NO. 91391-9

SUPREME COURT OF THE STATE OF WASHINGTON

THE STATE OF WASHINGTON,

Respondent,

v.

LG ELECTRONICS, INC.; KONINKLIJKE PHILIPS ELECTRONICS N.V. A/K/A ROYAL PHILIPS ELECTRONICS N.V.; PHILIPS ELECTRONICS INDUSTRIES (TAIWAN), LTD.; SAMSUNG SDI CO., LTD. F/K/A SAMSUNG DISPLAY DEVICE CO., LTD.; SAMSUNG SDI AMERICA, INC.; SAMSUNG SDI MEXICO S.A. DE C.V.; SAMSUNG SDI BRASIL LTDA.; SHENZHEN SAMSUNG SDI CO., LTD.; TIANJIN SAMSUNG SDI CO., LTD.; SAMSUNG SDI (MALAYSIA) SDN. BHD.; PANASONIC CORPORATION F/K/A MATSUSHITA ELECTRIC INDUSTRIAL CO., LTD.; HITACHI DISPLAYS, LTD. (N/K/A JAPAN DISPLAY INC.); HITACHI ELECTRONIC DEVICES (USA), INC.; HITACHI ASIA, LTD.,

Petitioners.

ANSWER TO PETITION FOR REVIEW

ROBERT W. FERGUSON
Attorney General

DAVID KERWIN
Assistant Attorney General
WSBA No. 35162
800 Fifth Avenue, Suite 2000
Seattle, WA 98104
(206) 464-7030

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I. INTRODUCTION

Defendants participated in a massive criminal conspiracy to fix the prices of cathode ray tubes[1] (CRTs) distributed throughout the United States and purchased in Washington in countless consumer goods, such as televisions and computer monitors. Defendants sold hundreds of millions of price-fixed CRTs for integration into consumer products knowing and intending that they would be sold in Washington.

The Court of Appeals correctly concluded that Defendants had sufficient contacts with Washington to allow a suit against them on behalf of Washington consumers and state agencies who paid inflated prices due to Defendants' conduct. In order to create the appearance of conflict between the Court of Appeals opinion and Washington and federal opinions where none exists, Defendants ignore or downplay key facts that distinguish this case from those they rely on, misconstrue U.S. Supreme Court authority, and overstate the impact of the Court of Appeals opinion. This Court should deny review.

[1] A cathode ray tube (CRT) is a vacuum tube containing one or more electron guns, and a fluorescent screen used to view images. It was long the predominant technology used in televisions and computer monitors and remains in widespread use today.

II. STATEMENT OF THE ISSUES

The criteria for this Court to accept review under RAP 13.4 are not met in this case, and the Court should therefore deny review. If review were accepted, the issues would be:

1. Do manufacturers of a component have sufficient minimum contacts with Washington for purposes of personal jurisdiction where the manufacturers: criminally conspire to fix prices of their components, injure consumers in the forum state because the component is integrated into nearly ubiquitous consumer products, and sold hundreds of millions of their components for integration into consumer goods knowing and intending that the goods would be distributed nationally and in Washington?

2. When considering a CR 12(b)(2) motion prior to discovery, should the trial court treat allegations in the complaint as verities?

3. If applicable, did the trial court err in awarding fees and costs by not applying the proper standard under the Consumer Protection Act as required by *State v. Black*?

III. STATEMENT OF THE CASE

A. The Washington Attorney General's Action

Defendants fixed prices of CRTs in violation of the Consumer Protection Act. RCW 19.86 *et. seq.* This illegal activity caused innumerable Washington residents to suffer damages and harmed the state's economy. The Attorney General filed this lawsuit in response, pursuant to RCW 19.86.030, which makes illegal "[e]very contract, combination, in the form of trust or otherwise, or conspiracy in restraint of

trade or commerce." The suit seeks restitution and injunctive relief on behalf of persons residing in the state pursuant to RCW 19.86.080, damages on behalf of state agencies pursuant to RCW 19.86.090, and civil penalties pursuant to RCW 19.86.140. CP 27-28.

B. Procedural History

After accepting service of process, and prior to any discovery being conducted, Defendants filed motions to dismiss the State's lawsuit for lack of personal jurisdiction. CP 29-208. Defendants attached to their motions several affidavits purporting to show that they had minimal or no actual contact with the state. Because nothing contained in those affidavits countered or refuted the basis upon which the State asserted jurisdiction, they were not contested. The trial court heard argument and granted the motions. CP 616-34.

