19-35469 Docket

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05/30/2019	1 26 pg, 832.21 KB	DOCKETED CAUSE AND ENTERED APPEARANCES OF COUNSEL. SEND MQ: Yes. The schedule is set as follows: Mediation Questionnaire due on 06/06/2019. Appellants Chantell Sackett and Michael Sackett opening brief due 07/29/2019. Appellees Steven L. Johnson and U.S. Environmental Protection Agency answering brief due 08/29/2019. Appellant's optional reply brief is due 21 days after service of the answering brief. [11313792] (RT) [Entered: 05/30/2019 01:50 PM]
06/03/2019	2	Filed (ECF) notice of appearance of Brian C. Toth for Appellees Steven L. Johnson and USEPA. Date of service: 06/03/2019. (Party previously proceeding without counsel: No) [11316544] [19-35469] (Toth, Brian) [Entered: 06/03/2019 07:03 AM]
06/03/2019	3	Added attorney Brian C. Toth for Steven L. Johnson and USEPA, in case 19-35469. [11316638] (QDL) [Entered: 06/03/2019 08:39 AM]
06/04/2019	4 2 pg, 661.04 KB	Filed (ECF) Appellants Michael Sackett and Chantell Sackett Mediation Questionnaire. Date of service: 06/04/2019. [11318564] [19-35469] (Francois, Anthony) [Entered: 06/04/2019 09:37 AM]
06/04/2019	5	The Mediation Questionnaire for this case was filed on 06/04/2019. To submit pertinent confidential information directly to the Circuit Mediators, please use the following link . Confidential submissions may include any information relevant to mediation of the case and settlement potential, including, but not limited to, settlement history, ongoing or potential settlement discussions, non-litigated party related issues, other pending actions, and timing considerations that may impact mediation efforts. [11319169] (AD) [Entered: 06/04/2019 12:44 PM]
06/11/2019	<u>6</u> 5 pg, 168.86 KB	MEDIATION CONFERENCE SCHEDULED - DIAL-IN Assessment Conference, 06/26/2019, 11:00 a.m. PACIFIC Time. The briefing schedule previously set by the court remains in effect. See order for instructions and details. [11326771] (CL) [Entered: 06/11/2019 12:15 PM]

06/26/2019	<u>7</u> 1 pg, 102.76 KB	MEDIATION CONFERENCE SCHEDULED - DIAL-IN Conference, 08/15/2019, 11:00 a.m. Pacific Time. See order for details. [11345290] (CL) [Entered: 06/26/2019 12:16 PM]
07/23/2019	8	Filed (ECF) Streamlined request for extension of time to file Opening Brief by Appellants Chantell Sackett and Michael Sackett. New requested due date is 08/28/2019. [11372902] [19-35469] (Francois, Anthony) [Entered: 07/23/2019 09:31 AM]
07/23/2019	9	Streamlined request [8] by Appellants Chantell Sackett and Michael Sackett to extend time to file the brief is approved. Amended briefing schedule: Appellants Chantell Sackett and Michael Sackett opening brief due 08/28/2019. Appellees Steven L. Johnson and U.S. Environmental Protection Agency answering brief due 09/27/2019. The optional reply brief is due 21 days from the date of service of the answering brief. [11373256] (JN) [Entered: 07/23/2019 10:58 AM]
08/15/2019	<u>10</u> 1 pg, 124.09 KB	MEDIATION CONFERENCE SCHEDULED - DIAL-IN Conference, 09/10/2019, 10:30 a.m. Pacific Time. The briefing schedule previously set by the court is amended as follows: Appellants Chantell Sackett and Michael Sackett opening brief due 09/27/2019. Appellees Steven L. Johnson and U.S. Environmental Protection Agency answering brief due 10/28/2019. Appellants optional reply brief is due within 21 days afer service of the answering brief. See order for details. [11398727] (CL) [Entered: 08/15/2019 02:25 PM]
09/12/2019	<u>11</u> 1 pg, 124.1 KB	MEDIATION CONFERENCE SCHEDULED - DIAL-IN Conference, 10/10/2019, 11:00 a.m. Pacific Time. The briefing schedule previously set by the court is amended as follows: Appellants Chantell Sackett and Michael Sackett opening brief due 10/28/2019. Appellees Steven L. Johnson and U.S. Environmental Protection Agency answering brief due 11/27/2019. Appellants optional reply brief is due within 21 days afer service of the answering brief. See order for details. [11429366] (CL) [Entered: 09/12/2019 10:12 AM]

