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No. 66678-9-I

DIVISION ONE, COURT OF APPEALS  
OF THE STATE OF WASHINGTON

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COURT OF APPEALS  
STATE OF WASHINGTON  
DIV 1  
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SEATTLE IRON & METALS CORPORATION,

Plaintiff/Respondent

v.

LIN XIE, individually and d/b/a GIANT INTERNATIONAL METAL  
RESOURCES, and the marital community composed of LIN XIE and  
JANE DOE XIE; and LH HIGHTECH CONSULTING LLC, a  
Washington limited liability corporation,,

Defendants/Appellants

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ON APPEAL FROM KING COUNTY SUPERIOR COURT  
(Honorable Chris Washington)

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BRIEF OF RESPONDENT

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Todd W. Wyatt  
WSBA No. 31608  
Salter Joyce Ziker, PLLC  
1601 Fifth Avenue, Suite 2040  
Seattle, WA 98101  
Phone: 206-957-5960  
Fax: 206-957-5961  
Attorneys for Respondent  
Seattle Iron & Metals Corporation

ORIGINAL

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N/A

## **I. INTRODUCTION**

Defendant/Appellant Lin Xie (“Xie”), appearing *pro se*, appeals three post-judgment decisions of the trial court.

First, Xie claims that the trial court erred when it denied Xie’s motion to amend his answer to the complaint. Xie’s motion to amend was filed *after a final judgment had been entered*. The trial court did not err.

Second, Xie argues that the trial court erred by disbursing funds to Plaintiff/Respondent Seattle Iron and Metals Corporation (“SIMC”) that Xie had previously deposited in the trial court pursuant to the judgment entered against Xie. Xie cites no authority for his contention. The trial court acted properly.

Third, Xie appeals the trial court’s sanction of \$500 for his continued frivolous filings. As this Court will see, Xie has engaged in a pattern of repeatedly arguing theories that the trial court—and this Court—already rejected. It seems nothing to date has dissuaded him from this path. As the trial court did, this Court should sanction Xie for this frivolous appeal and award SIMC its costs and attorneys’ fees under RAP 18.9(a). This Court should also order that Xie be precluded from future filings until the sanction is paid. SIMC recognizes that this is an extraordinary request, but Xie’s continued waste of Court resources demands an extraordinary response.

## II. STATEMENT OF ISSUES

1. Did the trial court abuse its discretion when it refused to allow Xie to amend his answer when a final judgment had already been entered?
2. Did the trial court abuse its discretion when it paid SIMC the funds it was due from Xie out of the trial court registry?
3. Did the trial court abuse its discretion when it sanctioned Xie for frivolous filings?

This Court should answer “no” to all three questions.

## III. STATEMENT OF THE CASE

### A. Previous Proceedings.

Almost four years ago, SIMC brought claims against Xie for breach of contract and other causes of action in King County Superior Court, Case No. 07-2-27492-8 SEA. CP 14-17. SIMC eventually obtained a summary judgment ruling in its favor, and a final judgment was entered against Xie on December 9, 2008, in the amount of \$139,269.10. CP 552-53. *After* the final judgment was entered and his attorney had withdrawn, Xie moved to file an amended answer and counterclaims to SIMC’s original complaint. That motion was denied by the trial court.

Xie appealed to this Court in Case No. 62713-9-I (the “First Appeal”).<sup>1</sup>

In order to stay execution of the judgment against him while the First Appeal was pending, Xie deposited \$168,775.00 into the trial court’s registry.

On May 10, 2010, this Court filed an unpublished opinion in the First Appeal affirming the trial court’s judgment against Xie. On June 1, 2010, Xie filed a 23-page motion for reconsideration, which did nothing more than repeat the arguments Xie had made in his original briefing on the merits. This Court denied Xie’s motion for reconsideration on June 18, 2010.

Xie then filed a Petition for Review to the Washington Supreme Court on July 19, 2010. On November 2, 2010, the Supreme Court denied Xie’s petition. This Court issued its Mandate on December 10, 2010.

On December 13, 2010, SIMC moved the trial court to release the funds deposited by Xie. CP 592. On December 20, 2010, Xie filed two different documents with the trial court. First, he filed a “Response to Plaintiff’s Motion to Release Fund [sic] and Motion for Satisfaction of Judgment.” CP 651. Second, Xie filed a “Motion to File Third Party Claims.” CP 616.

