

APPENDIX

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APPENDIX EXHIBIT A

THE SUPREME COURT OF WASHINGTON

OLA EL-KHARWELY, et al.,

Petitioners,

v.

MOHAMED EL-KHARWELY, et al.,

Respondents.

No. 104681-2

ORDER

Court of Appeals

No. 38789-5-III consolidated with
39196-5-III and 39197-3-III

Department I of the Court, composed of Chief Justice Stephens and Justices Johnson, González, Montoya-Lewis, and Mungia, considered at its February 3, 2026, Motion Calendar whether review should be granted pursuant to RAP 13.4(b) and unanimously agreed that the following order be entered.

IT IS ORDERED:

That the petition for review is denied.

DATED at Olympia, Washington, this 4th day of February, 2026.

For the Court


CHIEF JUSTICE

APPENDIX EXHIBIT B

Tristen L. Worthen
Clerk/Administrator

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The Court of Appeals
of the
State of Washington
Division III



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September 16, 2025

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CASE # 387895, cons. w/ 39196 & 391973
Ola El-Kharwely, et al v. Mohamed El-Kharwely, et al
SPOKANE COUNTY SUPERIOR COURT No. 2120192932

Counsel and Parties:

Enclosed is a copy of the order deciding a motion for reconsideration of this court's July 24, 2025 decision.

A party may seek discretionary review by the Washington Supreme Court of a Court of Appeals' decision. RAP 13.3(a). A party seeking discretionary review must file a petition for review in this Court within 30 days after the attached order on reconsideration is filed. RAP 13.4(a). Please file the petition electronically through the Court's e-filing portal. The petition for review will then be forwarded to the Supreme Court. The petition must be received in this court on or before the date it is due. RAP 18.5(c).

If the party opposing the petition for review wishes to file an answer, that answer should be filed in the Supreme Court within 30 days of the service on the party of the petition. RAP 13.4(d). The address of the Washington Supreme Court is Temple of Justice, P.O. Box 40929, Olympia, WA 98504-0929.

Sincerely,

Tristen L. Worthen
Clerk/Administrator

TLW:ko
Enc.

FILED
SEPTEMBER 16, 2025
In the Office of the Clerk of Court
WA State Court of Appeals, Division III

COURT OF APPEALS, DIVISION III, STATE OF WASHINGTON

OLA EL-KHARWELY,	)	No. 38789-5-III
ALIAA EL-KHARWELY,	)	(Consol. with Nos. 39196-5-III
ALAA EL-KHARWELY	)	And 39197-3-III)
	)	
Appellants,	)	ORDER DENYING MOTION
	)	FOR RECONSIDERATION
v.	)	
	)	
MOHAMED EL-KHARWELY,	)	
NADIA EL-KHARWELY,	)	
JOHN DOE AND MARY DOE 1-X,	)	
	)	
Respondents.	)	

THE COURT has considered the appellants motion for reconsideration and is of the opinion the motion should be denied. Therefore,

IT IS ORDERED, the motion for reconsideration of this court's decision of July 24, 2025 is hereby denied.

PANEL: Judges Staab, Fearing, Lawrence-Berrey

FOR THE COURT:

Lawrence Berrey, C.J.
ROBERT LAWRENCE-BERREY
Chief Judge

APPENDIX EXHIBIT C

FILED
Jul 24, 2025
Court of Appeals
Division III
State of Washington

COURT OF APPEALS, DIVISION III, STA

OLA EL-KHARWELY, ALIAA
EL-KHARWELY, ALAA
EL-KHARWELY

Appellants,

v.

MOHAMED EL-KHARWELY,
NADIA EL-KHARWELY, JOHN DOE
and MARY DOE 1-X,

Respondents.

No. 38789-5-III
consol. with
Nos. 39196-5-III and
39197-3-III

ORDER ON SHOW CAUSE

These consolidated matters were set for a show cause hearing on June 10, 2025, before a panel of this Court. Appellants in this matter, Alaa Elkhawily and Ola El-Kharwely, were ordered to show cause why this matter should not be dismissed pursuant to RAP 18.9 based on Appellants' use of the RAPs for delay of this interlocutory matter and/or for violation of the RAPs. For the reasons set forth below, we conclude the severe sanction of dismissal is warranted under the circumstances.

