NO. 1033729

SUPREME COURT OF THE STATE OF WASHINGTON

HUONG THI NGUYEN,

Petitioner,

v.

CORPORATION OF CATHOLIC ARCHBISHOP,

Respondent.

CORPORATION OF CATHOLIC ARCHBISHOP'S ANSWER TO PETITION FOR DISCRETIONARY REVIEW

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I. IDENTITY OF RESPONDING PARTY

The Respondent, Corporation of Catholic Archbishop, respectfully requests that the Court deny Ms. Nguyen's "Petition for Discretionary Review" of the Court of Appeals June 18, 2024 Unpublished opinion, *Nguyen v. Corp. of Cath. Archbishop*, No. 58479-4-II, 2024 Wash. App. LEXIS 1234 (Wash. Ct. App. June 18, 2024).

II. COUNTER-STATEMENT OF THE CASE

This case arises under the Industrial Insurance Act, Title 51 RCW. The Petitioner, Ms. Nguyen, filed a workers' compensation claim on or about December 2, 2013 for a November 18, 2013 industrial injury said to have involved her neck. CP at 2489. Ms. Nguyen was found to have sustained a cervical strain under this allowed claim because of her slip and fall while taking out the trash on the date of injury. *See id*. at 190, lines 6-8. On July 22, 2014, the Department of Labor and Industries ("Department") determined that Ms. Nguyen was at maximum medical improvement ("MMI" or "fixed and stable"), and closed her claim with no award for permanent partial disability ("PPD"). *Id*. at 2489. Claim closure was not challenged by Ms. Nguyen. *Id*.

On June 17, 2016, Ms. Nguyen filed an application to reopen her claim, and her claim was reopened by Department order dated September 2, 2016. *Id*. at 2489-90. This claim was again closed on February 17, 2017

with no award for PPD. *Id*. at 2490. Ms. Nguyen protested the February 17, 2017 Department order closing her claim, but on May 18, 2017, the Department issued an order affirming claim closure. *Id*. Ms. Nguyen appealed the May 18, 2017 Department order to the Board of Industrial Insurance Appeals ("Board"), the Board granted the appeal, and that appeal was assigned Docket No. 17 16671. *Id*.

On June 8, 2018, the Board issued a Proposed Decision and Order ("PD&O") under Docket No. 17 16671. *Id*. at 1356-60. The Industrial Appeals Judge ("IAJ") determined that Ms. Nguyen had preexisting neck pain from three prior motor vehicle accidents ("MVAs") that pre-dated this claim, that Ms. Nguyen had no work restrictions related to this claim and was capable of reasonably continuous gainful employment at all relevant times, that her claim-related cervical strain had resolved, and that Ms. Nguyen did not have any PPD proximately caused by the industrial injury. *Id*. at 1358-59. The PD&O affirmed the May 18, 2017 Department order affirming claim closure. *Id*. at 1359, 2939.

Ms. Nguyen was deemed to have timely filed with the Board a "Petition for Review" of the June 8, 2018 PD&O, and on July 20, 2018, the Board issued an Order Denying Petition for Review that adopted the June 8, 2018 PD&O as the Decision and Order of the Board. *Id*. at 1361, 1445. Ms. Nguyen appealed the July 20, 2018 Board Order to Pierce County

Superior Court under Cause No. 18-2-10480-2 (*id*. at 2490), though her appeal was dismissed for failure to timely perfect her appeal. *See*, *e.g.*, *id.* at 190, lines 43-46. Ms. Nguyen did not appeal the Superior Court dismissal, and the May 18, 2017 Department order affirming claim closure thereby became final and binding.

Approximately eight months later, on December 10, 2019, Ms. Nguyen was again deemed to have filed an application to reopen her claim with the Department. *Id*. at 2491; *see also*, *id*. at 2939. Ms. Nguyen's application to reopen her claim was denied by Department order dated December 16, 2019. *Id*. at 2939. Ms. Nguyen protested, and denial of claim reopening was affirmed by the Department on April 1, 2020. *Id*. at 2937. Ms. Nguyen attempted to protest the April 1, 2020 Department order affirming reopening denial, but these documents were forwarded to the Board as a Direct Appeal. *Id*. at 2767; *see also*, *id*. at 2491. The Board accepted Ms. Nguyen's appeal, and this appeal was assigned Docket No. 20 23997. *Id*. at 2623.

