

91037-5

No. 71314-1-I

**COURT OF APPEALS OF THE
STATE OF WASHINGTON**

**DIVISION ONE
(KING COUNTY SUPERIOR COURT CAUSE NO. 11-2-42274-7 SEA)**

XUSHENG SHEN,

Plaintiff-Appellant,

vs.

VALLEY MEDICAL CENTER ET AL.,

Defendants-Respondents

**RESPONDENTS' ANSWER TO APPELLANT'S MOTION FOR
EXTENSION OF TIME FOR FILING DISCRETIONARY REVIEW
AND PETITION FOR DISCRETIONARY REVIEW**

Paul F. Cane, WSBA #8703
Matthew Munson, WSBA
#32019
Thorsrud Cane & Paulich
1325 Fourth Avenue, Suite 1300
Seattle, WA 98101
(206) 386-7755

Attorneys for Seattle Keiro,
Nikkei Concerns, Mildred
Cabiles

Donna D. Moniz, WSBA #12762
Johnson, Graffe, Keay,
Moniz & Wick, LLP
925 Fourth Avenue, Suite 2300
Seattle, WA 98104
(206) 223-4770

Attorneys for Valley Medical
Center

2014 NOV 14 PM 2:50
COURT OF APPEALS
STATE OF WASHINGTON

FILED

NOV 25 2014

CLERK OF THE SUPREME COURT
STATE OF WASHINGTON

CB

Michael Madden, WSBA #8747
Jennifer Moore, WSBA #30422
Bennett, Bigelow & Leedom,
P.S.
601 Union Street, Suite 1500,
Seattle, WA 98101
(206) 622-5511

Attorneys for I-Jen Chen, MD

A. IDENTITY OF RESPONDENTS

The respondents are Valley Medical Center, Seattle Keiro, Nikkei Concerns, Mildred Cabiles, and Dr. I-Jen Chen, MD.

B. COURT OF APPEALS DECISION

Appellant Xusheng Chen is seeking review of the Court of Appeals' September 30, 2014 order denying his motion to modify. He has also filed a Motion for Extension of Time for Filing Discretionary Review Documents from October 31 to November 15.

C. ISSUES PRESENTED FOR REVIEW

1. The Court of Appeals affirmed the decision of the Commissioner to dismiss Chen's appeal after Chen failed, despite four extensions of time, to timely file an appellate brief. Does this decision present an issue of significance or public interest to merit review under RAP 13.4(b)?

2. The court will extend a deadline to file a motion for discretionary review or a petition for review only in extraordinary circumstances. Chen, who has already filed a petition styled as a "Motion for Discretionary Review," does not explain why this relief should be granted. Should Chen's Motion for Extension of Time be denied?

D. STATEMENT OF THE CASE

Chen filed a medical-malpractice lawsuit against Nikkei Concerns,

Seattle Keiro, Mildred Cabilas, Steven Tracy, Valley Medical Center (VMC), Dr. Isola, and Dr. I-Jen in December 2006. He alleged that the defendants provided negligent medical treatment to his mother, causing her death in 2003.

Chen voluntarily dismissed his claims against Nikkei Concerns, Seattle Keiro, and Mildred Cabilas. The trial court later dismissed the claims against the other defendants on summary judgment. The Court of Appeals affirmed that ruling, and the Supreme Court denied his petition for review. *Chen v. Isola*, 147 Wn. App. 1019, 2008 WL 4838785 (2008), *review denied*, 169 Wn.2d 1029, 241 P.3d 786 (2010). (These documents are attached as exhibit 1 to Appendix.) The Court of Appeals issued a mandate on November 19, 2010. *See* Appendix exhibit 2.

In 2011, Chen filed a second lawsuit in which he asserted essentially the same claims against the same defendants. In September 2013, after finally receiving notice of the suit, the defendants moved for and the trial court granted summary judgment on grounds of the statute of limitations and claim preclusion. *See* Appendix exhibit 3. Chen filed a notice of appeal on December 9, 2013.

The Court of Appeals warned Chen on numerous occasions about procedural deficiencies and his lack of timeliness, threatening possible sanctions and dismissal on more than one occasion. Respondents filed a

joint motion to dismiss on May 22, 2014. The next day, a Commissioner conditionally granted the motion, ruling that review would be dismissed without further notice if Chen did not file his brief by June 6, 2014. (The Court of Appeals' letters and notation rulings are Appendix exhibit 4.)

Chen did not file his brief on June 6. Instead, he filed a motion for extension to July 18. On June 10, the Commissioner denied the request, and ruled that if the brief was not filed by June 19, review would be dismissed. Chen did not file his brief on June 19. Instead, he filed another motion for extension, to June 27. The Commissioner granted the motion.

Chen did not file his brief on June 27. Instead, he filed a motion for extension to July 11. The Commissioner ruled as follows: "The requested extension is denied. If the brief has not been filed in this court by the close of business on July 3, 2014, review is dismissed without further ruling. I will not consider further requests for an extension of time."

Chen did not file his brief on July 3. On July 11, he filed yet another motion for extension. The Commissioner dismissed his appeal, and converted Chen's motion for extension into a motion to modify.

On September 30, 2014, a three-judge panel denied the motion to modify. *See* Appendix exhibit 5. In a cover letter of the same date to all parties, the Court Administrator enclosed the order and notified the parties

that the order would “become final unless counsel files a motion for discretionary review within thirty days from the date of this order. RAP 13.5(a).” Thirty days after September 30 is October 30.

On October 30, 2014, Chen filed a 12-page Motion for Discretionary Review with the Court of Appeals. On October 31, he filed his Motion for Extension and a four-page Petition for Discretionary Review. On October 31 and November 4, he filed a Declarations of Service falsely stating that he served the Motion for Extension on October 29, 2014; in fact, he did not serve the Motion for Extension on respondents until November 4. *See Declaration of Matthew Munson.*

Also on November 4, Chen served on respondents a document titled “Petition for Discretionary Review.” This document includes the four-page Petition he filed with the Court and all but the first page of the Motion for Discretionary Review he filed with the Court of Appeals on October 30.

Although the document that Chen filed on October 30 is styled “Motion for Discretionary Review,” it is to be treated as a petition for review, which is the appropriate vehicle for appealing a decision terminating review. RAP 13.4(a). The order denying Chen’s motion to modify was a decision terminating review because (1) it was filed after review was accepted by the appellate court; (2) it terminated review

unconditionally; and (3) it was an order refusing to modify a ruling by the commissioner dismissing review. RAP 12.3(a). Chen's incorrectly designated "Motion for Discretionary Review" is given the same effect as a petition for review. RAP 13.3(d).

