

**RECEIVED
SUPREME COURT
STATE OF WASHINGTON
CLERK'S OFFICE**

Feb 01, 2017, 3:22 pm

RECEIVED ELECTRONICALLY

No. 93963-2

SUPREME COURT OF THE STATE OF WASHINGTON

MICHAEL DURLAND, KATHLEEN FENNELL, and DEER
HARBOR BOATWORKS,

Appellants,

v.

SAN JUAN COUNTY, WES HEINMILLER, ALAN STAMEISEN,
and SUNSET COVE LLC

Respondents.

HEINMILLER, STAMEISEN, AND SUNSET COVE LLC'S
MOTION TO STRIKE REPLY ON PETITION FOR REVIEW

John H. Wiegenstein, WSBA #21201
Elisha S. Smith, WSBA #29210
HELLER WIEGENSTEIN PLLC
144 Railroad Ave., Suite 210
Edmonds, WA 98020-4121
(425) 778-2525
(425) 778-2566 FAX
Attorneys for Respondents Heinmiller,
Stameisen, and Sunset Cove LLC

I. IDENTITY OF MOVING PARTY

The moving parties are respondents Wes Heinmiller, Alan Stameisen, and Sunset Cove LLC (collectively “Heinmiller”).

II. RELIEF SOUGHT

Heinmiller requests that the court disregard the “Reply in Support of Petition For Review to The Supreme Court,” which was filed and served electronically by Petitioners on January 26, 2017.

III. FACTS PERTINENT TO MOTION

Respondents Heinmiller, and San Juan County, both timely filed Answers to Petitioners’ Petition for Review. Those Answers did not seek review of any new issues. Petitioners then filed a Reply.

III. ARGUMENT

RAP 13.4(d) states “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. A reply to an answer should be limited to addressing only the new issues raised in the answer.” The Answers of Heinmiller and San Juan County did not raise any new issues for review; the Answers merely responded to the issues raised in the Petition.

VI. CONCLUSION

The Reply filed by Petitioners is forbidden by RAP 13.4(d) and should be stricken and disregarded. Heinmiller should be awarded further attorney fees in having to bring this Motion, pursuant to RAP 18.1(j) and RCW 4.84.370.

DATED 1 February 2017.

A handwritten signature in black ink, reading "John H. Wiegstein". The signature is written in a cursive style with a large, prominent "J" and "W".

John H. Wiegstein, WSBA #21201
HELLER WIEGENSTEIN PLLC
Attorneys for Respondents Heinmiller,
Stameisen, and Sunset Cove LLC