

FILED
Court of Appeals
Division I
State of Washington
4/19/2018 4:13 PM

95746-1

Court of Appeal Cause No.
76594-9-I ("EYE"), WA SCt 94969-7, etc.

IN THE SUPREME COURT OF THE STATE OF
WASHINGTON

JAMES NAMIKI, AN INDIVIDUAL
Respondent (Plaintiff Below),

v.

ICT LAW AND TECHNOLOGY GROUP, PLLC, AND
DALE COOK, AN INDIVIDUAL (and member of the LLC)
Petitioners (Defendants Below).

Petition for Review of Order Dismissing Appeal as a Matter of Right
(dated 20-Mar-2018)

Dale Cook
An Individual (Personal Capacity)
Pro Se (Self-Represented -- No Lawyer,
member of ICT-Law Pllc an Incorporated
and Separate Legal Entity)

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*practicing law
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Self-Represented

*Lawyer Representing Defendant ICT-Law-
Pllc, A Separate and Incorporated Legal
Entity that May Render Legal Services Only
By-And-Through Its Individual Lawyer
Member(s) Licensed in Whatever State the
Pllc Purports Render Legal Services*

TABLE OF AUTHORITIES

WA State Constitution, Article 4 -- The Judiciary

WA State Constitution, Article 4 Section 23 -- Court Commissioners

TABLE OF CASES

LK Operating, LLC v. Collection Group, LLC, et al., Respondents, 181
Wn.2d 48, 331 P.3d 1147 (en banc Wash. 2014)

AGLO 1973 No. 71: 03-Jul-1073 Attorney General [Slade Gorton] Letter
of Opinion [Re: Conflict Between WA State Constitution and Statutes
Regarding Non-Judge Commissioners at Trial Court Level]

STATUTES

RCW 2.24.010 "Appointment of court commissioners, criminal
commissioners—Qualifications—Term of office"

RCW Chapter 2.06 "Court of Appeals"

RCW 2.06 Court of Appeals and thus RCW 2.06.06.085

RCW 2.06.010 Court of appeals established—"Definitions"

RCW 2.06.085, "Oath of judges"

RULES AND REGULATIONS

RAP 2.2 (a)(3) -- Decision Determining Action. Any written decision
affecting a substantial right in a civil case that in effect determines the
action and prevents a final judgment or discontinues the action.

RAP 8.1

RAP 8.1(b)(2)

RAP 8.1 (c)

RAP 8.1(c)(2)

RAP 8.1(d)

RAP 8.1(e)

RAP 8.1(g)

RAP 8.3

RAP 13.5(b) -- Discretionary Review (previously Interlocutory Appeal)

RPC 1.6 -- Confidentiality

RPC 1.9 -- Duties to Former Client

RPC 3.3 -- Duty of Candor

Court Administrative Rule (SAR) 15

Court of Appeals Administrative Rule (CAR) 16(c) "Court Personnel."

CAR 16(c)(1) "Deciding Motions"

CAR 16(c)(7) "Deciding Motions"

OTHER AUTHORITIES

WSBA Appellate Deskbook, §10.7 Review Of Ruling Of Commissioner
Or Clerk

WSBA Appellate Deskbook, §18.3 Review of Interlocutory Proceedings

Endnote of RCW Chapter 2.06 Court of Appeals "Commissioners of the
Court of Appeals, CAR 16

"WSBA Appellate Deskbook, §8.6 Superseding a Money Judgment

WSBA-Appellate-Deskbook, §8.5 Stay by Appellate Court in Civil Case

*WSBA-Appellate-Deskbook, §8.7 Superseding A Decision Affecting
Property*

*WSBA-Appellate-Deskbook, § 8.8 Procedure: Fixing And Objecting To
The Security.*

WSBA Appellate Deskbook, §8.12. Cash Security

I. IDENTITY OF PETITIONERS

Movants¹ -- Separate and Distinct Defendants held Jointly and Severally Liable in the WA Tr. Crt below -- ICT-Law-Pllc, and Dale Cook, an individual and separate legal entity for the WA St. Pllc, ICT-Law-Pllc of which he is a member, join to seek review.

II. COURT OF APPEALS DECISION

The *totality of the court's appeals decision was as follows:*

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.

WA State Crt. of Appl. DIV I, No. 76594-9-I.

Petitioners seek review of this Order.

III. ISSUES PRESENTED FOR REVIEW

Pursuant to WA RAP 13.4(b), Movants are filing this Brief, but also note their Petition for Certiorari to the US Supreme Court is in draft, due 6-Jun-2018 as they understand it. However, the US Supreme Court does not like to take on unsettled matters of State Law, so, while the case involves

¹ In the current concurrent Federal Court actions, the parties are reversed; in order to avoid confusion, Petitioners thus refer to themselves as Movants herein.

significant question of law under the Constitution of the State of WA and the US Const. including but not limited to the unconstitutionality (Federal and State) of non-judge Comm'rs at the WA Court of Appeals and WA Supreme Court, the 5 + Level Created-by-Fiat via CAR 16/SAR 15/Associated RAPs Star-Chamber-Like Motion-to-Modify System, seemingly calculated to avoid Judicial Commission Review, Substantive/Procedural Federal Due Process

Movants here seek yet another round of Discretionary Review before the WA Supreme Court, which by Movants rough count is their (6 brief in WA St. 96409-4), (6 briefs in the matter 94952-2), and 8 briefs in WA State 94969-7, all matters having multiple times raised the Trial/Appeals Court's lack of Subject Matter Jurisdiction, but with not one line written -- or, actually, only one line written in each of the many appearances before the WA Courts of appeals, with such single lines never addressing Pltf's lack of Const./Prudential Standing in any fashion.

If we throw in rounds of briefing before non-judge Comm'r Kanazawa at the WA State Court of Appeals, especially given her misconduct in this case where she converted a Notice of Appeal as a Matter of Right into a mere Notice of Discretionary Review, and thereafter played a game of cat-and-mouse with Movants and Five (5) senior lawyers lives and careers, the number skyrockets.

This matter is a follow-on to the WA State Supreme Court's one sentence denial in Matter 94969-7, which incorporated by reference all briefings and materials of WA SCt. No. 94952-2 and 96409-4, both of which had one sentence denials of the elected judges currently at the WA Supreme Court.

The issues presented for review are (i) does WA State's created-by-fiat, ostensibly by the WA St. SCt. via CAR 16/SAR 15/Associated RAPs system -- and de jure or de facto constructed to evade review by the Judicial Commission -- constitute a substantive/procedural Due Process Violation? and/or the other issues just raised above or herein, etc.

IV. STATEMENT OF THE CASE

A party with no legal relationship with either Defendant, and who possibly² moreover owes attorney-client duties to ICT-Law-Pllc has obtained a joint-and-several judgment against both Defendants, and furthermore on no evidence. How is this possible?

It currently seems to Movants that before these WA State Courts, at least - Two legal entities associated in fact but not a traditional legal entity, e.g., Mr. Namiki, in his individual capacity, Seatree Pllc, and lawyer Kalish, acted in concert with and/or colluding with the management of Seatree Pllc to ensure that no evidence of Seatree Pllc was never before the WA State Courts. WA State law does not have a good word to describe this, but for sake of brevity, I will refer to them here as "the pranksters."

Seatree Pllc is a WA State Pllc -- an incorporated legal entity, which could not otherwise practice law, but by virtue of WA State's Pllc law, can in fact render legal services, but only by and through its *human members* licensed to practice law in whatever jurisdiction the WA State Pllc purports to practice.

² In the concurrent lawsuits, on or around 05-Feb-2018, it was discovered, and prima facie evidence has been submitted, and believed sufficient to sustain summary judgment, that the Mr. Namiki likely was unlicensed to practice law by the State of either WA or Oregon but where his Seatree Pllc purported to practice, from 01-Jan-2013 up until 21-Jan-2015, a fact notice to the WA Supreme Court several many times in prior briefings. So if Mr. Namiki was licensed by WA/Oregon State, then he owes attorney-client duties through Seatree Pllc, of which his the sole member.

Seatree Pllc is a sole-member Pllc, so if it purports to practice law in either WA or Oregon -- which it did during the entire period of 01-Jan-2013 up through 09-Sept-2015, when Seatree Pllc abruptly informed ICT-Law-Pllc that it was terminating its representation, it can only do so through its sole member, which is Mr. Namiki.

So, as explained to the WA Sup.Crt. on 20-Nov-2017 in this very matter -- WA Sup. Crt. 94969-7, by excluding Seatree Pllc from the Trial Court, the pranksters were able to suppress the evidence that during the period of time possibly covered by the WA State Court lawsuit the pranksters were able to exclude from evidence that Mr. Namiki had already invoiced ICT-Law-Pllc for roughly 2,800 hours of Mr. Namiki's individual capacity legal services time during the period 01-Jan-2013 up through 09-Sept-2015, only in the form of Seatree Pllc.

So, if you do the math, that's effectively all the normal working time for almost all the months.

But, by excluding Seatree Pllc -- and Mr. Kalish did successfully defeat Movants' Motion to Implead Seatree Pllc as a Responsible 3rd Party in the Trial Court below, by arguing that Seatree Pllc was a completely unrelated 3rd Party -- all this time (e.g. 2800+ hours) was not considered by the Trial Court, and thus Mr. Namiki was asked for about more than 2x, by asking for time already invoiced.

Well, with there being no evidence of any legal relationship between Mr. Namiki, in his individual capacity, and either Defendant, how did Mr. Namiki obtain Summary Judgment and Final Judgments against Defendants, Jointly-and-Severally?

Again, by excluding from the evidences/the Trial Court's consideration all evidence of Seatree Pllc.

As noted, Seatree Pllc is an incorporated legal entity, which is a legal abstraction that must act through humans (e.g., like a traditional corporation), but the WA State Pllc statutes say that legal abstraction can only practice law by-and-through the State legal licensures of its members in whatever jurisdiction it purports to practice.

So, since Seatree Pllc is a sole-member Pllc, said sole member being Mr. Namiki, that means that for the 2806 hours Mr. Namiki was personally doing the work as the lawyer by-and-through which Seatree Pllc purported to render legal services to ICT-Law-Pllc. During that time, ICT-Law-Pllc trusted Mr. Namiki as a lawyer should be able to be trusted, and Mr. Namiki garnered deep knowledge of ICT-Law-Pllc's legal and commercial structures and strategies.

By concealing Namiki's attorney-client duties owed ICT-Law through Seatree Pllc, the pranksters were able to obtain and then leverage their deep knowledge of ICT-Law-Pllc and what was important to it, to attempt to extort a settlement from it.

Specifically, knowing ICT-Law-Pllc had been built as a fortress to protect its own as well as its attorney-client secrets, the pranksters obtained an Order To Compel that held ICT-Law-Pllc had no attorney-client relationship with its said Five of Counsel lawyers, yet said Order including within its scope ICT-Law-Pllc, as well as its Five of Counsel lawyers and directing them to deliver over to the pranksters attorney-client privileged materials -- the great, great majority of which Mr. Namiki had never seen/been given authorized access to, and further knowing that there was no way ICT or its five of counsel lawyers could comply with the Order by virtue of their attorney-client duties.

By virtue of his 2806 hours spent representing ICT on sensitive matters, while Mr. Namiki only represented ICT on a small fraction of ICT's then matters, he knew that ICT and its Five lawyers could not comply with the Order.

So, by concealing and breaching his attorney-client duties to ICT-Law, he obtained an Order to Compel production of -- and virtually guarantee -- the inadvertent disclosure of attorney-client privileged materials which he himself had a duty to protect from unauthorized disclosure under RPC 1.6(c). But yet no client of ICT, nor ICT itself had given informed consent under RPC 1.6 to reveal information related to representation, so in an effort to hew to their attorney duties ICT lawyers set about to keep them. In response to the Order to Compel, ICT-Law's 5 Of Counsel lawyers executed high risk Declarations attesting to ICT as their client. Indeed all 5 subsequently appeared on ICT-Law's behalf and argued the materials Namiki sought compelled attorney-client privileged on ICT's behalf; the trial court denied those motions with no evidence or analysis, refusing to consider each lawyer's unique attorney-client agreement with ICT and non-overlapping subject matters upon which they render their advices and counsels.

ICT then set about trying to have the Order modified, vacated etc. in light of their RPC duties, but for every action ICT took, the pranksters countered with motions for sanctions, so on 20-Mar-2017 all ICT's legal defenses were terminated in the form of punitive sanctions having deemed found facts all in the pranksters' favor.

All -- or substantially all this evidence and these issues have been before NJK and the WA SCt in connection with 94609-9, and 94952-2, yet not one line has been written about them.

In any event, as punitive sanctions on 07-Mar-2017 the trial court ended the trial -- or so Movants thought -- as far as Movants were concerned.

Movants thus appealed to the WA Appeals Court from the trial court under RAP 2.2(a)(3) which is how we got here.

Skipping a substantial amount of the abuses and misconduct, and moving right to the worst matters at hand, at some point in time prior to 22-May-2017, non-judge Kanazawa (hereinafter "NJK") -- with NJK used as a mnemonic device to constantly remind this tribunal that NJK is not a judge, has never taken an Oath of Judges, and who thus has absolutely NO authority to exercise the judicial power which the WA State Const. has reposed in this WA State Court of Appeals -- finally figured out that her errors in wrongfully converting Movants' 20-Mar-2017 Notice of Appeal Under RAP 2.2(a)(3), and subsequent follow-on errors, had rendered the WA State Trial Court's Summary Judgment Orders and/or Final Judgment Orders Null and Void for lack of subject matter jurisdiction.

Insofar as that Movant's had timely appealed from the Trial Court's Order No. 283, which terminated all Movants' defenses by stating that if this matter went to trial, all facts would be deemed found in Mr. Namiki et al.³ favor, this constituted a problem for NJK.

Thereafter, NJK engaged in pressuring of Movants to relinquish their Right of Appeal from the trial court Order cancelling all their defenses --

³ Movants only latterly discovered the Federal Law of Civil RICO, which gave Movants a vocabulary to describe when a member of an LLC is colluding the with the management of an LLC, which in this case, are one-and-the-same-person; Movants have only latterly come to recognize that a sole-member Pllc, which is also member managed, is indistinguishable from a sole-proprietorship **if the sole member of the Pllc is willing to breach every lawyer-client duty**. Movants are grateful to lawyer Kalish and Smoot of the this associated-in-fact, but not a traditional legal entity, combine for pointing this out to them in the concurrent lawsuits.

i.e., Constitutional Standing and Prudential Standing under the U.S. Federal Constitution --

(a) starting with: having been straightforwardly informed on 22-May-2017 by Movants that they did not intend to relinquish their perfected rights of Appeal from the Trial Court Order No. 283 cancelling all defenses, but instead intended to argue the Trial Court's Summary Judgment and Final Judgment Orders Null and Void under straight "but for" causation, in response, on 23-May-2017 threatened Movants that if they did not relinquish their perfected appellate rights from trial court Order No. 283 -- again, which had deemed found facts that cancelled all of Defendants defenses -- she would dismiss all their appellate rights; and

(b) ending with NJK informing Movants that she had indeed cancelled all their then pending appellate rights -- and critically without all those pesky hearings that would expose her many errors (that is, if she had any legitimate constitutional power to decide substantive legal issues, which Movants have many times established before the elected judges of the WA St. SCt. that she does not) was executing on her as-promised termination of Movants' then-perfected appellate rights. More specifically, on 15-Jun-2017 NJK informed Movants that She had decided to Absolve Herself of All Responsibility for Her Many Errors in Notice-Of-Appeal-No.-76594-9-I ("EYE") and On The Basis Of An Alleged Interlocutory Decision In DIFFERENT and then-Newly-Created (12 Jun 2017) Appeal No. 76594-9 ("WITHOUT-AN-EYE"), and By Such Self-Absolution Indulged Herself in a Self-Serving-and-Self-Satisfying *Dismissal*⁴ Of All Defendants' Then Pending Appellate Rights and Without a Hearing!!!

⁴ See 15 June 2017 Notation Order of Commissioner M. Kanazawa in Notice-of-Appeal-

V. ARGUMENT WHY REVIEW SHOULD BE ACCEPTED

As noted in one of its many (quixotic) and now acknowledged pointless Motions to Disqualify NJK -- the Court is asked to recognize that when Movants wrote the following quotations, they had not yet completed their legal research sufficient to realize that NJK had no duties to act as a judge, or exercise judicial power, because non-judge Comr.'s exercising the Judicial Power of the Court of Appeals and the Supreme Courts of WA completely vitiates the protections that the framers of the WA Const. provided for its Residents:

.... [NJK]'s 15 JUN 2017 SELF-SERVING DISMISSAL OF DEFENDANTS' APPELLATE RIGHTS ON THE BASIS OF DEFENDANTS' 09 JUN 2017 "1ST AMENDED ... NOTICE OF APPEAL" WHEREBY SHE ABSOLVES HERSELF OF ALL HER MANY ERRORS IN NOTICE-OF-APPEAL-NO.-76594-9-I ("EYE") SMACKS OF IMPROPRIETY

No man is allowed to be a judge in his own cause, *because his interest would certainly bias his judgment, and, not improbably, corrupt his integrity.*

“The Federalist No. 10, (James Madison)”

James Madison would not be surprised that [even a judge, but yet less surprised that a non-judge] ... has taken a number of judicial actions on behalf of Appeals Court, Div. I -- not to ensure that the Trial Court produce a record showing that its decisions are not arbitrary and unreviewable -- but to cover her own errors.

Yet the fact remains that ... [NJK] has taken actions calculated to hide her own undeniable legal errors, and at the expense of the integrity of the judicial system.

Insofar as that jurisdiction in the matters where ... [NJK] is engaging in her "self-protective" actions should have long ago transferred to the 3-

No.-76594-9-I ("EYE") (self-serving dismissal in a case where she should have had no jurisdiction)."

Judge Panel responsible for her actions, *see p. 1* of 12 May 2017 Letter from Richard D. Johnson Court Administrator/Clerk, showing the "11 May 2017 3rd Supplemental ... *Motion To Modify [06 Apr 2017 Notation Order and Seeking Reinstatement Of Defendants' Joint Notice Of Appeal As A Matter Of Right* Rather Than A Notice Of Discretionary Review" was filed and had been transferred to the 3-Judge Panel for determination"; in light of Clerk Johnson's letter, it should have been impossible for ... [NJK] to subvert the appellate legal system as she has. Yet the fact remains that she has done so.

See Movants 3rd Amended Motion To Disqualify non-judge Kanazawa From Any Access Or Visibility Into (I) Notice-Of-Appeal-No.-76594-9-I ("Eye"); (Ii) Interlocutory-Review-76320-2-I ("Eye"); And (Iii) Newly-Created (12 June 2017) Appeal No. 76594-9 By Way Of Disqualification By Self-Serving Actions Violating CJC.

Here are the operative facts, over the course of 22, 25, 26, and 30 May 2017 -- as per NJK's intimidating acts on/around 05-May-2017 -- all which arose from NJK's absolute unsupervised control over Movants' legal rights after her 06-Apr-2017 Wrongful Conversion of Movants' Notice of Appeal to a mere Notice of Discretionary Review -- Movants unequivocally informed NJK, and ostensibly this Court of Appeals, with which this document is being filed, that they intended, not to relinquish their rights to appeal from Trial Court Order 283, but rather intended to continue to demonstrate that the WA State Trial Court's 21-April-2017 Summary Judgment Order (Tr. Ct. Dkt. No. 394) And 17-May-2017 Final Judgment Order (Tr. Ct. Dkt. No. 443) were Null And Void, e.g., for many several objectively-demonstrably errors of law/fact of NJK (most of which are so incredible as to appear intentional), each of which objectively-demonstrable unequivocally demonstrate the Trial Court's Lack Of Jurisdiction Over All Matters Subsequent to 20-Mar-2017.⁵

⁵ See 22-May-2017 Status Report by Movants to NJK, unequivocally informing NJK that rather than amend their 20-Mar-2017 Notice of Appeal to hide her errors, they were going to Moot the Trial Court's 21-April-2017 Summary Judgment Order (Tr. Ct. Dkt.

