Supreme Court No. 101966-1
Court of Appeals, Division I, No. 84565-9
(Whatcom County Superior Court Cause No 18-2-02112-37)

IN THE SUPREME COURT
OF THE STATE OF WASHINGTON

EMILIO M. KOSROVANI and
LAUREL HANSEN

Appellants

v.

ROGER JOBS MOTORS, INC.,

Respondent

APPELLANT LAUREL HANSEN'S PETITION FOR REVIEW

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I. IDENTITY OF PETITIONER

Laurel Hansen ("Hansen") seeks review of the decision of the Court of Appeals designated below.

II. CITATION TO COURT OF APPEALS DECISION AND RELATED ORDERS

This matter originated in Whatcom County Superior Court as a personal injury action brought by Emilio M. Kosrovani, as nominal party plaintiff, alleging negligence and premises liability on his own behalf and loss of income, compensation for services rendered, and loss of consortium on behalf of his long-time committed partner, Laurel Hansen. Hansen's causes of action were dismissed at summary judgment shortly after the commencement of the case. Kosrovani's causes were likewise dismissed by summary judgment before any pending discovery was completed. Appeal of the summary judgments were taken.

While the appeal was pending before the Court of Appeals the parties stipulated to a disputed CR 2A settlement in which Hansen was not involved. Without permission of the appellate court, the trial court entered an order enforcing the settlement. Appeal of that enforcement order was taken jointly by Kosrovani and Hansen and the two appeals were consolidated into Case No. 80400-6-I. The Court of Appeals denied joinder of Hansen in the appeal, then declined, based on alleged mootness, review of the summary judgment dismissal of her claims. It affirmed the

trial court's enforcement of the settlement, retroactively granting the trial court authority to enter its enforcement order. The appellate court issued an Unpublished Opinion, *Kosrovani v. Roger Jobs Motors, Inc*, *noted at* 2021 WL WL2808996 (Div. 1, July 6, 2021)(hereafter, "*Kosrovani I*").

Thereafter the trial court struck a post-mandate motion for intervention brought by Hansen seeking declaratory relief. It denied a motion for rescission of the settlement contract, vacation of the enforcement order, and change of venue brought by Kosrovani. It struck his motion for joinder of Hansen. Direct review of those rulings was sought in this Court under Case No. 100917-8. This Court declined review and reassigned the case to the Court of Appeals, Division I. In an Unpublished Opinion, *Kosrovani v. Roger Jobs Motors, Inc*, (Div. 1, March 13, 2023)(hereafter, "*Kosrovani II*" or "Opinion") that court affirmed the trial court's rulings, and its own initial Opinion in *Kosrovani I*, specifically ruling that Hansen's causes have already been reviewed and the summary judgment dismissal of her claims affirmed in the earlier appeal. A motion for reconsideration was filed on March 31, 2023 and denied by order filed April 7, 2023.

Copies of the Court of Appeals decisions, Order Denying Motion for Reconsideration, and relevant statutes and constitutional provisions are reproduced in the Appendix beginning at A-1.

III. ISSUES PRESENTED FOR REVIEW

The following issues are presented for review:

1. Is the constitutional right of a person to court access, as guaranteed by the State Constitution, Article 1, sec. 10, and her procedural due process rights violated where she is repeatedly denied party status by joinder or intervention by the trial court and where the appellate court has twice refused review of the the dismissal of her claims at summary judgment, resulting in the forfeiture and extinguishment of her claims without rightful adjudication?

2. Does a person involved in a longstanding committed intimate relationship have a cause of action in equity for loss of consortium when her partner is injured by an act or omission of a tortfeasor?

IV. INTRODUCTION AND STATEMENT OF THE CASE

1. Decision Under Review, Facts Relevant to Matters at Issue, and Procedural History.

This matter involves issues of constitutional interpretation. It concerns the right of individuals to access the courts and to maintain their causes of action through a final decision on the merits and to receive appellate review of an adverse judgment.

Hansen's causes of action for compensation for services rendered, loss of income, and loss of consortium were pleaded separately in a single complaint brought under RCW 4.08.030 by her cohabitant and committed

intimate partner of 34 years, Emilio M. Kosrovani, Plaintiff below. They were separately pleaded under the title "Fourth Cause of Action: Loss of Consortium and Related Claims of Hansen." CP 186-188. Prayers for compensation to be awarded to her were made, and her claims were supported by declarations. CP 369-371.

On March 8, 2019, Judge Raquel Montoya-Lewis of the Whatcom County Superior Court dismissed Hansen's causes of action by summary judgment. On March 15, 2019, that court dismissed the remaining causes of action.

Kosrovani appealed both summary judgments to the Court of Appeals. Kosrovani then retained counsel and participated in a mediation at which he entered into a disputed settlement. Hansen did not participate and declined to sign the settlement agreement. Respondent sought enforcement of the agreement. Kosrovani opposed its motion and cross-moved for leave to amend the complaint to plead rescission of contract and joinder of Hansen as co-Plaintiff.

On February 28, 2020, the trial court entered an order enforcing the settlement under CR 2A. On the same date, it struck the cross-motion for leave, brought in part under CR 17(a), to effect joinder of Hansen. It did so on the basis of the ruling that it lacks authority to consider the motion due to the pending appeal. The court entered formal written

findings and conclusions, concluding that "[p]roceedings in the Superior Court must be stayed pending full and final resolution of the appeal of this court's Orders granting summary judgment,"

Kosrovani and Hansen jointly appealed the orders enforcing settlement and the order striking the cross-motion for leave to amend. Because (i) the summary judgment of March 8, 2019 exclusively pertained to Hansen's causes, (ii) the trial court had denied her joinder and deferred the matter to the Court of Appeals for "full and final resolution," CP 209, and because (iii) Hansen was a signatory to the second Notice of Appeal and "aggrieved" under RAP 3.1, Kosrovani thereafter moved pursuant to RAP 5.3(i) for joinder of Hansen as an additional appellant. By a commissioner's ruling, that court denied the motion for the reason that Hansen was not a party in the case before the trial court below. Kosrovani then filed a motion to modify the ruling. In both motions he argued that joinder is necessary for the reason that Hansen is an "aggrieved party" under RAP 3.1 and that the enforcement of the settlement wherein she was not involved would result in the forfeiture and extinguishment of her causes of action. By order entered on September 20, 2020, the court denied the motion.

In *Kosrovani I,* the court affirmed the trial court's enforcement of the settlement under CR 2A. To Hansen's prejudice, it declined review of

the summary judgment order of March 8, 2019 dismissing her claims, stating that the settlement moots those matters, and failed to review the order striking the postjudgment motion for leave to effect her joinder.

With regard to Hansen the court ruled:

> There is no dispute that the CR 2A settlement agreement does not extinguish [Hansen's] potential claims. Her signature is not required to make the settlement enforceable as against Kosrovani.

Kosrovani I, at 9.

Motions for reconsideration and for publication were denied. On September 7 2021, Kosrovani filed an Amended Petition for Review in this Court. By Order entered January 5, 2022, at *Kosrovani v. Roger Jobs Motors, Inc.*, 198 Wn.2d 1033 (2022), this Court denied review. The Court of Appeals issued a mandate on January 24, 2022.

Respondent subsequently brought a motion to release funds held in the court's registry and conclude the lawsuit. Based on the appellate court's refusal to review the summary judgment dismissal of Hansen's causes, together with post-order breaches of the settlement contract by Respondent, Kosrovani cross-moved, pursuant to CR 60(b)(3), (b)(6) and (b)(11), for rescission of contract and vacation of the enforcement order, and further moved for joinder of Hansen, and for change of venue.

In the same proceedings, based on the appellate court's ruling that she is not bound by the settlement, Hansen made a Motion for Intervention, Writ of Mandamus, and for Declaratory Relief, wherein she submitted a proposed Complaint in Intervention seeking clarification as to the status of her causes of action. As a part of the sought declaratory relief, she asked the court to determine that her causes "were timely brought and have not been extinguished by the statute of limitations, ... were not extinguished by any court action or any act on the part of Kosrovani, including his alleged entry into a settlement agreement."

She further argued that the necessities of the case require intervention or joinder lest the enforcement of the settlement works a forfeiture and injustice by extinguishing her claims. Because she is likely deemed to have been a privy in the lawsuit, she argued, the re-filing of her claims in a new action would likely be precluded by res judicata or claim preclusion, or else they would likely be barred by the lapse of the statute of limitations.

The trial court struck Hansen's motion based on the oral finding that the Court of Appeals has already ruled that the matters in the dismissed summary judgment are moot. It also denied Kosrovani's motion for change of venue and for rescission of contract, and granted Respondent's motion to release funds held in the court's registry. The

court also struck his motion for joinder of Hansen. However, the trial court judge suggested that a further appeal on Hansen's claims may be warranted and granted a motion to stay the order releasing funds.

This appeal followed with Appellants seeking direct review in this Court. By Order entered October 12, 2022, this Court declined review and reassigned the case to the Court of Appeals, Division I.

In Hansen's second appeal, the court was asked to consider whether the scope of the right of access to the courts extends to a real party in interest who is repeatedly denied joinder or intervention in a case where pleaded claims have been brought on her behalf by a nominal party and an adverse judgment has been entered. Hansen assigned error to the appellate court's conclusion in *Kosrovani I* that review of the summary judgment is rendered moot because the settlement is enforceable. If her claim is unaffected by the settlement, yet the dismissal remained before that court for review, she argued, it could not have been deemed moot.

The Court of Appeals did not consider this key issue and assignment of error. It refused to regard Hansen as the rightful owner of the claim for loss of consortium. It instead affirmed its earlier rulings in *Kosrovani I*, holding contrary to fact, common sense, and plain words of the complaint, that **Hansen does not even have a claim or cause of action, has nothing**

to do with the case, has only "potential claims," and that the pleaded loss of consortium claim belonged to Kosrovani, not Hansen.

In *Kosrovani II*, the Court of Appeals endorsed its ruling in *Kosrovani I* that the enforcement of the settlement does not extinguish her "potential claim." It held that the trial court did not abuse its discretion in striking, based on mootness, Hansen's motion for intervention and Kosrovani's post-mandate motion for joinder. It further held that the trial court did not abuse its discretion in refusing to vacate the settlement enforcement order under CR 60(b)(6).

