102161-5

NO. 843508

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

Grating Fabricators, Inc., a Washington corporation; and Rhonda R. Abernathy and Larry W. Abernathy, wife and husband, Petitioners, v. Alaska Cascade Financial Services, Inc., Respondent	Petition for Review

ON APPEAL FROM THE SUPERIOR COURT OF
THE STATE OF WASHINGTON FOR KING
COUNTY

The Honorable Haydee Vargas

Petition for Review

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I. INTRODUCTION

The court of appeals's affirmation of the trial court's final decision in this case is in direct conflict with numerous prior holdings of this Court and the court of appeals about the critical importance of the appearance of judicial impartiality, as well as involving a matter of substantial public interest that should be resolved by this Court.

"This court in *In re Disciplinary Proceeding Against Sanders*[15] noted that the interest of the State in maintaining and enforcing high standards of judicial conduct under the auspices of Canon 1 [judicial impartiality] is a compelling one." *In re Disciplinary Proc. against Sanders*, 159 Wn.2d 517, 521, 145 P.3d 1208 (2006)."[W]here a trial judge's decisions are tainted by even a mere suspicion of partiality, the effect on the public's confidence in our judicial system can be debilitating." *Sherman v. State*, 128 Wn.2d 164, 205, 905 P.2d 355 (1995).

In the light of the above comments, let us review the actions of the trial court in this case, for which the court of appeals has now given its seal of approval.

- After numerous adverse rulings, followed by the trial judge giving blatant, unsolicited legal advice to plaintiff's counsel of how to prosecute plaintiff's case to get the judge to reverse a summary judgment ruling the judge had been compelled to issue in defendants' favor, the defendants filed a motion asking the judge to recuse himself because of the appearance of bias.
- The Chief Civil Judge of the superior court reviewed the motion and, prior to the trial judge ruling on the motion, decided the trial judge should indeed be removed because of the appearance of bias, and the clerk subsequently assigned the case to a new judge.
- The defendants filed a new motion (not a motion for reconsideration), on a subject similar to a motion

considered by the judge who had been removed for the appearance of bias.

- The new trial judge ruled that defendants' new motion should be decided by the previous judge, despite him having been removed from the case because of the appearance of bias against those same defendants and no longer having any jurisdiction over the case.
- The court of appeals, in affirming the decision, explicitly affirmed the trial court requiring the defendants' motion to be decided by the judge who was previously removed from the case because of the appearance of bias against those same defendants.

So, a judge demonstrates such an appearance of bias against one party that he was removed from the case by the Chief Civil Judge, but he is supposed to continue making rulings in the case after that removal? How can that *possibly* be seen as "maintaining and enforcing high standards of judicial conduct," and avoiding

having “the effect on the public's confidence in our judicial system … be debilitating”? It simply cannot.

II. ISSUES PRESENTED FOR REVIEW

1. Did the court of appeals err in affirming the trial court’s refusal to decide a renewed motion for attorneys’ fees on the basis that it had to be heard by the judge who had been removed from the case for an appearance of bias in favor of respondent, regardless of whether that implicated judicial partiality? Standard of review: de novo.

III. STATEMENT OF THE CASE

Grating Fabricators, Inc., is a Washington corporation, and Rhonda and Larry Abernathy are its sole shareholders. (CP 15.) Grating Fabricators entered into a credit agreement with Seaport Steel (CP 15, Ex. D), and it ultimately was unable to repay that credit line. Respondent is the successor in interest to Seaport Steel on the debt that arose from that contract, and it sued both Grating Fabricators and the Abernathys individually. (CP 1.)