E. ARGUMENT WHY REVIEW SHOULD BE DENIED

1. Chen's Motion for Discretionary Review should be denied.

Chen's Motion for Discretionary Review (which, as noted above, should have been designated as a Petition for Review) should be denied because it does not even address, much less establish, any of the grounds for review in RAP 13.4(b). The Commissioner dismissed Chen's appeal because of his serial failure to file an appellate brief. The Court of Appeals did not reach the merits of Chen's appeal because he never properly and timely presented them, despite numerous opportunities to do so. The dismissal of Chen's case on this basis does not merit review by the highest court in the state.

In addition, there is no merit to any of the four issues identified in Chen's Motion. Chen's first issue is whether his claim is timely under the discovery rule in RCW 4.16.350. It is not. Chen discovered the alleged basis for his claims by December 2006, when he filed claims for medical malpractice in his first lawsuit. *See Chen v. Isola*, 147 Wn. App. 1019

(2008) (“In December 2006, Ms. Liu’s son, Xusheng Chen, filed a pro se complaint alleging medical malpractice on the part of VMC, Dr. Isola, Dr. Chen, and others.”). The discovery rule therefore does not prevent the claims in this lawsuit, which he filed in 2011, from being time barred. What is more, the statute of limitations was only one basis for the trial court’s ruling. His claim was also barred by res judicata, because he had litigated the very same claims to judgment in the first lawsuit.

Two of the issues Chen presents for review arise from his first lawsuit: whether the trial court erred in dismissing that suit with prejudice and whether his appointment as person representative relates back to that suit. Those issues cannot be raised here. The Court of Appeals affirmed dismissal of Chen’s first lawsuit on summary judgment, the Supreme Court denied review, and the Court of Appeals issued a mandate four years ago, thereby ending Chen’s appeal of his first suit. RAP 12.7(a), (b); *State v. Kilgore*, 167 Wn. 2d 28, 38, 216 P.3d 393, 398 (2009) (“Finality is the point at which the appellate court loses the power to change its decision. RAP 12.7(a), (b). This occurs when the appellate court issues its mandate . . .”).

The final issue, regarding the wrongful death statute, RCW 4.20.010, is similarly without merit. First, Chen provides no argument other than to write that the statute “unduly burdens the right of access to

courts and violates the separation of powers” and “[t]he Separation of Powers Analysis in *Putman* is controlling here.” The court will not consider arguments that are not briefed. *Cowiche Canyon Conservancy v. Bosley*, 118 Wn. 2d 801, 809, 828 P.2d 549 (1992). In addition, the statute presents no separation-of-power issue. *Putman* held that a statute requiring a plaintiff to file a certificate of merit before filing a medical-malpractice action violated the separation of powers doctrine because it conflicted with the judiciary’s inherent power to set court procedures. *Putman v. Wenatchee Valley Med. Ctr., P.S.*, 166 Wn. 2d 974, 985, 216 P.3d 374 (2009). Rather than placing procedural burdens on the exercise of a right, the wrongful death statute creates a cause of action not recognized at common law. *Triplett v. Washington State Dep’t of Soc. & Health Servs.*, 166 Wn. App. 423, 428, 268 P.3d 1027 (“Under Washington law, wrongful death actions are strictly governed by statute.”), *review denied*, 174 Wn. 2d 1003, 278 P.3d 1111 (2012).

2. Chen’s Motion for Extension should be denied.

The Motion for Extension should be denied for three reasons. First, Chen did not timely serve this document on respondents, as required by RAP 18.5(a). Second, the appellate court will extend the time of filing a petition for review or motion for discretionary review only in extraordinary circumstances and to prevent a gross miscarriage of justice.

RAP 18.8(b). Chen's Motion for Extension does not cite this rule or explain why he is entitled to this relief. Third, he has already filed a Motion for Discretionary Review. He should not be granted yet more time to file an amended or supplemental petition or motion.

Dated this 13th day of November, 2014.

By Matthew Munson per email authorization
Donna D. Moniz, WSBA #12762
JOHNSON, GRAFFE, KEAY, MONIZ
& WICK, LLP
Attorneys for Respondent Defendants
King County Public Hospital District No.
1, d/b/a Valley Medical Center

By Matthew Munson
Matthew Munson, WSBA#32019
Paul F. Cane, WSBA#8703
THORSRUD CANE & PAULICH
Attorneys for Respondent Defendants
Seattle Keiro, Nikkei Concerns, Mildred
Cabiles

By Matthew Munson per email authorization
Michael Madden, WSBA#8747
Jennifer Moore, WSBA#30422
BENNETT, BIGELOW & LEEDOM
Attorneys for Respondent Defendant I-
Jen Chen, MD

CERTIFICATE OF SERVICE

I, Michelle Temple, hereby certify under penalty of perjury under the laws of the State of Washington that on the 14th day of November, 2014, I caused a true and correct copy of the foregoing document, RESPONDENTS' ANSWER TO APPELLANT'S MOTION FOR EXTENSION OF TIME FOR FILING DISCRETIONARY REVIEW AND PETITION FOR DISCRETIONARY REVIEW, to be delivered in the manner indicated below to the following counsel of record:

Xusheng Chen
Pro Se Plaintiff
1818 ILWACO AVE NE
RENTON WA 98059

Via ABC Messenger

Donna D. Moniz, WSBA #12762
Johnson, Graffe, Keay,
Moniz & Wick, LLP
925 Fourth Avenue, Suite 2300
Seattle, WA 98104

VIA ABC Messenger

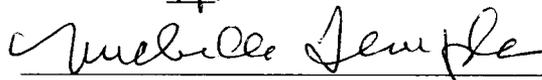
Attorneys for Valley Medical Center

Via ABC Messenger

Michael Madden, WSBA #8747
Jennifer Moore, WSBA #30422
Bennett, Bigelow & Leedom, P.S.
601 Union Street, Suite 1500
Seattle, WA 98101

Attorneys for I-Jen Chen, MD

Dated: November ^{14th} 2014


Michelle Temple, Legal Secretary

No. 71314-1-I

**COURT OF APPEALS OF THE
STATE OF WASHINGTON**

**DIVISION ONE
(KING COUNTY SUPERIOR COURT CAUSE NO. 11-2-42274-7 SEA)**

**XUSHENG SHEN,
Plaintiff-Appellant,**

vs.