On appeal to the Board, Ms. Nguyen presented the testimony of herself and Dr. Alan Vo. *Id*. at 2963-3030. Following the June 2021 hearing, Ms. Nguyen was given more time to secure further expert testimony. *Id*. at 3038. Ms. Nguyen presented further testimony of two physical therapists: Mr. Ross Anderson and Mr. Jacob Buter. *Id*. at 3066-

90. At the close of Ms. Nguyen's case, the Corporation of Catholic Archbishop (the "Archdiocese") moved to dismiss the appeal on the basis that Ms. Nguyen did not present a prima facie case for reversal of the April 1, 2020 Department order affirming denial of claim reopening. *Id*. at 3105-06.

On November 30, 2021, the IAJ issued a PD&O granting the Archdiocese's Motion to Dismiss that was made verbally on the record. *Id.* at 1209-20. On December 3, 2021, the Board received approximately 11 pages of unsigned documents from Ms. Nguyen, which the Board construed as a "Petition for Review" of the PD&O. *Id*. at 1184-96. Further repeated filing of narratives and inadmissible documents by Ms. Nguyen ensued. *See, e.g.*, *id*. at 1180-81. On December 14, 2021, the Board issued an Order Granting Petition for Review. *Id*. at 1179.

On December 21, 2021, after the drafting of the Self-Insured Employer's Response to Ms. Nguyen's "Petition for Review," the Archdiocese received approximately 194 pages of additional documents from Ms. Nguyen that appear to have been filed with the Board. *See id*. at 983-1177. On December 27, 2021, the Archdiocese filed its Response to Ms. Nguyen's "Petition for Review" *and* her subsequent 194-page filing. *Id*. at 946-63.

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On December 29, 2021, the Archdiocese received a Board Letter stating that Ms. Nguyen's "letters, dated December 3, 2021 and December 8, 2021" were going to be treated by the Board "as a combined request to extend your briefing deadline for your Petition for Review." *See id*. at 637. On January 4, 2022, the Archdiocese received approximately 59 more pages of documents filed by Ms. Nguyen. The Archdiocese drafted its First Amended Response to Ms. Nguyen's Petition for Review, which was filed on January 12, 2022. *Id*. at 434-51.

On April 28, 2022, the Board issued its Decision and Order ("D&O") that affirmed the PD&O's dismissal of Ms. Nguyen's appeal, and affirmed the Department's denial of claim reopening. *Id*. at 190-96. On or about May 19, 2022, Ms. Nguyen filed an appeal with Pierce County Superior Court, apparently seeking reversal of the April 28, 2022 Board D&O. *Id*. at 2-4.

On March 1, 2023, the Archdiocese (defendant/respondent below) filed a Motion to Dismiss Ms. Nguyen's superior court appeal, alleging that Ms. Nguyen failed to timely perfect her appeal to superior court. *Id*. at 3367-74. Ms. Nguyen declined to file response briefing opposing the Archdiocese' Motion to Dismiss. 6/9/23 VRP at 6-13. On June 9, 2023, Pierce County Superior Court issued an Order Granting Self-Insured Employer's Motion to Dismiss. CP at 3399-3400. On July 10, 2023, Ms.

Nguyen filed an appeal to the Court of Appeals of the June 23, 2023 order granting the Archdiocese's Motion to Dismiss. *Id*. at 3401-05.

Also on March 1, 2023, the Archdiocese filed a Motion for Summary Judgment alleging that Ms. Nguyen lacked sufficient evidence to make a prima facie case for the reversal of the Board's D&O, and alleging that Ms. Nguyen's Petition for Review with the Board waived all material issues before the trial court. *Id*. at 3351-65. On June 23, 2023, Pierce County Superior Court also issued an Order Granting Respondent's Motion for Summary Judgment. *Id*. at 3397-98.

