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NO. 96200-6

SUPREME COURT OF THE STATE OF WASHINGTON

TERESA BANOWSKY,

Petitioner,

v.

GUY BACKSTROM, D.C.,
d/b/a Bear Creek Chiropractic Center,

Respondent.

RESPONDENT'S ANSWER TO PETITION FOR REVIEW

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I. IDENTITY OF RESPONDING PARTY

Respondent Guy Backstrom, D.C., d/b/a Bear Creek Chiropractic Center, submits this Answer to Petition for Review.

II. COURT OF APPEALS DECISION

In its July 16, 2018 published opinion in this chiropractic negligence case, Division I affirmed the superior court's decision on RALJ appeal affirming the district court's dismissal of Ms. Banowsky's lawsuit for lack of subject matter jurisdiction where her complaint expressly sought damages in excess of the district court's constitutionally based $100,000 amount-in-controversy limit. *Banowsky v. Backstrom*, 4 Wn. App. 2d 338, 342, 421 P.3d 1030 (2018).

III. COUNTERSTATEMENT OF ISSUES PRESENTED FOR REVIEW

1. Did the Court of Appeals correctly conclude that the district court must dismiss an action for lack of subject matter jurisdiction where a plaintiff files an initial complaint expressly demanding damages exceeding the district court's constitutionally based amount-in-controversy limitation?

2. Did the Court of Appeals correctly conclude that a court rule, particularly CRLJ 14A(b), may not be applied to eliminate or alter the constitutionally grounded amount-in-controversy limitation on subject matter jurisdiction of the district court?

IV. COUNTERSTATEMENT OF THE CASE

A. Ms. Banowsky's Care and Treatment.

Reporting that she had suffered from a fall, Ms. Banowsky sought chiropractic treatment from Dr. Backstrom, her longtime chiropractor. CP 105. According to Ms. Banowsky, she heard a loud "pop" from her pelvic region during the treatment and experienced increased pain. CP 106. Several days later, she was diagnosed with a detached hamstring requiring surgery and related medical treatment resulting in over $100,000 of medical expenses. *Id*.

B. The Lawsuit and Its Procedural History.

On the last day of the statute of limitations period, Ms. Banowsky, representing herself, filed a chiropractic negligence complaint against Dr. Backstrom in district court expressly seeking "actual compensatory damages in an amount exceeding $100,000.00, together with attorney's fees, court costs, and whatever other damages deemed appropriate by the Court." CP 107. Just seven weeks later, attorney James Banowsky (Ms. Banowsky's husband) appeared for her and filed a motion to transfer the case to superior court, citing CRLJ 14A(b), claiming that Ms. Banowsky was not aware of the amount-in-controversy limit of district court jurisdiction, and confirming that her "claim exceeds the $100,000.00 District Court Limit." CP 95-96.

1. <u>The district court denied Ms. Banowsky's motion to transfer and dismissed the case for lack of jurisdiction.</u>

Dr. Backstrom opposed the motion to transfer, arguing that (1) under RCW 3.66.020 the district court lacked subject matter jurisdiction to decide the action because the amount in controversy exceeded $100,000; (2) procedural court rules such as CRLJ 14A(b) cannot be construed to extend district court jurisdiction; and (3) *Howlett v. Weslo, Inc.*, 90 Wn. App. 365, 367, 951 P.2d 831 (1998), which held that a transfer order was void where a plaintiff's amended complaint sought damages in in excess of the amount-in-controversy limitation, established that a district court lacking subject matter jurisdiction can do nothing other than dismiss the suit. CP 47-52. In reply, Ms. Banowsky claimed that (1) the district court had jurisdiction over the "first" $100,000 of a claim; (2) *Howlett* was not controlling because CRLJ 14A had been amended; and (3) the court could "grant jurisdiction based on substantial compliance." CP 30-35.

The district court denied the motion to transfer, dismissing the case for "lack of subject matter jurisdiction at the initial filing." CP 25-26, 136.