This Court's prior orders entered on January 29, 2025, March 6, and May 30 relate the history of this case in detail. This Court provides the following timeline to illustrate the extreme delay in this matter:

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- **March 7, 2022:** Appellants Alaa Elkhawily and Ola El-Kharwely filed a Notice of Appeal (NOA) seeking review of the Spokane County Superior Court's Order Granting Defendant Mohamed ElKharwely's motion for summary judgment, Order Denying Plaintiffs' Motions to Strike and Dismiss and for Default, and Request for Sanctions and Fees and Cost, and Order Denying Plaintiffs' Motion to Amend.
- **May 3, 2022:** Appellants filed an Amended NOA seeking review of additional orders filed after the original NOA was filed. After reviewing the underlying orders, this Court determined this matter was before the court on discretionary review and instructed Appellants to file a motion for discretionary review.
- **May 25, 2022:** Appellants filed a motion to modify the Court's determination that this matter was not appealable as a matter of right.
- **June 28, 2022:** This Court denied the motion to modify. Appellants subsequently moved for discretionary review by the Washington Supreme Court and obtained a stay of this matter pending a decision on that Supreme Court motion.
 - **September 2022:** Alaa filed an emergency objection to the trial court's denial of stay and sought emergency stay of the trial court. This Court sent the motion to the Supreme Court for consideration.
 - **October 19, 2022:** The Supreme Court Commissioner denied review. The Supreme Court subsequently denied the motion to modify the Commissioner's ruling on February 8, 2023.
 - While the Supreme Court discretionary review motion was pending, Appellants filed two additional NOAs from subsequent superior court orders titled Second and Third Amended NOAs. This Court treated these Second and Third Amended NOAs as new Notices for Discretionary Review, assigned each one a new cause number (matter nos. 39196-5 and 39197-3), and consolidated them. Appellants also filed a motion to modify the Clerk's rulings treating the two amended NOAs as new Notices for Discretionary Review and setting a due date for the motion for discretionary review of the matters consolidated under no. 39196-5. This Court sent the motion to modify to the Supreme Court, which subsequently denied review.
- **November 4, 2022:** Appellants filed a Fourth Amended NOA seeking review of the Order Denying Plaintiffs' Motions to Stay, To Change Venue, To Strike, To Compel, For Sanctions, To Reconsider and Granting the Motion to Change Trial Date.

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- **February 24, 2023:** Appellants filed a Fifth Amended NOA seeking review of multiple orders, including the Order Granting Motion for Summary Judgment of Dismissal of Remaining Claims filed on January 25, 2023.
- **March 31, 2023:** A commissioner of this Court ruled that matter no. 38789-5 and consolidated matter nos. 39196-5 and 39197-3 could all move forward as appealable since the Superior Court had entered a final order dismissing the remaining claims in the underlying matter. The Commissioner also consolidated all three matters under matter no. 38789-5.
- **April 4, 2023:** The Clerk issued a perfection letter.
- **June 2023 - October 2024:** the Clerk stayed this matter based on Alaa's various motions for stay/GR 33 accommodation due to his ongoing health issues. During this period, the Washington Supreme Court was granting all of Alaa's requests for extensions based on Alaa's ongoing health issues in another case involving Alaa and Ola, Supreme Court matter no. 101919-0, so the Division Three Clerk followed suit.
 - **July 22, 2023:** While the stay was in place, Appellants filed a "Sixth Amended Notice of Appeal" seeking review of the Order Granting Defendant Mohamed El-Kharwely's Motion for Entry of Judgment Re: Attorney Fees and Costs, Judgement Summary and Judgment, Order Granting Defendant Nadia El-Tarawy's Motion for Entry of Judgment Re: Attorneys' Fees, and Judgment Summary and Judgment Re: Defendant Nadia El-Tarawy.
 - **January 22, 2024:** While the stay was still in place, Appellants filed another amended NOA titled, "Eighth Amended Notice of Appeal,"¹ which designated the Order Denying Request for Reasonable Accommodation for Disability - Continue and Stay Proceedings and Deadlines," and Order Granting Defendant Mohame El-Kharwely's Motion to set Supersedeas Bond Pursuant to RAP 8.1.
 - Although a stay was in place, this Court sent the parties a letter on January 31, noting that it had received the Eighth Amended NOA and the Court was treating the amended notice as a RAP 8.1(h) motion for review of the supersedeas decision with respect to the Order granting the motion to set the supersedeas bond. The Clerk's letter indicated that the motion for review of supersedeas decision would be forwarded to the Commissioner's office when the stay was lifted.

¹ There is no record of Appellants filing a "Seventh Amended Notice of Appeal."

