No. 96306-1

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

CREER LEGAL, dba for attorney, Erica Krikorian, real party in interest, individuals

Appellant,

v.

MONROE SCHOOL DISTRICT, a political subdivision of the State of Washington,

Respondent.

ANSWER TO PETITION FOR REVIEW

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I. INTRODUCTION

Erica Krikorian, doing business as Creer Legal ("Krikorian") seeks discretionary review of the Court of Appeals decision holding that an attorney does not have a cause of action under the Washington Public Records Act when the attorney submits a public records request to a public agency on behalf of and as the agent of the attorney's client. Krikorian's Petition for Review should be denied because the decision of the Court of Appeals: (1) is not in conflict with any decision from this Court; (2) is not in conflict with any decision from the Court of Appeals; (3) does not raise constitutional questions; and (4) does not involve a substantial public interest. *See* RAP 13.4(b)(1)-(4).

Rather, the decision of the Court of Appeals is based on the application of common-law agency principles to the incontrovertible facts on the record. The facts clearly establish that Krikorian acted as her client's agent in submitting the public records requests. Therefore, under Washington case law, her client owned all claims related to the requests and settled and extinguished the claims prohibiting Krikorian from prosecuting them now. Thus, the Petition for Review should be denied.

II. STATEMENT OF THE CASE

In December 2014, Erica Miller ("Miller") filed suit against the Monroe School District in the United States District Court, alleging civil rights violations related to the restraint and seclusion of Miller's autistic child. (CP 2566 (Declaration of Donald Austin ("Austin Decl.")), Ex. A,

Federal Complaint.[1]) Miller was represented by attorneys Erica Krikorian of Creer Legal and Brian Krikorian.[2]

During discovery, Krikorian sent the District two public records requests on behalf of Miller. (CP 2613, Ex. B, First PRA Request; CP 2617-19, Ex. D, Second PRA Request.) The first request was on February 12, 2015, and was sent directly to the District's counsel in the federal lawsuit stating:

> This request is being made under the Public Records Act (RCW 42.56.070), not the federal rules. However, since we are in litigation, I am directing the request to you, as opposed to my client submitting the request directly to the district. However, if you prefer that she submit the request directly please let me know so she can proceed accordingly.

(CP 2613, Ex. B, First PRA Request; *see also* CP 2434, Austin Decl., ¶ 4.) The District complied with the requirements of the PRA and produced responsive records to Miller's attorneys in installment productions. (CP 2435, Austin Decl., ¶ 6.)

On April 27, 2015, while the District was responding to the first PRA request, Krikorian sent a second PRA request to the District's counsel on Miller's behalf. (CP 2617-19, Ex. D, Second PRA Request; *see also* CP 2435, Austin Decl., ¶ 7.) This second PRA request was embedded in a longer email from Krikorian which alluded to a potential PRA action by Miller against the District for allegedly failing to comply

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[1] Unless otherwise noted, all exhibits are from the District's Motion for Summary Judgment and were authenticated in the Austin Declaration which begins at CP 2428.

[2] Plaintiff Erica Krikorian, doing business as Creer Legal, is referred to herein as "Krikorian."

with the PRA. (*See* CP 2617-19, Ex. D, Second PRA Request.) Krikorian's April 27, 2015 email made clear that the PRA request was on behalf of her client, Miller, as the subject line to the email read: "*Miller v. Monroe* Public Records Act Violations and Sanctions." (*Id.; see also* CP 2435, Austin Decl., ¶ 7.) The April 27 email also discussed the first PRA request and discovery in the federal case, making clear that the second request was made to obtain evidence in the federal lawsuit in which Krikorian represented Miller as her attorney and agent. (CP 2617-19, Ex. D, Second PRA Request.) The District complied with the requirements of the PRA and produced records responsive to Miller's attorneys in installment productions over the next several months. (CP 2435-36, Austin Decl., at ¶¶ 7-13.)