Specifically, on 22, 25, 26, and 30 May 2017, Movants repeatedly and unequivocally informed NJK that rather than elect to hide NJK's many several errors by amending their 20-Mar-2017 Notice of Appeal to be FROM the Trial Court's 17-May-2017 Final Judgment Order, INSTEAD OF FROM the Trial Court's 07-Mar-2017 3rd Sanction Order No. 283, whose punitive "deemed found" facts ended the case for Movants were instead going to seek to Moot the Trial Court's 21-April-2017 Summary Judgment Order (Tr. Ct. Dkt. No. 394) And 17-May-2017 Final Judgment Order (Tr. Ct. Dkt. No. 443) because of NJK's many/several errors.

For example Movants specifically informed NJK that they intended to hold all trial court actions and Orders void for lack of subject matter jurisdiction in at least these instances, (1) in their 22-May-2017 Status Report to NJK, in response to which NJK issued her over, and ultimately executed upon, Threat to Dismiss Movants' vested Appellate rights, and without a hearing if Movants didn't amend to hide her errors;

(2) 25-May-2017 "... Joint Motion to Modify ... [NJK] Denying [WSBA-Appellate-Deskbook-Recommended Backup Motion to] Stay Pending a Decision on ... Appeal [of 20-Mar-2017 from Trial Court Order No. 283] as a Matter of Right;

(3) 26-May-2017 "... **Motion Panel to Rescind/Clarify** [NJK's] 23-May-2017 Order **Threatening Dismissal Unless Petitioners Change Position**

No. 394) And 17-May-2017 Final Judgment Order (Tr. Ct. Dkt. No. 443) because of her errors; 25-May-2017 "... Joint Motion to Modify ... [NJK] Denying [WSBA-Appellate-Deskbook-Recommended Backup Motion to] Stay Pending a Decision on ... Appeal [of 20-Mar-2017 from Trial Court Order No. 283] as a Matter of Right; 26-May-2017 "... Motion Panel to Rescind/Clarify [NJK's] 23-May-2017 Order Threatening Dismissal Unless Petitioners Change Position that [Trial Court's And] Summary Judgment [Tr. Ct. Dkt. No. 394; 21-April-2017]/Final Judgment [Tr. Ct. Dkt. No. 443; 17-May-2017] Null and Void Due to ... [NJK's] errors; 30-May-2017 Reply ... to Answer to ... 3rd Supplemental ... Motion ... Seeking Reinstatement of ... Appeal a Matter of Right Rather than Discretionary Review.

that [Trial Court's And] Summary Judgment [Tr. Ct. Dkt. No. 394; 21-April-2017]/Final Judgment [Tr. Ct. Dkt. No. 443; 17-May-2017] Null and Void Due to ... [NJK's] errors; and

(4) 30-May-2017 Reply ... to Answer to ... 3rd Supplemental ... Motion ... Seeking Reinstatement of ... Appeal a Matter of Right Rather than Discretionary Review.

Despite their 26-May-2017 entreaties for help from the, now-and-then anonymous 3-Judge Panel to Rescind or Clarify NJK's 23-May-2017 Threat of Dismissal if Movants did not amend to hide her errors, TO DATE DEFENDANTS HAVE NEVER RECEIVED ANY ANSWER FOR THEIR 26-May-2017 SUCH ENTREATIES FOR HELP.

To repeat, despite their Entreaties, Petitioners HAVE TO DATE RECEIVED NO RESPONSE FROM THE COURT OF APPEALS, DIV. I, FROM THEIR MOTION REGARDING THE COMMISSIONER'S OVERT THREAT TO DISMISS THEIR APPELLATE RIGHTS.

Given the 3-Judge Panel's *Inexplicable Inaction on Defendants 26-May-2017 Entreaty for Help Re: NJK's Threat to Dismiss,* and Further Given that NJK's 06-Apr 2017 Wrongful Conversion of Defendants' 20 Mar 2017 Notice of Appeal to a mere Notice of Discretionary Review, NJK Was At All Times Able to Assert Full-and-Unsupervised Control over Appellate-Matter-No.-76594-9-I ("EYE"); thus, there Was a Very Real Possibility that on 16 Jun 2017 NJK Could Realize Her Threat to Hide Her Errors by Dismissing Defendants' 20 Mar 2017 Notice of Appeal From the 07 Mar 2017 3rd Sanctions Order, On 09-Jun-2017 Defendants Strategically Amended to Clarify that

**Said Amendment Was Involuntary, Under Threat of Dismissal,
and Without Recourse to any Actual Judge.**

That 09-Jun-2017 is hereby reproduced in its entirety:

1. As Noted, **Given that NJK had engineered a situation where she could operate without supervision, and further had so Much to Hide, Defendants' 09-Jun-2017 "1st Amended ... Notice of Appeal" (Trial Court Dkt. 474) -- A Copy of Which was Faxed-Filed 12-Jun-2017 With the Court of Appeals Div. I -- OVERTLY STATED IT WAS NOT AN APPEAL FROM FINAL JUDGMENT (Trial Court Dkt. No. 443); however, Given Defendants Reasonable Fear that If they Did Not Refer to the 17 May Final Judgment at All, non-Judge Kanazawa Would Immediately Dismiss on That Basis Alone, Defendants Strategically Cataloged both the Trial Court's 21-Apr-2017 Summary Judgment Order (Trial Court Dkt. No. 394) and the 17-May-2017 Final Judgment Order (Trial Court Dkt. No. 443) as Harms Directly and Proximately Caused by non-Judge Kanazawa's Objectively-Demonstrated and Egregious Legal-Factual Errors in Wrongfully Converting Defendants 20-Mar-2017 Notice of Appeal (Trial Court Dkt. No. 308) to a Mere Notice of Discretionary Review**

That 09-Jun-2017 is hereby reproduced in its entirety:

FILED
17 JUN 29 AM 9:00
KING COUNTY
SUPERIOR COURT CLERK
E-FILED
CASE NUMBER: 16-2-01372-4
The Honorable John Ruhl

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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING

JAMES NAMIKI, Plaintiffs, v. ICT LAW AND TECHNOLOGY GROUP, PLLC AND DALE COOK, Defendants.	NO. 16-2-01372-4 SEA 1 st -Amended-Version Clarifying as a Matter of Right the Previously-Filed 20-Mar-2017- and-Original-Version-of-Defendants NOTICE OF APPEAL TO COURT OF APPEALS: DIVISION I
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Defendants ICT Law & Technology Group, pllc, and Dale Cook "an individual" (in his personal capacity) are filing this 1st Amended version of their 20 Mar 2017 Notice of Appeal to yet further clarify. see, e.g. Re: Petitioners' 3rd Supplemental ... Motion... Seeking Reinstatement... Notice Of Appeal As A Matter Of Right ... Motion [to] Panel To Rescind/Clarify Commissioner's 24 May 2017 Notation Order [Apparently] Threatening Dismissal Unless Petitioners Change Position That [Trial Court's] Summary Judgement/Final Judgement Null And Void Due To Commissioner's Errors, that the 20 Mar 2017 Notice of Appeal was-and-is Taken as a Matter of Right from this Trail Court's 07 Mar 2017 "Amended Order Granting Plaintiff's Third Motion For Sanctions" (Dkt. No. 283), and that Defendants are currently seeking Orders from various Appeals Courts that all actions and

1st-Amended-Version Clarifying as a Matter of Right the Previously-Filed 20-Mar-2017-and-Original-Version-of-Defendants - 1

LAW OFFICES OF DALE COOK, PLLC
918 S. Horton Street
Suite 717
Everett, WA 98201

1 Orders of this Trial Court-- e.g., at least subsequent to 20 Mar 2017 -- are Null and Void and
2 on a variety of Grounds.

3 For example, in a first action, Defendants -- and as Petitioners in the Court above in the
4 Matter of Defendants' 20 Mar 2017 Notice-of-Appeal-No. 76594-9-1 -- are currently
5 seeking an Order from the Court of Appeals, Div. I, holding as NULL and VOID:

6 (a) this Trial Court's 21 April 2017 Summary Judgement Order¹, Said Order
7 Granted On "Deemed Found" Facts Rendering Impossible All Defendants
8 Defenses, With Said "Deemed Found" Facts Set Forth in the "Third Sanctions
9 Order" from Which the Present 20 Mar 2017 Notice of Appeal-No. 76594-9-1
10 Was Taken, and

11 (b) this Trial Court's 17 May 2017 Monetary Judgment in the form of Final
12 Judgment against Defendants, Jointly and Severally, for \$402,817.68

13 said Summary Judgment and Final Judgment NULL and VOID, and without legal
14 effect in that Jurisdiction over all matters transferred to this Appeals Court upon
15 Defendants filing of the Notice of Appeal-No. 76594-9-1 on 20 Mar 2017, and said
16 Trial Court Orders only issuing as a result of Commissioner legal errors in
17 Wrongfully Converting the 20 Mar 2017 Notice-of-Appeal-No. 76594-9-1 to
18 Discretionary Review.

19 *See, e.g., "Petitioners' [30 May 2017] Reply To Respondents Answer To Petitioner's 3rd*
20 *Supplemental ... Motion To Modify Seeking Reinstatement Of Defendants' Joint Notice Of*
21 *Appeal As A Matter Of Right Rather Than A Notice Of Discretionary Review."*

22 As another example, in a second action *and on a second legal basis different from that of*
23 *the just-referenced first action*, Defendants -- and as Petitioners in the Court above in the
24 Matter of Defendants' 31 Mar 2017 Motion-to-Stay-As-Backup-Plan-to-Previously-Filed-
25 Notice-of-Appeal-No. 76594-9-1 -- are currently seeking an Order from the Court of
Appeals, Div. I, holding as NULL and VOID:

2 this Trial Court's 17 May 2017 Monetary Judgement Against Them, Jointly And
3 Severally, Of \$402,817.68

4 said 17 May 2017 Trial Court Order Directly And Proximately Caused By The
5 Commissioner's 25 Apr 2017 Wrongful Denial Of A Motion-to-Stay-As-Backup-
6 Plan-to-Previously-Filed-Notice-of-Appeal-No. 76594-9-1, Said Stay To Which
7 Petitioners Were Entitled As A Matter Of Right.

8
9 *See, e.g., Petitioners' [25 May 2017] 3rd Supplemental Joint Motion To Modify Ruling --*
10 *[and Seeking] A Stay Of All Lower Court Proceedings Pending A Decision On Petitioners*
11 *Appeal As A Matter Of Right.*

12
13 Defendants ICT Law & Technology Group, ptlc, and Dale Cook "an individual" (in his
14 personal capacity), hereby jointly and severally (both together and separately) seek review by
15 APPEAL to the designated appellate court of the 20 Mar 2017 APPEAL as a MATTER OF
16 RIGHT Under at Least RAP 2.2(a)(3) -- "Decision Determining Action. Any written decision
17 affecting a substantial right in a civil case that in effect determines the action and prevents a
18 final judgment or discontinues the action" -- in that the following Described Order -- via
19 its "Deemed Found" Facts appearing on at least its pages 10-11 -- rendered impossible all of
20 Defendants then-Defenses:

21 1. "Amended Order Granting Plaintiff's Third Motion For Sanctions" entered on 07 March
22 2017 (Dkt. No. 283) , as well as

23 (a) the related "Order Denying Defendants' [Joint] Motion for a Stay Pending Decision
24 on Interlocutory Appeal [RE: Defendants' [CR 60] Motion for Vacatur of the Order for
25 Which Sanctions Were Sought In Favor of First Hearing Dispositive Motion that
Plaintiff Has No Standing (e.g., No Harm from Either Defendant/Not the RPI on Any

...
13 5. "Order Denying Motion To Dismiss Defendant Dale R. Cook In His Personal Capacity"
14 signed 02 March 2017 (Dkt. No. 275).

15 Copies of these orders are attached to this notice.

16 DATED this 8 June 2017 BUT IN NO WAY SUBSTANTIVELY CHANGING THE
17 EFFECTIVE DATE OF THIS NOTICE OF APPEAL AND WHICH REMAINS 20 MARCH
18 2017.

20 s/ Brian L. Johnson
21 WSBA #29,110
22 Lawyer for Dale Cook, Personal
23 Capacity
24 Grandview Law, PLLC
PO Box 1594
Ferndale, WA 98248
Tel. 360-778-3329,
brian@grandviewattents.com

s/ Dale R. Cook
Dale R. Cook, WSBA 31,634
Lawyer for Defendant ICT Law & Technology Group,
Ptlc and Dale Cook in his personal capacity
Law Offices of Dale Cook PLLC
918 S. Horton Street, Suite 717
Seattle, WA 98134
Telephone: 425-605-7036
Fax: (253) 272-0386

Prima facie the involuntary-and-forced 09-Jun-2017 1st Amended
Notice of Appeal *overtly referenced* its unanswered plea to this
Court of Appeals

[1] ... e.g. *Re: Petitioners' 3rd Supplemental ... Motion... Seeking Reinstatement... Notice Of Appeal As A Matter Of Right ... Motion [to] Panel To Rescind/Clarify Commissioner's 24 May 2017 Notation Order [Apparently] Threatening Dismissal Unless Petitioners Change Position That [Trial Court's] Summary Judgment/Final Judgement Null And Void Due To Commissioner's Errors,*

[2] "that Defendants are currently seeking Orders from various Appeals Courts that all actions and Orders of ... Trial Court -- e.g., **at least subsequent to 20 Mar 2017** -- are Null and Void [e.g.] **are currently seeking an Order from the Court of Appeals, Div. I, holding as NULL and VOID:**

(a) **this Trial Court's 21 April 2017 Summary Judgement Order, Said Order Granted On "Deemed Found" Facts Rendering Impossible All Defendants Defenses, With Said "Deemed Found" Facts Set Forth in the "Third Sanctions Order" from Which the Present 20 Mar 2017 Notice of Appeal-No. 76594-9-I Was Taken, and**

(b) **this Trial Court's 17 May 2017 Monetary Judgment in the form of Final Judgment against Defendants, Jointly and Severally, for \$402,817.68 said Summary Judgment and Final Judgment NULL and VOID, and without legal effect in that Jurisdiction over all matters transferred to this Appeals Court upon Defendants filing of the Notice of Appeal-No. 76594-9-I on 20 Mar 2017, and said Trial Court Orders only issuing as a result of Commissioner legal errors in Wrongfully Converting the 20 Mar 2017 Notice-of-Appeal-No. 76594-9-I to Discretionary Review.**

See, e.g., "Petitioners' [30 May 2017] Reply To Respondents Answer To Petitioner's 3rd Supplemental ... Motion To Modify Seeking Reinstatement Of Defendants' Joint Notice Of Appeal As A Matter Of Right Rather Than A Notice Of Discretionary Review."

[3] ... in the Matter of Defendants' 31 Mar 2017 **Motion-to-Stay-As-Backup-Plan-to-Previously-Filed Notice-of-Appeal-No. 76594-9-1 -- are currently seeking an Order from the Court of Appeals, Div. I, holding as NULL and VOID:**

[a] this Trial Court's 17 May 2017 Monetary Judgement Against Them, Jointly And Severally, Of \$402,817.68, ... Directly And

**Proximately Caused By The Commissioner's 25 Apr 2017
Wrongful Denial Of A Motion-to-Stay-As-BackupPlan-to-
Previously-Filed-Notice-of-Appeal-No. 76594-9-1, Said Stay To
Which Petitioners Were Entitled As A Matter Of Right.**

*See, e.g., Petitioners' [25 May 2017] 3rd Supplemental Joint Motion To
Modify Ruling ... [and Seeking] A Stay Of All Lower Court
Proceedings Pending A Decision On Petitioners Appeal As A Matter
Of Right.*

... seek review by APPEAL to the designated appellate court of, the 20
Mar 2017 APPEAL as a MATTER OF RIGHT Under at Least **RAP
2.2(a)(3)** -- "**Decision Determining Action. Any written decision
affecting a substantial right in a civil case that in effect determines the
action and prevents a final judgment or discontinues the action**" -- in
that the following Described Order -- via its "**Deemed Found**" Facts
appearing on at least its pages 10-11 -- rendered impossible all of
Defendants then-Defenses:

1. "Amended Order Granting Plaintiff's Third Motion For Sanctions"
entered on 07 March 2017 (Dkt. No. 283) , ...

Yet, despite the foregoing, and incredibly, NJK was able to engage in
egregious self-dealing, ultimately resulting in termination of Movants
Appellate rights as stated to the WA Supreme Court on 09-Oct-2017, and
then again on 11-Oct-2017 such as shown in the following excerpt from
that documents formal outline Table of Contents (organization shown
from original document):

**2. Three-Judge Panel Erred By Failing To Intervene And
Rescind Or Retract NJK' Threats As Defendants Begged
Them to Do** On 26-May-2017 in "**Petitioners' Motion [to] Panel
To Rescind/Clarify Commissioner's 24 23 May 2017 Notation
Order [Apparently] Threatening Dismissal Unless Petitioners
Change Position That [Trial Court's] Summary
Judgment/Final Judgement Null And Void Due To
Commissioner's Errors**] p. 23

a. Harm Of Three Judge Panel's Failure To Intervene To Rescind Or Retract The Apparent Threat Was Defendant Lawyers Recognized That If NJK So Dismissed That They Would Then Find Themselves Filing Motion To Modify Non-Judge Kanazawa's Dismissal Rather Than Their Decision On The Merits; Thus To Forestall This Gambit Petitioners Created A Strategy To Try To Maintain Jurisdiction And Without More Delay In Reaching An Actual Judge -- But Unfortunately They Never Did p. 24

5. Follow-On Misconduct Includes As Follows p. 25

a. Follow-On Misconduct: NJK's 15-Jun-2017 Decision Wherein NJK Used The 12-Jun-2017 Interlocutory Decision -- Said Interlocutory Decision Made In Newly Created (12 Jun 2017) Appeal No. 76594-9 (Without-An-Eye) -- To Fabricate An Appeal From Final Judgement As The Basis For Terminating, And Without A Hearing, Substantially All Of Defendants' Then-Pending Appellate Rights In This Present Matter Appeal-From-3rd-Sanctions-Order-No.-76594-9-I ("EYE") -- Said 15-Jun-2017 Decision Effectively that Defendants Had Effectively "Struck" (or "Mooted") Their 20-Mar-2017 Appeal from 3rd-Sanctions-Orderer p. 25

1) Harm From NJK's Further Apparent Misconduct of the 15-Jun-2017 Decision Includes NJK Terminating Several Pending Appellate Rights Re: Appeal from 3rd -Sanctions-Order, And Without a Hearing, Said Pending Appellate Rights Then-Including:

(a) 20-Mar-2017 Notice-of-Appeal-from-3rd-Sanctions-Order;

(b) 11-May-2017 MtM ... *Seeking Reinstatement Of Defendants' Joint Notice Of Appeal As A Matter Of Right Rather Than A Notice Of Discretionary Review;*

(c) 26-May-2017 Motion [to] Panel To Rescind/Clarify Commissioner's 24 23 May 2017 Notation Order [Apparently] Threatening Dismissal Unless Petitioners Change Position That [Trial Court's] Summary Judgment/Final Judgement Null And Void Due To Commissioner's Errors," and

(d) 30-May-2017 Reply to Answer to Motion ... Seeking Reinstatement .. Notice Of Appeal As A Matter Of Right Rather Than A Notice Of Discretionary Review" **p. 26**

b. Further Misconduct: NJK's 12-Jun-2017 Decisions Wherein NJK Opened Newly Created (12 Jun 2017) Appeal No. 76594-9 (Without-An-Eye) In Which NJK Thereafter Started A "Countdown Timer" Perfection Schedule Running From The Date Of NJK's 12-Jun-2017 Interlocutory Decision To Fabricate An Appeal From Final Judgment, Said Perfection Schedule Ultimately Leading -- On Or Around 19-Aug-2017 -- To Termination Of Several Then-Pending Motions, And Without A Hearing In Newly-Created (12 Jun 2017) Appeal No. 76594-9 (Without-An-Eye) **p. 26**

2) Harm From NJK's Further Apparent Misconduct of the 12-Jun-2017 Decisions Include Termination of Several Pending Appellate Rights, And Without a Hearing On or Around 19-Aug-2017, Believed to Include A Number of Pending Motions In Separate and Newly Created (12 Jun 2017) Appeal No. 76594-9 ("without-an-eye"), including:

(a) Original, 1st, 2nd, etc. Motions to Change the 12-Jun-2017 Interlocutory Decision to Accord With All Evidence;

(b) a Motion for Clerk's Amendment to Correct Defendants' Inadvertent Omission of 1st, 2nd, etc. from the Rush-Filed Amendments (e.g. that done after Defendants Learned from this Court on 12-Jul-2017 that 12-Jun-Interlocutory Decision Could Have Been by Clerk or Non-Judge-

Commissioner Rather than Judge, and Thus Unappealable to the S.Ct. at that Time

(c) etc., such as itemized in Petitioners' 17-Aug-2017 Motion To Alter/Amend Appeals Court 3-Judge Panel Order Of 09 Aug 2017 to Strike Portions Purporting To Rule On Motions Filed-And-Pending In Newly-Created (12 Jun 2017) Appeal No. 76594-9 ("WITHOUT-AN-EYE")p. 27

11-Oct-2017 Re: Petitioners' Joint Motion for Leave to File 3rd Amended Motion for Discretionary Review (Proposed Motion Attached Hereto) WA SCrt. 94969-7

Despite all this objective evidence, on 08-Aug-2017, this Court of Appeals elected not to rectify this behavior, instead of granting Movants' their Constitutionally guaranteed rights, it elected instead to issue an Order conflating several wrongful actions, which Movants tried to correct via an amended Order filed 16-Aug-2017, copy attached, which does not reflect what I initially expected from the WA State Appellate Courts.

