

FILED  
Court of Appeals  
Division III  
State of Washington  
4/26/2023 11:17 AM

FILED  
SUPREME COURT  
STATE OF WASHINGTON  
4/26/2023  
BY ERIN L. LENNON  
CLERK

No. 101822-3  
Court of Appeals, Div. III No. 38234-6-III

IN THE SUPREME COURT  
OF THE STATE OF WASHINGTON

---

IRWIN LAW FIRM, INC. a Washington State Legal Entity,  
and JAMES F. IRWIN and CHRISTAL OLIVIA IRWIN, J.D.

*Appellants,*

v.

COUNTY OF FERRY, NATHAN DAVIS, MICHAEL  
BLANKENSHIP, and JOHNNA EXNER, Commissioners,  
BURKE, KATHRYN ISABEL, Ferry County Prosecuting  
Attorney, personally and in her official capacity,

*Respondents.*

---

**RESPONDENTS COUNTY OF FERRY, NATHAN  
DAVIS, MICHAEL BLANKENSHIP, and JOHNNA  
EXNER'S ANSWERING BRIEF**

---

Michael E. McFarland, Jr., #23000  
Scott A. Flage, #43183  
818 W. Riverside Ave., Ste. 250  
Spokane, WA 99201  
(509) 455-5200  
Attorneys for Respondents Ferry County,  
Nathan Davis, Michael Blankenship, and  
Johnna Exner

**TABLE OF CONTENTS**

I. INTRODUCTION AND IDENTITY OF  
RESPONDENTS.....1

II. COUNTERSTATEMENT OF THE CASE ..... 1

III. ARGUMENT ..... 2

IV. CONCLUSION ..... 4

**TABLE OF AUTHORITIES**

*Am. Legion Post No. 32 v. City of Walla Walla*,  
116 Wn.2d 1, 802 P.2d 784 (1991) ..... 3

*Cowiche Canyon Conservancy v. Bosley*,  
118 Wn.2d 801, 828 P.2d 549 (1992) ..... 3

RAP 13.4(b) ..... 2, 4

RAP 10.3(a)(6) ..... 3

*Smith v. King*,  
106 Wn.2d 443, 722 P.2d 796 (1986) ..... 3

**I. INTRODUCTION AND IDENTITY OF RESPONDENTS**

Respondents Ferry County, Nathan Davis, Michael Blankenship, and Johnna Exner respectfully request this Court deny the petition for review. There is no basis, much less one identified, for the Court to grant review.

**II. COUNTERSTATEMENT OF THE CASE**

Petitioner James Irwin (“Mr. Irwin”) abandoned a personal services contract for indigent defense between Ferry County and Mr. Irwin. After Mr. Irwin’s abandonment of the contract, Christal Olivia Irwin (“Ms. Irwin”) attempted to provide such indigent defense services under the auspices of the Irwin Law Firm. Ferry County refused noting among other prohibitions, the express anti-assignment clause in the personal services contract.

Petitioners filed suit against Respondents alleging various causes of action such as breach of contract, violation of the Open Public Meetings Act, unlawful interference with a public defense

contract, violation of municipal contract law, employment discrimination, and emotional distress. During the trial court proceedings, Petitioners routinely failed to adhere to the Civil Rules and were given multiple opportunities to correct the deficiencies in Petitioners' filings. Petitioners refused and eventually the Petitioners' causes of action were dismissed with prejudice and fees and costs were awarded pursuant to CR 11 and RCW 4.84.185.

Petitioners' appealed to Division III of the Court of Appeals which affirmed the trial court and granted Ferry County's request for appellate fees and costs. Petitioners now seek reconsideration by failing to address any factor in RAP 13.4(b). Rather, Petitioners claim the lower court decisions were influenced by bias.

### **III. ARGUMENT**

Petitioners claim they are entitled to review under each consideration listed in RAP 13.4(b), however, Petitioners make no argument or citation to the record or relevant authority in

support of each claimed basis for review. In other words, Petitioners do not identify any conflicting decisions with this Court, any published decisions of the Court of Appeals, any significant question of law under the United States or Washington constitutions, or any issue of substantial public interest. Failure to do so precludes appellate consideration. RAP 10.3(a)(6); *Am. Legion Post No. 32 v. City of Walla Walla*, 116 Wn.2d 1, 7, 802 P.2d 784 (1991) (“In the absence of argument and citation to authority, an issue raised on appeal will not be considered.”); *Smith v. King*, 106 Wn.2d 443, 451-52, 722 P.2d 796 (1986) (noting that when the issue presented for review is neither stated nor argued, nor is a legal authority cited, the claimed errors are waived); *Cowiche Canyon Conservancy v. Bosley*, 118 Wn.2d 801, 809, 828 P.2d 549 (1992) (holding that any issue argued but not supported by any reference to the record nor any citation of authority need not be considered).