The Court of Appeals reversed. It found that, as the State alleged, Defendants intentionally and systematically targeted Washington with a large enough volume of products in order to confer jurisdiction. While this ruling was sufficient in itself to support reversal of the trial court, the Court of Appeals also determined that the affidavits presented by Defendants, in the context of a pre-discovery CR 12(b)(2) motion, could not be used to challenge allegations contained in the State's Complaint

that are treated as verities. The litigation below remains stayed during appeal.

IV. REVIEW SHOULD BE DENIED

A. Standard Of Review

This Court will grant review only if one or more of the factors in RAP 13.4(b) are present. Because the Court of Appeals decision is consistent with state law, raises no significant question of constitutional law, and involves no issue of substantial public interest, review should be denied.

B. The Court Of Appeals Decision Is Consistent With Precedent

Defendants claim that the Court of Appeals misinterpreted the case of *J. McIntyre Machinery, Ltd. v. Nicastro*, __ U.S. __, 131 S. Ct. 2780, 180 L. Ed. 2d 765 (2011) to impose a new rule of personal jurisdiction. To the contrary, and as the Court of Appeals explains in good detail, *J. McIntyre* is no more than a continuation of previous case law which the Court of Appeals properly applied.

1. The Court of Appeals Decision is Consistent with Pre-*J. McIntyre* Law

The Court of Appeals relied heavily upon pre-*J. McIntyre* case law to establish that Defendants have purposefully availed themselves in Washington State by releasing hundreds of millions of their CRTs into the stream of commerce with the expectation and intent that a significant

number be incorporated into finished products to be sold in Washington. A non-resident manufacturer purposefully avails itself of a forum state where it delivers its products into the stream of commerce with the *expectation* that they will be purchased by consumers in the forum state. *World-Wide Volkswagen Corp. v. Woodson*, 444 U.S. 286, 297-98, 100 S. Ct. 559, 62 L. Ed. 2d 490 (1980); *Grange Ins. Ass'n v. State*, 110 Wn.2d 752, 761-62, 757 P.2d 933 (1988) (stating, "[t]his court has decided that purposeful minimum contacts are established when an out-of-state manufacturer places its products in the stream of interstate commerce . . . ."). This is a fundamental concept relied upon by the Court of Appeals. Op. at 17.

This rule does not authorize jurisdiction where the sale of a product is merely an isolated occurrence. Rather, if the sale "arises from the efforts of the manufacturer or distributor to serve directly or indirectly, the market for its products in other States, it is not unreasonable to subject it to suit in one of those States if its allegedly defective merchandise has there been the source of injury to its owner or to others." *World-Wide Volkswagen*, 444 U.S. at 297-98. This standard rests not on the mere foreseeability that a product may find its way into the forum state. Rather, it is whether a defendant's conduct and connection with the forum state are such that they should reasonably anticipate being haled into court there. *Id.* at 297. The Court of Appeals correctly recognized that this

standard is satisfied here; price-fixed CRTs made their way into Washington not through "unpredictable currents or eddies, but [through] the regular and anticipated flow of products from manufacturer to distribution to retail sale." *Asahi Metal Indus. Co., Ltd. v. Superior Court of California, Solano Cy.*, 480 U.S. 102, 117, 107 S. Ct. 1026, 94 L. Ed. 2d 92 (1987) (Brennan, J., concurring in part).

World-Wide Volkswagen clarified that mere foreseeability that a product may find its way into a forum is insufficient for the exercise of personal jurisdiction. 444 U.S. at 297. That holding is too easily taken out of the context of that case to suggest that no matter how many products are released into the stream of commerce, and no matter how predictable and intentional it is that those products will reach a certain state, that as long as a middleman is utilized the defendant is immune from personal jurisdiction. This reading does a disservice to *World-Wide Volkswagen* and is not supported by case law.

World-Wide Volkswagen implicitly recognizes that the scope of a foreseeable market is necessarily broader "with respect to manufacturers and primary distributors of products who are at the start of a distribution system . . . who . . . derive economic benefit from a wider market . . . [and that] [s]uch manufacturers and distributors purposely conduct their activities to make their product available for purchase in as many forums

as possible." *Nelson by Carson v. Park Indus., Inc.*, 717 F.2d 1120, 1125-26 (7th Cir. 1983) (citing *World-Wide Volkswagen*, 444 U.S. at 297-98).