On January 18, 2022, the trial court, Hon. Ken Schubert presiding, granted partial summary judgment dismissing the Abernathys as defendants but denying without prejudice their request for attorneys' fees. (CP 104.) At the hearing on that motion, after Judge Schubert indicated he would grant the Abernathys' motion, he proceeded on the record to provide plaintiff's counsel legal and strategic advice on what discovery to do, and how to present that to the court, to get the court to vacate the summary judgment ruling. Judge Schubert gave detailed guidance about what declaration to get from the Secretary of State's office, with what documents attached, what depositions to take and the questions to ask in those depositions (and even demonstrated how he would ask the questions if he was taking the depositions), and then explained to plaintiff's counsel the process for bringing those materials before the court so the order granting partial summary judgment could be reversed. (CP 133.)

On February 4, 2022, Judge Schubert denied a motion for attorneys' fees. (CP 117.)

On February 28, 2021, petitioners moved Judge Schubert to recuse himself on the basis of the appearance of bias in favor of respondent. (CP 132.) Among the grounds for asserting an appearance of bias was that he showed clear bias in giving respondent's counsel legal advice on how to undo the granting of partial summary judgment in favor of the Abernathys.

On March 25, 2022, Judge Schubert denied that motion but indicated that the Chief Civil Judge was going to reassign the case to a different judge, which the chief judge did in fact do. (CP 152.) Since Judge Schubert acknowledged in his written order that the case was going to be reassigned, it is clear the Chief Civil Judge had made that decision prior to Judge Schubert ruling on the motion to recuse.

On June 1, 2022, the Abernathys filed a renewed motion for attorneys' fees. The motion was brought before Judge Vargas, because Judge Schubert had been removed from the case because of the appearance of bias. (CP 152.) The Abernathys explicitly stated that even if King County Local Rule 7(b)(7) were

applicable, its requirements were met because Judge Schubert's removal for an appearance of bias certainly justified the newly assigned judge hearing the motion.

On July 5, 2022, the trial court, with Hon. Haydee Vargas presiding, denied the renewed motion, which was not a motion for reconsideration, because she refused to consider it on the basis that the new motion had to be heard by the judge who had been removed for the appearance of bias. (CP 206.) The court of appeals affirmed that decision, agreeing that the judge removed for an appearance of bias should nonetheless continue ruling on substantive motions in the case.

IV. ARGUMENT

A. Once Judge Schubert was removed from the case for an appearance of bias, he lost all jurisdiction, and the rulings of this Court and the court of appeals, as well as the public interest, prohibited him from making any further substantive rulings in the matter.

It is a serious abrogation of the concept of judicial impartiality to hold that a judge who has been removed from a case

for an appearance of bias should issue substantive rulings in the case after that removal.

"Washington's appearance of fairness doctrine not only requires a judge to be impartial, it also requires that the judge appear to be impartial." *Tatham v. Rogers*, 170 Wn.App 76, 77, 283 P.3d 583, 587 (2012) "'Under the appearance of fairness doctrine, a judicial proceeding is valid only if a reasonably prudent and disinterested observer would conclude that all parties obtained a fair, impartial, and neutral hearing.'" *State v. Bilal*, 77 Wn.App. 720, 893 P.2d 674 (1995)(citation omitted).

Judge Schubert was removed by the Chief Civil Judge for an appearance of bias against petitioners. Once that happened, Judge Schubert lost all authority over the case, just as when a judge is removed for bias under RCW 4.12.050 "'[T]he judge to whom it [the allegation of bias] is directed is divested of authority to proceed further into the merits of the action.' *State v. Dixon*, 74 Wn.2d 700, 702, 446 P.2d 329 (1968). "Under the plain wording of the rule, the judge loses all jurisdiction over the case." *State v.*

Cockrell, 102 Wn.2d 561, 565, 689 P.2d 32 (1984). *See also Harbor Enters., Inc. v. Gudjonsson*, 116 Wn.2d 283, 285, 803 P.2d 798 (1991). If a judge goes on to act without jurisdiction, his or her decisions are void. *State ex rel. Turner v. Briggs*, 94 Wn. App. 299, 302-03, 971 P.2d 581 (1999). The decision of the court of appeals in this case, holding that despite removal for bias, the removed judge should continue to make substantive rulings, is in direct conflict with the above decisions of this Court and the court of appeals.

