SUPREME COURT 92167-9

COA (III) No. 321983

THE SUPREME COURT
FOR THE STATE OF WASHINGTON

CHARLIE Y. CHENG,
Plaintiff/Appellant,

vs.

SPOKANE EYE CLINIC,
JASON H. JONES, M.D.,
ROBERT S. WIRTHLIN, M.D.,
Defendants/Respondents.

PETITION FOR REVIEW

Appeal from Court of Appeals'
6/9/2015 Unpublished Opinion

CHARLIE Y. CHENG
Pro se Appellant

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Dated: **8/19/2015**

ORIGINAL

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RULES

I. IDENTIY OF THE PEITIONER

Pro se Petitioner, Charlie Y. Cheng, was a prisoner at Airway Heights Corrections Center when the alleged Eighth Amendment violation was happening in 2010.

II COURT OF APPEALS DECISION

Petitioner here seeks this Court to accept review of the Court of Appeals' 6/9/2015 conclusion on page 6,

> "*Mr. Cheng failed to list an expert witness to establish The necessary facts for his informed consent claim. Summary Judgment in favor of defendants was proper on this basis"* (emphasis added),

(to determine whether the said "*informed consent claim*" was a non-existent fact but was made up by he Court of Appeals, Division III.) A copy of the 6/9/2015 Unpublished Opinion ("Opinion") is attached hereto as APPENDIX A.

III. **ISSUES** PRESENTED FOR REVIEW

1. Under the Court of Appeals (COA)'s ***Carpenter*** case law, the COA has "*a constitutional duty to make and independent examination of the record to determine whether a fundamental constitutional right has been denied.*" But, the COA's 6/9/2015 Opinion ignored the Petitioner's Eighth Amendment issue. Whether the COA's omission was conflicted to the Court of Appeal's 1979 ***Carpenter*** ruling? RAP 13.4(b)(2).

2. The Superior Court ruled in ***Physicians Insurnce v. Fisons*** that a court's ruling should not be made upon untenable grounds. But the COA's 6/9/2015 decision was based upon untenable ground (they made ruling on a non-existing "*informed consent claim*"). Whether the COA's groundless decision conflicted to the Superior Court's 1993 ***Fisons*** ruling? RAP 13.4(b)(1).

IV. STATEMENT OF THE CASE

In Mr. Cheng's 7/3/2013 Complaint (Appendix B), Petitioner Mr. Cheng stated that when his left eye was under the care of SPOKANE EYE CLINIC, et al, the Respondent, he had been a prisoner. The Petitioner accused that after Respondent DR. JONES' 8/5/2010 Vitreous Tap operation inside of the Petitioner's left eyeball, the Petitioner's left eye lost its ability to response to the "*blue & yellow color with using a pen light*"[1], but the Respondent did not object. The Petitioner accused that the 8/5/2010 operation caused his left eye "severe supurative vitreitis,"[2] but the Respondent did not object. The Petitioner accused that his left-eye pain from DR. JONES' 8/5/2010 operation was controllable by medications;[3] (i.e,, there was no medical reason to remove the painful eyeball). The Respondent did not dispute either. The Complaint pointed out that

> "36. Dr. Jones' retaliation ... not only violated the 8th Amendment to the U.S. Constitution, but it is the proximate cause for the unneccary [*sic*] enucleation ... Accordingly, Defendant Dr. Jones is liable for Plaintiff's lost property: The left eyeball."[4]

But, the Respondents did not object to Petitioner' Eighth Amendment violation claim, nor had opposed to the Petitioner's allegations that the Respondents' 8th Amendment violation was "*the proximate cause*" for the unnecessary *enucleation* (to remove the Petitioner's left eyeball).

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[1] See Appendix B, page 86, subsection 17.1.
[2] See Appendix B, page 87, subsections 17.2
[3] See Appendix B, page 89, subsection 19.
[4] See Appendix B, page 95, subsection 36.

The trial judge's 11/22/2013 letter ruling, which was part of the trial Court's summary judgment, stated her reason to dismiss the Petitioner's Complaint: "*lack of expert testimony to support the claims for medical malpractice.*"[5] Mr. Cheng appealed because he did not make a "*claim for medical malpractice*," as the trial judge emphasized.

The **Brief of Appellant** asked the Court of Appeals to decide whether:

> "2. The Trial Court erred to dismiss appellant's 'Eighth Amendment claim' by ignoring the evidence of deliberate indifferent to appellant's serious medical need?"[6] And,
>
> "3. The trial Court erred in changing appellant's negligence issue to a non-existing 'medical malpractice' issue; then made its ruling upon the irrelevant '*malpractice*' issue"[7]?

The Court of Appeals Opinion did not response to Petitioner's above two issues for review but rather raised a non-existent issue – "*informed consent claim*" – then made an irrelevant ruling upon it, as: "*Mr. Cheng failed to list an expert witness to establish the necessary facts for his informed consent claim.*"

V. ARGUMENT

1. The Court of Appeals opinion waived its constitutional duty to determine the Petitioner's constitutional issue. It conflicts with the Court of Appeals' 1979 ***Carpenter*** ruling. Thus, the Opinion is deserved be reviewed by this Court under RAP 13.4(b)(2).

In 1979, the Court of Appeals (I), upheld in ***Carpenter***'s case: "***We have a constitutional duty to make an independent examination of the record to***

[5] See the Court of Appeals' INDEX 239, the trial judge's 11/22/2013 letter.
[6] See pages 16-18 of the Brief of Appellant.
[7] See pages 19-20 of the Brief of Appellant.

Determine whether a fundamental constitutional right has been denied." State of Washington v. Darrell James Carpenter, 24 Wash. App 41, 599 P.2d 1 (1979); See also State v. Breaux, 20 Wash. App. 45, 45, 578 P.2d 888 (1978). The Petitioner had informed the Court of Appeals, by providing the undeniable evidence, that the Respondent's deliberate indifference to his (that time he was a prisoner) serious medical need was a violation of the Eighth Amendment under Estelle v. Gamble, 429 U.S. 97 (U.S. Tex 1976), at 104. But, the Court of Appeals omitted the Petitioner's constitutional issue in its Opinion.

The RAP 13.4(b) gives the Superior Court's discretion to accept review of the case "*if the decisions of the Court of Appeals is in conflict with another decision of the Court of Appeals.*" RAP 13.4(b)(2). Current case, the Court of Appeals's failure in exercise its "***constitutional duty to make an independent examination of the record to Determine whether a fundamental constitutional right has been denied***" (Darrell. *Id.*) is conflicted to the *Darrell* court's decision. Thus, this Petition has legitimate reason to pray this Court to accept review under RAP 13.4(b)(2).