Here, Defendants' products did not arrive in this forum through a fortuitous occurrence, or through the unilateral actions of a consumer, or even through foreseeable yet unintended means. Defendants' products arrived as a result of their deliberate attempts and plans to sell their products to as broad a market as possible, including Washington State. Defendants' conduct is precisely the type of conduct that *World-Wide Volkswagen*, and the many courts that have applied its lessons, acknowledge creates a "connection with the forum State . . . such that [they] should reasonably anticipate being haled into court there." *World-Wide Volkswagen*, 444 U.S. at 297.

Defendants argue that the Court of Appeals wrongly abandoned the "something more" requirement. This is not so. The phrase "something more" is invoked in Justice O'Connor's plurality opinion in *Asahi*. 480 U.S. at 108-113. In *Asahi*, a fractured Court offered competing views on whether a Japanese tire valve manufacturer, whose single product was incorporated into a tire sold in California, had engaged in purposeful minimum contacts. Four justices, led by Justice O'Connor, held that purposeful minimum contacts could not be established absent a showing of "something more" – additional conduct indicating intent or purpose to

serve the specific forum state (an analysis now known as "stream of commerce plus"). *Id.* at 112. In contrast, four justices reasoned that purposeful minimum contacts were satisfied under *World-Wide Volkswagen* because the manufacturer had placed its good into the stream of commerce and indirectly benefited from the "regular and anticipated flow of products" into the forum state. *Id.* at 117 (Brennan, J., concurring).

Asahi produced no majority, leaving the stream-of-commerce framework established in *World-Wide Volkswagen* intact. Indeed, the Washington Supreme Court recognized as much in *Grange*, which was decided after *Asahi*. The *Grange* Court was in a unique position to assess the impact of the U.S. Supreme Court's competing stream of commerce opinions on Washington case law. *Grange*, 110 Wn.2d at 761. After acknowledging the disparity between *World-Wide Volkswagen* and *Asahi*, *Grange* resolved the questions left unanswered in *Asahi* by stating:

> There seems to be no similar split of authority within this state's courts, at least as far as nonresident manufacturers and retailers are concerned. This court has decided that purposeful minimum contacts are established when an out-of-state manufacturer places its products in the stream of interstate commerce, because under those circumstances it is fair to charge the manufacturer with knowledge that its conduct might have consequences in another state.

Grange, 110 Wn.2d at 761.

2. The Court Of Appeals Properly Applied *J. McIntyre*

The U.S. Supreme Court's most recent decision on stream of commerce is *J. McIntyre*, 131 S. Ct. 2780. In *J. McIntyre*, a foreign manufacturer was sued in New Jersey state court after a worker was injured by one of the defendant's defective metal-shearing machines. At most, four of the manufacturer's machines had been sold into New Jersey, including the defective machine. Justice Kennedy led four justices in holding that a New Jersey court could not exercise jurisdiction under a pure stream of commerce theory. *Id.* at 2790. Justice Breyer concurred, noting that the facts disclosed neither a "'regular . . . flow' or 'regular course' of sales in New Jersey," nor was there "'something more,' such as special state-related design, advertising, [etc]." *Id.* at 2792. (Breyer, J., concurring).[2] Thus, Justice Breyer concluded that jurisdiction was not appropriate under either Justice O'Connor's or Justice Brennan's plurality opinion in *Asahi*, nor under *World-Wide Volkswagen.*

Since *J. McIntyre* did not win a majority, "the holding of the Court may be viewed as that position taken by those Members who concurred in the judgments on the narrowest grounds." *Marks v. United States*, 430 U.S. 188, 193, 97 S. Ct. 990, 51 L. Ed. 2d 260 (1988) (citing *Gregg v.*

[2] Defendants are mistaken when they claim that Justice Breyer adopted the "something more" standard exclusively. As the Court of Appeals noted, Justice Breyer found that jurisdiction required something more ***or*** a regular flow or regular course of sales in the forum state. Op. at 22.

