

SUPREME COURT
OF THE STATE OF WASHINGTON

In Re the Estate of:

SASSAN SANAI, MD,

Deceased.

No. 97433-1

MOTION TO STRIKE
REPLY ON PETITION
FOR REVIEW

1. Identity of Moving Party

The respondent Astrid Sanai, personal representative of the Estate of Sassan Sanai, M.D. (“Estate”), asks for the relief designated in part 2.

2. Statement of Relief Sought

Striking of the reply on the petition for review, and sanctions pursuant to RAP 18.9(a).

3. Facts Relevant to Motion

Counsel for the respondent Estate received a pleading denominated a reply to its answer to the petition for review on September 27, 2019. The reply offers a further recitation of the grounds for review originally set forth in Cyrus Sanai’s (“Cyrus”) petition for review in the guise of a response to the Estate’s request for sanctions.

4. Grounds for Relief and Argument

Cyrus’s reply is further evidence of the frivolous nature of his petition for review, and his inability to comply with the Rules of Appellate Procedure. He was not entitled to file a reply under RAP 13.4(d).

RAP 13.4(d) specifically states: “A party may file a reply to an answer only if the answering party seeks review of issues not raised in the petition for review. A reply to an answer should be limited to answering only the new issues raised in the answer.” As noted in the drafters’ comments to 2006 amendments to RAP 13.4(d):

... the amendment limits the scope of a reply to an answer to petition for review. Under the current rule, a party may not file a reply to an answer to a petition for review unless “the answer raises a new issue.” This provision has been subject to abuse petitioning parties who attempt to cast an answering party’s arguments in response to a petition for review as “new issues” in order to reargue issues raised in the petition. The proposed amendment is intended to clarify the rule’s purpose by more clearly prohibiting a reply to an answer that is not strictly limited to responding to an answering party’s request that the Court review an issue that was not raised in the initial petition for review.

Karl Tegland, 3 *Washington Practice* (8th ed.) at 224.

The Estate’s answer did not raise new issues; it did not seek cross-review, raising added issues for this Court to address upon *granting* review. It merely sought sanctions because Cyrus’s petition is more of his same pattern of litigation misconduct designed to increase expense for the Estate. Clearly, Cyrus’s reply is merely a further recitation of the issues he first raised in his petition for review. Cyrus’s reply does not comply with RAP 13.4(d) as it is a general reply on all issues raised in his petition in the guise of responding to the sanctions request. This Court can readily

see through this shoddy tactic.¹

In addition to striking Cyrus's reply, this Court should impose sanctions against him for submitting an improper brief. The Rules of Appellate Procedure make clear that where a party submits an improper brief, the Court may impose sanctions against the party filing the improper brief. In fact, the rule indicates that sanctions "ordinarily" will be imposed when that occurs. RAP 10.7. Similarly, RAP 18.9(a) provides that the Court may impose sanctions against a party that fails to comply with the Rules of Appellate Procedure and the other party sustains harm by the delay or failure to comply with the rules. The motion to strike an improper reply, RAP 13.4(d), is no different than a motion to strike an improper brief. Sanctions are appropriate.

This Estate has been obligated to file this motion to strike Cyrus's improper reply to its answer and incur attorney fees in the process. It anticipates that Cyrus will submit a response to the motion to strike attempting to justify his submission of an improper reply in support of his petition for review. RAP 17.4(e). Thereafter, the Estate will be required to submit a reply in support of their motion to strike. *Id.* All of this would have been *unnecessary* if Cyrus simply had complied with the provisions

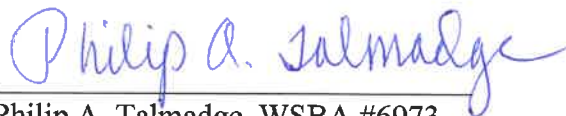
¹ Indeed, Cyrus attempts to elevate his failure to previously argue his bogus constitutional challenge to the statute at issue here into a "concession" that would justify

of the Rules of Appellate Procedure regarding petitions for review. This Court should impose sanctions against Cyrus for his conduct here.

The Estate respectfully requests that the Court strike Cyrus's reply. It fails to comply with provisions of RAP 13.4(d) as to the content of a reply on a petition for review. Sanctions are merited. RAP 18.9(a).

Dated this 1st day October, 2019.

Respectfully submitted,



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further litigation, this time in federal court. Reply at 3-4. Cyrus is living up to his past litigious conduct noted in the Estate's answer at 1 n.1.

Motion to Strike Reply on
Petition for Review - 4

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DECLARATION OF SERVICE

On said day below, I electronically served a true and accurate copy of the *Motion to Strike Reply on Petition for Review* in Supreme Court Case No. 97433-1 to the following:

Cyrus Sanai
433 North Camden Drive #600
Beverly Hills, CA 90210

Original filed with:
Supreme Court
Clerk's Office

I declare under penalty of perjury under the laws of the State of Washington and the United States that the foregoing is true and correct.

DATED: October 1, 2019, at Seattle, Washington.



Sarah Yelle, Legal Assistant
Talmadge/Fitzpatrick

TALMADGE/FITZPATRICK

October 01, 2019 - 11:38 AM

Transmittal Information

Filed with Court: Supreme Court
Appellate Court Case Number: 97433-1
Appellate Court Case Title: In the Matter of the Estate of Sassan Sanai, M.D.
Superior Court Case Number: 17-4-00826-1

The following documents have been uploaded:

- 974331_Motion_20191001113438SC587207_2396.pdf
This File Contains:
Motion 1 - Strike
The Original File Name was Motion to Strike Reply on Petition for Review.pdf

A copy of the uploaded files will be sent to:

- assistant@tal-fitzlaw.com
- cyrus@sanaislaw.com
- matt@tal-fitzlaw.com

Comments:

Motion to Strike Reply on Petition for Review

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