In addition, in *Kosrovani II* that court reformulated its initial conclusion as to Hansen in *Kosrovani I*, stating, "[o]n appeal we affirmed the court's summary judgment dismissal of Hansen's purported claims." Opinion, at 13, n.7. The ruling that the summary judgment dismissal was previously "affirmed" conflicts with the ruling in *Kosrovani I* in which the court declined review stating that review is mooted by the settlement.

The ruling of that court that Hansen has had no claims in the suit and has nothing to do with the case is so implausible and contrary to fact that it offends the intellect and shocks the conscience. Moreover, contrary to *Kosrovani II*, a review of the dismissal of Hansen's claim has never taken place, hence no "affirmance" could have been made.

Unless overturned, the court's rulings seal and complete the railroading of Hansen, denying her the right of access to the courts in violation of our State Constitution.

V. ARGUMENT AND AUTHORITY

A. Review Should Be Granted Under RAP 13.4(b)(3) as the Issue of Whether a Real Party in Interest's Constitutional of Right of Access to the Courts is Violated where She is Repeatedly Denied Party Status in a Suit Brought by a Nominal Party Resulting in the Forfeiture and Extinguishment of Her Claims Without Rightful Adjudication is a Matter of First Impression and a Significant Question of Law under the State Constitution.

1. The Constitutional Right of Access to the Courts is Implicated Where a Person's Efforts to Join a Suit Wherein She is a Real Party in Interest Have Been Impeded.

The right of access to the courts derives from article 1, section 10 of the State Constitution. *John Doe v. Puget Sound Blood Ctr.*, 117 Wn.2d 772, 780, 819 P.2d 370 (1991). This Court has reaffirmed the derivation of that right from article 1, section 10, of the State Constitution in the landmark case, *Putman v. Wenatchee Valley Medical Center*, 166 Wn.2d 974, 216 P.3d 374 (2009) wherein this Court stated:

> The people have a right of access to the courts; indeed it is the bedrock foundation upon which rest all the people's rights and obligations.

Id., at 979. This Court has also held that the right of access derives from article 1, section 4 of the State Constitution addressing the right to petition, and from the First Amendment to the U.S. Constitution's right to

petition the government for redress of grievances. *Gonzales v. Inslee*, __ Wn.2d __, 504 P.3d 890, 902 (2022). There is also a due process component in the right of access. *Id.*

The right of access to the courts is "designed to ensure that a citizen has the opportunity to exercise his or her legal rights to present a cognizable claim to the appropriate court and ... to have the court make a determination ... and order the appropriate relief." *Musso-Escude v. Edwards*, 101 Wn.App. 560, 566, 4 P.3d 151 (2000).

This Court has promulgated trial court rules to ensure that the right of access of a real party in interest in a suit is preserved. CR 17(a) provides that "[e]very actions shall be prosecuted in the name of the real party in interest." The rule has been interpreted to liberally allow joinder of the real party in interest "at any time, even after trial" so long as no prejudice is shown. *Rinke v. Johns-Manville*, 47 Wn.App. 222, 734 P.2d 533 (1987). A failure to join due to an 'honest mistake' or 'understandable mistake' has been held to be insufficient ground for refusal to allow joinder. *Id.* The rule, as interpreted, is established law and has been consistently followed in the courts of this State in allowing postjudgment joinder. *Fox v. Sackman*, 22 Wn.App. 707, 591 P.2d 855 (1979); *Betchard-Clayton, Inc. v. King*, 41 Wn.App. 887, 894-95, 707 P.2d 1361 (1985).

Appellate court rules have likewise been promulgated to ensure the right of access to the appellate court by any person aggrieved by a trial court decision. RAP 2.2(a); RAP 2.4(a); RAP 3.1; RAP 5.3(i). In general, "a person has standing to challenge a court order or other court action if his or her protectable interest is affected thereby." *In re Marriage of T.*, 68 Wn.App.329, 335, 542 P.2d 1010 (1993). "Washington courts have long recognized that ... persons who were not formal parties to trial court proceedings, but who are aggrieved by orders ... may appeal as 'aggrieved parties.'" *State v. G.A.H.*, 133 Wn.App. 567, 574-75, 137 P.3d 66 (2006)(citing multiple cases in which nonparties were held to have appealed as a matter of right).

An "aggrieved party" is one who "has a direct pecuniary interest that will be affected by the final judgment or order." *State v. Casey,* 7 Wn.App. 923, 927-28, 503 P.2d 1123 (1972)(holding that a mother seeking determination of paternity is an aggrieved party due to her personal financial interest in the filiation proceedings and may appeal as a matter of right in virtue of her status as "the real party in interest in the proceeding," despite the state's role as the nominal plaintiff in bringing the action).

Consistent with the constitutional provision, the appellate courts of this State have a longstanding practice stemming from *Schroeder v. Hotel*

Comm'l Co., 84 Wash. 685, 694-95, 147 P.417 (1915) in allowing joinder of a real party in interest in an ongoing appeal.

2. Hansen is a Real Party in Interest and an "Aggrieved Party" under RAP 3.1.

Hansen has had a direct personal and pecuniary interest in the causes of action brought on her behalf. She is the real party in interest as to her causes and her interests are directly affected by the trial court's and appellate court's actions. She is an "aggrieved party."

3. Hansen's Constitutional Right of Access to the Courts and Her Procedural Due Process Rights Have Been Violated.

"It is consistent with RAP 2.5(a) for a party to raise the issue of denial of procedural due process in a civil case at the appellate level for the first time." *Conner v. Universal Utilities*, 105 Wn.2d 168, 171, 712 P.2d 168 (1986), citing *Esmieu v. Schrag*, 88 Wn.2d 490, 497, 563 P.2d 203 (1977). Having been a real party in interest from the outset, Hansen was within the superior court's jurisdiction, *State v. Breazeale*, 99 Wn.App. 400, 405, 994 P.2d 254 (2000), in particular because "she ask[ed] the court to grant affirmative relief, or otherwise consent[ed], expressly or impliedly, to the court's exercising jurisdiction." *In re Marriage of Steele*, 90 Wn.App. 992, 997-98, 957 P.2d 247 (1998). Thus, she is entitled to the safeguards of procedural due process.

The trial court's orders initially denying a postjudgment motion for joinder of Hansen and later striking her CR 24 motion for intervention seeking declaratory relief have violated Hansen's constitutional right of access to the courts and her procedural due process rights.

The appellate court's refusal to review the trial court's summary judgment dismissal of her claims in *Kosrovani I*, its denial of a motion for her joinder in the appeal, denial of a motion to modify ruling, its contradictory ruling in *Kosrovani II* that "[o]n appeal we affirmed the court's summary judgment dismissal of Hansen's purported claims," its failure to review the trial court's striking of Hansen's CR 24 motion for intervention, and its failure to conduct a full review of Hansen's appeal which is based on the central issues of mootness, due process, and right of access have likewise violated Hansen's constitutional right of access and procedural due process rights.

Hansen has been denied a review to which she is entitled under, *inter alia*, RAP 2.2(a)(1), (3), (10, and (13), RAP 2.4(a), RAP 2.5(a), and RAP 3.1.

In sum, unless overturned, the compendium of the trial court and appellate court actions have effectively resulted in the forfeiture and extinguishment of Hansen's causes of action without rightful

adjudication,, violating her constitutional right of access and procedural due process rights.

B. Review Should Be Granted Under RAP 13.4(b)(1) and (b)(2) as the Opinion Conflicts With Established Modern Practices of Notice Pleading, the Triumph of Substance over Form, Waiver of Defects in Complaints Upon Entry of Judgment, and with Decisions of this Court and of the Court of Appeals that Exemplify those Principles and Practices.

1. Hansen's Claim Was Sufficiently Pleaded.

Our system of notice pleading in this State requires only "a short and plain statement of the claim" and demand for relief. *Putman*, at 984; CR 8(a). A general allegation is ordinarily sufficient to give notice to a defendant of every element of a claim. *Cf., Mancini v. City of Tacoma*, 196 Wn.2d 864, 479 P.3d 656 (2021)(general allegation of negligence sufficient to give notice that all elements of the claim might be explored at trial).

The complaint in this action *specifically* pleaded Hansen's causes under the title, "Fourth Cause of Action: Loss of Consortium and Other Claims of Hansen." CP 186-88. It identified her as "a foreseeable plaintiff to whom Defendants owed a duty of care." It *specifically* averred prayers for relief in the form of "an award of special damages in favor of Hansen ... for Hansen's medical expenses, wage loss, and other economic loss," and as "compensation for the care she has provided to Plaintiff." This gave sufficient notice of Hansen's claims. The complaint

clearly expresses that, due to her suffering resulting from Kosrovani's injury, the cause of action accrued *in **her***. It names Hansen as ***the person in whom the cause of action accrued.***

The decision of the Court of Appeals that Hansen has no claims in this suit is contrary to fact and conflicts with *Putman*. In *Burchfiel v. Boeing Corp.*, 149 Wn.App. 468, 205 P.3d 145 (2009), where a loss of consortium claim was not specifically pleaded the court held that the complaint nonetheless provided adequate notice of the claim with its prayer for damages, which included wage loss and emotional distress. In *Reichelt v. Johns-Manville Corp.*, 107 Wn.2d 761, 768, 733 P.2d 530 (1987), the court held that the trial court erred in ruling that the inadequacies of the complaint preclude the consideration of the claim. The decision in the Opinion conflicts with *Reichelt* and *Burchfiel*.

2. The Opinion Errs in Holding that Hansen's Claims Are Only "Potential" Claims.

Though the court admits that the complaint asserted "a claim for loss of consortium on behalf of Laurel Hansen," Opinion at 2, it states that "the superior court dismissed *Kosrovani's* loss of consortium claim." Opinion, at 3. (Emphasis added). It endorses the commissioner's ruling that "the orders from which Kosrovani appealed do not involve any right or duty belonging to Hansen" and the Court's decision in *Kosrovani I*, that

the enforcement of the settlement "does not extinguish her *potential* claim." Opinion, at 4 and 5 (emphasis added).

The holding of the court is contrary to fact, in derogation of both the law, the plain language and substance of the complaint, and inconsistent with **principles of law advocating the triumph of substance over form**.