2. **The Court of Appeals' conclusion was based upon a non-existent "*inform consent claim*" (i.e., the Court's this ruling was made upon untenable ground), which was conflicted with the Superior Court's 1993 FISONS case law. Thus this Petition is entitled be reviewed under RAP 13.4(b)(1).**

On page 6 of the 6/9/2015 Opinion, the Court of Appeals (COA) ruled:

> "Mr. Cheng failed to list an expert witness to establish the necessary facts for **his informed consent claim**. Summary judgment in favor of defendants was proper on this basis." (Emphasis added.)

Here, the COA requests Mr. Cheng to provide *expert witness "**for his informed consent claim.**"* However, the said "***informed consent claim***" was not the Petitioner's issue for review (*see* Brief of Appellant). In another words, so-called "*informed consent claim*" was a non-existing issue that was made up by the COA itself. In 1993, the Superior Court upheld in ***Fisons*** case that a court abuses its discretion when its order is manifestly unreasonable or based on untenable grounds. Washington State Physicians Insurance. Exch. & Ass'n v. Fisons Corp., 122 Wn.2d 299, 338-39 (1993).

Acording to RAP 13.4(b), a petition would be accepted by the Superior Court for review, "*if the decision of the Court of Appeals is in conflict with a decision of the Superior Court,*" RAP 13.4(b)(1). Instant case, the COA created the non-existent review issue -- "*his informed consent claim*" -- then the COA made its conclusion upon the baseless ground. The COA's groundless ruling was untenable that conflicted with this Court's ***Fisons*** ruling (*see* Fisons, Id.) Thus, this petition is deserved be reviewed by this Court under RAP 13.4(b)(1).

VI. CONCLUSION

The Petition for Review should be GRANTED.

Dated this 19th day of **August, 2015**.

Respectfully submitted,

By: _____

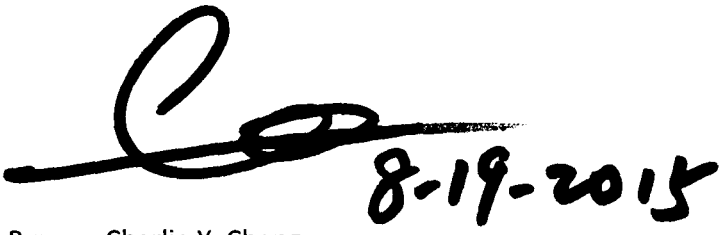
Charlie Y. Cheng, pro se 8/19/2015

CERTIFICATE OF SERVICE

I, Charlie Y. Cheng, certify that on **8/19/2014**, I deposited the copies of this *Petition For Review* to defendants' attorneys via emails: (1) **James B. King** at jking@ecl-law.com, and (2) **Dan W. Keefe** at dkeefe@kbowman.com.

Under penalty of perjury of the laws of the State of Washington, I certify that the forgoing is true and correct.

On this **19th** day of August, 2015.



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Court of Appeals (III) No. 321983

Appendix A

Unpublished Opinion, 6-9-2015

(6 pages)

Charlie Y. Cheng, Petitioner
v.
Spokane Eye Clinic, Dr. Jason H. Jones & Dr. Robert S. Wirthlin

FILED
JUNE 9, 2015
In the Office of the Clerk of Court
WA State Court of Appeals, Division III

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

CHARLIE Y. CHENG, Appellant, v. SPOKANE EYE CLINIC, JASON H. JONES, MD, and ROBERT S. WIRTHLIN, MD, Respondents.	)	No. 32198-3-III UNPUBLISHED OPINION

KORSMO, J. — Appellant Charlie Cheng appeals the summary judgment dismissal of his medical malpractice action. We agree with the trial court that the lack of an expert witness to support the claims doomed this action. The judgment is affirmed.

FACTS

Mr. Cheng, an inmate at the Airway Heights Correctional Center, experienced vision loss in his left eye. He was taken to the Spokane Eye Clinic (SEC) for treatment on August 5, 2010. There two doctors diagnosed an infection. He was treated with antibiotics and underwent a vitrectomy.[1] Due to pain following the vitrectomy, a third

[1] Vitrectomy involves the removal of the vitreous gel from the middle of the eye.

doctor at SEC eventually performed an enucleation (removal) of the left eye on September 3, 2010.

In June 2013, Mr. Cheng, acting pro se, mailed a copy of a summons and complaint by certified mail to SEC and the two doctors involved in the August treatment. Attorney James B. King responded for the three defendants June 19, 2013 by letter demanding that the action be filed in superior court. Mr. Cheng filed the action June 28, 2013. The complaint alleged tortious actions by governmental entities, contributory fault, negligence, res ipsa loquitur, vicarious liability, and lack of informed consent.

On July 6, 2013, Mr. Cheng asked the superior court for permission to serve the defendants by certified mail. The record does not reflect that permission was granted. A sheriff's deputy thereafter served a complaint on the first doctor by leaving it with an employee of SEC. A deputy sheriff left SEC's copy of the complaint with an attorney.

SEC and the first doctor jointly answered the complaint on July 30, 2013, asserting various defenses including lack of service and expiration of the statute of limitations. The second doctor did not answer the complaint until September 9. He did not challenge the timeliness of the action or the service of process.

SEC and the first doctor moved for summary judgment on October 8 on various theories, including lack of service and statute of limitations grounds. The second doctor filed his motion for summary judgment the following day. The trial court ultimately granted the motions for summary judgment on several grounds, including insufficient

service on SEC and the first doctor, a determination that negligence did not state a cause of action for Eighth Amendment purposes, and a conclusion that all claims failed due to lack of support by a medical expert.

Mr. Cheng, still pro se, filed an appeal to this court.

ANALYSIS

Although the appeal asserts several theories challenging the summary judgment ruling, we need only address the one issue common to all defendants since it is dispositive of the appeal. That issue involves the absence of any medical expert support for the action.

