

62904-2

62904-2

NO. 62904-2-1

COURT OF APPEALS FOR DIVISION I  
STATE OF WASHINGTON

MINNIE THOMAS  
Appellant,

v.

UNIVERSITY OF WASHINGTON AND HARBORVIEW  
MEDICAL CENTER,

Respondents.

APPEAL FROM KING COUNTY SUPERIOR COURT  
HONORABLE MICHAEL FOX, JUDGE

Brief of Appellate

Minnie Thomas, pro se  
22416 88th Ave S  
#B.206

Kent, WA. 98101

253-277-2817

FILED  
STATE OF WASHINGTON  
2009 AUG 28 PM 3:50

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## Assignment of Error

On December 5<sup>th</sup> 2007, Honorable Michael Fox, Judge, dismissed my case against the University of Washington and Harborview Hospital. I was ordered to pay the defendants / Respondent for their Attorney fees of \$1500.00. He also ordered me to pay the Court a fine of \$1000.00. He said my case frivolous. He said it didnot have merit. (CP 36-37) I later put in a motion for a Reconsideration which provided addition information to Support?

Dated this 24<sup>th</sup> day of August, 2009

Minnie Thomas

Type Name:

Attorney for: PRO SE

My case (cp. 38-48) my motion for  
reconsideration was denied by Judge Fox also.

(cp. 49-49)

The decision to dismiss my case was wrong

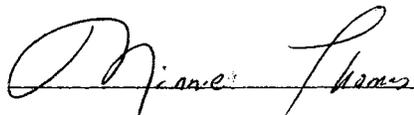
The decision to sanction me was wrong. (cite  
as: 120 Wash. App. 374, 387 E. Sanctions)

The decision to dismiss my case was wrong. My case  
had merit. I was greatly traumatized and suffered  
great emotional damage. My case was not a

frivolous case (cite as: 120 Wash. App. 374, 389)

To be falsely accused and then having

Dated this 24 day of August, 2009.

 \_\_\_\_\_

Type Name:

Attorney for:

Pro SE

To Suffer through a Chain of  
horrific Events because of that False  
Accusation is a Crime, As Explained  
in my reconsideration motion, (cp 38-49)  
that False 911 Report to the Police  
Department stating that I was Suicidal  
was made by a Staff member who  
had received that False information from  
her Co-worker, ms Sherri Ewers. ms  
Heidi Sitton, the reporting party of the 911  
Call, made the decision to report me  
Dated this 24 day of August, 2009.

Mianne Thomas  
Type Name:  
Attorney for: Pro Se

As being Suicidal was based on information  
that was totally Hearsay. (CP 15-16)

Because this information was Hearsay information,  
The call made to 911 reporting me as  
being Suicidal was Gross Negligence.  
(RAP 71.05)

My case had merit. I was  
falsely accused and reported as being  
Suicidal. I was detained and removed  
from my home. My privacy and rights  
were violated. The pain and suffering

Dated this 24 day of August, 2009.

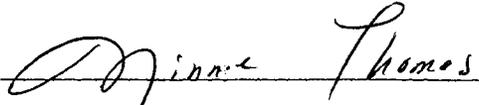
Minnie Thomas

Type Name:

Attorney for:

pro se

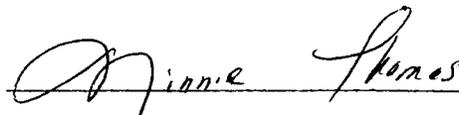
I endured because of that false 911  
Call, which was made out of gross  
Negligence was reason enough for me to  
Seek damages through the court. My  
Case had merit. It should not have  
been dismissed. The court should not  
have awarded the defendants Attorney  
Fees, and a \$1000.00 fine should not  
have been imposed. My case had merit.  
I was damaged by a staff member at  
Harborview Hospital. I had the right  
Dated this 24<sup>th</sup> day of August 2, 2009

  
Type Name:  
Attorney for: Pro SE

To Seek Justice.

I am asking the Appellate Court  
to reverse the motion that dismissed my case  
and to reverse the motion ordering  
me to pay the Attorney Fees of \$1500.00  
and the Court fine of \$1000.00.

Dated this 24<sup>th</sup> day of August, 2009.



Type Name:

Attorney for: PRO SE

## Statement of case

On May 4<sup>th</sup> 2005, a Staff member at Harborview Hospital made a false 911 call to the Police Dept. to report me as being suicidal. That false 911 call caused a chain of horrific events which left me traumatized. Several policemen came to my home and ordered me to come outside since I was not dressed properly and I had not called them for assistance. I thought I had the

Dated this 24<sup>th</sup> day of August 2009.

Type Name:

Attorney for:

Minnie Thomas  
Pro se

Right not to open my door especially since I had not done anything wrong. Unknowingly to me, the Apartment Manager was with the policemen. They asked her to unlock the door. She did. The policemen came into my apartment. Since I was not properly dressed, I stepped into the bathroom so that I would not be seen by the officers. I tried to close the door. Two of the officers pushed hard against the door to prevent me from closing it.

Dated this 24<sup>th</sup> day of August, 2009.

Type Name: Minnie Thomas  
Attorney for: Pao St

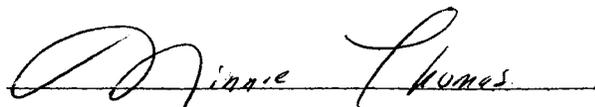
I was knocked to the floor. The officers  
picked me up under each arm and half  
dragged, half carried me into my living room.  
I was forced to sit down one officer  
stood over me while other officers  
searched my apartment. They did not find  
anything out of the ordinary that they  
thought I could or would use to harm  
myself. Eventhough I was very alert and  
focused and showed no signs of being in  
danger to myself, they called medic one.

Dated this 24<sup>th</sup> day of August

Minnie Thomas  
Type Name:  
Attorney for: Pao SE

I was forced to leave my home un-  
properly dressed in front of my neighbors  
and the apartment manager. I was  
taken to Harborview Hospital. I was  
forced to have my temperature taken  
other medical procedures was done on me.  
I also suffer from Post Traumatic  
Syndrome and having people touching me  
against my will was unbearable.  
Shortly after that, I was for some reason  
taken to another area of the hospital

Dated this 24<sup>th</sup> day of August, 2009.



Type Name:

Attorney for:

pro SE

I was put into a very small room.  
My clothing was searched, I was  
asked some questions. I was then  
left in that very small locked room  
for hours. Many times I rang the  
buzzer for assistance or to get the  
attention of a nurse to find out  
how long I was going to be kept in  
that locked room. Most of the times,  
the buzzer was ignored. The staff members  
were very rude and very impatient with me.  
Dated this 24<sup>th</sup> day of August, 2009

Minnie Thomas

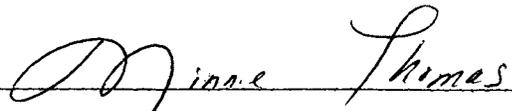
Type Name:

Attorney for:

When they were in the room. They did not seem to care that I was scared, upset, alone, confused and obviously traumatized over what I was going through.