On June 4, 2015, Miller filed a motion to show cause in the federal lawsuit, alleging that the District wrongfully withheld records under the PRA. (CP 2436, Austin Decl., ¶ 10; *see also* CP 2621-42, Ex. E, First PRA Motion.) The motion sought sanctions against the District for allegedly failing to provide PRA responses quickly enough. (*Id.*) This motion addressed some of the same PRA issues raised in the present lawsuit and appeal. (CP 2623-24, Ex. E, First PRA Motion; *see also* CP 2480, 2488-89, Plaintiff's Compl., ¶¶ 10 and 30.) Krikorian was explicit in the motion that her client, Miller, made the PRA requests, stating factually to the federal court:

> Since filing this civil action, ***Miller has made*** five separate formal requests for these communications . . . The second

> request was on February 12, 2015 and made pursuant to the Public Records Act . . . The fifth request was on April 27, 2015 in the form of a renewed PRA request.[3]

(CP 2623-24, Ex. E, First PRA Motion) (emphasis added).) On August 10, 2015, Judge Coughenour denied Miller's motion.[4] (CP 2669-86, Ex. G, First Federal Order.)

On January 13, 2016, Miller filed a second motion to show cause for alleged PRA violations in the federal lawsuit, again representing to the Court that the PRA requests were Miller's. (CP 2688-99, Ex. H, Second PRA Motion.) In the second PRA motion, Miller requested an award of PRA penalties against the District, payable to Miller, as well as for the District to pay Miller's attorneys' fees incurred in bringing the motion. (CP 2688, Ex. H, Second PRA Motion).

The District opposed Miller's motion, offering proof that it had fully responded to Miller's first PRA request, and was responding in good faith with regular installments to Miller's second request. (CP 2701-11, Ex. I, Opposition to Second PRA Motion.) Judge Coughenour denied Miller's motion but ordered the District to produce any outstanding school board emails responsive to the February 12, 2015

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[3] The other three requests were requests for production pursuant to Fed. R. Civ. P. 34. The fact that Creer categorized the PRA requests as RFP requests evidences that the PRA requests were aimed at obtaining evidence in the federal lawsuit. (CP 2623-24, Ex. E, First PRA Motion.)

[4] Judge Coughenour accepted Creer's representations that the PRA claims were Miller's, noting that "Plaintiff [Erica Miller] has made five discovery requests" and "Plaintiff [Erica Miller] has moved the Court . . . ." (CP 2670, Ex. G, First Federal Order.[4])

request, to the extent the District had not done so already. (CP 2735-37, Ex. K, Second Federal Order.)

In March 2016, Miller's lawsuit was tried in the U.S. District Court in Seattle. (CP 2434, Austin Decl., ¶ 3.) The jury returned a defense verdict as to all claims. (*Id.*) On May 6, 2016, the federal court entered costs for Defendants, against Miller, in the amount of $17,224.07. (CP 2759-60, Ex. O, Cost Bill.)

After costs were entered against Miller, Krikorian and the District's counsel negotiated to settle the potential claims remaining after the judgment in the federal lawsuit. (CP 2739-42; CP 2744; CP 2762-63; CP 2768-69; CP 2771-72; CP 2782-83; CP 2785.) In consideration for settling the federal lawsuit, Krikorian indicated that Miller would be willing to release all claims related to her PRA requests:

> Plaintiff [*i.e.,* Miller] will release the Monroe School District of and from all claims, penalties and attorneys' fees arising out of the District's alleged violations of the Public Records Act in connection with the February 12 and April 27, 2015 Public Records Requests. Miller represents that she has yet to file the PRA complaint and, if an agreement is reached here, she agrees to waive her right to file such action.