2. <u>On RALJ appeal, the superior court affirmed the dismissal for lack of subject matter jurisdiction.</u>

Ms. Banowsky appealed the dismissal order to the superior court, CP 1, arguing that (1) the plain meaning of CRLJ 14A(b) – which she claimed was amended to address the result in *Howlett* – allows a transfer

when any party asserts a claim in excess of the monetary limit; (2) jurisdiction "may be granted based on substantial compliance"; and/or (3) the district court has jurisdiction "up to" $100,000 regardless of the amount sought, but damages are limited to $100,000. CP 112-17.

In response, Dr. Backstrom did not suggest that CRLJ 14A(b) was ambiguous or offer a differing interpretation of its plain language, but argued that it could not be construed to expand the subject matter jurisdiction of the district court and that, under CRLJ 12(h)(3), *Howlett*, and other case authority, a court lacking subject matter jurisdiction must dismiss. CP 157-61, 136-65. He also pointed out the lack of authority suggesting that the monetary limit is (1) subject to substantial compliance, or (2) merely a prohibition on excess damage awards. CP 161-63, 166.

The superior court affirmed the dismissal of the complaint because it sought "damages for personal injury beyond the district court's jurisdiction defined by RCW 3.66.020" and therefore "did not invoke the subject matter jurisdiction of the court," so that "the district court lacked authority to transfer the case to superior court." CP 170-72.

3. The Court of Appeals granted discretionary review and affirmed the dismissal in a published opinion.

Offering the same three reasons that she presented to the superior court, Ms. Banowsky sought discretionary review in the Court of Appeals

under RAP 2.3(d)(3), claiming that her interpretation of CRLJ 14A(b) involved an issue of public interest. Concluding that she failed to demonstrate a basis for review of her substantial compliance and limited damages theories, a commissioner granted review solely "to address the issues raised by CRLJ 14A(b) and its relationship with other rules and statutes, including CRLJ 12(h)(3) and CRLJ 82." Notation Ruling, Commissioner Mary Neel, May 31, 2017.

To support her claim that the unambiguous plain language of CRLJ 14A(b) required the district court to transfer her case to superior court and not dismiss it, Ms. Banowsky relied on a rejected proposed amendment to the rule and claimed that *Howlett* and the official comment to the rule as adopted in 2004 were not controlling. She did not address CRLJ 12(h)(3) or CRLJ 82 as specified in the notation ruling accepted review. Moreover, despite the ruling limiting review, Ms. Banowsky renewed her argument that the district court had jurisdiction over the "first" $100,000 of any claim. In response, Dr. Backstrom pointed out that an application of the plain language of CRLJ 14A(b) in this case directly conflicts with CRLJ 12(h)(3) and CRLJ 82 and would expand the subject matter jurisdiction of the district court in violation of well-settled law.

In its published opinion, the Court of Appeals held that (1) dismissal is the only action a court lacking subject matter jurisdiction may

take; (2) an amount-in-controversy limitation is a component of subject matter jurisdiction; (3) the district court's amount-in-controversy limitation is grounded in article IV, section 10 of the Washington Constitution; (4) based on that constitutional provision and this Court's decisions, a district court can measure the amount in controversy when an amount is stated in the initial complaint; and (5) despite the plain meaning of CRLJ 14A(b), a procedural court rule may not be applied to alter or eliminate the district court's constitutionally grounded amount-in-controversy limitation on subject matter jurisdiction. *Banowsky*, 4 Wn. App. 2d at 343-47. The Court rejected Ms. Banowsky's claim that the district court may "retain jurisdiction over the first $100,000 and ignore the excess," as contrary to settled law and public policy. *Id*. at 347-48. It also rejected her claim that its holding rendered CRLJ 14A(b) meaningless because the rule can be applied when "a plaintiff properly invokes the subject matter jurisdiction of the district court by demanding relief that is within the amount-in-controversy limit." *Id*. at 349.