The court has simply failed to consider and it has disregarded the distinction between ***a nominal party*** in a suit and ***a real party in interest.*** Under the real party in interest rule, where a plaintiff brings a claim on behalf of another the plaintiff is regarded as only a *nominal* party. The action is brought *for the benefit of* someone else. *Cf., Wood v. Dunlop*, 83 Wm/2d 719. 724-25, 521 P.2d 1177 (1974). That person is the real party in interest. He or she, not the nominal plaintiff, *e.g.*, a trustee or personal representative, owns the claim. See Opening Br. at 20-22. Thus, it is he or she who has the real interest and bona fide claim in the case. His or her **claim is *actual*, not "potential.**" See also, *e.g., Siddis v. Rosaia*, 170 Wash. 587, 17 P.2d 37 (1932)("[T]he law looks beneath the apparent and beholds the real.")

3. Any Defects or Inadequacies of the Complaint Were Waived When the Claim Was Litigated to Judgment.

Under CR 15(b), where issues are tried by express or implied consent, the issues "shall be treated in all respects as if they had been

raised in the pleadings." *Reagan v. Newton, M.D.*, 7 Wn.App. 2d 281, 463 P.3d 411 (2019). "Where a claim has been argued on the merits, summary judgment proceedings amount[] to a trial of the claim by implication under CR 15(b)." *Id.*. Any issues that may have existed as to Hansen's status and the form of the complaint were waived when Respondent litigated her claims to judgment. The Opinion conflicts with *Reagan*.

C. Review of Hansen's Equitable Claim Under the Committed Intimate Relationship Doctrine is Warranted Under RAP 13.4(b)(4) as It Is an Issue of Substantial Public Interest.

1. This is a Matter of Substantial Social Import and Has Broad Impact and Relevance Beyond this Case.

This is an issue of first impression for this Court. The common law of loss of consortium in this country has evolved as the "institutions and conditions of society," noted in RCW 4.04.10, have changed. The cohabitation of unmarried couples is now so prevalent that 59% of adults aged 18-44 have lived with an unmarried partner, exceeding the number who have been married. (Pew Research, Nov. 6, 2019). Unmarried couples in committed intimate relationships, whether or not registered as partners, are now conferred many rights and benefits at law and in equity.

The law of this State on loss of consortium has not kept pace with the changes in society. Whereas other jurisdictions have addressed the issue and extended the common law, this Court has not. See, in particular, *Lozoya v. Sanchez*, 133 N.M. 579, 66 P.3d 948 (2003)(establishing a

presumption for couples living together and adopting a set of eight factors for deeming a relationship significant enough to recover), *Dunphy v. Gregor*, 136 N.J. 99, 642 A.2d 372 (1994)(adopting a set of criteria for when an unmarried person may recover), *Butcher v. Superior Court*, 139 Cal.App.3d 58, 199 Cal. Rptr 503 (Ct.App. 1983), and *Trombley v. Starr-Wood Cardiac Group*, 3 P.2d 916 (Alaska, 2000). (CP 80-84; RP 23-27).

The committed intimate relationship doctrine is an *equitable* doctrine developed to address situations where the application of the law is uncertain or produces inequitable outcomes. *Vasquez v. Hawthorne*, 145 Wn.2d 103, 107-108, 33 P.3d 735 (2001). There are hundreds of thousand of couples in this state who are in these relationships but who have not registered their partnerships or, due to age restrictions, do not qualify to have them registered. It is of commonplace knowledge and intuitive to human understanding that where a member of a household consisting of such a couple gets injured by the act or omission of a tortfeasor the other member's life and livelihood is affected, at times severely so. Yet, the affected person has no remedy at law and, despite the equitable nature of the doctrine, no case in Washington has held whether he or she has a cause of action in equity.

This Court has the opportunity to clarify the reach of that doctrine, extend the common law, and provide guidance as to whether and under

what circumstances a person in such a relationship is entitled to recovery for his or her pecuniary loss, compensation for services rendered, and loss of consortium when his or her committed intimate partner becomes injured or disabled at the instance of a tortfeasor.

2. Loss of Consortium is Generally a Common Law Cause of Action.

The historical roots and treatment of loss of consortium are in the common law. The landmark decision of this Court in *Lundgren v. Whitney's, Inc.*, 94 Wn.2d 91, 614 P.2d 1272 (1980), *overturning Ash v. S.S. Mullen, Inc.*, 42 Wn.2d 345, 261 P.2d 118 (1953), upheld an award of loss of consortium damages to a woman for the first time. "Courts have a duty to "reassess the common law and alter it where justice requires." *Id.* at Wn.2d 95.

Loss of consortium not involving wrongful death has always been an action brought under the common law. It has never been a statutory action. There is no substantive statute defining such loss.

3. Hansen's Claim Was Brought in Equity.

Hansen maintains that her cause of action for loss of consortium was brought *in equity* under the committed intimate relationship doctrine and is not susceptible to summary judgment dismissal. *Vasquez, supra.* She further maintains that, notwithstanding the procedural and permissive RCW 4.08.030, there are no statutes that restricts loss of consortium

claims in tort actions by those directly affected. The common law governs, is evolving and in transition. She also maintains that she was a foreseeable plaintiff who suffered pecuniary loss and is entitled to compensation therefor.

Loss of consortium is a personal injury. A claim for personal injury is afforded the constitutional right of equal protection. *Hunter v. North Mason High School.*, 85 Wash.2d 810, 814, 539 P.2d 845 (1975). "The right to be indemnified for personal injuries is a substantial property right...." *Id.*

Hansen's claims were litigated on the merits, reduced to judgment, and timely appealed. Hansen is not bound by the disposition of Kosrovani's claims pursuant to enforcement of a settlement. *Reichelt, supra*; *Hooper v. Yakima County*, 79 Wn.App. 770, 775-76, 904 P.2d 1193 (1995). The Opinion of the Court of Appeals mistakenly concluded that her claims were mere "potential claims" and that the purported settlement does not extinguish them. Opinion, at *9. It deliberately overlooked the plain fact that the claims were adjudicated on the merits, reduced to and merged into judgment, that Hansen was the real party in interest as to those claims, and that enforcement of the settlement would extinguish them due to the lapse of the statute of limitations and by the application of claim preclusion.

4. The Trial Court's Ruling Dismissing Hansen's Equitable Claim is Error that Has Not Been Reviewed.

In this case, the trial court erred in concluding that it is statutory and that equity may not be invoked until one "gets past the statute." (RP 24, 3/09/2019) RCW 4.08.030 is procedural and permissive; it is not substantive law, as it does not define who is entitled to recovery for loss of consortium. That error has never been reviewed by the appellate court. .

CONCLUSION

The issue of whether a person involved in a committed intimate relationship may recover for loss of consortium is of broad social import. It affects many citizens of this State who suffer financial loss and harm after an injury to their partner. The right of access to the courts is a fundamental right and has here been violated resulting in forfeiture. This Court is asked to grant review, reverse the decisions in *Kosrovani I* and *Kosrovani II* as to Hansen, and remand to the trial court with instructions to consider her claim in equity and to reassign this matter to a new judge.

Respectfully Submitted this 4th day of May, 2023.

I certify that this document has 4,999 words in compliance with RAP 18.17.

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CERTIFICATE OF SERVICE

EMILIO M. KOSROVANI declares under penalty of perjury under the laws of the State of Washington that on the 4th day of May, 2023, he served Elizabeth Berman Lovell and Alfred E Donohue, Wilson Smith Cochran Dickerson, Attorneys for Respondent Roger Jobs Motors, Inc., with a copy of

Laurel Hansen's Petition for Review

by means of the electronic filing and service portal of the Washington State Appellate Courts.

Dated this 4th day of May, 2023.

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APPENDIX

FILED
3/13/2023
Court of Appeals
Division I
State of Washington

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

EMILIO M. KOSROVANI, a single individual, Appellant, v. ROGER JOBS MOTORS, INC. dba ROGER JOBS AUDI, VW, PORSCHE dba AUDI BELLINGHAM, Respondent.	DIVISION ONE No. 84565-9-I UNPUBLISHED OPINION

DWYER, J. — Emilio Kosrovani, an attorney, appeals from the superior court's order denying his cross motion for the rescission of his settlement agreement with Roger Jobs Motors, Inc. (RJM) and vacation of the order enforcing that agreement. He also seeks reversal of the superior court's order striking his motion to join nonparty Laurel Hansen in this litigation. In addition, Kosrovani seeks, on behalf of nonparty Hansen, reversal of the superior court's order striking her motion for intervention in the case. Finally, Hansen seeks reversal of our decision in Kosrovani v. Roger Jobs Motors, Inc., No. 80400-6-I, (Wash. Ct. App. July 6, 2021) (unpublished)

http://www.courts.wa.gov/opinions/pdf/80400-6%20order%20and%20opinion.pdf, review denied, 198 Wn.2d 1033 (2022).[1]

Kosrovani asserts that the superior court was without subject matter jurisdiction when entering the order granting RJM's motion for enforcement of the settlement agreement. Thus, he contends, both that order and our subsequent decision affirming that order are void. Kosrovani's assertions, however, are premised on two misconceptions. First, he misperceives that subject matter jurisdiction is pertinent to the issues raised herein. Second, Kosrovani is incorrect that nonparty Hansen's rights were in any way at issue in this litigation.

Given that Kosrovani's claims of error arise solely from his misperceptions of the facts and law of this case, we affirm the superior court's orders denying Kosrovani's cross motion for rescission of the settlement agreement and vacation of the order enforcing that agreement, striking his motion for joinder of nonparty Hansen, and striking nonparty Hansen's motion to intervene in this litigation.

I

On November 19, 2018, Kosrovani filed in the superior court a personal injury complaint against RJM, which operates a car dealership and service department in Bellingham. Kosrovani asserted therein claims of premises liability and negligence, as well as a claim for loss of consortium on behalf of Laurel Hansen, described in the complaint as his domestic partner. Kosrovani alleged that he "sustained traumatic injury to his brain and severe neurological injuries,"

[1] In the caption of his briefing on appeal, Kosrovani wrongfully included Hansen as a party in this action. However, Hansen could be included in the case caption only if she had been named as a party in the original pleading. She was not. Accordingly, we have corrected the case caption submitted by Kosrovani to exclude nonparty Hansen.

resulting in "permanent ataxia, disequilibrium, and permanent disability," while in the automobile showroom.