Initially, however, we note the well settled standards governing review of this summary judgment appeal. The appellate court reviews those matters de novo, considering the same evidence presented to the trial court. *Lybbert v. Grant County*, 141 Wn.2d 29, 34, 1 P.3d 1124 (2000). The facts, and all reasonable inferences to be drawn from them, are viewed in the light most favorable to the nonmoving party. *Id.* If there is no genuine issue of material fact, summary judgment will be granted if the moving party is entitled to judgment as a matter of law. *Id.*

Mr. Cheng's claims against the doctors and clinic involve both negligence and informed consent theories. Chapter 7.70 RCW. Although he eschews the label, a negligence action brought against medical professionals is considered to be a malpractice claim. *See* BLACK'S LAW DICTIONARY, 1044-45 (9th ed. 2004) (defining "malpractice"

as "An instance of negligence or incompetence on the part of a professional." BLACK'S at 1044; and defining "medical malpractice" as "A doctor's failure to exercise the degree of care and skill that a physician or surgeon of the same medical specialty would use under similar circumstances." BLACK'S at 1044-45).

A cause of action for medical negligence requires the plaintiff to show that (1) the healthcare provider failed to exercise the requisite standard of care, and (2) such failure was a proximate cause of the plaintiff's injuries. RCW 7.70.040.

To defeat summary judgment in almost all medical negligence cases, the plaintiff must produce a medical expert witness establishing the elements. *Seybold v. Neu*, 105 Wn. App. 666, 676, 19 P.3d 1068 (2001); *Young v. Key Pharm., Inc.*, 112 Wn.2d 216, 227-28, 770 P.2d 182 (1989). There are a few exceptions to the general rule necessitating an expert in medical malpractice cases. For example, no expert is needed when the facts are within the understanding of lay persons, such as "the negligence of amputating the wrong limb or poking a patient in the eye while stitching a wound on the face." *Young*, 112 Wn.2d at 228.

Although Mr. Cheng argues to the contrary, this is not one of those obvious exceptions. SEC did not remove or treat the wrong eye or poke his healthy eye while treating his unhealthy eye. Instead, the claim raises questions of complex medical conditions and treatment, such as the proper use and procedure for a vitrectomy and the proper course of antibiotic treatment for Mr. Cheng's ailment. An expert was necessary

here to establish the standard of care. The trial court correctly realized that Mr. Cheng's failure to list or elicit testimony from an expert was fatal to his medical negligence claim.

The same result applies to the informed consent theory. A cause of action for informed consent requires the plaintiff to prove:

> (a) That the health care provider failed to inform the patient of material fact or facts relating to the treatment;
>
> (b) That the patient consented to the treatment without being aware of or fully informed of such material fact or facts;
>
> (c) That a reasonably prudent patient under similar circumstances would not have consented to the treatment if informed of such material fact or facts; and
>
> (d) That the treatment in question proximately caused injury to the patient.

RCW 7.70.050.

RCW 7.70.050(2) defines a "material fact" as one to which significance would be attached in deciding whether or not to submit to the proposed treatment and has been defined by case law to mean a possible risk of a serious nature. *See Bays v. St. Luke's Hosp.*, 63 Wn. App. 876, 825 P.2d 319 (1992). Our courts have held that "expert testimony is required . . . to prove the existence of a risk, its likelihood of occurrence, and the type of harm in question. . . ." *Id.* at 881.

Mr. Cheng failed to list an expert witness to establish the necessary facts for his informed consent claim. Summary judgment in favor of defendants was proper on this basis.

Few medical treatment related causes of action can be litigated without expert testimony establishing the nature of the medical issue, the standard of care, and the defendant's alleged deviation from that standard. This case is not one of the rare exceptions. Accordingly, the trial court properly dismissed the action due to the absence of expert support for the claims.

Affirmed.

A majority of the panel has determined this opinion will not be printed in the Washington Appellate Reports, but it will be filed for public record pursuant to RCW 2.06.040.

Korsmo, J.

WE CONCUR:

Fearing, J.

Lawrence-Berrey, J.

Court of Appeals (III) No. 321983

Appendix B

Petitioner's 7/3/2013 Complaint

(Pages 78-99 of Court of Court Appeals' INDEX)

Charlie Y. Cheng, Petitioner

v.

Spokane Eye Clinic, Dr. Jason H. Jones & Dr. Robert S. Wirthlin

FILED

JUL 09 2013

THOMAS R. FALLQUIST
SPOKANE COUNTY CLERK

SPOKANE COUNTY SUPERIOR COURT

CHARLIE Y. CHENG, pro se
Plaintiff,

v.

SPOKANE EYE CLINIC,
JASON H. JONES, MD, and
ROBERT S. WIRTHLIN, MD,
Defendants.

No. 13202619-2

FIRST AMENDMENT
COMPLAINT

[Clerk's Action Required]

COMES NOW, Plaintiff Charlie Y. Cheng alleges:

I. JURISDICTION & VENUE

1. This Court has jurisdiction over this action in which the demand for lost property (the left eyeball) more than three hundred dollars. RCW 2.08.010.

2. This Court is an appropriate venue because County of Spokane is where the events giving rise to this claim occurred. RCW 4.12.020.

II. PLAINTIFF

3. Plaintiff, Charlie Y. Cheng, is and was at all times mentioned herein a Dep't of Corrections Center (DOC) inmate in the custody at Airway Heights Corrections Center (AHCC). Address: W 11919 Sprague Ave, Airway Heights, WA 99001.

Charlie Y. Cheng, DOC # 307920
Airway Heights Corrections Center
PO Box 2049, NA-1
Airway Heights, WA 99001

ORIGINAL

COA INDEX number →

4. Plaintiff had been a Spokane Eye Clinic ("Spokane Eye") patient (ID # 1556 550) since 8/5/2010 under "Agreement No. K8351" signed by both DOC and Spokane Eye in 2009. Exhibit A.

4.1 On 8/5/10, Plaintiff was referred to Spokane Eye by Dr. John Smith, MD, at Airway Heights Corrections Center (AHCC). Exhibit B; and Spokane Eye accepted this referral. Exhibit C (Spokane Eye 8/5/10 "Triage" exam sheet).

4.2 On 11/2/10, Plaintiff complained to Defendant Jason H. Jones about his negligence. Exhibit D.

4.3 On 2/1/2011, Plaintiff was informed, "the Spokane Eye Clinic is dismissing you as a patient effective immediately." See Exhibit E.

III. DEFENDANTS

5. Defendant, SPOKANE EYE CLINIC (main office: 427 S. Bernard, Spokane, WA 99204), is an apparent sub-agent to the State of Washington under "Agreement K8351" (Exhibit A) when the events giving rise to this claim occured.