V. ARGUMENT WHY REVIEW SHOULD BE DENIED

RAP 13.4(b) sets forth the considerations governing acceptance of review and provides that a petition for review will be accepted only:

> (1) If the decision of the Court of Appeals is in conflict with a decision of the Supreme Court; or
>
> (2) If the decision of the Court of Appeals is in conflict

> with a published decision of the Court of Appeals; or
>
> (3) If a significant question of law under the Constitution of the State of Washington or of the United States is involved; or
>
> (4) If the petition involves an issue of substantial public interest that should be determined by the Supreme Court.

Ms. Banowsky cites only RAP 13.4(b)(3) and (4) as her purported grounds for review. Because no significant question of law under either the state or federal constitution is involved so as to warrant review under RAP 13.4(b)(3), and because the petition does not involve any issue of substantial public interest requiring a determination by this Court so as to warrant review under RAP 13.4(b)(4), this Court should deny Ms. Banowsky's petition for review.

A. No Significant Question of Constitutional Law is Involved.

Although Ms. Banowsky cites RAP 13.4(b)(3) and indicates that she is seeking review of a significant question of law under the Washington Constitution, she does not offer any explanation of that claim, cite any constitutional provision, or identify any constitutional question. *Pet. at* 6.[1] Ms. Banowsky does not expressly claim that the case involves

[1] The petition includes the word "Constitution" only once in reference to the rule, *Pet. at* 6, and the word "constitutional" only once, *Pet. at* 13, in a case quotation stating that court rules may supersede legislative procedural statutes. The Court of Appeals concluded that that principle of statutory construction does not apply because the district court's amount-in-controversy limitation "is grounded in the constitution, not merely in a statute." *Banowsky*, 4 Wn. App. 2d at 350.

a significant question of constitutional law merely because the Court of Appeals quoted article IV, section 10 of the Washington Constitution. The Court quoted the provision in support of two points, neither of which Ms. Banowsky contested: (1) the district court amount-in-controversy limitation is grounded in that constitutional provision; and (2) the reference to "the demand" in that provision "indicates the amount in controversy is the amount stated in the prayer for relief in the initial complaint." *Banowsky*, 4 Wn. App. 2d at 344-45. Ms. Banowsky does not claim that the Court of Appeals erred in interpreting the constitutional provision or in reaching those conclusions.

To the extent Ms. Banowsky intended to raise a constitutional issue for review by simply stating that the Court of Appeals "created a bright line rule" "that will impact may pro se plaintiffs," *Pet. at* 6, she fails to provide a sufficient explanation for her position. The Court of Appeals' observation, consistent with this Court's holdings, that a bright line rule provides predictability that is apt for "the volume of claims litigated in district court," *Banowsky*, 4 Wn. App. 2d at 349 & n.30, is not erroneous and does not alter existing Washington law. Nor does it present any actual question of law, much less a significant one, under the state or federal constitution so as to warrant review under RAP 13.4(b)(3).

B. <u>No Issue of Substantial Public Interest is Involved.</u>

As to RAP 13.4(b)(4), Ms. Banowsky claims that the "application (or non-application) of CRLJ 14A(b)" involves an issue of substantial public interest because it "will impact many pro se plaintiffs who file their cases in good faith in" district court. *Pet. at* 6. She does not suggest or establish that the majority of pro se plaintiffs claim ignorance of the district court's amount-in-controversy limitation or initiate lawsuits in district court by filing complaints expressly seeking damages greater than that amount. She also fails to articulate why this Court should be concerned about pro se plaintiffs who claim a "good faith" ignorance of the district court amount-in-controversy limitation, especially in light of the well-settled rule that "pro se litigants are bound by the same rules of procedure and substantive law as attorneys." *Westberg v. All-Purpose Structures*, 86 Wn. App. 405, 411, 936 P.2d 1175 (1997).