After several hours of being held against my will in that very small locked room, a mental health worker came into the room to evaluate me. It was around 1:00 - 2:00 AM in the morning when the evaluation took place. I had been taken to Harborview Hospital hours earlier, approximately 6:00 - 7:00 PM.

Dated this 24<sup>th</sup> day of August, 2009.

  
Type Name: \_\_\_\_\_  
Attorney for: PPO SE

After I was evaluated, I was told I could go home. I was released. The Mental Health worker did not find reasons to detain me, any longer.

The very early morning of May 5<sup>th</sup> 2008, I was released from Harborview Hospital with no money, unproperly dressed, no shoes on and feeling very sick. I asked if I could be taken home by an ambulance/medic one. The answer was no. I was told to wait in the

Dated this 24 day of August, 2009.

Minnie Thomas

Type Name:

Attorney for: PAO SE

The Waiting Room for a Taxi. It was  
a very long wait. I was very em-  
barrassed to be seen by the other people  
in the waiting room because of the way  
I was dressed. The Taxi finally  
came and took me home. I did not  
have my keys or purse with me be-  
cause of the way I forced to leave  
my home so suddenly. When I arrived  
at my apartment, I was locked out.  
The manager did not answer her buzzer  
Dated this 24<sup>th</sup> day of August, 2009

Type Name: Minnie Thomas  
Attorney for: PNO

At First. If the TAXI driver had not  
been kind enough to stay with me and  
use his cell phone to call the Managers  
phone # repeatedly until she finally answered,  
I would have been locked out indefinitely  
in a state of being sick, cold, improperly  
dressed and traumatized. After talking  
to the TAXI driver over the cell  
phone, the Manager came down to  
the lobby and let me into the  
building but she was very very upset  
Dated this 24<sup>th</sup> day of August, 2009

Minnie Thomas

Type Name:

Attorney for:

PRO SE

And mean to me. She was very  
AngrY over the incident that occurred  
After the 911 call. She said  
that having all those policemen  
On her property made her Building  
look Bad. She was concerned  
about the reputation of her  
Building but not about me. Once  
Again, I felt less than a Human being.  
I was the Victim but I had been  
Prosecuted and treated like a Criminal

Dated this 24<sup>th</sup> day of August, 2009.

Mingie Thomas

Type Name:

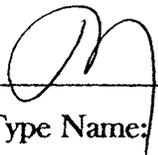
Attorney for:

PRO SE

by all the people that was involved  
after that false 911 call made  
from Hearsay information was made  
by that Harborview staff member.

Approximately 8:00 AM on May 5<sup>th</sup>  
2005, I called the Dermatology  
Clinic and spoke with Ms Sherri  
Ewers, the person I spoke with on  
May 4<sup>th</sup> 2005 to cancel my appointment.  
I asked her why did she call 911  
to report me as being suicidal.

Dated this 24<sup>th</sup> day of August 2, 009.

  
Minnie Thomas  
Type Name:  
Attorney for: PRO SE

She said she did not make that  
phone call. She said ms Heidi  
Sitton made that call. She  
said that she told ms Sitton  
that she was concerned over  
me because she knew I was  
struggling with major depression.

She apparently told ms Sitton  
that my depression was the reason  
why I was cancelling my appointment

with Dr Kirby, The Dermatologist, then

Dated this 24 day of August, 2009.

Minnie Thomas

Type Name:

Attorney for:

PRO SE

Based solely on that information that she received from ms Sherri Ewers, ms Heidi Sitton decided to call 911 and report me as being suicidal.

After speaking with ms Sherri Ewers, I called ms Heidi Sitton, the reporting party, to ask her why she failed to call me to verify the fact that I had told ms Ewers that I was suicidal before making that 911 call. ms Sitton

Dated this 24<sup>th</sup> day of August, 2009.

Minnie Thomas

Type Name:

Attorney for:

PAO SE

became very Rude. She informed me that she was not going to have this conversation with me, she told me that I had 10 seconds to talk and then she was going to hang up the phone. As I was desperately trying to explain to her how emotionally distraught I was feeling after going through that horrific event the day and night before, she began to count to 10 and when

Dated this 24<sup>th</sup> day of August, 2009.

Minnie Thomas

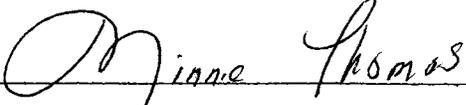
Type Name:

Attorney for:

Pao SE

She got to #1, She Hung Up.

I wrote letters and made many  
Phone calls to Management and other  
Administrative Staff members. My  
letters were not answered. My phone  
calls were not returned. I was not  
trying to harass them. I was trying  
to get the point across to them  
that I had been greatly traumatized  
over that false QII report made  
by Ms H. Sitten on May 4th 2005, and  
Dated this 24<sup>th</sup> day of August, 2009.

  
Type Name: \_\_\_\_\_  
Attorney for: PRO SE

it had greatly damaged me, They ignored me completely in my effort to get some support, compassion and understanding over that false 911 call that had caused that horrific chain of events which left me totally traumatized.

After 3 very long years of trying to deal with the emotional damages and later on the physical medical problem caused by the emotional distress,

I filed a lawsuit against Harborview

Dated this 24<sup>th</sup> day of August, 2009.

Minnie Thomas

Type Name:

Attorney for:

Hospital and University of Washington. to try  
to get some relief and Justice over  
the wrongful act of mailing that  
false 911 call from hearsay information  
that left me very Traumatized. (cp 38-49)

Dated this 24<sup>th</sup> day of August, 2009

Minne Thomas  
Type Name:  
Attorney for: PRO SE

## Argument

Because of the Facts as described in the assignment of error and Statement of Case, (cp-38-49) The Trial Court should not have dismissed my claims and Attorney fees should not have been imposed. (cp 36-37) That all call was made from Hearsay. It was gross negligence (RAP 770-150) my case had merit. The trial Judge said my case was frivolous

Dated this 24<sup>th</sup> day of August, 2009

Minnie Thomas

Type Name:

Attorney for:

(cp 36-37) But He Was Wrong..  
I Should not have to Pay for the  
Attorney fees that the judge imposed,  
(cp. 36-37) Nor Should I have  
been fined. (cp. 36-37) The trial  
Court rewarded the dependants for  
Severely damaging me when he dismissed  
my Claims and ordered me to pay  
their Attorney fee. The Judge then  
Punished me for Seelling justice  
by dismissing my Case eventhough it

Dated this 24<sup>th</sup> day of August, 2009.