RJM moved for summary judgment dismissal of Kosrovani's claims, asserting that Kosrovani could not demonstrate the breach of any duty by RJM or proximate causation of Kosrovani's alleged injuries. RJM further asserted that the loss of consortium claim asserted on behalf of Hansen must be dismissed, as Kosrovani was neither married to nor in a state-registered domestic partnership with Hansen. In an order filed on March 8, 2019, the superior court dismissed Kosrovani's loss of consortium claim. On March 15, 2019, the court granted summary judgment dismissal of Kosrovani's remaining claims. Following the superior court's denial of his motion for reconsideration, Kosrovani appealed from the summary judgment dismissal orders.

On December 18, 2019, while Kosrovani's appeal was pending, the parties engaged in mediation and executed a "CR 2A Memorandum of Settlement." Pursuant to the agreement, RJM thereafter sent to Kosrovani a "Release and Settlement of Claims." When Kosrovani refused to sign the document, RJM filed a motion to enforce the settlement agreement in the superior court. Kosrovani opposed the motion and filed a motion for leave to file a second amended complaint joining Hansen as a party in the action.

On February 28, 2020, the superior court granted RJM's motion to enforce the settlement agreement. The court ordered Kosrovani to sign the "Release and Settlement of Claims," to dismiss all claims in the lawsuit, and to withdraw his appeal of the summary judgment dismissal orders. The court additionally

ordered Kosrovani's cross motion for leave to amend the complaint to be stricken. Because Kosrovani had refused to accept tender of the settlement funds, the superior court authorized RJM to deposit the funds in the court registry. The superior court denied Kosrovani's subsequently filed motion for reconsideration. Kosrovani then appealed from the trial court's order enforcing the settlement agreement.

Kosrovani thereafter filed a motion in this court to join Hansen as an appellant. On August 6, 2020, our commissioner issued a ruling denying Kosrovani's motion. Our commissioner therein concluded that Hansen was not a party to the proceedings in the superior court and that the orders from which Kosrovani appealed do not involve any right or duty belonging to Hansen. A panel of judges thereafter denied Kosrovani's motion to modify the commissioner's ruling.

On July 6, 2021, we filed an unpublished opinion in Kosrovani, No. 80400-6-I.[2] We first concluded that the superior court did not err in entering the order enforcing the settlement agreement. Kosrovani, No. 80400-6-I, slip op. at 1. We further held that the issues raised in Kosrovani's appeal of the summary judgment orders were rendered moot by the settlement agreement. Kosrovani, No. 80400-6-I, slip op. at 2. Accordingly, we dismissed the remaining appeal. Kosrovani, No. 80400-6-I, slip op. at 2.

In so holding, we first rejected Kosrovani's contention that the superior court could not enforce the postjudgment settlement agreement because RJM

[2] Many of the facts set forth herein can also be found in our July 2021 decision.

had not followed the proper procedure, set forth in RAP 7.2(e), for pursuing postjudgment relief in the trial court while an appeal was pending. Kosrovani, No. 80400-6-I, slip op. at 4-5. We held that, while RJM "should have sought and obtained permission from this court to enter the order enforcing the settlement agreement before it was formally filed," the violation of RAP 7.2(e) did not mandate reversal. Kosrovani, No. 80400-6-I, slip op. at 5. Instead, we exercised our discretion pursuant to RAP 1.2 to overlook this procedural imperfection and "to retroactively grant permission for the trial court to formally enter the enforcement order and reach the merits of the issue." Kosrovani, No. 80400-6-I, slip op. at 6.

We additionally rejected Kosrovani's assertions that the superior court erred by enforcing the settlement agreement due to a genuine factual dispute as to its material terms; that the settlement agreement was unenforceable pursuant to CR 2A because it was not signed by the attorney who represented Kosrovani at mediation; and that the agreement was unenforceable because it had not been signed by Hansen.[3] Kosrovani, No. 80400-6-I, slip op. at 6-8. With regard to the last claim of error, we explained that "Hansen was not a party to the litigation below and is not a party to this appeal. There is no dispute that the CR 2A settlement agreement does not extinguish her potential claims. Her signature is not required to make the settlement enforceable as against Kosrovani." Kosrovani, No. 80400-6-I, slip op. at 8-9.

[3] Kosrovani also asserted that his execution of a release was a condition precedent to the existence of a valid settlement agreement and that the settlement agreement could not be enforced because it did not include all material terms regarding the scope of the release. Kosrovani, No. 80400-6-I, slip op. at 9-10. We similarly rejected those claims of error.

In conclusion, we held:

> The trial court did not err in granting RJM's motion to enforce the CR 2A agreement and ordering Kosrovani to sign the amended "Release and Settlement of Claims" and to dismiss his claims. Because our decision moots Kosrovani's appeal of the dismissal of those claims, we need not reach the parties' arguments raised in that appeal.

Kosrovani, No. 80400-6-I, slip op. at 11. Accordingly, we affirmed the superior court's order enforcing the settlement agreement. Kosrovani, No. 80400-6-I, slip op. at 11.

Kosrovani sought review of our July 2021 opinion. Our Supreme Court denied his petition for review. Kosrovani, No. 80400-6-I, review denied, 198 Wn.2d 1033 (2022). We thereafter issued a mandate returning the matter to the superior court for further proceedings consistent with our decision.

On February 11, 2022, RJM filed in the superior court a motion to release from the court registry the funds owed to Kosrovani pursuant to the settlement agreement. RJM therein noted that Kosrovani's appeals to our state's courts had been exhausted. Accordingly, RJM asserted, "[t]he sole remaining issues pursuant to the mandate are the release of Kosrovani's settlement funds and formal conclusion of this litigation."

In response, Kosrovani filed a motion opposing RJM's motion for disbursement of funds and a cross motion for rescission of the contract and vacation of the settlement enforcement order. Kosrovani additionally filed a motion for change of venue; a motion for joinder of Laurel Hansen as a co-plaintiff in the action; and a motion for intervention, issuance of a writ of mandamus, and for declaratory relief on behalf of Hansen. In its response to

Kosrovani's cross motions, RJM requested that the superior court deny the cross motions and impose CR 11 sanctions against Kosrovani for attempting to relitigate issues already addressed in our July 2021 decision.

On April 4, 2022, the superior court granted RJM's motion to release the settlement funds from the court registry and to conclude the litigation. Then, on April 8, 2022, the court denied Kosrovani's cross motion for rescission of the contract and vacation of the settlement enforcement order. Finding no basis to support a change of venue, the court additionally denied Kosrovani's motion seeking such relief. Concluding that the motions for joinder of Hansen and intervention by Hansen had already been addressed, the superior court struck both motions. The superior court denied RJM's request for sanctions and fees.

On May 2, 2022, Kosrovani filed a motion to stay the superior court's order granting RJM's motion to release funds from the court registry. The same day, he filed a notice of appeal, seeking direct review in the Supreme Court of the superior court's April 2022 orders. On May 20, 2022, in light of the filing of a notice of appeal, the superior court granted Kosrovani's motion to stay. In an order filed on October 12, 2022, our Supreme Court transferred the case to our court.

II

Kosrovani asserted in the superior court that the court's February 2020 order granting RJM's motion to enforce the settlement agreement must be

vacated pursuant to CR 60(b)(3) and CR 60(b)(11).[4] According to Kosrovani, RJM breached a material term in the settlement agreement subsequent to the enforcement proceedings. Such a breach, he asserted, constitutes a "reason justifying relief from the operation of the judgment" pursuant to CR 60(b)(11). Similarly, Kosrovani asserted in the superior court that RJM's alleged breach of the settlement agreement constituted "[n]ewly discovered evidence" warranting vacation of the enforcement order pursuant to CR 60(b)(3).

However, Kosrovani does not assert on appeal that the superior court erred by denying his motion to vacate the enforcement order on the basis of CR 60(b)(3) or CR 60(b)(11). Indeed, nowhere in his briefing does he mention these rules. Because Kosrovani provides no argument on appeal regarding vacation of the court's order pursuant to CR 60(b)(3) or CR 60(b)(11), we will not review those claims of error. RAP 10.3(a)(6) (requiring an appellant's brief to provide "argument in support of the issues presented for review, together with citations to legal authority and references to relevant parts of the record"); see also Jackson v. Quality Loan Serv. Corp., 186 Wn. App. 838, 845, 347 P.3d 487 (2015).

III

On appeal, Kosrovani asserts that the superior court abused its discretion by denying his motion to vacate the order enforcing the parties' settlement agreement pursuant to CR 60(b)(6). According to Kosrovani, the superior court

[4] CR 60 provides that "[o]n motion and upon such terms as are just, the court may relieve a party or the party's legal representative from a final judgment, order, or proceeding" for the reasons enumerated therein. Among those reasons are "[n]ewly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under rule 59(b)," CR 60(b)(3), and "[a]ny other reason justifying relief from the operation of the judgment," CR 60(b)(11).

was without subject matter jurisdiction to enter the enforcement order.[5] Kosrovani additionally contends that it is no longer equitable for the superior court's order to have prospective application because such application would extinguish and bar nonparty Hansen's alleged claims.

We disagree. Kosrovani's assertion is based on two foundational premises—first, that the superior court lacked subject matter jurisdiction to enter the disputed order and, second, that Hansen's rights were in some way effected by this litigation. Neither is true. Accordingly, the superior court did not abuse its discretion in denying Kosrovani's motion to vacate.

A

CR 60(b)(6) permits a trial court to vacate a final judgment, order, or proceeding when "[t]he judgment has been satisfied, released, or discharged, or a prior judgment upon which it is based has been reversed or otherwise vacated, or it is no longer equitable that the judgment should have prospective application." We review a trial court's decision pursuant to CR 60(b) for an abuse of discretion. In re Marriage of Tang, 57 Wn. App. 648, 653, 789 P.2d 118 (1990). "A court abuses its discretion when its decision is based on untenable grounds or reasoning." Barr v. MacGugan, 119 Wn. App. 43, 46, 78 P.3d 660 (2003). "An appeal from the denial of a CR 60(b) motion is not a substitute for an appeal and is limited to the propriety of the denial, not the impropriety of the

[5] Notwithstanding his assertion that the superior court's order enforcing the settlement agreement is void, Kosrovani does not assert that the order should be vacated pursuant to CR 60(b)(5), which provides for vacation of a court order when "[t]he judgment is void." Because he does not so contend, we review the superior court's order pursuant only to CR 60(b)(6), the sole rule addressed in Kosrovani's briefing on appeal.

underlying order." In re Dependency of J.M.R., 160 Wn. App. 929, 938 n.4, 249 P.3d 193 (2011).