The Court of Appeals did not create or change any rule of procedure or substantive law. *Banowsky*, 4 Wn. App. 2d at 349. On the contrary, the Court followed CRLJ 12(h)(3), CRLJ 82, its own decisions and those of this Court, and the "clear public policy of our state constitution," to conclude that "[t]he constitutionally grounded amount-in-controversy limitation on subject matter jurisdiction cannot be eliminated or altered by means of a court rule," particularly CRLJ 14A(b). *Id*. at 346-

49 & nn.23-25 & 29-30. As the published opinion by the Court of Appeals is a correct statement of current Washington law, no issue of public interest is presented. Unlike other circumstances in which review has been granted under RAP 13.4(b)(4),[2] this case does not involve a novel legal ruling with potential to impact similar pending litigation in Washington.

Moreover, in the remainder of her petition, *Pet. at* 7-19 (Sections V.A. – F.), Ms. Banowsky merely repeats arguments she presented to the Court of Appeals without acknowledging the points with which the Court agreed or the reasoning the Court described for reaching a different result. Because she fails to identify or explain any issue of substantial public interest warranting review under RAP 13.4(b)(4) of any of these arguments, this Court should deny her petition.

1. <u>The Court of Appeals agreed with Ms. Banowsky's claim that CRLJ 14A(b) is unambiguous, but held that it could not be applied in violation of other rules, case law, and public policy, a holding that she does not address.</u>

Ms. Banowsky first contends that CRLJ 14A(b) unambiguously requires the district court to transfer a case to superior court at the request of any party and "does not provide dismissal as an option." *Pet. at* 7

[2] *See*, *e.g.*, *State v. Watson*, 155 Wn.2d 574, 577, 122 P.3d 903 (2005) (Court of Appeals' holding had "potential to affect every sentencing proceeding in Pierce County after November 26, 2001, where a DOSA sentence was or is at issue").

(Section V.A.). The Court of Appeals acknowledged that "there is no ambiguity in the language of CRLJ 14A(b)," and agreed that "[o]n its face, the rule purports to compel a transfer when "any party" asserts a claim beyond the amount in controversy limit, which would include the plaintiff's initial complaint." *Banowsky*, 4 Wn. App. 2d at 346. Obviously, the Court of Appeals did not disagree with Ms. Banowsky's interpretation or conclude that the rule has a different meaning. *Id.*

However, Ms. Banowsky ignores the central holding by the Court of Appeals that the *application* of CRLJ 14A(b) to her complaint, which did not invoke the jurisdiction of the district court within the amount-in-controversy limitation in the first place, "expressly and absolutely conflicts with CRLJ 12(h)(3)," which unambiguously requires dismissal of an action "[w]herever it appears by suggestion of the parties or otherwise that the court lacks jurisdiction of the subject matter," as well as well-settled case authority of this Court[3] and CRLJ 82, which establish that procedural court rules apply only after the commencement of an action and cannot be construed to extend the subject matter jurisdiction of the court. *Banowsky*, 4 Wn. App. 2d at 346-47 & n.24. Because CRLJ 14A(b), like any procedural rule, "may provide relief in circumstances that

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[3] *See*, *e.g.*, *Diehl v. Growth Mgmt. Hearings Bd.*, 153 Wn.2d 207, 216, 103 P.3d 193 (2004).

arise only after the district court acquires subject matter jurisdiction," the Court of Appeals held that it cannot be applied to "carve out an exception to" the "constitutionally grounded amount-in-controversy limitation on subject matter jurisdiction." *Id*. at 346-47.

Rather than acknowledging, as did the Court of Appeals, the conflict with CRLJ 12(h)(3), CRLJ 82, published authority, and the state constitution that would arise with the application of CRLJ 14A(b) to require a transfer in this case, Ms. Banowsky merely repeats her claim regarding the unambiguous plain meaning of the rule. But, Supreme Court review is not justified here to merely confirm that the plain language of CRLJ 14A(b) is not ambiguous, particularly given the clear statement to that effect in the published opinion of the Court of Appeals. *Banowsky*, 4 Wn. App. 2d at 346 & n.21. And, Ms. Banowsky fails to articulate any error in the Court of Appeals' conclusion that application of the plain language in this case conflicts with other established procedural rules and substantive law or that resolution of the conflict requires the procedural rule to yield to well-settled substantive law of subject matter jurisdiction.