Ms. Nguyen's Notice of Appeal to Division II was filed with a copy of the Order Granting Self-Insured Employer's Motion to Dismiss. *Id*. at 3403-04. Ms. Nguyen's appeal to Division II did not attach a copy of the superior court order granting summary judgment, did not reference the superior court's grant of summary judgment, nor did it in any way invoke any argument that she alleged to have made a prima facie case for relief in any tribunal below. *But see Nguyen*, No. 58479-4-II at 2-3 (Division II finding that it had jurisdiction to consider the superior court's Order granting the Archdiocese's Motion for Summary Judgment).

On June 18, 2024, Division II filed its opinion affirming the June 23, 2023 Pierce County Superior Court Order Granting the Archdiocese's Motion to Dismiss. Then, on July 15, 2024, Division II issued its Order

Denying Motion for Reconsideration by Ms. Nguyen. On or about July 18, 2024, the Archdiocese received a document from Ms. Nguyen dated July 17, 2024 entitled "The Motion for Help the Justice The Response to the Order Denying Motion for Reconsideration in July 15, 2024" addressed to Division II.

On August 14, 2024, Ms. Nguyen filed 226 pages of documents with this Court. The first six pages of this document packet features a cover page of "items following"; another three pages entitled "III - Relevant Facts to Prove That They Failed But are Unable to Prevail"; the next page entitled "IV - Fact of the Case"; and a final page entitled "V – Conclusion," which beseeches this Court to "have a trial with the real evidence I have filed." Page 7 of the document packet PDF is a form with Ms. Nguyen's Division II case number, entitled "Motion to Modify Ruling {Order from Court Division II ON July 15, 2024}" [*sic*]. Below this document title is blue font type that reads: "Treated as a Petition for Review." The remaining pages of this document packet include seven pages of text (presumably in Vietnamese), a "certifycate of servieve" [sic] dated August 14, 2024, followed by 210 pages of various documents.

The Archdiocese's present Answer to Ms. Nguyen's Petition for Discretionary Review hereby follows.

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III. ARGUMENT

Petitioner Nguyen's 226-page "petition" for discretionary review to this Court should be rejected for three broad reasons. First, Nguyen's petition documents fail to plead any colorable basis for review under RAP 13.4(b). Second, the Court of Appeals' decision below was correct, and even if not, any such error would be harmless. Third, sanctions upon Petitioner are warranted on numerous grounds, including terms and dismissal of her petition to the Court. These arguments will be addressed in turn.

A. Petitioner Nguyen's "Petition" Documents Fail to Plead Any Colorable Basis for Review Under RAP 13.4(b).

Nguyen's 226 pages of petition documents fail to plead any colorable basis for review being granted pursuant to RAP 13.4(b). RAP 13.4(b) explains that the Supreme Court will accept a petition for review "only" under four circumstances: if the Court of Appeals' decision conflicts with a prior decision of the Supreme Court, if the Court of Appeals' decision conflicts with a published decision of the Court of Appeals, if the petition involves "a significant question of law" under the Washington State or United States Constitution, or if the petition "involves an issue of substantial public interest that should be determined by the Supreme Court." Nguyen pleads none of these justifications for review.

Ms. Nguyen's petition documents cite to no published appellate cases from the State of Washington, nor federal cases. To the best discernment of Respondent's counsel, Petitioner's filings also do not explicitly or implicitly raise any challenge to the Court of Appeals' decision below comporting with established legal precedent. As such, Petitioner has failed to plead any basis for review under RAP 13.4(b)(1)-(2).