The court of appeals has held that the same rule applies to a judge who is removed from a case without an RCW 4.12.050 affidavit and the accompanying statutory language. “We follow other courts in adopting a bright line rule: once a judge has recused, the judge should take no other action in the case except for the necessary ministerial acts to have the case transferred to another judge." *Skagit County v. Waldal*, 163 Wn. App. 284, 288, 261 P.3d 164 (2011). *See also State v. Aradon (In re A.E.T.H.)*, 9 Wn.App.2d 502, 523, 446 P.3d 667 (2019) ("The bright-line rule

allows only 'necessary ministerial acts to have the case transferred to another judge.'")

The *Waldal* court explained that once a judge has been removed from a case because of some potential bias or interest, "any rulings by that judge in that case will appear to a disinterested person as being potentially tainted by bias no matter which way the rulings go." *Waldal,* 163 Wn.App at 288. The decision of the court of appeals in this case, holding that despite removal for bias, the removed judge should continue to make substantive rulings, is in direct conflict with its own decisions in *Waldal* and *Aradon*.

Thus, it is established law in this state that if a judge is removed for an appearance of bias, either by an RCW 4.12.050 affidavit or pursuant to a motion to recuse, that judge is barred from making any further rulings. Judge Schubert was removed by the Chief Civil Judge because of the allegations of the motion to recuse. Thus, Judge Schubert lost jurisdiction and was barred from ruling on the motion that is the subject of this petition, and the

court of appeals committed serious error in holding that he should continue to rule on substantive motions.

The only way to avoid that binding result here would be to assert that because the Chief Civil Judge removed Judge Schubert because of the appearance of bias *prior* to the judge ruling on the motion to recuse, the result is somehow different and does not raise a concern about judicial impartiality. It would make no sense to assert that losing jurisdiction by being removed by a statutory affidavit or by granting a motion to recuse is necessary to preserve the appearance of fairness, but maintaining jurisdiction after being removed by the chief judge deciding that, in light of the allegations of potential bias in the motion to recuse, the trial judge needed to be removed even before he ruled on the motion to recuse, does not contravene the appearance of fairness doctrine and the clear holdings of this Court and the court of appeals. That simply cannot be true.

It would strain credulity to assert that after a judge has been removed from a case because of an appearance of bias, that judge

should continue to make substantive rulings in the case, and that judge's ongoing involvement would not call into question judicial fairness simply because the chief judge removed him or her for bias rather than him or her recusing voluntarily. To the contrary, such action would clearly result in "decisions … tainted by even a mere suspicion of partiality," resulting in a debilitating "effect on the public's confidence in our judicial system." *Sherman v. State*, 128 Wn.2d at 205.

As such, the holding of the court of appeals is in direct conflict with decisions of this Court and the court of appeals itself.

Further, this is "an issue of substantial public interest," because *any* theory that is deemed to allow a judge who was removed from a case due to an appearance of bias to continue to make substantive rulings contravenes this Court's clear recognition that "where a trial judge's decisions are tainted by even a mere suspicion of partiality, the effect on the public's confidence in our judicial system can be debilitating." *Ibid*.

This Court should grant this petition and then rule that the lower courts' decisions are directly contrary to binding authority from this Court and the court of appeals, and they contravene the important public policy of the appearance of judicial fairness and impartiality.

B. The local rule does not change the outcome because it was inapplicable, petitioners met the requirements, and in any event, it cannot overrule the court of appeals and this Court.

The deference the court of appeals showed to a local rule was misplaced for three reasons. The June 1, 2022, motion at issue on this appeal was properly brought before Judge Vargas despite Judge Schubert previously denying a similar motion, because (1) KCLCR 7 was inapplicable, (2) even if it were, respondents met the requirements of the rule, and (3) the rule cannot override the clear decisions of this Court and the court of appeals.