VI. CONCLUSION

DEFENDANTS ARE ASKING THE PANEL TO ISSUE AN ORDER:

(A) REINSTATING THE 20-MAR-2017 *Notice of Appeal-No-76594-9-1 as a Matter of Right, and Wrongfully Converted by this Commissioner to a Notice of Discretionary Review;*

(B) *Declaring Null and Void :*

the Trial Court's 21 April 2017 Summary Judgement Order; and

the Trial Court's 17 May 2017 Monetary Judgment against Defendants in that Jurisdiction over all matters transferred to this Appeals Court Div. 1 on 20 Mar 2017 when Defendants *Notice of Appeal-No-76594-9-1* and as a Matter of Right was filed with the Trial Court.

(C) GRANTING THE 31-MAR-2017 WSBA-RECOMMENDED BACKUP
For at least the reasons shown herein, the Panel is asked to (a) reverse the Commissioner and GRANT the Stay with Effective Date of the Notice of Appeal, 20 March 2017, and with Said Stay on all matters such as were effected by the wrongfully-converted Notice of Appeal.

(D) GRANTING THE 09-OCT-2017 AMENDED MOTION FOR DISCRETIONARY REVIEW ARGUING ALL NON-JUDGE COMR.'S JUDICIAL ACTIONS VOID IN VIEW OF WA STATE AND FEDERAL CONST. VIOLATIONS.

Respectfully submitted and Dated: 19 April 2018.


By: _____
An Individual (Personal
Capacity)

Pro Se (Self-Represented -- No
Lawyer)
3723 N. 34th Street
Tacoma, WA 98407
Telephone: 253-324-7423

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dale_cook_an_individual@nym.
hush.com

Self-Represented

By: /s/ Dale R. Cook
Dale R. Cook WSBA 31,634
*Washington lawyer, practicing law in his
personal/individual legal capacity*
Law Offices of Dale Cook
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Fax: (253) 272-0386

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d_cook_lawyer@thirdwaysusefulartsii.net

*Lawyer Representing Defendant ICT-
Law-Pllc,⁶ A Separate⁷ and Incorporated⁸
Legal Entity that May Render Legal
Services Only By-And-Through Its
Individual Lawyer Member(s)⁹ Licensed
in Whatever State the Pllc Purports to
Practice (i.e., Render Legal Services)*

⁶ Rather than making the WA State Pllc law wholly self-contained, subchapter "25.15.046 Professional limited liability companies" **instead** incorporates by reference and in its entirety the WA State law governing Professional Service Corporations **into the LLC law**, e.g.:

(2) A professional limited liability company [rendering professional services] is **subject to all the provisions of chapter 18.100 RCW [Professional Service Corporations]** that apply to a professional corporation.

See RCW 25.15.046 Professional limited liability companies.

Thereafter, the WA State Pllc law gives an **algorithm** as to **how to apply the WA State Professional Services Corporation Law** (Chapter RCW 18.100) **to the WA State LLC Law** (Chapter RCW 25.15):

Attachment: "Amended Order filed 16-Aug-2017; Crt. Appl No. 76594-9-I"

Attachment: "... Motion Panel to Rescind/Clarify [NJK's] 23-May-2017 Order Threatening Dismissal Unless Petitioners Change Position that [Trial Court's And] Summary Judgment [Tr. Ct. Dkt. No. 394; 21-April-2017]/Final Judgment [Tr. Ct. Dkt. No. 443; 17-May-2017] Null and Void Due to ... [NJK's] errors filed 26-May-2017; Crt. Appl No. 76594-9-I"

Attachment: Re: Petitioners' Joint Motion for Leave to File 3rd Amended Motion for Discretionary Review (Proposed Motion Attached Hereto) filed 11-Oct-2017; WA SCrt. 94969-7."

(4) ... [In] applying chapter 18.100 RCW [Professional Service Corporations] to a professional limited liability company, the terms "director" or "officer" means **manager**, "shareholder" means **member**, "corporation" means **professional limited liability company**, "articles of incorporation" means **certificate of formation**, "shares" or "capital stock" means a **limited liability company interest**, "incorporator" means the person who executes the certificate of formation, and "bylaws" means the limited liability company agreement.

See RCW 25.15.046 Professional limited liability companies. ...

⁷ See "RCW 25.15.071 Formation—Certificate of formation ... (3) A limited liability company formed under this chapter [25.15 RCW LIMITED LIABILITY COMPANIES] is a separate legal entity [e.g., from its members, managers, and employees] and has a perpetual existence."

⁸ Applying the algorithm of RCW 25.15.046(4) -- see p. 8 *infra* -- to "RCW 18.100.010 Legislative intent," and "RCW 18.100.030 Definitions" yields, for a **Pllc** "It is the legislative intent to provide for the incorporation of an individual or group of individuals to render the same professional service to the public for which such individuals are required by law to be licensed...; and "... (1) The term "professional service" means any type of personal service to the public which requires as a condition precedent to the rendering of such service the obtaining of a license ... and which prior to the passage of this chapter and by reason of law could not be performed by a ... **[Pllc]**."

⁹ Applying the algorithm of RCW 25.15.046(4) -- see p. 8 *infra* -- to RCW "18.100.030 Definitions" yields, for a **Pllc** "(1) **No...** **[Pllc]** organized under this chapter **may render professional services except through individuals who are duly licensed ... to render such professional services within this state ...**" or through "a **person duly licensed ... to render professional services in any jurisdiction other than this state ... [said person] a member of a professional corporation in this state organized for the purpose of rendering the same professional services**"; and See 25.15.048 Professional limited liability company—Licensing "(1) ... **limited liability company** formed under this chapter **may render professional services ... through a person or persons ... duly licensed ... to render such professional services within this state... [or] a person duly licensed or otherwise legally authorized to render professional services in any jurisdiction other than this state ... [such person] a member of a professional limited liability company formed in this state for the purpose of rendering the same professional services...**";

CERTIFICATE OF SERVICE

I hereby certify under penalty of perjury of the laws of the State of Washington that a copy of the foregoing document(s) was electronically forwarded for service upon counsel of record:

Attorneys for Plaintiff:

Daniel J. Kalish
HKM Employment Attorneys
LLP
2301 North 30th Street
Seattle, WA 98403
dkalish@hkm.com

SENT VIA:

- Fax
- ABC Legal Services
- Regular U.S. Mail
- E-mail/E-File

**Dale Cook, Personal Capacity,
Pro Se**

Dale Cook
see below

SENT VIA:

- Fax
- ABC Legal Services
- Regular U.S. Mail
- E-mail/E-File

**Lawyer for Defendant ICT
Law Pllc:**

Dale Cook
918 S, Horton Street
Seattle, WA 98134
dalecook@ictlawtech.net

SENT VIA:

- Fax
- ABC Legal Services
- Regular U.S. Mail
- E-mail/E-File

DATED this 19 April 2018.

s/Dale Cook

Dale Cook
Lawyer

LAW OFFICES OF DALE COOK

April 19, 2018 - 4:13 PM

Transmittal Information

Filed with Court: Court of Appeals Division I
Appellate Court Case Number: 76594-9
Appellate Court Case Title: ICT Law & Tech. Group, Dale Cook, Petitioners v. James Namiki, Respondent
Superior Court Case Number: 16-2-01372-4

The following documents have been uploaded:

- 765949_Other_20180419134927D1880074_4834.pdf
This File Contains:
Other - Attachments to Petition for Review
The Original File Name was Attachment_ALL_19_Apr_2018_Pttn_Rvw.pdf
- 765949_Petition_for_Review_20180419134927D1880074_2913.pdf
This File Contains:
Petition for Review
*The Original File Name was
19_Apr_2018_Petition_for_Review_Crt_Appl_DIV_1_re_20_Mar_2018_ORDER_Dismissing_Appl.pdf*

A copy of the uploaded files will be sent to:

- brian@grandviewpatents.com
- brianjohnson@ictlawtech.net
- dkalish@hkm.com
- lflores@hkm.com

Comments:

Sender Name: Dale Cook - Email: dalecook@ictlawtech.net
Address:
918 S HORTON ST STE 717
SEATTLE, WA, 98134-1947
Phone: 425-605-7036

Note: The Filing Id is 20180419134927D1880074

FILED
Court of Appeals
Division I
State of Washington
4/19/2018 4:13 PM
Attachment A:

"Amended Order filed 16-Aug-2017; Crt. Appl No. 76594-9-I "

THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION ONE

JAMES NAMIKI,)
)
 Respondent,) No. 76594-9-1
)
 v.) ORDER DENYING
) MOTION TO MODIFY
)
 ICT LAW AND TECHNOLOGY)
 GROUP, PLLC, AND DALE R. COOK,)
)
 Petitioners.)

ICT Law and Technology Group, PLLC, and Dale R. Cook (ICT)

[Defendants] have moved to modify the commissioner's June 15, 2017 ruling ~~denying a new case number, denying a stay, and determining [1]~~ that ICT's prior motions to modify [2] are moot [on the basis of an alleged 12 Jun 2017 Interlocutory

¹ [See page 8 of Motion to Amend/Alter 09 Aug 2017 Order:

"roughly 3:30 a.m. in the early morning of 13 Jun 2017 ... fax-filed this emergency motion into Newly-Created (12 Jun 2017) Appeal No. 76594-9 ("WITHOUT-AN-EYE")"

Petitioners' Joint Motion

(A) For A New Serial Number That Clearly Differentiates Between (1) Newly-Created (12 Jun 2017) Appeal No. 76594-9 ["Without-An-Eye"]; And (2) Previously-Created -And-Pending Appellate-Matter-No.- 76594-9-I ("Eye"), And

(B) To Stay Newly-Created (12 Jun 2017) Appeal No. 76594-9 ["Without-An-Eye"] In View Of Likely Mootness Given Petitioners' Two Pending-And-Previously-Filed Motions To 3-Judge Panels In Previously-Created -And-Pending Appellate-Matter-No.- 76594-9-I ("Eye")

which to date has never been ruled upon in Newly-Created (12 Jun 2017) Appeal No. 76594-9 ("WITHOUT-AN-EYE")."

² [See page 7-8 of Motion to Amend/Alter 09 Aug 2017 Order:

Two "of which respectively argue that the Final Judgment Order of 17 May 2017 (Trial Court Dkt. No. 443) was directly and proximately caused by Commissioner Masako Kanazawa's legal/procedural errors in the Wrongful Conversion of Defendants 20 Mar 2017 Notice of Appeal (Trial Court Dkt. No. 308) and as a matter of right under RAP 2.2(a)(3) from the Trial Court's 07 Mar 2017 3rd Sanctions Order (Trial Court Dkt. No. 283) which rendered impossible all of Defendants' Defenses and/or directly and proximately caused by Commissioner Masako Kanazawa's legal/procedural errors via here Wrongful Denial of Defendants 29 Mar 2017 WSBA-recommended Backup Motion to Stay (Trial Court Dkt. No. 328)"].

Decision made in DIFFERENT and Newly-Created (12 Jun 2017) Appeal No. 76594-9

("NO EYE")³. 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.~~⁴ ~~To the extent that any of ICT's remaining filings can be construed as motions, they are denied~~⁵.

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.~~⁶

³ [See page 9 of Motion to Amend/Alter 09 Aug 2017 Order:

"Commissioner Kanazawa informed Defendants that She had decided to Absolve herself of Responsibility for all her errors on the basis of an alleged Interlocutory Decision in DIFFERENT and Newly-Created (12 Jun 2017) Appeal No. 76594-9 ("NO EYE") that Defendants 12 Jun 2017 fax-filed copy of their 09 Jun 2017 "1st Amended Notice of Appeal" (Trial Court Dkt. No. 474) -- wherein Defendants overtly noted that they were Appealing from the Trial Court's 07 Mar 2017 3rd Sanctions Order (Trial Court Dkt. No. 283), said 3rd Sanctions Order having deemed found facts that rendered all of Defendants' defenses impossible and further arguing the Trial Court's 21 April 2017 Summary Judgment Order (Trial Court Dkt. No. 394)/ Final Judgment Order of 17 May 2017 (Trial Court Dkt. No. 443) was Null and Void for two separate and egregious errors of Commissioner Kanazawa, was *incredibly* an appeal from the final judgment *despite no evidence to support the alleged interlocutory decision and all evidence to the contrary!!"*]

⁴ [See pages 11-15 of Motion to Amend/Alter 09 Aug 2017 Order:

"The Court's 09 Aug 2017 Order in the present matter -- -- **Notice-of-Appeal-Under-RAP-2.2(a)(3)-from-3rd-Sanctions-Order-Said-Notice-of-Appeal-Denoted-As-Appellate-Matter-No.-76594-9-I ("EYE")** -- purports to rule on several of these presently-pending and filed Motions/Actions/Statements in Different and Newly Created (12 Jun 2017) Appeal No. 76594-9 ("WITHOUT-AN-EYE"), and as shown by the following table: [SEE TABLE PAGES 14-17 OF MOTION TO ALTER/AMEND."]

⁵ [This portion should be struck as improperly vague, and replaced with a listing of Motions filed in present matter -- -- **Notice-of-Appeal-Under-RAP-2.2(a)(3)-from-3rd-Sanctions-Order-Said-Notice-of-Appeal-Denoted-As-Appellate-Matter-No.-76594-9-I ("EYE")** -- as opposed to Motions filed-and-pending decision in DIFFERENT and Newly-Created (12 Jun 2017) Appeal No. 76594-9 ("NO EYE") and in view of the objectively-demonstrated violations of the Code of Judicial Conduct across these two different matters.

⁶ [See page 09 of Motion to Amend/Alter 09 Aug 2017 Order:

This is not what Defendants needed to show; rather, Defendants have objectively demonstrated via direct page and line citation that the Alleged 12 Jun 2017 Interlocutory Decision that "Defendants 12 Jun 2017 fax-filed copy of their 09 Jun 2017 "1st Amended Notice of Appeal" (Trial Court Dkt. No. 474)" is clear error via direct page-and-line citations showing that "Defendants 12 Jun 2017 fax-filed copy of their 09 Jun 2017 "1st Amended Notice of Appeal" (Trial Court Dkt. No. 474) -- ... overtly noted that they were Appealing from

~~IGT has failed to file the statement of arrangements and designation of clerk's papers as directed in the perfection schedule. [7] This appeal shall be dismissed without further notice unless IGT files the designation of clerk's papers and statement of~~

the Trial Court's 07 Mar 2017 3rd Sanctions Order (Trial Court Dkt. No. 283), said 3rd Sanctions Order having deemed found facts that rendered all of Defendants' defenses impossible and further arguing the Trial Court's 21 April 2017 Summary Judgment Order (Trial Court Dkt. No. 394)/ Final Judgment Order of 17 May 2017 (Trial Court Dkt. No. 443) was Null and Void for two separate and egregious errors of Commissioner Kanazawa, was *incredibly* an appeal from the final judgment *despite no evidence to support the alleged interlocutory decision and all evidence to the contrary!!!*]

⁷ [See pages 7-8 of Motion to Amend/Alter 09 Aug 2017 Order:

The Perfection Schedule applies not in the the present matter -- -- **Notice-of-Appeal-Under-RAP-2.2(a)(3)-from-3rd-Sanctions-Order-Said-Notice-of-Appeal-Denoted-As-Appellate-Matter-No.-76594-9-I ("EYE")** - - but rather **DIFFERENT** and **Newly-Created (12 Jun 2017) Appeal No. 76594-9 ("NO EYE")**.]

"... 12 Jun 2017, Defendants were informed via email of "Mon 6/12/2017 4:52 PM," See, e.g., "Attachment Mon 6/12/2017 4:52 PM Email from Ms. Dahlem Having an attached Perfection Schedule allegedly applying in a **Newly Created (12 Jun 2017) Appeal No. 76594-9 ("NO EYE")**, said **Newly-Created "Appeal" having an alleged "perfection schedule" even though Defendants' Motion to Dismiss in the present matter -- -- Notice-of-Appeal-Under-RAP-2.2(a)(3)-from-3rd-Sanctions-Order-Said-Notice-of-Appeal-Denoted-As-Appellate-Matter-No.-76594-9-I ("EYE")** -- were still pending and had not yet been heard."]

~~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. ⁸ 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 ⁹.~~

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COURT OF APPEALS DIV 1
STATE OF WASHINGTON
2017 AUG -9 PM 1:52

⁸ This Portion of the Order should be struck as improperly vague given the apparent misconduct across these cases, and in favor of reissuing separate Orders relating only to those Motions Pending in the in the present matter -- -- Notice-of-Appeal-Under-RAP-2.2(a)(3)-from-3rd-Sanctions-Order-Said-Notice-of-Appeal-Denoted-As-Appellate-Matter-No.-76594-9-I ("EYE") -- as well as should issue Orders on the many filed-and-pending Motions in the **DIFFERENT** and **Newly-Created (12 Jun 2017) Appeal No. 76594-9 ("NO EYE")** "

⁹ [See pages 7-8 of Motion to Amend/Alter 09 Aug 2017 Order:

The Perfection Schedule applies not in the the present matter -- -- Notice-of-Appeal-Under-RAP-2.2(a)(3)-from-3rd-Sanctions-Order-Said-Notice-of-Appeal-Denoted-As-Appellate-Matter-No.-76594-9-I ("EYE") -- but rather **DIFFERENT** and **Newly-Created (12 Jun 2017) Appeal No. 76594-9 ("NO EYE")**]

No. 76594-9-1/2

Done this 9th day of August, 2017.