5.1 On 10/12/2009, Mr. Glennie, Chief Executive Officer of Spokane Eye, signed the Agreement prepared by DOC (Exhibit A).[1] Spokane Eye officially became a contract health (care) provider for the State of Washington. (4c 6-28-13)

5.2 Since then, Spokane Eye has provided health care for DOC inmates under the color of the State law.

1. On 2/10/11, 3 months after receiving Plaintiff's complaint (Exhibit D), Spokane Eye canceled the 2009 "Agreement K8351". Exhibit F.

5.3 Defendant Spokane Eye's health care for DOC inmates being carried out by its agents and employees (e.g., physicians).

5.4 As a principle, Spokane Eye has responsibility for its agent negligence under vicarious liability, if its agent task was assigned by the principle and the agent acted on behalf of the principle.

5.5 As the principle, Defendant Spokane Eye has duty to provide consent form (e.g., consent form for "Vitreous Tap") for those who need eye surgery (e.g., "Vitreous Tap") by Spokane Eye physician(s), because of failure to secure informed consent is an element of negligence under RCW 7.70.

5.6 Defendant Spokane Eye provides office, medical devices and equipments for its agents' services for DOC inmate patients' need. As the principle, Spokane Eye also be liable for the actions of its agent (e.g., physician) who use its facilities.

5.7 For the safety of public health, Spokane Eye has a duty to provide adequate medical devices and equipments to secure its physicians' operations (e.g., vitrectomy).

6. Defendant, JASON H. JONES, MD, ("Dr. Jones") is an employee and an agent of Spokane Eye when the injury to this claim occurred.

6.1 Dr. Jones promote himself, "specializing in disease of vitreous and retina." Exhibit G (Jones's profile on Spokane Eye website); also see Exhibit H (his ad on page 730 of Dex phonebook). To treat disease of vitreous and retina is his standard of care. He has a duty to treat Plaintiff's retinitis.

6.2 Dr. Jones's standard of care including treating "retinal detachment". Exhibits G, H (supra).

6.3 Dr. Jones's standare of care does not include to cause a patient's retinal detachment, or not treating a patient's retinitis.

6.4 Dr. Jones's standard of care does not include to cause a patient's trigeminal pain.

6.5 Dr. Jones's standard of care does not include to cause a patient's cataract.

6.6 Dr. Jones's standard of care does not include of failure to remove a "large plaque" inside of a patient's vitreous, which was left over after an unsuccessful vitrectomy.

6.7 Dr. Jones's standard of care does not include of failure to obtain informed consent for his "Vitreous Tap" procedure inside of a patient's eyeball.

6.8 Dr. Jones's standard of care does not include of disfunction of a patient's-eye's ability to distinguish "blue & yellow color with a pen light."

6.9 Dr. Jones's standard of care does not include the act that not continue to treat a patient's endothalmitis (with antibiotic) but rather simply to remove the entire eyeball. (eye) 6-4-13

6.10 Dr. Jones's standard of care does not include the act that to remove a patient's eyeball -- as a retaliation -- after his failure to care was confronted by the patient.

6.11 Dr. Jones's service to DOC inmates was under the color of State law.

6.12 Under RCW 7.70, Defendant Dr. Jones has a duty to inform the Plaintiff the risks of Vitreous ("Vit.Tap") operation because it "is a recongnized risk of the procedure", according to Dr. Jones own statement.[2]

6.13 Under the 8th Amendment to the U.S. Constitution, Defendant has a duty to treat the Plaintiff's serious post-surgery trigeminal-nerve pain (caused by him) (see Part IV), which is the Plaintiff's "serious medical needs".[3] (Eye) 6-28-13

7. Defendant, ROBERT S. WIRTHLIN, MD ("Dr. Wirthlin") was a physician hired by Spokane Eye when the events giving rise to this claim occured.

7.1 During the time when he was treating the Plaintiff, he acted under the color of State law.

7.2 Defendant Dr. Wirthlin specializing in disease of retina. Exhibit J (his profile on Spokane Eye website); Exhibit H. He has a duty to treat Plaintiff's "retinitis", a disease of retina.

7.3 He also is specializing in retinal detachment. Exhibits J & H. He has a duty to treat Plaintiff's retinal detachment.

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2. On page 6 of Dr. Jones's Response letter to Mary Grrley, Dep't of Health investigator, dated 1/29/2013, he wrote that the Vitreous Tap "is a recongnized risk of the procedure." Exhibit I (see the circled 6, page 6).

3. The Supreme Court has stated that "deliberate indifference to serious medical needs of prisoners constitutes the 'unnecessary and wanton infliction of pain' ... proscribed by the Eighth Amendment." Estelle v. Gamble, 429 U.S. 97, 104, 97 S. Ct. 285 (1976); see Erickson v. Pardus, 551 U.S. 89, 94, 127 S. Ct. 2197 (2007).

7.4 Defendant Dr. Wirthlin promoted himself, "specializing in disease of vitreous." Exhibits J & H. He has a duty to treat Plaintiff's "endophthalmitis", a disease was confirmed by him on 8/18/10 follow-up exam. Exhibit K.

7.5 He found that there had been a "large plaque" inside Plaintiff's vitreous after Dr. Jones's 8/5/10 surgery. As a vitreous specialist, Dr. Wirthlin has a duty to remove this "large plaque" because it was Plaintiff's "serious medical needs".

IV. FACTS

8. Dr. Jones Altered Plaintiff's Medical History:

8.1 On 8/5/10, Dr. Smith at AHCC infirmary documented the condition of Plaintiff's left eye: "Sudden painless blindness OS at 0945 today." Exhibit B; Exhibit L ("Primary Counter Report", see its middle part). (emphasis added)

8.2 However, Defendant Dr. Jones documented, as: "The eye ... not outright painful," i.e., there had been certain degree of pain existing. See Exhibit M (Dr. Jones's 8/5/10 report).

8.3 The Spokane Eye "Health Questionnaire" documented the Plaintiff's temperature was "100° today." Exhibit N, page 2.

8.4 But Dr. Jones changed it to "102 degree". Exhibit M, page 1.

9. Dr. Durcan Recommended Vitrectomy.

9.1 On 8/5/10, Dr. Durcan (who is not a defendant in this claim) did initial exam and an ultrasound. Her B-scan finding was documented in the bottom part of "Triage Exam" sheet as: "lots of debris". She also found Plaintiff's left pupil was "secluded". Exhibit C.

9.2 Dr. Durcan wrote, "Refer to Dr. Jones ... to evaluate for vitrectomy." Id.

9.3 Defendant Dr. Jones admitted the fact: "Dr. Durcan referred the patient to me to evaluate for possible vitrectomy". Exhibit I (1/29/2013 letter), page 2 (see circled "1").

