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No. 94203-0

COURT OF APPEALS
OF THE STATE OF WASHINGTON
DIVISION I

JOHN DOE G, JOHN DOE I, and JOHN DOE H,
as individuals and on behalf of others similarly situated,

Respondents,

v.

DEPARTMENT OF CORRECTIONS, STATE OF WASHINGTON

Appellant,

v.

DONNA ZINK, a married woman,

Appellant.

APPELLANT ZINK'S RESPONSE TO RESPONDENT'S MOTION TO STRIKE

DONNA ZINK
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Response to Respondent's Motion to Strike Zink's Reply

Respondents have requested that this court strike Zink's reply brief based on the fact that a petitioner may only answer under RAP 13.4(d) if the responding party seeks review of issues not raised in the petition for review. Doe has brought forward a new issue, the of application of RCW 70.02.230 as an exemption to the records; an issue Division I refused to make determination on (Appendix - Opinion, pg. 10, *fn.* 30).

In *Blaney v. Int'l Ass'n of Machinists & Aerospace Workers*, Dist. No. 160, 151 Wn.2d 203, 87 P.3d 757 (2004), the Supreme Court stated that an issue need only be raised in a response and need not affirmatively seek review.

The District also asserts that Ms. Blaney may not argue that the jury instruction was proper because **she "did not file a cross-petition for review or otherwise affirmatively seek review before this Court on that issue."** Suppl. Br. of Pet'r at 1 n.1. RAP 13.4(d) and 13.7(b) do not require Ms. Blaney to "file a cross-petition . . . or . . . affirmatively seek review." **The rules merely require that the issue be raised. The issue was raised** in a lengthy footnote to Ms. Blaney's answer, as well as in repeated references to the erroneous nature of the jury instruction in the District's petition for review. (*Id.* 210 n.3)(emphasis added). Once Doe raised the issue in the response, Zink has right under RAP 13.4(d) to submit a reply.

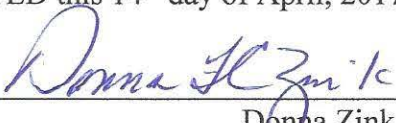
Furthermore, Doe has claimed that Zink did not challenge the trial court's injunction under RCW 42.56.540 which is a new issue.

This court generally reviews only those issues raised by the parties in their petition and answer. RAP 13.7(b). This rule is subject to numerous exceptions. *Maynard Inv. Co. v. McCann*, 77 Wn.2d 616, 621, 465 P.2d 657 (1970). **One such exception provides that "[t]his court has the inherent discretionary authority to reach issues not briefed by the parties if those issues are necessary for decision."** *City of Seattle v. McCready*, 123 Wn.2d 260, 269, 868 P.2d 134 (1994).

Blaney v. Int'l Ass'n of Machinists & Aerospace Workers, Dist. No. 160, 151 Wn.2d 203, 213, 87 P.3d 757 (2004)(emphasis added)(footnotes omitted).

Even if Zink did not correctly bring up the issue of application of RCW 42.56.540 (the exclusive statutory authority allowing for injunction of public records) it is a necessary to the proper legal decision concerning the injunction of the records, is a new issue and a reply was appropriate.

RESPECTFULLY SUBMITTED this 14th day of April, 2017.

By 

Donna Zink
Pro se

I. CERTIFICATION OF SERVICE

I declare that on the 14th day of April, 2017, I did send a true and correct copy of appellant's "*Appellant Zink's Response to Respondent's Motion to Strike*" via e-mail service to the following addresses as agreed upon by all parties to this matter:

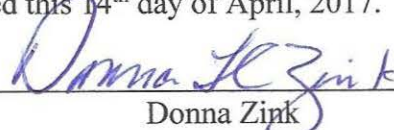
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Dated this 14th day of April, 2017.

By



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