at 17-18. Dr. Farzad never mentions collateral estoppel, and he mentions "immunity" only to concede repeatedly that MQAC is immune from liability. *Petition* at 2, 10-11, 13. Absent any issue or argument pertaining to Molina's dismissal on summary judgment, this Court should dismiss the petition.

B. Because the Court of Appeals did not reach the merits of the bases for the dismissal of Dr. Farzad's claims on summary judgment and Dr. Farzad does not challenge the legal basis for the Court of Appeals' disposition of his appeal, none of the criteria for acceptance of review is met.

As explained above, the Court of Appeals affirmed the summary judgment in Molina's favor by enforcing the Rules of Appellate Procedure and without reaching the merits, on the basis that Dr. Farzad failed to make any arguments or cite any authorities in support of the issues he raised on appeal. Dr. Farzad's petition thus can satisfy none of the criteria for

acceptance of review. Because the Court of Appeals did not reach the merits, its decision necessarily (1) does not conflict with a decision of the Supreme Court, (2) does not conflict with a decision of the Court of Appeals, (3) involves no constitutional issues, and (4) involves no issue of substantial public interest. RAP 13.4(b). In fact, Dr. Farzad does not challenge the legal basis for the Court of Appeals' disposition of his appeal. For this additional reason, this Court should deny Dr. Farzad's petition for review.

V. REQUEST FOR FEES ON APPEAL

A party who prevails in establishing entitlement to immunity under RCW 4.24.510 is entitled to recover its reasonable attorney's fees incurred in defending against the suit. RCW 4.24.510. Molina requested an award of its fees on appeal in its brief in the Court of Appeals, citing RCW 4.24.510 and RAP 18.1. *Brief of Respondent Molina Healthcare of Washington, Inc.* at 16. The Court of Appeals did not address Molina's fee request in its decision on the merits. This Court should award Molina the reasonable fees it has incurred on appeal, including in answering Dr. Farzad's petition for review and motion for extension of time.

VI. CONCLUSION

As Dr. Farzad's petition was untimely without reasonable excuse, raised no issue pertaining to Molina, and failed to include any pertinent argument or citation to authority, and because none of the criteria for acceptance of review is met, this Court should dismiss or deny Dr. Farzad's petition for review and award fees.

Respectfully submitted this 25th day of March, 2020.

CARNEY BADLEY SPELLMAN, P.S.

By *s:/ Jason W. Anderson*
Timothy J. Parker, WSBA No. 8797
Jason W. Anderson, WSBA No. 30512
Attorneys for Respondent Molina Healthcare of Washington, Inc.

CERTIFICATE OF SERVICE

The undersigned certifies under penalty of perjury under the laws of the State of Washington that I am an employee at Carney Badley Spellman, P.S., over the age of 18 years, not a party to nor interested in the above-entitled action, and competent to be a witness herein. On the date stated below, I caused to be served a true and correct copy of the foregoing document on the below-listed attorney(s) of record by the method(s) noted:

☒ Via Appellate Portal to the following:

Jonathan E. Pitel Office of the Attorney General PO Box 40126 Olympia, WA 98504 Patricia D. Todd 7141 Cleanwater Drive SW Olympia, WA 98504-0126 jonathanp@atg.wa.gov lalolyef@atg.wa.gov amyp4@atg.wa.gov PatriciaT2@atg.wa.gov	Justin A. Steiner / Bryan T. Terry Mullin, Allen & Steiner PLLC 101 Yesler Way, Suite 400 Seattle, WA 98104 jsteiner@masattorneys.com bterry@masattorneys.com eboehmer@masattorneys.com rgraf@masattorneys.com
Said Farzad 3512 A Street NW Gig Harbor, WA 98335 Sfarzad1950@gmail.com	

DATED this 25th day of March, 2020.

s/ Patti Saiden
Patti Saiden, Legal Assistant

APPENDIX A

Filed
Washington State
Court of Appeals
Division Two

September 24, 2019

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

SAID FARZAD, Individually, Appellant, v. STATE OF WASHINGTON DEPARTMENT OF HEALTH-MEDICAL QUALITY ASSURANCE COMMISSION; WASHINGTON PHYSICIANS HEALTH PROGRAM, a Washington non-profit Corporation doing business in Washington State; LARRY BERG AND "JANE DOE" BERG, and the marital community composed thereof; CHRIS BUNDY AND "JANE DOE" BUNDY, and the marital community composed thereof; MOLINA HEALTHCARE OF WASHINGTON, a Washington Corporation, John and Jane Does 1-10, Defendants.	No. 51340-4-II UNPUBLISHED OPINION

LEE, A.C.J. — Said Farzad appeals the superior court's order granting all the defendants' motions for summary judgment. The superior court agreed that all the defendants were entitled to immunity and dismissed Farzad's claims. We affirm the superior court's orders granting the defendants' motions for summary judgment.

