

No. 102677-3

SUPREME COURT  
OF THE STATE OF WASHINGTON

In re the Marriage of:

ROBERT W. COONEY,

Respondent,

and

HILLARY A. BROOKS,

Petitioner.

ANSWER TO  
PETITIONER'S FIRST  
AND SECOND  
STATEMENT OF  
ADDITIONAL  
AUTHORITIES

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This Court should disregard petitioner's purported first and second "Statement of Additional Authorities" because they are an improper use of RAP 10.8 to circumvent the rules governing petitions for review, which do not contemplate a reply in support of a petition. Respondent did not raise any new issues in his answer, so

RAP 13.4(d) prohibits a reply. Alternatively, they are a transparent attempt to evade the 5,000-word limit for petitions for review under RAP 18.17(c)(10). The “additional authorities” provided by petitioner are not new, as they all predate 2017. They could have been addressed in her petition, filed December 27, 2023, but presumably were not as they would have caused her 4,992-word petition to be overlength.

Even if a Statement of Additional Authorities containing cases that could have been addressed in the initial petition was appropriate, petitioner’s filing of two separate statements to address the same issue (whether a beneficiary interest in a trust is property or an economic circumstance under the dissolution statutes) is inappropriate. Nothing in RAP 10.8 suggests that a party can file multiple statements of up to 350 words providing argument on additional authorities.

For these reasons, this Court should disregard petitioner's first and second Statements of Additional Authorities and should signal that it has done so in its order denying further review. Petitioner's experienced appellate counsel should be discouraged from misusing RAP 10.8 to provide "additional" authority that is not new and that has the consequence of evading the word count governing petitions for review.

*I certify that this answer is in 14-point Georgia font and contains 250 words, in compliance with the Rules of Appellate Procedure. RAP 18.17(b).*

Dated this 29<sup>th</sup> day of February, 2024.

SMITH GOODFRIEND, P.S.

By: /s/ Valerie A. Villacin

Valerie A. Villacin

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Attorneys for Respondent

## DECLARATION OF SERVICE

The undersigned declares under penalty of perjury, under the laws of the State of Washington, that the following is true and correct:

That on February 29, 2024, I arranged for service of the foregoing Answer to Petitioner's First and Second Statement of Additional Authorities, to the court and to the parties to this action as follows:

Office of Clerk Washington Supreme Court Temple of Justice P.O. Box 40929 Olympia, WA 98504-0929	<input type="checkbox"/> Facsimile <input type="checkbox"/> Messenger <input type="checkbox"/> U.S. Mail <input checked="" type="checkbox"/> E-File
Frances Turean Wechsler Becker LLP 701 5 <sup>th</sup> Avenue, Suite 4550 Seattle, WA 98104-7088 <a href="mailto:ftt@wechslerbecker.com">ftt@wechslerbecker.com</a>	<input type="checkbox"/> Facsimile <input type="checkbox"/> Messenger <input type="checkbox"/> U.S. Mail <input checked="" type="checkbox"/> E-Mail
Gary Manca Talmadge/Fitzpatrick 2775 Harbor Ave SW Third Floor, Suite C Seattle, WA 98126 <a href="mailto:gary@tal-fitzlaw.com">gary@tal-fitzlaw.com</a>	<input type="checkbox"/> Facsimile <input type="checkbox"/> Messenger <input type="checkbox"/> U.S. Mail <input checked="" type="checkbox"/> E-Mail

John C. Andrews Bishop, Cunningham & Andrews, Inc., P.S. 3330 Kitsap Way West Hills Station PO Box 5060 Bremerton, WA 98312 <a href="mailto:jandrews@bcalawyers.com">jandrews@bcalawyers.com</a>	<input type="checkbox"/> Facsimile <input type="checkbox"/> Messenger <input type="checkbox"/> U.S. Mail <input checked="" type="checkbox"/> E-Mail
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**DATED** at Everett, Washington this 29<sup>th</sup> day of  
February, 2024.

/s/ Victoria K. Vigoren  
Victoria K. Vigoren

**SMITH GOODFRIEND, PS**

**February 29, 2024 - 4:13 PM**

**Transmittal Information**

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**Appellate Court Case Number:** 102,677-3  
**Appellate Court Case Title:** In the Matter of the Marriage of Robert W. Cooney and Hillary A. Brooks

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