**VALLEY MEDICAL CENTER ET AL.,
Defendants-Respondents**

FILED
NOV 25 2014
CLERK OF THE SUPREME COURT
STATE OF WASHINGTON
CSF

**APPENDIX TO RESPONDENTS' ANSWER TO APPELLANT'S
MOTION FOR EXTENSION OF TIME FOR FILING
DISCRETIONARY REVIEW AND PETITION FOR
DISCRETIONARY REVIEW**

Paul F. Cane, WSBA #8703
Matthew Munson, WSBA
#32019
Thorsrud Cane & Paulich
1325 Fourth Avenue, Suite 1300
Seattle, WA 98101
(206) 386-7755

Attorneys for Seattle Keiro,
Nikkei Concerns, Mildred
Cabiles

Donna D. Moniz, WSBA #12762
Johnson, Graffe, Keay,
Moniz & Wick, LLP
925 Fourth Avenue, Suite 2300
Seattle, WA 98104
(206) 223-4770

Attorneys for Valley Medical
Center

Michael Madden, WSBA #8747
Jennifer Moore, WSBA #30422
Bennett, Bigelow & Leedom,
P.S.
601 Union Street, Suite 1500,
Seattle, WA 98101
(206) 622-5511

Attorneys for I-Jen Chen, MD

Respondents submit the following documents as an appendix to their Answer to Appellant's Motion for Extension of Time for Filing Discretionary Review and Petition for Discretionary Review.

1. Opinion in *Chen v. Isola*, 147 Wn. App. 1019, 2008 WL 4838785 (2008), and order denying review, 169 Wn.2d 1029, 241 P.3d 786 (2010).

2. Appellate Court Case Summary for *Chen v. Isola*, Case No. 606221.

3. Order Granting Valley Medical Center's Joinder to Defendant Nikkei Concerns, Seattle Keiro, and Mildred Cabilas's Motion for Summary Judgment in *Chen v. Valley Medical Center et al.*, King County Superior Court cause no. 11-2-42274-7 SEA.

4. Letters from the Court of Appeals, Division One, regarding the Court's notation rulings dated February 28, May 27, June 10, June 19, June 27, and July 15, 2014.

5. The Court of Appeals' Order Denying Motion to Modify.

Dated this 13th day of November, 2014.

By Matthew Munson per email authorization
Donna D. Moniz, WSBA #12762
JOHNSON, GRAFFE, KEAY, MONIZ
& WICK, LLP

Attorneys for Respondent Defendants
King County Public Hospital District No.
1, d/b/a Valley Medical Center

By Matthew Munson
Matthew Munson, WSBA#32019
Paul F. Cane, WSBA#8703
THORSRUD CANE & PAULICH
Attorneys for Respondent Defendants
Seattle Keiro, Nikkei Concerns, Mildred
Cabiles

By Matthew Munson per email
Michael Madden, WSBA#8747 *authorization*
Jennifer Moore, WSBA#30422
BENNETT, BIGELOW & LEEDOM
Attorneys for Respondent Defendant I-
Jen Chen, MD

CERTIFICATE OF SERVICE

I, Michelle Temple, hereby certify under penalty of perjury under the laws of the State of Washington that on the 14th Day of November, 2014, I caused a true and correct copy of the foregoing document, APPENDIX TO RESPONDENTS' ANSWER TO APPELLANT'S MOTION FOR EXTENSION OF TIME FOR FILING DISCRETIONARY REVIEW AND PETITION FOR DISCRETIONARY REVIEW, to be delivered in the manner indicated below to the following counsel of record:

Xusheng Chen
Pro Se Plaintiff
1818 ILWACO AVE NE
RENTON WA 98059

Via ABC Messenger

Donna D. Moniz, WSBA #12762
Johnson, Graffe, Keay,
Moniz & Wick, LLP
925 Fourth Avenue, Suite 2300
Seattle, WA 98104

VIA ABC Messenger

Attorneys for Valley Medical Center

Via ABC Messenger

Michael Madden, WSBA #8747
Jennifer Moore, WSBA #30422
Bennett, Bigelow & Leedom, P.S.
601 Union Street, Suite 1500
Seattle, WA 98101

Attorneys for I-Jen Chen, MD

Dated: November 14th, 2014


Michelle Temple, Legal Secretary

EXHIBIT 1

147 Wash.App. 1019

NOTE: UNPUBLISHED OPINION, SEE WA R GEN GR 14.1

Court of Appeals of Washington,
Division 1.

Xusheng CHEN, Appellant,

v.

Lawrence D. ISOLA, M.D.; I-
Jen Chen, M.D.; Respondents,
Rich Goodman; Steven Tracy;
and Mildred Cabils, Defendants.

No. 60622-1-I. | Nov. 10, 2008.

Appeal from King County Superior Court; Honorable
Richard A. Jones, J.

Attorneys and Law Firms

Xusheng Chen (Appearing Pro Se), Renton, WA.

Jennifer Lynn Moore, Bennett, Bigelow & Leedom, Mary
H. Spillane, William Kastner & Gibbs, Pamela A. Okano,
Michael Neil Budelsky, Reed McClure, Attorneys at Law
Sherry Hemming Rogers, Lee Smart, Seattle, WA, Donna
Maria Moniz, Johnson Graffe Keay Moniz & Wick LLP,
Seattle, WA, for Respondents.

UNPUBLISHED OPINION

PER CURIAM.

*1 Failure to comply with the notice requirements of RCW 7.70.100(1) and RCW 4.96.020(4) requires dismissal of a complaint. Because Xusheng Chen failed to comply with these statutes, and because he lacked both standing and the requisite expert testimony to pursue his claims, we conclude the trial court properly dismissed his complaint for the alleged wrongful death of his mother.

FACTS

On December 8, 2003, 86-year-old Pinfang Liu was hospitalized at Valley Medical Center (VMC), in Renton. Dr. Lawrence Isola examined Ms. Liu and diagnosed her as

having "influenza with diarrhea and progressive dehydration leading to syncope or near syncope with a rhabdomyolysis."

On December 12, 2003, the hospital discharged and transferred Ms. Liu to a skilled nursing facility, Seattle Keiro, where her attending physician was Dr. I-Jen Chen. His diagnosis included Alzheimer's disease, cataracts, non-insulin dependent diabetes, syncope, influenza, acute renal failure, and degenerative joint disease.

On the evening of December 13, 2003, Ms. Liu suffered respiratory distress and received CPR. Paramedics revived her and transported her to Harborview Medical Center. She died the next day. The death certificate listed the cause of death as bradycardia due to, or as a consequence of, hypotension and hypoxemia due to, or as a consequence of, pneumonia.

In December 2006, Ms. Liu's son, Xusheng Chen, filed a pro se complaint alleging medical malpractice on the part of VMC, Dr. Isola, Dr. Chen, and others. The complaint alleged, in part, that Ms. Liu died from a severe allergic reaction to medications, and that various acts and omissions, including the failure to provide or use a translator, contributed to her death. The defendants moved for summary judgment, arguing, among other things, that Xusheng failed to satisfy RCW 7.70.100(1) and evidentiary requirements for establishing the applicable standard of care and proximate cause.¹ The superior court granted summary judgment. Xusheng appeals.