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<sup>1</sup> SIMC assumes this Court has access to the papers filed in the First Appeal—SIMC accordingly will not burden the Court with additional copies.

In his response to SIMC's motion to release the funds previously deposited with the trial court, Xie argued that, even though the funds in the trial court did not fully satisfy the judgment then due,<sup>2</sup> the trial court should deem the judgment satisfied. CP 652. Xie offered no legal basis for his theory. Xie then proceeded to reargue the underlying merits of the case and asserted that SIMC was liable to Xie for breach of contract. CP 652-55. This argument, again, occurred over two years after the final judgment had been entered.

In his "Motion to File Third Party Claims," Xie sought permission to file a third party complaint against Alan Sidell, the President of SIMC, and undersigned counsel Todd Wyatt. CP 620-27. Xie's claims concerned the exact same set of facts that were already resolved in the First Appeal. He also claimed that Mr. Sidell and Mr. Wyatt were liable under the novel theory of "conduct prejudicial to the administration of justice." CP 626.

SIMC filed a brief in reply on December 21, 2010. CP 679. SIMC pointed out to the trial court that Xie's two filings were, *at least*, the eighth and ninth papers filed by Xie that were frivolous. CP 679. SIMC also argued that Xie's abusive and harassing litigation tactics had cost SIMC much more than it should have to litigate this case, and that only the court

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<sup>2</sup> Interest that had accrued during the First Appeal, when added to the judgment, exceeded the total deposit of cash by Xie into the trial court's registry.

could put a stop to Xie's blatant disregard of the trial court's, and this Court's, previous decisions. CP 680-81.

On December 23, 2010, the trial court granted SIMC's motion to release the funds in the court registry to SIMC. CP 684.

Xie then filed a reply brief in support of his motion to file third party claims.<sup>3</sup> In that reply, Xie once again re-argued facts and theories relating to the final judgment entered years prior. He also submitted a declaration with exhibits that were only relevant—if at all—to the merits of the case, which he already lost both at the trial court and on appeal.

On January 13, 2011, the trial court denied Xie's motion to file third party claims and awarded sanctions of \$500. CP 687. The trial court ordered Xie to pay the sum within ten days. Xie never did so.

Xie then filed a "Motion to Reassign Case for Efficient Administration of Justice."<sup>4</sup> In this document Xie attempted to have the case assigned to a judge in the Regional Justice Center in Kent because, among other reasons, the trial court judge, Chris Washington, was apparently assigned at the time to the Juvenile Court. On the same day he

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<sup>3</sup> This document and Xie's supporting declaration were not identified by Xie in his Designation of Clerk's Papers. Copies were served on SIMC's counsel on December 27, 2010 and, while the copy served on counsel bears the Judges Mailroom's filing stamp, neither document appears in the trial court docket. Copies of these documents, without their exhibits, are attached to this brief as Appendices A and B.

<sup>4</sup> This document will be included in SIMC's Supplemental Designation of Clerk's Papers, and a copy is attached to this brief as Appendix C.

filed that motion, Xie also filed his Notice of Appeal in which he states he is appealing the order granting the motion to release the funds and the order denying his motion to add third party claims and awarding sanctions.

**B. Procedural History of this Appeal**

On March 8, 2011, Xie filed in this Court a “Motion to Recall Mandate to Correct Mistake or Remedy Fraud, RAP 12.9.” In this Motion, Xie argued—again—that this Court had previously erred in its decision on the First Appeal. Indeed, the Motion itself is 17 pages long and recites the same theories on the underlying merits that were rejected by the trial court, this Court, and the Supreme Court. This Court denied Xie’s motion on April 12.

Xie then filed his “Open [sic] Brief” in this Court on June 13, 2011. The brief is 50 pages long, and is once again devoted almost exclusively to the issues already adjudicated in the First Appeal. On June 24, 2011, SIMC filed a Motion on the Merits explaining—as SIMC does below—that Xie’s appeal is frivolous and that this Court should put a stop to Xie’s endless and repetitive filings.

Xie filed a response to SIMC’s Motion on July 15. Proving SIMC’s point, Xie’s brief is 20 pages long and replete with arguments on the underlying merits that were decided years ago. On July 26, Commissioner Mary Neel entered a ruling stating that the Court was not

hearing motions on the merits and that SIMC's motion for sanctions was referred to the panel when considering the merits of the appeal.

