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APPENDIX

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APPENDIX EXHIBIT A

THE SUPREME COURT OF WASHINGTON

In the Matter of the Estate of:

ELSAYED M. ELKHARWELY

No. 104680-4

ORDER

Court of Appeals
No. 38201-0-III consolidated with
38348-2-III and 38347-4-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

Steyn, C. J.
CHIEF JUSTICE

APPENDIX EXHIBIT B

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

COURT OF APPEALS, DIVISION III, STATE OF WASHINGTON

In re the Matter of the Estate of:	)	No. 38201-0-III
	)	consol. with
ELSAYED M. ELKHARWELY,	)	Nos. 38347-4-III and
	)	38348-2-III
Decedent.	)	
	)	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:

- **May 11, 2021:** Appellants filed a Notice of Appeal seeking review of the Spokane County Superior Court's order on cross-petitions appointing Nadia Eltarawy administrator, denying motion for continuance and the judgment entered April 13, 2021.

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- **July 25, 2022:** Appeals Court Commissioner entered a stay of the underlying superior court proceedings pending this appeal based on continued superior court motion practice by Appellants. Neither party filed a motion to modify that ruling, and neither party has filed a motion to lift the stay.
- **April 2023:** Appellants filed a motion for discretionary review with the Washington Supreme Court seeking review of this Court's order partially granting Appellants' motion to modify commissioner's ruling regarding supersedeas amount.
- **May 2023-July 5, 2024:** Appellants obtained 5 extensions of time from the Supreme Court to file a reply in support of the motion for discretionary review. The stays were based on Alaa's alleged health issues. Appellants also sought stays in this Court based on Alaa's health issues, and this Court granted the requested stays consistent with the Washington Supreme Court.
- **July 19, 2024:** The Washington Supreme Court Commissioner issued a ruling denying Appellants' motion for a sixth extension of time and denying the motion for discretionary review. The ruling noted in part: **"it has become readily apparent Dr. Elkhawily 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 24, 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 a stay and extension were necessary based on Alaa's ongoing health issues and their need to correct the trial court record. Appellants also alleged this Court should recuse and transfer the case to another division. A commissioner of this Court 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 11, 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.

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- On February 27, 2025, Alaa 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 he 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 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, Alaa filed a voluntary motion to dismiss his 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 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 March 20, 2025, imposed a \$250 sanction and ordered that a failure to file the brief by March 20 would result in dismissal.
 - On March 14 Appellants filed an amended motion for discretionary review of the March 6 Order. They filed the motion under Supreme Court matter no. 103910-7, the matter assigned to their motion seeking discretionary review of this Court's January 29 Order. As noted above, the Commissioner subsequently denied Appellants' motion to stay the proceedings in this court on the basis that Alaa has plainly engaged in an abusive pattern of litigation intended to delay this matter indefinitely. Appellants subsequently voluntarily dismissed their motion.
- **March 20, 2025:** Appellants filed a non-complying joint opening brief. The Clerk rejected the brief in a letter dated March 21, and set the due date for Appellants' amended joint brief on March 31 and reset the court's motion to dismiss on March 31.