Vukobratovic

Trickey, J

Cox, J.

FILED
COURT OF APPEALS DIV I
STATE OF WASHINGTON
2017 AUG -9 PM 1:52

Attachment B:

"... Motion Panel to Rescind/Clarify [NJK's] 23-May-2017 Order Threatening Dismissal Unless Petitioners Change Position that [Trial Court's And] Summary Judgment [Tr. Ct. Dkt. No. 394; 21-April-2017]/Final Judgment [Tr. Ct. Dkt. No. 443; 17-May-2017] Null and Void Due to ... [NJK's] errors

filed 26-May-2017; Crt. Appl No. 76594-9-I"

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NO. 76594-9-1

COURT OF APPEALS, DIVISION I
OF THE STATE OF WASHINGTON

JAMES NAMIKI, AN INDIVIDUAL
Respondent (Plaintiff Below),
v.
ICT LAW AND TECHNOLOGY GROUP, PLLC
AND DALE COOK, AN INDIVIDUAL
Petitioners (Defendants Below).

*RE: PETITIONERS' 3rd Supplemental ...
MOTION TO MODIFY SEEKING
REINSTATEMENT OF DEFENDANTS'
JOINT NOTICE OF APPEAL AS A
MATTER OF RIGHT RATHER THAN A
NOTICE OF DISCRETIONARY REVIEW*

**PETITIONERS MOTION PANEL TO
RESCIND/CLARIFY 24 MAY 2017
NOTATION ORDER THREATENING
DISMISSAL UNLESS PETITIONERS
CHANGE POSITION THAT
SUMMARY JUDGMENT/FINAL
JUDGEMENT NULL AND VOID DUE
TO COMMISSIONER'S ERRORS**

NOTE: Petitioners (Defendants below) apologize to the Panel for some potential overemphasis herein, (lawyer has a visual impairment), and also apologizes for citation, in some instances, to the Trial Court Dkt. Nos, but fear that if they do not get this before this Panel immediately

<p>RE: Petitioners' 3rd Supplemental ... Motion To Modify Seeking Reinstatement Of Defendants' Joint Notice Of Appeal As A Matter Of Right...</p>	<p>Dale Cook, Lawyer for ICT Law Pllc 918 S. Horton Street Suite 717 Direct: 425-605-7036 Mobile: 253-324-7423</p>
<p>Petitioners Motion Panel To Rescind/Clarify Commissioner 24 May 2017 Notation Order Threatening To Dismiss This Matter Unless Petitioners Change Position That Summary Judgment/Final Judgement Null And Void Due To Commissioner's Errors -- 1</p>	<p>Brian L. Johnson Lawyer for Dale Cook, Personal Capacity PO Box 1594 Ferndale, WA 98248 Tel. 360-778-3329,</p>

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Commissioner will act on her threats to Dismiss this Matter if Defendants are not willing to retract their arguments that Trial Court Orders are Null and Void due to Commissioner's errors .

I. IDENTITY OF MOVING PARTY (PETITIONERS)

Petitioners -- Defendants Below -- ICT Law Technology Group, Pllc, and Dale Cook, in his personal capacity, join to ask for the relief designated in Part II.

II. STATEMENT OF RELIEF SOUGHT

Petitioners (Defendants Below) ask the 3-Judge Panel providing review in the presently pending 11-May-2017 Motion To Modify Seeking Reinstatement Of Defendants' Joint Notice Of Appeal As A Matter Of Right... " to direct Commissioner Kanazawa to Rescind/Clarify her **24 May 2017 Notation Ruling that *threatens to Dismiss Defendants 20 Mar 2017*** Notice of Appeal-**No. 76594-9-1, UNLESS Defendants file an Amended Notice of Appeal that includes the 17 May 2017 Monetary Judgment against Defendants, and Which Defendants Herein And Elsewhere Argue Is Void/Moot as Directly/Proximately Caused by Commissioner Kanazawa's 06 Apr 2017 WRONGFUL CONVERSION of Notice of Appeal-No. 76594-9-1 to a Notice of Discretionary Review.**

Specifically, Commissioner Masako Kanazawa's 24 May 2017 Notation Ruling threatens to Dismiss Defendants Notice of Appeal-No. 76594-9-1, UNLESS Defendants Relinquish Their Claims of Appeal as Matter of Right Under RAP 2.2(a)(3), from the Trial Court's 07 Mar 2017 "Third Sanctions Order" that "Deemed Found" Facts that took away ALL Defendants' then-Defenses. Panel is asked to NOTE-THAT that the "Interlocutory Appeal" referred to in the following-quoted Notation Order *is actually Defendants Notice of Appeal-No. 76594-9-1, which Commissioner Wrongfully Converted to a Notice of Interlocutory Appeal on 06 Apr 2017, and insofar as that Conversion was Wrongful and without legal right, actions subsequent to 20*

<p>RE: Petitioners' 3rd Supplemental ... Motion To Modify Seeking Reinstatement Of Defendants' Joint Notice Of Appeal As A Matter Of Right...</p> <p>Petitioners Motion Panel To Rescind/Clarify Commissioner 24 May 2017 Notation Order Threatening To Dismiss This Matter Unless Petitioners Change Position That Summary Judgment/Final Judgement Null And Void Due To Commissioner's Errors -- 2</p>	<p>Dale Cook, Lawyer for ICT Law Pllc 918 S. Horton Street Suite 717 Direct: 425-605-7036 Mobile: 253-324-7423</p> <p>Brian L. Johnson Lawyer for Dale Cook, Personal Capacity PO Box 1594 Ferndale, WA 98248 Tel. 360-778-3329,</p>
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3 **Mar 2017 are Null and Void in that Trial Court lacked jurisdiction of all matters in this case,**
4 **said jurisdiction transferred to Appeals Court Div. 1 on 20 Mar 2017,¹ and where it remains**
5 **to this day.**

6
7 **In stark contrast,** Commissioner Masako Kanazawa 23 May 2017 Notation Order States:

8 ".... By ruling of May 5, 2017, I denied ICT defendants' motion for interlocutory review [but
9 which "interlocutory review" Defendants argue was the result a Wrongful Conversion of
10 Notice of Appeal-**No. 76594-9-1**.... As directed by the May 5 ruling, the parties have filed
11 a status report.

12 Both parties report that on May 17, 2017, the trial court entered a final judgment for
13 plaintiff James Namiki in the amount of \$402,817.68. **As of this ruling, ICT has not filed**
14 **an amended notice of appeal.** ICT states it is "busy drafting Motions for Judgment as a
15 Matter of Law/New Trial." ICT Status Report at 4.

16 ¹ Common sense, as well as the orderly administration of justice, requires that only one court have control of an action
17 at any one time. The Rules of Appellate Procedure establish when control passes from the trial court to the appellate
18 court (and back again) and what authority resides in each court before and after the transition. As one court expressed it,
19 the rules "keep a case from 'develop[ing] branches," one in the trial court and one in the appellate court, while the
20 appeal is pending. *Burton v. Clark Cnty.*, 91 Wn App. 505, 513 n.9, 958 P.2d 343 (1998), review denied, 137 Wn.2d
21 1015 (1999). This chapter discusses the authority of the appellate court and the trial court pending appellate review.

22 RAP Title 6 prescribes when the appellate court accepts review. RAP Title 7 provides that jurisdiction passes from the
23 trial court to the appellate court when the appellate court "accepts review," and governs what authority the respective
24 courts have before and after the appellate court accepts review.

25 Under RAP 6.1, "[t]he appellate court 'accepts review' of a trial court decision upon the timely filing in the trial court of
26 a notice of appeal from a decision which is reviewable as a matter of right." Thus, review is accepted *automatically*
27 upon filing of a notice of appeal that correctly designates an appealable decision and is timely filed. The quotation
28 marks surrounding "accepts review" in RAP 6.1 reflect that the phrase is a term of art defined by the substance of the
rule.

See WASHINGTON APPELLATE PRACTICE DESKBOOK (Wash. State Bar Assoc. 4th ed. 2016) (hereinafter, "WSBA
APPELLATE PRACTICE"), §§7.2-3

RE: Petitioners' 3rd Supplemental ... Motion To Modify
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Appeal As A Matter Of Right...

**Petitioners Motion Panel To Rescind/Clarify
Commissioner 24 May 2017 Notation Order
Threatening To Dismiss This Matter Unless Petitioners
Change Position That Summary Judgment/Final
Judgement Null And Void Due To Commissioner's
Errors -- 3**

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.... If ICT does not file an amended (or new) notice of appeal from the final judgment by June 16, 2017, this case will be dismissed."

See 23 May 2017 Notation Order (emphasis added).

The present action argues the **17 May 2017 Final Judgment is NULL and VOID and as Directly/Proximately Caused by Commissioner Kanazawa's 06 Apr 2017 WRONGFUL CONVERSION of Defendants Notice of Appeal-No. 76594-9-1 to a Notice of Discretionary Review.**

Yet Commissioner's Notation Order appears to THREATEN DEFENDANTS that if they continue to persist in arguing her very errors rendered the Final Judgment Null and Void, as well as the Summary Judgment proceeding it, and that Defendants Notice of Appeal-No. 76594-9-1 was as a Matter of Right Under RAP 2.2(a)(3), and her Conversion of *Defendants Notice of Appeal-No. 76594-9-1* wrongful, she will Dismiss this matter.

Thus it appears that Commissioner's 24 May 2017 actions are an attempt to cut off review of her actions and to hide her many mistakes, such as have caused much harm to Defendants and wasted many judicial resources.

Thus, Defendants ask the Panel to ensure that the Commissioner either **Rescind or Clarify her order** that she is not seeking a means to Dismiss or yet more wrongfully interfere with Defendants pursuit of a fair and objective hearing, of legal rights in the present action and others before the Panel.

Defendants have demonstrated that the Trial Court has lacked jurisdiction since 20 Mar 2017 when Defendants Notice of Appeal-No. **76594-9-1** and that Commissioner Kanazawa's Conversion of the Notice of Appeal -- and without Notice or Opportunity for a Hearing -- was wrongful.

Critically, such Conversion -- via a Course of Conduct by this Commissioner at this point well-known by Defendants -- **was yet again done in Imperious fashion WITHOUT the Notice**

<p>RE: Petitioners' 3rd Supplemental ... Motion To Modify Seeking Reinstatement Of Defendants' Joint Notice Of Appeal As A Matter Of Right...</p> <p>Petitioners Motion Panel To Rescind/Clarify Commissioner 24 May 2017 Notation Order Threatening To Dismiss This Matter Unless Petitioners Change Position That Summary Judgment/Final Judgement Null And Void Due To Commissioner's Errors -- 4</p>	<p>Dale Cook, Lawyer for ICT Law PLLc 918 S. Horton Street Suite 717 Direct: 425-605-7036 Mobile: 253-324-7423</p> <p>Brian L. Johnson Lawyer for Dale Cook, Personal Capacity PO Box 1594 Ferndale, WA 98248 Tel. 360-778-3329,</p>
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and Opportunity for Hearing provided for by "...RAP 6.2(b) addresses this issue, *giving the appellate court clerk or a party the ability to challenge review as a matter of right:*

If a party files a notice of appeal from a decision which may not be subject to review as a matter of right, *the clerk ... may note for hearing the question whether the decision is reviewable as a matter of right and, if the decision is reviewable by discretion, the question whether review should be accepted.*

See WSBA Appellate Practice, §7.3 QUESTIONS ABOUT ACCEPTANCE OF REVIEW.

Here, and with respect to the underlying issue of the Appeals Court's reclassification of the Notice of Appeal to a Notice of Discretionary Review, there absolutely NO NOTICE OF HEARING ON THIS QUESTION GIVEN.

But, as noted in a Separate Action² Filed Yesterday, Defendants did not just rely on the transfer of jurisdiction effected by the Appeal; rather, on 31 Mar 2017 Defendants *PROACTIVELY filed a Motion-to-Stay-As-Backup-Plan-to-Previously-Filed-Notice-of-Appeal-No. 76594-9-1,* (Appx. Mtn_Mdify, Motions/Orders Chain, p. 150-165) and also *PROACTIVELY perfected Cash Supersedeas as a "backup plan"* in view of the WSBA's strident warnings that the Appeals Court often reclassifies a Notice of Appeal under RAP 2.2(a)(3) as a Motion for Discretionary Review, *and on a Superficial Inquiry, BASED ON TITLE OF THE ORDER:*

All three divisions of the Court of Appeals routinely screen notices of appeal to determine appealability. *This screening is at a cursory level, based on the information available to the court at the time of filing, including the title of the order from which review is sought....*

See WSBA Appellate Practice, §7.3 QUESTIONS ABOUT ACCEPTANCE OF REVIEW.

² *Petitioners' 25 May 2017 3rd Supplemental Joint Motion To Modify Ruling Denying A Stay Of All Lower Court Proceedings Pending A Decision On Petitioners Appeal As A Matter Of Right*

RE: Petitioners' 3rd Supplemental ... Motion To Modify Seeking Reinstatement Of Defendants' Joint Notice Of Appeal As A Matter Of Right...

Petitioners Motion Panel To Rescind/Clarify Commissioner 24 May 2017 Notation Order Threatening To Dismiss This Matter Unless Petitioners Change Position That Summary Judgment/Final Judgement Null And Void Due To Commissioner's Errors -- 5

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Defendants have Appealed to this Panel seeking Reversal of the Wrongful Conversion and Reinstatement of the Notice of Appeal, and consequently an Order stating the that the Summary Judgment and Final Judgment are NULL/VOID and without legal effect and were only issued as a result of Commissioner legal error in converting the Notice of Appeal-No. 76594-9-1 to Discretionary Review.

A. With the present action,³ Defendants Have Sought To Moot/Void -- for lack of Jurisdiction -- A 21 April 2017 Summary Judgement Order⁴, Said Order Granted On "Deemed Found" Facts Rendering Impossible All Defendants Defenses, With Said "Deemed Found" Facts Set Forth in the "Third Sanctions Order" from Which Notice of Appeal-No. 76594-9-1 -- This Very Matter -- Was Taken, And With Notice of Appeal-No. 76594-9-1 Lodged Due To The Very "Deemed Found" Facts Upon Which the Summary Judgment Order Was Based

On 06 Apr 2017 Commissioner -- *without notice and an opportunity for hearing as guaranteed by RAP ??? -- wrongfully converted* Defendants Notice of Appeal-No. 76594-9-1 to a "Notice of Discretionary Review." This *wrongful conversion of Appeal-No. 76594-9-1* transferred jurisdiction of the subject matter of this case back to the lower court. As a result of the Commissioners Wrongful Conversion of Appeal-No. 76594-9-1, Defendants were forced to stand for a Summary Judgment hearing, but with all facts "Deemed Found" against them Defendants were unable to raise their Defenses.

Thus, in the Present Action⁵, Defendants seek review and reversal of the Commissioner's Wrongful Conversion of the Notice of Appeal-No. 76594-9-1 and attendant voiding of the

³ Pending 11-May-2017 Motion To Modify Seeking Reinstatement Of Defendants' Joint Notice Of Appeal As A Matter Of Right Rather Than A Notice Of Discretionary Review (hereinafter "Motion to Modify Seeking Reinstatement Of Defendants' Joint Notice Of Appeal-No.-76594-9-1 As A Matter Of Right... [Under RPC 2.2(a)(3) via Reversal of Commissioner Kanazawa' 06 Mar 2017 Wrongful Conversion to the Notice of Appeal-No-76594-9-1 to a Notice of Discretionary Review]")

⁴ (Dkt. No. 394; Appx. Mtn_Mdify, Mtn_Order Chain P. 570)

⁵ Motion to Modify Seeking Reinstatement Of Defendants' Joint Notice Of Appeal-No.-76594-9-1 As A Matter Of Right... [Under RPC 2.2(a)(3) via Reversal of Commissioner Kanazawa' 06 Mar 2017 Wrongful Conversion to the Notice of Appeal-No-76594-9-1 to a Notice of Discretionary Review]

RE: Petitioners' 3rd Supplemental ... Motion To Modify Seeking Reinstatement Of Defendants' Joint Notice Of Appeal As A Matter Of Right...

Petitioners Motion Panel To Rescind/Clarify Commissioner 24 May 2017 Notation Order Threatening To Dismiss This Matter Unless Petitioners Change Position That Summary Judgment/Final Judgement Null And Void Due To Commissioner's Errors -- 6

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Summary Judgment Order⁶ that was Directly and Proximately Caused by Commissioners' Wrongful Conversion of the Notice of Appeal-No. 76594-9-1 to Notice of Discretionary Review.

That is, insofar as that the Notice of Appeal-No. 76594-9-1 transferred jurisdiction over all matters to this Court of Appeals on 20 March 2017, this Present Action seeks to establish the Summary Judgment order as Void in that the Trial Court was without Jurisdiction over the matters in this case as of 20 March 2017, the date Defendants rightfully filed Notice of Appeal-No. 76594-9-1.

⁶ (Dkt. No. 394; Appx. Mtn_Mdify, Mtn_Order Chain P. 570)

RE: Petitioners' 3rd Supplemental ... Motion To Modify Seeking Reinstatement Of Defendants' Joint Notice Of Appeal As A Matter Of Right...

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B. Likewise in This Present Action,⁷ Defendants Seek To Moot/Void -- for Lack of Jurisdiction -- A 17 May 2017 Monetary Judgement Against Them, Jointly And Severally, for \$402,817.68, said Monetary Judgement Directly And Proximately Caused By This Commissioner's Wrongful Conversion of the Notice of Appeal-No. 76594-9-1 -- This Very Matter-- to a Notice of Discretionary Review.

In Defendants' Pending *Motion to Modify Seeking ... Reversal of Commissioner Kanazawa's 06 Mar 2017 Wrongful Conversion to the Notice of Appeal-No-76594-9-1 to a Notice of Discretionary Review*, Defendants exhaustively demonstrate that they were entitled to Appeal as a Matter of Right subsequent to the Trial Court's 07 March 2017 entry of the Third Sanctions Order in that the "Deemed Found" Facts of this Third Sanctions Order rendered impossible all Defendants Defenses.

Specifically, at the 21 April 2017 Summary Judgment Hearing, Defendants were not allowed to raise any Substantive Defenses by Judge Ruhl, and in view of the "Deemed Found" Facts of the 07 Mar 2017 Third Sanctions Order, from which Notice of Appeal was taken on 20 Mar 2017.

Summary Judgment was then entered and all against Defendants on the "Deemed Found" facts, Defendants being unable to assert ANY their Defenses, in that the "Deemed Found" Facts cut off ALL Defendants' Defenses, as exhaustively documented in *Motion to Modify Seeking Reinstatement Of Defendants' Joint Notice Of Appeal-No.-76594-9-1 As A Matter Of Right...* [Under RPC 2.2(a)(3) via *Reversal of Commissioner Kanazawa's' 06 Mar 2017 Wrongful Conversion of the Notice of Appeal-No-76594-9-1 to a Notice of Discretionary Review*].

