

FILED
SUPREME COURT
STATE OF WASHINGTON
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Supreme Court No. 100682-9

SUPREME COURT
OF THE STATE OF WASHINGTON

JOHN HASSAPIS, M.D.,

Petitioner,

v.

WHIDBEY PUBLIC HOSPITAL DISTRICT
d/b/a WHIDBEYHEALTH MEDICAL CENTER,

Respondent.

REPLY TO ANSWER TO PETITION FOR REVIEW

Gregory M. Miller, WSBA No. 14459

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I. INTRODUCTION

Petitioner John Hassapis, M.D. (“Petitioner”), filed his petition for review (“Petition”) on February 23, 2022, seeking review of Division One’s January 24, 2022, unpublished decision (“Decision”) affirming the trial court’s dismissal of his breach of contract wage claim complaint against Respondent Whidbey Public Hospital District (“Hospital”), __ Wn.App.2d ___, 2022 WL 202713 (2022). Respondent filed and served its answer to the Petition (“Answer”) on March 25, 2022. Per RAP 13.4(d), any reply to the Answer is due 15 days later on April 9 which was a Saturday, moving the deadline to April 11.

II. REPLY ARGUMENT

Dr. Hassapis addresses an issue raised at page 23 of the Answer: whether the Hospital should be awarded fees under RAP 18.1(j) for responding to Dr. Hassapis’ Petition for Review if the Petition is denied. It should not, per the text of the rule.

RAP 18.1(j) states (emphasis added):

(j) Fees for Answering Petition for Review. If attorney fees and expenses are awarded to the party who prevailed in the Court of Appeals, and if a petition for review to the Supreme Court is subsequently denied, reasonable attorney fees and expenses may be awarded for the prevailing party's preparation and filing of the timely answer to the petition for review. A party seeking attorney fees and expenses should request them in the answer to the petition for review.

The Hospital's Answer cites the rule but not any of its terms. It thus does not address the underlined portion providing that that a fee award is contingent on an underlying award of fees by the Court of Appeals decision subject to review.

Review of the Court of Appeals decision shows that no such award was made. Thus, since the rule's factual predicate for granting fees is missing, even if the Petition is denied, the rule gives no basis for granting fees to the Hospital.

Dr. Hassapis respectfully asks the Court to grant review for any of the reasons set out in his Petition, which will moot the Hospital's request for fees, and to deny the Hospital fees in any event.

This document contains 347 words, excluding the parts of the document exempted from the word count by RAP 18.17.

Respectfully submitted this 11th day of April, 2022.

CARNEY BADLEY SPELLMAN, P.S.

By /s/Gregory M. Miller
Gregory M. Miller, WSBA No. 14459
Attorneys for Appellant John Hassapis, M.D.

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 court e-filing website/Portal, which sends notification of such filing to the following:

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DATED this 11th day of April, 2022.

/s/ Elizabeth C. Fuhrmann

Elizabeth C. Fuhrmann, Legal
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CARNEY BADLEY SPELLMAN

April 11, 2022 - 12:03 PM

Transmittal Information

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