(CP 2741, Ex. L, Letter from Krikorian.) The District denied any wrongdoing in relation to the PRA requests and explained to Krikorian that it had fully complied with Miller's requests. (CP 2748-57, Ex. N, Various Communications Between Counsel.) Nonetheless, on June 6, 2016, with Krikorian still negotiating on Miller's behalf, Miller and the

District entered into a settlement agreement whereby the District agreed to waive execution on the cost bill in consideration for Miller waiving her right to appeal the federal lawsuit and releasing all claims, including her alleged PRA claims. (CP 2787-99, Ex. X, Settlement Agreement.) In doing so, Miller "represent[ed] and warrant[ed]" that she was the "sole owner" of all claims being settled, including PRA claims:

> PLAINTIFF and DEFENDANTS individually represent and warrant that they individually are the **sole owner** of all such claims, demands, actions, causes of action, or damages released and discharged hereunder.
>
> * * *
>
> PLAINTIFF and DEFENDANTS do hereby release, acquit and forever discharge each other, their employees, agents, board members, attorneys in this litigation, and assigns of and from any and all claims, demands, actions, causes of action, or damages of whatever nature, known or unknown, to the date of the settlement, including, but not limited to claims and/or causes of action for . . . **claims brought pursuant to the Washington Public Records Act.**

(CP 2788, Ex. X, Settlement Agreement, at ¶ 4 (emphasis added).)

Further, Miller agreed that:

> The terms, conditions and other provisions of this Agreement have been negotiated between the parties, with each party having had the benefit of its own legal counsel. The construction and interpretation of any clause or provision of this agreement shall be construed without regard to the identity of the party that prepared the Agreement.

(CP 2789, Ex. X, Settlement Agreement, at ¶ 7.)

On October 25, 2016, Krikorian filed a Complaint for Imposition of Daily Statutory Penalties for Violation of the Public Records Act against the District in Snohomish County Superior Court related to the two PRA requests made in the course of representing Miller. (CP 2477-93, Plaintiff's Compl.) On February 21, 2017, the parties filed cross-motions for summary judgment. (CP 2439-60, District's Motion for Summary Judgment; CP 2384-2427, Krikorian's Motion for Summary Judgment.) On April 5, 2017, Judge Richard T. Okrent heard oral argument on the District's motion for summary judgment, granting that motion and dismissing Krikorian's claims with prejudice. (CP 5-6, Order Granting Summary Judgment.)

On May 5, 2017, Krikorian appealed. (CP 1-2, Notice of Appeal.) On August 13, 2018, Division One of the Court of Appeals issued a published decision affirming the trial court and holding that "Krikorian, as Miller's agent, did not own the cause of action and could not prosecute it once it was released by Miller." (*See Creer Legal v. Monroe Sch. Dist.*, Slip Op. at 1 (Wn. Ct. App. Div. I 2018) ("Slip Op.").)

Thereafter, Krikorian filed her Petition for Review.

III. ARGUMENT

A. The Decision of the Court of Appeals is not in Conflict with the Decisions of this Court or the Court of Appeals.

Krikorian's Petition for Review should be denied because the Court of Appeals correctly concluded that Krikorian, as her client's agent, could not maintain the PRA claim. *See* Slip Op. at 5-6. Washington case law has consistently found that when an attorney makes a public records request on behalf of the attorney's client, the client owns the right to maintain a cause of action for an alleged PRA violation. *See Cedar Grove Composting, Inc. v. City of Marysville*, 188 Wn. App. 695, 710-11, 354 P.3d 249 (Div. I 2015); *Kleven v. City of Des Moines*, 111 Wn. App. 284, 290, 44 P.3d 887 (Div. I 2002).

For example, in *Kleven*, an attorney submitted a public records request to the City of Des Moines without identifying a client. *Kleven*, 111 Wn. App. at 287-88. The client of the attorney later sued the city for an alleged PRA violation. *Id.* The city argued that the client lacked the requisite standing to maintain the claim because it was the client's attorney who had communicated the records request. *Id.* The court held that the client could maintain the suit even though it was his attorney who submitted the PRA request because the evidence established that the request was made on the client's behalf. *Id.* at 290-91. Thus, the client in *Kleven* owned the right to the PRA claim.