King County Local Civil Rule 7 states:

> Reopening Motions. No party shall remake the same motion to a different judge or commissioner without showing by declaration the motion previously made, when and to which judge or commissioner, what the order or decision was, and any new facts or other

> circumstances that would justify seeking a different ruling from another judge or commissioner.

Petitioners were not reopening a motion or remaking the same motion again. The previous order issued by Judge Schubert was an interlocutory order, and not a final judgment, thus a renewed motion, rather than the reopening of the previous motion, was appropriate and not constrained by the preference that a motion for reconsideration be heard by the original judge. “Rather than contemplating any order occurring prior to or during trial, CR 59 deals exclusively with judgments and orders entered following a verdict.” *Chaffee v. Keller Rohrback* LLP, 200 Wn.App. 66, 75, 401 P.3d 418, 423 (2017). A renewed motion that is not related to a final order or verdict is appropriate. “Defendants' renewed motion was not subject to the requirements of a CR 59 motion for reconsideration.” *Id*. at 76.

KCLCR 7, which states that “No party shall *remake the same motion* (emphasis added) is inapplicable. It addresses motions for reconsideration of an order entered by a judge (hence “reopening” or “remake the same motion”), but in this case, under

the controlling ruling in *Chaffee*, the subject motion was a renewed, standalone motion, not a reopening or a motion for reconsideration. The petitioners did not "remake the same motion;" rather, under the directive of *Chaffee*, they filed a new motion distinct from the previous motion. Thus the local rule was inapplicable.

Despite the clear direction of *Chaffee*, Judge Vargas refused to consider the motion because she apparently felt it was a motion for reconsideration that needed to be heard by Judge Schubert, and the court of appeals affirmed that decision. That was error because, under the *Chaffee* ruling, the motion was a new, stand-alone motion, not a motion for reconsideration, thus there was no requirement that it comply with CR 59 or be heard by a judge who was previously assigned the case. The decision of the court of appeals in this case, holding that despite being a new motion, the new motion had to be brought before the removed judge, is in direct conflict with *Chaffee*.

Thus, KCLCR 7 is simply inapplicable.

Further, even if it were applicable, petitioners made the requisite showing under the auspices of the doctrine of judicial fairness, because petitioners explained that the new motion was brought before Judge Vargas because Judge Schubert had been removed from the case for the appearance of bias.

Even if KCLCR 7 were applicable, the requirement to have a motion heard by a different judge was unequivocally met. When applicable, the rule requires a showing of facts or circumstances that would justify a different judge addressing the motion. Here, the fact that Judge Schubert was removed because of the appearance of bias and no longer had any jurisdiction certainly constituted circumstances that justified the motion being heard by the new judge who had not shown any potential bias and who still retained jurisdiction.

When a judge has been removed from a case because of an appearance of bias and a new judge assigned, those circumstances justify the newly assigned judge considering the motion, rather than the one who was removed from the case for potential bias and

who has lost "all jurisdiction over the case." *State v. Cockrell* 102 Wn.2d at 565. What does it say about faith in the fairness of the judicial system if, as here, a judge removed for potential bias was required to rule on a subsequent motion by the party that alleged bias? It certainly would not give off the aura of judicial fairness that this Court so highly values. The requirement of KCLCR 7 was met. Consequently, Judge Vargas erred in refusing to consider the motion regardless of the language of KCLCR 7.

Finally, the local rule simply cannot override the explicit holdings of this Court and the courts of appeals. Both appellate courts have ruled numerous times that a judge removed for bias has lost all jurisdiction and is no longer allowed to make any substantive decisions, and a local rule cannot contravene those clear decisions. Regardless of what the local rule says, it must be ignored when the result would be to overrule so many appellate decisions.