Minnie Thomas

Type Name:

Attorney for:

PRO SE

had merit and he punished me  
more by imposing a fine of \$1000.00

My case had merit. I was  
very damaged.

Dated this 24<sup>th</sup> day of August, 2009

Minnie Thomas

Type Name:

Attorney for:

pro se

## Conclusion

That horrific event did great emotional damage to me. Because of it, I do not trust medical staff; therefore, I do not get the medical help I so desperately need. Although I have access to new doctors who are strongly encouraging me to get on going treatment(s) for my severe vascular condition, ulcers and major depression

Dated this 24<sup>th</sup> day of August, \_\_\_\_\_.

 Minnie Thomas

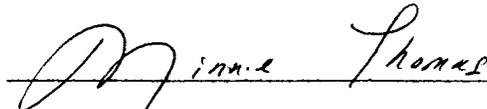
Type Name:

Attorney for:

PRO SE

and Anxiety Condition, I'm afraid  
to trust them and their supporting  
staff. I'm afraid that because  
I am struggling with major depression,  
all medical staff members will think  
that I am suicidal and report me  
to 911, even if I say no when  
asked if I am suicidal. Because of  
this fear, I do not get the medical  
help that I am in dire need of  
at this particular time.

Dated this 24<sup>th</sup> day of August, 2004.

  
Type Name: Minnie Thomas

Attorney for: pro se

Because of the fear of another false  
911 call and having to go through  
another horrific traumatic event, I avoid  
seeking medical help as much as I  
possibly can. I know that I am  
putting myself at risk by not  
being in on-going treatment for my vascular  
condition. My Depression and Anxiety issues  
have worsen tremendously to the point  
of crippling my life, but the fear  
of losing complete control of my life

Dated this 24<sup>th</sup> day of August 2004.

 Anne Phoms

Type Name:

Attorney for:

PRO SE

And then be Humiliated, Embarrassed,  
Violated, Ignored and then Casted  
Aside as if I am Worthless is  
A Fear greater than me trusting doctors  
and other Medical Staff members who are  
Very much protected by the law, even when  
there is a chance, that they are wrong.

The dismissal of my claims and the  
Unkind way I was treated by Harborview  
Staff members after that awful event  
I had to endure because of that

Dated this 24<sup>th</sup> day of August, 2004

Minne Thomas

Type Name:

Attorney for:

PRO

Motion for

Page

4 of 5

False 911 made out of Hearsay  
information has left me emotionally  
scared, damaged and personally  
disregard as a Human Being.

The dismissal of my claims by  
the trial court has left me feeling  
the same way. I need justice  
to heal.

Dated this 24<sup>th</sup> day of August, 2019.

Minne Thomas

Type Name:

Attorney for:

pro se

Motion for  
Page 5 of 5

I declare under the laws of the State of Washington  
that the above statements of facts are true and correct  
Signed on 8.24.09

Westlaw.

85 P.3d 931

120 Wash.App. 374, 85 P.3d 931

(Cite as: 120 Wash.App. 374, 85 P.3d 931)

Page 1

**H**

Court of Appeals of Washington,  
Division 3,  
Panel Ten.

Milan and Jean JECKLE, Husband and Wife, Ap-  
pellants,

v.

Robert CROTTY and Nancy Crotty, Husband and  
Wife, and The Marital Community Composed  
Thereof; Tammy Wilson Previously Known As  
Tammy Shallbetter and John Doe Wilson, Wife and  
Husband, and The Marital Community Composed  
Thereof, Britt Tinglum and John Doe Tinglum,  
Wife and Husband, and The Marital Community  
Composed Thereof; Darrell Scott and Jane Doe  
Scott, and The Marital Community Composed  
Thereof; Lynn Sarko and Jane Doe Sarko, Husband  
and Wife, and The Marital Community Composed  
Thereof; Amy Hanson and John Doe Hanson, Wife  
and Husband, and The Marital Community Com-  
posed Thereof; Michael Woerner and Jane Doe  
Woerner, Husband and Wife, and The Marital  
Community Composed Thereof; David Ashbaugh  
and Jane Doe Ashbaugh, Husband and Wife, and  
The Marital Community Composed Thereof;  
Lukins & Annis, P.S. A Washington Professional  
Services Corporation; Keller Rohrbach, LLP, A  
Washington Limited Liability Partnership; Stan-  
islaw Ashbaugh, P.S., A Washington Professional  
Services Corporation; The Medical Quality Assur-  
ance Commission of Washington, An Agency of  
the Washington State Department of Health, Re-  
spondents.

**No. 21815-5-III.**

March 4, 2004.

**Background:** Physician brought action against at-  
torneys and law firms who had obtained a list of  
physician's patients from a Medical Quality Assur-  
ance investigation and used it to contact prospect-

ive clients about joining ongoing suits against phys-  
ician for prescribing diet drug Fen-Phen. The Su-  
perior Court, Spokane County, Larry Kristianson,  
J., dismissed the action and imposed sanctions  
against physician. Physician appealed.

**Holdings:** The Court of Appeals, Brown, C.J., held  
that:

- (1) physician stated no claim for violation of Public  
Disclosure Act (PDA);
- (2) physician could not pursue Consumer Protection  
Act (CPA) claim;
- (3) physician could not state claim for violation of  
Uniform Health Care Information Act (UHCIA);
- (4) attorneys were immune from physician's other  
tort causes of actions; and
- (5) physician was not subject to sanctions.

Affirmed in part and reversed in part.

See also 104 Wash.App. 478, 16 P.3d 1268.

West Headnotes

**[1] Appeal and Error 30 ↪893(1)**

30 Appeal and Error

30XVI Review

30XVI(F) Trial De Novo

30k892 Trial De Novo

30k893 Cases Triable in Appellate Court

30k893(1) k. In General. Most

Cited Cases

The Court of Appeals reviews de novo the trial  
court's dismissal for failure to state a claim upon  
which relief can be granted. CR 12(b)(6).

**[2] Pretrial Procedure 307A ↪624**

307A Pretrial Procedure

307AIII Dismissal

85 P.3d 931  
 120 Wash.App. 374, 85 P.3d 931  
 (Cite as: 120 Wash.App. 374, 85 P.3d 931)

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307AIII(B) Involuntary Dismissal  
 307AIII(B)4 Pleading, Defects In, in General

307Ak623 Clear and Certain Nature of Insufficiency

307Ak624 k. Availability of Relief Under Any State of Facts Provable. Most Cited Cases Dismissals for failure to state a claim upon which relief can be granted are appropriate only if it appears beyond a reasonable doubt that no facts exist that would justify recovery. CR 12(b)(6).