B

Kosrovani sets forth in his briefing on appeal numerous assertions regarding the superior court's purported lack of subject matter jurisdiction to enter its order granting RJM's motion to enforce the parties' settlement agreement.[6] Kosrovani is incorrect, however, that the subject matter jurisdiction of the superior court is in any way implicated in this case. Rather, Kosrovani's claims of error concern whether the court had the authority to enter the order enforcing the parties' settlement agreement. As we held in our July 2019 decision in Kosrovani, No. 80400-6-I, the superior court did, indeed, have the authority to enter the disputed order. Accordingly, Kosrovani's assertions of error pertaining to the superior court's authority are without merit.

"Our Supreme Court has noted that Washington's courts, itself included, have been 'inconsistent in their understanding and application of jurisdiction.'" Boudreaux v. Weyerhauser Co., 10 Wn. App. 2d 289, 294, 448 P.3d 121 (2019) (quoting In re Marriage of Buecking, 179 Wn.2d 438, 447, 316 P.3d 999 (2013)). Indeed, whether a court has subject matter jurisdiction in a matter is "often

[6] Kosrovani variously contends that the superior court lacked jurisdiction to enter the order because Hansen was a necessary party in the proceedings; that the parties could not vest jurisdiction in the superior court by stipulation, and, thus, that the court was without such jurisdiction in entering the disputed order; that our July 2021 decision retroactively granting permission to the superior court to enter the enforcement order was erroneous and could not confer jurisdiction to that court; and that the superior court lacked the authority to act in granting RJM's motion to enforce the settlement agreement. As discussed infra, each of these arguments is premised on a misperception regarding the superior court's subject matter jurisdiction in this action.

confused with a court's 'authority to rule in a particular manner,' leading to 'improvident and inconsistent use of the term [jurisdiction].'" In re Marriage of McDermott, 175 Wn. App. 467, 480, 307 P.3d 717 (2013) (internal quotation marks omitted) (quoting Marley v. Dep't of Labor & Indus., 125 Wn.2d 533, 539, 886 P.2d 189 (1994)). To remediate this confusion, our Supreme Court has clarified that "'[s]ubject matter jurisdiction' refers to a court's ability to entertain a type of case, not to its authority to enter an order in any particular case." Buecking, 179 Wn.2d at 448. Accordingly, "'[a] court has subject matter jurisdiction where it has authority to adjudicate the type of controversy involved in the action.'" Boudreaux, 10 Wn. App. 2d at 295 (alteration in original) (internal quotation marks omitted) (quoting McDermott, 175 Wn. App. at 480-81).

Here, Kosrovani asserts that the superior court lacked subject matter jurisdiction to enter the February 2020 order granting RJM's motion for enforcement of the settlement agreement. As a result, he asserts, the superior court's order must be vacated. Further, Kosrovani contends, vacation of the enforcement order requires reversal of our mandated decision in Kosrovani, No. 80400-6-I, in which we affirmed the challenged enforcement order. We disagree.

The superior court has the authority to adjudicate personal injury actions, such as that initiated by Kosrovani. Accordingly, the court here had subject matter jurisdiction to enter the order enforcing the settlement agreement arising from that action. See, e.g., Boudreaux, 10 Wn. App. 2d at 295. Because "the type of controversy" is within the subject matter jurisdiction of the superior court, "all other defects or errors go to something other than subject matter jurisdiction."

Cole v. Harveyland, LLC, 163 Wn. App. 199, 209, 258 P.3d 70 (2011). Thus, each of Kosrovani's contentions regarding the superior court's purported lack of subject matter jurisdiction to enter the disputed order fails.

Kosrovani similarly misperceives the effect of our decision to retroactively grant permission to the superior court to enter the enforcement order. See Kosrovani, No. 80400-6-I, slip op. at 5-6. We held there that, notwithstanding RJM's failure to follow the proper procedure pursuant to RAP 7.2(e) in seeking postjudgment relief in the superior court, that violation did not mandate reversal of the court's enforcement order. Kosrovani, No. 80400-6-I, slip op. at 5-6. Accordingly, we "exercise[d] our discretion to retroactively grant permission for the trial court to formally enter the enforcement order and reach the merits of the issue," and we affirmed the court's postjudgment ruling. Kosrovani, No. 80400-6-I, slip op. at 6, 11.

Kosrovani now asserts that our decision erroneously conferred to the superior court the subject matter jurisdiction required for the court to enter the enforcement order. Again, Kosrovani is mistaken. RAP 7.2(e) did not divest the superior court of its subject matter jurisdiction in the case while Kosrovani's appeal was pending; nor did our subsequent decision in that appeal in any manner confer such jurisdiction back to the superior court. Indeed, we do not possess such authority. Rather, the enumerated subject matter jurisdiction of our state's superior courts is conferred by the Washington Constitution. CONST. art. IV, § 6. Such jurisdiction "cannot be modified or restricted by legislative enactment." Boudreaux, 10 Wn. App. 2d at 296. Residual subject matter

jurisdiction "may be restricted by legislative enactment if, and only if, such enactment vests exclusive jurisdiction over nonenumerated types of claims in some other court." Boudreaux, 10 Wn. App. 2d at 296-97. There is no authority, however, for the proposition that Washington's appellate courts can either divest the superior court of its subject matter jurisdiction or confer such jurisdiction to that court.

Kosrovani's claims of error regarding the superior court's purported lack of subject matter jurisdiction are premised on a grave misperception of the nature of subject matter jurisdiction. Because it has subject matter jurisdiction in personal injury actions, the superior court had such jurisdiction to enter the disputed enforcement order. Accordingly, each of Kosrovani's related claims of error fails.

C

Kosrovani additionally contends that the superior court's order enforcing the parties' settlement agreement is void because nonparty Hansen was neither joined as a party nor permitted to intervene in the litigation. According to Kosrovani, the superior court erred by denying his CR 60(b) motion to vacate the order on this basis.[7] We disagree. Again, our decision in Kosrovani, No. 80400-6-I, is dispositive. As we held there, because Hansen was neither a party to the

[7] Again, Kosrovani asserts various claims of error regarding the purported effect of nonparty Hansen's absence from the litigation, including that Hansen was deprived of her right of access to the courts when the superior court struck the motion for joinder and we affirmed the court's summary judgment dismissal of Hansen's purported claims; that we erred in affirming the order enforcing the settlement agreement because Hansen had not consented to that agreement; that we erred in concluding that the summary judgment dismissal of the underlying claims was mooted by our decision in Kosrovani, No. 80400-6-I; that the superior court erred in denying Hansen's attempt to intervene in the litigation following our mandated decision in that case; and that the order enforcing the settlement agreement must be vacated because it extinguishes nonparty Hansen's purported claims.

litigation in the superior court nor on appeal, the settlement agreement in no way impacted her rights. Kosrovani, No. 80400-6-I, slip op. at 8. Thus, given that Hansen has never been a party to this litigation, the superior court did not abuse its discretion in granting RJM's motion to enforce the settlement agreement.

Throughout the litigation, Kosrovani has repeatedly attempted to assert claims on behalf of nonparty Hansen and to receive permission to have her added as a party in the case. In dismissing on summary judgment the loss of consortium claim asserted on Hansen's behalf, the superior court concluded that such a claim could not be prosecuted because Kosrovani was neither married to Hansen nor in a state-registered domestic partnership with her, as required by RCW 4.08.030. See Kosrovani, No. 80400-6-I, slip op. at 2. On appeal, we concluded that the settlement agreement rendered moot Kosrovani's challenge to the summary judgment dismissal of his lawsuit against RJM. Accordingly, we dismissed that portion of the appeal. See Kosrovani, No. 80400-6-I, slip op. at 1-2.

In affirming the superior court's enforcement order, we rejected Kosrovani's assertion that the settlement agreement was unenforceable without nonparty Hansen's signature. Kosrovani, No. 80400-6-I, slip op. at 8. We therein explained that Hansen was not a party to the litigation and that the settlement agreement does not impact any potential claims she may have. Kosrovani, No. 80400-6-I, slip op. at 8-9. Our Supreme Court denied Kosrovani's petition for review and we thereafter issued a mandate concluding the action.

Then, in response to RJM's motion to release the settlement funds from the court registry and conclude the lawsuit, Kosrovani again asserted that nonparty Hansen should be joined in the action or permitted to intervene. Concluding that our decision had already resolved those issues, the superior court struck the motions for joinder and intervention. The court granted RJM's motion to release the funds and conclude the litigation.

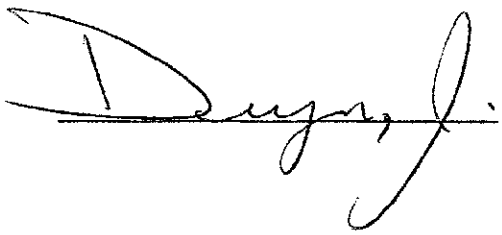
Now Kosrovani asserts that the underlying enforcement order must be vacated pursuant to CR 60(b)(6), which provides for vacation of a judgment or order when "it is no longer equitable that the judgment should have prospective application." This is so, he contends, because the superior court's enforcement order, and our subsequent decision dismissing Kosrovani's appeal from the court's summary judgment orders, deprived Hansen of access to the courts and had the effect of extinguishing her claims. Kosrovani is incorrect.