DECISION

We review a summary judgment order de novo, engaging in the same inquiry as the trial court and viewing the facts and all reasonable inferences in the light most favorable to the nonmoving party. *Hearst Commc'ns, Inc. v. Seattle Times Co.*, 154 Wn.2d 493, 501, 115 P.3d 262 (2005). Summary judgment is proper only if the pleadings, depositions, answers to interrogatories, admissions, and affidavits show that there is no genuine issue of material fact, and the moving party is entitled to judgment as a matter of law. CR 56(c); *Hearst*, 154 Wn.2d at 501.

Respondents contend, and we agree, that Xusheng's failure to comply with the requirements of RCW 7.70.100(1) warranted dismissal of his complaint. Xusheng does not dispute that he failed to provide 90 days' notice of his intent to sue as required

by RCW 7.70.100(1).² He simply asserts that he “did not know [about] RCW 7.70.100 until January 11, 2007.” This assertion overlooks the well established rule that ignorance of the law excuses no one. *Kingery v. Dep't of Labor & Indus.*, 132 Wn.2d 162, 175, 937 P.2d 565 (1997) (quoting *Leschner v. Dept. of labor & Industries*, 27 Wn.2d 911, 926, 185 P.2d 113 (1947)); *Retired Pub. Employees Council of Wash.*, 104 Wn.App. 147, 152, 16 P.3d 65 (2001). Xusheng's undisputed failure to comply with the statute supports the court's decision on summary judgment. See *Waples v. Yi*, 146 Wn.App. 54, 189 P.3d 813 (2008) (notice requirement in RCW 7.70.100 is mandatory).

*2 Summary judgment was also proper, because Xusheng lacked standing to sue on his mother's behalf. Wrongful death and survivor actions may be prosecuted only by a deceased's personal representative. RCW 4.20.010; 4.20.020; 4.20.046; 4.20.060; *Atchison v. Great W. Malting Co.*, 161 Wn.2d 372, 382, 166 P.3d 662 (2007) (“Our statutory scheme grants only the personal representative the right to sue for wrongful death.”); *Beal v. City of Seattle*, 134 Wn.2d 769, 776, 954 P.2d 237, (1998) (“A wrongful death action must be brought by the personal representative of the decedent's estate and cannot be maintained by the decedent's children or other survivors.”) (citation omitted); *Benoy v. Simons*, 66 Wn.App. 56, 831 P.2d 167 (1992) (dismissing claims under RCW § 4.20.020 and 4.20.060 brought by grandparents of a minor child for failure to establish the appointment of a personal representative); *Hatch v. Tacoma Police Dept.*, 107 Wn.App. 586, 589, 27 P.3d 1223 (2001) (holding that a spouse could not bring post-death loss of consortium claim where she was not the personal representative of her deceased husband's estate). Although respondents challenged Xusheng's standing below, he made no attempt to either establish his standing or counter respondents' arguments.³

Xusheng's failure to provide expert testimony as to the standard of care and proximate cause also supports dismissal. Generally, plaintiffs in medical negligence cases “must produce competent medical expert testimony establishing that the injury was proximately caused by a failure to comply with the applicable standard of care.” *Seybold v. Neu*, 105 Wn.App. 666, 676, 19 P.3d 1068 (2001). A defendant moving for summary judgment has the initial burden of

showing either the absence of a genuine issue of material fact, or alternatively, the absence of competent evidence to support an essential element of the plaintiff's claim. *Id.* When the defendant meets this initial burden by showing that the plaintiff lacks admissible expert testimony to support his or her case, the burden shifts to the plaintiff to present expert testimony establishing that the alleged injury was proximately caused by the defendant's actions. *Id.*

Here, Dr. Chen's motion for summary judgment pointed out the absence of any expert testimony establishing the standard of care and causation. In response, Xusheng offered no expert testimony and argued, without citation to authority or meaningful analysis, that the doctrine of *res ipsa loquitur* applied and relieved him of his obligation to provide such testimony. On appeal, he reasserts this argument but, again, fails to provide any meaningful analysis or authority supporting application of the doctrine to this case. We need not consider claims that are inadequately argued or unsupported by authority. *Cowiche Canyon Conservancy v. Bosley*, 118 Wn.2d 801, 809, 828 P.2d 549 (1992) (arguments not supported by authority or analysis need not be considered); *State v. Elliott*, 114 Wn.2d 6, 15, 785 P.2d 440 (1990) (appellate court need not consider claims that are insufficiently argued); *State v. Marintorres*, 93 Wn.App. 442, 452, 969 P.2d 501 (1999) (appellate court need not consider pro se arguments that are conclusory). The absence of expert testimony supports the dismissal of Xusheng's complaint.

*3 Finally, Xusheng's claims against VMC were properly dismissed for his admitted failure to give VMC, a public hospital, the 60-day notice required by RCW 4.96.020. See *Burnett v. Tacoma City Light*, 124 Wn.App. 550, 558, 104 P.3d 677 (2004) (requiring strict compliance with notice requirement even when defendant had actual knowledge of suit; “[f]ailure to comply with a notice of claim statute results in dismissal of the suit.”); RCW 4.96.010(2) (statute applies to suits against a “public hospital”).

Affirmed.

Parallel Citations

2008 WL 4838785 (Wash.App. Div. 1)

Footnotes

1 Because Xusheng Chen is the appellant and Dr. I-Jen Chen is a respondent, in the interest of clarity, we refer to the appellant as Xusheng.

Chen v. Isola, Not Reported in P.3d (2008)

147 Wash.App. 1019

- 2 RCW 7.70.100(1) provides in part: "No action based upon a health care provider's professional negligence may be commenced unless the defendant has been given at least ninety days' notice of the intention to commence the action."
- 3 On appeal, Xusheng asserts that VMC violated his mother's civil rights and discriminated against her when it failed to provide her with an interpreter. Even assuming this theory was asserted below, Xusheng fails to establish his standing to bring this claim as well.

End of Document

© 2014 Thomson Reuters. No claim to original U.S. Government Works.

NO. 82771-1 | October 06, 2010

169 Wash.2d 1029
(The Court's decision is referenced in a Pacific
Reporter table captioned "Supreme Court of
Washington Table of Petitions for Review.")
Supreme Court of Washington

Appeal From: 60622-1-I

Opinion

Petition For Review: Denied.

Parallel Citations

241 P.3d 786 (Table)

Xusheng Chen

v.