Petitioner's filings also fail to raise any "significant question of law" under the State or Federal Constitutions that could conceivably be supported by the record. Petitioner appears to argue, for instance, that the Archdiocese somehow admitted liability by making a settlement offer during the mediation phase of litigation before the Board of Industrial Insurance Appeals. *See*, *e.g.*, Petition at 2, 3, 5, 78, 83, 222. As has been repeatedly emphasized to Petitioner in litigation and appeals below, ER 408 prohibits "Evidence of conduct or statements made in compromise negotiations," and her repeated allegations thereof are improper. If the Archdiocese's alleged offers of settlement (and her own attorney's recommendations to settle) were admissible and tended to prove anything, it would show profound graciousness on behalf of the Archdiocese given Ms. Nguyen's *failure to make a prima facie case in the first instance*. In no universe could any of the settlement discussions below create implicit or explicit admissions or stipulations of liability (even if such things were admissible and properly

supported evidentiarily), let alone error by the Court of Appeals of a constitutional magnitude when they affirmed the superior court's dismissal of her case for failure to timely perfect her superior court appeal.

Perhaps more salient to the actual issue on appeal (whether Petitioner timely perfected her superior court appeal), Petitioner asserts that "I did pay the fees on time and filed the appeal to Judge Timothy." Petition at 3. However, Petitioner appears to ignore, misconstrue, or forget the thrust of the Archdiocese' explicit argument before the superior court – that she failed to timely serve the Director of the Department of Labor and Industries with a copy of her superior court appeal, as required by RCW 51.52.110 and as clarified by cases such as *Krawiec v. Red Dot Corp*., 189 Wn. App. 234, 238, 354 P.3d 854 (Div. II 2015). So again, Petitioner fails to plead any colorable basis for review under the State or Federal Constitutions.

Petitioner also appears to still believe that she "won" before the superior court when the judge denied the Archdiocese' motion to dismiss and motion for summary judgment *without prejudice*. *See* Petition at 3. However, as superior court Judge Timothy Ashcraft explained, "the Court, exercising its discretion and pursuant to 12(c), determined that the motion should be re-noted as a motion for summary judgment, giving petitioner ample time to file a response, if desired. The denial of the Self-Insured Employer's Motion to Dismiss was purely procedural." CP at 3228-29.

Upon refiling, Petitioner again declined to file any response pleadings or supporting documents, failed to offer any pertinent argument, and the Archdiocese' motions were accordingly granted. CP at 3397-3400, 6/9/23 VRP at 13. Petitioner's multiple opportunities to file response pleadings and/or documents, as well as the superior court forcing the Archdiocese to re-note the motions to allow her even more time to do so, can in no rational way be characterized as unfair or unfairly prejudicial to the Petitioner, let alone error of a constitutional magnitude.

Similarly, Petitioner also argues that the Court of Appeals mistreated her somehow in allowing her multiple opportunities to correct her serial improper filings before that court. *E.g.*, Petition at 4. The significant latitude afforded the Petitioner below was not prejudicial error *to her*, as evidenced by Ms. Nguyen's failure to present any colorable basis for reversal of the superior court's orders in any of her pleadings. Indeed, Petitioner has persistently filed thousands of pages of improper document submissions in the course of the appeals below, with (to date) no consequence or accountability. The Court of Appeals committed absolutely no error of constitutional magnitude, or otherwise, prejudicial to Petitioner.

Further, Petitioner appears to argue that the Archdiocese was required to present witnesses before the Board, and that it did not having to do so was "unfair." *E.g.*, Petition at 3. Fatal to this argument, however, is

the fact that the Court of Appeals' decision affirmed the superior court's order finding that Petitioner had not timely perfected her appeal to that court (*Nguyen*, No. 58479-4-II at 6) – an issue wholly separated from evidence presented (or not) before the Board. The fact that the Archdiocese had no obligation to present evidence after Nguyen's appeal was dismissed at the Board is just further proof of Petitioner's argument being patently frivolous.

Finally, Petitioner appears to argue that the Court should suspend application of the law in her case, or simply not apply it because of her "ignorance" of the law. *E.g.*, Petition at 81 (stating, "I know that the Judge will ignore my ignorance of the law"). However, Petitioner Nguyen points to no authority supporting her apparent request for the Supreme Court to ignore statute, case law, and centuries of precedent by reversing one or more decisions below in some unjust caricature of equity. At no time has Petitioner presented evidence or argument that she did present a prima facie case for relief before the Board (RCW 51.52.050(2)(a)) or the superior court (RCW 51.52.115). Petitioner also offered no argument or evidence that she timely perfected her superior court appeal. *E.g.*, RCW 51.52.110. Further, Petitioner's appeal to superior court was dismissed for the very same reason her prior superior court appeal was dismissed – she failed to timely perfect her appeal by serving all statutorily required entities. There is no precedent or authority for equitable relief being granted to appellants similarly situated

to Petitioner Nguyen, and none should be fashioned contrary to the mandates of the Legislature and standing precedent.