9.4 On 8/5/10, Defendant Dr. Jones documented, "Dr. Durcan did an ultrasound, which demonstrated echogenic vitreous ... I was able to see an opaque vitreous, but there was no view of the retina." Exhibit M, page 1.

10. Dr. Jones Knew Vitrectomy Was Plaintiff's Serious Needs.

10.1 Defendant Dr. Jones recalled, "Dr. Durcan concluded that the patient likely had an infectious endophalmitis..." Exhibit I, page 2.

10.2 Dr. Jones declared that to perform vitrectomy in Plaintiff's case was standard of care: "With a preoperative diagnosis of bacterial endopthalmitis ... the recommended approach to attempt to salvage or restore vision is removal of the vireous fluid in affected eye through a vitrectomy." Id. (see the part indicated by circled "2")

11. Dr. Jones Pledged The Good Result of Vitrectomy.

11.1 Before obtain Plaintiff's permision to perform vitrectomy, Defendant Dr. Jones told the Plaintiff that the temporarily-lost vision would have been restored after the clouded pus being removed by him. Exhibit O.

11.2 Under his pledge (supra), Plaintiff accepted vitrectomy.

12. Dr. Jones's Vitrectomy Failed To Remove The Affected Viterous For "Cure" Purpose.

12.1 Until 1/29/2013, 2½-years after his unsuccessful vitrectomy, Defendant Dr. Jones revealed the secret that he actually had not remove the massive affected viterous: "I removed such vitreous ... that it is not the amount of vitreous that is removed that will necessarily in a cure". Exhibit I, page 6.

13. Evidence of Dr. Jones's Vitrectomy Was Defective:[4]

13.1 The "Neuropathology Report" from Harborview Medical Center, UW Medicine, documented its findings, as: "The vitreous body is nearly completely replaced by purulent necrotizing inflammation." Exhibit P, page 1.

13.2 On 8/18/10, 2-weeks after Dr. Jones's vitrectomy, Defendant Dr. Wirthlin found there had been a "large plaque" left over inside of Plaintiff's left eyeball. Exhibit K.

4. This also can be treated as evidence of "deliberate indifference to a serious medical need", a 8th Amendment violation, because of Defendant knew that to remove the affected vitreous via vitrectomy was Plaintiff's serious medical needs. "Failure to treat a prisoner's condition could result in further significant injury ..." See Jett v. Penner, 439 F.3d 1091, 1096 (9th Cir. 2006).

14. Dr. Jones Blamed No Adequate Devices To Resolve Poor View, "It was not possible to do thorough vitrectomy because of the extremely poor view."[5] See Exhibit M (8/5/10 report), page 2.

15. Dr. Jones Did Not Pursue Another Vitrectomy to remove "opaque vitreous",[6] in order to know the condition of Plaintiff's retina.

16. RCW 7.70.050(1) Requires Health Care Providers To Secure Informed Consent. Dr. Jones Did Vit.Tap Without Informed Consent:

16.1 Defendant Dr. Jones admitted in his 8/5/10 report (Exhibit M) that he did "Vitreous Tap" (i.e., "Vit.Tap").

16.2 Spokane Eye's 8/5/10 "PROCEDURE AUTHORIZATION" form (Exhibit Q) affirmed he did "Vit.Tap" for the Plaintiff.

16.3 But he did not provide Plaintiff a consent form for "Vit.Tap", nor had mentioned this term to the Plaintiff.

16.4 He stated, "[Vit.Tap] is a RECOGNIZED RISK of the procedure" (Exhibit I, his 1/29/13 letter, page 6), but he did not inform the Plaintiff the harmful result of Vit.Tap.

17. HARMFUL RESULT of "Vit.Tap":

17.1 Before Dr. Jones's "Vit.Tap", Plaintiff's affected eye was able to response to "Blue & yellow color with using a Pen light." Exhibit C (Triage exam), but this important function had gone after Dr. Jones's 8/5/10 Vit.Tap.

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5. Dr. Jones's complaint indicated that Spokane Eye's failure to provide him adequate device was the proximate cause for the 8/5/10 defective surgery.

6. On page 1 of 8/5/10 surgery report (Exhibit M), he documented the "extremely poor view," as: "Dr. Durcan did an ultrasound, which demonstrated ~~no~~ echogenic vitreous ... I was able to see an opaque vitreous, but there was no view of the retina." Exhibit M, page 1. eye 6.18.13

17.2 Before Dr. Jones's Vit.Tap, Plaintiff had no vitreitis, but after it, Plaintiff had "severe suppurative vitreitis." Exhibit P (neuropathology report), page 1.

17.3 Before Dr. Jones's Vit.Tap, Plaintiff had no retinitis, but after it, he had "severe retinitis."[8] Id.

17.4 Before Dr. Jones's Vit.Tap, Plaintiff had no loss of retinal neurons, but after it, Plaintiff's left retina became "severe loss of retina neurons." Id.

17.5 Before Dr. Jones's Vit.Tap, Plaintiff had no retinal detachment,[9] but after it, Plaintiff's left retina became detached. Id.

17.6 Before Dr. Jones's Vit.Tap, Plaintiff's affected eye had no cataract,[10] but only 5½-days after the procedure, the Plaintiff's affected eye became "total cataract."[11]

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7. See its "Microscopic Description" section.

8. Defendant Dr. Jones never treated the Plaintiff's "severe vitreitis and retinitis" although he is "specializing in disease of retina" (§ 6.1).

9. On 8/5/10, both Dr. Durcan and Dr. Jones had checked Plaintiff's affected eye. If they had found something wrong of Plaintiff's retina, it would have been documented in 8/5/10 Triage exam sheet (Exhibit C).

10. On 8/5/10, Dr. John Smith, MD, at AHCC infirmary documented the Plaintiff's affected left eye, as: "No. H/O cataracts or Glaucoma". Exhibit B ("CONSULTATION REQUEST/REPORT" to Spokane Eye Clinic).

11. It was documented in Defendant Dr. Jones's 8/11/10 Follow-up Exam sheet (Exhibit R). Notably, Dr. Jones had known the fact that the "total caract OS" was his contribution after his defective 8/5/10 surgery, but he never tried to treat the Plaintiff's cataract which had blocked the Plaintiff's vision: Before his 8/5/10 Viterious Tap, the Plaintiff's left vision was not completed lost (see § 17.1). After Plaintiff's 8/18/10 complaint against Dr. Jones (see Exhibit Z, 6/24/13 Affidavit), He decided to remove Plaintiff's entire left eyeball without medical reason (no legitimate reason), but for retaliation.