Lawrence D. Isola, M.D., I-Jen Chen, M.D.,
Rich Goodman, Steven Tracy, Mildred Cabils

End of Document

© 2014 Thomson Reuters. No claim to original U.S. Government Works.

EXHIBIT 2


[Courts Home](#) | [Search Case Records](#)

[Search](#) | [Site Map](#) | [eService Center](#)
[Home](#) | [Summary Data & Reports](#) | [Resources & Links](#) | [Get Help](#)

Appellate Court Case Summary

Case Number: 606221
Filing Date: 09-24-2007
Coa, Division I

Event Date	Event Description	Action
09-24-07	Notice of Appeal	Filed
09-26-07	Case Received and Pending	Status Changed
10-09-07	Notice of Association of Counsel	Filed
10-24-07	Court's Mot to Determine Appealability	Filed
10-24-07	Court's Mot to Dismiss for Fail to file	Filed
10-26-07	Notice of Association of Counsel	Filed
11-05-07	Order of Disposition	Filed
11-05-07	Order of Disposition	Filed
11-08-07	Response to motion	Filed
11-26-07	Ruling on Motions	Filed
01-08-08	Clerk's Papers	Filed
01-15-08	Court's Mot to Dismiss for Fail to file	Filed
01-15-08	Court's Mot to Dismiss for Fail to file	Filed
01-30-08	Motion for Dismissal	Filed
01-30-08	Other filing	Filed
01-31-08	Statement of Arrangements	Filed
01-31-08	Other	Filed
02-07-08	Designation of Clerks Papers	Filed
02-07-08	Affidavit of Service	Filed
02-07-08	Other	Filed
02-08-08	Ruling on Motions	Filed
02-20-08	Designation of Clerks Papers	Filed
02-20-08	Statement of Arrangements	Filed
03-11-08	Clerk's Papers	Filed
04-21-08	Motion for Dismissal	Filed
04-21-08	Motion for Dismissal	Filed
04-22-08	Court's Mot to Dismiss for Fail to file	Filed
05-02-08	Motion to Extend Time to File	Filed
05-05-08	Ruling on Motions	Filed
05-23-08	Appellants brief	Filed
06-02-08	Supplemental Designation of Clerk's Papers	Filed
06-09-08	Affidavit of Service	Received by Court
06-11-08	Invoice	Sent by Court
06-13-08	Notice of Appearance	Filed
06-18-08	Motion to Extend Time to File	Filed
06-18-08	Supplemental Clerk's Papers	Filed

About Dockets

About Dockets

You are viewing the case docket or case summary. Each Court level uses different terminology for this information, but for all court levels, it is a list of activities or documents related to the case. District and municipal court dockets tend to include many case details, while superior court dockets limit themselves to official documents and orders related to the case.

If you are viewing a district municipal, or appellate court docket, you may be able to see future court appearances or calendar dates if there are any. Since superior courts generally calendar their caseloads on local systems, this search tool cannot display superior court calendaring information.

Directions

View the Washington Courts **Directory** for complete address and contact information.

Disclaimer

What is this website? It is a search engine of cases filed in the municipal, district, superior, and appellate courts of the state of Washington. The search results can point you to the official or complete court record.

How can I obtain the complete court record?

You can contact the court in which the case was filed to view the court record or to order copies of court records.

How can I contact the court?

06-19-08	Respondents brief	Filed
06-20-08	Ruling on Motions	Filed
07-17-08	Invoice	Sent by Court
07-24-08	Ready	Status Changed
07-24-08	Respondents brief	Filed
07-30-08	Screened	Status Changed
08-06-08	Letter	Sent by Court
08-25-08	Motion to Extend Time to File	Filed
08-28-08	Invoice	Sent by Court
08-29-08	Ruling on Motions	Filed
09-05-08	Motion to Extend Time to File	Filed
09-09-08	Ruling on Motions	Filed
09-29-08	Non-Oral Argument Setting Letter	Sent by Court
09-29-08	Set on a calendar	Status Changed
10-10-08	Motion to Extend Time to File	Filed
10-20-08	Appellants Reply brief	Not filed
10-22-08	Ruling on Motions	Filed
10-30-08	Motion to Extend Time to File	Filed
11-03-08	Heard and awaiting decision	Status Changed
11-03-08	Non-Oral Argument Hearing	Scheduled
11-05-08	Ruling on Motions	Filed
11-10-08	Opinion	Filed
11-10-08	Decision Filed	Status Changed
11-13-08	Cost Bill	Filed
11-13-08	Cost Bill	Filed
12-01-08	Motion for Reconsideration	Filed
12-31-08	Order on Motions	Filed
01-30-09	Petition for Review	Filed
02-03-09	Other filing	Filed
02-18-09	Petition for Review	Filed
02-23-09	Court of Appeals case file (pouch)	Sent by Court
07-09-09	Other filing	Received by Court
10-07-10	Prv denied	Received by Court
10-19-10	Court of Appeals case file (pouch)	Received by Court
11-19-10	Mandate	Filed
11-19-10	Disposed	Status Changed

Click [here](#) for a court directory with information on how to contact every court in the state.

Can I find the outcome of a case on this website?

No. You must consult the local or appeals court record.

How do I verify the information contained in the search results?

You must consult the court record to verify all information.

Can I use the search results to find out someone's criminal record?

No. The Washington State Patrol (WSP) maintains state criminal history record information. Click [here](#) to order criminal history information.

Where does the information come from?

Clerks at the municipal, district, superior, and appellate courts across the state enter information on the cases filed in their courts. The search engine will update approximately twenty-four hours from the time the clerks enter the information. This website is maintained by the Administrative Office of the Court for the State of Washington.

Do the government agencies that provide the information for this site and maintain this site:

- ▶ **Guarantee that the information is accurate or complete?**
NO
- ▶ **Guarantee that the information is in its most current form?**
NO
- ▶ **Guarantee the identity of any person whose name appears on these pages?**
NO
- ▶ **Assume any liability resulting from the release or use of the information?**
NO

Courts | Organizations | News | Opinions | Rules | Forms | Directory | Library
Back to Top | Privacy and Disclaimer Notices

EXHIBIT 3

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

Honorable Laura Gene Middaugh

IN THE SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

XUSHENG CHEN, as Personal
Representative of the Estate of Pinfang
Liu, Deceased ,

Plaintiff,

v.

VALLEY MEDICAL CENTER, ET AL,

Defendants.