V. CONCLUSION

The court of appeals erred in affirming Judge Vargas's refusing to consider the renewed motion for attorneys' fees because (1) that decision was in direct conflict with numerous decisions of this Court and the court of appeals; (2) it violated the public policy of judicial impartiality; and (3) the local rule was not applicable. This Court should accept this petition and rule on the merits to reaffirm "that the interest of the State in maintaining and enforcing high standards of judicial conduct under the auspices of Canon 1 [judicial impartiality] is a compelling one." *In re Disciplinary Proc. against Sanders*, 159 Wn.2d at 521.

Pursuant to RAP 18.17(b), I certify that this motion contains 3,026 words.

DATED: July 7, 2023

By: 

Scott A. Milburn; WSBA #15355
Of Attorneys for Petitioners

CERTIFICATE OF SERVICE

I hereby certify that I caused the foregoing Brief of Petitioners to be served on the following named person on the date indicated below via e-service:

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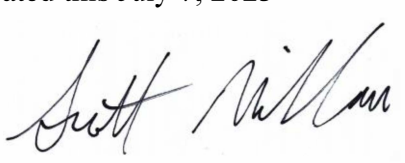
Dated this July 7, 2023



Scott Milburn

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Appendix

Court of Appeals decision

Court of Appeals denial of motion for reconsideration

Statutes

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State of Washington

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

ALASKA CASCADE FINANCIAL SERVICES, INC., Respondent, v. GRATING FABRICATORS, INC., a Washington Corporation that was administratively dissolved on September 3, 2019 and reinstated on December 20, 2020; and RHONDA R. ABERNATHY and LARRY W. ABERNATHY, husband and wife, Appellants.	DIVISION ONE No. 84350-8-I UNPUBLISHED OPINION

DWYER, J. — Rhonda and Larry Abernathy appeal from an order denying their renewed motion for attorney fees. The Abernathys and additional appellant Grating Fabricators, Inc. also appeal from the trial court's denials of their motions to dismiss under either CR 12(b)(6) or CR 41(b). As the Abernathys' renewed motion for attorney fees was correctly denied as procedurally improper and the appeal is untimely as to all other issues, we affirm the judgment.

I

Grating Fabricators was formed by Rhonda and Larry Abernathy[1] and incorporated in 1993. The Secretary of State's office administratively dissolved

[1] We use the Abernathys' first names when referring to them in their individual capacity. No disrespect is intended.

Grating Fabricators on September 3, 2019 due to a failure to file a renewal notice. The Abernathys claimed that they were unaware of the dissolution until the following year.

On December 3, 2019, Grating Fabricators submitted an application for commercial credit to Seaport Steel. Rhonda signed the application as president of Grating Fabricators. Grating Fabricators was reinstated as a corporation on December 8, 2020.

On October 14, 2020, Alaska Cascade Financial Services (Alaska Cascade), successor in interest to Seaport Steel, filed a complaint against the Abernathys "d/b/a Grating Fabricators." Grating Fabricators was later added as a separate defendant due to its corporate reinstatement.

The Abernathys filed a CR 12(b)(6) motion to dismiss all claims against them in their individual capacity. On March 19, 2021, the trial court denied the motion on the basis that Alaska Cascade could hypothetically prove that the Abernathys knew of the corporate dissolution and could thus be individually liable.

On October 4, 2021, the defendants collectively filed a motion to dismiss pursuant to CR 41(b) claiming a failure to prosecute and a failure to comply with the scheduling order. The trial court denied the motion on October 15, 2021 and continued the trial date.

On December 16, 2021, the Abernathys filed a motion for partial summary judgment requesting that the trial court dismiss them from the suit and award them attorney fees. On January 18, 2022, the trial court granted the motion for

summary judgment, dismissing all claims against the Abernathys with prejudice. However, the court denied the request for attorney fees, as the Abernathys had not identified a basis for a fee award. The Abernathys subsequently filed a motion for attorney fees, identifying both the contract with Seaport Steel and RCW 4.84.250 as a basis for an award of fees. On February 4, 2022, the trial court denied the motion, ruling that the Abernathys were not a party to the contract and had not pleaded any damages. The Abernathys filed a motion for reconsideration.