10/10/2019	<u>12</u> 1 pg, 113.59 KB	MEDIATION STATUS REPORT DUE - 11/08/2019. The briefing schedule previously set by the court is amended as follows: Appellants Chantell Sackett and Michael Sackett opening brief due 12/11/2019. Appellees Steven L. Johnson and U.S. Environmental Protection Agency answering brief due 01/10/2020. Appellants optional reply brief is due within twenty one 21 days from the service date of the answer brief. See order for details. [11461193] (CL) [Entered: 10/10/2019 04:24 PM]
11/13/2019	<u>13</u> 1 pg, 33.07 KB	Filed order MEDIATION (SJS): This case is RELEASED from the Mediation Program. The briefing schedule previously set by the court is amended as follows: appellants' opening brief is due December 11, 2019; appellees' answering brief is due January 31, 2020; appellants' optional reply brief is due within 21 days from the service date of the answering brief. Counsel are requested to contact the Circuit Mediator should circumstances develop that warrant settlement discussions. [11497740] (JBS) [Entered: 11/13/2019 01:27 PM]
12/11/2019	<u>14</u> 71 pg, 246.19 KB	Submitted (ECF) Opening Brief for review. Submitted by Appellants Chantell Sackett and Michael Sackett. Date of service: 12/11/2019. [11529303] [19-35469] (Francois, Anthony) [Entered: 12/11/2019 03:40 PM]
12/11/2019	<u>15</u> 259 pg, 19.27 MB	Submitted (ECF) excerpts of record. Submitted by Appellants Chantell Sackett and Michael Sackett. Date of service: 12/11/2019. [11529432] [19-35469] (Francois, Anthony) [Entered: 12/11/2019 04:25 PM]
12/12/2019	<u>16</u> 1 pg, 93.17 KB	Filed clerk order: The opening brief [14] and excerpts of record [15] submitted by Chantell Sackett and Michael Sackett are filed. No paper copies are required at this time. [11530266] (SML) [Entered: 12/12/2019 01:32 PM]
01/29/2020	17	Filed (ECF) Streamlined request for extension of time to file Answering Brief by Appellees Steven L. Johnson and USEPA. New requested due date is 03/02/2020. [11577564] [19-35469] (Toth, Brian) [Entered: 01/29/2020 07:25 AM]
01/29/2020	18	Streamlined request [17] by Appellees Steven L. Johnson and USEPA to extend time to file the brief is approved. Amended briefing schedule: Appellees Steven L. Johnson and U.S. Environmental Protection Agency answering brief due 03/02/2020. The optional reply brief is due 21 days from the date of service of the answering brief. [11577652] (JN) [Entered: 01/29/2020 08:36 AM]

02/24/2020	<u>19</u> 5 pg, 56.25 KB	Filed (ECF) Appellees Steven L. Johnson and USEPA Unopposed Motion to extend time to file Answering brief until 04/01/2020. Date of service: 02/24/2020. [11606775] [19-35469] (Toth, Brian) [Entered: 02/24/2020 01:46 PM]
02/25/2020	<u>20</u> 1 pg, 95.32 KB	Filed clerk order (Deputy Clerk: LBS): Appellees' unopposed motion [19] for an extension of time to file the answering brief is granted. The answering brief is due April 1, 2020. The optional reply brief is due within 21 days after service of the answering brief. [11608807] (LBS) [Entered: 02/25/2020 03:59 PM]
03/10/2020	21	Terminated Sheila Baynes for USEPA and Steven L. Johnson in 19-35469 (due to incorrect ECF contact information) [11625039] (RY) [Entered: 03/10/2020 02:43 PM]
04/01/2020	22 81 pg, 4.03 MB	Filed (ECF) Appellees Steven L. Johnson and USEPA Motion to dismiss case. Date of service: 04/01/2020. [11648747] [19-35469][COURT UPDATE: Updated docket text to reflect content of filing. 04/01/2020 by SLM] (Toth, Brian) [Entered: 04/01/2020 01:22 PM]
04/09/2020	23 93 pg, 7.35 MB	Filed (ECF) Appellants Chantell Sackett and Michael Sackett response opposing motion ([22] Motion (ECF Filing), [22] Motion (ECF Filing)). Date of service: 04/09/2020. [11656543] [19-35469] (Francois, Anthony) [Entered: 04/09/2020 01:59 PM]
04/16/2020	<u>24</u> 22 pg, 1.55 MB	Filed (ECF) Appellees Steven L. Johnson and USEPA reply to response (). Date of service: 04/16/2020. [11663098] [19-35469] (Toth, Brian) [Entered: 04/16/2020 01:08 PM]
04/21/2020	<u>25</u> 1 pg, 84.61 KB	Filed (ECF) Appellees Steven L. Johnson and USEPA citation of supplemental authorities. Date of service: 04/21/2020. [11667171] [19-35469] (Toth, Brian) [Entered: 04/21/2020 11:50 AM]

