

FILED  
SUPREME COURT  
STATE OF WASHINGTON  
12/29/2023 4:54 PM  
BY ERIN L. LENNON  
CLERK

Case No. 102322-7

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**IN THE SUPREME COURT  
OF THE STATE OF WASHINGTON**

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**Court of Appeals Division I, Case No. 83114-3**

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KEITH WELCH

Defendant /Appellant,

v.

CHRIS WALDEN

Plaintiff /Respondent.

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**APPELLANT'S RESPONSE TO CLERK'S MOTION  
TO STRIKE APPELLANT'S REPLY TO RESPONDENT'S  
ANSWER TO PETITION FOR REVIEW**

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Keith Welch, Defendant/Appellant  
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## I. IDENTITY OF RESPONDING PARTY

Petitioner and Appellant, Keith Welch, *pro se*, seeks for the relief set forth below.

## II. REPLY

Respondent Walden's Answer conditionally raises issues for review. Petitioner Welch's Reply was limited to addressing Walden's Answer to these conditional issues in accordance with RAP 13.4(d). Petitioner Welch's Reply is proper and should be considered.

Walden's Answer seeks review of issues not raised in the petition for review.

First, Walden argues an issue not previously raised. Walden asserts that the service of process of his original summons and complaint, from his abandoned case, gave the trial court in *rem* jurisdiction, to his amended summons and complaint. Walden asserts that because on, May 27, 2021, pursuant to a trial court hearing, and the purported posting and mailing, of his abandoned case, thereafter, the trial court had automatically obtained in *rem* jurisdiction without the need of service of process, of his unrelated amended summons and complaint. Nevertheless, this issue is entirely unsupported by Washington statutes and case law.

Second, Walden argues that at no point in the amended proceedings did Brandon Welch appear or answer, argue lack of *in personam* jurisdiction or *in rem* jurisdiction, or offer any argument, only confirms that Walden

never *personally* serve **all** named parties to his **Second** “Amended” Summons and Complaint.

Furthermore, with regard to precedent, Walden’s attorney was required under the statute to personally serve *all* named parties to his suit, a copy of Walden’s **Second** “Amended” Summons and Complaint, to effectuate service.

Pursuant to RCW 59.12.040, Walden was required to deliver a **separate** copy of his **Second** “Amended” Summons and Complaint, to **both** Keith and Brandon Welch. And since Walden’s attorney only delivered “**one**” copy of Walden’s **Second** “Amended” Summons and Complaint, to an unauthorized attorney, Mr. Day, and since Walden’s attorney declares that he didn’t need to personally serve the “defendant,” *i.e.*, Keith or Brandon Welch, the trial court lacked subject matter jurisdiction over the case.

Walden has yet to explain to *any* court why he didn’t have to, comply with RCW 59.12.040(1), and *personally* serve **all** named parties to Walden’s **Second** “Amended” Summons and Complaint. See *Scanlan v. Townsend*, 181 Wn.2d 838, 847, 336 P.3d 1155 (2014).

Because the statute must be strictly construed in favor of the person intitled to, this Court must construe the statute in favor of Keith and Brandon Welch and hold that because neither Keith nor Brandon Welch were

statutorily served a copy of Walden's **Second** "Amended" Summons and Complaint, it did not comply with RCW 59.12.040(1). Specifically, Walden did not "deliv[er] a copy *personally* to the person or person(s) entitled thereto," both Keith, and the Co-Claimant and named Defendant, Brandon. *See Culpeper v. Jordan*, 151 Wash. App. 1026 (Wash. Ct. App. 2009); *Homeowners Solutions, LLC v. Nguyen*, 148 Wn. App. 545, (2009); *Laffranchi v. Lim*, 146 Wn. App. 376, 383, 190 P.3d 97 (2008); *Christensen v. Ellsworth*, 162 Wn.2d 365, 372, 173 P.3d 228 (2007); *Housing Authority of the City of Everett v. Terry*, 114 Wn. 2d 558, 789 P. 2d 445 (1990).

Because Walden's and his attorney's testimony, is entirely unsupported, and a complete misrepresentation of the facts presented to this Court, it should be stricken.

Therefore, Petitioner Welch's Reply was limited to addressing these conditional issues in accordance with RAP 13.4(d).

Additionally, Petitioner Welch's Reply was solely intended to oppose Walden's conditional issues for review. Contrary to this Court, there was no other purpose behind the Reply.

RAP 13.4(d) provides in relevant part that "[a] reply to an answer should be limited to addressing only the new issues raised in the answer."

Petitioner Welch's Reply followed this rule and was for the most part, limited to addressing the conditional issues raised by Walden.

Furthermore, Petitioner Welch was not rearguing the Court of Appeals Opinion, but replying to Walden's Response, to the Court of Appeals Opinion.

As this Court considered, in the case, *Olver v. Fowler* 168 P.3d 348 (2007), pursuant to RAP 13.4(d), that a party *may* file a reply to arguments that the answering party raised in their answer.

In the case above, Petitioner *Vu* filed a petition for review in this court. In his answer, Respondent Olver again, argued that the trial court erred when it allowed *Vu* to intervene. Nevertheless, the Court granted review of the issues raised by both parties. *See Olver v. Fowler*, 158 Wn.2d 1006, 143 P.3d 829 (2006).

Petitioner Welch filed a Reply to Walden's Response, pursuant to RAP 13.4(d), which as in the *Olver v. Fowler*, 2007 case, this Court considers arguments contained in a Response, therein, that respond to issues raised in a Response answer.

### III. CONCLUSION

For the reasons set forth above, Petitioner respectfully request that the Clerk's motion be denied.

DATED this 29th day of December, 2023.

RESPECTFULLY SUBMITTED:

/s/ Keith Welch  
Keith Welch, Defendant/Appellant

#### IV. CERTIFICATE OF COMPLIANCE

The undersigned certifies that this document, exclusive of words contained in the appendices, the title sheet, the table of contents, the table of authorities, the certificate of compliance, the certificate of service, signature blocks, and pictorial images, if any, contains 793 words, in compliance with RAP 18.17.

Respectfully submitted this 29th day of December, 2023.

/s/ Keith Welch

Keith Welch, Defendant/Appellant

DECLARATION OF SERVICE

I, Keith Welch, certify under penalty of perjury under the laws of the State of Washington, that on the day I signed this declaration of service, I caused a copy of Appellant's Response to Clerk's Motion to Strike Appellant's Reply to Respondent's Answer to Petition for Review, to be serve electronically *via* the Appellate Courts Portal, to this Court, and electronically mailed upon Counsel and Transcriptionist of record:

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Signed at Mount Vernon, Washington, this 29th day of December, 2023.

*/s/ Keith Welch*  
Keith Welch, Defendant/Appellant



**KEITH WELCH - FILING PRO SE**

**December 29, 2023 - 4:54 PM**

**Transmittal Information**

**Filed with Court:** Supreme Court  
**Appellate Court Case Number:** 102,322-7  
**Appellate Court Case Title:** Christopher Walden v. Keith Welch  
**Superior Court Case Number:** 21-2-00257-8

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