The matter was reassigned from Judge Schubert to Judge Vargas on March 28, 2022. The Abernathys submitted a second motion for reconsideration, no order having been entered on their previous motion. Grating Fabricators[2] also filed a second motion to dismiss pursuant to CR 41(b), on the basis that Alaska Cascade had not complied with the case schedule. The trial court denied Grating Fabricators' motion to dismiss. The trial court also denied the Abernathys' motion for reconsideration, as the prior order had been entered by a different judge.

The Abernathys then filed a renewed motion for attorney fees. A stipulated judgment was entered against Grating Fabricators on June 29, 2022. The trial court denied the Abernathys' renewed motion for attorney fees on July 5, 2022. The Abernathys then filed the same motion and noted it to be heard by

[2] The motion was titled as having been filed by all defendants; however, all claims against the Abernathys had already been dismissed at the time of filing.

the chief civil judge. This motion was denied as not having been noted to the judge assigned to the case.

The appellants filed their notice of appeal on August 3, 2022.

II

Alaska Cascade contends that the only orders this court may review on appeal are the July 2022 orders denying the Abernathys' renewed motions for attorney fees. This is so, Alaska Cascade asserts, because the appeal is untimely as to all other orders. We agree.

Pursuant to RAP 5.2(a), "a notice of appeal must be filed in the trial court within . . . 30 days after the entry of the decision of the trial court that the party filing the notice wants reviewed." RAP 2.4(b) provides, in relevant part:

> A timely notice of appeal of a trial court decision relating to attorney fees and costs does not bring up for review a decision previously entered in the action that is otherwise appealable under rule 2.2(a) unless a timely notice of appeal has been filed to seek review of the previous decision.

Thus, "[a]n appeal from an award of attorney fees does not bring up for review the merits of the underlying . . . decision." Bushong v. Wilsbach, 151 Wn. App. 373, 376, 213 P.3d 42 (2009).

In this matter, the trial court entered two orders that were appealable pursuant to RAP 2.2(a): the order granting summary judgment dismissing all claims against the Abernathys and the stipulated judgment against Grating Fabricators. The former order was entered on January 18, 2022; the latter was entered on June 29, 2022. The appellants did not file a notice of appeal until August 3, 2022. As the notice of appeal was not filed within 30 days of either

final order, the appellants' appeal does not bring the merits of the underlying action up for review in this court. Accordingly, we dismiss the appellants' appeal as it pertains to the denials of their various motions to dismiss.

III

The Abernathys additionally assert that the trial court erred by denying their request for an award of attorney fees. This is so, they contend, because they were entitled to an award of fees both pursuant to RCW 4.84.250 and pursuant to the terms of the contract between Grating Fabricators and Seaport Steel. However, the only timely appealed order denying the Abernathys' request for fees was the one entered on July 5, 2022.[3] That order denied the Abernathys' renewed motion for attorney fees as being procedurally improper. We agree that the motion was indeed procedurally improper pursuant to the local court rules and accordingly hold that the trial court did not err.

As we have previously held,

> [w]here the issue is the interpretation of a local rule by the trial court, that court is the best exponent of its own rules, and their use will not be disturbed by an appellate court unless the construction placed thereon is clearly wrong or an injustice has been done.

Snyder v. State, 19 Wn. App. 631, 637, 577 P.2d 160 (1978). Judge Vargas first denied the Abernathys' renewed request for attorney fees as not having been properly brought pursuant to King County Local Civil Rule (KCLCR) 7(7). KCLCR 7(7) states:

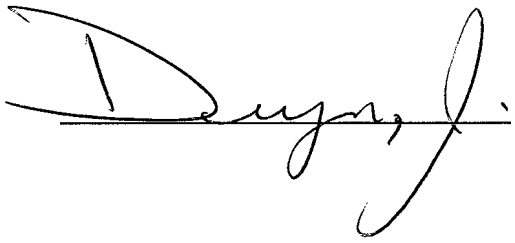
[3] The order entered on August 1, 2022 by the chief civil judge was not designated in the notice of appeal. Time has long passed for an appeal to be taken from that order.