### [3] Appeal and Error 30 ⚡ 919

30 Appeal and Error

30XVI Review

30XVI(G) Presumptions

30k915 Pleading

30k919 k. Striking Out or Dismissal.

Most Cited Cases

On review of trial court's dismissal for failure to state a claim upon which relief can be granted, the Court of Appeals accepts as true the allegations in the plaintiffs' complaint and the reasonable inferences that can be drawn from the allegations. CR 12(b)(6).

### [4] Records 326 ⚡ 31

326 Records

326II Public Access

326II(A) In General

326k31 k. Regulations Limiting Access; Offenses. Most Cited Cases

Physician stated no claim for violation of Public Disclosure Act (PDA) against attorneys who had obtained a list of physician's patients from a Medical Quality Assurance investigation and used it to contact prospective clients about suing physician for prescribing diet drug Fen-Phen, where physician made no showing that release of information violated his right to privacy. West's RCWA 42.17.310.

### [5] Records 326 ⚡ 31

326 Records

326II Public Access

326II(A) In General

326k31 k. Regulations Limiting Access; Offenses. Most Cited Cases

Person to whom public information is released has no liability under the Public Disclosure Act (PDA); rather, the liability is with the public body improperly releasing the information. West's RCWA 42.17.310, 42.17.390.

### [6] Torts 379 ⚡ 330

379 Torts

379IV Privacy and Publicity

379IV(B) Privacy

379IV(B)1 Privacy in General

379k330 k. In General. Most Cited Cases (Formerly 379k8.5(2))

Washington recognizes a common law right of privacy and the right of individuals to bring a cause of action for invasion of that right. Restatement (Second) of Torts § 652D.

### [7] Records 326 ⚡ 31

326 Records

326II Public Access

326II(A) In General

326k31 k. Regulations Limiting Access; Offenses. Most Cited Cases

Physician had no standing to assert a violation of his patients' privacy rights in their medical records, under Public Disclosure Act (PDA), for attorneys' obtaining list of physician's patients from a Medical Quality Assurance investigation and used it to contact prospective clients about suing physician for prescribing diet drug Fen-Phen. West's RCWA 42.17.310, 42.17.390.

### [8] Antitrust and Trade Regulation 29T ⚡ 256

85 P.3d 931  
 120 Wash.App. 374, 85 P.3d 931  
 (Cite as: 120 Wash.App. 374, 85 P.3d 931)

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29T Antitrust and Trade Regulation  
 29TIII Statutory Unfair Trade Practices and  
 Consumer Protection  
 29TIII(D) Particular Relationships  
 29Tk254 Professionals  
 29Tk256 k. Legal Professionals; Attor-  
 ney and Client. Most Cited Cases  
 (Formerly 92Hk6 Consumer Protection)  
 Physician could not pursue Consumer Protection  
 Act (CPA) claim against attorneys who had ob-  
 tained a list of physician's patients from a Medical  
 Quality Assurance investigation and used it to con-  
 tact prospective clients about joining ongoing suits  
 against physician for prescribing diet drug Fen-  
 Phen, since physician's allegations potentially af-  
 fected existing attorney-client relationship for  
 which no CPA action would lie. West's RCWA  
 19.86.020.

#### [9] Antitrust and Trade Regulation 29T 134

29T Antitrust and Trade Regulation  
 29TIII Statutory Unfair Trade Practices and  
 Consumer Protection  
 29TIII(A) In General  
 29Tk133 Nature and Elements  
 29Tk134 k. In General. Most Cited  
 Cases  
 (Formerly 92Hk4 Consumer Protection)  
 To establish a claim under the Consumer Protection  
 Act (CPA), the plaintiff must show (1) an unfair or  
 deceptive act or practice, (2) occurring in trade or  
 commerce, (3) that impacts the public interest, and  
 (4) causes injury to the plaintiff's business or prop-  
 erty. West's RCWA 19.86.020.

#### [10] Health 198H 642

198H Health  
 198HV Malpractice, Negligence, or Breach of  
 Duty  
 198HV(B) Duties and Liabilities in General  
 198Hk642 k. Confidentiality; Patient Re-  
 cords. Most Cited Cases

Physician could not state a claim for violation of  
 Uniform Health Care Information Act (UHCIA)  
 against attorneys who had obtained a list of physi-  
 cian's patients from a Medical Quality Assurance  
 investigation and used it to contact prospective cli-  
 ents about suing physician for prescribing diet drug  
 Fen-Phen, since attorneys were not health care pro-  
 viders against whom UHCIA provided a remedy.  
 West's RCWA 70.02.170.

#### [11] Conspiracy 91 13

91 Conspiracy  
 91I Civil Liability  
 91I(A) Acts Constituting Conspiracy and Li-  
 ability Therefor  
 91k12 Persons Liable  
 91k13 k. In General. Most Cited Cases  
 (Formerly 91k11)

#### Damages 115 57.49

115 Damages  
 115III Grounds and Subjects of Compensatory  
 Damages  
 115III(A) Direct or Remote, Contingent, or  
 Prospective Consequences or Losses  
 115III(A)2 Mental Suffering and Emo-  
 tional Distress  
 115k57.49 k. Privilege or Immunity;  
 Exercise of Legal Rights. Most Cited Cases  
 (Formerly 115k50.10, 115k49.10)

#### Torts 379 246

379 Torts  
 379III Tortious Interference  
 379III(B) Business or Contractual Relations  
 379III(B)2 Particular Cases  
 379k246 k. Attorneys. Most Cited Cases  
 (Formerly 379k16)  
 Attorneys' actions in obtaining list of physician's  
 patients from a Medical Quality Assurance invest-  
 igation and used it to contact prospective clients

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 (Cite as: 120 Wash.App. 374, 85 P.3d 931)

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about joining ongoing suits against physician for prescribing diet drug Fen-Phen were privileged as acts relating to litigation; thus, attorneys were immune from physician's tort causes of actions for interference with his business relationship with his patients, outrage, infliction of emotional distress, and civil conspiracy.

#### [12] Costs 102 2

102 Costs

102I Nature, Grounds, and Extent of Right in General

102k1 Nature and Grounds of Right

102k2 k. In General. Most Cited Cases

Physician's action against attorneys and law firms who had obtained a list of physician's patients from a Medical Quality Assurance investigation and used it to contact prospective clients about joining ongoing suits against physician for prescribing diet drug Fen-Phen was not wholly frivolous, and thus he was not subject to sanctions; unsuccessful cause of action for violation of Consumer Protection Act (CPA) raised issues of first impression. West's RCWA 4.84.185.