Similarly, in *Cedar Grove*, the plaintiff's attorney made a public records request to the City of Marysville on the plaintiff's behalf. *Cedar*

Grove, 188 Wn. App. at 703. After the plaintiff brought a PRA action against the city, the city argued that the plaintiff lacked standing to sue because it was the plaintiff's attorney who actually made the request. *Id.* at 710. Citing *Kleven*, the court held that the plaintiff, on whose behalf the public records request was made, had the personal stake in the action sufficient to bring suit. *Id.* at 710-11, 713. Thus, it was the client who owned the right to the PRA claim.

Krikorian continues to misconstrue these cases, stating without authority that "[t]he only standing issue presented in attorney-requestor cases is whether the client ***also*** has standing ***in addition*** to the attorney." Appellant's Petition for Review to the Supreme Court at 13, n.16 (emphasis in original); Appellant's Opening Br. at 14 (emphasis in original).[5]) But neither *Kleven* nor *Cedar Grove* stand for the proposition that an attorney or agent who makes public records requests on behalf of the client or principal has standing to bring a claim independent of the client/principal's claim. *See generally, Kleven*, 111 Wn. App. at 289-92; *Cedar Grove*, 188 Wn. App. at 710-13.

Here, as the Court of Appeals correctly found, "[t]he evidence in the record incontrovertibly [establishes] that Krikorian acted as Miller's agent with respect to the records requests. *See* Slip Op. at 6. Indeed, until filing this lawsuit in October 2016, Krikorian consistently

[5] Krikorian cites to *Kleven*, 111 Wn. App. at 291, for the proposition that a client has standing along with the attorney requestor with respect to portions of a request related to the client. This is false. Instead, *Kleven* stands for the proposition that the client, on whose behalf the agent makes a PRA request, has the personal stake in seeking relief under the PRA. *See Kleven*, 111 Wn. App. at 290-91.

maintained that the two public records requests were made on behalf of Krikorian's client, Miller. (CP 2435-36, Austin Decl., ¶ 9.) The first PRA request stated: "I am directing the request to you, as opposed to my client submitting the request directly to the district. However, if you prefer that she submit the request directly please let me know so she can proceed accordingly." (CP 2613, Ex. B, First PRA Request.) The second request stated: "*Miller v. Monroe* Public Records Act Violations and Sanctions." (CP 2617, Ex. D, Second PRA Request.)

In addition, Krikorian filed two motions to show cause in the federal lawsuit on Miller's behalf, alleging that the District wrongfully withheld records under the PRA. (CP 2621-42, Ex. E, First PRA Motion; CP 2688-99, Ex. H, Second PRA Motion.) The two motions requested penalties and attorney's fees on behalf of Miller. (*Id.*) As the Court of Appeals correctly noted, "Krikorian repeatedly represented [in the federal district court motions] that Miller made the PRA requests." *See* Slip Op. at 6.

Moreover, Krikorian negotiated and reviewed the settlement agreement which Miller signed. The settlement agreement specifically stated that Miller "solely own[ed]" the claims released and that the PRA claims were being released. (CP 44, Ex. BB, June 6 Email from Creer ("We have reviewed your settlement agreement and Erica Miller accepts the agreement as written.").)

Accordingly, there was sufficient evidence for the Court of Appeals to conclude that "[t]he records requests, federal court motions,

and settlement agreement support that Krikorian was Miller's agent from the inception of the PRA request to its settlement." *See* Slip Op. at 8.

"Agency is the fiduciary relationship that arises when one person (a "principal") manifests assent to another person (an "agent") that the agent shall act on the principal's behalf and subject to the principal's control, and the agent manifests assent or otherwise consents so to act." Restatement (Third) of Agency § 1.01 (2006). It is a long-standing principal of this Court that an agent derives from her principal only such powers as the principal has. *Schorman v. McIntyre*, 92 Wash. 116, 119, 158 P. 993 (1916). Thus, the Court of Appeals correctly found that "[b]ecause Miller, as principal, extinguished the cause of action, Krikorian, as agent, cannot assert rights that Miller no longer possesses." *See* Slip Op. at 9.

