

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

ICT LAW AND TECHNOLOGY  
GROUP, PLLC AND DALE COOK,

Petitioners,

vs.

JAMES NAMIKI,

Respondent.

(Ct. of Appeals No. 76594-9-I)

Case No. 94969-7

RESPONDENT JAMES  
NAMIKI'S ANSWER  
PETITION FOR REVIEW

Petitioners ask the Washington Supreme Court to accept review of an appellate court order dismissing the appeal because Petitioners failed to comply with the appellate court's orders. This petition for review should be denied.

On June 14, 2017, after final judgment was issued in the trial court, Petitioners appealed various orders by the trial court (Ct. of Appeals # 76594-9-I). Petitioners failed to provide a designation of clerk's papers and statement of arrangements in accordance with the appellate rules. *See* RAP 9.2. Accordingly, on August 9, 2017, the Washington Court of Appeals ordered that Petitioners submit a "designation of clerk's papers and statement of arrangements within 10 days of the date of this order."

Appendix A. The appellate court also stated that this “appeal shall be dismissed without further notice unless ICT files the designation of clerk's papers and statement of arrangements within 10 days of the date of this order.” *Id.*

In the meantime, the Petitioners asked the Supreme Court to accept review of various appellate court orders in this appeal. Accordingly, on September 28, 2017, the appellate court stated that the “August 9, 2017 order is amended to provide that if the Supreme Court does not grant review, appellants shall have ten days to file the statement of arrangements and designation of clerk’s papers following the Supreme Court’s final denial of further relief in this matter.” Appendix B.

On March 7, 2018, the Washington Supreme Court denied review and denied further relief in the matter. Appendix C. After ten days from the Supreme Court’s order had elapsed, Petitioners still had not filed a designation of clerk’s papers or statement of arrangements as required by the appellate court’s previous orders. Accordingly, on March 20, 2018, the Washington Appellate Court dismissed the appeal for failure to comply with the appellate court’s deadlines. Appendix D.

Petitioners now have petitioned for review the March 20, 2018 appellate court order dismissing this appeal for failure by Petitioners to abide by the appellate court’s orders and deadlines. Accordingly, the only

issue before this Court is whether the order dismissing the appeal for failure to abide by the appellate court deadline for filing its designation of clerk's papers and statement of arrangements satisfies any of the elements of RAP 13.4(b).

The March 20, 2018 appellate court's order dismissing the appeal for failure to abide by the appellate court's deadlines are neither in conflict with any decision of the Washington Supreme Court nor any published decision of the Court of Appeals. RAP 13.4(a), (b). Also, the order dismissing the appeal for failure to file a designation of clerk's papers or statement of arrangements does not involve any question (much less a "significant" question) involving the Constitution of the United States or of Washington, and the petition involves the issue of dismissing an appeal for refusing to abide by the appellate court's deadlines, an issue that is not of substantial public interest that should be determined by the Washington Supreme Court. RAP 13.4(c), (d).

Accordingly, Petitioners have failed to show how this petition meets any of the requirements of RAP 13.4(b). Accordingly, Respondent respectfully asks this Court to deny the petition.

Dated this 23rd day of April, 2018.

HKM Employment Attorneys LLP

s/ Daniel Kalish

Dan Kalish, WSBA No. 35815  
600 Stewart Street, Suite 901  
Seattle, WA 98101  
(206) 838-2504

Attorneys for Respondent Janes Namiki

CERTIFICATE OF SERVICE BY MAIL

I certify that on April 23, 2018, I caused to be filed a copy of the foregoing, which caused the ecf system to provided copies to the following counsel of record at the address listed below:

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*Attorneys for Dale R. Cook*

Dated this 23rd day of April, 2018, at Seattle, Washington.

s/Lara Flores  
Lara Flores

# **Appendix A**

THE COURT OF APPEALS OF THE STATE OF WASHINGTON  
DIVISION ONE

JAMES NAMIKI,	)	
	)	No. 76594-9-I
Respondent,	)	
	)	ORDER DENYING
v.	)	MOTION TO MODIFY
	)	
ICT LAW AND TECHNOLOGY	)	
GROUP, PLLC, AND DALE R. COOK,	)	
	)	
Petitioners.	)	

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ICT Law and Technology Group, PLLC, and Dale R. Cook (ICT) have moved to modify the commissioner's June 15, 2017 ruling denying a new case number, denying a stay, and determining that ICT's prior motions to modify are moot. We have considered the motion under RAP 17.7 and have determined that it should be denied. ICT's motions to change interlocutory decision, to disqualify Commissioner Kanazawa, and to file amendments and corrections are also denied. To the extent that any of ICT's remaining filings can be construed as motions, they are denied.