#### [13] Appeal and Error 30 984(5)

30 Appeal and Error

30XVI Review

30XVI(H) Discretion of Lower Court

30k984 Costs and Allowances

30k984(5) k. Attorney Fees. Most Cited Cases

#### Costs 102 2

102 Costs

102I Nature, Grounds, and Extent of Right in General

102k1 Nature and Grounds of Right

102k2 k. In General. Most Cited Cases

The decision to award attorney fees as a sanction for a frivolous action is left to the discretion of the trial court, and the court's decision will not be dis-

turbed absent a showing of abuse of discretion. West's RCWA 4.84.185.

#### [14] Costs 102 2

102 Costs

102I Nature, Grounds, and Extent of Right in General

102k1 Nature and Grounds of Right

102k2 k. In General. Most Cited Cases

In determining whether an action is frivolous, subjecting party to sanctions, the action must be viewed in its entirety and only if it is frivolous as a whole will an award of fees be appropriate. West's RCWA 4.84.185.

#### [15] Costs 102 2

102 Costs

102I Nature, Grounds, and Extent of Right in General

102k1 Nature and Grounds of Right

102k2 k. In General. Most Cited Cases

An action is frivolous, subjecting party to fees as sanctions, if it cannot be supported by any rational argument on the law or facts. West's RCWA 4.84.185.

**\*\*933 \*377** Milan Jeckle, Spokane, WA, for Appellants.

Andrew C. Bohrsen, Law Office of Bohrsen & Stowe PS, Timothy P. Cronin, Attorney at Law, Spokane, WA, for Respondents.

BROWN, C.J.

The issue is whether appellant, Milan Jeckle, M.D., has stated any cause of action against the respondent attorneys and law firms that can survive a CR 12(b)(6) motion for failure to state a claim. Dr. Jeckle's claims involved the conduct of the respondents in obtaining a list of his patients from a Medical Quality Assurance investigation and using it to contact prospective clients **\*378** about joining

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ongoing suits against him for prescribing the diet drug Fen-Phen. Dr. Jeckle alleged actions under chapter 42.17 RCW, the Public Disclosure Act (PDA); chapter 19.86 RCW, the Consumer Protection Act (CPA), and chapter 70.02 RCW, the Uniform Health Care Information Act (UHCIA), together with general tort claims.

**\*\*934** We hold Dr. Jeckle failed to state any cause of action and affirm the dismissal of his suit. However, because the CPA claim presented a reasonable argument in support of an issue of first impression, we disagree with the trial court that all theories were frivolous and, therefore, reverse the trial court's award of sanctions.

### FACTS

In the mid-1990s, a prescription drug known popularly as Fen-Phen was marketed for weight loss. Dr. Jeckle began prescribing it for large numbers of his patients. In 1997, the Mayo Clinic reported Fen-Phen damaged heart valves in a high percentage of users. Washington's Medical Quality Assurance Commission then looked into Dr. Jeckle's use of the drug in his weight loss clinic. During this process, the Commission's investigator partly copied 10 of Dr. Jeckle's patient files. According to Dr. Jeckle, the investigator then determined the clinic should be closed but no adverse action should be taken against Dr. Jeckle by the Commission.

Later, attorney Robert Crotty of the law firm of Lukins and Annis asked the Commission to re-open its investigation. Mr. Crotty represented several plaintiffs who had filed a class action suit against Dr. Jeckle. See *Wright v. Jeckle*, 104 Wash.App. 478, 480, 16 P.3d 1268 (2001). According to Dr. Jeckle, the Commission had a doctor review the incomplete copies of the 10 files it had in its possession. The reviewing doctor concluded that the investigation should be re-opened. In the re-opened investigation, the Commission required Dr. Jeckle

to provide summaries of all patient files from 1996 \*379 and 1997. That time period involved 20,000 office visits and 3,671 patients. In March 1999, the Commission formally charged Dr. Jeckle.

In July 1999, the assistant attorney general (AAG) handling the Commission's charges against Dr. Jeckle contacted Mr. Crotty to ask if he had deposed Dr. Jeckle. He had not, but Mr. Crotty copied and sent the AAG a nurse's deposition he had taken for the private lawsuit against Dr. Jeckle. In response to Mr. Crotty's request, the AAG sent him a copy of the Commission's file on Dr. Jeckle. Soon, Dr. Jeckle heard from patients that they were receiving unsolicited phone calls encouraging them to join lawsuits against Dr. Jeckle. During an August 2000 deposition by Mr. Crotty of Dr. Jeckle, he realized from the questions asked that Mr. Crotty had seen a patient file Dr. Jeckle had provided the Commission. Mr. Crotty turned the file over to the court and explained he had shared the file with Seattle attorneys, including lawyers in the firms of Stanislaw Ashbaugh and Keller Rohrbach, who represented plaintiffs in similar suits.

In March 2002, Dr. Jeckle filed this action against the lawyers representing the plaintiffs, their firms, the Commission, and the AAG that had released the file to Mr. Crotty. Dr. Jeckle alleged multiple causes of action:

- (1) Intentional interference with Dr. Jeckle's medical practice.
- (2) Violation of chapter 42.17 RCW, the Public Disclosure Act.
- (3) Outrage.
- (4) Violation of chapter 19.86 RCW, the Consumer Protection Act, in that the lawyers used the file to contact potential clients.
- (5) Violation of chapter 70.02 RCW, the Uniform Health Care Information Act.

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(6) Invasion of privacy.

(7) Infliction of emotional distress.

\*380 (8) Civil conspiracy.

In June 2002, the law firms and the firms' lawyer defendants moved under CR 12(b)(6) to dismiss all of Dr. Jeckle's causes of action as to them and award attorney fees for a frivolous suit. In December 2002, the court granted these motions and awarded attorney fees. It certified the order as appealable under CR 54(b), even though the Commission and the AAG remained as defendants. The court denied Dr. Jeckle's motion to reconsider. Then, Dr. Jeckle appealed.

## ANALYSIS

### Standard of Review

[1][2][3] We review de novo the trial court's dismissal decision under CR 12(b)(6) for failure to state a claim upon which relief can be granted. *Cutler v. Phillips Petroleum Co.*, \*\*935 124 Wash.2d 749, 755, 881 P.2d 216 (1994), cert. denied, 515 U.S. 1169, 115 S.Ct. 2634, 132 L.Ed.2d 873 (1995). Such dismissals are appropriate only if "it appears beyond a reasonable doubt that no facts exist that would justify recovery." *Id.* at 755, 881 P.2d 216. We accept as true the allegations in the plaintiffs' complaint and the reasonable inferences that can be drawn from the allegations. *See Reid v. Pierce County*, 136 Wash.2d 195, 201, 961 P.2d 333 (1998).