#### IV. ARGUMENT<sup>5</sup>

This case is now in its fourth year. Undeterred by ruling after ruling against him, Xie continues to argue his case on the merits. This must be stopped. SIMC is entitled to realize the finality it earned years ago.

Three issues are properly before this Court: (1) whether the trial court abused its discretion when releasing the funds in its registry; (2) whether the trial court abused its discretion when it refused to allow Xie to file new claims; and (3) whether the trial court abused its discretion when it sanctioned Xie.

##### A. **The Trial Court Properly Refused to Allow Xie to Amend His Answer Years After a Final Judgment Was Entered.**

The trial court correctly ruled that after judgment had been entered and after his appeals were exhausted, Xie could not amend his pleadings. There was no error.

Xie's arguments to the contrary are frivolous and should not go unpunished. On pages 24 and 25 of his brief, Xie represents that this Court, in its decision in the First Appeal, stated that "defendants may have

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<sup>5</sup> This argument largely reincorporates the arguments made by SIMC in its Motion on the Merits. SIMC incorporates that motion by reference.

a claim for damages related to the allegedly wrongful failure to present the documents.” This Court can read its previous decision in the First Appeal to discover that that language relied upon by Xie is part of a block quote *from a different case*. The Court employed that quote when discussing the state of the law in general, not Xie or the matter on appeal in particular. Xie’s attempt to mislead the Court into thinking that the “defendants” in the quote was a reference to him should be sanctioned.

Similarly, on page 25 of his brief Xie contends that this Court in the First Appeal “mentioned that Defendant should raise issues to the trial court[.]” That is completely false. Xie had raised a number of issues in the First Appeal that he had not raised to the trial court, and the Court in the First Appeal said it would not consider them. The Court never stated that Xie “should” go raise them after the appeal.

There is absolutely no legal authority for Xie’s position. The case was resolved long ago. Xie’s attempt to “amend”—and his appeal of the trial court’s decision on this topic—is frivolous. Sanctions should be awarded under RAP 18.9.

**B. The Trial Court Properly Released the Funds to SIMC.**

SIMC has a final judgment against Xie. Xie lost his appeal. The trial court did not err when it released funds to SIMC from the trial court’s registry.

Despite his 50-page brief, the only argument on this issue from Xie appears to be on page 30 of his brief, where Xie states that SIMC “waited too long” to ask for the funds to be released. There is no support for this unsupported (and unsupportable) argument. Rather, the facts belie it: SIMC moved to release the funds from the trial court registry *within three days* of the mandate being issued. The trial court acted properly.

**C. The Trial Court Properly Sanctioned Xie.**

The issue of whether the trial court abused its discretion when ordering a monetary sanction of \$500 is not material if viewed only from the perspective of the amount of sanctions awarded. This minor sanction does not even begin to scratch the surface of the additional fees SIMC has had to incur because of Xie’s frivolous filings. This aspect of the appeal does, however, provide further evidence of Xie’s abuse of the court system to harass and delay. As to the merits, however, it is clear that the trial court did not abuse its discretion when sanctioning Xie for his repeated disregard of previous rulings.

**D. This Court Should Sanction Xie.**

The vast majority of Xie’s opening brief reargues the underlying merits that were resolved against him years ago. This is completely improper and should induce a response from this Court. Xie is engaged in a pattern of repeated, lengthy, and frivolous filings that waste not only Court resources but also rob SIMC of finality and funds spent on

attorneys' fees and costs. Under RAP 18.9(a), the Court should award SIMC the fees it has incurred in this appeal for responding to Xie's frivolous arguments. The Court should also impose an additional sanction for Xie's attempt to ignore or falsely characterize this Court's previous decision and (again) re-argue his case. SIMC believes the sum of \$10,000 is reasonable considering Xie's history of abusive litigation, the many misrepresentations in his brief, and defiance of previous court decisions.<sup>6</sup> The Court should also prohibit Xie from future filings until he has paid all court-awarded sanctions to SIMC.