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- **July 19, 2024:** The Supreme Court Commissioner issued a ruling denying an extension of time and the motion for discretionary review in matter no. 101919-0. The ruling noted in part that, **“it has become readily apparent Dr. Elkharwily has been abusing the appellate court rules, resulting in a delay of over a year”** and that while Alaa may have medical and mental health challenges, it was clear they were not preventing him from drafting and filing legal pleadings. Commissioner’s Ruling Denying Motion for Extension of Time and Review, no. 101919-0, filed 7/19/24. A copy of this ruling is attached to this Order as Appendix A.
- **October 22, 2024:** The Clerk lifted the stay in this matter and set the due date for Appellants’ opening brief on November 22, 2024.
- **November 22, 2024:** Appellants filed a motion to extend time to file their opening brief and to stay proceedings pending transfer of the complete, true and correct superior court proceedings. Appellants asserted that an extension was necessary based on Alaa’s ongoing health issues, and that a stay was necessary pending transfer of the complete, true and correct trial court proceedings. They argued in part that Paine Hamblen and Witherspoon law firms tampered with records relating to witness testimony. They also alleged this Court should recuse and transfer the case to another division. The Clerk referred this motion to a panel of judges
- **January 29, 2025:** This Court entered an Order denying Appellants’ November 22, 2024 motion for an extension of time and a stay. The Court noted in part that Alaa failed to demonstrate his medical issues prevented him from preparing legal pleadings, and that he failed to demonstrate a stay was warranted based on the alleged record issues or this court’s alleged disqualification. The Court set the due date for Appellants’ opening brief on February 25, 2025, and warned that a failure to file the brief by that date would result in monetary sanctions and the matter being set on the court’s motion to dismiss.
 - On February 27, 2025, Appellants filed a motion for discretionary review with the Supreme Court seeking review of this court’s January 29 Order (and a motion to file an amended brief). On March 14 Appellants filed a motion asking the Supreme Court to stay this Court’s proceedings. After the Supreme Court Commissioner’s office set the motion on the Commissioner’s April 30 docket, Alaa filed a motion to expedite consideration of the motion for stay.
 - On April 2, 2025, the Supreme Court Commissioner granted Alaa’s motion to expedite consideration of the stay motion and denied the stay. The Commissioner’s ruling noted that, **“the records in the Court of Appeals plainly demonstrate that petitioner is engaging in an abusive pattern of litigation**

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intended on delaying ultimate resolution of this litigation indefinitely. This court will not impose further delay.” *Commissioner’s Ruling*, no. 103910-7, filed 4/2/25 (emphasis added). A copy of this ruling is attached to this Order as Appendix B. On April 16, Appellants filed a voluntary motion to dismiss their discretionary review motion which the Supreme Court granted.

- **February 11, 2025:** Appellants filed a motion to stay the brief deadline pending their motion for discretionary review by the Supreme Court of the January 29 Order. A commissioner referred this motion to a panel of judges.
- **March 6, 2025:** The Court entered an order denying Appellants’ February 11, 2025 stay motion based on the delay that had already occurred in this matter and Appellants’ past use of Supreme Court discretionary review motions to delay his appeals in this Court. The Order reset the opening brief due date to April 3, 2025, imposed a \$250 sanction and ordered that a failure to file the brief by April 3 would result in dismissal.
- **April 2, 2025:** Alaa Elkhawily filed a supplemental designation of clerk’s papers and supplemental statement of arrangements. That same day Appellants filed a motion to extend time to file the joint opening brief. The Clerk granted the motion in part, extending the deadline for the joint opening brief until May 14, 2025.
- **April 4, 2025:** Supplemental verbatim report of proceedings filed.
- **April 24, 2025:** Supplemental clerk’s papers filed.
- **May 9, 2025:** Alaa filed a motion for disqualification of this court and a motion to stay this matter until it could be transferred to another division of this Court. A commissioner of this Court referred these motions to a panel of judges. Appellants did not file their joint opening brief on the extended due date of May 14, 2025.

On May 30, the Court entered an Order denying Appellants’ May 9 motions for disqualification and stay. The Court also ordered Appellants to appear in person before a panel of judges on June 10 to show cause why this matter should not be dismissed pursuant to RAP 18.9.

On June 6, Ola filed a motion requesting permission to appear remotely at the show cause hearing and requesting interpreter assistance. Her motion indicated that she was experiencing

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medical issues. It also stated that she is not fluent in English² and therefore required an Arabic interpreter to ensure that she could understand and meaningfully participate in the hearing. That same day Alaa filed a motion seeking permission to appear remotely alleging that he is now residing in Minnesota and he was obligated to appear in person in Minnesota on June 11 in connection with an unspecified time-sensitive manner. On June 9, the Clerk (at the direction of the assignment judge) denied Alaa's motion to appear remotely and denied Ola's request to appear remotely but granted her request for interpreter assistance.