Thereafter, Plaintiff obtained the 17 May 2017 Monetary Judgment against Defendants -- jointly and severally -- for \$402,817.68 -- on the basis of the Summary Judgment Order.

C. BUT FOR Commissioners Kanazawa's Wrongful Conversion Of Defendants Notice Of Appeal-No. 76594-9-1 To A Notice Of Discretionary Review, This Monetary Judgment Would Have Never Happened, Jurisdiction Over All Matters Having Been

⁷ *Motion to Modify Seeking Reinstatement Of Defendants' Joint Notice Of Appeal-No.-76594-9-1 As A Matter Of Right...* [Under RPC 2.2(a)(3) via *Reversal of Commissioner Kanazawa's 06 Mar 2017 Wrongful Conversion to the Notice of Appeal-No-76594-9-1 to a Notice of Discretionary Review*]

<p>RE: Petitioners' 3rd Supplemental ... Motion To Modify Seeking Reinstatement Of Defendants' Joint Notice Of Appeal As A Matter Of Right...</p> <p>Petitioners Motion Panel To Rescind/Clarify Commissioner 24 May 2017 Notation Order Threatening To Dismiss This Matter Unless Petitioners Change Position That Summary Judgment/Final Judgement Null And Void Due To Commissioner's Errors -- 8</p>	<p>Dale Cook, Lawyer for ICT Law PLLC 918 S. Horton Street Suite 717 Direct: 425-605-7036 Mobile: 253-324-7423</p> <p>Brian L. Johnson Lawyer for Dale Cook, Personal Capacity PO Box 1594 Ferndale, WA 98248 Tel. 360-778-3329,</p>
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Transferred Long Before That Time, And To The Court Of Appeals Div. I When Notice Of Appeal-No._76594-9-1 Was Filed.

Jurisdiction over all matters transferred to this Appeals Court occurred on 20 March 2017. That the Appeal was as a matter of right was demonstrated in Defendants' 11-May-2017 *Motion to Modify Seeking Reinstatement Of Defendants' Joint Notice Of Appeal-No.-76594-9-1 As A Matter Of Right...* [Under RPC 2.2(a)(3) *via Reversal of Commissioner Kanazawa' 06 Mar 2017 Wrongful Conversion to the Notice of Appeal-No-76594-9-1 to a Notice of Discretionary Review*].

However, events subsequent to Commissioner's Wrongful Conversion prove it more so.

Defendants were forced to Stand for Summary Judgment, and unable to raise any of their Defenses, DESPITE THE FOLLOWING-DESCRIBED EVIDENCE OF FACT/LAW OF DEFENDANTS AND ARGUMENTS AT ALL TIMES BEFORE THE TRIAL COURT:

1. ALL OBJECTIVE EVIDENCE OF RECORD IS THAT THE ACTUAL LEGAL DISPUTE IS BETWEEN TWO LAWYER-OWNED-AND-MANAGED CORPORATIONS, BUT THIS EVIDENCE HAS NEVER BEEN DISCUSSED BY ANY TRIAL JUDGE

In multiple -- but not addressed -- Appeals to this very Commissioner, Defendants have shown multiple egregious abuses of discretion by previous Trial-Judge Bowman for failing to exercise discretion, where complex commercial evidence was dismissed with no mention/discussion.

Most recently, and in another matter, this Commissioner attempted to dismiss -- and evade review by an Appellate Panel -- by dismissing a Motion or Discretionary Review where more than 5 egregious Abuses of Discretion were shown on the typographical error that Defendants' did not over quote factors which reasonably the Commissioner should be able to expected to know/understand.

Consequently, it is easy to forget that the actual dispute involved in this lawsuit is between a First Corporation -- ICT Law & Technology Group, Inc. (hereinafter, "ICT Corp.") and a Second Corporation -- Seatree, Corp.

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3 The first lawyer owned and managed Corporation, ICT Corp. is registered as an active
4 Professional Limited Liability Company ("Pllc") with the Washington Secretary of State.

5 The second lawyer owned and managed Corporation, Seatree, Corp. is registered as an active
6 Limited Liability Company (LLC) with the Washington Secretary of State.⁸

7 All objective documentary evidence in this lawsuit demonstrates that the actual dispute in this
8 lawsuit is between these two lawyer-owned-and-managed corporations, and in contractual privity
9 with each other from 01 January 2013 until 9 September 2015:

10 (a) Official IRS documents show all dollars paid by ICT Corp to Seatree Corp for all times
11 during the years 2013-2015, inclusive have been reported as "nonemployee compensation"
12 paid to Independent Contractor Seatree Corp. ,⁹

13 (b) Copies of all checks for the years 2013-2015 show the checks were written by ICT
14 Corp. "Pay to the Order of Seatree, LLC" and never Plaintiff Namiki personally;¹⁰

15 (c) Copies of all processed checks show the checks written "Pay to the Order of Seatree,
16 LLC" were deposited bearing a signature of Namiki, but in his capacity as manager of
17 Seatree, LLC;¹¹

18 ⁸ See Washington Secretary of State Printout appearing as Exhibit to Defendants Motion for Summary Judgement 05
19 Dec 2016 (Dkt. No 165);

20 ⁹ Copies of emails wherein Seatree LLC -- by and through its manager James Namiki, reviewed and
21 approved tax year 2013 & 2014 IRS 1099 Contractor forms clearly showing all monies paid by ICT
22 Law Pllc to Seatree were for "nonemployee compensation" (Box 7 1099 Form), and likewise
23 showing "a true and correct (redacted) copy of tax year 2015 1099-MISC independent contractor
24 form, and to which Seatree LLC never objected: Box 7 clearly shows all monies paid by ICT Law
25 Pllc to Seatree LLC for tax year 2015 as "nonemployee compensation," Declaration Of ICT Law &
26 Technology Group Pllc That Plaintiff Namiki, In His Personal Capacity, Has Sustained No Harm
From Defendants, 05 Dec 2016 (Dkt. No. 155)

¹⁰ See Copies of Imaged Checks "Pay to Order of Seatree," Declaration ICT Law &Technology
Group Pllc That ICT Law Pllc Paid All Monies And For All Times To Seatree LLC As An
Independent Contractor, 05 Dec 2016 (Dkt. No. 153)

¹¹ See Copies of Imaged Checks , "Declaration ICT Law & Technology Group That Tax Year 2013-
15 Checks Written To Seatree LLC As An Independent Contractor Were Processed Via Plaintiff's
Signature As Manager Of Seatree LLC, "Pay to Order of Seatree," 11 Dec 2016, (Dkt. No. 187),

27 RE: Petitioners' 3rd Supplemental ... Motion To Modify
28 Seeking Reinstatement Of Defendants' Joint Notice Of
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(d) For the years 2013-2015, ICT Corp. and Seatree Corp. were only in contractual privity for 32 months and roughly 1 week (hereinafter "32 months"), and the Official IRS tax documents show that the total "nonemployee compensation" paid by ICT Corp. to Seatree Corp. during that time was:

\$688,766.14;

however, insofar as that ICT Corp. did not pay Seatree LLC for its invoices for alleged services of Seatree LLC for the months of June, July, and August 2015, that dollar amount is actually for 29 months. See Declaration Of ICT Law & Technology Group Pllc Re: James Namiki And Non-Employee Compensation Paid Seatree LLC 2013, 2014, 2015 (filed 10 May 2017) (Trial Court Dkt. No. 418) (Appx. Mtn_Mdify, Doc_Declaratory Chain p. ___)

2. DESPITE ALL OBJECTIVE EVIDENCE SHOWING THE DISPUTE IS BETWEEN TWO SEPARATE CORPORATIONS, NAMIKI AND IN CONCERT WITH HKM LLP HAS FIRST FILED AND THEREAFTER MAINTAINED SUIT IN HIS INDIVIDUAL CAPACITY; WHY?

So, despite the fact that all objective evidence is that this is a commercial dispute between two lawyer-owned-and-managed Corporations, one can search in vain for any mention of Seatree LLC in Namoki's/HMK LLP -- by and through its lawyer Daniel Kalish (hereinafter "HKM") Complaint.

Why? One reason is that ICT Corp. has significant defenses to any claims lodged by Seatree Corp., including and most-significantly that ICT Corp. has never been paid any monies for the alleged work that forms the basis of this lawsuit. See Declaration ICT Law & Technology Group Pllc That ICT Law Pllc Paid All Monies And For All Times To Seatree LLC As An Independent Contractor, (filed 05 December 2016)(Trial Court Dkt. No.153)(Appx. Mtn_Mdify, Doc_Declaratory Chain p. 68-83), and Declaration Of ICT Law & Technology Group Pllc That Plaintiff Namiki, In His

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Personal Capacity, Has Sustained No Harm From Defendants, filed and served 05 December 2016 (Trial Court Dkt. No. 155) (Mtn_Mdify, Doc_Declaratory Chain p. 91-116.

Another reason -- and as the Court would expect regarding two lawyer-owned-and-managed corporations -- is that under the agreement between Seatree Corp. and ICT Corp. each party bears its own legal fees.

So, by the Namiki-HKM "scheme" of the personal capacity lawsuit, Namiki violates the Seatree Corp. agreement with ICT Corp. where each lawyer-owned corporation bears its own legal fees and costs, and further avoids the defenses that ICT Corp. has to the claims of Seatree Corp.

An additional answer can be found by Namiki's own admission, and in his Declarations. Specifically, during the times covered by this lawsuit, Namiki has attested that he/Seatree Corp. had absolutely ZERO clients of his/its own, besides ICT Law Pllc. Namiki Declaration where he says he was wholly Dependent on ICT Law (Declaration of James N. Namiki, 20 June 2016, (Trial Court Dkt. No. 22) (Appx. Mtn_Mdify, Doc_Declaratory Chain p. 304). Nor did he seek to go out and get any clients of his own, which is VERY hard to do, at least for lawyer Dale Cook.

Namiki instead relied on the hard work and lifetime achievements of lawyer Dale Cook to bring work to him.

Despite Namiki's advantages, connections, and unlimited family money on which to draw, during the 33 months that Seatree, LLC provided services to ICT Law Pllc, and by his own admission Namiki *chose not to do any work to support himself*, instead coasting on Dale Cook's reputation, hard work, and client base which took over a decade to build.

Then, when Namiki's Seatree LLC developed a fee dispute with ICT Law Pllc, Namiki turned his lack of work and effort to get his own clients into a virtue: he found a lawyer -- HKM -- that would collude with him to turn his lack of efforts into an individual capacity lawsuit that would allow Namiki and HKM, together to attack ICT Law Pllc's core business value and proprietary

RE: Petitioners' 3rd Supplemental ... Motion To Modify Seeking Reinstatement Of Defendants' Joint Notice Of Appeal As A Matter Of Right...

Petitioners Motion Panel To Rescind/Clarify Commissioner 24 May 2017 Notation Order Threatening To Dismiss This Matter Unless Petitioners Change Position That Summary Judgment/Final Judgement Null And Void Due To Commissioner's Errors -- 12

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structures, and of which Namiki had learned via his Washington bar license while Seatree Corp. was provide services to ICT Corp.

3. THE CORE BUSINESS VALUE SO-ATTACKED HAS BEEN REPRESENTED RECENTLY AND BEFORE THE TRIAL COURT?

During the previous filings in this lawsuit ICT Corp had to describe in general form the proprietary structures of ICT Corp. -- and of which Namiki learned via his providing services for a client -- and which Namiki and HKM in concert then attacked via the scheme just described. However, within the last few weeks it has had occasion to show them in specific detail. Specifically during the second week of May and culminating in the filings on 12 May 2017 (SEE ADDITIONAL INFO INSERTED BELOW) ICT has demonstrated that structure where 5 of its Of Counsel Lawyers have attested to *5 separate and distinct attorney-client relationships* and *5 separate and distinct sets of legal matters* upon which they have advised ICT law, and on the basis of which they are arguing that the materials sought compelled by Namiki/HKM our attorney-client privileged, with each of them asserting DIFFERENT PRIVILEGES (See CR 60 Motions of: Scot M. Ringenberg; Chad W. Swantz; Sam C. Olive, III; Margaret Anderson; Brian Johnson filed 12 May 2017) (Trial Court Dkt. No.s 427; 421; 425; 423; and 439) (Appx. Mtn_Mdify, Orders_Mtns Chain p. 472; p. 483; p. 494; p. 506; and p. 516).

And on the basis of SUCH SEPARATE AND DIFFERENT PRIVILEGES have cut off Namiki/HKM's access to materials to which Namiki/HKM has never had access.

It were these legal structures and agreements, to which Namiki had full access and knowledge - in that Namiki served under terms substantially identical to those of the Fiver Of Counsel lawyer so acting -- and of which all ICT Corp. clients are aware and rely upon -- to protect the damage to their interests by bad actors.

And it was this very structure -- of which Namiki formed a part and should in fact be executing upon, rather than attacking -- which they attacked as a leveraging point in this lawsuit.

<p>RE: Petitioners' 3rd Supplemental ... Motion To Modify Seeking Reinstatement Of Defendants' Joint Notice Of Appeal As A Matter Of Right...</p> <p>Petitioners Motion Panel To Rescind/Clarify Commissioner 24 May 2017 Notation Order Threatening To Dismiss This Matter Unless Petitioners Change Position That Summary Judgment/Final Judgement Null And Void Due To Commissioner's Errors -- 13</p>	<p>Dale Cook, Lawyer for ICT Law PLLc 918 S. Horton Street Suite 717 Direct: 425-605-7036 Mobile: 253-324-7423</p> <p>Brian L. Johnson Lawyer for Dale Cook, Personal Capacity PO Box 1594 Ferndale, WA 98248 Tel. 360-778-3329,</p>
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3 **D. DESPITE ALL THIS OBJECTIVE ARGUMENT AND EVIDENCE THAT THIS PLAINTIFF/HKM**
4 **INDEPENDENT CAPACITY LAWSUIT IS BASELESS AND A FRAUD ON THIS COURT,**
5 **COMMISSIONER KANAZAWA'S WRONGFUL CONVERSION ORDER PUT DEFENDANTS IN**
6 **FRONT OF THE FIRING SQUAD OF A SUMMARY JUDGMENT PROCEEDING AND WITH HIS**
7 **HANDS TIED BY WAY OF "DEEMED FOUND" FACTS ALL AGAINST THEM, AFTER WHICH**
8 **THEY WERE DRAWN AND QUARTERED, BY WAY OF A MONETARY JUDGMENT AND**
9 **SUBSEQUENT TO THE STANDING BEFORE THE FIRING SQUAD AND WITH HANDS BOUND**
10 **("DEEMED FOUND" FACTS)**

11 So, critically, operating as she does without ANY oversight, Commissioner Kanazawa's
12 Wrongful Conversion to the Notice of Appeal-No-76594-9-1 to a Notice of Discretionary Review -
13 - via a Course of Conduct by this point well-known by Defendants -- was yet another of her acts
14 done in Imperious fashion. Specifically, WITHOUT the Notice and Opportunity for Hearing
15 guaranteed by "...RAP 6.2(b) addresses this issue, giving the appellate court clerk or a party the
16 ability to challenge review as a matter of right:

17 If a party files a notice of appeal from a decision which may not be subject
18 to review as a matter of right, the clerk ... may note for hearing the
19 question whether the decision is reviewable as a matter of right and, if the
20 decision is reviewable by discretion, the question whether review should
21 be accepted.

22 WSBA Appellate Practice, §7.3 QUESTIONS ABOUT ACCEPTANCE OF REVIEW.

23 Here, and with respect to the underlying issue of the Appeals Court's reclassification of the
24 Notice of Appeal to a Notice of Discretionary Review, there absolutely NO NOTICE OF
25 HEARING ON THIS QUESTION GIVEN.

26 Note though, that Defendants did not just rely on the transfer of jurisdiction effected by the
27 Appeal; rather, on 31 Mar 2017 Defendants PROACTIVELY filed a Motion to Stay All Actions in
28 the Lower Court in View of a Notice of Appeal filed as a Matter of Right (hereinafter MOTION FOR
STAY IN VIEW OF APPEAL) (Appx. Mtn_Mdify, Motions/Orders Chain, p. 150-165) and also

27 RE: Petitioners' 3rd Supplemental ... Motion To Modify
28 Seeking Reinstatement Of Defendants' Joint Notice Of
Appeal As A Matter Of Right...

**Petitioners Motion Panel To Rescind/Clarify
Commissioner 24 May 2017 Notation Order
Threatening To Dismiss This Matter Unless Petitioners
Change Position That Summary Judgment/Final
Judgement Null And Void Due To Commissioner's
Errors -- 14**

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PROACTIVELY perfected Cash Supersedeas as a "backup plan" in view of the WSBA's strident warnings that the Appeals Court often reclassifies a Notice of Appeal under RAP 2.2(a)(3) as a Motion for Discretionary Review, and on a Superficial Inquiry, BASED ON TITLE OF THE ORDER:

All three divisions of the Court of Appeals routinely screen notices of appeal to determine appealability. This screening is at a cursory level, based on the information available to the court at the time of filing, including the title of the order from which review is sought....

WSBA Appellate Practice, §7.3 QUESTIONS ABOUT ACCEPTANCE OF REVIEW.

E. BY ANY OBJECTIVE MEASURE, COMMISSIONER KANAZAWA'S 23 MAY NOTATION ORDER SEEMS A TRANSPARENT ATTEMPT TO HIDE HERE MANY ERRORS ON THE LAW (MAINLY) BUT ALSO ON THE FACTS (SECONDARILY), THAT RENDER NULL/VOID AND WITHOUT LEGAL EFFECT MOST OF THE TRIAL JUDGE'S ACTIONS

If allowed to execute on her Plan to Dismiss this matter unless Defendants capitulate and Recognize as Valid a Final Judgment that Defendants have at all times argued is Null and Void due to Divers errors of the Commissioner, Defendants know there is a remedy to go directly to the Supreme Court.

However, Defendants would prefer the Panel to intervene and set things right.

III. PRAYER FOR RELIEF

DEFENDANTS APPEAL TO THE PANEL TO DIRECT THE COMMISSIONER TO RESCIND OR MODIFY HER 23 MAY 2017 ORDER SUCH THAT DEFENDANTS MAY AVOID DIRECT PETITION TO THE SUPREME COURT.

DEFENDANTS HAVE FURTHER APPEALED TO THE PANEL, AND REITERATE HERE, THAT DEFENDANTS ARE ASKING THE PANEL TO ISSUE AN ORDER:

<p>RE: Petitioners' 3rd Supplemental ... Motion To Modify Seeking Reinstatement Of Defendants' Joint Notice Of Appeal As A Matter Of Right...</p> <p>Petitioners Motion Panel To Rescind/Clarify Commissioner 24 May 2017 Notation Order Threatening To Dismiss This Matter Unless Petitioners Change Position That Summary Judgment/Final Judgement Null And Void Due To Commissioner's Errors -- 15</p>	<p>Dale Cook, Lawyer for ICT Law PLLC 918 S. Horton Street Suite 717 Direct: 425-605-7036 Mobile: 253-324-7423</p> <p>Brian L. Johnson Lawyer for Dale Cook, Personal Capacity PO Box 1594 Ferndale, WA 98248 Tel. 360-778-3329,</p>
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(A) **REINSTATING THE *Notice of Appeal-No-76594-9-1 as a Matter of Right, and Wrongfully Converted by this Commissioner to a Notice of Discretionary Review;***

(b) *Declaring Null and Void :*

the Trial Court's 21 April 2017 Summary Judgement Order; and

the Trial Court's 17 May 2017 Monetary Judgment against Defendants

in that Jurisdiction over all matters transferred to this Appeals Court Div. 1 on 20 Mar 2017 when Defendants *Notice of Appeal-No-76594-9-1* and as a Matter of Right was filed with the Trial Court.