Georgia, 428 U.S. 153, 169 n.15, 96 S. Ct. 2909, 2923, 49 L. Ed. 2d 859 (1976)). Most courts applying the *Marks* rule to *J. McIntyre* have concluded that Justice Breyer's opinion was the judgment that concurred "on the narrowest grounds" and is therefore the controlling opinion. *See, e.g., State v. NV Sumatra Tobacco Trading Co.*, 403 S.W.3d 726, 756 (Tenn. 2013) ("This does strike us as the narrower of the two majority holdings, and, therefore, it is the controlling opinion under Marks.").

The Court of Appeals followed this line of precedent and found Justice Breyer's concurrence and its application of pre-*J. McIntyre* case law to be controlling. After stating that the outcome in *J. McIntyre* should be "determined by [the Supreme Court's] precedents," rather than making a new pronouncement that would "refashion basic jurisdictional rules," Justice Breyer went on to explain that his conclusion was based on the fact that "[n]one of our precedents finds that a single isolated sale, even if accompanied by the kind of sales effort indicated here, is sufficient." *J. McIntyre*, 131 S. Ct. at 2792 (Breyer, J., concurring). As outlined by the Court of Appeals, this case is the very antithesis of such a single-product case.

Defendants claim that the Court of Appeals, in actuality, adopted Justice Brennan's concurrence from *Asahi* as controlling in this matter. That is not true. The Court of Appeals only mentions Justice Brennan's

concurrence once briefly in a footnote. The Court of Appeals was clear: "Consistent with our recent decision in *AU Optronics*, we conclude that Justice Breyer's concurring opinion represents the more narrow ground of decision and is, thus, the Court's holding," (citing *State v. AU Optronics Corp.*, 180 Wn. App. 903, 919, 328 P.3d 919 (2014)). Op. at 18 n.21.

After *J. McIntyre* was decided, courts have continued to uphold personal jurisdiction over foreign manufacturers that have targeted the U.S. market. An example is *Willemsen v. Invacare Corp.*, 352 Or. 191, 282 P.3d 867 (2012), which has now been adopted on multiple occasions by the Court of Appeals. Op. at 22. In *Willemsen*, the Oregon Supreme Court upheld the exercise of personal jurisdiction over a Taiwanese corporation that manufactured component battery chargers used in wheelchairs. The defendant's only contacts with Oregon were that its batteries were incorporated in 1,102 motorized wheelchairs sold in Oregon over a two-year period.

The Oregon Supreme Court held that the exercise of personal jurisdiction was proper. *Willemsen*, 282 P.3d at 877. The defendant argued that it could not have purposefully availed itself of doing business in Oregon because it had simply sold batteries to a third party, and the mere fact it may have expected its component part to end up in Oregon was insufficient to support jurisdiction under *J. McIntyre*. The court rejected

that argument, finding that the defendant's conduct constituted a "'regular . . . flow' or 'regular course' of sales" in Oregon. *Id.* (quoting *J. McIntyre*, 131 S. Ct. at 2792 (Breyer, J., concurring)).

Like the defendant in *Willemsen*, Defendants here sold products over several years to companies that sought to market and sell those products nationally and in Washington. But the extent of Defendants' conduct vastly exceeds the conduct in *Willemsen*. *Cf. Asahi*, 480 U.S. at 122 (Stevens, J., concurring in part and concurring in judgment) ("the volume, the value, and the hazardous character of a good may affect the jurisdictional inquiry."). Defendants sold hundreds of millions of CRTs directly and indirectly through sales channels targeting the United States. Just the State itself purchased a very large number of CRT products, vastly exceeding the 1,102 chargers that supported jurisdiction in *Willemsen*. CP 14. These sales arise precisely from Defendants delivering goods in the stream of commerce with the expectation that they will be purchased by Washington users. *See J. McIntyre*, 131 S. Ct. at 2792 (Breyer, J., concurring) (citing *World-Wide Volkswagen*, 444 U.S. at 297-98). These sales show a regular flow or regular course of sales in Washington.

Not only does the Court of Appeals decision not conflict with precedent, but it adheres closely to factually similar cases. The court relied upon the recent opinion in *AU Optronics*, another analogous price-fixing

case, in finding that, "[a]fter closely examining *J. McIntyre*, we held that the foreign manufacturer's alleged violation of the CPA 'plus a large volume of expected and actual sales established sufficient minimum contacts for a Washington court to exercise specific jurisdiction over it,'" (citing *AU Optronics*, 180 Wn. App. at 924). Op. at 25.