FACTS

Farzad was a licensed psychiatrist. The Medical Quality Assurance Commission (MQAC), as the disciplinary authority for medical practitioners, received complaints regarding alleged boundary violations Farzad committed with two of his patients. Larry Berg, an MQAC staff attorney, was assigned to work on the investigation and subsequent disciplinary proceedings. Farzad did not deny any of the allegations; instead, Farzad insisted that his behavior was appropriate. Because Farzad admitted to the conduct alleged in the complaints, MQAC decided to pursue a Stipulation to Informal Disposition regarding the boundary violations. MQAC sent Farzad a Statement of Allegations, Summary of Evidence, and the Stipulation to Informal Disposition. However, Farzad rejected the Stipulation to Informal Disposition.

While this initial investigation was occurring, MQAC learned that Farzad had been arrested for making telephone threats to Molina Healthcare. Molina employees had called 911 to report that Farzad had called Molina and threatened to shoot everyone and bomb the building.[1] Based on Farzad's arrest, MQAC summarily suspended Farzad's medical license pending a hearing.

After a hearing regarding Farzad's license to practice medicine, MQAC determined that Farzad's attitude regarding his conduct was indicative of an underlying mental condition which rendered him unable to practice with reasonable skill and safety. Specifically, MQAC found,

> the ongoing "inability to practice with reasonable skill and safety" issue in this case can be seen in regular conversation with the Respondent and was clearly apparent to the Commission: It is the manner in which the Respondent attempts to dominate and manipulate everyone with whom he interacts in a constant effort to gain their

[1] The State later charged Farzad with telephone harassment and threats to bomb or injure property. A jury found Farzad guilty of telephone harassment. After the superior court granted summary judgment in this case, Farzad's conviction was reversed by the Ninth Circuit Court of Appeals. *Farzad v. Snohomish County Superior Court*, 769 Fed. Appx. 499 (2019).

> attention and admiration, whether it is through his grandiose presentation of self; his misleading and hyperbolic answers; his contemptuous and impatient dismissal of others; blame-shifting; launching into lengthy stories that overestimate his accomplishments or abilities; or his flagrant attempts to control every discourse to prove his superiority. The Respondent's demeanor and presentation during his testimony was simply and fundamentally manipulative, controlling, and grandiose, and indicates some type of underlying mental condition that does interfere with his ability to practice as a physician with reasonable skill and safety. The Respondent's testimony, the testimony of all the witnesses, the transcripts of the Respondent's text messages to patients, and the transcripts of the interviews with Molina employees, were all consistent in portraying someone whose behavior and mental state are destructively contaminated by a sense of personal entitlement.

Clerk's Papers (CP) at 639-40 (internal footnotes omitted).

MQAC suspended Farzad's license. MQAC's order required Farzad to submit to a neuropsychological evaluation. After completing the neuropsychological evaluation Farzad was required to do the following:

1. Sign all releases necessary to allow the evaluators to speak to MQAC and Washington Physicians Health Program (WPHP).

2. Provide a copy of the evaluation to MQAC and WPHP.

3. Make an appointment with WPHP to discuss the evaluation.

4. Follow WPHP's referrals for further examination and assessment.

5. Obtain a report from WPHP regarding whether Farzad is safe to return to practice or whether further treatment is necessary.

The order stated that Farzad could not apply for reinstatement of his license until WPHP provided MQAC with a final assessment indicating that Farzad is safe to return to practice. WPHP was contracted with the Washington Department of Health, through MQAC, "to obtain the services of a qualified provider for potentially impaired physicians, physician assistants, osteopathic

physicians, osteopathic physician assistants, podiatric physicians, veterinarians, and dentists." CP at 851 (emphasis omitted) (boldface omitted). Under the contract, WPHP was required to provide "education, assessment, intervention and referral, client support, administration and reporting." CP at 851 (emphasis omitted) (boldface omitted). Chris Bundy was the director of WPHP at the time of Farzad's lawsuit.

Farzad appealed MQAC's order to the superior court. While judicial review of MQAC's order was pending, Farzad completed the neuropsychological evaluation. Following receipt of the neuropsychological evaluation, WPHP recommended that Farzad obtain a neurology evaluation and begin psychotherapy. Farzad completed the neurology evaluation, which raised concerns that Farzad was suffering from a "neurodegenerative condition called frontal temporal lobar degeneration (FTLD), behavioral variant." CP at 828. At the same time, Farzad's relationship with WPHP became strained because Farzad engaged in threatening and aggressive communications with WPHP staff.

Ultimately, WPHP determined that Farzad would not likely be able to safely return to the practice of medicine. WPHP provided MQAC with notice of its recommendation. As a result, MQAC denied Farzad's repeated requests to reinstate his medical license.

Farzad filed a civil complaint for damages against MQAC, WPHP, and Molina. Farzad also individually named Larry Berg and Chris Bundy as defendants. The complaint related to MQAC's decision to suspend Farzad's medical license and alleged negligence, gross negligence, civil conspiracy, disparate treatment, unlawful retaliation, negligent and intentional infliction of emotional distress, libel, slander, false light, and defamation.