SIMC recognizes that these are extraordinary requests. But SIMC must ask: when is this going to end? Can Xie simply file briefs that argue the same points over and over, with impunity? Can Xie continually make frivolous arguments to which SIMC is compelled to respond? SIMC has

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<sup>6</sup> By SIMC's count, Xie has now filed at least 14 briefs that are, by any definition, legally frivolous. *See* Motion to Vacate Writ of Garnishment (1/20/09); Defendant's Motion to File Amended Answer (1/20/09); Defendant's Response to the Plaintiff's Supplemental Designation of Record and Objection under RAP 9.11 (3/11/09); Response to Plaintiff's Motion to Release Fund [sic] and Motion for Satisfaction of Judgment (12/20/10); Motion to File Third Party Complaints (12/20/10); Defendant's Reply to Plaintiff's Response to Motion to File Third Party Complaints (12/27/10); Motion to Reassign Case for Efficient Administration of Justice (2/11/11); and, in the Court of Appeals, *see* Response to Respondent's Motion for Continuance to Allow Late Notice of Appeal (12/29/08); Motion to Oppose Respondent's Supplemental Designation of Papers (5/4/09); Motion to Strike Portions of Respondent's Brief and for Sanction (11/24/09); Objection to Cost Bill (5/19/10); Motion for Reconsideration (6/1/10); Open [sic] Brief (6/13/11); and, in the Washington State Supreme Court, *see* Petition for Review (11/2/10).

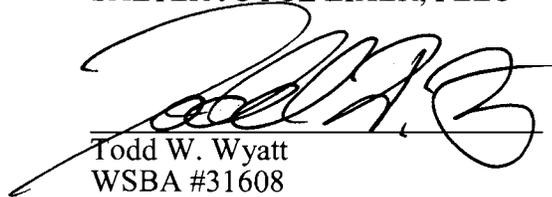
the right to expect that when this Court and the trial court make decisions, they will be respected by the opposing party, and not become the subject of further challenges and appeals that continually restate the same already rejected theories.

**V. CONCLUSION**

Xie's appeal is frivolous. It should be rejected and sanctions imposed. Finally, because of the limited nature of this appeal, SIMC does not believe that oral argument would be of assistance to the panel, and accordingly requests that this matter be resolved on the briefs.

RESPECTFULLY SUBMITTED this 25<sup>th</sup> day of August, 2011.

SALTER JOYCE ZIKER, PLLC

A handwritten signature in black ink, appearing to read 'Todd W. Wyatt', is written over a horizontal line. The signature is stylized and cursive.

Todd W. Wyatt  
WSBA #31608

Attorneys for Plaintiff/Respondent

**CERTIFICATE OF SERVICE**

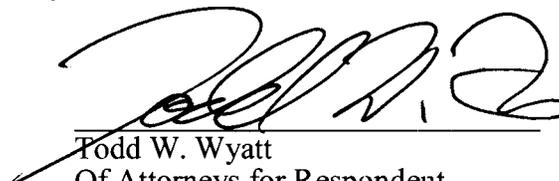
I, Todd W. Wyatt, hereby certify and declare as follows:

I am over the age of 18 years and am not a party to the within cause. On August 25<sup>th</sup>, 2011, I caused a true and correct copy of the foregoing BRIEF OF RESPONDENT to be served on Appellant in the manner described below:

Dr. Lin Xie  
Suite 3, 19280 - 11th Place South  
Seattle, WA 98148  
Appellant, *pro se*

**By First-Class Mail**

DATED this 25<sup>th</sup> day of August, 2011.

  
\_\_\_\_\_  
Todd W. Wyatt  
Of Attorneys for Respondent

# APPENDIX A

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JUDGE'S MAIL ROOM

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KING COUNTY  
SUPERIOR COURT

Honorable Chris Washington  
Noted for Consideration:  
Wednesday, December 29, 2010  
Without Oral Argument

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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF KING

SEATTLE IRON & METALS  
CORPORATION, a Washington Corporation

Plaintiff,

vs.

LIN XIE, individually and dba GIANT  
INTERNATIONAL METAL RESOURCES,  
and the marital community composed of LIN  
XIE and JANE DOE XIE; and LH  
HIGHTECH CONSULTING LLC, a  
Washington limited liability company,

Defendants.

NO. 07-2-27492-8 SEA

Defendant's Reply to Plaintiff's Response to  
Motion to File Third Party Complaints

**I. RELIEF REQUESTED**

Deny the Plaintiff's request for sanction and grant the Defendant's  
motion for leave to consolidate claims against third parties.