Ultimately, the mere existence of that conflict does not present a question of substantial public interest warranting review. The circumstances in this case are undoubtedly unique in that the vast majority of litigants who file complaints in district court do so with knowledge of

the amount-in-controversy limitation on district court jurisdiction, and, when including a demand for damages in the complaint, actually identify an amount within that limit. Ms. Banowsky's case appears rarer still in that she waited until the day before the statute of limitations expired to file suit and then expressly affirmed the district court's lack of jurisdiction when requesting transfer. Because Ms. Banowsky does not identify any error in the Court of Appeals' reasoning or claim or establish that its holding has the potential to impact a significant number of other district court litigants, she fails to identify an issue of substantial public interest.

2. Ms. Banowsky fails to identify any error in the Court of Appeals' refusal to rely on the history of CRLJ 14A(b) or *City of Seattle v. Sisley* to discern the meaning of the rule.

Ms. Banowsky next claims that the history of CRLJ 14A(b) demonstrates that its drafters intended it to apply to plaintiffs' initial complaints as well as amended complaints. *Pet. at* 7-10 (Section V.B.). But, she ignores the Court of Appeals' holding that the rule is not ambiguous, such that resort to its history to discern its meaning is not required or appropriate. *Banowsky*, 4 Wn. App. 2d at 346 & n.21. As the Court of Appeals interpreted the unambiguous plain language of the rule in a manner entirely consistent with the view she proposed, that is, that CRLJ 14A(b) "[o]n its face" "purports to compel transfer" when "the

plaintiff's initial complaint" "asserts a claim beyond the amount-in-controversy limit," *id*., this Court need not address the rule's history.

As before the Court of Appeals, Ms. Banowsky merely repeats her claim that *City of Seattle v. Sisley*, 164 Wn. App. 261, 265, 263 P.3d 610 (2011), supports her view that CRLJ 14A(b) requires a transfer to superior court whenever a plaintiff asserts a claim in excess of the monetary limit. *Pet. at* 9-10. But, the Court of Appeals concluded that *Sisley* is not controlling because it evaluated a municipal court's exercise of its exclusive, original jurisdiction over municipal ordinance violations not subject to the district court's amount-in-controversy limitation and because its passing reference to CRLJ 14A was dictum. *Banowsky*, 4 Wn. App. 2d at 350 (citing *Sisley*, 164 Wn. App. at 256-57).[4] She fails to articulate any error in that holding. Because *Sisley* obviously did not decide the question presented in this case, that is, whether CRLJ 14A(b) can alter the constitutionally grounded amount-in-controversy limitation on district court subject matter jurisdiction, and because she does not claim or establish that the Court of Appeals decision conflicts with *Sisley* in a manner justifying an opinion by this Court, review is not warranted.

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[4] In *Sisley*, the court cited only to CRLJ 14A(a), providing for removal to obtain jurisdiction over third party defendants, to support its general premise that a claim that exceeds the amount identified in RCW 3.66.020 may be removed to superior court. *Sisley*, 164 Wn. App. at 265 & n.8.

3. <u>The Court of Appeals did not err by agreeing with Ms. Banowsky that the outcome of this case is not controlled by the comments to CRLJ 14A(b) or *Howlett v. Weslo, Inc.*</u>

Ms. Banowsky next presents an extensive discussion to support her claim that *Howlett v. Weslo* and the comment to CRLJ 14A(b) "are distinguishable and inapplicable," including several pages devoted to an analysis of cases cited by *Howlett* and to advocating for the application of the cannons of statutory construction, and alternatively, for consideration of the history of the comment, to determine the meaning of the rule. *Pet. at* 10-17 (Section V.C.). Ms. Banowsky again ignores the fact that the Court of Appeals explicitly stated that it did "*not look to the rule's comments for further clarification*" because the meaning of CRLJ 14A(b) is plain on its face, and that it did not rely on *Howlett*, agreeing with Ms. Banowsky that it "*does not control the issue presented in this case.*" *Banowsky*, 4 Wn. App. 2d at 346 & n.21, 350 (italics added for emphasis). Ms. Banowsky does not explain why she believes that an opinion from this Court is required to confirm that *Howlett* and the comment to CRLJ 14A(b) are not controlling.