Krikorian mistakenly relies upon *Germeau v. Mason County*, 166 Wn. App. 789, 271 P.3d 932 (Div. II 2012) to establish an ownership in the cause of action. *See* Appellant's Petition for Review by the Supreme Court at 11-12; Appellant's Opening Br. at 12-13. In *Germeau*, the plaintiff was a Mason County Deputy Sheriff and the representative of the Mason County Sheriff's Office Employees Guild. *Germeau*, 166 Wn. App. at 792. In his capacity as Guild representative, the plaintiff made a PRA request to the Sheriff's Office for an internal affairs

investigation into another Guild member's conduct.[6] *Id.* at 793-94. The issue was whether the plaintiff had standing to bring a PRA claim. *Id.* at 802. Division II held that the plaintiff had standing because he had a personal stake in receiving the requested information. *Id.* at 804. Notably, the plaintiff was not making the PRA requests *for* the other guild member as the other guild member was making his own PRA requests. *Id.* at 796.

The decision of the Court of Appeals is consistent with *Germeau*. As the Court of Appeals noted, the plaintiff in *Germeau* requested the records as an agent of the guild and continued to act as an agent in prosecuting the cause of action. *See* Slip Op. at 11. Further, there is no indication in *Germeau* that the plaintiff was acting beyond the authority given to him by the guild. *See generally Germeau*, 166 Wn. App. at 789. Moreover, *Germeau* is distinguished from the case at hand as there was no settlement agreement resolving the PRA issues litigated in the case. *Id.*

Finally, Krikorian argues that "[i]n all such cases, the attorney who submitted [the public records request] [has] the right to seek enforcement of the request – irrespective of whether the request was made on behalf of a client." *See* Appellant's Petition for Review at 13. Krikorian's argument does not create an issue for review because this

[6] Ultimately, the court determined that Germeau's request was not a request for public records made in accordance with the PRA but instead a request for records under the Collective Bargaining Agreement. (*Germeau*, 166 Wn. App. at 810.)

proposition relies entirely on federal case law interpreting records requests under the Freedom of Information Act ("FOIA"). *Id.* at 9, 12-13.

While Washington courts have looked to federal case authority for guidance when interpreting the PRA, Washington courts "have repeatedly refused to apply FOIA cases when interpreting provisions in the [PRA] that differ significantly from the parallel provisions in the federal act." *Kleven*, 111 Wn. App. at 291; *see also Amren v. City of Kalama*, 131 Wn.2d 25, 35, 929 P.2d 389 (1997); *Hearst Corp. v. Hoppe*, 90 Wn.2d 123, 129, 580 P.2d 246 (1978).

In doing so, Washington courts have consistently held that FOIA provisions do not provide useful guidance when analyzing a plaintiff's ability to bring an action under the PRA. *See Cedar Grove*, 188 Wn. App. at 711-12 (finding that FOIA "[did] not provide any useful guidance in applying the [PRA]" when analyzing a plaintiff's standing); *Kleven*, 111 Wn. App. at 291 (distinguishing several federal FOIA cases when analyzing a person's standing to bring a PRA claim).

Here, Krikorian's reliance on federal case law is misplaced because the PRA and FOIA have different remedial provisions. The PRA allows for monetary sanctions against the public entity. *See* RCW 42.56.550(4). This is not the case for FOIA actions. Under the PRA, a prevailing party seeking to enforce the PRA is entitled to all costs, including reasonable attorney fees, as well as statutory penalties against the public agency. *Id.* However, "FOIA does not provide a remedy of

money damages." *Johnson v. Comm'r of Internal Revenue.*, 239 F. Supp. 2d 1125, 1138 (W.D. Wash. 2002); *see also Amren*, 131 Wn.2d at 35 (noting that FOIA does not have a similar penalties provision to the PRA); *Hearst Corp.*, 90 Wn.2d at 129 (no similar penalty provision under FOIA). Rather, the remedy under FOIA is for injunctive or declaratory relief to receive the records.[7] *See* 5 U.S.C. § 552(a)(4)(B) & (E); *see also Johnson*, 239 F. Supp. 2d at 1138; *Stabasefski v. United States*, 919 F. Supp. 1570, 1573-74 (M.D. Ga. 1996).