**II. STATEMENT OF FACTS**

The Plaintiff did not provide much legal arguments or authorities to  
support his request. In fact, some authority cited was inaccurate and confusing.  
So we can only replies to what we think are the Plaintiff's arguments.

1 First of all, the Plaintiff's description of the Defendant's expected  
2 vigorous defense in the face of losing life saving is totally false and vicious.

3 1. *The Plaintiff's now statements contradicted with its earlier*  
4 *presentation to this court.*

5 To justify that the Plaintiff did not cause any prejudice toward the  
6 Defendant. This is what Plaintiff said in the summary judgment hearing, see  
7 exhibit A.

8  
9 *MR. WYATT: Mr. Xie has the same rights against his end*  
10 *buyers as we do against Mr. Xie.*

11 *Let's assume that the Letter of Credit was properly*  
12 *dishonored because things were late. Just like we have the*  
13 *contract right to sue Mr. Xie for the thousand metric tons*  
14 *we delivered to him, he can sue his end buyer. He has 6*  
15 *years to so under the written contract*

16  
17 But now, the same Plaintiff said in its response that this claim was  
18 "frivolous" and "It is too late for the arguments". The Plaintiff shows  
19 disrespect toward this court by deliberately providing wrong, misleading and  
20 inaccurate statements.

21  
22  
23 2. *It is the Plaintiff who violated the court rules multiple times and*  
24 *presented various misrepresentations to the court.*

1           The Defendant has followed the court rule and statute diligently as  
2 much as a non-legal professional can possibly do in the face of a  
3 multimillion corporation represented by power lawyers.  
4

5  
6  
7           **3. *Claims against Alan Sidell and Todd Wyatt is vindictive and abusive?***

8           The Plaintiff's statement is vicious and without any supporting facts.  
9 We have no interest in harassment, delay, nuisance or spite but just want to  
10 make sure that our equity right under the law is protected and to get  
11 compensation for damage caused by parties at wrong.  
12

13           Misconduct by the Plaintiff and the consul is serious because under  
14 title *18 U.S.C. § 1621*, whoever willfully states as true any material matter  
15 which he does not believe to be true in a statement under penalty of perjury, is  
16 guilty of perjury and shall, except as otherwise expressly provided by law, be  
17 fined or imprisoned not more than five years, or both.

18           We have supported our claim with very specific details and declaration  
19 under oath but the Plaintiff did not declare under oath that what we have  
20 alleged is not true. Such silence should be considered *admission* for the purpose  
21 of summary dismissal.  
22

23  
24           **4. *The Plaintiff's Proposed ORDER cited wrong or inaccurate authority.***

25           The Defendant is puzzled by citing *RCW 4.84.105* in the Plaintiff's  
26 proposed ORDER. There is not such section under the current RCW. The

1 Plaintiff should not ask this court to enter an ORDER based on non-existing  
2 authority.

3 The Plaintiff tried to confuse the Defendant and this court.  
4

5  
6  
7 **5. *SIMC has incurred attorney fee far and above?***

8 There is no statute cited by the Plaintiff to justify awarding cost based on  
9 equity by adding legal fee on top of normal business operation cost. We did  
10 not count our legal fee in our figure of damage incurred. If we add our near six  
11 figure legal fee on top of the judgment and interest, our total cost shall be more  
12 than SIMCO. For us it was life saving wiping out by the Plaintiff's act of  
13 negligent. For a multimillion corporation like SIMCO, it is only a small change.  
14  
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18 **II. LEGAL DISCUSSION**  
19

20 Some of the acts referred in the claims were within two to three years,  
21 so were still valid claims. Some claims should be relation back to the same acts  
22 and parties while other claims were still valid through discovery rule.  
23

24 The Plaintiff told this court during the summary judgment hearing that  
25 there was six year to file valid claim against at least Shanghai QinagSheng  
26 Import and Export Corp. But in this motion, the Plaintiff said that such same

1 claim against the same party is “frivolous” and “argument is too late”, see  
2 exhibit A. Such double talk undermines any of the Plaintiff’s effort here and  
3 makes his legal arguments unbelievable.