Eye 6.28.13

18. Trigeminal Nerve Pain.

18.1 Before Defendant Dr. Jones's 8/5/10 "Vit.Tap" inside of eyeball, Plaintiff had no any eye pain:

18.1.1 It was dodumented in AHCC infirmary 8/5/10 "CONSULTATION REQUEST/REPORT" by Dr. Smith, MD, as: "painless". Exhibit B.

18.1.2 The Spokane Eye's Triage Exam sheet (Exhibit C) evidenced: "o eye pain." (see "History" section).

18.1.3 AHCC infirmary's 8/5/10 PRIMARY ENCOUNTER REPORT (Exhibit L) evidenced: "S: No pain"; "A: Acute painless ... L. eye."

18.1.4 "SPOKANE EYE CLINIC HEALTH QUESTIONNAIR" (dated 8/5/10, was marked as "no eye pain". Exhibit N, page 1.

18.2 After the 8/5/10 "Vit.Tap" procedure inside of the left eyeball, Plaintiff started suffering Trigeminal pain:

18.2.1 On 8/7/10, at 5:15 AM, a nurse at the AHCC infirmary documented the Plaintiff's situation, as: "0515 O/S Pt. C/O L. eye pain since 2300 & 2315 ..." Exhibit T (INPATIENT PROGRESS RECORD), dated 8/7/10 (see Time: 0515).

18.2.2 On 8/8/10, at 5:40 AM, a nurse documented, "O: Pt. stated the pain to his L. eye is so painful and the pressure the back of L. side head is the worse he has ever had." Exhibit U.

18.2.3 On 8/15/10, a nurse documented the Plaintiff's trigeminal pain, as "Pain by L. side of NOSE it continues to C/O pain Lf. side of HEAD." Exhibit V (INPATIENT PROGRESS RECORD, dated 8/15/10. See "Time: 1330").

19. The Pain Was Controllable By Medications: (eyc) 6.28.13

19.1 This fact had been documented in Dr. Wirthlin's 8/18/10 Follow up sheet (i.e., he knew), as: "Severe pain ... despite Torado ... and Oxycodone." Exhibit K.

19.2 The Spokane Eye's 8/24/10 Exam sheet also evidenced, as: "hight pain without medication, taking several pain to manage." Exhibit S.

20. Eye Drops (gtts) Also Caused the Post-surgery Pain.

20.1 It was evidenced in AHCC's 8/7/10 INPATIENT PROGRESS RECORD, as: "I'm doing good, I get a headache on the left side of my head AFTER taking the gtts." Exhibit W (see its "1430" note).

20.2 The fact that Defendant Dr. Wirthlin had the knowledge that the Plaintiff's pain was caused by gtts, was documented in his 8/18/10 exam sheet (Exhibit K).[12] He did not changed the painful drops but he continued using these drops.[13] Id.

12. The 8/18/10 note reads in part, "pain whole left side of head. Pt. dosen't know which gtts given this morning." (Apparently, gtts caused pain.)

13. As a result, Plaintiff had been continued suffering from the pain caused by drops. On 8/22/10, it was documented, as: "Pt C/O alot of pain in eye FROM gtts and not sleeping due to pain ..." Exhibit X (see "0715" note).

20.3 The Spokane Eye 8/24/10 Exam sheet documented the side effect of gtts, as: "Eye drops cause MORE pain." Exhibit S.[14]

21. Enucleation (To Remove Eyeball):

21.1 Defendant Dr. Wirthlin "recommended" to remove Plaintiff's eyeball after the following facts:

21.1.1 On 8/18/10, Plaintiff complained to Dr. Wirthlin that Dr. Jones's 8/5/10 surgery caused his painful eye. Dr. Wirthlin documented, as: "Severe pain a 10^{+}/10 despite Torado ..." Exhibit K.

21.1.2 Dr. Wirthlin found a "large Plaque" was left over from Defendant Dr. Jones's 8/5/10 surgery. Id.

21.1.3 Plaintiff asked Dr. Wirthlin what was his diagnosis? He wrote down: "Endophthalmitis, left eye." Exhibit Y.[15]

21.1.4 On 8/18/10, Plaintiff told Defendant Dr. Wirthlin, "partner" of Defendant Dr. Dr. Jones,[16] "I don't want Dr. Jones touch my eye again because his eye surgery caused my left eye pain and cataract." Exhihibit Z.[17]

Eye 6.28.13

Eye 6.28.13

14. The 8/24/10 Exam sheet had been reviewed and initialed by Defendant Dr. Jones on 9/8/10. His initials are located on the lower right corner of the sheet (Exhibit S).

15. Dr. Wirthlin did not explain why he made this diagnosis.

16. See Exhibit I. On the bottom of page 3, Dr. Jones wrote, "My patrner..."

17. After Plaintiff's complaint (Exhibit Z), Dr. Wirthlin crossed off the words "Dr. Jones" from his 8/18/10 Follow-up Exam sheet, and marked: "(disregard)". Exhibit K (see its right hand).

21.1.5 Defendant Dr. Wirthlin told Plaintiff that his affectd eyeball must be removed because of "endophthalmitis."[18]

21.2 Defendant Dr. Jones referred Plaintiff to Dr. Ranson for enucleation:

21.2.1 The Spokane Eye's 8/24/10 Exam sheet was documen- the fact that Plaintiff was referred by Dr. Jones "for eval. for OS removet". Exhibit S.

21.2.2 Upon Dr. Jones's referral,[19] Dr. Ranson (who is not a defendant in this claim) did evaluation for enucleation. Id.

22. Before 9/3/10 enucleation referred by Defendant, Dr. Jones, Plaintiff had been suferring from "retinitis",[20] which is a painful eye disease.[21]

18. The statement Dr. Wirthlin made to Plaintiff here, is different from what he responsed to the AHCC infirmary, in which he stated 3 reasons for enucleation: "Endophthalmitis ... blind painful eye". Exhibit AA (his 8/18/10 writing is on the lower portion of AHCC's CONSULTATION REQUEST/REPORT, dated 8/11/10).

19. The fact that Dr. Jones referred Plaintiff to Dr. Ranson for enucleation, had been documented in 8/24/10 sheet; but in Dr. Jones's 1/29/13 response to an investigator (Exhibit I), he omitted this fact.

20. The Plaintiff's "retinitis" was found by Harborview Medical Center, UW Medicine after the Plaintiff's eye ball was sent to them for evoluation (see Exhibit P, page 1).

