

FILED  
SUPREME COURT  
STATE OF WASHINGTON  
9/6/2022 8:49 AM  
BY ERIN L. LENNON  
CLERK

NO. 101047-8

IN THE SUPREME COURT  
OF THE STATE OF WASHINGTON

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John Earl Erickson and Shelley Ann Erickson,

Appellants

v.

Vanessa Power, et al.,

Respondents

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RESPONDENTS' REPLY IN SUPPORT OF  
MOTION TO STRIKE  
APPELLANT'S REPLY AND  
REQUEST FOR JUDICIAL NOTICE

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Attorney for Respondents

Respondents' Motion to Strike the Ericksons' Reply and their related Request for Judicial Notice should be granted. In response to the Motion to Strike, the Ericksons do not offer any viable reason for declining to enforce the Rules of Appellate Procedure.

*First*, the Ericksons do not address the directive of RAP 13.4(d), which allows the filing of a reply brief "only if the answering party seeks review of issues not raised in the petition for review." There is no dispute that Respondents did not seek review of *any* issues, let alone "issues not raised in the petition for review." Respondents' answering brief to the petition for review was a direct answer to the alleged errors raised in the petition, and did not raise new issues. As such, no reply is permitted. This is dispositive.

*Second*, the Ericksons' argument that their reply should be permitted to allow them to address Respondents' summary of the procedural history of their multiple litigation cases is without merit. The Ericksons blatantly contend that Respondents

misrepresent facts and law in their filings. But those alleged misrepresentations are the very same issues the Ericksons raised before and were rejected by the trial court and the Court of Appeals. The Ericksons had full opportunity to explain the relevant procedural history in their petition for review. Respondents' summary of that procedural history in their own words in the answering brief does not provide a basis for filing a reply brief.

*Finally*, this is not an “extraordinary case” warranting supplementation of the trial court record under RAP 9.11. Regardless, appellate courts do not accept additional evidence on appeal unless all six criteria of RAP 9.11(a) are satisfied. *See Harbison v. Garden Valley Outfitters, Inc.*, 69 Wn. App. 590, 593-94, 849 P.2d 669 (1993) (denying motion to take additional evidence on review where six conditions of RAP 9.11 were not met, and finding “no reason to excuse [] failure to present evidence to trial court” where information sought to be

introduced was known at the time of hearing on motion below).

The Ericksons fail to meet the conditions of RAP 9.11(a).

In sum, because Respondents did not seek review of issues not raised in the petition for review, the Ericksons are not entitled to a reply. The Ericksons' Reply and related Request for Judicial Notice should be stricken.

*This certifies that this Motion contains 386 words  
pursuant to RAP 18.17.*

DATED: September 6, 2022.

STOEL RIVES LLP

*/s/ Anne Dorshimer*

\_\_\_\_\_  
Anne Dorshimer

WSBA No. 50363

*Attorney for Respondents  
Select Portfolio Servicing,  
Inc.; Stoel Rives LLP;  
Vanessa Power; John  
Glowney; and Will Eidson*

**CERTIFICATE OF SERVICE**

I hereby certify that on September 6, 2022, I caused the foregoing document to be e-filed with the Supreme Court of Washington, which will send electronic notice to:

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*/s/Anne Dorshimer*  
\_\_\_\_\_  
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John Glowney; and Will Eidson*

**STOEL RIVES LLP**

**September 06, 2022 - 8:49 AM**

**Transmittal Information**

**Filed with Court:** Supreme Court  
**Appellate Court Case Number:** 101,047-8  
**Appellate Court Case Title:** John Erickson, et ano v. Stoel Rives, LLP et al

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- 1010478\_Answer\_Reply\_20220906084600SC580937\_8463.pdf  
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