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STATE OF WASHINGTON  
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No. 102404-5

IN THE SUPREME COURT OF THE STATE OF  
WASHINGTON

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VIRGINIA CHIU and VINCENT LIEW,  
Appellants/Cross-Respondents,  
v.  
BRIAN HOSKINS,  
Respondent/ Cross-Appellant.

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ON PETITION FOR REVIEW FROM THE COURT OF  
APPEALS DIVISION ONE OF THE STATE OF  
WASHINGTON

No. 83734-6-I

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PETITIONERS VIRGINIA CHIU'S AND VINCENT LIEW'S  
RESPONSE TO TENANT LAW CENTER'S AMICUS  
CURIAE MEMORANDUM IN SUPPORT OF PETITION  
FOR REVIEW

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I. STATEMENT OF RELEVANT FACTS

The facts are thoroughly set forth in Petitioners opening Brief in the Court of Appeals and in their petition for review, which are both incorporated by reference herein. In addition, the following facts are relevant:

The Tenants' tenancy commenced on August 1, 2018 and ended July 31, 2019. Exh. 1. Later the parties agreed to extend the tenancy through August 31, 2019. RP 402-03. However, on July 16, Hoskins requested the Tenants vacate on August 22 so a new tenant could move in. Exh. 20. The Tenants agreed. Exh. 20. On August 12, Chiu informed Hoskins she and Liew would be "completely moved out on Thursday afternoon [August 15]." Exh. 20. On August 15, the Tenants vacated. RP 134. On September 6, 2019, Hoskins sent Chiu and Liew an email

listing some items he was going to deduct from their deposit. Exh. 25. This email communication is the “deposit statement” that does not comply with RCW 59.18.280 because that statute does not authorize service by email. Further, Hoskins did not return any refund due within the applicable 21 days. Instead, Hoskins mailed a check to the Tenants for \$346.13 on September 20, 2019 and for \$188 on November 12, 2019 (Exh. 30, 31) retaining \$1,680.87 of the Tenants’ money held in a trust. Thus, contrary to Hoskins’ statement in his response, this case does pose an issue with service via email. Hoskins Resp. at 5 fn. 7.

Petitioners timely filed their Petition for Review on September 19, 2023. In their petition, the requested review of the Court of Appeals’ erroneous decision that Hoskins complied with RCW 59.18.280 in the handling of the Tenants’ deposit. See PFR at 10-14; *Chiu v. Hoskins*, \_\_\_ Wn. App.2 \_\_\_, No. 83734-6-I at 11-13 (Aug 21, 2023). As

Hoskins states in his response to the Tenant Law Center’s amicus curiae memorandum, in both the trial court and court of appeals, the Tenants argued that Hoskins violated RCW 59.18.280 in several ways including using the failure to properly serve the deposit statement. Hoskins Resp. at 3 (citing CP 127 and Opening Br. at 44-45). The Tenants again raised the issue of violating RCW 59.18.280 in their petition for review. PFR at 10-14. All violations raised below and in the Tenants’ petition fall under this category of failing to comply with RCW 59.18.280.

II. ARGUMENT WHY REVIEW SHOULD BE ACCEPTED

A. Petitioners raised the issue of whether Hoskins complied with RCW 59.18.280.

RCW 59.18.280 (2016)<sup>1</sup> mandated the following:

- (1) Within twenty-one days after the termination of the rental agreement and vacation of the premises or, if the tenant abandons the premises as defined in RCW 59.18.310, within twenty-one days after the

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<sup>1</sup> The statute changed in 2023 to now allow 30 days.

landlord learns of the abandonment, the landlord shall give a full and specific statement of the basis for retaining any of the deposit together with the payment of any refund due the tenant under the terms and conditions of the rental agreement...

(b)The landlord complies with this section if the required statement or payment, or both, are delivered to the tenant personally or deposited in the United States mail properly addressed to the tenant's last known address with first-class postage prepaid within the twenty-one days.

(2)If the landlord fails to give such statement together with any refund due the tenant within the time limits specified above he or she shall be liable to the tenant for the full amount of the deposit. The landlord is also barred in any action brought by the tenant to recover the deposit from asserting any claim or raising any defense for retaining any of the deposit unless the landlord shows that circumstances beyond the landlord's control prevented the landlord from providing the statement within the twenty-one days or that the tenant abandoned the premises as defined in RCW [59.18.310](#).

Thus, the statute requires a landlord to timely deliver a deposit statement and when he or she provides that statement they must also return any refund due. And a



landlord complies with this statute by personally serving the deposit statement or placing it in the U.S. mail. Here, Hoskins used an unauthorized service method, to deliver the deposit statement, thus, he failed to comply with the statute. This is clearly within the purview of the Tenants' petition for review. They petitioned this Court to review whether Hoskins complied with RCW 59.18.280 – both the time and manner requirements.

However, even if this Court finds it was not within the purview, it can still accept review of the issue under RAP 13.7(b).

B. The issue raised by the Tenant Law center is falls squarely under RAP 13.4(b)(1) and (4)

This Court will accept review of an issue if:

(1) If the decision of the Court of Appeals is in conflict with a decision of the Supreme Court;  
or...

(4) If the petition involves an issue of substantial public interest that should be determined by the Supreme Court.

RAP 13.4(b)(1), (4).

Here, as the Tenants argued in their petition for review, the Court of Appeals' concluded that Hoskins did not violate RCW 59.18.280 because it did not strictly construe the statute in favor of the Tenants. This is in conflict with *Silver v. Rudeen Mgmt. Co.*, 197 Wn.2d 535, 546, 484 P.3d 1251, 1257 (2021), in which this Court held that the RLTA must be strictly construed in favor of the tenant, particular the deposit refund statutes because If the simple procedure outlined in RCW 59.18.280 is enforced, "petty injustices might be avoided." *Silver*, 197 Wn.2d at 546 (citing Subcomm. on the Model Landlord-Tenant Act of Comm. on Leases, Proposed Uniform Residential Landlord and Tenant Act , 8 REAL PROP., PROB. & TR. J. 104, 110 (1973)).

The issue of what constitutes proper service of a deposit statement is also a matter of public concern. This Court should accept review of this issue because it raises

a substantial issue of concern to consumers in all of Washington State and in Seattle in particular. Seattle has a population of approximately 750,000 people, of which 54.8% are tenants. See United State Census, 2020 Quick Facts Seattle city, Washington available at <https://www.census.gov/quickfacts/fact/table/seattlecitywashington/PST045222> (last visited 9/19/23). Washington's population in 2020 was 7,738,692. See United States Census Bureau 2020 Population and Housing State Data available at <https://www.census.gov/library/visualizations/interactive/2020-population-and-housing-state-data.html> (last visited 12/22/23). The owner-occupied housing unit rate from 2016-2020 is 63.3% meaning approximately 36.7% of the population, or 2,840,099 Washingtonians are tenants. U.S. Census Bureau QuickFacts Washington Available at <https://www.census.gov/quickfacts/WA> (last visited

12/22/23). Thus, these issues relating to residential tenants are matters of substantial public concern because they will affect millions of Washington citizens.

Therefore, this Court should accept review of this important consumer issue of substantial public concern.

### III. CONCLUSION

This Court should accept review of the issue raised by the Tenant Law Center under Rap 13.4(b)(1), (4).

DATED this 22nd day of December, 2023.



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I certify that this brief is 1,134 words in compliance with  
RAP 18.17(c)(8)

**ERIN SPERGER PLLC**

**December 22, 2023 - 7:21 AM**

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