C. The Exercise Of Jurisdiction Does Not Offend Traditional Notions Of Fair Play And Substantial Justice

State law provides a remedy for consumers in this case that does not exist under federal law. The Consumer Protection Act recognizes that Washington's indirect purchasers—the consumers who purchased finished consumer electronics goods containing Defendants' price-fixed products—are entitled to recover their wrongfully-taken funds. However, indirect purchasers in Washington have no private right of action; only the State is authorized to bring this action on behalf of indirect-purchaser consumers. RCW 19.86.080(3); *Blewett v. Abbott Labs.*, 86 Wn. App. 782, 790, 938 P.2d 842 (1997). Thus, without the current enforcement action, consumers in Washington are wholly denied the opportunity to obtain relief for Defendants' violations.

The Court of Appeals correctly determined that the exercise of jurisdiction would not offend traditional notions of fair play and substantial justice. The court found that Washington's exercise of jurisdiction is consistent with due process where, "(1) the large volume of

CRT products that entered Washington constituted a regular flow or regular course of sales, (2) the Attorney General's claims arose from the Companies' contacts with Washington because consumers were injured by paying inflated prices as a result of the Companies' price-fixing, and (3) the concern for otherwise remediless consumers and the danger of insulating foreign manufacturers from the reach of Washington antitrust laws outweigh any inconvenience to the Companies." Op. at 27-28.

It is by virtue of the substantial volume of sales that took place in Washington that the Defendants here purposefully availed themselves of the privilege of conducting activities within Washington. Op. at 29. The presence, in large quantity, of the Defendants' products in Washington demonstrates that their contacts were not random, fortuitous, or attenuated. It points to a systematic effort by the Defendants to avail themselves of the privilege of conducting business in Washington. *Id.*

D. The Court Of Appeals Decision Regarding Affidavits Presents No Issue For Review

The Court of Appeals' analysis of the parties' burdens of proof when arguing a CR 12(b)(2) motion is correct and well-founded, but it is not necessary in itself to support its decision regarding personal jurisdiction. Even if the allegations contained in Defendants' affidavits are taken at face value, they do nothing to undermine the basis of the State's

assertions supporting jurisdiction and do nothing to change the Court of Appeals' minimum contacts analysis.

1. Defendants' Affidavits Contain No Dispositive Evidence

The affidavits presented by Defendants in support of their 12(b)(2) motions cover much ground. However, when compared to the State's Complaint, very few of the assertions are relevant and none refute any of the material allegations the State makes in support of jurisdiction. While the State does allege several instances in which various Defendants did have direct contact with the state, the primary underlying basis for personal jurisdiction is the enormous volume of price-fixed products which Defendants placed into the stream of commerce, all with the intent and knowledge that a large number would reach Washington State consumers and businesses. The Defendants intended for Washington state purchasers to pay an illegally inflated price for products containing their CRTs. Defendants intended to obtain ill-gotten gains from those sales. And they did. As the Court of Appeals found, this well constitutes the minimum contacts necessary to exercise personal jurisdiction. Nothing in Defendants' affidavits alters this analysis.

Defendant argue that, even accepting the Court of Appeals' personal jurisdiction analysis, certain Defendants would still have been dismissed below if facts contained in their affidavits were accepted as true.

This is not so. As to each of the Defendants, the State alleged that they engaged in the price-fixing conspiracy and that they were directly responsible for illegally inflated prices paid in Washington. Defendants' claims that certain parties were simply holding companies or did not actually produce CRTs themselves are, just like their affidavits, irrelevant. Each Defendant was directly responsible for price-fixing and not a single assertion in their affidavits belies that fact.

2. The Court Of Appeals Decision Regarding Affidavits Is Consistent With State Precedent

The Court of Appeals' analysis regarding the weight given to affidavits presented by Defendants in the context of a pre-discovery CR 12(b)(2) motion is well founded in state law. In effect, Defendants would have courts treat a CR 12(b)(2) motion exactly as they would a CR 56 motion for summary judgment. Case law, and the rule itself, make it clear that this is not so.