The difference in relief available is significant. Allowing more than one individual to have standing under FOIA when the relief is to receive the records requested is vastly different from allowing multiple individuals to demand duplicative money penalties against a public agency for alleged PRA violations. Due to such differing provisions, Krikorian's reliance on federal case law does not control the issue of ownership of the PRA claims. *See Cedar Grove*, 188 Wn. App. at 711-12; *Kleven*, 111 Wn. App. at 291.

Krikorian's Petition for Review should be denied because Krikorian has failed to establish any conflict between Division One's decision here and any other decision of this Court or the Court of Appeals. *See* RAP 13.4(b)(1)-(2). Specifically, Krikorian has failed to provide any controlling case law which establishes that an attorney-agent

[7] FOIA allows for "reasonable attorney fees and other litigation costs reasonably incurred in any case . . . which the complainant has substantially prevailed." (5 U.S.C. § 552(a)(4)(E).)

owns a PRA claim where the attorney-agent submitted a public records request on behalf of her client-principal.[8] *See generally*, Appellant's Petition for Review.

B. The Court of Appeals Correctly Relied Upon Washington Rule of Professional Conduct 1.8.

Krikorian's Petition for Review should be denied because her theory for maintaining a PRA cause of action creates a conflict of interest under Washington Rule of Professional Conduct ("RPC") 1.8. RPC 1.8 prohibits an attorney from "knowingly acquiring an ownership . . . interest adverse to a client" unless there is informed consent in writing, upon other notice safeguards. RPC 1.8(a). Further, "a lawyer shall not acquire a proprietary interest in the cause of action or subject matter of litigation the lawyer is conducting for a client," unless such interest relates to an attorney lien or contingency fee agreement. RPC 1.8(i).

Here, Krikorian asserts that she has a separate ownership right to seek enforcement of the public records requests because she "drafted the request, submitted the request and served as the agency contact during

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[8] Krikorian argues that multiple plaintiffs can seek enforcement of a single PRA request, citing to *West v. Olympia*, 146 Wn. App. 108, 192 P.3d 926 (2008); *King Cnty. v. Sheehan*, 114 Wn. App. 325, 57 P.3d 307 (2002); and *Spokane Research & Defense Fund v. City of Spokane*, 155 Wn.2d 89, 117 P.3d 1117 (2005). *See* Appellant's Petition for Review at 14-16. None of these cases are controlling or persuasive because they do not involve an attorney attempting to claim ownership of a client's public records request and attempting to prosecute such PRA claims as the attorney's own claim. Moreover, these cases involve the consolidation of separate public records requests. These cases are not inconsistent with Division One's holding that there is "a single cause of action arising from an alleged PRA denial." *See* Slip Op. at 4.

the course of the production." Appellant's Petition for Review at 10. Yet, the evidence incontrovertibly establishes that Krikorian filed two motions for show cause related to the same public records requests on behalf of her client, Miller, in the federal lawsuit. Accordingly, as the Court of Appeals noted, "if Krikorian had an interest in the PRA cause of action as a co-principal along with Miller, that would be in clear violation of RPC 1.8(i)." *See* Slip Op. at 10. Moreover, Krikorian's claimed interest in the PRA claim would have been adverse to Miller's interest in reaching a settlement agreement with the District—in violation of RPC 1.8(a). *Id.*

Thus, as the Court of Appeals correctly found, because the record lacks any evidence of the necessary informed consent or safeguards related to having a conflict of interest, Krikorian's position is untenable under Washington's Rules of Professional Conduct. *See* Slip Op. at 10.

C. The Decision of the Court of Appeals Does Not Raise Constitutional Questions nor Involve a Substantial Public Interest.