NO. 11-2-42274-7 SEA

ORDER GRANTING VALLEY
MEDICAL CENTER'S
JOINDER TO DEFENDANT
NIKKEI CONCERNS,
SEATTLE KEIRO, AND
MILDRED CABILAS'S
MOTION FOR SUMMARY
JUDGMENT

THIS MATTER having come duly and regularly before the undersigned judge this day upon defendant Valley Medical Center's Motion for Summary Judgment, and the Court having considered:

1. Defendant Nikkei Concerns, Seattle Keiro, and Mildred Cabilas's Motion for Summary Judgment, dated September 10, 2013; including Declaration of Matthew Murson & exhibits;
2. Defendant I-Jen Chen's Request for Joinder, dated September 24, 2013;

⊗ and Declaration of Mary Orogo;

ORDER GRANTING SUMMARY JUDGMENT - 1

JOHNSON, GRAFFE,
KEY, MONIZ, & WICK, LLP
ATTORNEYS AT LAW
925 FOURTH AVENUE, SUITE 2300
SEATTLE, WASHINGTON 98104
PHONE (206) 223-4770
FACSIMILE (206) 386-7344

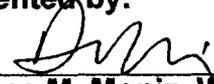
1 3. Defendant Valley Medical Center's Request for Joinder, dated
2 September 26, 2013; *3B. Supplemental Declaration of Matthew Munson dated 10/4/13.*
3 *3A. Defendant Nikkei Concerns, Seattle Keiro, and Mildred Cabilas's Reply on their*
4 4. Plaintiff's Response to the Motion for Summary Judgment, dated *Motion for*
5 November 4, 2013; *including (a) Appt of Personal Rep.; (b) hearing time Summary*
6 5. Defendant Nikkei Concerns, Seattle Keiro, and Mildred Cabilas's *Judgment*
7 Reply Re Motion for Summary Judgment, dated November 5, 2013; *and Suppl*
Munson Decl.

8 6. Defendant Valley Medical Center's Reply Re Motion for Summary *5B. Second Supplemental*
9 Judgment, dated November 7, 2013; *Declaration of Matthew*
10 *7. Answer to Summary Judgment and Supplement to Munson*
Petition for Review dated *11/5/13.*
and the records, pleadings and files herein, and being fully advised in the

11 premises, and the Court determining that Plaintiff's claims should be dismissed
12 with prejudice and without costs, NOW IT IS HEREBY ORDERED that Defendant
13 *and Dr. Chen's, and*
14 Valley Medical Center's, *Joinder to* Defendant Nikkei Concerns, Seattle Keiro, and
15 Mildred Cabilas's *one* Motion *is* for Summary Judgment *is* GRANTED. The case is
16 dismissed in its entirety, *against all defendants.* *with prejudice.* *with Prejudice*

17 DONE IN OPEN COURT this 8 day of NOV, 2013.

18
19
20 
Hon. Laura Gene Middaugh

21 Presented by:
22 By: 
23 Donna M. Moniz, WSBA#12762
Kirtland Marsh, WSBA # 39289
Attorneys for Defendant Valley Medical Center

24 JOHNSON, GRAFFE,
25 KEAY, MONIZ & WICK, LLP

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

APPROVED AS TO FORM AND NOTICE OF PRESENTATION WAIVED:

By Xusheng Chen
Xusheng Chen, Plaintiff Pro Se

APPROVED AS TO FORM AND NOTICE OF PRESENTATION WAIVED:

THORSRUD CANE & PAULICH

By Paul F. Cane
Paul F. Cane, WSBA#8703
Matthew Munson, WSBA#32019

APPROVED AS TO FORM AND NOTICE OF PRESENTATION WAIVED:

BENNETT, BIGELOW & LEEDOM, P.S.

By Jennifer Moore WSBA 35385
Jennifer Moore, WSBA#30422

EXHIBIT 4

*The Court of Appeals
of the
State of Washington*

RICHARD D. JOHNSON,
Court Administrator/Clerk

DIVISION I
One Union Square
600 University Street
Seattle, WA
98101-4170
(206) 464-7750
TDD: (206) 587-5505

February 28, 2014

Kim M Holmes
Attorney at Law
925 4th Ave Ste 2300
Seattle, WA. 98104-1145
holmesk@jgkmw.com

Donna Maria Moniz
Johnson Graffe Keay Moniz & Wick LLP
925 4th Ave Ste 2300
Seattle, WA. 98104-1145
donna@jgkmw.com

Jennifer Lynn Moore
Bennett Bigelow & Leedom, P.S.
601 Union St Ste 1500
Seattle, WA. 98101-1363
Jmoore@bblaw.com

Xusheng Chen
1818 Ilwaco Avenue NE
Renton, WA. 98059

Herbert Matthew Munson
Thorsrud Cane & Paulich
1325 4th Ave Ste 1300
Seattle, WA. 98101-2509
mmunson@tcplaw.com

Paul Francis Cane
Thorsrud Cane & Paulich
1325 4th Ave Ste 1300
Seattle, WA. 98101-2509
pcane@tcplaw.com

CASE #: 71314-1-I

Xusheng Chen, Appellant v. Valley Medical Center, et al., Respondents

Counsel:

The following notation ruling by Commissioner Mary Neel of the Court was entered on February 27, 2014, regarding court's motion to dismiss and/or impose sanctions for failure to file the designation of clerk's papers:

NOTATION RULING
Chen v. Valley Medical Center
No. 71314-1-I
February 27, 2014

A court's motion to impose sanctions and/or dismiss was set on February 21, 2014 for appellant Chen's failure to file the statement of arrangements and designation of clerks papers. Counsel for Valley Medical appeared. Mr. Chen filed a written motion to extend the time to file his opening brief. He requests an extension of 120 days due to ongoing health problems. He did not file proof that he has served Valley Medical with his motion.

Page 2 of 2

71314-1-I, Xusheng Chen v. Valley Medical Center, et al.
February 28, 2014

Mr. Chen's opening brief is not yet due because he has not yet taken the necessary steps to prepare the record on appeal. See RAP 9.1 (composition of the record on appeal). He must file a designation of clerks papers, see RAP 9.6, and a statement of arrangements, see RAP 9.2. The designation of clerks papers and the statement of arrangements must be filed in the superior court and a copy filed in this court.

Every document filed in this court must be served on counsel for the opposing party, and the party filing a document must provide this court with proof of service. See RAP 18.5 and CR 5(b).

The court's motion to impose sanctions and/or dismiss is continued to **March 28, 2014 at 10:30 a.m.** Absent extraordinary circumstances, review will be dismissed if appellant Chen fails to file the designation of clerks papers and statement of arrangements. The hearing will be stricken if the documents have been filed.