APPEAL TO THE PANEL TO DIRECT THE COMMISSIONER TO RESCIND OR MODIFY HER 23 MAY 2017 ORDER SUCH THAT DEFENDANTS MAY AVOID DIRECT PETITION TO THE SUPREME COURT.

For at least the reasons shown herein, the Panel is asked to (a) reverse the Commissioner and GRANT the Stay with Effective Date of the Notice of Appeal, 20 March 2017, and with Said Stay on all matters such as were effected by the wrongfully-converted Notice of Appeal.

Respectfully submitted and Dated: 26 May 2017.

RE: Petitioners' 3rd Supplemental ... Motion To Modify Seeking Reinstatement Of Defendants' Joint Notice Of Appeal As A Matter Of Right...

Petitioners Motion Panel To Rescind/Clarify Commissioner 24 May 2017 Notation Order Threatening To Dismiss This Matter Unless Petitioners Change Position That Summary Judgment/Final Judgement Null And Void Due To Commissioner's Errors -- 16

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<p>27 RE: Petitioners' 3rd Supplemental ... Motion To Modify 28 Seeking Reinstatement Of Defendants' Joint Notice Of Appeal As A Matter Of Right...</p> <p>Petitioners Motion Panel To Rescind/Clarify Commissioner 24 May 2017 Notation Order Threatening To Dismiss This Matter Unless Petitioners Change Position That Summary Judgment/Final Judgement Null And Void Due To Commissioner's Errors -- 17</p>	<p>Dale Cook, Lawyer for ICT Law Pllc 918 S. Horton Street Suite 717 Direct: 425-605-7036 Mobile: 253-324-7423</p> <p>Brian L. Johnson Lawyer for Dale Cook, Personal Capacity PO Box 1594 Ferndale, WA 98248 Tel. 360-778-3329,</p>
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I hereby certify under penalty of perjury of the laws of the State of Washington that a copy of the foregoing document(s) was electronically forwarded for service upon counsel of record:

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DATED this 26 May 2017.

s/Dale Cook
Dale Cook
Lawyer

<p>RE: Petitioners' 3rd Supplemental ... Motion To Modify Seeking Reinstatement Of Defendants' Joint Notice Of Appeal As A Matter Of Right...</p> <p>Petitioners Motion Panel To Rescind/Clarify Commissioner 24 May 2017 Notation Order Threatening To Dismiss This Matter Unless Petitioners Change Position That Summary Judgment/Final Judgement Null And Void Due To Commissioner's Errors -- 18</p>	<p>Dale Cook, Lawyer for ICT Law Pllc 918 S. Horton Street Suite 717 Direct: 425-605-7036 Mobile: 253-324-7423</p> <p>Brian L. Johnson Lawyer for Dale Cook, Personal Capacity PO Box 1594 Ferndale, WA 98248 Tel. 360-778-3329,</p>
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Attachment C:

"Re: Petitioners' Joint Motion for Leave to File 3rd Amended Motion
for Discretionary Review (Proposed Motion Attached Hereto)

filed 11-Oct-2017; WA SCrt. 94969-7"

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SUPREME COURT OF THE STATE OF WASHINGTON

(CASE No. 94969-7

(RE: APPELLATE MATTER No. 76594-9-I (“EYE”)

JAMES NAMIKI, AN INDIVIDUAL
Respondent (Plaintiff Below),

v.

ICT LAW AND TECHNOLOGY GROUP, PLLC
AND DALE COOK, AN INDIVIDUAL

Petitioners (Defendants Below).

RE: PETITIONERS’ JOINT MOTION
FOR LEAVE TO FILE 3RD AMENDED
MOTION FOR DISCRETIONARY
REVIEW (PROPOSED MOTION
ATTACHED HERETO)

I. Identity Of Moving Party (Petitioners)

Petitioners -- Defendants Below -- first Defendant ICT Law Technology Group, Pllc,
and second Defendant, Dale Cook, in his individual capacity, join to ask for the relief
designated in Part II.

II. Statement Of Relief Sought: Petitioners Seek Permission To File 3rd Amended Motion

RE: PETITIONERS’ JOINT MOTION FOR LEAVE TO FILE 3RD AMENDED MOTION FOR DISCRETIONARY REVIEW (PROPOSED MOTION ATTACHED HERETO) -- 1

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As per Deputy Supreme Clerk E. Lennon letter of 08 September 2017, Petitioners supply herewith:

(a) a proposed replacement 3rd-Amended-Order for Discretionary Review; and

(b) this Motion "requesting permission to replace the previously filed motion for discretionary review," and said Motion to "explain why the replacement is requested."

Petitioners ask this Court to exercise its discretion and grant leave to file the 3rd Amended Brief supplied here as an attachment, and understood to be within the page limits; that is "Identity of Parties" appears on page 11, and the signature page appears on page 30, which is believed within the 20 page limit.

Between 3:58 p.m. and 4:45 p.m. on 09-Aug-2017, Petitioners had an error in thinking, and mistakenly thought the page limit was 10 pages.

In the mad dash to cut down the pages from around 20, some logical continuity was lost.

Given that Petitioners had already drafted and filed a completely separate brief, and which this Court has seen but rejected for Petitioners' misunderstanding of end-note rules,¹ it

¹ Endnotes were used to provide reversible edits as the brief was being cut down, and there was no intent to circumvent the page limits; the six lawyers whose lives and careers have been negatively affected by the Substantive/Procedural Due Process violations described in the attached Motion-Brief as well as the heavily redacted Motion-Brief of 09-Aug-2017 unique areas of focus include the boundary between the legitimate use and assertion of claims to legal monopoly of technologies, including Walker Process violations, but with special focus on Handgards I and Handgards II (9th Circuit precedent) --e.g., where Noerr-Pennington immunity can be breached due to knowing lawyer practices in violation of his Duty of Candor (e.g., getting a right to suppress competition under 35 USC S 154 via a lawyer failing to meet his Duty of Candor under his State Bar rules and before the executive branch PTO tribunals via the lawyer's exploitation of the high workload of the quasi-Judicial Officials crossed onto the lawyer's decision to accept a judgment by a PTO quasi-judicial ("quasi" because the Executive Branch Art. II cannot be a truly judicial Art. III tribunal) that a claim to legal monopoly should be granted by the Federal Government but where the lawyer knows or should have known there was no evidence to support such an issuance after which a 3rd Party buys such a defectively obtained claim to legal monopoly and thereafter "shakes down" actual producers with the known-defective legal instrument. In this arena, things which seem academic in other contexts -- e.g., evidence to support a claim, Duty of Candor, attorney-client privilege, etc. are not just academic as they seem to be in these Wash. State Courts, they can be fatal and give rise to both

RE: PETITIONERS' JOINT MOTION FOR LEAVE TO FILE 3RD AMENDED MOTION FOR DISCRETIONARY REVIEW (PROPOSED MOTION ATTACHED HERETO) -- 2

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would seem in the interests of justice and equity for the Court to grant leave to attached 3rd Amended Motion for Discretionary Review.

Respectfully submitted and Dated: 11 October 2017.

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Attachment: "3rd Amended Motion for Discretionary Review"

Federal and State counterclaims, but in Federal Court where the litigants have the resources to catch out fraudulent lawsuits such as this one. With that as context, it is highly unlikely that any lawyer before the courts here and for ICT-Law-Firm would ever risk a violation. For an example of the Clash of cultures between where these lawyers typically practice and the Washington State Trial and Appellate Courts, see: e.g. 28 Sept 2017 Order (Case No. 76594-9-I ("EYE")), whereby the Court of Appeals did not make of record Defendants' Second and Third Amended Motion to Disqualify Non-Judge Kanazawa because they did not understand that such had been filed to correct inaccuracies inadvertently introduced by lawyer Defendants. That said, subsequent to filing the Third Motion to Disqualify, Lawyer Defendants learned that non-judge Kanazawa has no judge-like duties and therefore needs to follow-up on this issue. They hope this Court takes this opportunity to remedy this difficult conundrum whereby litigants are deprived of their Commission on Judicial Conduct constitutional rights of protection via CAR 16 and SAR 15, respectively.

RE: PETITIONERS' JOINT MOTION FOR LEAVE TO FILE 3RD AMENDED MOTION FOR DISCRETIONARY REVIEW (PROPOSED MOTION ATTACHED HERETO) -- 3

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1) CERTIFICATE OF SERVICE

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DATED this 11 October 2017.

s/Dale Cook

Dale Cook, Lawyer

RE: PETITIONERS' JOINT MOTION FOR LEAVE TO FILE 3RD AMENDED MOTION FOR DISCRETIONARY REVIEW (PROPOSED MOTION ATTACHED HERETO) -- 4

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Attachment: "3rd Amended Motion for Discretionary Review"

SUPREME COURT NO. - 94969-7

**(RE: Appellate-Matter-No.-76594-9-I ("EYE") FOR WRONGFUL
TERMINATION *AND WITHOUT A HEARING* OF PETITIONERS' APPEAL AS A
MATTER OF RIGHT FROM THE TRIAL COURT'S 3RD SANCTIONS ORDER
(TRIAL DKT. NO. 283) AND/OR PETITIONERS' 31-MAR-2017 WSBA-
APPELLATE DESKBOOK-RECOMMENDED BACKUP-PLAN MOTION TO
STAY SUPERSEDEAS**

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

JAMES NAMIKI, AN INDIVIDUAL
Respondent (Plaintiff Below),

v.

ICT LAW AND TECHNOLOGY GROUP, PLLC AND DALE COOK,
AN INDIVIDUAL
Petitioners (Defendants Below).

3rd -Amended MOTION FOR DISCRETIONARY REVIEW

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A. Substantive Due Process Violations: Judicial Power Unconstitutionally Wielded by non-judge commissioners; and Associated Motion to Modify (MtM) Procedures that Define an Unconstitutional "Appeal-Within-the-Appellate-Court-Itself" Complete with a Star-Chamber "appellate authority" (3-Judge Panel) of the Appeal-Within-Appellate-Court--Itself System that Need Give No Notice Nor Opportunity for Hearing, and Further Need Give No Reasons When it Declines to "Reverse" the Actions of the Non-Judge Commissioners **p. 12**

1. Substantive Due Process Right/Protections Provided by WA State Constitution: Judicial Power Vested in 3-Levels of Courts, Which May Only Wielded by An Actual Judge of the Courts Who has **First Taken** an Oath of Judges **p. 12**

a. WA State Constitution Only Vests Judicial Power in A Trial Court, an Appeals Court, and this Supreme Court-- 3 Levels of Appeal, with No Constitutional Authorization for Judicial Power to be Vested in Either Star-Chamber-Panel "appellate authorities" OR non-Judge Commissioners as in the Appeal-Within-the-Appellate-Court-Itself non-judge Comm'r + MtM Systems **p. 12**

b. Substantive Due Process Rights/Protections Are that WA Constitution Vests Judicial Power in Its Institutions, and then Limits Protects Citizens Against Unbridled Exercise of Judicial Power Vested in its Superior [Trial], Appellate, and Supreme Courts by Limiting its Exercise to Judges of the Trial, Appellate, and Supreme Courts, and Then Again **Only**

After Said Judges Execution of the Constitutionally Required "Oath of Judges" p. 13

2. Substantive Due Process Rights/Protections, Deprivation of:
At Each-Appeal-Within-An Appeal -- At Both the Appeals Court and this Supreme Court Level -- Defendants Have Been Subjected to the Judicial Power of The State of Washington Unconstitutionally Wielded by Non-Judge Commissioners And Further Deprived of their WA Constitutional Rights Thereby **p. 14**

a. Judicial Power Does Not Transfer to Even Those Non-Judge Commissioners that Are Constitutionally Authorized (i.e., Trial Court Commissioners) Under the WA Constitutional Framework -- Since They Cannot Execute the Constitutionally Prescribed "Oath of Judges" **p. 14**

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(b) 11-May-2017 MtM ... *Seeking Reinstatement Of Defendants' Joint Notice Of Appeal As A Matter Of Right* Rather Than A Notice Of Discretionary Review;

(c) 26-May-2017 Motion [to] Panel To Rescind/Clarify Commissioner's 24 23 May 2017 Notation Order [Apparently] Threatening Dismissal Unless Petitioners Change Position That [Trial Court's] Summary Judgment/Final Judgement Null And Void Due To Commissioner's Errors," and

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(a) Original, 1st, 2nd, etc. Motions to Change the 12-Jun-2017 Interlocutory Decision to Accord With All Evidence;

(b) a Motion for Clerk's Amendment to Correct Defendants' Inadvertent Omission of 1st, 2nd, etc. from the Rush-Filed Amendments (e.g. that done after Defendants Learned from this Court on 12-Jul-2017 that 12-Jun-Interlocutory Decision Could Have Been by Clerk or Non-Judge-Commissioner Rather than Judge, and Thus Unappealable to the S.Ct. at that Time

(c) etc., such as itemized in Petitioners' 17-Aug-2017 Motion To Alter/Amend Appeals Court 3-Judge Panel Order Of 09 Aug 2017 to Strike Portions Purporting To Rule On Motions Filed-And-Pending In Newly-Created (12 Jun 2017) Appeal No. 76594-9 ("WITHOUT-AN-EYE") p. 27

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STATUTES

RCW 2.24.010 "Appointment of court commissioners, criminal
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OTHER AUTHORITIES

WSBA Appellate Deskbook, §10.7 Review Of Ruling Of Commissioner
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WSBA Appellate Deskbook, §18.3 Review of Interlocutory Proceedings

Endnote of of RCW Chapter 2.06 Court of Appeals "Commissioners of
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"WSBA Appellate Deskbook, §8.6 *Superseding a Money Judgment*

WSBA-Appellate-Deskbook, §8.5 *Stay by Appellate Court in Civil Case*

*WSBA-Appellate-Deskbook, §8.7 Superseding A Decision Affecting
Property*

WSBA-Appellate-Deskbook, § 8.8 *Procedure: Fixing And Objecting To
The Security.*

WSBA Appellate Deskbook, §8.12. *Cash Security*

I. IDENTITY OF MOVING PARTY (PETITIONERS)

Petitioners -- Defendants Below -- ICT Law Technology Group, Pllc, and Dale Cook, an individual, jointly seek relief designated in Part II.

II. STATEMENT OF RELIEF SOUGHT

As shown herein, CAR 16 and SAR 15, respectively, grant of Judicial Power to non-judge Comm'rs at the Court of Appeals and this Supreme Court level to decide substantive legal motions of WA citizens constitute several Substantive Due Process Violations. And the "Appeal-Within-Each-Appellate-Court-Itself" created by the Star-Chamber-like Motion-to-Modify procedures -- by which a citizen must "appeal" the decision of a non-judge Comm'r -- constitute substantive due process violations in their own right, in that their written policies are that they need give no Notice, no Opportunity for Hearing, and no reasons for deciding not to reverse the judicial decisions of the non-judge Comm'rs.

The relief sought herein is for this Supreme Court to grant this Motion for Interlocutory Review wherein Defendants seek an Order from this Supreme Court

(1) eradicating CAR 16 and SAR 15/associated RAPs' grant of judicial power to decide substantive legal motions, and

(2) immediately eradicating the Star-Chamber-like "Appeal-Within-Each-Appellate-Court-Itself" Motion-to-Modify procedures as constituting Substantive Due Process Violations, and further

(3) holding as Null-And-Void All Orders of the Court of Appeals in this and related matters due to the Substantive Due Process violations engendered by Constitutionally Unauthorized non-judge-Comm'rs at the Court of Appeals and Supreme Court levels wielding -- in direct

contravention of the protections afforded citizens by the WA State Const. -
- the Judicial power of the Court of Appeals and Supreme Court,
respectively;

(4) additionally or in the alternative, holding as Null-And-Void All Orders of the Court of Appeals in this and related matters due to the Substantive Due Process violations engendered by the Constitutionally Violative "Appeal-Within-the-Appellate-Court-Itself" Star-Chamber-Like Motion to Modify procedures whereby a citizen who seeks to reverse the Constitutionally-Violative wielding of this State's Judicial Power by a Constitutionally Unauthorized non-judge Comm'r is decided by an anonymous 3-Judge Panel, who does not give Notice nor Opportunity for a Hearing to the Citizen, nor is required to give any reasoning its decision on the citizen's motion seeking reversal of the constitutionally-violative wielding of this state's Judicial Power by the Constitutionally Unauthorized non-judge-Comm'rs at the Court of Appeals and Supreme Court levels.

Further relief sought herein is for this Supreme Court to issue an Order from this Supreme Court (previously Writ of Mandamus) to the Lower Court(s) putting Defendants in as good a position as they would have been had the Substantive Due Process violations not occurred, said Order to the Lower Court(s) including but not limited to an Order to:

(a) in present matter No-76594-9-I ("EYE"), reinstate Defendants' 20-Mar-2017 Notice of Appeal as a Matter of Right Under RAP 2.2(a)(3) either (1) by holding the 12-Jun-2017 entered Notice of Appeal as without legal effect as an improper amendment not meeting the criteria of RAP 5.3(h) since it was only filed under threat of dismissal, and to do INJUSTICE to strip Defendants of their pending legal rights, or (2) to

make it "as if" the Involuntarily-Filed 09-Jun-2017 "1st Amended ... Notice of Appeal" had never been filed by holding that the Involuntary 09-June-2017 1st Amended Notice of Appeal as an appeal from the 07-Mar-2017 3rd-Sanctions-Order (Tr. Dkt. No. 283)); and

(d) hold as Null and Void:

(1) the Trial Court's 21-Apr-2017 Summary Judgement Order,
and

(2) the Trial Court's 17-May-2017 Monetary Judgment of for \$402,817.68 against Defendants Jointly-and-Severally,

because the Trial Court lacked Jurisdiction to issue the Orders on 21-Apr-2017 and 17-May-2017, respectively, because Jurisdiction over all matters transferred to this Appeals Court Div. 1 on 20-Mar-2017 when Defendants *Notice of Appeal-No-76594-9-I* and as a Matter of Right from the Trial Court's 3rd-Sanctions-Order was filed.

III. FACTS RELEVANT TO THE MOTION

Facts in-line with argument in view of page limits.

IV. GROUNDS FOR RELIEF AND ARGUMENT: SUBSTANTIVE DUE PROCESS

The difference between a substantive due process analysis and a procedural due process analysis is if the state has a legitimate interest in regulating the action, then a procedural due process analysis applies; but if there is no legitimate state interest and it looks like the state is just trying to engage in taking away rights with no valid justification then substantive due process analysis applies. *See Manual Of Model Civil Jury Instructions For The District Courts Of The Ninth Circuit (2007 Edition Last Updated 7/2017).*

Thus, while Defendants argue as substantive due process violation because they believe the state has no legitimate interest in eradicating the WA Constitution's protections/guarantees regarding Appeals, should this Court determine there is a legitimate interest in writing large sections of the WA State Const. out of existence, that it treat the arguments herein as Procedural Due Process arguments.