Krikorian's Petition for Review should be denied because the Court of Appeals' decision does not implicate constitutional questions nor involve a substantial public interest. *See* RAP 13.4(b)(3)-(4). Despite Krikorian's assertion that this case involves a significant question of law under the Constitution of the State of Washington or of the United States, *see* Appellant's Petition for Review at 1, Krikorian's Petition fails to identify, articulate, or further detail the constitutional

question allegedly at issue. *See generally* Appellant's Petition for Review. Moreover, the decision of the Court of Appeals clearly rests on the application of general common-law agency principles—not on a standing analysis. *See* Slip Op. at 5. Accordingly, this is not a proper ground for this Court's review. *See* RAP 13.4(b)(3).

Similarly, Krikorian argues that the Court of Appeals' decision is a "direct attack on the legal mechanism that allows citizens to assess records revealing the conduct of public officials and ensure government transparency." *See* Appellant's Petition for Review at 2. While it is well-settled that the Public Records Act "is a strongly worded mandate for broad disclosure of public records," *see Yakima Cnty. v. Yakima Herald-Republic*, 170 Wn.2d 775, 791, 246 P.3d 768 (2011), and the statute is to be liberally construed, *see* RCW 42.56.030, this alone does not create a substantial public interest for appellate review of any case involving the Public Records Act. Moreover, Krikorian's Petition for Review does not articulate or analyze the supposed substantial public interest at issue. *See generally*, Appellant's Petition for Review.

As noted above, the decision of the Court of Appeals turns on the application of common-law agency principles and the Rules of Professional Conduct. *See* Slip Op. at 5. The issue on this appeal is not a novel concept—an agent derives from her principal only such powers as the principal has. *Schorman v. McIntyre*, 92 Wash. 116, 119, 158 P. 993 (1916). As the Court of Appeals found, the evidence incontrovertibly establishes that Krikorian acted on behalf of Miller as

her agent and once Miller settled her claims, including any claims under the Public Records Act, Miller no longer had the power—as the sole owner of the PRA claims—to confer authority to Krikorian to prosecute this action. *See* Slip Op. at 5-9.

Accordingly, this case does not raise an issue of substantial public interest sufficient for review. *See* RAP 13.4(b)(4).

IV. CONCLUSION

The District respectfully urges that this Court deny Krikorian's Petition for Review and end Krikorian's pattern of subjecting the District to meritless litigation. Since 2014, Krikorian has tangled the District in unnecessary and unsupported litigation, leaving federal Judge Coughenour to remark:

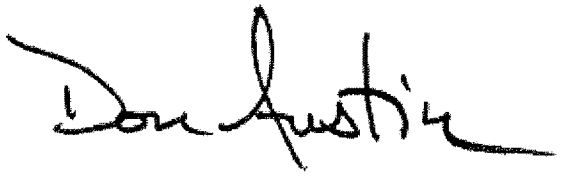
> Miller [by her attorney Erica Krikorian] continues to litigate issues without providing factual or legal authority, draining the resources available to the [the District] and this Court. (CP 2815, Ex. Z, Order Denying Due Process Hearing Summary Judgment Motion, lines 9-10; *see also* CP 2678-79, Ex. G, First Federal Order.)

The decision of the Court of Appeals is based on well-established agency principles derived from and consistent with decisions from this Court and the Court of Appeals. Further, that decision was based on incontrovertible facts taken in the light most favorable to Krikorian. Thus, the District respectfully requests that this Court deny Krikorian's Petition for Review.

RESPECTFULLY SUBMITTED this 13th day of November, 2018.

PATTERSON BUCHANAN
FOBES & LEITCH, INC., PS

By:



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CERTIFICATE OF SERVICE

I hereby declare on the date provided below, I caused to be delivered via electronic mail (e-mail) a copy of the foregoing **Answer to Petition for Review** to the following individuals:

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I also state that I caused the original and one copy of this document to be filed, via electronic filing, with the Supreme Court for the State of Washington.

I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Executed at Seattle, Washington, on November 13, 2018.

Kristi L. Ohlinger
Legal Assistant

PATTERSON BUCHANAN FOBES & LEITCH

November 13, 2018 - 2:37 PM

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