05/22/2020	<u>26</u> 1 pg, 133.24 KB	Filed order (BARRY G. SILVERMAN, JACQUELINE H. NGUYEN and DANIEL PAUL COLLINS) Appellees' motion to dismiss this appeal as moot (Docket Entry No. [22]) is denied without prejudice to renewing the arguments in the answering brief. See Nat'l Indus. v. Republic Nat'l Life Ins. Co., 677 F.2d 1258, 1262 (9th Cir. 1982) (merits panel may consider appellate jurisdiction despite earlier denial of motion to dismiss). The opening brief has been filed. The answering brief is due June 22, 2020; and the optional reply brief is due within 21 days after service of the answering brief. [11699090] (JBS) [Entered: 05/22/2020 11:02 AM]
06/16/2020	27 3 pg, 236.9 KB	Filed (ECF) Appellants Michael Sackett and Chantell Sackett citation of supplemental authorities. Date of service: 06/16/2020. [11723966] [19-35469] (Francois, Anthony) [Entered: 06/16/2020 03:13 PM]
06/22/2020	28 60 pg, 487.52 KB	Submitted (ECF) Answering Brief for review. Submitted by Appellees USEPA and Steven L. Johnson. Date of service: 06/22/2020. [11729762] [19-35469][COURT UPDATE: Attached corrected brief. 06/24/2020 by SML] (Toth, Brian) [Entered: 06/22/2020 04:11 PM]
06/22/2020	<u>29</u> 97 pg, 17.24 MB	Submitted (ECF) supplemental excerpts of record. Submitted by Appellees USEPA and Steven L. Johnson. Date of service: 06/22/2020. [11729781] [19-35469][COURT UPDATE: Attached corrected excerpts. 06/24/2020 by SML] (Toth, Brian) [Entered: 06/22/2020 04:15 PM]
06/24/2020	30 1 pg, 94.15 KB	Filed clerk order: The answering brief [28] and supplemental excerpts of record [29] submitted by Steven L. Johnson and USEPA are filed. No paper copies are required at this time. [11732596] (SML) [Entered: 06/24/2020 03:15 PM]
07/13/2020	31 40 pg, 223.26 KB	Submitted (ECF) Reply Brief for review. Submitted by Appellants Chantell Sackett and Michael Sackett. Date of service: 07/13/2020. [11750668] [19-35469] (Francois, Anthony) [Entered: 07/13/2020 01:26 PM]