A. Substantive Due Process Violations: Judicial Power Unconstitutionally Wiielded by non-judge Comm'rs; and Associated Motion to Modify (MtM) Procedures that Define an Unconstitutional "Appeal-Within-the-Appellate-Court-Itself" Complete with a Star-Chamber "appellate authority" (3-Judge Panel) of the Appeal-Within-Appellate-Court--Itself System that Need Give No Notice Nor Opportunity for Hearing, and Further Need Give No Reasons When it Declines to "Reverse" the Actions of the Non-Judge Comm'rs

1. Substantive Due Process Right/Protections Provided by WA State Constitution: Judicial Power Vested in 3-Levels of Courts, Which May Only Wiielded by An Actual Judge of the Courts Who has *First Taken* an Oath of Judges

a. WA State Const. Only Vests Judicial Power in A Trial Court, an Appeals Court, and this Supreme Court-- 3 Levels of Appeal, with No Constitutional Authorization for Judicial Power to be Vested in Either Star-Chamber-Panel "appellate authorities" OR non-Judge Comm'rs as in the Appeal-Within-the-Appellate-Court-Itself non-judge Comm'r + MtM Systems

The WA Constitution, "Art. IV, S 1, Judicial Power, Where Vested:" provides "Judicial Power of the state [WA] shall be vested in a supreme court, superior [trial] courts, and such inferior courts as the legislature may provide [e.g., Court of Appeals]." The supreme court and the trial courts are overtly specified in Article IV, while the task of writing the other parts of Article IV defining the Courts of Appeals has been delegated to the legislature. The legislature has provided RCW 2.06,

Court Of Appeals and RCW 2.06.010, Court of appeals established—
Definitions ("There is hereby established a court of appeals as a court of
record."). Thus this language a part of Article IV to the extent that it
defines a valid Article IV Court (analogizing the Federal Agency Law,
where delegation to "fill in the details" is limited by the separation of
powers doctrine)..

Thus, the Const. of the State of WA vests "Judicial Power" in the
Superior [Trial] Courts, Courts of Appeals to the extent that RCW 2.06
defines a valid Art. IV Court, and the Supreme Court.

b. Substantive Due Process Rights/Protections Are that WA
Constitution Vests Judicial Power in Its Institutions, and then
Limits Protects Citizens Against Unbridled Exercise of
Judicial Power Vested in its Superior [Trial], Appellate, and
Supreme Courts by Limiting its Exercise to Judges of the
Trial, Appellate, and Supreme Courts, and Then Again **Only**
After Said Judges Execution of the Constitutionally
Required "Oath of Judges"

To protect its citizens, the "Judicial Power" of the State Of WA is
"vested in" institutions, not people: "Judicial Power of the state [WA] shall
be vested in a supreme court, superior [trial] courts, and [Courts of
Appeals to the extent that RCW 2.06 defines a valid Art. IV Court].

Prior to exercising the "Judicial Power of the State Of WA" "vested
in" "supreme court, superior [trial] courts, and [Courts of Appeals to
the extent that RCW 2.06 defines a valid Art. IV Court,]" every Judge of
said courts must execute an "Oath of Judges":

Every judge of the supreme court, and every judge of a superior
[Trial] court shall, **before entering upon the duties of his office, take**
and subscribe an oath that he will support the Constitution of the
United States and the Constitution of the State of Washington, and

will faithfully and impartially discharge the duties of judge to the best of his ability, which oath shall be filed in the office of the secretary of state."

See WA Const., Art. IV, S 4, "Oath of Judges" and See RCW 2.06.085, "Oath of judges," and see WA Constitution, Article IV, S 1, "Judicial Power, Where Vested" which incorporates RCW 2.06.085, "Oath of judges" via the delegation of the power to define the Court of Appeals to the legislature.

2. Substantive Due Process Rights/Protections, Deprivation of:
At Each-Appeal-Within-An Appeal -- At Both the Appeals Court and this Supreme Court Level -- Defendants Have Been Subjected to the Judicial Power of The State of Washington Unconstitutionally Wielded by Non-Judge Comm'rs And Further Deprived of their WA Constitutional Rights Thereby

a. Judicial Power Does Not Transfer to Even Those Non-Judge Comm'rs that Are Constitutionally Authorized (i.e., Trial Court Comm'rs) Under the WA Constitutional Framework -- Since They Cannot Execute the Constitutionally Prescribed "Oath of Judges"

So, **Art. IV, S 1** of WA Const. provides "Judicial Power of the state [WA] shall be vested in a supreme court, superior [trial] courts, and such inferior courts as the legislature may provide [e.g., Court of Appeals]" and **Art. IV, S 23** does not conflict with that provision because it does not purport to vest judicial power even in the *constitutionally authorized* non-judge Comm'rs:

"There may be appointed in each county, by the judge of the superior [Trial] court having jurisdiction therein, one or more court commissioners, ..., who shall have authority to perform like duties as a judge of the superior court at chambers... to take depositions and to perform such other business connected with the administration of justice as

may be prescribed by law" but "**subject to revision by such judge.**"

The Const. requires the judges of the Trial, Appellate, and Supreme Courts of the State of WA are required to execute an "Oath of Judges" prior to exercising "Judicial Power" of the State Of WA "vested in" their respective courts. No such Oath Of Judges requirement exists for non-judge Comm'rs. Consequently, Art. IV. S 23 takes pains to make clear that, even for the Constitutionally Authorized non-judge Comm'rs at the Trial Court Level, the Const. provides no authority for such Constitutionally Authorize non-judges to wield the "Judicial Power" of the State Of WA "vested in" the "supreme court, [and] superior [trial] courts," but instead "like duties as a judge of the superior court at chambers... to take depositions and to perform such other business connected with the administration of justice."

b. Judicial Power Cannot Transfer to Persons Who Have Not Executed the Oath of Judges Required by the Constitution, and Thus Cannot Transfer to Non-Judge Comm'rs

As explained herein, see p. 41, the WA Const. ***requires*** that ***prior to*** exercising the "Judicial Power ... vested in" the Trial, Appellate, and Supreme Courts of the State of Washington, each judge must execute an "Oath of Judges" that states they **will faithfully and impartially discharge the duties of [the office of] judge to the best of his [my] ability.**" the Constitutionally Prescribed Oath of Judges necessary for the "Judicial Power" vested in the Trial, Appeals, and Supreme Court be transferred into/wielded by a human .

Further, and critically for the case at bar, " the "Oath of Office" of non-Judge Kanazawa is to "faithfully and impartially discharge **the duties**

of the office of commissioner of the Court of Appeals of the State of Washington.... NOT to "faithfully and impartially discharge the duties of [the office of] judge, as in the Oath of Judges.

Thus, under non-judge Comm'rs do not meet the constitutional requirements for Judicial Power to transfer to them.

1) "Commissioners Oath" -- An "Oath of Office" -- is Not an "Oath of Judges," the Side-by-Side Comparison Table in , e.g., 05-Oct-2017 "... 1st Supplemental Reply To Answer For Request En Banc" In Companion Matter S.Ct. 94609-4 Shows:

3) Non-Judge Comm'r Lack Any Constitutional Authorization to Exercise Judicial Power, But NOTE THAT Every Critical Substantive Legal Decisions throughout All "Appeal-Within-the-Appellate Court" Proceedings Have Been Made By Non-Judge Comm'rs, Only to be Subsequently "Rubber-Stamped," and After the Fact by the Star Chamber 3-Judge Panels, and Critically Without Any Notice, Opportunity for Hearing or Explanation whatsoever.

As noted previously, the imposition of Five levels of Appeal, when the WA Const. only authorizes 3 levels, forms its own substantive Due Process Violation.

But as shown here, an even more serious Substantive Due Process Violation is that in the "Appeal-Within-the-Appellate-Court-Itself" systems, the non-judge Comm'rs unconstitutionally wield judicial power, free to act completely outside the law. But when Defendants "appealed," to the 3-Judge panel expecting some version of American justice, they

learned this unconstitutional "Appeal-Within-the-Appellate-Court-Itself" *was not a normal appeal.*

Rather, it came to be understood by Defendants that the unconstitutional "Appeal-Within-The-Appeals-Court-Itself" had express Star-Chamber-like Rules whereby, if litigants "appealed" the actions of the non-judge Comm'r, like in the Star Chamber, they were given no Notice or Opportunity for Hearing by the 3-Judge Star-Chamber panel -- defined as the unconstitutional "appellate authority" in this unconstitutional "Appeal-Within-An-Appeal" system. But even better, and as the icepick on the cake, learned that these Star-Chamber-like rules further provided that the 3-Judge Panel need give no reasons for their decisions in denying motions to reverse the decision of the non-judge Comm'r in the Appeal-Within-An-Appellate Court itself. See *WSBA Appellate Deskbook, §10.7 Review Of Ruling Of Commissioner Or Clerk* ("A motion to modify ... de novo standard of review... judges are not required to issue a ruling explaining the decision, and can issue a summary ruling granting or denying the motion to modify.").

So, here in America, we have a non-judge, with no Constitutional Authority to decide Motions, and almost as importantly, has no sworn duties to uphold the "office of a judge," making the substantive legal decisions of a judge.

But when the Defendant lawyers appeal the non-Judge Comm'r's decision to actual Judges, the Defendant lawyers are met with a decision by the actual Judges with no reasoning or explanation as to their decision; moreover, these American Judges give no reasons whatsoever, nor discuss in any fashion, the lawyer's legal arguments when refusing to reverse the substantive legal decisions of the non-judge.

As shown herein, **this has deprived Defendants of crucial appellate rights in multiple instances.**

But first, under actual WA Appellate law, a Judicial Appellate Ruling, with no discussion of the law or evidence presented, would be argued as "an abuse of discretion for failure to exercise discretion," but under the Motion to Modify system such argument/demonstration is an impossibility by rule. *WSBA Appellate Deskbook, §10.7 Review Of Ruling Of Commissioner Or Clerk* ("A motion to modify ... de novo standard of review... **judges are not required to issue a ruling explaining the decision, and can issue a summary ruling granting or denying the motion to modify.**"). This alone demonstrates the unconstitutional nature of the "Appeal-Within-An-Appeal" of the Motion to Modify system, even notwithstanding the complete lack of Constitutional or even color of statute for such a system.

The Star Chamber was a bad idea in the past, and it continues to be a bad idea today. This Supreme Court should eliminate it immediately.

B. Substantive Due Process Violation: Litigants Likely Have Been Deprived Of The Substantive Constitutional Protections Of The Commission On Judicial Conduct and Worse, by a Scheme that Looks Intentional Because the "Star Chamber" Appellate Authorities in the Appeal-Within-the-Appellate-Court-Itself (i.e., the 3-Judge Panels of the Court of Appeals) Have an Excuse that "They Were Only Following Orders": the Orders of This Supreme Court

Defendants have likely been deprived of their Substantive Constitutional Protections of the Commission on Judicial Conduct, which is critical given the background issues here.

1. Substantive Due Process Right/Protection Provided by WA State Constitution: Protections Against Abuse of Judicial Power by Judges Via a Non-Elected Commission on Judicial Conduct, Separately Funded by the Legislature.

WA State Const. was amended in 1989 (Amendment 85) to Provide a new Section 31 of Article IV, The Judiciary, to ensure that the elected judges could be trusted to act as judges, and not mere crony politicians seeking reelection.

This provision provides for a non-elected Commission, and critically with independent investigatory authority, which can insure that the inherent conflict between impartial justice and elected judges with limited terms, can be investigated when litigants before judges and justices believe such elected judges and justices might have been "offered an incentive" to make things "come out right."

And this substantive constitutional protection was particularly important here, and to the lawyer-Defendants. Lawyer-Defendants have suspected -- but of course cannot prove -- that non-judge Kanazawa had been offered the possibility of employment after her term expires in less than two years.

2. Substantive Due Process Right/Protections, Deprivation Of: (i) the Fact a Comm'r Has No Defined Duties in Exercise the Exercise of Judicial Power Makes it Likely that Defendants Do Not Have A Valid CJC Claim Against NJK For, e.g., Failing to Provide a Hearing Because NJK Has No Judicially Designated Duties; And (ii) the Court of Appeals "Star Chamber" Judges Who Have Refused to Intercede Will Say They Were "Only Following Orders": CAR 16

While Defendants initially thought they had recourse against non-judge Comm'r Kanazawa for breach of virtually every imaginable judge-

related provision of the CJC, *see* 3rd-Amended Motion Seeking to Disqualify non-judge Kanazawa, upon digging deeper they found that they likely had no recourse because, as shown, non-judge Comm'rs have no defined duties with their exercise of Judicial Power because that is completely unauthorized and outside the Constitutional Framework of the WA Const.(e.g., because the "**Judicial Power of the state [WA] shall be vested in a supreme court, superior [trial] courts, and such inferior courts** [e.g., Court of Appeals] as the legislature may provide.").

A. In Order To Show A CJC Violation, The Person Filing The CJC Complaint Must Establish That The Target Violated His Or Here Official Duties, But It Is Not Clear At Present If Either Non-Judge Comm'r Has Violated Their Duties Because They Don't Have Any Defined Duties With Respect To Wielding The Judicial Power

When lawyer-Defendants attempted to draft their Commission on Judicial Conduct Compliant against NJK, they learned that it is not clear that either non-judge Comm'rs has violated their duties ... because they don't have any defined duties with respect to wielding the Judicial Power (being, as it is, completely outside of the Constitutional Framework -- e.g., why would there be any rules/duties for something that should never happened). So, there could plausibly be no CJC violation, since the non-judge Comm'rs do not have the same duties of a judge, and in fact it seems reasonable to conclude that if we could find out actual duties, it would be for NJK to act as agent for King County, masking its systemic errors.

b. As to Any CJC Complaint, the Court of Appeals "Star Chamber" Judges Who Have Refused to Intercede Will Say They Were "Only Following Orders": This Supreme Court's Rules (e.g. CAR 16)

CAR 16 appears to have the authority of this Supreme Court. So, when lawyer-Defendants Attempted to revise their Complaint to be against the Court of Appeals 3-Judge Panel who refused to intercede to correct non-judge Kanazawa's failure to "act as a court of appeals judge," only to learn non-judge Comm'r have no such duties despite their exercise of judicial power they ran right into the fact that CAR 16 appears promulgated by this Supreme Court Itself.

So, again, under CJC there needs to be a violation by the Appeals Court judges of their duties. But surely those duties involve following the administrative rules of this Supreme Court?

Again, no violation of the CJC by the Star Chamber Appeal-Within-the-Appeals-Court-Itself "appellate authority" (i.e., the 3-Judge Panels), despite their respective "Oath of Judges."

They "were only following **this Court's** Orders": CAR 16.

V. PRAYER FOR RELIEF: HARMS SUFFERED AND REMEDY FOR HARMS

A. Harms Suffered Defendants from Substantive Due Process Violations Include the Following

1. NJK Erred By Wrongfully Converting 20-March-2017 Notice of Appeal to A Notice of Discretionary But Without the Challenge, Notice, and Opportunity For Hearing Guaranteed by RAP 6.2(b).

Critically, such Conversion was done WITHOUT the Notice and Opportunity for Hearing provided for by "...RAP 6.2(b) addresses this issue, giving the appellate court clerk or a party the ability to

³ "Under RAP 6.1, "[t]he appellate court 'accepts review' of a trial court decision upon the timely filing in the trial court of a notice of appeal from a decision which is reviewable as a matter of right." Thus, review is accepted automatically upon filing of a notice of appeal that correctly designates an appealable decision and is timely filed." *See* Washington Appellate Practice Deskbook (Wash. State Bar Assoc. 4th ed. 2016), §§7.2-3

challenge review as a matter of right: If a party files a notice of appeal from a decision which may not be subject to review as a matter of right, **the clerk** or a party may **note for hearing the question whether the decision is reviewable as a matter of right** See *WSBA Appellate Practice*, §7.3 *QUESTIONS ABOUT ACCEPTANCE OF REVIEW*.

Here, there absolutely NO NOTICE OF HEARING ON THIS QUESTION GIVEN prior to the Conversion.

a. Harms Flowing From 06-Apr-2017 Wrongful Conversion of 20-Mar-2017 Notice of Appeal to a Mere Notice of Discretionary Review Include the Legally Erroneous of Transfer of Jurisdiction Back to the Trial Court -- Exactly What RAP 6.2(b)'s Requirements Are Constructed to Prevent!

b. Harms Directly-and-Proximally-Caused By NJK's 06-Apr-2017 Wrongful Conversion of the 20-Mar-2017 Notice of Appeal from 3rd-Sanctions Order to a Notice of Discretionary Review Include 17-May-2017 Final Judgment Order Against Defendant, Jointly And Severally, for \$402,817.68

Jurisdiction over all matters transferred to this Appeals Court occurred on 20-March-2017 and upon the filing of the Notice of Appeal from 3rd-Sanctions-Order.³ That the Appeal was as a matter of right under RAP 2.2(a)(3) was first demonstrated in the 31-Mar-2017 WSBA-Recommended Motion-to-Stay-As-Backup-Plan-to-Previously-Filed-Notice-of-Appeal-No.-76594-9-I ("EYE") and second demonstrated in the

³ "Under RAP 6.1, "[t]he appellate court 'accepts review' of a trial court decision upon the timely filing in the trial court of a notice of appeal from a decision which is reviewable as a matter of right." Thus, review is accepted automatically upon filing of a notice of appeal that correctly designates an appealable decision and is timely filed." See *Washington Appellate Practice Deskbook* (Wash. State Bar Assoc. 4th ed. 2016), §§7.2-3

11-May-2017 Motion to Modify Seeking Reinstatement ... Notice Of Appeal As A Matter Of Right.

2. Three-Judge Panel Erred By Failing To Intervene And Rescind Or Retract NJK' Threats As Defendants Begged Them to Do On 26-May-2017 in "Petitioners' Motion [to] Panel To Rescind/Clarify Comm'r's 24 23 May 2017 Notation Order [Apparently] Threatening Dismissal Unless Petitioners Change Position That [Trial Court's] Summary Judgment/Final Judgement Null And Void Due To Comm'r's Errors]

Specifically, the 23-May-2017 Notation order contained this overt threat:

If ICT does not file an amended (or new) notice of appeal from the final judgment by June 16, 2017 [thereby abdicating its 20 Mar 2017 **Notice of Appeal from the Trial Court's 07 Mar 2017 3rd Sanctions Order (Trial Court Dkt. No. 283)**], **said Appeal as a Matter of Right under RAP 2.2(a)(3)**, **said 3rd Sanctions Order having "deemed found" facts that rendered impossible all our Defenses**, *this case will be dismissed [by me, Comm'r Kanazawa].*⁸

Subsequently, on 26-May-2017, Petitioners Motioned¹ for a 3-Judge Panel to Rescind or Clarify Kanazawa's 23-May-2017 threat to dismiss defendants' Appeal from the 3rd Sanctions Order Unless Defendants' amended their 20 Mar 2017 Notice of Appeal TO BE FROM the 17-May-2017 INSTEAD OF FROM the 07-Mar-2017 3rd Sanctions Order (Trial Court Dkt. No. 283)

⁸ See p. 1 of "Attachment 23-May -2017 Notation Order [Apparently] Threatening Dismissal Unless Petitioners Change Position That [Trial Court's] Summary Judgment/Final Judgement Null And Void Due To Commissioner's Errors."