CR 12 lists seven defenses which may, at the option of a party, be asserted by motion during the early pleading stage of a case. CR 12(b)(2) is the defense relevant to this case: "lack of jurisdiction over the person." CR 12 also specifies a single instance when a motion brought pursuant to one of its seven enumerated defenses can be converted to a motion for summary judgment. Specifically, that is a motion to dismiss for failure of the pleading to state a claim upon which relief can be granted, where

matters outside the pleading are presented to and not excluded by the court. The rule does not apply this same allowance to a CR 12(b)(2) motion. Yet, this is precisely the result which Defendants desire. As the Court of Appeals stated, "whereas CR 12 envisions the possibility that the submission of evidence by one party may cause a CR 12(b)(6) motion to be converted into a CR 56 motion, it does not, by its terms, envision the same for motions brought pursuant to subsection (b)(2)." Op. at 7.

The Court of Appeals simply applied the standard relevant to considering a CR 12(b)(2) motion. "When reviewing a grant of a motion to dismiss for lack of personal jurisdiction, we accept the nonmoving party's factual allegations as true and review the facts and all reasonable inferences drawn from the facts in the light most favorable to the nonmoving party," (citing *Freestone Capital Partners L.P. v. MKA Real Estate Opportunity Fund I, LLC*, 155 Wn. App. 643, 653–54, 230 P.3d 625 (2010); *accord Walden v. Fiore*, __ U.S. __, 134 S. Ct. 1115, 1119 n.2, 188 L. Ed. 2d 12 (2014)). Op. at 8.

The Court of Appeals also addressed unwarranted concerns regarding the proper application of the law: "After a fair opportunity for discovery, a party may, of course, bring a motion to dismiss for want of personal jurisdiction as a CR 56 motion. Similarly, if the facts are in dispute, and if there is not otherwise a right to have a jury determine the

particular facts at issue, CR 12(d) provides for a determinative hearing on the matter prior to trial." Op. at 8 n.12.

Relying upon an exhaustive list of supporting cases, the Court of Appeals put it quite simply: "Even where the trial court has considered matters outside the pleadings on a CR 12(b)(2) motion to dismiss for lack of personal jurisdiction, '[f]or purposes of determining jurisdiction, this court treats the allegations in the complaint as established.'" Op. at 9-10.

The Defendants encourage this Court to look outside of Washington State and instead adopt an interpretation of federal law from any number of jurisdictions. Washington law, however, is clear.

E. The Negative Impacts Defendants Claim Will Follow From The Court Of Appeals Decision Are Unfounded

The Court of Appeals decision is not a change in course. It is simply the application of longstanding law to the realities of modern global markets. Defendants make their argument based upon multiple cases which involved either the serendipitous appearance of very few products in a forum state, or cases which involved real questions about the intent of manufacturers to reach a forum state. This is not one of those cases. The volume of commerce in this case is substantial. And the Defendants intended to serve as broad a market as possible. Defendants express concern for the hapless component manufacturer who sells its product to a third party, not knowing where that other company might

make its final sales. That hypothetical, however, does not describe this case.

Any true public policy concern lies in allowing Defendants to exploit Washington consumers and the Washington economy with abandon, knowing they are safe from all liability if they employ a middleman as they target state consumers. *See AU Optronics Corp.*, 180 Wn. App. at 928. The Court of Appeals decision presents no issue of substantial public interest for the Court to remedy.

F. The Trial Court Failed To Apply The Proper Standard In Awarding Fees And Costs

Although the Court of Appeals did not address the issue because it found that jurisdiction was proper, the Court may also have to address the question of attorneys' fees and costs. The trial court erred in analyzing the issue pursuant to the long-arm statute, RCW 4.28.185(5), instead of the Consumer Protection Act.

The CPA contains its own provisions for the award of attorneys' fees in enforcement actions by the Attorney General. RCW 19.86.080(1). In deciding whether fees are warranted under the CPA, a court must consider a host of factors not found in the long-arm statute. *See State v. Black*, 100 Wn.2d 793, 806, 676 P.2d 963 (1984).

Under principles of statutory interpretation, RCW 19.86.080(1) is a specific statute that supersedes the general provisions of RCW 4.28.185(5)

in this case. *See Residents Opposed to Kittitas Turbines v. State Energy Facility Site Evaluation Council*, 165 Wn.2d 275, 309, 197 P.3d 1153 (2008). While both provisions provide that Defendants may make an application for their fees, the CPA provision is specific to this case. Accordingly, the trial court should have applied the specific provisions of the CPA, not the long-arm statute, in determining whether attorneys' fees and costs could be awarded.