Mary S. Neel
Commissioner

Sincerely,



Richard D. Johnson
Court Administrator/Clerk

khn

*The Court of Appeals
of the
State of Washington*

RICHARD D. JOHNSON,
Court Administrator/Clerk

DIVISION I
One Union Square
600 University Street
Seattle, WA
98101-4170
(206) 464-7750
TDD: (206) 587-5505

May 27, 2014

Kim M Holmes
Holmes Law Group
808 5th Ave N
Seattle, WA. 98109-3906
kim@holmeslawgroup.com

Donna Maria Moniz
Johnson Graffe Keay Moniz & Wick LLP
925 4th Ave Ste 2300
Seattle, WA. 98104-1145
donna@jgkwmw.com

Jennifer Lynn Moore
Bennett Bigelow & Leedom, P.S.
601 Union St Ste 1500
Seattle, WA. 98101-1363
jmoore@bblaw.com

Xusheng Chen
1818 Ilwaco Avenue NE
Renton, WA. 98059

Herbert Matthew Munson
Thorsrud Cane & Paulich
1325 4th Ave Ste 1300
Seattle, WA. 98101-2509
mmunson@tcplaw.com

Paul Francis Cane
Thorsrud Cane & Paulich
1325 4th Ave Ste 1300
Seattle, WA. 98101-2509
pcane@tcplaw.com

CASE #: 71314-1-I

Xusheng Chen, Appellant v. Valley Medical Center, et al., Respondents

Counsel:

The following notation ruling by Commissioner Mary Neel of the Court was entered on May 23, 2014, regarding respondents' joint motion to dismiss:

Respondent's motion to dismiss is conditionally granted. If the brief of appellant is not filed by June 6, 2014, review is dismissed without further notice. I decline to impose monetary sanctions.

Sincerely,



Richard D. Johnson
Court Administrator/Clerk

khn

The Court of Appeals
of the
State of Washington

RICHARD D. JOHNSON,
Court Administrator/Clerk

DIVISION I
One Union Square
600 University Street
Seattle, WA
98101-4170
(206) 464-7750
TDD: (206) 587-5505

June 10, 2014

Xusheng Chen
1818 Ilwaco Avenue NE
Renton, WA. 98059

Donna Maria Moniz
Johnson Graffe Keay Moniz & Wick LLP
925 4th Ave Ste 2300
Seattle, WA. 98104-1145
donna@jgkmw.com

Paul Francis Cane
Thorsrud Cane & Paulich
1325 4th Ave Ste 1300
Seattle, WA. 98101-2509
pcane@tcplaw.com

Jennifer Lynn Moore
Bennett Bigelow & Leedom, P.S.
601 Union St Ste 1500
Seattle, WA. 98101-1363
Jmoore@bblaw.com

Herbert Matthew Munson
Thorsrud Cane & Paulich
1325 4th Ave Ste 1300
Seattle, WA. 98101-2509
mmunson@tcplaw.com

CASE #: 71314-1-I
Xusheng Chen, Appellant v. Valley Medical Center, et al., Respondents

Counsel:

The following notation ruling by Commissioner Mary Neel of the Court was entered on June 10, 2014, regarding appellant's second motion for extension of time for write-up and submitting the appellant's brief from June 6 until July 18, 2014:

The requested extension to July 18, 2014 is denied. If the brief has not been filed by June 19, 2014, review is dismissed.

Sincerely,



Richard D. Johnson
Court Administrator/Clerk

khn

*The Court of Appeals
of the
State of Washington*

RICHARD D. JOHNSON,
Court Administrator/Clerk

DIVISION I
One Union Square
600 University Street
Seattle, WA
98101-4170
(206) 464-7750
TDD: (206) 587-5505

June 19, 2014

Xusheng Chen
1818 Ilwaco Avenue NE
Renton, WA. 98059

Donna Maria Moniz
Johnson Graffe Keay Moniz & Wick LLP
925 4th Ave Ste 2300
Seattle, WA. 98104-1145
donna@jgkwmw.com

Paul Francis Cane
Thorsrud Cane & Paulich
1325 4th Ave Ste 1300
Seattle, WA. 98101-2509
pcane@tcplaw.com

Jennifer Lynn Moore
Bennett Bigelow & Leedom, P.S.
601 Union St Ste 1500
Seattle, WA. 98101-1363
jmoore@bbllaw.com

Herbert Matthew Munson
Thorsrud Cane & Paulich
1325 4th Ave Ste 1300
Seattle, WA. 98101-2509
mmunson@tcplaw.com

CASE #: 71314-1-I

Xusheng Chen, Appellant v. Valley Medical Center, et al., Respondents

Counsel:

The following notation ruling by Commissioner Mary Neel of the Court was entered on June 19, 2014, regarding appellant's third motion for extension of time for write-up and submitting the appellant brief until June 27, 2014:

Granted.

Sincerely,



Richard D. Johnson
Court Administrator/Clerk

khn

The Court of Appeals
of the
State of Washington

RICHARD D. JOHNSON,
Court Administrator/Clerk

DIVISION I
One Union Square
600 University Street
Seattle, WA
98101-4170
(206) 464-7750
TDD: (206) 587-5505

June 27, 2014

Xusheng Chen
1818 Ilwaco Avenue NE
Renton, WA. 98059

Donna Maria Moniz
Johnson Graffe Keay Moniz & Wick LLP
925 4th Ave Ste 2300
Seattle, WA. 98104-1145
donna@jgkmw.com

Paul Francis Cane
Thorsrud Cane & Paulich
1325 4th Ave Ste 1300
Seattle, WA. 98101-2509
pcane@tcplaw.com

Jennifer Lynn Moore
Bennett Bigelow & Leedom, P.S.
601 Union St Ste 1500
Seattle, WA. 98101-1363
Jmoore@bblaw.com

Herbert Matthew Munson
Thorsrud Cane & Paulich
1325 4th Ave Ste 1300
Seattle, WA, 98101-2509
mmunson@tcplaw.com

CASE #: 71314-1-I

Xusheng Chen, Appellant v. Valley Medical Center, et al., Respondents

Counsel:

The following notation ruling by Commissioner Mary Neel of the Court was entered on June 27, 2014, regarding appellant's fourth motion for extension of time to file appellant's brief until July 11, 2014:

NOTATION RULING
Chen v. Valley Medical Center
No. 71314-1-I
June 27, 2014

Page 2 of 2
71314-1-I, Xusheng Chen v. Valley Medical Center, et al.
June 27, 2014

The requested extension is denied. If the brief has not been filed in this court by the close of business on July 3, 2014, review is dismissed without further ruling. I will not consider further requests for an extension of time.

Mary S. Neel
Commissioner

Sincerely,

A handwritten signature in black ink, appearing to read 'R.D. Johnson', with a long horizontal flourish extending to the right.