Our decision in Kosrovani, No. 80400-6-I, demonstrates why this is so. As we explained there, "Hansen was not a party to the litigation below and is not a party to this appeal. There is no dispute that the CR 2A settlement agreement does not extinguish her potential claims." Kosrovani, No. 80400-6-I, slip op. at 8-9. Kosrovani's assertion that the enforcement order must be vacated due to its purported effect on Hansen's rights is without merit.[8]

[8] Throughout this litigation, Kosrovani has continued to raise identical issues regarding the purported necessity of nonparty Hansen's involvement in the action. Our decision in Kosrovani, No. 80400-6-I, slip op. at 8, provided final resolution of these issues. Nevertheless, it appears that Kosrovani believes he may perpetually challenge the final determinations of Washington courts. However, "[a]n appeal from the denial of a CR 60(b) motion is not a substitute for an appeal and is limited to the propriety of the denial, not the impropriety of the underlying order." J.M.R., 160 Wn. App. at 938 n.4. Kosrovani may not challenge the superior

We affirm the superior court's orders striking nonparty Hansen's motion for intervention and Kosrovani's motion for joinder of nonparty Hansen in the litigation. Concluding that the superior court did not abuse its discretion in declining to vacate the underlying enforcement order, we affirm the court's order denying Kosrovani's cross motion seeking such relief. We additionally decline Kosrovani's request to reverse our decision in Kosrovani, No. 80400-6-I, in which we affirmed the superior court's valid enforcement order.[9]

Affirmed.



court's enforcement order on appeal from the court's denial of his CR 60(b) motion to vacate that order.

Moreover, "[u]nder the doctrine of 'law of the case,' . . . the parties, the trial court, and this court are bound by the holdings of the court on a prior appeal until such time as they are 'authoritatively overruled.'" Greene v. Rothschild, 68 Wn.2d 1, 10, 414 P.2d 1013 (1966) (quoting Adamson v. Traylor, 66 Wn.2d 338, 339, 402 P.2d 499 (1965)). Accordingly, questions that we decided in a prior opinion "'will not again be considered on a subsequent appeal if there is no substantial change in the evidence.'" Folsom v. County of Spokane, 111 Wn.2d 256, 263, 759 P.2d 1196 (1988) (quoting Adamson, 66 Wn.2d at 339). Such is the case here.

[9] Kosrovani seeks an award of attorney fees on appeal on behalf of nonparty Hansen. Hansen is neither a party nor a prevailing party on appeal. Accordingly, she is not entitled to such an award. We additionally decline RJM's request to grant sanctions against Kosrovani pursuant to RAP 18.9, as the superior court declined a similar request for CR 11 sanctions.

Kosrovani has filed in our Supreme Court a "motion to correct case caption and transfer case," in which he seeks to have nonparty Hansen added to the case caption and to have this appeal transferred to Division Two. In addition, Kosrovani filed in this court a motion to strike a pleading filed by RJM and to stay review of this case pending our Supreme Court's decision regarding transfer. We deny Kosrovani's motion to strike RJM's pleading, although that pleading is not pertinent to any decision currently before this court. We additionally deny Kosrovani's motion to stay review of the case. Our Supreme Court, of course, has full authority to decide any motion before it.

WE CONCUR:

Coleman, J.

FILED
7/6/2021
Court of Appeals
Division I
State of Washington

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

EMILIO M. KOSROVANI, a single individual, Appellant, v. ROGER JOBS MOTORS, INC. dba ROGER JOBS AUDI, VW, PORSCHE dba AUDI BELLINGHAM, Respondents.	No. 80400-6-I (consolidated with No. 81332-3) DIVISION ONE UNPUBLISHED OPINION

ANDRUS, A.C.J. — Emilio Kosrovani, an attorney, appealed the summary judgment dismissal of his pro se complaint against Roger Jobs Motors, Inc. (RJM). While that appeal was pending, Kosrovani and RJM entered into a Civil Rule 2A (CR 2A) settlement agreement that required him to execute a release of his claims, dismiss his lawsuit, and withdraw his appeal. Kosrovani refused to do so. The trial court granted RJM's motion to enforce the agreement and entered an order to that effect without this court's permission as required by RAP 7.2(e). Kosrovani then appealed the enforcement order. We retroactively grant permission to the trial court to formally enter the order enforcing the settlement. On the merits of Kosrovani's appeal of this order, we conclude the trial court did not err in deeming the settlement agreement enforceable. Because that agreement requires

Kosrovani to withdraw his appeal, his challenge to the summary judgment dismissal of his lawsuit against RJM is moot. We affirm the order enforcing the settlement agreement and dismiss the remaining appeal as moot.

FACTS

RJM operates a car dealership and service department in Bellingham. On November 9, 2018, Kosrovani filed a pro se personal injury lawsuit against RJM asserting claims of premises liability, negligence, and loss of consortium on behalf of his domestic partner Laurel Hansen. The complaint alleged that on November 16, 2015, Kosrovani sustained "traumatic injury to his brain and severe neurological injuries" while walking towards the exit door of RJM's showroom.

On February 1, 2019, RJM moved for summary judgment dismissal of Kosrovani's claims on the ground that he lacked admissible evidence that RJM breached any duty owing to him or that RJM proximately caused the alleged injuries. RJM further argued that Kosrovani could not prosecute a loss of consortium claim on behalf of Hansen, who was not identified in the complaint as a party, because he was neither married nor in a state-registered domestic partnership with her as required by RCW 4.08.030. On March 8, 2019, the trial court dismissed Kosrovani's loss of consortium claim but continued the hearing on his remaining claims for one week.

Kosrovani opposed RJM's motion and submitted evidence, through witness declarations, medical records, and Social Security Administration correspondence, to support his claims. He also filed an amended complaint that omitted all claims arising from loss of consortium on Hansen's behalf and alleged that his injuries

were caused by exposure to an unknown environmental hazard or contact with electrical current or electromagnetic forces.

On March 15, 2019, the trial court granted summary judgment dismissal of Kosrovani's remaining claims. The court subsequently denied Kosrovani's motion for reconsideration. Kosrovani filed a notice of appeal.

On December 18, 2019, while the appeal was pending, Kosrovani and RJM mediated the dispute and entered into a "CR 2A Memorandum of Settlement." The agreement stated that "the above matter . . . has been settled at mediation on the following terms: Insurer will pay to the claimant's attorney in trust $15,000 . . . two weeks from obtaining the signed release." The agreement further provided that "[t]his settlement is conditioned upon execution of a full release of all claims by Claimants/Plaintiffs against Defendants and Defendant's insurers" as well as the following other agreed terms and conditions: (1) dismissal of the lawsuit and withdrawal of the appeal upon receipt of the funds, (2) acknowledgement that RJM's non-liability has been litigated and determined by the court, and (3) confidentiality of the settlement agreement. The agreement specified that "[o]ther than as stated above, there are no additional representations or agreements of the parties." Although Kosrovani was represented by counsel during the mediation, he signed the agreement himself. Counsel for RJM also signed the agreement.

Pursuant to the agreement, RJM sent Kosrovani a "Release and Settlement of Claims" for his signature. When Kosrovani refused to sign the release or dismiss the appeal, RJM filed a motion in the trial court to enforce the agreement.

Kosrovani opposed the motion and filed a motion for leave to file a second amended complaint joining Hansen as a party.

On February 28, 2020, the trial court granted RJM's motion to enforce the agreement but struck from the "Release and Settlement of Claims" document a paragraph relating to any reference to indemnification for subrogation claims. The court struck Kosrovani's motion to amend the complaint as moot. The court ordered Kosrovani to sign the amended version of the "Release and Settlement of Claims," dismiss all claims in the lawsuit, and withdraw his appeal. The court later denied Kosrovani's motion for reconsideration. Kosrovani appealed, and this court consolidated his two appeals for review.

ANALYSIS

Kosrovani challenges both the order enforcing the settlement agreement and the summary judgment dismissal of his claims against RJM. If we conclude that the trial court properly enforced the settlement agreement, then Kosrovani's challenge to the dismissal of his complaint will be rendered moot. "A case is moot when it involves only abstract propositions or questions, the substantial questions in the trial court no longer exist, or a court can no longer provide effective relief." Spokane Research & Def. Fund v. City of Spokane, 155 Wn.2d 89, 99, 117 P.3d 1117 (2005). We therefore begin our analysis with Kosrovani's challenge to the enforcement order.

Kosrovani first contends the trial court lacked jurisdiction to enforce the postjudgment settlement agreement because RJM failed to follow the proper

procedure set forth in RAP 7.2(e) to pursue postjudgment relief at the trial court during the pendency of an appeal.

Under RAP 7.2(e), the trial court has authority to hear and determine:

> (1) postjudgment motions authorized by the civil rules, the criminal rules, or statutes, and
>
> (2) actions to change or modify a decision that is subject to modification by the court that initially made the decision. The postjudgment motion or action shall first be heard by the trial court, which shall decide the matter. If the trial court determination will change a decision then being reviewed by the appellate court, the permission of the appellate court must be obtained prior to the formal entry of the trial court decision. A party should seek the required permission by motion.

RJM correctly notes that RAP 7.2(e) did not bar the trial court from considering RJM's postjudgment motion to enforce the settlement agreement. But Kosrovani is correct that the relief RJM sought, if granted, would affect the outcome of the summary judgment appeal by rendering it moot. Therefore, pursuant to RAP 7.2(e), RJM should have sought and obtained permission from this court to enter the order enforcing the settlement agreement before it was formally filed. Instead, RJM filed a motion in this court to dismiss the summary judgment appeal, which a commissioner dismissed as premature. We agree that RJM did not follow the proper procedure under RAP 7.2(e) to pursue postjudgment relief.

But this violation of RAP 7.2(e) does not mandate reversal. RAP 1.2 vests this court with discretion to overlook procedural imperfections. See RAP 1.2(a) ("[t]hese rules will be liberally interpreted to promote justice and facilitate the decision of cases on the merits"). Had RJM sought permission to file the order, we would have granted it. And the parties have fully briefed the merits of their arguments regarding enforceability of the settlement agreement. We therefore

exercise our discretion to retroactively grant permission for the trial court to formally enter the enforcement order and reach the merits of the issue.[1]

Kosrovani argues the trial court erred by enforcing the settlement agreement because there is a genuine factual dispute as to its material terms. We disagree.

We review an order enforcing a CR 2A settlement agreement de novo, as with a summary judgment order. Condon v. Condon, 177 Wn.2d 150, 162, 298 P.3d 86 (2013). The party moving to enforce a settlement agreement has the burden of proving that no genuine dispute exists over the existence and material terms of the agreement. Brinkerhoff v. Campbell, 99 Wn. App. 692, 696-97, 994 P.2d 911 (2000). We must view the evidence in the light most favorable to the nonmoving party and determine whether reasonable minds could reach but one conclusion. Condon, 177 Wn.2d at 162. If the nonmoving party raises a genuine issue of material fact, a trial court abuses its discretion if it enforces the agreement without first resolving such issues following an evidentiary hearing. Brinkerhoff, 99 Wn. App. at 697.