MQAC and Berg filed a motion for summary judgment, asserting absolute immunity from suit under RCW 18.130.300(1)[2] and the common law quasi-judicial immunity doctrine.[3] WPHP and Bundy filed a motion for summary judgment, alleging immunity from suit under RCW 18.130.300(2).[4] Molina filed a motion for summary judgment, asserting immunity for making reports to law enforcement under RCW 4.24.510.[5] The superior court granted all the defendants' motions for summary judgment based on their respective claims of immunity.

Farzad appeals.

ANALYSIS

Farzad appeals the superior court's orders granting the defendants' motions for summary judgment. Farzad's arguments focus on whether the superior court erred in granting summary judgment because there were genuine issues of material fact as to the factual issues he raised.

Farzad assigns error to the superior court's order granting the defendants' motions for summary judgment and presents four issues related to his assignment of error. One issues is

[2] RCW 18.130.300(1) provides, "The secretary, members of the boards or commissions, or individuals acting on their behalf are immune from suit in any action, civil or criminal, based on any disciplinary proceedings or other official acts performed in the course of their duties."

[3] *Janaszak v. State*, 173 Wn. App. 703, 718-19, 297 P.3d 723 (2013).

[4] RCW 18.130.300(2) provides, "A voluntary substance abuse monitoring program or an impaired practitioner program approved by a disciplining authority, or individuals acting on their behalf, are immune from suit in a civil action based on any disciplinary proceedings or other official acts performed in the course of their duties."

[5] RCW 4.24.510 provides, "A person who communicates a complaint or information to any branch or agency of federal, state, or local government . . . is immune from civil liability for claims based upon the communication to the agency or organization regarding any matter reasonably of concern to that agency or organization."

dispositive of this case–whether the superior court erred in concluding that the defendants were immune from suit as a matter of law.

With regard to immunity, Farzad included the following issue: "Did the trial court err when it dismissed this case on summary judgment by giving absolute immunity to the State of Washington and MQAC and the other defendants?" Br. of App. at 4. However, Farzad provides no argument or authority supporting this issue. We will not consider issues or assignments of error that are not supported by argument or citation to authority. RAP 10.3(a)(6); *Bercier v. Kiga*, 127 Wn. App. 809, 824, 103 P.3d 232 (2004), *review denied*, 155 Wn.2d 1015 (2005). "Passing treatment of an issue or lack of reasoned argument is insufficient to merit judicial consideration." *Holland v. City of Tacoma*, 90 Wn. App. 533, 538, 954 P.2d 290, *review denied*, 136 Wn.2d 1015 (1998).

Here, Farzad cites only to legal authority for the fundamental standard of review for summary judgment. However, these well-established legal principles are unrelated to the specific issues regarding immunity that were decided on summary judgment.

Farzad provides no citation to relevant legal authority related to the immunity claims argued by the defendants. In fact, Farzad fails to even cite to the statutes granting immunity to the defendants in this case, RCW 18.130.300 and RCW 4.24.510. Instead of addressing the legal issues regarding the defendants' immunity from suit, Farzad simply provides a litany of factual assumptions he believes were perpetuated by the defendants and which he disputes.

Farzad highlights the factual disputes and disregards the issue of legal immunity, to which the superior court determined the defendants were entitled. But factual disputes regarding the underlying facts of a case are not relevant if the defendants are immune from suit. Because Farzad

does not provide any argument or citation to authority regarding the defendants' claims of immunity, we decline to consider his assignment of error relating to immunity. *Bercier*, 127 Wn. App. at 824. Therefore, we affirm the superior court's orders granting the defendants' motions for summary judgment.

A majority of the panel having determined that this opinion will not be printed in the Washington Appellate Reports, but will be filed for public record in accordance with RCW 2.06.040, it is so ordered.

Lee, A.C.J.

We concur:

Worswick, J.

Cruser, J.

CARNEY BADLEY SPELLMAN

March 25, 2020 - 10:57 AM

Transmittal Information

Filed with Court:	Supreme Court
Appellate Court Case Number:	97835-2
Appellate Court Case Title:	Said Farzad v. State of WA, Dept. of Health-Medical Quality Assurance, et al.
Superior Court Case Number:	17-2-07459-0

The following documents have been uploaded:

- 978352_Answer_Reply_20200325105532SC023811_6854.pdf
  This File Contains:
  Answer/Reply - Answer to Petition for Review
  The Original File Name was Answer to Motion for Extension and Petition for Review.PDF

A copy of the uploaded files will be sent to:

- Patricia.Todd@atg.wa.gov
- jsteiner@masattorneys.com
- parker@carneylaw.com
- sfarzad1950@gmail.com
- tduany@masattorneys.com

Comments:

Sender Name: Patti Saiden - Email: saiden@carneylaw.com
Filing on Behalf of: Jason Wayne Anderson - Email: anderson@carneylaw.com (Alternate Email:)

Address:
701 5th Ave, Suite 3600
Seattle, WA, 98104
Phone: (206) 622-8020 EXT 149

Note: The Filing Id is 20200325105532SC023811