Richard D. Johnson
Court Administrator/Clerk

khn

RICHARD D. JOHNSON,
Court Administrator/Clerk

The Court of Appeals
of the
State of Washington

DIVISION I
One Union Square
600 University Street
Seattle, WA
98101-4170
(206) 464-7750
TDD: (206) 587-5505

July 15, 2014

Xusheng Chen
1818 Ilwaco Avenue NE
Renton, WA. 98059

Donna Maria Moniz
Johnson Graffe Keay Moniz & Wick LLP
925 4th Ave Ste 2300
Seattle, WA. 98104-1145
donna@jgkmw.com

Paul Francis Cane
Thorsrud Cane & Paulich
1325 4th Ave Ste 1300
Seattle, WA. 98101-2509
pcane@tcplaw.com

Jennifer Lynn Moore
Bennett Bigelow & Leedom, P.S.
601 Union St Ste 1500
Seattle, WA. 98101-1363
jmoore@bbllaw.com

Herbert Matthew Munson
Thorsrud Cane & Paulich
1325 4th Ave Ste 1300
Seattle, WA. 98101-2509
mmunson@tcplaw.com

CASE #: 71314-1-I

Xusheng Chen, Appellant v. Valley Medical Center, et al., Respondents

Counsel:

The following notation ruling by Commissioner Mary Neel of the Court was entered on July 14, 2014, regarding appellant's motion for extension of time for write-up and submitting the appellant brief until July 28, 2014:

NOTATION RULING
Chen v. Valley Medical Center
No. 71314-1-I
July 14, 2014

On June 27, 2014, appellant Chen filed a motion for a fourth extension of time until July 11, 2014 to file his opening brief. I denied the request:

Page 2 of 2
71314-1-I, Xusheng Chen v. Valley Medical Center, et al.
July 15, 2014

The requested extension is denied. If the brief has not been filed in this court by the close of business on July 3, 2014, review is dismissed without further ruling. I will not consider further requests for an extension of time.

Chen did not file his opening brief. Review was dismissed as of July 3, 2014.

On July 11, 2014, Chen filed a motion for an extension of time to July 28, 2014 to file his brief. Because review has already been dismissed, the motion will be treated as a motion to modify my June 27, 2014 ruling.

Mary S. Neel
Commissioner

Sincerely,

A handwritten signature in black ink, appearing to read "R.D. Johnson", with a long horizontal flourish extending to the right.

Richard D. Johnson
Court Administrator/Clerk

khn

RICHARD D. JOHNSON, *Court
Administrator/Clerk*

*The Court of Appeals
of the
State of Washington*

DIVISION I
One Union Square
600 University Street
Seattle, WA
98101-4170
(206) 464-7750
TDD: (206) 587-5505

July 15, 2014

Xusheng Chen
1818 Ilwaco Avenue NE
Renton, WA. 98059

Donna Maria Moniz
Johnson Graffe Keay Moniz & Wick LLP
925 4th Ave Ste 2300
Seattle, WA. 98104-1145
donna@jgkmw.com

Paul Francis Cane
Thorsrud Cane & Paulich
1325 4th Ave Ste 1300
Seattle, WA. 98101-2509
pcane@tcplaw.com

Jennifer Lynn Moore
Bennett Bigelow & Leedom, P.S.
601 Union St Ste 1500
Seattle, WA. 98101-1363
jmoore@bbllaw.com

Herbert Matthew Munson
Thorsrud Cane & Paulich
1325 4th Ave Ste 1300
Seattle, WA. 98101-2509
mmunson@tcplaw.com

CASE #: 71314-1-I

Xusheng Chen, Appellant v. Valley Medical Center, et al., Respondents

Pursuant to the Commissioner's notation ruling entered on July 14, 2014 considering appellant's motion for extension of time filed on July 11, 2014 as a motion to modify. Any response to the motion is due by **July 25, 2014**. Any reply to the response is due 10 days after the response is filed. After the time period for the reply has passed, the motion will be submitted to a panel of this court for determination without oral argument. RAP 17.5(b). The parties will be notified when a decision on the motion has been entered.

Sincerely,



Richard D. Johnson
Court Administrator/Clerk

khn

EXHIBIT 5

*The Court of Appeals
of the
State of Washington*

RICHARD D. JOHNSON,
Court Administrator/Clerk

DIVISION I
One Union Square
600 University Street
Seattle, WA
98101-4170
(206) 464-7750
TDD: (206) 587-5505

September 30, 2014

Xusheng Chen
1818 Ilwaco Avenue NE
Renton, WA. 98059

Donna Maria Moniz
Johnson Graffe Keay Moniz & Wick LLP
925 4th Ave Ste 2300
Seattle, WA. 98104-1145
donna@jgkmw.com

Jennifer Lynn Moore
Bennett Bigelow & Leedom, P.S.
601 Union St Ste 1500
Seattle, WA. 98101-1363
jmoore@bblaw.com

Michael F. Madden
Bennett Bigelow & Leedom PS
601 Union St Ste 1500
Seattle, WA. 98101-1363
mmadden@bblaw.com

Herbert Matthew Munson
Thorsrud Cane & Paulich
1325 4th Ave Ste 1300
Seattle, WA. 98101-2509
mmunson@tcplaw.com

Paul Francis Cane
Thorsrud Cane & Paulich
1325 4th Ave Ste 1300
Seattle, WA. 98101-2509
pcane@tcplaw.com

CASE #: 71314-1-1

Xusheng Chen, Appellant v. Valley Medical Center, et al., Respondents

Counsel:

Please find enclosed a copy of the Order Denying Motion to Modify the Commissioner's ruling entered in the above case today.

The order will become final unless counsel files a motion for discretionary review within thirty days from the date of this order. RAP 13.5(a).

Sincerely,



Richard D. Johnson
Court Administrator/Clerk

enclosure

khn

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION ONE

XUSHENG CHEN,)	No. 71314-1-I
)	
Appellant,)	
)	
v.)	
)	
VALLEY MEDICAL CENTER, et al.,)	ORDER DENYING MOTION
)	TO MODIFY
Respondents.)	
)	

Appellant Xusheng Chen has moved to modify the commissioner's June 27, 2014 ruling denying an extension of time to file the opening brief and dismissing review. Respondent Valley Medical Center has filed a response. We have considered the motion under RAP 17.7 and have determined that it should be denied. Now, therefore, it is hereby

ORDERED that the motion to modify is denied.

Done this 30th day of September, 2014.

FILED
COURT OF APPEALS DIV 1
STATE OF WASHINGTON
2014 SEP 30 AM 11:23

Specina, CJ.

Vanella J.
Jay, J.