CR 2A provides as follows:

> No agreement or consent between parties or attorneys in respect to the proceedings in a cause, the purport of which is disputed, will be regarded by the court unless the same shall have been made and assented to in open court on the record, or entered in the minutes, or unless the evidence thereof shall be in writing and subscribed by the attorneys denying the same.

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[1] Kosrovani argues that RAP 7.2(e)(1) and (2) are inapplicable to RJM's motion. We agree that RAP 7.2(e)(2) does not apply in this situation. However, RAP 7.2(e)(1) authorizes the trial court to hear and determine "postjudgment motions authorized by the civil rules." Here, the postjudgment motion to enforce the CR 2A agreement expressly stated that the settlement was conditioned upon "dismissal of lawsuit and withdrawal of appeal." Because CR 2A applies to agreements "in respect to proceedings in a cause," the trial court was authorized to hear and determine RJM's motion pursuant to RAP 7.2(e)(1).

"The purpose of CR 2A is to give certainty and finality to settlements." Condon, 177 Wn.2d at 157. CR 2A applies to preclude enforcement of an agreement only when the agreement was made by the parties or attorneys "in respect to the proceedings in a cause" and the "purport" of the agreement is disputed. In re Marriage of Ferree, 71 Wn. App. 35, 40, 856 P.2d 706 (1993). "The purport of an agreement is disputed within the meaning of CR 2A if there is a genuine dispute over the existence or material terms of the agreement." Cruz v. Chavez, 186 Wn. App. 913, 919-20, 347 P.3d 912 (2015). "A litigant's remorse or second thoughts about an agreement is not sufficient" to create a genuine dispute. Lavigne v. Green, 106 Wn. App. 12, 19, 23 P.3d 515 (2001). "Where the CR 2A requirements are met, a motion to enforce a settlement is a commonly accepted practice." Condon, 177 Wn.2d at 157.

Normal contract principles apply to the interpretation of a CR 2A settlement agreement. Morris v. Maks, 69 Wn. App. 865, 868-69, 850 P.2d 1357 (1993). We review a trial court's interpretation of the language of a contract de novo. In re Marriage of Pascal, 173 Wn. App. 836, 841, 295 P.3d 805 (2013). The primary objective of contract interpretation is to determine the parties' mutual intent at the time they executed the contract. Viking Bank v. Firgrove Commons 3, LLC, 183 Wn. App. 706, 712, 334 P.3d 116 (2014). We do so by focusing on the objective manifestations of the agreement rather than the subjective intent of the parties. Hearst Commc'ns, Inc. v. Seattle Times Co., 154 Wn.2d 493, 503, 115 P.3d 262 (2005). "Courts will not revise a clear and unambiguous agreement or contract for

parties or impose obligations that the parties did not assume for themselves." Condon, 177 Wn.2d at 163.

Kosrovani first argues that the settlement agreement is unenforceable under CR 2A because it was not signed by the attorney who represented him at the mediation. He cites In re Patterson, 93 Wn. App. 579, 584-85, 969 P.2d 1106 (1999) for the proposition that a party's signature will suffice only if the parties enter into settlement without attorney involvement. Kosrovani reads this case too narrowly. In Patterson, the parties mediated and signed a CR 2A settlement agreement without their attorneys present. Patterson argued that the agreement was not enforceable because it was not signed by his attorney. This court, noting that "[t]he rule clearly anticipates that parties may directly enter into settlements," held that "[w]hen the party undertakes a settlement directly with the other party, reduces it to writing, and signs it, as in this case, the requirements of CR 2A are met just as if the attorney had participated." 93 Wn. App. at 585. Kosrovani, an attorney, was present with his counsel at the mediation. His signature on the agreement indicates his assent to its terms. The absence of his counsel's signature does not render the agreement unenforceable.

Kosrovani also argues that the CR 2A agreement is unenforceable without the signature of Hansen, whom he describes as a "claimant" and a "real party in interest." See Ebsary v. Pioneer Human Servs., 59 Wn. App. 218, 226-28, 796 P.2d 769 (1990) (upholding order vacating judgment based on settlement agreement that encompassed children's claims without authorization). But Hansen was not a party to the litigation below and is not a party to this appeal.

There is no dispute that the CR 2A settlement agreement does not extinguish her potential claims. Her signature is not required to make the settlement enforceable as against Kosrovani.

Kosrovani next contends that, under the terms of the CR 2A settlement agreement, his execution of a release was a condition precedent to the existence of a valid settlement agreement, and not a promise of future performance. He relies on the clause that reads "[t]his settlement is conditioned upon execution of a full release of all claims." He argues that this language evinces only a conditional intent, not a binding one, and that the settlement fails if the release is not executed for any reason. We disagree.

The agreement plainly states that the matter "has been settled" upon payment of the sum of $15,000. Kosrovani's interpretation would render the mediation process and the CR 2A settlement agreement pointless by giving him free rein to decide at a later date whether or not to actually sign the release he agreed to sign to settle the matter. "Where one construction would make a contract unreasonable, and another, equally consistent with its language, would make it reasonable, the latter more rational construction must prevail." Better Fin. Sols., Inc. v. Transtech Elec., Inc., 112 Wn. App. 697, 712 n. 40, 51 P.3d 108 (2002) (quoting Byrne v. Ackerlund, 108 Wn.2d 445, 453-54, 739 P.2d 1138 (1987)). Kosrovani's execution of the release was the required performance of his promise in the settlement agreement. His failure to execute the release breached that promise.

Lastly, Kosrovani maintains the CR 2A settlement agreement is unenforceable because it did not include all material terms as to the scope of the release. He points out that the "Release and Settlement of Claims" that RJM drafted contained a clause requiring him to indemnify RJM from any subrogation claims that his insurers and medical providers might have. The CR 2A agreement, as he correctly points out, was silent on this issue. But the fact that RJM included a provision over which the parties did not negotiate in the release document does not render unenforceable the remaining terms to which they did agree.

It is undisputed that Kosrovani agreed to dismiss his lawsuit against RJM and to withdraw his appeal as a part of the settlement. This language supports the conclusion that Kosrovani agreed to execute a general release; a dismissal with prejudice has the legal effect of precluding future claims. Condon v. Condon, 177 Wn.2d at 164. The trial court thus had the authority to compel Kosrovani to execute a general release.

A provision requiring a settling plaintiff to defend and indemnify a defendant from subrogation claims, however, is outside the scope of a general release and cannot be implied in a settlement agreement. Id. at 164. The trial court acknowledged that the "Release and Settlement of Claims," as proposed by RJM, included an indemnification provision that was not discussed in the CR 2A settlement agreement. The trial court correctly struck the indemnification clause from the "Release and Settlement of Claims" document because the parties had not agreed to it.

Kosrovani argues that the fact the trial court struck this language from the "Release and Settlement of Claims" proves that the parties had not reached agreement on all material terms. RJM, however, indicated that the indemnification clause was not material and it "offered to remove that language from the release, so that [Kosrovani was] not waiving those claims on behalf of other third parties." The court acknowledged this offer and removed the disputed indemnification clause from the release before ordering Kosrovani to sign it. The court did not require Kosrovani to accept a settlement term to which he had not agreed.

The trial court did not err in granting RJM's motion to enforce the CR 2A agreement and ordering Kosrovani to sign the amended "Release and Settlement of Claims" and to dismiss his claims. Because our decision moots Kosrovani's appeal of the dismissal of those claims, we need not reach the parties' arguments raised in that appeal.

Affirmed.

Andrus, A.C.J.

WE CONCUR:

Cox, J.

FILED
4/7/2023
Court of Appeals
Division I
State of Washington

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

EMILIO M. KOSROVANI, a single individual,

Appellant,

v.

ROGER JOBS MOTORS, INC. dba ROGER JOBS AUDI, VW, PORSCHE dba AUDI BELLINGHAM,

Respondent.

DIVISION ONE

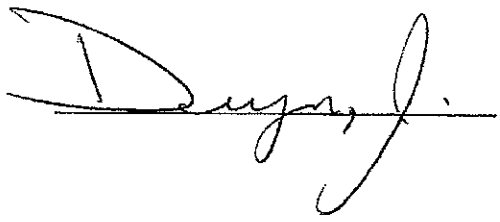
No. 84565-9-I

ORDER DENYING MOTION FOR RECONSIDERATION

The appellant having filed a motion for reconsideration herein, and a majority of the panel having determined that the motion should be denied; now, therefore, it is hereby

ORDERED that the motion for reconsideration is hereby denied.

FOR THE COURT:



Washington Statutes

Title 4. CIVIL PROCEDURE

Chapter 4.04. Rule of decision-Form of actions

Current through the 2020 Legislative Session

§ 4.04.010. Extent to which common law prevails

The common law, so far as it is not inconsistent with the Constitution and laws of the United States, or of the state of Washington nor incompatible with the institutions and condition of society in this state, shall be the rule of decision in all the courts of this state.

Cite as RCW 4.04.010

History. 1891 c 17 § 1; Code 1881 § 1; 1877 p 3 § 1; 1862 p 83 § 1; RRS § 143. Formerly RCW 1.12.030.

RCW 4.08.030

Either spouse or either domestic partner may sue for community—Necessary parties.

Either spouse or either domestic partner may sue on behalf of the community: PROVIDED, That

(1) When the action is for personal injuries, the spouse or the domestic partner having sustained personal injuries is a necessary party;

(2) When the action is for compensation for services rendered, the spouse or the domestic partner having rendered the services is a necessary party.

[2008 c 6 § 407; 1972 ex.s. c 108 § 1; Code 1881 § 6; 1877 p 4 § 6; 1875 p 4 § 2; 1869 p 4 § 6; 1854 p 131 § 5; RRS § 181.]

NOTES:

Part headings not law—Severability—2008 c 6: See RCW 26.60.900 and 26.60.901.

RCW 4.08.040

When either spouse or either domestic partner may join, defend.

Either spouse or either domestic partner may join in all causes of action arising from injuries to the person or character of either or both of them, or from injuries to the property of either or both of them, or arising out of any contract in favor of either or both of them.