On June 9, Appellants also filed a Joined Motion to Continue Hearing and Stay Proceedings Pending the Supreme Court Decision on Appellants' Motion for Discretionary Review of an Order by the Court of Appeals filed on May 30, 2025, and a Joined Emergency Motion to Continue Hearing and Stay Proceedings Pending the Supreme Court Decision on Appellants' Motion for Discretionary Review of an Order by the Court of Appeals filed on May 30, 2025. That same day, the Clerk (at the direction of the assignment judge) denied all joined motions to continue and stay proceedings.³

Appellants also filed a joined response to the order to show cause on June 9. They argue that this matter should not be dismissed because they have acted in full compliance and in reliance on this court's assurances. Specifically, they claim that their failure to file the brief is

² This court notes that Appellants have filed many "joint" filings in this matter that are purportedly signed by both Alaa and Ola. Although these filings have all been in English, they contain no certification that the filing was interpreted for Ola or that she understood and agreed with the filings she purportedly signed.

³ On June 9, Appellants filed a motion for discretionary review of this Court's May 30 Order with the Washington Supreme Court. That motion was rejected for non-compliance and Appellants filed an amended motion on June 30, 2025. The Supreme Court Commissioner's

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due to missing transcripts, including the deposition of the court reporter, the deposition of a dismissed party, and several post-judgment hearings transcripts. They claim that they ordered and paid for these transcripts, but the court reporter has not fulfilled its duties, and the Clerk has not docketed the filings. They argue they cannot be sanctioned for failing to file their brief where this Court never provided an updated scheduling order after lifting the stay, and also allege that they have an unresolved motion to supplement and that their assigned case manager told them the matter would not be dismissed if they designated supplemental record and filed a motion to extend time. Appellants claim their appeal implicates falsification and suppression of trial court transcripts and deposition testimony, and dismissal would result in severe and irredeemable prejudice because this is their only avenue to redress fundamental procedural violations. They also assert that no prejudice will result to the opposing party or this Court in allowing this matter to proceed. Appellants ask this Court to decline to dismiss the appeal; issue a ruling on the pending motion to supplement the record; issue a new scheduling order once the record is complete; direct the filing of the outstanding deposition and hearing transcripts; and permit this appeal to proceed on its merits.

In support of their joined motion, Appellants included copies of what appear to be two emails between Alaa and the case manager. Those emails reflect that: (i) on April 2, 2025, Alaa asked the case manager to “amend” the perfection letter in this matter in light of the amended NOAs that Appellants filed while this matter was stayed, and (ii) the case manager apparently advised Alaa that Division III does not issue new perfection letters or scheduling orders for

office has set that motion on the Commissioner’s docket of August 20, 2025.

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subsequent notices of appeal following the first notice of perfection.

The show cause hearing occurred as scheduled on June 10 at 10:00 a.m. This Court provided an Arabic interpreter to assist Ola. However, Ola failed to appear in violation of this Court's May 30 Order. Alaa did appear in person and denied that he had intentionally delayed resolution of this matter. He repeated many of his arguments from his written response to the order to show cause, including his assertion that he had not filed his brief because Appellants had filed amended NOAs that this court had never acknowledged and Appellants were waiting on amended perfection schedules for supplementing the record.

RAP 18.9(a) provides that this court may, on its own initiative, "order a party or counsel...who uses these rules for the purpose of delay, files a frivolous appeal, or fails to comply with these rules to pay terms or compensatory damages...." RAP 18.9(b) further authorizes the court to "dismiss a review proceeding as provided in section (a)." Accordingly, this Court is authorized to impose sanctions, including and up to dismissal of the case, if it determines a party uses the rules for the purpose of delay.

Having reviewed the history of this case and considered Alaa's responses to the panel's questions, it has become readily apparent that Alaa has been abusing the appellate court rules for the purpose of delay as contemplated by RAP 18.9(a). Appellants obtained a stay of nearly a year in this matter based on Alaa's claimed health issues that allegedly prevented him from litigating this matter. As the Supreme Court Commissioner noted in another matter involving Alaa and Ola, "it has become readily apparent Dr. Elkhawily has been abusing the appellate court rules, resulting in a delay of over a year. Every motion for extension of time and request

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for accommodation Dr. Elkhawily has filed was obviously drafted, signed, and served by themselves, despite their claims that they cannot engage in any activities involving this case.” Commissioner’s Ruling, no. 101919-0, filed 7/19/24. Alaa continued to draft, sign and serve motions in this court while asserting a stay was necessary because his health issues prevented him from participating in litigation. It is clear he used his asserted health issues to substantially delay this matter.