Petitioners simply argue the lower court decisions were somehow biased, however in doing so, Petitioners fail to address

any of the RAP 13.4(b) factors. Petitioners failed to adhere to the Civil Rules in the lower court and were given multiple opportunities to “cure” their deficiencies, but refused to do so. Such failure to abide by the Civil Rules does not demonstrate any of the necessary factors in RAP 13.4(b).

#### IV. CONCLUSION

Petitioners do not establish much less address any of the factors present in RAP 13.4(b) which allow review by this Court. As such, the Court should decline review.

I, Scott A. Flage, certify this Brief contains 894 words in compliance with RAP 18.17(b).

DATED this 26 day of April, 2023.

EVANS, CRAVEN, & LACKIE, P.S.

By   
MICHAEL E. MCFARLAND, JR., #23000  
SCOTT A. FLAGE, #43183  
Attorneys for Ferry County

**CERTIFICATE OF SERVICE**

The undersigned certifies under penalty of perjury under the laws of the State of Washington, that on the 26<sup>th</sup> of April, 2023, I caused to be delivered to the address below a true and correct copy of *Respondent Ferry County's Answering Brief*:

**Counsel for Appellants**

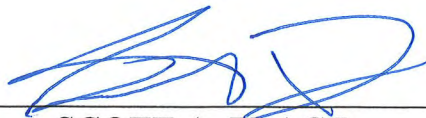
C. Olivia Irwin, J.D.  
1331 E. Ivy Ave.  
Colville, WA 99114  
[jetcityjustice@gmail.com](mailto:jetcityjustice@gmail.com)

Via Regular Mail   
Via Certified Mail   
Via Overnight Mail   
Via Facsimile   
Hand Delivered   
Via Email

**Counsel for Kathryn I Burke**

Colin Folawn  
Molly Henry  
Rosa Ostrom  
Schwabe Williamson & Wyatt  
U.S. Bank Centre  
1420 5<sup>th</sup> Avenue, Suite 3400  
Seattle, WA 98101  
[cfolawn@schwabe.com](mailto:cfolawn@schwabe.com)  
[mhenry@schwabe.com](mailto:mhenry@schwabe.com)  
[rostrom@schwabe.com](mailto:rostrom@schwabe.com)

Via Regular Mail   
Via Certified Mail   
Via Overnight Mail   
Via Facsimile   
Hand Delivered   
Via Email



---

SCOTT A. FLAGE



**EVANS, CRAVEN & LACKIE, P.S.**

**April 26, 2023 - 11:17 AM**

**Transmittal Information**

**Filed with Court:** Court of Appeals Division III  
**Appellate Court Case Number:** 38234-6  
**Appellate Court Case Title:** Irwin Law Firm, Inc., et al v. Ferry County, et al  
**Superior Court Case Number:** 19-2-00380-6

**The following documents have been uploaded:**

- 382346\_Answer\_Reply\_to\_Motion\_20230426111510D3759896\_2693.pdf  
This File Contains:  
Answer/Reply to Motion - Answer  
*The Original File Name was Respondents Answering Brief 4.26.23.pdf*

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

- AppellateAssistants@schwabe.com
- LDAVIS@ECL-LAW.COM
- cfolawn@schwabe.com
- jetcityjustice@gmail.com
- mhenry@schwabe.com
- mmcfarland@ecl-law.com
- rostrom@schwabe.com

**Comments:**

Respondents County of Ferry, Nathan Davis, Michael Blankenship & Johnna Exner's Answering Briefm

---

Sender Name: Scott Flage - Email: sflage@ecl-law.com  
Address:  
818 W RIVERSIDE AVE STE 250  
SPOKANE, WA, 99201-0994  
Phone: 509-455-5200

**Note: The Filing Id is 20230426111510D3759896**