4 Attorney fees and costs may not be awarded under the Frivolous Claim  
5 Statute, **RCW 4.84.185**, unless the action in its entirety is frivolous. *Rettkowski*  
6 *v. Ecology*, 76 Wn.App. 384, 390, 885 P.2d 852, 856 (1994), modified 128  
7 Wn.2d  
8 508, 910 P.2d 462 (1996). If any claim in the action is found not to be  
9 frivolous, then no fees or costs may be awarded under **RCW 4.84.185** with  
10 respect to the defense of any claim in the action. *Biggs v. Vail*, 119 Wn.2d 129,  
11 830 P.2d 350 (1992).

12  
13 In addition, the relevant authority in **RCW Chapter 4.84.185** required  
14 that “In no event may such motion be filed more than thirty days after entry of  
15 the order”. So the Plaintiff motion for sanction order is void because the  
16 original final judgment was more than 30 days old.

17  
18 Finally, the Plaintiff did not make the required declaration under oath  
19 stating the cost of his legal expenses to defend any frivolous claims.  
20

### 21 22 23 **III. CONCLUSION**

24 This court is very familiar with many facts surrounding the disputed  
25 business transaction and by consolidating cases and claims; this court can  
26 reduce redundant submissions for documents already on the record and

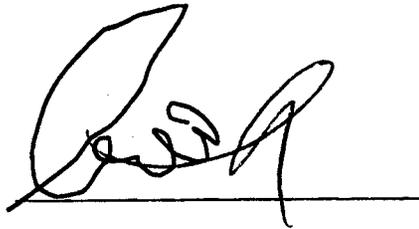
1 therefore achieve fundamental justice and judicial economy at the same time.

2 Therefore, leave should be granted to file consolidated third party complaints.

3 This court rejected Plaintiff's frivolous sanction request before and  
4 should do the same for the same request this time as well.

5  
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8 Respectfully submitted this 27<sup>th</sup> day of December, 2010.

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10 Signature

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A handwritten signature in black ink, appearing to be 'Lin Xie', written over a horizontal line. The signature is stylized and cursive.

Dr. Lin Xie, In Pro Per

# APPENDIX B

Honorable Chris Washington  
Noted for Consideration:  
Wednesday, December 29, 2010  
Without Oral Argumnet

**SUPERIOR COURT OF THE STATE OF WASHINGTON  
FOR KING COUNTY**

SEATTLE IRON & METALS  
CORPORATION, a Washington Corporation

NO. 07-2-27492-8 SEA

Plaintiff,

DECLARATION OF LIN XIE IN  
SUPPORT OF Motion to File and  
Consolidate Third Party Claims

vs.

LIN XIE, individually and dba GIANT  
INTERNATIONAL METAL RESOURCES,  
and the marital community composed of LIN  
XIE and JANE DOE XIE; and LH  
HIGHTECH CONSULTING LLC, a  
Washington limited liability company,

Defendants.

Lin Xie, under penalty of perjury pursuant to the laws of the State of Washington,  
declares and states as follows:

1. I am over the age of 18 years, and have personal knowledge of the facts  
contained in this declaration.

2. On or before September 15, 2005, I had numerous communications with  
employee of Seattle Iron and Metals Corp on the issue of document presentation. I was never  
been told that there was a deadline of September 14, 2005 for the presentation. Nor was I  
given any copy of the US Bank advised letter of credit which we discovered only during  
discover. On September 15, 2005, I instructed Mr. Mike Dollard from Seattle Iron and Metal

DECLARATION OF LIN XIE

GIANTINTERNATIONAL METAL RESOURCES  
LH HIGHTECH CONSULTING LLC

1 Corp to drive with me to the Wells Fargo Bank to present the letter of credit documents. He  
2 replied and promised that he would deliver those documents that same day. I never suggest or  
3 inform him to the effect that those documents should be delivered to US Bank knowing the  
4 fact that the documents are due the same day. I was never informed by anyone prior to  
5 reading the Plaintiff's Motion for Summary Judgment that the documents are to be held and  
6 delivered after one or two weeks in one package with document for another shipment.  
7

8 3. I have never received any originals of the invoices for the scarp metals in this  
9 dispute except for those contained in the discovery materials. The legal letter from the  
10 Plaintiff's consul dated June 11, 2007, CP 384-385, was the first ever notice and request for  
11 payment from the Plaintiff.