ICT's allegations that the commissioner and this court have "terminated" their appellate rights are meritless and appear to rest on a misunderstanding of the scope of review. ICT has not demonstrated how an appeal from the final judgment precludes review of the challenged pre-judgment orders. See, e.g., RAP 2.4.

ICT has failed to file the statement of arrangements and designation of clerk's papers as directed in the perfection schedule. This appeal shall be dismissed without further notice unless ICT files the designation of clerk's papers and statement of

No. 76594-9-1/2

arrangements within 10 days of the date of this order. No further extensions of time will be permitted.

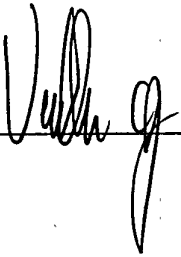
Now, therefore, it is hereby

ORDERED that the motion to modify the commissioner's June 15, 2017 ruling is denied. It is further

ORDERED that all of ICT's remaining motions are denied. It is further

ORDERED that this appeal shall be dismissed without further notice unless ICT files the designation of clerk's papers and statement of arrangements within 10 days of the date of this order.

Done this 9<sup>th</sup> day of August, 2017.

  
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Trickey, J  
Cox, J.

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STATE OF WASHINGTON  
2017 AUG -9 PM 1:52



# **Appendix B**

THE COURT OF APPEALS OF THE STATE OF WASHINGTON  
DIVISION ONE

JAMES NAMIKI,	)	
	)	No. 76594-9-I
Respondent,	)	
	)	ORDER
v.	)	
	)	
ICT LAW AND TECHNOLOGY	)	
GROUP, PLLC, AND DALE R. COOK,	)	
	)	
Appellants.	)	

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By order entered August 9, 2017, this court denied appellants' motion to modify and other pending motions, including a motion to disqualify Commissioner Kanazawa. The order also directed appellants to file the statement of arrangements and designation of clerk's papers within 10 days.

Appellants are now seeking review of the August 9 order in the Supreme Court. See 94969-7. Accordingly, the August 9 order is amended to provide that if the Supreme Court does not grant review, appellants shall file the statement of arrangements and designation of clerk's papers not later than 10 days after the Supreme Court enters a final order denying relief in this matter. A failure to comply with this deadline may result in monetary sanctions or dismissal of the appeal without further notice.

Since entry of the August 9 order, appellants have also filed the following matters under this cause number:

(1) "2nd-Amended-Version of 20-Mar-2017 NOTICE OF APPEAL," filed August 17, and August 21, 2017;

(2) 1st Amended MOTION TO DISQUALIFY COMMISSIONER, FILED August 18, 2017;

(3) "2nd Amended MOTION TO DISQUALIFY COMMISSIONER," filed August 21, 2017;

(4) "3d Amended MOTION TO DISQUALIFY COMMISSIONER," filed August 21, 2017; and

(5) "Motion for Status as to which Appellate Matter is Being Terminated without Notice Today," filed August 21, 2017.

Because the "2nd-amended-version" of the notice of appeal purports to duplicate documents already in the appellate record, it will be placed in the file without further action.

In the August 9, 2019 order, this court denied appellants' motion to disqualify Commissioner Kanazawa. Appellants have identified no coherent basis for repeatedly refiling essentially the same motion. The first, second, and third amended motions to disqualify are denied.

In light of our amendment of the August 9, 2017 order, the Motion for Status is denied as moot.

Before filing any future matters in this court, appellants are directed to review the provisions of the Rules of Appellate Procedure specifying the format of motions, including line spacing, margins, and fonts. See e.g., RAP 17.4(g), 10.4(a). In addition, any future attempts to amend or replace documents already in this court's record must be accompanied by a motion seeking permission to amend or replace, identifying all changes, and explaining the reason for the changes.