07/14/2020	32 2 pg, 138.59 KB	Filed clerk order: The reply brief [31] submitted by Appellants Chantell Sackett and Michael Sackett is filed.
		The Court previously filed the opening brief [14] and the excerpts of record [15] submitted by Appellants Chantell Sackett and Michael Sackett. The Court previously filed the answering brief [28] and supplemental excerpts of record [29] submitted by Appellees Steven L. Johnson and USEPA.
		Within 7 days of this order, the filer of each brief is ordered to file 6 copies of that brief in paper format, accompanied by certification (attached to the end of each copy of the brief) that the brief is identical to the version submitted electronically. The Form 18 certificate is available on the Court's website at http://www.ca9.uscourts.gov/forms/form18.pdf .
		The covers of the opening brief must be blue. The covers of the answering brief must be red. The covers of the reply brief must be gray.
		Within 7 days of this order, the filer of each set of excerpts of record is ordered to file 3 copies of that set of excerpts in paper format securely bound on the left side, with white covers.
		The paper copies shall be submitted to the principal office of the Clerk. The address for regular U.S. mail is P.O. Box 193939, San Francisco, CA 94119-3939. The address for overnight mail is 95 Seventh Street, San Francisco, CA 94103-1526. [11753149] (SML) [Entered: 07/14/2020 05:37 PM]
07/16/2020	33	Received 3 paper copies of supplemental excerpts of record [29] in 1 volume(s) filed by Appellees Steven L. Johnson and USEPA. [11755190] (KWG) [Entered: 07/16/2020 11:53 AM]
07/16/2020	35	Received 6 paper copies of Answering Brief [28] filed by Steven L. Johnson and USEPA. [11757595] (LA) [Entered: 07/17/2020 04:20 PM]
07/17/2020	34	Received 3 paper copies of excerpts of record [15] in 2 volume(s) filed by Appellants Chantell Sackett and Michael Sackett. [11756719] (LA) [Entered: 07/17/2020 11:52 AM]
07/20/2020	36	Received 6 paper copies of Opening Brief [14] filed by Chantell Sackett and Michael Sackett. [11758313] (KWG) [Entered: 07/20/2020 10:06 AM]

07/20/2020	37	Received 6 paper copies of Reply Brief [31] filed by Chantell Sackett and Michael Sackett. [11758317] (KWG) [Entered: 07/20/2020 10:08 AM]
07/28/2020	38	
•		This case is being considered for an upcoming oral argument calendar in Seattle
		Please review the Seattle sitting dates for November 2020 and the 2 subsequent sitting months in that location at http://www.ca9.uscourts.gov/court_sessions . If you have an unavoidable conflict on any of the dates, please file Form 32 within 3 business days of this notice using the CM/ECF filing type Response to Case Being Considered for Oral Argument. Please follow the form's instructions carefully.
		When setting your argument date, the court will try to work around unavoidable conflicts; the court is not able to accommodate mere scheduling preferences. You will receive notice that your case has been assigned to a calendar approximately 10 weeks before the scheduled oral argument date.
		If the parties wish to discuss settlement before an argument date is set, they should jointly request referral to the mediation unit by filing a letter within 3 business days of this notice, using CM/ECF (Type of Document: Correspondence to Court; Subject: request for mediation).[11769114]. [19-35469] (AW) [Entered: 07/28/2020 12:01 PM]

09/06/2020 39

Notice of Oral Argument on Thursday, November 19, 2020 - 09:00 A.M. - SE 7th Flr Courtroom 2 - Scheduled Location: Seattle WA.

The hearing time is the local time zone at the scheduled hearing location, even if the argument is fully remote.

View the Oral Argument Calendar for your case **here**.

NOTE: Although your case is currently scheduled for oral argument, the panel may decide to submit the case on the briefs instead. See Fed. R. App. P. 34. Absent further order of the court, if the court does determine that oral argument is required in this case, any argument may be held **remotely** with all of the judges and attorneys appearing by video or telephone. Travel to a courthouse will not be required. If the panel determines that it will hold oral argument, the Clerk's Office will be in contact with you directly at least two weeks before the set argument date to make any necessary arrangements for remote appearance.

Be sure to review the <u>GUIDELINES</u> for important information about your hearing, including when to be available (30 minutes before the hearing time) and when and how to submit additional citations (filing electronically as far in advance of the hearing as possible).

If you are the specific attorney or self-represented party who will be arguing, use the **ACKNOWLEDGMENT OF HEARING NOTICE** filing type in CM/ECF no later than 21 days before Thursday, November 19, 2020. No form or other attachment is required. If you will not be arguing, do not file an acknowledgment of hearing notice.[11814796]. [19-35469] (AW) [Entered: 09/06/2020 06:20 AM]

10/02/2020 40

Notice of Oral Argument on Thursday, November 19, 2020 - 1:30 P.M. - SE 7th Flr Courtroom 2 - Scheduled Location: Seattle WA.

The hearing time is the local time zone at the scheduled hearing location, even if the argument is fully remote.

View the Oral Argument Calendar for your case **here**.

NOTE: Although your case is currently scheduled for oral argument, the panel may decide to submit the case on the briefs instead. See Fed. R. App. P. 34. Absent further order of the court, if the court does determine that oral argument is required in this case, any argument may be held **remotely** with all of the judges and attorneys appearing by video or telephone. Travel to a courthouse will not be required. If the panel determines that it will hold oral argument, the Clerk's Office will be in contact with you directly at least two weeks before the set argument date to make any necessary arrangements for remote appearance.