And finally, Petitioner's filings do not invoke any "issue of substantial public interest" warranting reversal of the Court of Appeals' decision below. Despite multiple opportunities to present evidence being afforded Petitioner before the Board, and a great deal of time to secure counsel, she failed to present a prima facie case for relief. She then filed a frivolous appeal to superior court wherein she was again given more time and latitude than would ever likely be afforded any represented plaintiff, yet she failed to demonstrate any reason to find her appeal timely perfected, *or that she had presented a prima facie case before the Board*. Petitioner then filed another frivolous appeal, this time to the Court of Appeals where it was formally observed that her appeal was frivolous. Now Petitioner files *another* frivolous attempt at appeal. Sanctioning yet another frivolous appeal would work manifest injustice upon Respondent, and in no way further the ends of justice in this case. Indeed, granting review here would work manifest injustice upon Respondent, undermine the integrity of and faith in the judiciary, and fly in the face of judicial impartiality, Due Process, and Equal Protection. Petitioner's 226 pages of scattered and meritless assertions should be rejected, and her "Petition" denied.

B. The Court of Appeals' Decision Below Was Correct.

The Court of Appeals deemed Ms. Nguyen to have appealed two orders of the superior court to Division II: one granting Respondent Archdiocese's motion to dismiss on grounds that Petitioner had not timely perfected her appeal to superior court, and one granting Respondent's Motion for Summary Judgment on grounds that Petitioner had not presented a prima facie case for relief. *Nguyen*, No. 58479-4-II at 2-3. The Court of Appeals only found it necessary to rule upon the order dismissing Petitioner's appeal for failure to timely perfect that appeal. *Id*. at 6.

In affirming the superior court's order dismissing Petitioner's appeal, Division II noted that there is "nothing in the record demonstrating that the Board of Industrial Appeals (Board) or the director of the Department of Labor and Industries (DLI) were served [with Ms. Nguyen's superior court appeal documents] within the 30 days of the Board's decision." *Id*. at 1. Indeed, Division II went on to note that the *only* pertinent evidence tended to prove that Ms. Nguyen served the Department and Board "well beyond" the statutory 30-day limit for perfecting service of her superior court appeal. *Id*. at 4. Division II correctly acknowledged that Petitioner's "appeal has no merit." *Id*. at 5.

RCW 51.52.110 requires that a party appealing an adverse Decision of the Board perfect their appeal by also serving the appeal document(s)

upon 1.) the Board, 2.) the Director of the Department, and (in the case of self-insured claims) 3.) the Self-Insured Employer. RCW 51.52.110's service requirements have been clarified by our appellate courts. In *Krawiec*, the Claimant's appeal to superior court was dismissed for failure to comply with the service provisions of RCW 51.52.110 because she did not timely serve her notice of appeal upon the Board. *Krawiec v. Red Dot Corp*., 189 Wn. App. 234, 238, 354 P.3d 854 (Div. II 2015). On appeal to the Court of Appeals, Krawiec argued "the statute makes a distinction between 'filing' and 'perfect[ing]' an appeal" and therefore her failure to timely serve the Board did not require dismissal of her appeal. *Id*.