> No party shall remake the same motion to a different judge or commissioner without showing by declaration the motion previously made, when and to which judge or commissioner, what the order or decision was, and any new facts or other circumstances that would justify seeking a different ruling from another judge or commissioner.

In the July 5, 2022 order, Judge Vargas determined that the Abernathys' motion did not comply with this rule, as the Abernathys did not submit anything that demonstrated "any new facts or other circumstances that would justify this Court to enter different rulings from those entered by Judge Schubert on January 18, 2022 and February 4, 2022."

Based on the record, we cannot say that the trial court improperly construed the local rule or that any injustice has occurred. The Abernathys had a remedy in filing a timely appeal of the orders entered on January 18, 2022 and February 4, 2022. Their decision not to do so does not amount to an injustice. We thus hold that the trial court did not err by denying the Abernathys' motion as being procedurally improper.

Affirmed.



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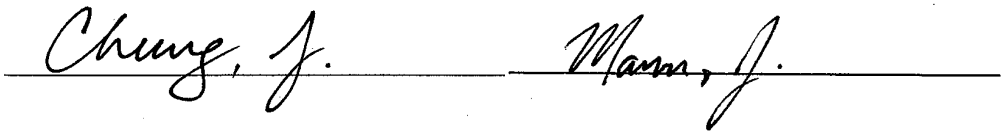


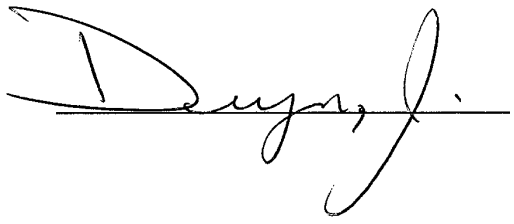
IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

ALASKA CASCADE FINANCIAL SERVICES, INC., Respondent, v. GRATING FABRICATORS, INC., a Washington Corporation that was administratively dissolved on September 3, 2019 and reinstated on December 20, 2020; and RHONDA R. ABERNATHY and LARRY W. ABERNATHY, husband and wife, Appellants.	DIVISION ONE No. 84350-8-I ORDER DENYING MOTION FOR RECONSIDERATION

The appellants having filed a motion for reconsideration herein, and a majority of the panel having determined that the motion should be denied; now, therefore, it is hereby

ORDERED that the motion for reconsideration is hereby denied.

FOR THE COURT:



Statutes

RCW 4.12.050

Notice of disqualification.

(1) Any party to or any attorney appearing in any action or proceeding in a superior court may disqualify a judge from hearing the matter, subject to these limitations:

(a) Notice of disqualification must be filed and called to the attention of the judge before the judge has made any discretionary ruling in the case.

(b) In counties with only one resident judge, the notice of disqualification must be filed not later than the day on which the case is called to be set for trial.

(c) A judge who has been disqualified under this section may decide such issues as the parties agree in writing or on the record in open court.

(d) No party or attorney is permitted to disqualify more than one judge in any matter under this section and RCW 4.12.040.

(2) Even though they may involve discretion, the following actions by a judge do not cause the loss of the right to file a notice of disqualification against that judge: Arranging the calendar, setting a date for a hearing or trial, ruling on an agreed continuance, issuing an arrest warrant, presiding over criminal preliminary proceedings under CrR 3.2.1, arraigning the accused, fixing bail, and presiding over juvenile detention and release hearings under JuCR 7.3 and 7.4.

(3) This section does not apply to water right adjudications filed under chapter 90.03 or 90.44 RCW. Disqualification of judges in water right adjudications is governed by RCW 90.03.620.

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