To this day, Defendants have never received any Response from the Court of Appeals to their 26-May-2017 Motion seeking help from the Appeals Court in the face of NJK's 23-May-2013 threats.

a. Harm Of Three Judge Panel's Failure To Intervene To Rescind Or Retract The Apparent Threat Was Defendant Lawyers Recognized That If NJK So Dismissed That They Would Then Find Themselves Filing Motion To Modify Non-Judge Kanazawa's Dismissal Rather Than Their Decision On The Merits; Thus To Forestall This Gambit Petitioners Created A Strategy To Try To Maintain Jurisdiction And Without More Delay In Reaching An Actual Judge -- But Unfortunately They Never Did

Defendant lawyers had begged the Star-Chamber-Panel for help in their 26-May-2017 Motion because they had recognized that NJK had unfettered power to dismiss given that she had converted the 20-Mar-2017 Notice of Appeal to a Notice of Discretionary Review; and they further realized that *if NJK so dismissed that they would then find themselves filing Motion to Modify non-judge Kanazawa's Dismissal rather than their Decision on the Merit.*

Thus, with time ticking down to the threatened 16-Jun-2017 dismissal, to forestall non-judge Kanazawa from dismissing their Appeal, on 09-Jun-2017 Defendants filed in the Trial Court their *Involuntary* "1st Amended ... Notice of Appeal" which overtly stated that it was an Appeal From the 07 Mar 2017 3rd Sanctions Order (Trial Court Dkt. No. 283), Said Appeal as a Matter of Right under RAP 2.2(a)(3) Since Said 3rd Sanctions Order (Trial Court Dkt. No. 283) has "deemed found" facts that effectively struck *all* Defendants Defenses.

Yet despite all these measures against NJK's overt threats, on (a) 15-Jun-2017 Notation Order in the present matter NJK announced and for the

first time, that NJK (presumed) had made a 12-Jun-2017 Interlocutory Decision -- in Newly Created (12 Jun 2017) Appeal No. 76594-9 (without-an-eye) -- to apparently Fabricate⁹ an Appeal from Final Judgement, and NJK further announced that she was using that Fabrication as the basis for Terminating, And Without A Hearing, substantially All of Defendants' Then-Pending Appellate Rights stemming from the 20-Mar-2017 Notice of Appeal in this present matter Appeal-From-3rd-Sanctions-Order-No.-76594-9-I ("EYE").

5. Follow-On Misconduct Includes As Follows

a. Follow-On Misconduct: NJK's 15-Jun-2017 Decision Wherein NJK Used The 12-Jun-2017 Interlocutory Decision -- Said Interlocutory Decision Made In Newly Created (12 Jun 2017) Appeal No. 76594-9 (Without-An-Eye) -- To Fabricate An Appeal From Final Judgement As The Basis For Terminating, And Without A Hearing, Substantially All Of Defendants' Then-Pending Appellate Rights In This Present Matter Appeal-From-3rd-Sanctions-Order-No.-76594-9-I ("EYE") -- Said 15-Jun-2017 Decision Effectively that Defendants Had Effectively "Struck" (or "Mooted") Their 20-Mar-2017 Appeal from 3rd-Sanctions-Orderer:

On 15 Jun 2017,¹⁰ NJK announced she was stripping Defendants of their Pending Appellate Rights in present matter Notice of Appeal-No.-76594-9-I ("EYE") citing as Her basis NJK's 12-Jun-2017 Interlocutory Decision to Fabricate That Defendants' INVOLUNTARY 09-Jun-2017 1st Amended ...Notice Of Appeal ... from the 3rd-Sanctions-Order ... (Tr. Dkt. No 484) was an Appeal from the Trial Court's 17 May 2017 Final Judgment Order.

⁹ Fabricate/Fabricated should be read "as if" preceded by the word "apparently."

¹⁰ See "Attachment 15 June 2017 Notation Order "

1) Harm From NJK's Further Apparent Misconduct of the 15-Jun-2017 Decision Includes NJK Terminating Several Pending Appellate Rights Re: Appeal from 3rd -Sanctions-Order, And Without a Hearing, Said Pending Appellate Rights Then-Including:

(a) 20-Mar-2017 Notice-of-Appeal-from-3rd-Sanctions-Order;

(b) 11-May-2017 MtM ... *Seeking Reinstatement Of Defendants' Joint Notice Of Appeal As A Matter Of Right Rather Than A Notice Of Discretionary Review;*

(c) 26-May-2017 Motion [to] Panel To Rescind/Clarify Comm'r's 24 23 May 2017 Notation Order [Apparently] Threatening Dismissal Unless Petitioners Change Position That [Trial Court's] Summary Judgment/Final Judgement Null And Void Due To Comm'r's Errors," and

(d) 30-May-2017 Reply to Answer to Motion ... Seeking Reinstatement .. Notice Of Appeal As A Matter Of Right Rather Than A Notice Of Discretionary Review"

b. Further Misconduct: NJK's 12-Jun-2017 Decisions Wherein NJK Opened Newly Created (12 Jun 2017) Appeal No. 76594-9 (Without-An-Eye) In Which NJK Thereafter Started A "Countdown Timer" Perfection Schedule Running From The Date Of NJK's 12-Jun-2017 Interlocutory Decision To Fabricate An Appeal From Final Judgment, Said Perfection Schedule Ultimately Leading -- On Or Around 19-Aug-2017 -- To Termination Of Several Then-Pending Motions, And Without A Hearing In Newly-Created (12 Jun 2017) Appeal No. 76594-9 (Without-An-Eye)

Further harm is proven in that the 12 Jun 2017 Interlocutory Decision in Newly-Created (12 Jun 2017) Appeal No. 76594-9 (WITHOUT-AN-EYE) is alleged to have been the basis of a "**Perfection Schedule**" in

Newly-Created (12 Jun 2017) Appeal No. 76594-9 which purported to force an Appeal from the 17 May 2017 Final Judgment, **when Petitioner's Motions regarding Defendants' 20-Mar-2017 Appeal from the 3rd Sanctions Order and as a Matter of Right have yet to be considered:**

(a) said "**Perfection Schedule**" in **Newly-Created (12 Jun 2017) Appeal No. 76594-9** thereby allegedly starting a countdown clock based on Appeal from a Final Judgment, that is in Newly-Created (12 June 2017) Appeal No. 76594-9 , said perfection schedule and countdown clock **likely rendered moot** by either of Petitioners' Two Pending-and-Previously-Filed "Appeals" (Motions-to-Modify) to a 3-Judge Panel In Previously-Created -And-Pending Appellate-Matter-No.-76594-9-I ("EYE") and; (b) Defendants' election not to comply with the illusory perfection schedule in SEPARATE and DIFFERENT Newly-Created (12 Jun 2017) Notice of Appeal No. 76594-9 ("WITHOUT-AN-EYE") being the stated reason why the Court of Appeals dismissed Defendants' hard-won Rights to Appeal -- and as a Matter of Right Under RAP 2.2(a)(3) -- from the Trial Court's 07-Mar-2017 3rd-Sanctions-Order in present-Appellate-Matter-No.-76594-9-I ("EYE").

2) Harm From NJK's Further Apparent Misconduct of the 12-Jun-2017 Decisions Include Termination of Several Pending Appellate Rights, And Without a Hearing On or Around 19-Aug-2017, Believed to Include A Number of Pending Motions In Separate and Newly Created (12 Jun 2017) Appeal No. 76594-9 ("without-an-eye"), including:

(a) Original, 1st, 2nd, etc. Motions to Change the 12-Jun-2017 Interlocutory Decision to Accord With All Evidence;

(b) a Motion for Clerk's Amendment to Correct Defendants' Inadvertent Omission of 1st, 2nd, etc.

from the Rush-Filed Amendments (e.g. that done after Defendants Learned from this Court on 12-Jul-2017 that 12-Jun-Interlocutory Decision Could Have Been by Clerk or Non-Judge-Comm'r Rather than Judge, and Thus Unappealable to the S.Ct. at that Time

(c) etc., such as itemized in Petitioners' 17-Aug-2017 Motion To Alter/Amend Appeals Court 3-Judge Panel Order Of 09 Aug 2017 to Strike Portions Purporting To Rule On Motions Filed-And-Pending In Newly-Created (12 Jun 2017) Appeal No. 76594-9 ("WITHOUT-AN-EYE").¹¹

B. Relief Requested as Remedy for Harms Suffered Defendants from Substantive Due Process Violations Harms

See Statement of Relief Sought p. 11 *supra*.

Respectfully submitted and Dated: 11 October 2017.

s/ Brian L. Johnson
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Attachment List from Motion Above:

"Attachment 06 Apr 2017 Notation Order Wrongfully Converting -- e.g., Without Notice or Opportunity for Hearing as Required by RAP 6.2(b) and contrary to all evidence -- 20 Mar 2017 Notice of Appeal to Notice of Discretionary Review"

¹¹ See "Attachment 17Aug 2017 Motion To Alter/Amend Appeals Court 3-Judge Panel Order Of 09 Aug 2017 to Strike Portions Purporting To Rule On Motions Filed-And-Pending In Newly-Created (12 Jun 2017) Appeal No. 76594-9 ("WITHOUT-AN-EYE") including Suggested Order Calculated to Remedy Appearance of Impropriety ."

Attachment 11-May-2017 Petitioners' 3rd Supplemental Motion... Seeking Reinstatement... [20 Mar 2017] Notice Of Appeal As A Matter Of Right Rather than Motion for Discretionary Review,"

"Attachment 17 Aug 2017 Motion To Alter/Amend Appeals Court 3-Judge Panel Order Of 09 Aug 2017 to Strike Portions Purporting To Rule On Motions Filed-And-Pending In Newly-Created (12 Jun 2017) Appeal No. 76594-9 ("WITHOUT-AN-EYE") including Suggested Order Calculated to Remedy Appearance of Impropriety ."

"Attachment 20 Mar 2017 Notice of Appeal Under RAP 2.2(a)(3) (Trial Court Dkt. 308)."

"Attachment 31-Mar-2017 WSBA-Recommended Motion-to-Stay-As-Backup-Plan-to-Previously-Filed-Notice-of-Appeal-No.-76594-9-I ("EYE")"

"Attachment 06 Apr 2017 Notation Order Wrongfully Converting -- e.g., Without Notice or Opportunity for Hearing as Required by RAP 6.2(b) and contrary to all evidence -- 20 Mar 2017 Notice of Appeal to Notice of Discretionary Review"

"Attachment 25 Apr 2017 Kanazawa Notation Order Wrongfully Denying the WSBA-Recommended Backup Motion to Stay."

"Attachment 22-May-2017 Status Letter from ICT Law PLLc to NJK."

"Attachment 23-May-2017 Notation Order [Apparently] Threatening Dismissal Unless Petitioners Change Position That [Trial Court's] Summary Judgment/Final Judgement Null And Void Due To Comm'r's Errors."

"Attachment 25 May 2017 Motion to Modify 25 Apr 2017 Notation Order's Wrongful Denial of Defendants' WSBA-Recommended Motion-to-Stay-As-Backup-Plan-to-Previously-Filed-Notice-of-Appeal-No._76594-9-I ("EYE")."

"Attachment 26 May 2017 Motion [to] Panel To Rescind/Clarify Comm'r's 24 23 May 2017 Notation Order [Apparently] Threatening Dismissal Unless Petitioners Change Position That [Trial Court's] Summary Judgment/Final Judgement Null And Void Due To Comm'r's Errors Re: Petitioners' 11 May 2017 3rd Supplemental Motion... Seeking Reinstatement... [20 Mar 2017] Notice Of Appeal As A Matter Of Right ... ,"

"Attachment Certified Transcript (Tr. Ct. Dkt. No. 289) of 22 Feb 2017 Oral Hearing that lead to 3rd Sanctions Order (Tr. Ct. Dkt. No.. 283)."

"Attachment 09-Jun-2017 '1st Amended ... Notice of Appeal' as Matter of Right Under RAP 2.2(a)(3)

"Attachment 12 June 2017 Fax-Filed Copy of '1st-Amended-Version Clarifying that Both the 09 Jun 2017 Version and the Previously-Filed 20 Mar 2017 Original Version of Defendants NOTICE OF APPEAL TO COURT OF APPEALS: DIVISION I', Were Appeal as a Matter of Right Under RAP 2.2(a)(3) and from the Trial Court's 3rd Sanctions Order of 07 Mar 2017 Having "Deemed Found" Facts Rendering Impossible All Defenses, said 09 Jun 2017 Version Filed Directly Responsive to the Comm'r Kanazawa's 23 May 2017 Notation Order [Apparently] Threatening Dismissal Unless Petitioners Change Position That [Trial Court's] Summary Judgment/Final Judgement [Orders] Null And Void Due To Comm'r's Many Legal Errors In Notice-of-Appeal-No.-76594-9-I ("EYE").

"Attachment 09-Jun-2017 '1st Amended ... Notice of Appeal' as Matter of Right Under RAP 2.2(a)(3)

"Attachment "09 Jun 2017 '1st Amended ... Notice of Appeal' Clarifying-And-Maintaining That Both 09-Jun-2017 and 20-Mar-2017 Originally Filed Notice of Appeal Were/Are Appeals from the Trial Court's 07-Mar-2017 3rd-Sanctions-Order Having "Deemed Found" Facts rendering Defendants Lack of Standing, Lack of Real Party In Interest, and other notable defenses Impossible," said appeal as a Matter of Right Under RAP 2.2(a)(3)"

Attachment "12 June 2017 Fax-Filed Copy of '1st-Amended-Version Clarifying that Both the 09 Jun 2017 Version and the Previously-Filed 20 Mar 2017 Original Version of Defendants NOTICE OF APPEAL TO COURT OF APPEALS: DIVISION I', Were Appeal as a Matter of Right Under RAP 2.2(a)(3) and from the Trial Court's 3rd Sanctions Order of 07 Mar 2017 Having "Deemed Found" Facts Rendering Impossible All Defenses, said 09 Jun 2017 Version Filed Directly Responsive to the Comm'r Kanazawa's 23 May 2017 Notation Order [Apparently] Threatening Dismissal Unless Petitioners Change Position That [Trial Court's] Summary Judgment/Final Judgement [Orders] Null And Void Due To Comm'r's Many Legal Errors In Notice-of-Appeal-No.-76594-9-I ("EYE").

"Attachment Mon 6/12/2017 4:52 PM Email from Ms. Dahlem Having an attached Perfection Schedule allegedly applying in a Newly Created (12 Jun 2017) Appeal No. 76594-9 ("NO EYE"), said Newly-Created "Appeal" having an alleged "perfection schedule" even though Defendants' Motion to Dismiss in the present matter -- -- Notice-of-Appeal-Under-RAP-2.2(a)(3)-from-3rd-Sanctions-Order-Said-Notice-of-Appeal-Denoted-As-Appellate-Matter-No.-76594-9-I ("EYE") -- were still pending and had not yet been heard."

"Attachment 'Tuesday, June 13, 2017 9:03:35 AM' Email from "Dahlem, Susan" Acknowledging "motion was received at 3:30 am by fax"; A Copy of the 13 Jun 2017 fax-filed "Notice of Motion"; and A Copy of the 13 Jun 2017 fax-filed "Motion (A) For A New Serial Number That Clearly Differentiates Between (1) Newly-Created (12 Jun 2017) Appeal No. 76594-9 ["Without-An-Eye"]; And (2) Previously-Created - And-Pending Appellate-Matter-No.- 76594-9-I ("Eye"), And (B) To Stay Newly-Created (12 Jun 2017) Appeal No. 76594-9 ["Without-An-Eye"] In View Of Likely Mootness Given Petitioners' Two Pending-And-Previously-Filed Motions To 3-Judge Panels In Previously-Created -And-Pending Appellate-Matter-No.- 76594-9-I ("Eye"), All of Which Were Filed in Newly-Created (12 Jun 2017) Appeal No. 76594-9 ("WITHOUT-AN-EYE")."

From Motion to Amend/Modify

"Attachment 15 Jun 2017 Notation Order in this present matter -- Notice-of-Appeal-Under-RAP-2.2(a)(3)-from-3rd-Sanctions-Order-Said-Notice-of-Appeal-Denoted-As-Appellate-Matter-No.-76594-9-I ("EYE") -- Wherein Comm'r Kanazawa purports to Absolve Herself of All Responsibility In a Case Where She Should Have Had No Jurisdiction on 15 Jun 2017, and On the Basis of an Alleged Interlocutory Decision in DIFFERENT and Newly-Created (12 Jun 2017) Appeal No. 76594-9 ("WITHOUT-AN-EYE")."

CERTIFICATE OF SERVICE

I hereby certify under penalty of perjury of the laws of the State of Washington that a copy of the foregoing document(s) was electronically forwarded for service upon counsel of record:

Attorneys for Plaintiff:

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HKM Employment Attorneys
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- Fax
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- E-mail/E-File

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SENT VIA:

- Fax
- ABC Legal Services
- Regular U.S. Mail
- E-mail/E-File

DATED this 25 September 2017.

s/Dale Cook

Dale Cook

Lawyer

Prior to exercising the "Judicial Power" of the State Of WA "vested in" the "supreme court, [and] superior [trial] courts" every Judge of said "supreme court, [and] superior [trial] courts" must execute an Oathe of Judges:

Every judge of the supreme court, and every judge of a superior [Trial] court shall, **before entering upon the duties of his office**, take and subscribe an oath that he will support the Constitution of the United States and the Constitution of the State of Washington, and will faithfully and impartially discharge the duties of judge to the best of his ability, which oath shall be filed in the office of the secretary of state." *See* WA Const., Art. IV, S 4, "Oath of Judges."

Prior to exercising the Judicial Power of the State Of WA "vested in" ... " the Courts of Appeals to the extent that RCW 2.06 defines a valid Art. IV Court," every Judge of said " Courts of Appeals" must execute an Oathe of Judges:"

The ... judges of the court of appeals, **before entering upon the duties of their office**, shall take and subscribe the following oath ...: "I do solemnly swear ..., that I will support the Constitution of the United States and the Constitution of the State of Washington, and that I will faithfully and impartially discharge the duties of the office of judge of the court of appeals of the State of Washington to the best of my ability." ... And the oath ... shall be filed in the office of the secretary of state. *See* RCW 2.06.085, "Oath of judges," and *see* WA Constitution, Article IV, S 1, "Judicial Power, Where Vested" which incorporates RCW 2.06.085, "Oath of judges" via the delegation of the power to define the Court of Appeals to the legislature.

. *See* WA Const., Art. IV, S 4, "Oath of Judges" and WA Constitution, Article IV, S 1, "Judicial Power, Where Vested" which incorporates RCW 2.06.085, "Oath of judges" into Article IV as the language by which the

LAW OFFICES OF DALE COOK

October 11, 2017 - 4:07 PM

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_Motion_20171011152654SC061549_3398.pdf
This File Contains:
Motion 1 - Other
The Original File Name was 76594-9_I_Dfn_Ptn_for_SC_Review_Motion_4AMENDED BRIEFwProposed_Replacmnt_Discr_Rvw.pdf

A copy of the uploaded files will be sent to:

- brian@grandviewpatents.com
- brianjohnson@ictlawtech.net
- dkalish@hkm.com
- lflores@hkm.com

Comments:

Petitioners' Joint Motion for Leave to File 3rd Amended Motion for Discretionary Review (Proposed Motion Attached Hereto)

Sender Name: Dale Cook - Email: dalecook@ictlawtech.net

Address:

918 S HORTON ST STE 717

SEATTLE, WA, 98134-1947

Phone: 425-605-7036

Note: The Filing Id is 20171011152654SC061549

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April 19, 2018 - 4:13 PM

Transmittal Information

Filed with Court: Court of Appeals Division I
Appellate Court Case Number: 76594-9
Appellate Court Case Title: ICT Law & Tech. Group, Dale Cook, Petitioners v. James Namiki, Respondent
Superior Court Case Number: 16-2-01372-4

The following documents have been uploaded:

- 765949_Other_20180419134927D1880074_4834.pdf
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Other - Attachments to Petition for Review
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- 765949_Petition_for_Review_20180419134927D1880074_2913.pdf
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Petition for Review
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19_Apr_2018_Petition_for_Review_Crt_Appl_DIV_1_re_20_Mar_2018_ORDER_Dismissing_Appl.pdf*

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