The Court of Appeals previously held that despite the lack of explicit language of perfection being required to stay the finality of the Board Decision, our Supreme Court has interpreted RCW 51.52.110 to require an appealing party to "file *and* serve notice of the appeal" within 30 days. *Id*. at 239 (citing *Fay v. Nw. Airlines, Inc*., 115 Wn.2d 194, 201, 796 P.2d 412 (1990)). *Krawiec* also noted that the Division III Court of Appeals relied on *Fay* when they wrote, "The perfection provision of the statute does not expressly provide that an appealing party must both file and serve within 30 days in order to invoke the [superior court's appellate] jurisdiction. But that has been the interpretation." *Id*. (citing *Hernandez v. Dep't of Labor &*

Indus., 107 Wn. App. 190, 196, 26 P.3d 977 (2001)(citing Fay, 115 Wn.2d at 198)). Internal quotations omitted.

At no time has Petitioner offered any evidence or argument tending to prove that she timely perfected her superior court appeal by timely serving her appeal documents upon the Director. Not when given multiple opportunities to respond to the Respondent's Motion to Dismiss in superior court. Not when given multiple opportunities to submit briefing before the Court of Appeals with explanation as to why she might not have timely submitted proof of perfecting her superior court appeal. And not in her document filings with this Court. Indeed, all available evidence tends to prove that Petitioner *never did* timely perfect her superior court appeal. *See* CP at 3375-78.

C. Objections and Request for Sanctions/Terms.

In addition to the arguments addressed above, the Respondent hereby objects to and moves to strike Petitioner's improper document/exhibit offerings, frivolous appeal/filings, persistent misrepresentations of fact, ongoing slander/libel against officers of the Court, improper commentary and breach of decorum, wanton disregard for the Rules of Appellate Procedure, and ostensible malicious/vindictive litigation. Respondent further moves for sanctions/terms in the sum of reasonable attorney fees and costs in defending against the present petition.

Respondent hereby also objects to, and requests denial of, Petitioner's "motion" to file additional documents that was filed on October 14, 2024.

RAP 18.9(a) provides, in pertinent part:

> The appellate court on its own initiative or on motion of a party may order a party or counsel…who uses these rules for the purpose of delay, files a frivolous appeal, or fails to comply with these rules to pay terms or compensatory damages to any other party who has been harmed by the delay or the failure to comply or to pay sanctions to the court. The appellate court may condition a party's right to participate further in the review on compliance with terms of an order or ruling including payment of an award which is ordered paid by the party…

First, Petitioner has engaged in the (ongoing) filing of improper documents at every stage of her petitioning of this Court for review, in contravention of numerous Rules of Appellate Procedure. On or about August 14, 2024, Petitioner filed 226 pages of documents with the Court that were deemed to be a "petition for review" of the Court of Appeals decision below. RAP 18.17(c)(10)-(11) only permit petitions for review and motions for review (respectively) to be 5,000 words (if using word processing software) or 20 pages (typewritten or handwritten).

Given the unconventional nature of the Petitioner's document filing, it is unclear if her "petition" should be judged by the word or page-limit standards. It is unknown how many words Petitioner's 226-page filing

encompasses, but surely greater than 5,000 and in gross violation of RAP 18.17(c). If her pleading were deemed to be only pages 1-6, with 210-220 pages[1] of exhibits, then her "pleading" appears to have 1,906 words (thereby complying with RAP 18.17(c)), but remains grossly violative of RAP 9.1(a), 9.10, 9.11(a).

RAP 9.1(a) explains that "The 'record on review' may consist of (1) a "report of proceedings", (2) "clerk's papers", (3) exhibits, and (4) a certified record of administrative adjudicative proceedings. The 210-220 pages of documents filed by Petitioner do not appear to be referenced, cited, or denoted as part of the report of proceedings, clerk's papers, duly admitted or submitted exhibits, nor are they certified records of proceedings below. To the extent the Petitioner submitted excerpts of documents purporting to be from the report of proceedings or clerk's papers, those documents are not certified or averred as being true and correct copies, and flaws in submissions of those original documents below were never cured.

Petitioner also failed to make any prerequisite motion for supplementation of the appeal record (only attempting to do so long after the filing of her petition, and Respondent began drafting Answer to her

[1] The page range is given due to ten pages of the 220 being in Vietnamese and therefore unintelligible to Respondent. Given the possibility for the apparent pleading in Vietnamese being duplicative of the pleading submitted in English, approximately 210 pages of Petitioner's filing would be improper document submissions addressed below.