12 4. On or before September 15, 2005, I did not recall that Wells Fargo Bank  
13 demanded that only US Bank can present the document. My recollection was that Wells Fargo  
14 Bank just urgently needed the documents that are still outstanding and in the Plaintiff's  
15 possession.  
16

17 5. Attached as Exhibit A is a true and correct page from the Transcript of the  
18 Motion on Partial Summary Judgment hearing.

19 6. Attached as Exhibit B is a true and correct copy of the US Bank advised Letter of  
20 Credit to the Plaintiff.

21 7. Attached as Exhibit C is a true and correct copy of the Wells Fargo Bank advised  
22 Master Letter of Credit to the Defendant. In this copy, it is clearly shown that the expiring  
23 date for the credit is September 24, 2005 and the presentation due date is 15 day after  
24 shipment which would be September 15, 2005.  
25

26 8. Attached as Exhibit D is a true and correct page from the Defendant's Response to  
the Plaintiff's Motion for voluntary dismissal and final Judgment.

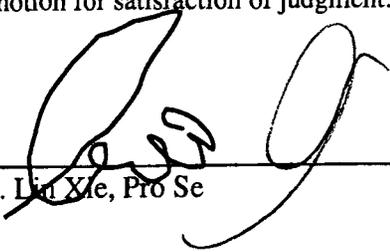
DECLARATION OF LIN XIE

GIANTINTERNATIONAL METAL RESOURCES  
LH HIGHTECH CONSULTING LLC

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**EXECUTED** this 20<sup>th</sup> day of December, 2010, in Seattle, Washington.

Response to Plaintiff's Motion to release fund and motion for satisfaction of judgment.

  
\_\_\_\_\_  
Dr. Lin Xie, Pro Se

RECEIVED

2010 DEC 20 PM 12: 56

Honorable Chris Washington

KING COUNTY  
SUPERIOR COURT CLERK  
SEATTLE WA

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

SEATTLE IRON & METALS )  
CORPORATION, a Washington Corporation )  
Plaintiff, )  
v. )  
LIN XIE, individually and dba GIANT, )  
INTERNATIONAL METAL RESOURCES, )  
and the marital community composed of LIN )  
XIE and JANE DOE XIE; and LH HIGHTECH )  
CONSULTING LLC, a Washington limited )  
liability company, )  
Defendant. )

No. 07-2-27492-8 SEA

CERTIFICATE OF SERVICE

I hereby certify that I served  
Motion to file third party complaints

on:

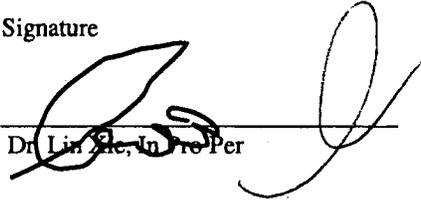
Barry G. Ziker, WSBA No. 11220;  
Todd W. Wyatt, WSBA No. 31608  
Salter Joyce Ziker, PLLC,  
1601 Fifth Avenue, Suite 2040,  
Seattle, Washington 98101,  
Tel: 206-957-5960

By causing full, true and correct copies thereof to be hand-delivered to the attorneys at the attorneys' last-known office addresses listed above on the date set forth below

The undersigned hereby declares, under the penalty of perjury, that the foregoing statements are true and correct to the best of my knowledge.

Executed at Seattle, Washington, this 20<sup>th</sup> day of December, 2010

Signature

  
\_\_\_\_\_  
Dr. Lin Xie, In Pro Per

# APPENDIX C

RECEIVED

FEB 18 2011

Salter Joyce Ziker, PLLC

Chief Civil Judge  
Noted for Consideration:  
Friday, February 18, 2011  
Without Oral Argument  
(Oral Argument Requested)

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF KING

SEATTLE IRON & METALS CORPORATION,  
a Washington Corporation

Plaintiff,

vs.

LIN XIE, individually and dba GIANT  
INTERNATIONAL METAL RESOURCES, and  
the marital community and LH HIGHTECH  
CONSULTING LLC, a Washington limited  
liability company,

Defendants.

NO. 07-2-27492-8 SEA

Motion to Reassign Case for Efficient  
Administration of Justice

**I. RELIEF REQUESTED**

**COME NOW** Defendants, Lin Xie, motion the Court to correct the Case Assignment Area error and to assign to another judge for the efficient and fair administration of justice.