21. The Estep Court had recognized retinitis as a painful illness: "[S]uch injury in a flat detachment of the retina of her left eye causing chronic retinitis which caused her MUCH PAIN and loss of vision of the left eye." Estep v. Security Savings & Loan Soc., 73 P.2d 740, 741 (1937).

23. Deliberate Indifference to Plaintiff's Serious Medical Need.

23.1 According to the record, Defendant Dr. Jones never treated the Plaintiff's painful retinitis (supra).

23.2 Defendant Dr. Wirthlin did not treat Plaintiff's painful retinitis either.

23.3 Dr. Jones did not treat the Plaintiff's painful retinal detachment which was caused by Dr. Jones's 8/5/10 Vitreous Tap.

23.4 Dr. Wirthlin did not treat Plaintiff's retinal detachment.

23.5 Dr. Jones did not treat Plaintiff's "severe suppurative vitreitis" of left eye,[22] but just recommended Dr. Ranson to remove the Plaintiff's entire left eyeball (§ 21.2, supra). (eye) 6.28.13

23.6 Dr. Wirthlin did not treat Plaintiff's "severe suppurative vitreitis of left eye, but rather recommended to remove the entire eyeball (§ 21.1.5, supra).

24. Dr. Wirthlin Failed in Securing Informed Consent, and Misled the Plaintiff To Accept Enucleation.

24.1 On 8/18/10, Defendant Dr. Wirthling discovered Dr. Jones's negligence (supra § 21.1.2), He, however, CONCEALED this material fact from the Plaintiff.[23]

22. Plaintiff's "severe suppurative vitreitis" was found by Harborview Medical Center, UW Medicine. Exhibit P (Neuropathology Report), page 1.

23. Dr. Wirthling has a statutory duty not to conceal this material fact from the Plaintiff, pursuant to RCW 7.70.050(1)(a) ("the health care provider failed to inform the patient of a material fact ... related to the treatment").

24.2 He also hided another two material facts --"blind painful eye" were his reasons to remove Plaintiff's eyeball-- from the Plaintiff.[24]

24.3 Defendant Dr. Wirthlin only told Plaintiff that to remove entire affected eyeball is a way to treat "endophthalmitis" (supra), but omitted other possible alternative treatment in order to save the Plaintiff's eyeball.

25. DR. JONES'S RETALIATION:

25.1 Defendant Dr. Jones knew that antibiotic treatment was the Plaintiff's "serious medical needs", because of the bacteria (Klebsiella) he found inside of Plaintiff's left eye was "a difficult and potentially very deadly microbe." Exhibit I (Jones's 1/29/13 letter to DOH investigator. See his last paragraph on page 4).

25.2 On 8/18/10, Plaintiff complained about Dr. Jones's negligence (§ 21.1.4, supra).

25.3 On or before 8/24/10, Defendant Dr. Jones all the sudden asked Dr. Ranson to remove Plaintiff's eyeball (supra).[25]

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24. According to RCW 7.70.050(1)(b), Dr Wirthling has statutory duty to inform Plaintiff "such material facts" "fully", so Plaintiff would have a chance to decide weither he would have accept enucleation suggested by the Defendant upon the Dr.'s theory -- a "blind eye" should be removed. If the Defendant's another theory -- a "painful eye" must be removed -- had been disclosed to the Plaintiff, Plaintiff would not have accepted enucleation because of his post-surgery eye pain had been controled by medication quite well (§ 19, supra).

25. Plaitiff's antibiotic treatment (inpatient) was from 8/5/10 to 9/27/10. 8/24/10 was the middle of above periord. There was no medical reason why he did not wait to the end of antibiotic treatment for enucleation.

V. CLAIM AGAINST "SPOKANE EYE"

26. Plaintiff realleges § 5 of this claim.

27. Defendant Spokane Eye, as the priciple, breached its duty to secure its agent (Defendant Dr. Jones)'s 8/5/10 surgery (see supra § 14). As a result of negligency of Spokane Eye, Dr. Jones was not able to perform an adequate vitrectomy (§ 14).

28. Defendant Spokane Eye breached its priciple duty to provide the Plaintiff a Patient Consent For Vitreous Tap, a form, to inform Plaintiff the risk of Vitreous Tap. See § 5.5.

29. As employer/ or principle, Defendant Spokane Eye is vicariously liable for the injury from the defective 8/5/10 surgery (see §§§ 13, 17, 18).

30. Spokane Eye, as principle/employer, is also liable for its agents' negligence: Deliberate indifference to Plaintiff's serious medical need (see § 23, supra).

VI. CLAIM AGAINST DR. JONES

31. Plaintiff realleges § 6 of this claim.

32. A physician acting as agent of DOC --under the color of the State law-- owes to the Plaintiff, a DOC inmate patient, a duty to comply with the standard of care for one of the prosessions or class to which he belongs.

33. The Defendant as a health care provider has a duty to exercise the degree of skill, care and learning expected of a reasonably prudent health care provider in the State of Washington acting

in the same or similar circumstances at the time of care or treatment in question. Failure to exercise such skill, care and learning constitues of a breach of standard of care and is negligence, and is a violation of RCW 7.70.

34. Defendant Jones is liable for breach a duty to obtain informed consent before his 8/5/10 Vitreous Tap ("Vit.Tap") surgery inside of the Plaintiff's eyeball. See § 16, supra. Without this negligence of his, the Plaintiff would not have been injured by the harmful effects of "Vit.Tap" (see supra §§ 17, 18).[26]

35. Defendant Dr. Jones is accountable for the consequence of "Deliberate Indifference to Plaintiff's Serious Medical Need" (see supra § 23), by failure in carrying his duty to exercise the degree of skill, care and learing -- e.g., he is a retina specialist (see § 6.1 - § 6.3) but failed in treating Plaintiff's retinitis, and caused retinal detachment (see § 17.3); and, he is a viterious specialist (see §§ 6.1, § 6.6) but failed to pursue another vitrectomy to remove the "large plaque" left over from his 8/5/10 unsuccessful vitrectomy (see §§ 9-15, § 21.1.2, supra).

36. Dr. Jones' retaliation (see § 25) not only violated the 8th Amendment to the U.S. Constitution, but it is the proximate cause for the unnecessary enucleation (see §§ 21.1.4, 21.2). Accordingly, Defendant Dr. Jones is liable for Plaintiff's lost property: The left eyeball.

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26. Without Defendant Dr. Jones's breach a duty of care (supra), the Plaintiff left eye's ability to response to "Blue & yellow color ..." (see § 17.2) would not have been lost, i.e., his negligence was the proximate cause, pursuant to res ipsa loquitur.