#### A. Public Disclosure Act Cause of Action

[4] The issue is whether the trial court erred in deciding no cause of action exists under CR 12(b)(6) against the law firms and lawyers based upon Dr. Jeckle's allegation that they violated the Public Dis-

closure Act (PDA), chapter 42.17 RCW, when they obtained and used the investigatory records of the Medical Quality Assurance Commission in aid of their private lawsuits against Dr. Jeckle.

RCW 42.17.310(1)(d) exempts from public disclosure "specific investigative records compiled by ... state agencies vested with the responsibility to discipline members of any profession, the nondisclosure of which is essential ... \*381 for the protection of any person's right to privacy." Under RCW 42.17.255, "[a] person's 'right to privacy,' 'right of privacy,' 'privacy,' or 'personal privacy,' as these terms are used in that chapter, is invaded or violated only if disclosure of information about the person: (1) Would be highly offensive to a reasonable person, and (2) is not of legitimate concern to the public." RCW 42.17.390 provides for civil remedies and sanctions for violations of the PDA. RCW 42.17.390(3) imposes a civil penalty of not more than \$10,000 for each violation. RCW 42.17.312 provides that "Chapter 70.02 RCW [Uniform Health Care Information Act] applies to public inspection and copying of health care information of patients."

Regarding public disclosure, the Department of Health has issued WAC 246-08-390(4), which partly provides "[t]he Department shall not make health care information obtained under RCW 70.02.050 available for public inspection and copying except as may be required by chapter 42.17 RCW. No health care information containing *patient identifying data* shall be made available for public inspection and copying under 42.17 RCW." Under WAC 246-08-420(5), "[t]he Department reserves the right to determine that a public record is exempt from public disclosure under the provisions of chapter 42.17 RCW." Subsection (6) of that section partly states "[t]he Department reserves the right to delete identifying details when disclosing public records if there is reason to believe that disclosure of such details would be an invasion of personal privacy." <sup>FN1</sup>

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FN1. Dr. Jeckle also cites WAC 292-100-070, relating to activities of the executive ethics board, but Dr. Jeckle's investigation does not concern that board.

[5] In analyzing Dr. Jeckle's argument, we first note that under RCW 42.17.310(d), release of the information in the files is a violation of the PDA only if the release would invade a person's right of privacy. Dr. Jeckle has made no showing that release of the Commission's file violated *his* right of privacy. In any event, the person to whom the file is \*382 released has no liability under the PDA; rather, the liability is with the public body (here, the Commission) improperly releasing the information.<sup>FN2</sup> The defendants' liability, if any, would have to be premised upon a common law theory of invasion of privacy, and Dr. Jeckle has not established the elements of that cause of action.

FN2. We note Dr. Jeckle's argument that Mr. Crotty did not make a written request for the Commission's investigative file on Dr. Jeckle. He cites WAC 246-08-420(3), which states that public disclosure requests are to be submitted to the Department of Health in writing. Nevertheless, whether Mr. Crotty made his request in writing is not material. The Public Disclosure Act does not provide any remedy against Mr. Crotty for the alleged violation.

[6] Specifically, Washington recognizes a common law right of privacy and the right of individuals to bring a cause of action for invasion of that right. *Reid v. Pierce County*, 136 Wash.2d 195, 206, 961 P.2d 333 (1998). The *Reid* court cited Restatement (Second) of Torts § 652D (1977), which sets forth the \*\*936 same elements as appear in RCW 42.17.255: Would the publicity concerning another's private life be highly offensive to a reasonable person? And, is that information not of legitimate public concern? Because the file is not part of the record on appeal, we cannot assume it contains in-

formation that would constitute an invasion of Dr. Jeckle's right of privacy.

[7] Dr. Jeckle further argues the disclosure violated his patients' right of privacy in their medical records. However, no relief is available to Dr. Jeckle for an invasion of his patients' rights. He does not have that " 'personal stake in the outcome of the controversy as to assure that concrete adverseness which sharpens the presentation of issues upon which the court so largely depends....' " BLACK'S LAW DICTIONARY, "Standing" (7th ed.1999) (quoting *Baker v. Carr*, 369 U.S. 186, 204, 82 S.Ct. 691, 7 L.Ed.2d 663 (1962)).

In sum, Dr. Jeckle has not stated facts entitling him to relief for the alleged violations of the Public Disclosure Act and/or invasion of privacy.

#### \*383 B. Consumer Protection Act Cause of Action

[8] The issue is whether the trial court erred in deciding no cause of action exists under CR 12(b)(6) against the law firms and lawyers based upon Dr. Jeckle's allegation that they violated the Consumer Protection Act, chapter 19.86 RCW (CPA), i.e., when they obtained and used the investigatory records of the Medical Quality Assurance Commission in aid of their private lawsuits against Dr. Jeckle.

[9] The CPA prohibits "[u]nfair methods of competition and *unfair* or deceptive *acts* or practices *in the conduct of any trade or commerce*." RCW 19.86.020 (emphasis added). To establish a CPA claim, the plaintiff must show (1) an unfair or deceptive act or practice, (2) occurring in trade or commerce, (3) that impacts the public interest, and (4) causes injury to the plaintiff's business or property. *Guijosa v. Wal-Mart Stores, Inc.*, 144 Wash.2d 907, 917, 32 P.3d 250 (2001) (citing *Hangman Ridge Training Stables, Inc. v. Safeco Title Ins. Co.*, 105 Wash.2d 778, 785-93, 719 P.2d

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531 (1986)). The Washington Supreme Court has held that “these business aspects of the legal profession [such as the billing and collection of fees charged and how the firm obtains clients] are legitimate concerns of the public which are properly subject to the CPA.” *Short v. Demopolis*, 103 Wash.2d 52, 61, 691 P.2d 163 (1984).

Dr. Jeckle contends the defendants used the investigative file to contact his patients and attempt to persuade them to join a lawsuit against him. He asserts this conduct harmed him because at least some of those patients believed he had released their names and, in doing so, had violated their confidential relationship.<sup>FN3</sup>

FN3. Dr. Jeckle's complaint alleged, as follows: “Defendants Crotty, Tinglum, Shallbetter and others obtained confidential medical records and in the course of their business and, upon information and belief, used these confidential medical records to solicit Dr. Jeckle's patients to file suit against Dr. Jeckle. The Defendants used these records in the pursuit of trade and commerce ... for their own financial benefit.” Clerk's Papers (CP) at 50. Also, “[t]he defendants came into unlawful possession of the confidential records of 3671 patients which the defendants then used to recruit these same patients into lawsuits against Dr. Jeckle.... As a consequence of the defendant's [sic] wrongful conduct, most of Dr. Jeckle's patients no longer come to Dr. Jeckle for any type of medical care.” CP at 55. For purposes of CR 12(b)(6), the declaration does not add anything to the complaint—the allegations are viewed as true for purposes of a CR 12(b)(6) motion.