V. CONCLUSION

Defendants have failed to show any conflict with precedent, and have failed to meet the burden for obtaining discretionary review under RAP 13.4(b). The Petition should be denied.

RESPECTFULLY SUBMITTED this 13th day of April, 2015.

ROBERT W. FERGUSON
Attorney General

DAVID KERWIN, WSBA No. 35162
Assistant Attorney General
Antitrust Division
800 Fifth Avenue, Suite 2000
Seattle, WA 98104
Tel: (206) 464-7030
Email: davidk3@atg.wa.gov

CERTIFICATE OF SERVICE

I hereby certify, under penalty of perjury under the laws of the state of Washington, that on this date I caused a true and correct copy of the foregoing Answer to Petition for Review to be served on counsel listed below as follows:

Counsel for Defendants Chunghwa Picture Tubes, Ltd., CPTF Optronics, & Chunghwa Picture Tubes (Malaysia):

Malaika M. Eaton,
meaton@mcnaul.com

Peter M. Vial,
pvial@mcnaul.com

Counsel for Defendants Hitachi Displays, Ltd., Hitachi Displays Ltd (n/k/a Japan Display Inc.), Hitachi Electronic Devices (USA), Inc., & Hitachi Asia, Ltd.:

Molly A. Terwilliger,
mollyt@summitlaw.com

Eliot A. Adelson,
eliot.adelson@kirkland.com

Daniel Markman,
dmarkman@morganlewis.com

Lynn M. Engel,
lynne@summitlaw.com

Counsel for Defendants Koninklijke Philips Electronics N.V. a/k/a royal Philips Electronics N.V. & Philips Electronics North America Corporation:

Charles Malaise,
charles.malaise@bakerbotts.com

Steven A. Reiss,
steven.reiss@bakerbotts.com

John M. Taladay,
john.taladay@bakerbotts.com

Erik Koons
erik.koons@bakerbotts.com

Robert D. Stewart,
stewart@kiplinglawgroup.com

Tiffany B. Gelott
tiffany.gelott@bakerbotts.com

Mark Little
mark.little@bakerbotts.com

Counsel for Defendants LG Electronics, Inc., & LG Electronics U.S.A., Inc.:

Hojoon Hwang,
Hojoon.Hwang@mto.com

Laura Sullivan,
Laura.Sullivan@mto.com

William D. Temko,
William.Temko@mto.com

David C. Lundsgaard,
david.lundsgaard@millernash.com

Counsel for Defendants MT Picture Display Co., LTD, Panasonic Corporation, & Panasonic Corporation of North America:

Adam C. Hemlock,
adam.hemlock@weil.com

David Yohai,
david.yohai@weil.com

Jeffrey L. Kessler,
jkessler@winston.com

Molly M. Donovan,
mmdonovan@winston.com

Aric H. Jarrett,
ahjarrett@stoel.com

Timothy W. Snider,
twsnider@stoel.com

David Yolkut,
david.yolkut@weil.com

Eva W. Cole,
ewcole@winston.com

Counsel for Defendants Samsung SDI Co., Ltd., Samsung SDI America, Inc., Samsung SDI Mexico S.A. de C.V., Samsung SDI Brasil Ltda., Shenzhen Samsung SDI Co., Ltd, Tianjin Samsung SDI Co. Ltd., & Samsung SDI Malaysia Sdn. Bhd.:

John R. Neeleman,
neelemanj@lanepowell.com

Larry S. Gangnes,
gangnesl@lanepowell.com

Counsel for Defendants Toshiba Corporation, & Toshiba America Electronic Components, Inc.:

Dana E. Foster,
defoster@whitecase.com

Bradford J. Axel,
bja@stokeslaw.com

Matthew L. Harrington,
mlh@stokeslaw.com

DATED this 13th day of April, 2015, at Seattle, Washington.

Nerissa Raymond

NERISSA RAYMOND
Paralegal

OFFICE RECEPTIONIST, CLERK

To: Raymond, Nerissa (ATG)
Cc: Kerwin, David (ATG)
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Please find attached the State's Answer to Petition for Review in the above-referenced matter.

Thank you,

Nerissa Raymond
Paralegal | Antitrust Division
Office of the Attorney General
800 Fifth Avenue, Suite 2000
Seattle, WA 98104-3188
206.442.4498