Moreover, since this Court lifted the stay in October 2024, Appellants have continued to use the appellate rules for delay. Appellants have persistently used motion practice to avoid filing their opening brief, including motions for stay, motions for discretionary review to the Supreme Court when this court denies the motions for stay, motions asserting this court should recuse or is disqualified, and motions asserting various issues with the superior court record. After this Court ordered Appellants to appear and show cause why this matter should not be dismissed, Appellants engaged in further motion practice intended to delay this matter by filing a motion for stay one day prior to the hearing and again seeking discretionary review by the Supreme Court.

At the show cause hearing, Alaa apparently blamed this Court for Appellant’s failure to file an opening brief. He faulted this Court for failing to issue amended perfection schedules following Appellants’ filing of various amended NOAs (even though his written response reflects that he was informed by a case manager that this Court does not issue amended perfection schedules when an amended NOA is filed). He also apparently faulted this Court for failing to rule on Appellants’ motion to supplement the record – but the Court’s docket does not

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reflect that any such motion is pending. Notably, Appellants did successfully supplement the record in April 2025 and this Court granted them an extension of time to file their opening brief until May 14. However, instead of filing the brief Appellants filed motions for disqualification and stay.⁴ Alaa appeared to argue that the May 9th motions for disqualification and stay operated to extend the May 14 brief deadline but cited no supporting rule or other authority. This argument encapsulates Appellants' entire strategy in this case: filing stays and seeking discretionary review of orders denying stays to avoid court deadlines and thereby prevent this matter from moving forward.

This Court acknowledges that dismissal of the appeal is the most severe sanction available under RAP 18.9(a) and (b). However, this Court has concluded that this severe sanction is warranted under the circumstances. Despite being warned multiple times that a failure to file the opening brief would result in dismissal of this case (and being given multiple opportunities to avoid dismissal), Appellants continue to engage in delay tactics instead of filing a complying opening brief. This Court agrees with the Supreme Court Commissioner: the records in this court plainly demonstrate that Appellants have engaged in an abusive pattern of litigation intended to indefinitely delay the ultimate resolution of these consolidated matters. This Court will not allow Appellants to impose any additional delay in these matters. This Court acknowledges that there is currently a pending motion in the Supreme Court for discretionary

⁴ To the extent Appellants maintain there are still missing records, they fail to adequately explain why these record issues have yet to be resolved. This Court notes that the last Amended NOA Appellants filed was the Eighth Amended NOA filed on January 22, 2024, and that this Court lifted the stay in this matter in October 2024. Appellants fail to demonstrate that they have diligently attempted to resolve the alleged record issues in the intervening time.

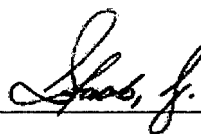
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review of this Court's May 30 Order denying the motions for disqualification and stay. However, given: (i) Appellants' prior use of Supreme Court discretionary review motions to delay this matter, (ii) the Supreme Court Commissioner's prior determination that Alaa is clearly engaging in an abusive pattern of litigation in these matters, and (iii) RAP 7.3's provision that this Court "retains authority to act in a case pending before it until review is accepted by the Supreme Court, unless the Supreme Court directs otherwise", this Court has determined that dismissal is appropriate even considering the pending Supreme Court motion.

Accordingly, IT IS ORDERED, these consolidated matters are dismissed.⁵ In the event Respondents wish to request an award of attorney fees, their motion for fees and accompanying affidavit of fees is due within 10 days of the date of this Order. Any response to a motion for fees will be due 10 days after the filing of the motion, and any reply will be due 3 days after filing of the response.

PANEL: Judges Lawrence-Berrey, Staab, Fearing

FOR THE COURT:

A handwritten signature in cursive script, appearing to read "Staab, f.", is written over a horizontal line.

TRACY STAAB
Acting Chief Judge

⁵ This Court notes that the Clerk's office apparently inadvertently failed to refer the motion for review of supersedeas decision pursuant to RAP 8.1(h) to the Commissioner's Office when the stay was lifted, as the Clerk's letter of January 31, 2024, indicated it would do. However, since this Court has determined that this matter should be dismissed, this Court declines to take any action on the motion for supersedeas review.

**Additional material
from this filing is
available in the
Clerk's Office.**