**II. STATEMENT OF FACTS AND LEGAL DISCUSSION**

This case is now back to the appeal court again due to the judgment/sanction from the Juvenile Court without following the proper court rule, statute and the mandate from the court of appeal. The Juvenile Court is not a proper venue for Efficient Administration of Justice

According to LR 82(3) (B), both the Plaintiff and the Defendant are located south of the I-90, so should be in the Kent Case Assignment Area. This is also the area where the alleged injury or damage occurred, LR 82. (4) (A) (iv).

Motion to Reassign Case for Efficient Administration of Justice

Tel: 206-592-0963  
Fax: 775-262-8245

1 First, The Superior Court in Kent is much more convent for the Pro Se Defendant for document  
2 filing, judge's copies and the law library.

3 Second, the Juvenile Court is not a proper court for the commercial contract dispute.

4 Most importantly, the Juvenile Court ruled that the Defendant's claims are frivolous, Exhibit One, in  
5 violation of relevant statute, case law<sup>1</sup> and the mandate from the court of appeal. The Court of Appeal  
6 correctly stated that the Defendant has the right "to controvert the opposition party's prima facie case as  
7 determined by applicable substantive law" and "defendants may have a claim for damages related to the  
8 allegedly wrongful failure to present the documents", *the Court of Appeal Decision, P.7, P12, Ext. B.*

9 The Appeal Court also mentioned that the Defendant should raise some claims to the trial court first.

10 This is exactly what we did to raise these claims to the trial court.

11 In fact, the Juvenile Court's order is based on a non-existent statute RCWA 4.84.105 (see Ext. A)  
12 even though the Defendant reminded the court of this very fact. The Plaintiff's response to the motion  
13 clearly stated that they did not want to discuss the merit of the case. So the court did not considered the  
14 merit of the claims when it ruled that they are frivolous. The Juvenile Court conducted itself above the  
15 law and did not bother to even check the relevant RCWA section.

16  
17 In the appeal brief submitted, the Defendant claimed several abuse of discretion, court rule and  
18 statute violations by the trial judge. So, "Trial judge should have disqualified himself from ruling on  
19 posttrial matters concerning whether attorneys should be sanctioned under Rule 11 for making  
20 allegations in new trial motion that attacked integrity of court; issue should have been submitted to  
21 another judge." *Jones v. Halvorson-Berg, 69 Wn.App. 117, 847 P.2d 945.*

22 (1993).

23  
24  
25 

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<sup>1</sup> "When a trial court imposes Rule 11 sanctions, it must specify the sanctionable conduct in its  
26 order; the court must make a finding that either the claim is not grounded in fact or law and the  
attorney or party failed to make a reasonable inquiry into the law or facts, or the paper was filed  
for an improper purpose." *Just Dirt, Inc. v. Knight Excavating, Inc., 138 Wash. App. 409, 157  
P.3d 431 (2007).*

1  
2 **II. LEGAL BASIS**  
3

4 These are the relevant court rules:

5 LR 82. (3) (B) Kent Case Assignment Area. All of King County south of Interstate 90 except  
6 those areas included in the Seattle Case Assignment Area.

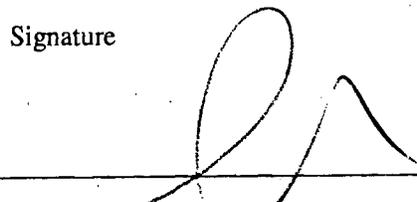
7 LR 82. (4) (A) (iv) Other Civil cases. For civil cases involving personal injury or property  
8 damage, the area where the injury or damage occurred; for cases involving condemnation, quiet title,  
9 foreclosure, unlawful detainer or title to real property, the area where the property is located; for all other  
10 civil cases, including administrative law reviews, the area where a defendant or respondent resides, or if  
11 there is no defendant or respondent, or if defendant or respondent does not reside in King County, the  
12 area where the plaintiff or petitioner resides.  
13  
14

15 **III. CONCLUSION**

16 The case should be assigned to a new court that would follow the statute and mandate  
17 from the Court of Appeal to handle any post trial matters for the efficient and fair administration of  
18 justice.  
19

20  
21 **DATED** this 11<sup>th</sup> day of February, 2011.

22 Signature

23  
24  
25   
26 Dr. Lin Xie, In Pro Per