VII. CLAIMS AGAINST DEFENDANT DR. WIRTHLIN

37. Plaintiff realleges §§§ 7, 32, 33 of this claim.

38. Defendant Dr. Wirthlin is liable for breach statutory duty for securing informed consent -- he concealed material fact from the Plaintiff in order to obtain an unnecessary enucleation -- (see § 24, supra) to mislead the Plaintiff.

39. Dr. Wirthlin is accountable for his diliberate in difference to Plaintiff's "serious medical need" (see § 23, supra). Without this negligence (see §§§ 23.2, 23.4, 23.6, supra), the Plaintiff would not have been suffered from painful retinitis; and his retina would not have been detached.

40. Dr. Wirthlin is liable for his negligence --he diagnosed the Plaintiff, as having "endophthalmitis" (see § 21.1.3, supra) but rather to remove the entire painful eyeball-- not treating the existing eye disease to stop the pain. As a result, the Plaintiff's left eyeball was permanently lost.[27]

VIII. DAMAGES

41. Plaintiff's left eyeball was removed by the Spokane Eye Clinic without legitimate medical reasons. BUT FOR RETALIATION.

42. The Plaintiff has been suffering from post-enucleation pain and facial numbness.[28] Exhibit BB (DOC Health Service Kite, 1/17/11).

27. Dr. Ranson who performed the enucleation is not accountable for lost of the eyeball because he just followed Dr. Jones's and Dr. Wirthlin's recommendations, which was the proximate cause.

28. In order to control the post-enucleation pain, Plaintiff has been taking Acetaminophen (500 mg) twice a day since then.

43. In order to control the post-enucleation pain, Plaintiff has to rely on Acetaminophen or other pain medications. (The damages to the Plaintiff's liver and kidneys, from long-term using thes chemical medications, are unknown this time.)

44. Plaintiff have been and will continue suffering from the stress:

44.1 from Defendant Dr. Jones's retaliation (see § 25);

44.2 from Defendant Dr. Wirthlin's deliberately misleading him for enucleation (see § 24, supra).

IX. PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays that this Court enter jugment granting plaintiff:

45. A declaration that the acts and omissions described herein violated plaintiff's rights under the Constitution and Laws of the United States and the State of Washington.

46. A preliminary and permanent injunction ordering defendant Spokane Eye Clinic to withdraw its 2/1/2011 decision to "dismiss" the Plaintiff "as a patient" (see Ex. E), because of the Plaintiff has no conflict of interests with other dorctors of the clinic.

47. Compensatory damages in the amount of $1,000,000 (one million) against the defendants jointly.[29]

48. Punitive damage in the amount $100,000 (one hundred thousand)

29. This amount is based on Williams v. Patel, 104 F. Supp. 2d 984, 997-98 (C.D.ILL. 2000) ($750,000 compensatory and $100,000 punitive for medical in loss of a prisoner's left eye).

against Defendant SPOKANE EYE CLINIC.

49. Punitive damage in the amount of $300,000 (three hundred thousands) against Defendant JASON H. JONES, MD.

50. Punitive damage in the amount of $200,000 (two hundred thousands) against Defendant ROBERT S. WIRTHLIN, MD.

51. A jury trial on all issues triable by jury

52. Plaintiff's costs related to this suit

53. Any additional relief this court deems just, proper, and equitable.

DATED: July 3rd, 2013

Respectfully submitted.

7-3-2013

Charlie Y. Cheng, DOC # 307920
Airway Heights Corrections Center
PO Box 2049, NA-1
Airway Heights, WA 99001

- VERIFICATION -

I have read the foregoing AMENDEDMENT COMPLAINT and hereby verify that the matters alleged therein and exhibits are true. I certify under the penalty of perjury to RCW 9A.72.085 that the forgoing is true and correct.

On this 3rd day of July, 2013.

7-3-2013

Charlie Y. Cheng, Plaintiff pro se

ORIGINAL

LISTING OF EXHIBITS

A. Spokane Eye Clinic & DOC's "AGREEMENT K8351".

B. Dr. John Smith's 8/5/10 referral to Spokane Eye Clinic.

C. Spokane Eye's 8/5/10 Triage Exam sheet.

D. Plaintiff Charlie Cheng's 11/2/10 "90 days Notice" to Dr. Jones.

E. Spokane Eye's 2/1/11 letter to cancel Cheng as a patient.

F. Spokane Eye's 2/10/11 letter to DOC: Ex Party Cancellation Notice.

G. Defendant Dr. Jones's profile on Spokane Eye website.

H. Page 730 of Dex phonebook: Display ads of Dr. Jones's & Dr. Wirthlin's.

I. Dr. Jones's 1/29/13 letter to investigator of Dep't of Health.

J. Defendant Dr. Wirthlin's profile on Spokane Eye's website.

K. Dr. Wirthlin's 8/18/10 Follow-up Exam sheet.

L. Dr. Smith's 8/5/10 notes (AHCC infirmary's PRIMARY ENCOUNTER REPORT).

M. Dr. Jones's 8/5/10 surgery report.

N. Spokane Eye's "HEALTH QUESTIONNAIRE".

O. Charlie Cheng's 4/29/13 Affidavit.

P. Neuropathology Report from Harborview Medical Ctr., UW Medicine.

Q. Spokane Eye's 8/5/10 Procedure Authorization for "Vit.Tap".

R. Dr. Jones's 8/11/10 Follow-up Exam sheet.

S. Spokane Eye's 8/24/10 "Exam" sheet (indicates the enucleation was referred By "Dr. Jones".

T. AHCC's 8/7/10 INPATIENT REPORT (timed "0515").

U. AHCC's 8/8/10 INPATIENT REPORT.

V. AHCC's 8/15/10 INPATIENT REPORT.

W. AHCC's 8/7/10 INPATIENT REPORT (timed "1430").

X. AHCC's 8/22/10 INPATIENT REPORT (timed "0715").

Y. AHCC's 8/22/10 INPATIENT REPORT (timed "0715").

Y. Dr. Wirthlin's 8/18/10 diagnosis: Endophthalmis, left eye.

Z. Charlie Cheng's 6/24/13 Affidavit.

AA. Dr. Wirthling's 8/18/10 response to AHCC infirmary: "Refer to Dr. Nick Ranson for enucleation, OS."

BB. Charlie Cheng's 1/17/11 HEALTH SERVICES KITE.

ORIGINAL