Ms. Banowsky also claims it is a "logical fallacy" to apply CRLJ 14A(b) where "the district court already has jurisdiction" when she claims that *Howlett* holds that the district court "immediately loses subject matter jurisdiction over a case when a plaintiff amends her complaint to allege

damages in excess of the court's jurisdiction limits." *Pet. at* 17-18 (Section V.D.). But, again, the Court of Appeals explicitly stated that it was not relying on *Howlett* to discern the meaning of CRLJ 14A(b). *Banowsky*, 4 Wn. App. 2d at 350. Instead, the Court merely noted that the court's "observation" in *Howlett* "that a case must be dismissed when it exceeds the court's subject matter jurisdiction" "is entirely consistent with our decision here." *Id.* Given that no party has suggested that the Court of Appeals erred by concluding *Howlett* does not control the meaning of the unambiguous plain language of CRLJ 14A(b) because it was amended after *Howlett* was decided, Ms. Banowsky has not established grounds for review by this Court.

4. Ms. Banowsky's disagreement with the Court's public policy analysis does not raise an issue of substantial public interest warranting review.

Citing CRLJ 1, providing that the court rules are to be "construed and administered to secure the just, speedy, and inexpensive determination of every action," Ms. Banowsky claims that public policy and the goals of Washington courts, such as that favoring the resolution of disputes on the merits, requires a conclusion that the district court "had jurisdiction over the first $100,000" of damages she sought in her complaint. *Pet. at* 18-19 (Section V.E.). She claims that dismissal of her complaint, where (1) she "substantially complied with the filing requirements" of the district court,

and (2) Dr. Backstrom "was on notice of the case within the statute of limitations," is "an absurd and unjust result." *Pet. at* 19.

But, Ms. Banowsky completely ignores the public policy analysis actually described by the Court of Appeals. *See Banowsky*, 4 Wn. App. 2d at 347-48. In particular, beginning with the fundamental rule that subject matter jurisdiction "is an elementary prerequisite to the exercise of judicial power," *id.* at 342 (quoting *In re Adoption of Buehl*, 87 Wn.2d 649, 655, 555 P.2d 1334 (1976)), the Court held that a prohibition on transferring a case to superior court under CRLJ 14A(b) when the district court lacks subject matter jurisdiction is consistent with the "clear policy" set by "our state constitution" providing the superior court with "almost 'universal' subject matter jurisdiction" and "necessarily" limiting the jurisdiction of other trial courts, *id.* at 347. "[T]o allow a plaintiff to ignore the district court amount-in-controversy and force a transfer even though she demanded an amount over the district court limit," "would greatly undercut that intentional divide" between the superior court and courts of limited jurisdiction. *Id.* The Court explicitly rejected Ms. Banowsky's claim that the district court could "split" a claim greater than $100,000 "to retain subject matter jurisdiction over the first $100,000 and ignore the excess" because "[a]llowing subject matter jurisdiction to be manipulated in this way would erode material differences between the superior courts

and the district courts and open the door to potential abuse." *Id.* at 348.

Ms. Banowsky fails to identify any error in the Court of Appeals' evaluation of the public policy choices at stake in this case. Nothing in CRLJ 1 or any other authority suggests that the goal of resolving disputes on the merits trumps the essential public policy prohibiting a district court from exercising judicial authority when it lacks subject matter jurisdiction. And, no authority supports her novel proposal for splitting claims. This is not an issue of substantial public interest.

5. *Silver Surprize, Inc. v. Sunshine Mining Co*, does not support Ms. Banowsky's theory or raise an issue of substantial public interest.