If the spouses or the domestic partners are sued together, either or both spouses or either or both domestic partners may defend, and if one spouse or one domestic partner neglects to defend, the other spouse or other domestic partner may defend for the nonacting spouse or nonacting domestic partner also. Each spouse or each domestic partner may defend in all cases in which he or she is interested, whether that spouse or that domestic partner is sued with the other spouse or other domestic partner or not.

[2008 c 6 § 408; 1972 ex.s. c 108 § 2; Code 1881 § 7; 1877 p 4 § 7; 1875 p 4 § 3; 1854 p 219 § 492; RRS § 182.]

NOTES:

Part headings not law—Severability—2008 c 6: See RCW 26.60.900 and 26.60.901.

PREAMBLE

We, the people of the State of Washington, grateful to the Supreme Ruler of the universe for our liberties, do ordain this constitution.

ARTICLE I

DECLARATION OF RIGHTS

SECTION 1 POLITICAL POWER. All political power is inherent in the people, and governments derive their just powers from the consent of the governed, and are established to protect and maintain individual rights.

SECTION 2 SUPREME LAW OF THE LAND. The Constitution of the United States is the supreme law of the land.

SECTION 3 PERSONAL RIGHTS. No person shall be deprived of life, liberty, or property, without due process of law.

SECTION 4 RIGHT OF PETITION AND ASSEMBLAGE. The right of petition and of the people peaceably to assemble for the common good shall never be abridged.

SECTION 5 FREEDOM OF SPEECH. Every person may freely speak, write and publish on all subjects, being responsible for the abuse of that right.

SECTION 6 OATHS - MODE OF ADMINISTERING. The mode of administering an oath, or affirmation, shall be such as may be most consistent with and binding upon the conscience of the person to whom such oath, or affirmation, may be administered.

SECTION 7 INVASION OF PRIVATE AFFAIRS OR HOME PROHIBITED. No person shall be disturbed in his private affairs, or his home invaded, without authority of law.

SECTION 8 IRREVOCABLE PRIVILEGE, FRANCHISE OR IMMUNITY PROHIBITED. No law granting irrevocably any privilege, franchise or immunity, shall be passed by the legislature.

SECTION 9 RIGHTS OF ACCUSED PERSONS. No person shall be compelled in any criminal case to give evidence against himself, or be twice put in jeopardy for the same offense.

SECTION 10 ADMINISTRATION OF JUSTICE. Justice in all cases shall be administered openly, and without unnecessary delay.

NOTES:

Supreme court may authorize superior court judge to perform judicial duties in any superior court: Art. 4 Section 2(a).

SECTION 6 JURISDICTION OF SUPERIOR COURTS. Superior courts and district courts have concurrent jurisdiction in cases in equity. The superior court shall have original jurisdiction in all cases at law which involve the title or possession of real property, or the legality of any tax, impost, assessment, toll, or municipal fine, and in all other cases in which the demand or the value of the property in controversy amounts to three thousand dollars or as otherwise determined by law, or a lesser sum in excess of the jurisdiction granted to justices of the peace and other inferior courts, and in all criminal cases amounting to felony, and in all cases of misdemeanor not otherwise provided for by law; of actions of forcible entry and detainer; of proceedings in insolvency; of actions to prevent or abate a nuisance; of all matters of probate, of divorce, and for annulment of marriage; and for such special cases and proceedings as are not otherwise provided for. The superior court shall also have original jurisdiction in all cases and of all proceedings in which jurisdiction shall not have been by law vested exclusively in some other court; and said court shall have the power of naturalization and to issue papers therefor. They shall have such appellate jurisdiction in cases arising in justices' and other inferior courts in their respective counties as may be prescribed by law. They shall always be open, except on nonjudicial days, and their process shall extend to all parts of the state. Said courts and their judges shall have power to issue writs of mandamus, quo warranto, review, certiorari, prohibition, and writs of habeas corpus, on petition by or on behalf of any person in actual custody in their respective counties. Injunctions and writs of prohibition and of habeas corpus may be issued and served on legal holidays and nonjudicial days. [**AMENDMENT 87,** 1993 House Joint Resolution No. 4201, p 3063. Approved November 2, 1993.]

NOTES:

Amendment 65, part (1977) — Art. 4 Section 6 Jurisdiction of Superior Courts — *The superior court shall have original jurisdiction in all cases in equity and in all cases at law which involve the title or possession of real property, or the legality of any tax, impost, assessment, toll, or municipal fine, and in all other cases in which the demand or the value of the property in controversy amounts to three thousand dollars or as otherwise determined by law, or a lesser sum in excess of the jurisdiction granted to justices of the peace and other inferior courts, and in all criminal cases amounting to felony, and in all cases of misdemeanor not otherwise provided for by law; of actions of forcible entry and detainer; of proceedings in insolvency; of actions to prevent or abate a nuisance; of all matters of probate, of divorce, and for annulment of marriage; and for such special cases and proceedings as are not otherwise provided for. The superior court shall also have original jurisdiction in all cases and of all proceedings in which jurisdiction shall not have been by law vested exclusively in some other court; and said court shall have the power of naturalization and to issue papers therefor. They shall have such appellate jurisdiction in cases arising in justices' and other inferior courts in their respective counties as may be prescribed by law. They shall always be open, except on nonjudicial days, and their process shall extend to all parts of the state. Said courts and their judges shall have power to issue writs of mandamus, quo warranto, review, certiorari, prohibition, and writs of habeas corpus, on petition by or on behalf of any person in actual custody in their respective counties. Injunctions and writs of prohibition and of habeas corpus may be issued and served on legal holidays and nonjudicial days.* [**AMENDMENT 65,** part, 1977 Senate Joint Resolution No. 113, p 1714. Approved November 8, 1977.]

Amendment 65 also amended Art. 4 Section 10.

Amendment 28, part (1952) — Art. 4 Section 6 JURISDICTION OF SUPERIOR COURTS — *The superior court shall have original jurisdiction in all cases in equity and in all cases at law which involve the title or possession of real property, or the legality of any tax, impost, assessment, toll, or municipal fine, and in all other cases in which the demand or the value of the property in controversy*

amounts to one thousand dollars, or a lesser sum in excess of the jurisdiction granted to justices of the peace and other inferior courts, and in all criminal cases amounting to felony, and in all cases of misdemeanor not otherwise provided for by law; of actions of forcible entry and detainer; of proceedings in insolvency; of actions to prevent or abate a nuisance; of all matters of probate, of divorce, and for annulment of marriage; and for such special cases and proceedings as are not otherwise provided for. The superior court shall also have original jurisdiction in all cases and of all proceedings in which jurisdiction shall not have been by law vested exclusively in some other court; and said court shall have the power of naturalization and to issue papers therefor. They shall have such appellate jurisdiction in cases arising in justices' and other inferior courts in their respective counties as may be prescribed by law. They shall always be open, except on nonjudicial days, and their process shall extend to all parts of the state. Said courts and their judges shall have power to issue writs of mandamus, quo warranto, review, certiorari, prohibition, and writs of habeas corpus, on petition by or on behalf of any person in actual custody in their respective counties. Injunctions and writs of prohibition and of habeas corpus may be issued and served on legal holidays and nonjudicial days. [AMENDMENT 28, part, 1951 Substitute House Joint Resolution No. 13, p 962. Approved November 4, 1952.]

Note: Amendment 28 also amended Art. 4 Section 10.

ORIGINAL TEXT — ART. 4 Section 6 JURISDICTION OF SUPERIOR COURTS — *The superior court shall have original jurisdiction in all cases in equity, and in all cases at law which involve the title or possession of real property, or the legality of any tax, impost, assessment, toll or municipal fine, and in all other cases in which the demand, or the value of the property in controversy amounts to one hundred dollars, and in all criminal cases amounting to felony, and in all cases of misdemeanor not otherwise provided for by law; of actions of forcible entry and detainer; of proceedings in insolvency; of actions to prevent or abate a nuisance; of all matters of probate, of divorce, and for annulment of marriage; and for such special cases and proceedings as are not otherwise provided for. The superior court shall also have original jurisdiction in all cases and of all proceedings in which jurisdiction shall not have been by law vested exclusively in some other court; and said court shall have the power of naturalization, and to issue papers therefor. They shall have such appellate jurisdiction in cases arising in justice's and other inferior courts in their respective counties as may be prescribed by law. They shall be always open except on non-judicial days, and their process shall extend to all parts of the state. Said courts and their judges shall have power to issue writs of mandamus, quo warranto, review, certiorari, prohibition, and writs of habeas corpus on petition by or on behalf of any person in actual custody in their respective counties. Injunctions and writs of prohibition and of habeas corpus may be issued and served on legal holidays and non-judicial days.*

SECTION 30 COURT OF APPEALS. (1) *Authorization.* In addition to the courts authorized in section 1 of this article, judicial power is vested in a court of appeals, which shall be established by statute.
(2) *Jurisdiction.* The jurisdiction of the court of appeals shall be as provided by statute or by rules authorized by statute.
(3) *Review of Superior Court.* Superior court actions may be reviewed by the court of appeals or by the supreme court as provided by statute or by rule authorized by statute.
(4) *Judges.* The number, manner of election, compensation, terms of office, removal and retirement of judges of the court of appeals shall be as provided by statute.
(5) *Administration and Procedure.* The administration and procedures of the court of appeals shall be as provided by rules issued by the supreme court.
(6) *Conflicts.* The provisions of this section shall supersede any conflicting provisions in prior sections of this article. **[AMENDMENT 50,** 1967 Senate Joint Resolution No. 6; see 1969 p 2975. Approved November 5, 1968.]

NOTES:

Reviser's note: This section which was adopted as Sec. 29 is herein renumbered Sec. 30 to avoid confusion with Sec. 29, supra.

May 04, 2023 - 11:45 AM

Transmittal Information

Filed with Court:	Court of Appeals Division I
Appellate Court Case Number:	84565-9
Appellate Court Case Title:	Emilio M. Kosrovani v. Roger Jobs Motors, Inc.
Superior Court Case Number:	18-2-02112-6

The following documents have been uploaded:

- 845659_Petition_for_Review_20230504114341D1507031_7328.pdf
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Comments:

Separate Petitions for each Apppellant are being filed: Kosrovani's Petion for Review Hanen's Petions for Review

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