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- Appellants also filed a “Motion under RAP 9.10 to Correct and Supplement Record...” and “Motion to Extend Time to File Motion for Leave to Amend Opening Brief Until the Record is Corrected and Completed, and to Stay Respondent’s Briefing Until the Amended Brief is Filed” on March 20. The Clerk rejected both motions in a letter dated March 21 based on non-compliance with the RAPs. This Court’s record reflects that this order was emailed to Appellants. The Court’s record also reflects that Appellants never filed an amended RAP 9.10 motion or renewed that motion.
- **March 31, 2025:** Appellants filed an amended opening brief that was rejected for non-compliance. Appellants also filed a “Motion to Extend Time to File Motion for Leave to Amend Opening Brief Until the Record is Corrected and Completed, and to Stay Respondent’s Briefing Until the Amended Brief is Filed.” Appellants subsequently filed a motion to waive the word limitation for their amended brief.
- **April 23, 2025,** the Clerk granted Appellants’ motion to waive the word limitation in part. The Clerk also denied Appellants’ “Motion to Extend Time to File Motion for Leave to Amend Opening Brief Until the Record is Corrected and Completed, and to Stay Respondent’s Briefing Until the Amended Brief is Filed.” The Clerk’s ruling noted that this Court had previously rejected Appellants’ RAP 9.10 motion in the Court’s March 21 letter, and that there were no pending motions to correct the record in this Court. The Clerk set the deadline for Appellants’ second amended joint brief on May 8. The Court’s records reflect this letter was emailed to Appellants.
- **May 8, 2025:** Appellants did not file a second amended opening brief as due on May 8.
- **May 9, 2025:** Appellants filed a motion for disqualification contending this Court must transfer the appeal to another division and a motion to stay this proceeding, including the brief deadline, until the matter was transferred to another division. A commissioner referred this motion to a panel of judges.

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 English¹ 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 Jointed 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 Jointed 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 jointed motions to continue and stay proceedings.²

Appellants also filed a joined response to the order to show cause on June 9. They argue that they have made every good-faith effort to comply with this Court's procedural requirements, and any delay is attributable to issues with the superior court record. Specifically, they claim that

¹ 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.

² On June 9, Appellants filed a motion for discretionary review of this Court's May 30 Order with the Washington Supreme Court. The Supreme Court Commissioner's office has set that motion on the Commissioner's docket of July 30, 2025.

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brief that was due on May 8, Alaa argued that he had filed motions for disqualification and stay on May 9, apparently asserting that he extended the brief deadline by filing these new motions.

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, “it has become readily apparent Dr. Elkharwily has been abusing the appellate court rules, resulting in a delay of over a year. Every motion for extension of time and request for accommodation Dr. Elkharwily 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

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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 made no representation about when Appellants would be able to file a complying opening brief. Instead, he blamed this Court for Appellants' failure to file a complying brief by claiming the Court has never ruled on Appellants' pending RAP 9.10 and stay motions. However, the court record reflects that: this court emailed Alaa a copy of the Clerk's March 21 letter rejecting Appellants' non-complying RAP 9.10 motion, Appellants never filed an amended RAP 9.10 motion, and this court emailed Appellants a copy of the Clerk's April 28 letter denying the motion for stay and noting there was no pending motion to correct the record. Alaa's claims that Appellants never received either of these letters is not credible.³ Alaa also argued that Appellants' May 9 motions for disqualification and stay operated to extend the May 8 amended 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

³ Alaa claims he filed a RAP 9.10 motion by email, rather than through the portal, and that it was rejected. The Clerk has told Alaa on more than one occasion that he cannot file documents in this court by email, and Alaa's many filings in this matter make it clear that Alaa knows how to file pleadings through the portal.

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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 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.

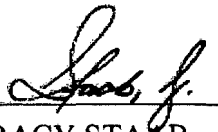
Accordingly, IT IS ORDERED, these consolidated matters are dismissed and the commissioner's July 25, 2022 stay of the superior court proceedings is lifted. In the event Respondents wish to request an award of attorney fees, their motion for fees and accompanying

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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:



TRACY STAAB
Acting Chief Judge

APPENDIX EXHIBIT D

Tristen L. Worthen
Clerk/Administrator

The Court of Appeals of
the
State of Washington Division
III

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September 16, 2025

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CASE # 382010
In the Matter of the Estate of: Elsayed M. Elkhawily
SPOKANE COUNTY SUPERIOR COURT No. 2040120732 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,

A handwritten signature in black ink, appearing to read "Tristen Worthen".

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

IN RE THE Matter of the Estate of	)	No. 38201-0-III
	)	(Consol. with Nos. 38347-4-III
	)	And 38348-2-III)
ELSAYED M. ELKHARWELY,	)	
	)	ORDER DENYING MOTION
Decedent.	)	FOR RECONSIDERATION

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:



ROBERT LAWRENCE-BERREY
Chief Judge