\*384 Counsel for Lukins and Annis cites a Washington case for the proposition that adversaries of a lawyer's client cannot sue the lawyer under the CPA because the adversary has no consumer rela-

tionship with the lawyer. The case does not support counsel's argument. Instead, *Demopolis v. Peoples Nat'l Bank*, 59 Wash.App. 105, 119, 796 P.2d 426 (1990) <sup>FN4</sup> holds that “[s]ince an attorney's defamatory allegation [about the adversary] is neither an entrepreneurial nor a commercial\*\*937 endeavor, it cannot give rise to a CPA claim.”

FN4. Note that this case is not the same case cited earlier in this opinion for the proposition that the CPA applies to certain aspects of the practice of law. See *Short v. Demopolis*, 103 Wash.2d 52, 61-62, 691 P.2d 163 (1984).

However, counsels' citation to a line of cases out of Connecticut as standing for the above proposition is pertinent to our review here. They reveal what is probably the real reason why the courts do not permit this type of cause of action. Specifically, allowing a plaintiff to sue his or her adversary's attorney under a consumer theory infringes on the attorney-client relationship. The Connecticut court has “declined to recognize the right of th[e] client's opponent to sue the attorney under CUTPA [Connecticut Unfair Trade Practices Act] on the basis of the professional services the attorney had rendered for the client.” *Larsen Chelsey Realty Co. v. Larsen*, 232 Conn. 480, 496, 656 A.2d 1009 (1995); see also *Jackson v. R.G. Whipple, Inc.*, 225 Conn. 705, 627 A.2d 374, 385 (1993).

In a recent case, the Connecticut court held a consumer protection action did not lie in a case involving an attorney's execution of a judgment against the plaintiff. *Suffield Dev. Assocs. Ltd. P'ship v. Nat'l Loan Investors, L.P.*, 260 Conn. 766, 781-82, 802 A.2d 44 (2002). The court quoted an earlier decision as follows: “Providing a private cause of action under CUTPA to a supposedly aggrieved party for the actions of his or her opponent's attorney would stand the attorney-client relationship \*385 on its head and would compromise an attorney's duty of undivided loyalty to his or her

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client and thwart the exercise of the attorney's independent professional judgment on his or her client's behalf.' ” *Id.* at 783-84, 802 A.2d 44 (quoting *Jackson*, 627 A.2d at 384).

Dr. Jeckle's allegations involve the defendants' solicitation of new clients to join in a pending class action against Dr. Jeckle. As such, they relate to both the legal aspects and the business aspects of the defendants' law practice. Given the potential for affecting the existing attorney/client relationship, we conclude a CPA action does not lie under these facts. *See Larsen*, 232 Conn. 480, 656 A.2d 1009; *Jackson*, 225 Conn. 705, 627 A.2d 374; *Suffield*, 260 Conn. 766, 802 A.2d 44. Therefore, the superior court properly dismissed Dr. Jeckle's cause of action under the CPA for failure to state a claim upon which relief can be granted.

### C. Uniform Health Care Information Act Cause of Action

[10] The issue is whether the trial court erred in deciding no cause of action exists under CR 12(b)(6) based upon Dr. Jeckle's allegation the defendants violated the Uniform Health Care Information Act (UHCIA), chapter 70.02 RCW, when they obtained and used the investigatory records of the Medical Quality Assurance Commission in aid of their private lawsuits against Dr. Jeckle.

The UHCIA sets strict guidelines for the disclosure of patient information by a health care provider. RCW 70.02.050. A health care provider may disclose health care information without the patient's authorization to government health authorities, “when needed to determine compliance with state or federal licensure ... laws; or when needed to protect the public health.” RCW 70.02.050(2)(a). If the information is sought pursuant to a discovery request or compulsory process, the attorney seeking the information “shall provide advance notice to the health care provider and the patient or the patient's

attorney” so that the provider or the patient has time to move for a protective \*386 order. RCW 70.02.060(1). The sole remedy provided in the UHCIA is an action against a health care provider or facility for actual, but not consequential, damages. RCW 70.02.170(1), (2).

The defendants here are not health care providers. Hence, Dr. Jeckle has no remedy under the UHCIA against the lawyers and their law firms.

### D. Immunity

[11] The issue is whether the trial court erred in dismissing Dr. Jeckle's remaining tort claims under CR 12(b)(6) and concluding the attorneys and law firms have absolute immunity from liability for acts arising out of representing their clients.

Dr. Jeckle's remaining causes of action were for interference with his business relationship with his patients, outrage, infliction of emotional distress, and civil conspiracy. The defendants counter that the acts Dr. \*\*938 Jeckle relies upon in support of these causes of action—the use of the Commission's file in his deposition and the alleged use of the patients' names obtained from the files—were privileged. They cite *McNeal v. Allen*, 95 Wash.2d 265, 267, 621 P.2d 1285 (1980) for the proposition that “[a]llegedly libelous statements, spoken or written by a party or counsel in the course of a judicial proceeding, are absolutely privileged if they are pertinent or material to the relief sought.”

Here, the complained of acts related to and were pertinent to the lawsuits the attorneys had filed against Dr. Jeckle. Indeed, one of the cases cited by the defendants, *Kittler v. Eckberg, Lammers, Briggs, Wolff & Vierling*, 535 N.W.2d 653, 657-58 (Minn.App.1995), *cert. denied*, 517 U.S. 1221, 116 S.Ct. 1850, 134 L.Ed.2d 950 (1996), is similar to the appeal here. There, the court held a letter sent by an attorney to solicit additional plaintiffs for his client's potential lawsuit was protected by the judi-

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cial action privilege and could not form the basis for a defamation action. Accordingly, we hold the court properly dismissed Dr. Jeckle's remaining claims under CR 12(b)(6).

### \*387 E. Sanctions

[12] The issue is whether the trial court erred in imposing sanctions of \$27,034.55 in costs and reasonable attorney fees against Dr. Jeckle for bringing the claims that were dismissed under CR 12(b)(6).

RCW 4.84.185 provides, as follows:

In any civil action, the court ... may, upon written findings ... that the action ... was frivolous and advanced without reasonable cause, require the nonprevailing party to pay the prevailing party the reasonable expenses, including fees of attorneys, incurred in opposing such action.

[13][14][15] The decision to award attorney fees as a sanction for a frivolous action is left to the discretion of the trial court, and the court's decision will not be disturbed absent a showing of abuse of discretion. *Clarke v. Equinox Holdings, Ltd.*, 56 Wash.App. 125, 132, 783 P.2d 82, review denied, 113 Wash.2d 1001, 777 P.2d 1050 (1989). Under RCW 4.84.185, a court cannot pick and choose among those aspects of an action that are frivolous and those that are not. *Biggs v. Vail*, 119 Wash.2d 129, 136, 830 P.2d 350 (1992). The action must be viewed in its entirety and only if it is frivolous as a whole will an award of fees be appropriate. *Id.* at 133-37, 830 P.2d 350. An action is frivolous if it "cannot be supported by any rational argument on the law or facts." *Clarke*, 56 Wash.App. at 132, 783 P.2d 82.

