

COURT OF APPEALS, DIVISION I  
OF THE STATE OF WASHINGTON

|                             |   |  |
|-----------------------------|---|--|
| LISA S. CARTER              | ) |  |
|                             | ) | No. 82586-I                                      |
| Respondent,                 | ) |  |
|                             | ) | Snohomish County Superior                        |
| vs.                         | ) | Court No. 09-2-05356-0                           |
|                             | ) |  |
|                             | ) | MOTION TO REINSTATE                              |
| TAMARA L. FLEISCHER and JAY | ) | CASE   |
| FLEISCHER,                  | ) |  |
|                             | ) | <a href="#">Treated as a Petition for Review</a> |
| Appellants..                | ) |  |
| _____                       |   | )  |

Come now the Appellants, Tamara L. and Jay P. Fleischer by and through their attorney and move this Honorable Court to resinstate the case.

I misunderstood your February 17, 2022, letter. Let me be very clear. As I indicated in the AMENDED SUPPLEMENTAL DESIGNATION OF CLERK'S PAPERS ALREADY PREPARED, FILED, AND PAID FOR, AND THAT DEFENDANTS DID NOT WANT TO BE MADE PART OF THE CLERK'S PAPERS IN THE APPEAL ABOVE, I did not want these clerk papers to be part of this appeal. Since you denied the motion to consolidate this appeal with 835122, these clerk's papers added nothing to the record for the issues in this appeal: whether delivering the summons and complaint to Brittany Fleischer with a 71 IQ and with a "special learning disability" which denied her the ability to read a book, a magazine, or a document was service on a person of adequate discretion; and the extraordinary fraud of

Lisa Carter. In finishing the brief in this appeal, I would not have referenced them. The issues in 835122 are the prospective impact of an increase in the constitutional homestead exemption after the sheriff's sale but which took effect before the court finalized the sale with the order confirming sheriff's sale, and the release of the \$125,000 homestead to the Fleischers so they would not be living in their car when their redemption period expires on April 2, 2022.

Attached are four documents, the one named above, draft and incomplete emergency motion to stay, for release of \$125,000, for reimbursement for payments the Fleischers made on the first mortgage, my draft and incomplete declaration, and Jay Fleischer's Declaration. Since the trial court in the order appealed in 835122 ruled that it did not have jurisdiction to order the payment of the \$125,000 and you denied the motion to consolidate I am not sure which appeal to file the motion in. So I was intending to file it in both. In drafting the motion, I realized that supplemental clerks papers (CP 929-1013) would be necessary, not for the appeal, but for the emergency motion and, would have filed a supplemental clerk's papers designation.

Please rule promptly. I am going to file the emergency motion and then appeal your decision, if you do not reinstate this appeal,

WHEREFORE the Fleischer pray this Court to reinstate the appeal.

DATED this 3rd day of March 2022.

/s/ James A. Sturdevant  
James A. Sturdevant WSBA #8016  
Attorney for Appellants

DECLARATION OF SERVICE

The undersigned declares under penalty of perjury under the laws of the state of Washington that on the below date, I caused a true and correct copy of this document to be delivered to the attorney for the Appellant in this Court's e-filing system.

DATED at Bellingham, WA this 3rd day of March 2022.

/s/ James A. Sturdevant  
James A. Sturdevant WSBA #8016  
Attorney for Appellants

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| LISA S. CARTER              | ) |                           |
|                             | ) | No. 82586-I               |
| Respondent,                 | ) |                           |
|                             | ) | Snohomish County Superior |
| vs.                         | ) | Court No. 09-2-05356-0    |
|                             | ) |                           |
|                             | ) | SUPPLEMENT TO             |
| TAMARA L. FLEISCHER and JAY | ) | MOTION TO REINSTATE       |
| FLEISCHER,                  | ) | CASE                      |
|                             | ) |                           |
| Appellants..                | ) |                           |
| _____                       |   | )                         |

Come now the Appellants, Tamara L. and Jay P. Fleischer by and through their attorney and file this Supplement to Motion to Reinstate Case:

According to RAP 9.6 only a party can designate clerk’s papers. Clerks of a superior court cannot; a commissioners of court of appeals cannot; the judges of court of appeals cannot. This Court with its February 17, 2022 letter usurped the prerogative RAP 9.6 vests solely in the Fleischers to designate their clerk’s papers. Its designating the clerk’s papers exceeded its power as a court. If it believed that CP 929 – CP1013 were improperly before the court, it should have stricken them, as not being designated.

