

**COURT OF APPEALS  
DECISION  
DATED AND RELEASED**

December 19, 1996

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See § 808.10 and RULE 809.62, STATS.

**NOTICE**

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

**No. 96-1280**

**STATE OF WISCONSIN**

**IN COURT OF APPEALS  
DISTRICT IV**

**IOLA VISION,**

**Plaintiff-Respondent,**

**v.**

**PAUL VERMEERN,**

**Defendant-Appellant,**

**DAWN MELUM,**

**Defendant.**

APPEAL from a judgment of the circuit court for Waupaca County: PHILIP M. KIRK, Judge. *Affirmed.*

VERGERONT, J.<sup>1</sup> Paul Vermeern appeals from a judgment in the amount of \$329 plus costs for services provided his minor children by Iola Vision Center. He contends that his former wife, Dawn Melum, did not comply

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<sup>1</sup> This appeal is decided by one judge pursuant to § 752.31(2)(e), STATS.

with the terms of their divorce judgment in incurring the costs for these services and that venue was improper in Waupaca County. According to Vermeern, this action should have been brought in Outagamie County, where the divorce judgment was entered. We reject these arguments and affirm.

Iola Vision Center filed a small claims action against Vermeern and Melum, alleging that they owed \$329 for services provided to Alecia and Paula, their minor children. The trial court entered judgment against both Vermeern and Melum in that amount, plus costs. The record on appeal does not contain a transcript of the proceeding before the trial court. When the appellant does not provide a transcript, we may assume that every fact essential to the trial court's judgment is supported by the transcript. *Austin v. Ford Motor Co.*, 86 Wis.2d 628, 634, 273 N.W.2d 233, 235 (1979). We do so in this case, and assume that the transcript would support findings that Iola Vision Center provided services to Alecia and Paula and that \$329 is a reasonable charge for those services.

Vermeern argues that under the divorce judgment he should have been consulted by Melum before she took the children to Iola Vision Center and, had she done so, the costs would have been less because of his court-ordered health insurance and "the sales promotion going on at the time." Vermeern contends he should not have to pay more than this lesser amount (\$103.50) because Melum, not he, incurred the expenses.

A medical provider has a cause of action against both parents for medical care provided to their minor children. See *Madison General Hospital v. Haack*, 124 Wis.2d 398, 401, 369 N.W.2d 663, 664 (1985). The divorce judgment allocates the responsibility for such expenses between the parents but does not affect the obligation of both parents to the third party. According to Iola Vision Center's brief, the trial court instructed both Vermeern and Melum to resolve the question of their responsibilities under the divorce judgment before the court that entered that judgment. That is correct. If Melum violated the terms of the judgment in incurring the expenses or is responsible under the divorce judgment for some or all of the expenses, Vermeern may seek a remedy by filing a motion in the divorce action.

We also reject Vermeern's argument that Iola Vision Center should have filed this action in Outagamie County, where the divorce judgment was entered. The venue of the divorce does not affect the venue of this action. Since one of the defendants in this action, Melum, resides in Waupaca County, venue in Waupaca County is proper. *See* § 801.50(2)(c), STATS.

*By the Court.* – Judgment affirmed.

This opinion will not be published. *See* RULE 809.23(1)(b)4, STATS.