Finally, Ms. Banowsky claims that a statement in *Silver Surprize v. Sunshine Mining Co.*, 74 Wn.2d 519, 523, 445 P.2d 334 (1968), that jurisdiction is not "destroy[ed]" when a plaintiff merely "seeks more than the law permits," supports her theory that her demand for damages in excess of the amount-in-controversy does not "destroy" the jurisdiction of the district court. *Pet. at* 19 (Section V.F.). She is incorrect.

In *Silver Surprize*, an Idaho corporation sued a Washington corporation for breach of a contract regarding ownership and exploitation of certain mining claims in Idaho; the defendant asserted defenses associated with real property disputes. *Silver Surprize*, 74 Wn.2d at 520, 521-22. The superior court dismissed the suit, reasoning that the subject

matter was the determination of title to Idaho real estate. *Id.* at 522.

Recognizing that "an action brought to try the naked question of title to land must be brought in the state where the land is situate," this Court reversed the dismissal order because the nature of the plaintiff's claim, based on the facts alleged and the relief sought in the complaint, was "patently a contract action." *Id.* at 522. Because the "source of the jurisdiction of the superior courts is the constitution of this state" rather than the defendant's consent, the defendant could not "by his answer destroy the jurisdiction" that the superior court had attained over the suit at the filing of the complaint. *Id.* at 522-23. The Court also noted that the fact that the plaintiff sought "more than the law permits," particularly certain alternative contractual and equitable remedies, did not "in itself" "destroy" the jurisdiction of the superior court, but merely limited "the effective relief the court can properly grant." *Id.* at 523.

Here, the Court of Appeals distinguished the statement upon which Ms. Banowsky relies as dictum that lacked citation to Washington authority. *Banowsky*, 4 Wn. App. 2d at 348. In addition, nothing in the case suggests that a district court lacking subject matter jurisdiction over a lawsuit may exercise its judicial authority to grant some part of the relief

requested by a party.[5] Ms. Banowsky's unreasonable view of an isolated statement in a case holding that the superior court has subject matter jurisdiction over a breach of contract claim does not raise an issue of substantial public interest that should be determined by this Court.

VI. CONCLUSION

Aside from referencing RAP 13.4(b)(3) and (4), Ms. Banowsky does not identify or establish any proper ground warranting review. Her mere repetition of arguments she presented to the Court of Appeals, without acknowledging the ways in which the Court agreed with her as to the plain meaning of CRLJ 14A(b) or confronting its reasons for concluding that the rule could not be applied to expand the district court's subject matter jurisdiction in this case, is not sufficient to raise a significant question of constitutional law or an issue of substantial public interest. The Petition for Review should be denied.

[5] *Silver Surprize* is actually consistent with the Court of Appeals' opinion and does not support her alternative theories of jurisdiction, in that it demonstrates that a court must acquire jurisdiction at the initiation of a lawsuit based on the subject matter of the complaint in order to exercise judicial authority. *Silver Surprize*, 74 Wn.2d at 522. Unlike the *Silver Surprize* plaintiff, whose complaint "patently" stated subject matter within the superior court's almost "universal" jurisdiction, Ms. Banowsky expressly sought relief beyond the limited jurisdiction of the district court.

RESPECTFULLY SUBMITTED this 27th day of September, 2018.

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CERTIFICATE OF SERVICE

I hereby certify under penalty of perjury that under the laws of the State of Washington that on the 27th day of September, 2018, I caused a true and correct copy of the foregoing document, "Respondent's Answer to Petition for Review," to be delivered in the manner indicated below to the following counsel of record:

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DATED this 27th day of September, 2018, at Seattle, Washington.

s/Carrie A. Custer
Carrie A. Custer, Legal Assistant

FAVROS LAW

September 27, 2018 - 1:33 PM

Transmittal Information

Filed with Court:	Supreme Court
Appellate Court Case Number:	96200-6
Appellate Court Case Title:	Teresa Banowsky v. Guy Backstrom, D.C., d/b/a Bear Creek Chiropractic Center
Superior Court Case Number:	16-2-15609-6

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