Be sure to review the <u>GUIDELINES</u> for important information about your hearing, including when to be available (30 minutes before the hearing time) and when and how to submit additional citations (filing electronically as far in advance of the hearing as possible).

If you are the specific attorney or self-represented party who will be arguing, use the **ACKNOWLEDGMENT OF HEARING NOTICE** filing type in CM/ECF no later than 21 days before Thursday, November 19, 2020. No form or other attachment is required. If you will not be arguing, do not file an acknowledgment of hearing notice.[11845012]. [19-35469] (AW) [Entered: 10/02/2020 09:08 AM]

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Filed (ECF) Acknowledgment of hearing notice by Attorney Anthony L. Francois for Appellants Chantell Sackett and Michael Sackett. Hearing in Seattle on 11/19/2020 at 01:30 P.M. (Courtroom: 2). Filer sharing argument time: No. (Argument minutes: 20.) Special accommodations: NO. Filer admission status: I certify that I am admitted to practice before this Court. Date of service: 10/19/2020. [11864018] [19-35469]--[COURT UPDATE: Edited docket text to reflect correct hearing time. 10/19/2020 by QDL] (Francois, Anthony) [Entered: 10/19/2020 02:44 PM]

10/20/2020 42 Filed (ECF) Acknowledgment of hearin Attorney Mr. Brian C. Toth for Appellees Johnson and USEPA. Hearing in Seattl at 1:30 P.M. (Courtroom: 2). Filer sharin	s Steven L.
No. (Argument minutes: 20.) Special ad NO. Filer admission status: I certify tha practice before this Court. Date of serv [11864773] [19-35469] (Toth, Brian) [Er 10/20/2020 06:38 AM]	ng argument time: ccommodations: t I am admitted to ice: 10/20/2020.
11/19/2020 43 ARGUED AND SUBMITTED TO RONA MICHELLE T. FRIEDLAND and JILL O [11900036] (SB) [Entered: 11/19/2020 (TAKE.
11/19/2020 44 Filed Audio recording of oral argument. 1 pg, 24.3 MB Note: Video recordings of public argumare available on the Court's website, at http://www.ca9.uscourts.gov/media/ [11900386] (SB) [Entered: 11/20/2020 (SB)]	nent calendars
Filed order (RONALD M. GOULD, MICT FRIEDLAND and JILL OTAKE) The paragraph case may be appropriate for mediation refers this matter to the court's Mediation Circuit Mediator will contact the parties mediation and provide a status report to sixty (60) days of the date of this order. this case is withdrawn pending further contact the parties withdrawn pending further contact the parties of the date of this order.	nel believes this and therefore on Office. The to explore o the panel within . Submission of order of the court.
12/03/2020 <u>46</u> MEDIATION CONFERENCE SCHEDU Conference, 12/22/2020, 10:00 a.m. Particular of the conference of the confe	ACIFIC Time. See
12/22/2020 47 MEDIATION CONFERENCE SCHEDU Conference w/ counsel for appellee on 1:00 p.m. Pacific Time. See order for de [11936833][Edited 12/22/2020 by MS] 12/22/2020 12:30 PM]	ly, 01/14/2021, etails.
01/21/2021 48 Filed (ECF) Appellants Chantell Sacket Sackett citation of supplemental author service: 01/21/2021. [11974930] [19-35 Anthony) [Entered: 01/21/2021 12:47 Filed (ECF) Appellants Chantell Sacket Sackett citation of supplemental author service: 01/21/2021 12:47 Filed (ECF) Appellants Chantell Sacket Sackett citation of supplemental author service: 01/21/2021 [11974930] [19-35]	rities. Date of 5469] (Francois,
02/05/2021 49 1 pg, 91.68 KB a panel referred this matter to mediatio efforts have been exhausted. According released from the Mediation Program. [Entered: 02/05/2021 02:01 PM]	n. Mediation gly, this case is