Dr. Jeckle relies upon *Collinson v. John L. Scott, Inc.*, 55 Wash.App. 481, 488, 778 P.2d 534 (1989), which held that the superior court did not err when it refused to award attorney fees against the plaintiffs, even though it dismissed their action on

summary judgment, because the case presented an issue of first impression. Here, the issue of whether Dr. Jeckle could sue his adversary's attorney for a violation of the CPA is an issue of first impression.

Although we concluded the CPA does not apply because of the potential impact on the existing attorney/client relationship, Dr. Jeckle's arguments were not frivolous. Specifically, the cases respondents cited from Washington were not \*388 dispositive. We decided the rationale of the Connecticut cases was persuasive; i.e., such suits are against public policy if they interfere with the attorney/client relationship. But the public policy argument does not render the CPA argument frivolous; rather, it provides a rationale for not applying the CPA where its application would adversely impact a relationship that society views as worthy of protection.

Therefore, the award of any sanctions under RCW 4.84.185 is unwarranted, even for the other, frivolous causes of action. *Biggs*, 119 Wash.2d at 133-37, 830 P.2d 350.

We reverse the superior court's finding that Dr. Jeckle's action was frivolous and vacate its sanction award.

### F. Dr. Jeckle's Claim for Costs

Dr. Jeckle requests costs. Since Dr. Jeckle's allegations fail to state any cause of action, he is not the prevailing party here and cannot collect costs.

### \*\*939 G. Attorney Fees on Appeal

The respondents request attorney fees for a frivolous appeal. The criteria for a frivolous appeal are set out in *Streater v. White*, 26 Wash.App. 430, 434, 613 P.2d 187 (1980):

In determining whether an appeal is brought for

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delay under this rule [RAP 18.9], our primary inquiry is whether, when considering the record as a whole, the appeal is frivolous, i.e., whether it presents no debatable issues and is so devoid of merit that there is no reasonable possibility of reversal.

In determining whether an appeal is frivolous and was, therefore, brought for the purpose of delay justifying the imposition of terms and compensatory damages, we are guided by the following considerations: (1) a civil appellant has a right to appeal under RAP 2.2; (2) all doubts as to whether the appeal is frivolous should be resolved in favor of the appellant; (3) the record should be considered as a whole; (4) an appeal that is affirmed simply because the arguments are rejected is \*389 not frivolous; [and] (5) an appeal is frivolous if there are no debatable issues upon which reasonable minds might differ, and is so totally devoid of merit that there was no reasonable possibility of reversal.

(Citations omitted.)

In light of our reasoning in rejecting sanctions against Dr. Jeckle for a **frivolous suit**, we reject the respondents' request to determine this entire **appeal** frivolous.

Ⓞ Dismissals under CR 12(b)(6) affirmed; sanctions for fees and costs reversed.

WE CONCUR: KURTZ and KATO, JJ.  
Wash.App. Div. 3,2004.  
Jeckle v. Crotty  
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END OF DOCUMENT



3/30/2009

Minnie B Thomas  
22416 88th Ave So B206  
Kent, WA 98031

Proof that I need medical  
care but is afraid to get it be  
cause of bad memories of the 911  
call made by Harborview. I still  
Don't trust Doctors and  
Other medical staff.

Dear Minnie,

As per our phone conversation today, I am encouraging you to come in as soon as possible for ~~your~~ care.

The other possibility is a visiting nurse. If you have Medicare Part B, we might be able to have Medicare cover a visiting nurse. Let me know if you have Part B. The other possibility is referring you to the public health clinic for visiting nurse since you have DSHS medical coupons.

~~For your descriptions of your symptoms, it is very important that you have the doctor evaluate~~ ~~the symptoms~~ you receive treatment. I know you do not want ~~the symptoms~~ to get even worse ~~than they are now~~.

You have reminded me of our past contact in May 2005 in which you described an event that occurred around that time when you were taken by 911 against your will to Harborview Medical Center for an evaluation. I do recall you telling me that it had been a traumatic experience for you.

I am sorry to hear that you have had difficulty seeking medical care since that event, which you feel had caused you to mistrust health care providers and hence not come in for care.

Despite that experience however, I again encourage you to accept care and treatment.

Feel free to contact me as we can further explore how we can support and assist you in getting the care you need.

Sincerely,

SUSAN ECLIPSE, LICSW  
FHC Medical Social Worker  
206 326-3929



GroupHealth

m

FAMILY HEALTH CENTER at Capitol Hill  
125 16th Ave. E. CSB 4  
Seattle, WA 98112-5211  
Phone: (206) 326 -3530

Ms. Minnie Thomas  
22416 88th Ave S  
#B206  
Kent, WA 98031

2/11/2008

To Whom It May Concern:

Ms. Minnie Thomas has been my patient for the past 3 years at Group Health. She has been diagnosed with major depression, severe anxiety and a chronic vascular problem. However due to her depression and severe emotional distress it has been difficult, if not impossible, for her to come in for recommended ongoing medical treatment. I have consistently and persistently advised Minnie that she needs to have ongoing treatment on a regular basis but her emotional state has prevented her from complying. By Minnie's report her medical conditions have not improved and she is again advised to be seen on a regular basis. In my opinion, this patient needs ongoing counselling and treatment and clarification of her severe depression and anxiety as well as her physical problem.

She is advised to minimize the situational stresses that exacerbate her state of emotional distress as this interferes with her ability to cope with her daily life and care appropriately for her medical problems.

JANICE SUYEHIRA, MD  
Family Practice

# Proof of Service

NO. 62904-2-1

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COURT OF APPEALS FOR DIVISION 1  
STATE OF WASHINGTON

---

MINNIE THOMAS  
Appellant,

v.

UNIVERSITY OF WASHINGTON AND HARBOURVIEW  
MEDICAL CENTER,

Respondents.

---

APPEAL FROM KING COUNTY SUPERIOR COURT  
HONORABLE MICHAEL FOX, JUDGE

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Brief of Appellate

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FILED  
COURT OF APPEALS  
STATE OF WASHINGTON  
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AUG 28 2009

BENNETT BIGELOW  
& LEEDOM

RECEIVED  
COURT OF APPEALS  
DIVISION ONE

AUG 28 2009

Minnie Thomas, pro se  
22416 88th Ave S  
#B-206

Kent, WA. 98101

253 277 2817