As indicated in the Motion to Reinstate, CP 929-1013 added nothing to the record for the instant appeal, except for the motion to release the \$125,000, which has yet to be filed. It never occurred to this

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

LISA S. CARTER,  
Plaintiff,  
  
MARGARET L. CURTIS,  
as assignee of Lisa S. Carter,  
  
Respondent,  
  
v.  
  
TAMARA L. FLEISCHER, and  
JAY P. FLEISCHER,  
  
Appellants.

No. 82586-1-I

ORDER DENYING  
MOTION TO ENFORCE  
MOTION TO MODIFY AND  
DISMISSING APPEAL

Respondent Margaret Curtis has filed a motion to enforce the Commissioner's December 15, 2021 warning of a possible dismissal of this appeal and a motion to modify the Commissioner's December 30, 2021 ruling granting an extension of time. Appellants Tamara and Jay Fleischer have not filed a response. We have considered the motions under RAP 17.7 and have determined that they should be denied.

RAP 18.9(c)(1) provides this court with discretion to dismiss review of a case "for want of prosecution if the party seeking review has abandoned the review." Because the appellants have not filed an opening brief after numerous extensions, and have been informed that their failure to do so may result in dismissal, we conclude that the appellants have abandoned this appeal. Therefore, we dismiss this appeal.

Now, therefore, it is hereby

ORDERED that the motion to enforce is denied; it is further

ORDERED that the motion to modify is denied; and it is further

ORDERED that this appeal is dismissed.

FOR THE COURT:

Burns, J.

Chen, J.

Andrus, A.C.J.

attorney that the Clerk of Snohomish County Superior Court would file the designated clerk's papers for Appeal No. 835122-1, in the instant case. And yes, he should have checked the appeal number, which he most certainly do in all future appeals. Under this misapprehension, he paid the clerk's papers fee.,

WHEREFORE the Fleischer pray this Court to reinstate the appeal.

DATED this 4th day of March 2022.

/s/ James A. Sturdevant  
James A. Sturdevant  
WSBA #8016  
Attorney for Appellants

I hereby certify and declare under penalty of perjury under the laws of the state of Washington that the above and foregoing is true and correct.

DATED at Bellingham, WA this 4th of March 2022.

James A. Sturdevant  
WSBA #8016  
Attorney for Fleischers

## DECLARATION OF SERVICE

The undersigned declares under penalty of perjury under the laws of the state of Washington that on the below date, I caused a true and correct copy of this document to be delivered to the attorney for the Appellant in this Court's e-filing system.

DATED at Bellingham, WA this 3rd day of March

2022.

./s/ James A. Sturdevant  
James A. Sturdevant WSBA #8016  
Attorney for Appellants



**JAMES STURDEVANT ATTORNEY AT LAW**

**March 04, 2022 - 9:25 AM**

**Transmittal Information**

**Filed with Court:** Court of Appeals Division I  
**Appellate Court Case Number:** 82586-1  
**Appellate Court Case Title:** Tamara L. Fleischer & Jay P. Fleischer, App's v. Lisa Carter, Respondent  
**Superior Court Case Number:** 09-2-05356-0

**The following documents have been uploaded:**

- 825861\_Motion\_20220304091928D1572886\_5502.pdf  
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Motion 1 - Other  
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- rodharmon@rodharmon.com

**Comments:**

Supplement to Motion to Reinstate filed March3, 2022

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**JAMES STURDEVANT ATTORNEY AT LAW**

**March 03, 2022 - 7:38 PM**

**Transmittal Information**

**Filed with Court:** Court of Appeals Division I  
**Appellate Court Case Number:** 82586-1  
**Appellate Court Case Title:** Tamara L. Fleischer & Jay P. Fleischer, App's v. Lisa Carter, Respondent  
**Superior Court Case Number:** 09-2-05356-0

**The following documents have been uploaded:**

- 825861\_Affidavit\_Declaration\_20220303130351D1217000\_9632.pdf  
This File Contains:  
Affidavit/Declaration - Other  
*The Original File Name was Jay Declaration.pdf*
- 825861\_Designation\_of\_Clerks\_Papers\_20220303130351D1217000\_4691.pdf  
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Designation of Clerks Papers - Modifier: Amended  
*The Original File Name was Amended Designation of Clerks Papers.pdf*
- 825861\_Motion\_20220303130351D1217000\_7227.pdf  
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Motion 1 - Other  
*The Original File Name was Mot Reinstate.pdf*
- 825861\_Other\_20220303130351D1217000\_7004.pdf  
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Other - Attachment to Motion  
*The Original File Name was Draft Motion Stay.pdf*
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Motion to Reinstate Appeal

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