"petition" documents), and failed to make any showing that her further document submissions were necessary, relevant, or even helpful to "permit a decision on the merits of the issues" in this appeal. RAP 9.10. To the extent the Court should allow Petitioner to submit 210-220 extraneous pages of documents in her "petition," RAP 9.10 sanctions should be levied on the Petitioner for causing undue delay and causing unnecessary additional expense to Respondent in responding to all 226 pages filed. Petitioner has a long track record of such ostensible bad faith, improper document filing below, and continues with such before the Court. For once, Petitioner's impropriety should be curbed.

Petitioner also failed to plead any colorable basis under RAP 9.11(a) for her ongoing filing of inadmissible, irrelevant, inflammatory, and otherwise improper documents. No additional proof of relevant facts is needed or even offered by Petitioner. RAP 9.11(a)(1). No additional evidence (improperly offered or referenced) by Petitioner would likely change the decision of the Court of Appeals. RAP 9.11(a)(2).

There are nothing approximating equitable excuses for Petitioner failing to present "evidence" she attempts to file here from having been submitted and properly admitted in proceedings below. RAP 9.11(a)(3). Indeed, Petitioner was handed numerous "mulligans" before the Board, superior court, and before the Court of Appeals. Petitioner had adequate

opportunity for post judgment motions, with tribunals even construing her errant filings as motions for reconsideration and the like. RAP 9.11(a)(4).

Granting of a new trial here would be meritless given her failure to present a prima facie case in the first instance before the Board. RAP 9.11(a)(5). Finally, there is no "inequity" in deciding this matter based "solely on the evidence already taken" before the Board and in pleadings in the superior court. RAP 9.11(a)(6). Petitioner's 226-page filing is grossly violative of numerous RAPs.

Petitioner should also be ordered to pay compensatory damages/terms to Respondent in the form of reasonable attorney fees and costs in defending against this petition because her petition is frivolous, and is (like those below) filed for improper purpose. *E.g.*, *Johnson v. Mermis*, 91 Wn. App. 127, 137, 955 P.2d 826 (Div. I 1998), citing *Goad v. Hambridge*, 85 Wn. App. 98, 105, 931 P.2d 200 (Div. III 1997), *review denied*, 132 Wn.2d 1010, 940 P.2d 654 (1997). That Petitioner's case has no merit was expressly stated in the Court of Appeals very decision. She had notice.

Further, Petitioner's apparently vindictive, and improper purpose in filing her "petition" is manifest in her persistently frivolous, malicious and ad hominem, overly dramatic pleadings. This misconduct is not an artifact of any ostensible "language barrier." Petitioner has been put on notice of

her case having no merit, and has further been put on notice of the impropriety of her inflammatory and malicious language. *See Nguyen* at 4-5. Absent evidence of incompetence, it is plain that Petitioner willfully disregards the abundant warnings as to the impropriety of her conduct. Sanctions are the only measure to dissuade Petitioner from her persistent and frivolous weaponizing of our court system against the Respondent.

Sanctions/terms should therefore be levied, and all non-pleading documents stricken.

D. Request for Statutory Attorney Fees and Costs.

Should Respondent's request for reasonable attorney fees and costs be denied as terms/sanctions, Respondent requests statutory attorney fees and costs be awarded at the conclusion of this case. *See* RAP 14.1(a), RAP 14.2, RAP 14.3(a), and RCW 4.84.080. Respondent will submit an affidavit and cost bill upon the conclusion of this case, or at such other time as may be requested by the Court.

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IV. CONCLUSION

The Court of Appeals' June 18, 2024 unpublished decision does not warrant review pursuant to the conditions enumerated by RAP 13.4(b), the Court of Appeals Decision was correct and well-considered, and Ms. Nguyen's Petition for Discretionary Review should be denied with sanctions.

RESPECTFULLY SUBMITTED this 5th day of November, 2024.

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I hereby certify that Respondent's Answer to Petition for Discretionary Review is 4,740 words, in compliance with RAP 18.17(c)(10).