03/08/2021	<u>50</u> 2 pg, 125.91 KB	Filed order (RONALD M. GOULD, MICHELLE T. FRIEDLAND and JILL OTAKE) Assuming we were to hold that there is still a live controversy surrounding EPA's authority to regulate Plaintiffs' property, the parties are instructed to address the relevance, if any, of the Navigable Waters Protection Rule: Definition of "Waters of the United States," 85 Fed. Reg. 22,250 (April 21, 2020), to this appeal. The parties shall each file a supplemental brief not exceeding 10 pages in length. Plaintiffs shall submit their brief on or before March 26, 2021, and Defendants shall submit their brief on or before April 12, 2021. If we deem it appropriate, we will request a reply brief from Plaintiffs through a separate order. [12028378] (OC) [Entered: 03/08/2021 04:53 PM]
03/26/2021	<u>51</u> 14 pg, 122.18 KB	Submitted (ECF) Supplemental Brief for review. Submitted by Appellants Michael Sackett and Chantell Sackett. Date of service: 03/26/2021. [12055295] [19-35469][COURT UPDATE: attached corrected PDF of supplemental brief. 03/29/2021 by KT] (Francois, Anthony) [Entered: 03/26/2021 04:09 PM]
03/29/2021	<u>52</u> 2 pg, 95.37 KB	Filed clerk order: The supplemental brief [51] submitted by Chantell Sackett and Michael Sackett is filed. Within 7 days of the filing of this order, filer is ordered to file 6 copies of the brief in paper format, accompanied by certification (attached to the end of each copy of the brief) that the brief is identical to the version submitted electronically. Cover color: tan. The paper copies shall be submitted to the principal office of the Clerk. [12057153] (KT) [Entered: 03/29/2021 04:14 PM]
04/01/2021	53	Received 6 paper copies of Supplemental Brief [51] filed by Chantell Sackett and Michael Sackett. (sent to panel) [12060691] (SD) [Entered: 04/01/2021 11:36 AM]
04/09/2021	<u>54</u> 16 pg, 145.82 KB	Submitted (ECF) Supplemental Brief for review. Submitted by Appellees Steven L. Johnson and USEPA. Date of service: 04/09/2021. [12070038] [19-35469] (Toth, Brian) [Entered: 04/09/2021 05:25 PM]
04/09/2021	<u>55</u> 2 pg, 95.41 KB	Filed clerk order: The supplemental brief [54] submitted by Steven L. Johnson and USEPA is filed. Within 7 days of the filing of this order, filer is ordered to file 6 copies of the brief in paper format, accompanied by certification (attached to the end of each copy of the brief) that the brief is identical to the version submitted electronically. Cover color: tan. The paper copies shall be submitted to the principal office of the Clerk. [12070308] (KT) [Entered: 04/12/2021 09:03 AM]

04/13/2021	56	Received 6 paper copies of Supplemental Brief [54] filed by Steven L. Johnson and USEPA. (sent to panel) [12072690] (SD) [Entered: 04/13/2021 01:20 PM]
08/09/2021	58	Case resubmitted on this date to RMG, MTF and JAO [12202034] (MM) [Entered: 08/16/2021 09:04 AM]
08/16/2021	57	Appellee Steven L. Johnson in 19-35469 substituted by Appellee Michael Regan in 19-35469 [12202027] (TYL) [Entered: 08/16/2021 09:02 AM]
08/16/2021	<u>59</u> 56 pg, 1.64 MB	FILED OPINION (RONALD M. GOULD, MICHELLE T. FRIEDLAND and JILL OTAKE) AFFIRMED. Judge: MTF Authoring. FILED AND ENTERED JUDGMENT. [12202040] (MM) [Entered: 08/16/2021 09:07 AM]
09/27/2021	<u>60</u> 1 pg, 55.43 KB	Supreme Court Case Info Case number: 21-454 Filed on: 09/22/2021 Cert Petition Action 1: Pending [12240664] (RR) [Entered: 09/27/2021 04:45 PM]
10/08/2021	61 1 pg, 93.15 KB	MANDATE ISSUED.(RMG, MTF and JAO) [12251861] (QDL) [Entered: 10/08/2021 10:04 AM]
01/25/2022	<u>62</u> 1 pg, 66.36 KB	Supreme Court Case Info Case number: 21-454 Filed on: 09/22/2021 Cert Petition Action 1: Granted, 01/24/2022 [12349988] (RR) [Entered: 01/25/2022 09:59 AM]