

No. 94129-7

SUPREME COURT
OF THE STATE OF WASHINGTON

OVERLAKE FARMS B.L.K.
III LLC, a Washington limited
liability company,

Respondent,

v.

BELLEVUE-OVERLAKE
FARM, LLC, a Washington
limited liability company,

Petitioner.

RESPONDENT'S REPLY IN
SUPPORT OF MOTION TO
STRIKE REPLY TO
ANSWER TO PETITION
FOR REVIEW

Petitioner Bellevue-Overlake Farm, LLC (“the Sferras”) filed an unauthorized reply in support of its petition for review. The Sferras repeatedly concede that the respondent’s answer to the Sferras’ petition did not seek review of any issue that was not raised in their petition for review. That concession is dispositive because “[a] party may file a reply to an answer *only if* the answering party *seeks review* of issues not raised in the petition for review.” RAP 13.4(d) (emphasis added).

The Sferras' reply in support of their petition for review should be stricken. The Sferras accuse respondent Overlake Farms BLK III, LLC ("the Kapelas") in its Answer to the Sferras' petition of "fashion[ing] an alternative basis for affirmance," of asking "that this Court affirm on new and alternative grounds," and attack the "fallacy behind the Kapelas' 'restatement'" of the case in their Answer, all to support the Sferras' argument that their "Reply responds to new issues raised in the Answer." (Opp. 1-2) It is undisputed, however, that the Kapelas asked this Court only to *deny* review of the Court of Appeals decision reversing the trial court's order directing a sale of the parties' cotenancy property.

The Kapelas stand by their Answer, which argues that the Court of Appeals correctly held that the trial court's findings do not support its order directing a Sheriff's sale. Regardless, however, the fact remains that nowhere in their Answer did the Kapelas "seek[] review of issues not raised in the petition for review." RAP 13.4(d). The Court should strike the Sferras' unauthorized Reply in support of their petition for review.

DATED this 18th day of April, 2017.

SMITH GOODFRIEND, P.S.

By: 

Howard M. Goodfriend, WSBA No. 14355

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Attorneys for Respondent

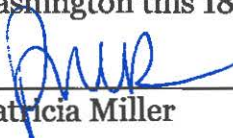
DECLARATION OF SERVICE

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

That on April 18, 2017, I arranged for service of the foregoing Respondent's Reply in Support of Motion to Strike Reply to Answer to Petition for Review, 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 |
| Brian Lawler Denise M. Hamel Jameson Babbitt Stites & Lombard PLLC 801 Second Avenue, Ste. 1000 Seattle, WA 98104 blawler@jbsl.com dhamel@jbsl.com khuerta@jbsl.com | <input type="checkbox"/> Facsimile <input type="checkbox"/> Messenger <input type="checkbox"/> U.S. Mail <input checked="" type="checkbox"/> E-Mail |
| Arthur W. Harrigan, Jr. Tyler L. Farmer Theresa DeMonte Calfo Harrigan Leyh & Eakes 999 3rd Avenue, Suite 4400 Seattle, WA 98104 arthurh@harriganleyh.com tylerf@harriganleyh.com tdemonte@mcnaul.com | <input type="checkbox"/> Facsimile <input type="checkbox"/> Messenger <input type="checkbox"/> U.S. Mail <input checked="" type="checkbox"/> E-Mail |

DATED at Seattle, Washington this 18th day in April, 2017.



Patricia Miller

SMITH GOODFRIEND, PS

April 18, 2017 - 10:35 AM

Transmittal Information

Filed with Court: Supreme Court
Appellate Court Case Number: 94129-7
Appellate Court Case Title: Overlake Farms B.L.K. III, LLC v. Bellevue-Overlake Farm, LLC

The following documents have been uploaded:

- 941297_20170418102941SC535714_7580_Answer_Reply.pdf
This File Contains:
Answer/Reply - Reply to Answer to Motion
The Original File Name was 2017 04 18 Resp. Reply ISO Motion to Strike Reply to Answer to Petition for Review.pdf

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Comments:

Respondent's Reply in Support of Motion to Strike Reply to Answer to Petition for Review.

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