Future filings that fail to comply with these requirements will be rejected.

Now, therefore, it is hereby

ORDERED that the August 9, 2017 order is amended to provide that if the Supreme Court does not grant review, appellants shall have 10 days to file the statement of arrangements and designation of clerk's papers following the Supreme Court's final denial of further relief in this matter; it is further

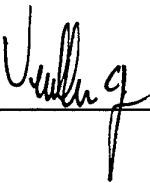
ORDERED that the second amended notice of appeal is placed in the file without action; it is further

ORDERED that the motion for status is denied; it is further

ORDERED that the first, second, and third amended motions to disqualify are denied; it is further

ORDERED that future filings that fail to comply with the Rules of Appellate Procedure or fail to seek permission to file amended or substituted documents will be rejected.

Done this 28~~th~~ day of September, 2017.



Trickey, J  
COX, J.

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COURT OF APPEALS DIV 1  
STATE OF WASHINGTON  
2017 SEP 28 PM 4:11

# **Appendix C**

FILED  
SUPREME COURT  
STATE OF WASHINGTON  
3/7/2018  
BY SUSAN L. CARLSON  
CLERK

## THE SUPREME COURT OF WASHINGTON

JAMES NAMIKI,	)	No. 94969-7
	)	
Respondent,	)	<b>ORDER</b>
	)	
v.	)	Court of Appeals
	)	No. 76594-9-I
ICT LAW AND TECHNOLOGY GROUP,	)	
PLLC, et al.,	)	
	)	
Petitioners.	)	
	)	
	)	
	)	

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Department I of the Court, composed of Chief Justice Fairhurst and Justices Johnson, Owens, Wiggins, and Gordon McCloud, considered this matter at its March 6, 2018, Motion Calendar and unanimously agreed that the following order be entered.

IT IS ORDERED:

That the Petitioners' motion to modify the Commissioner's ruling is denied.

DATED at Olympia, Washington, this 7th day of March, 2018.

For the Court

  
\_\_\_\_\_  
CHIEF JUSTICE

# **Appendix D**

THE COURT OF APPEALS OF THE STATE OF WASHINGTON  
DIVISION ONE

JAMES NAMIKI, )  
 )  
 Respondent, ) No. 76594-9-1  
 )  
 v. ) ORDER  
 )  
 ICT LAW AND TECHNOLOGY )  
 GROUP, PLLC, AND DALE R. COOK, )  
 )  
 Appellants. )

By order entered September 28, 2017, this court directed the appellants to file the statement of arrangements and designation of clerk's papers not later than 10 days after the Supreme Court entered a final order denying further review in No. 94969-7. This court's order provided that the failure to comply with the deadline could result in the imposition of sanctions or dismissal without further notice. The Supreme Court denied appellants' motion to modify on March 7, 2018.

Appellants have failed to comply with the deadline. We have considered the matter and have determined that in accordance with this court's September 28, 2017 order, the appeal should be dismissed.

Now, therefore, it is hereby

ORDERED that the appeal is dismissed.

Done this 20th day of March, 2018.

Trickey, J

Vedha J  
Cox, J.

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COURT OF APPEALS DIV 1  
STATE OF WASHINGTON  
2018 MAR 20 AM 11:43



**HKM EMPLOYMENT ATTORNEYS LLP**

**April 23, 2018 - 7:41 AM**

**Transmittal Information**

**Filed with Court:** Supreme Court  
**Appellate Court Case Number:** 94969-7  
**Appellate Court Case Title:** James Namiki v. ICT Law and Technology Group, PLLC, et al  
**Superior Court Case Number:** 16-2-01372-4

**The following documents have been uploaded:**

- 949697\_Answer\_Reply\_20180423073835SC029658\_4676.pdf  
This File Contains:  
Answer/Reply - Answer to Petition for Review  
*The Original File Name was Final Petition - Opposition for Supreme Court Review 2018.04.23.pdf*

**A copy of the uploaded files will be sent to:**

- brian@grandviewpatents.com
- brianjohnson@ictlawtech.net
- dalecook@ictlawtech.net
- ictlaw\_sarahmoore@ictlawtech.net

**Comments:**

Respondent James Namiki's Answer to Petition for Review

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Sender Name: Dan Kalish - Email: dkalish@hkm.com

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