

FILED
SUPREME COURT
STATE OF WASHINGTON
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BY SUSAN L. CARLSON
CLERK

97530-2
NO. 49836-7-II

SUPREME COURT
OF THE STATE OF WASHINGTON

ESTATE OF EDNA ALLEN,
Petitioner,
and
WASHINGTON STATE ATTORNEY GENERAL,
Petitioner,
v.
DAN & BILL'S RV PARK,
Respondent.

ANSWER OF PETITIONER ALLEN TO CLERK'S MOTION TO
STRIKE ALLEN'S REPLY

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Petitioner Allen (the “Estate”) submits the following reply to the clerk’s motion to strike the reply submitted by the Estate to the answer of the park to the Estate’s petition for review in this matter:

A. ISSUES RAISED IN THE PETITION FOR REVIEW

The Estate filed a petition for review of (1) the Court of Appeals’ decision filed on October 16, 2018 which reversed the attorney-fee award adjudged by the Pierce County Superior Court in favor of petitioner Allen, and (2) the denial by the Court of Appeals to the petitioner’s motion for reconsideration. The court of appeals decision was published *sub nomine Allen v. Dan and Bill’s RV Park*, 6 Wn. App.2d 349, 428 P.3d 376 (2018).

The issues as framed in the petition for review were the following:

- 1. Whether the court of appeals too narrowly construed a remedial statute providing low-income tenants with greater access to legal services.**
- 2. Whether a tenant’s initial utilization of the MHDRP precludes a later award of attorney’s fees to the tenant who successfully files an action to obtain reversal of an ALJ order.**
- 3. Whether the language “action arising out of” in RCW 59.20.110 should have a broad construction—instead of a narrow one-- to carry out its purpose of making legal services more accessible to mobile home park and RV park tenants.**
- 4. Whether the decision of the court of appeals provides a disincentive for attorneys to help low-income tenants who experience blatant violations of the MHLTA at the hands of park management.**
- 5. Whether the formerly homeless tenant was a “qualified party” with assets of less than \$1 million so as to be**

alternatively entitled to attorney's fees under RCW 4.84.350(1).

B. ISSUES RAISED BY THE PARK

The Park raised the following “grounds for relief” in its answer to petitioner Allen’s petition for review (Park’s Answer at i):

- 1. The petition does not adequately address RAP 13.4 factors.**
- 2. The plain language of RCW 59.30.040(9) does not invite construction, and requires denial of the petition.**
- 3. Washington State’s legislature ruled against this precise issue in 2014.**
- 4. Other foundational statutory construction principles require denial of the Estate’s petition.**
- 5. RCW 59.20.120 underscores that an action “arising under” Ch. 59.20 must [be] a legal action filed in district or superior court.**
- 6. California cases are not persuasive.**
- 7. The Estate chose to pursue administrative law review and cannot now complain of Estate’s own choice of remedy.**
- 8. Denial of fees under Equal Access to Justice Act consistent with the Court’s lengthy History of Denying fees for failure to comply with procedural prerequisites.**
- 9. Other foundational statutory construction principles require denial of the Estate’s petition.**
- 10. Fees cannot be awarded against private citizens under RCW 4.84.350.**

It is true that some of the “grounds for relief” raised by the Park overlap in a slight degree with some of the issues raised by petitioner Allen in the Estate’s petition for review, e.g., interpretation of the language

“arising under” in RCW ch. 59.20. However, the Park has supported its position with the entirely new argument that cases “arising under” RCW ch. 59.20 must first be filed in superior court or district court using a “summons.” While this is a clever and resourceful argument, it is not based on language in RCW ch. 59.20, which does not mention the word “summons” at all, and such an issue could hardly be anticipated by the Estate in filing its petition for review.

Similarly, the Park makes the argument that a failed amendment to the APA necessarily means that the construction argued for by the Estate is barred, overlooking the fact that the failure of the amendment could readily have another plausible explanation, so really does not mean anything. These things can be construed as “issues,” or “arguments,” or “grounds for relief,” but ultimately, they relate to issues before the Court which the Court should consider before ruling on the Estate’s petition for review.

The Park’s arguments relating to the issues it raised have a certain surface appeal, but on further examination, they cannot withstand analysis. The Estate wanted to help the Court understand those issues.

The Estate is aware of RAP 13.4(d), which provides that 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.” There is some ambiguity, however, in RAP 13.4(d) regarding the definition of an “issue.” The word is defined broadly as a “point in dispute between two or more parties. • In an appeal, an issue may take the form of a separate and discrete question of law or fact, or a combination of both.” *Black’s Law Dictionary* (9th ed.

2009) 907. Under this definition, a new argument can present a new issue, i.e., a new point in dispute. The Estate so interpreted most of the Park's designated "grounds for relief."


Ultimately, the purpose of a brief is to assist the Court in making a fair, just and equitable decision. The rules of appellate procedure are "liberally interpreted to promote justice and facilitate the decision of cases on the merits." RAP 1.2(a). In that spirit, the Estate submitted a reply to the Park's answer to the Estate's petition for review.

C. CONCLUSION

This Court should accept the reply brief of the Estate as submitted.

RESPECTFULLY SUBMITTED this 8th day of October 2019.

Law Offices of Dan R. Young

By 
Dan R. Young, WSBA # 12020
Attorney for Estate of Edna Allen

CERTIFICATE OF SERVICE

The undersigned certifies under the penalty of perjury under the laws of the State of Washington that I am now and at all times herein mentioned a resident of the State of Washington, over the age of eighteen years, not a party to or interested in the above-entitled action, and competent to be a witness herein.

On the date given below, I caused to be served the foregoing document on the following persons and in the manner listed below:

Amy Teng, Esq. Office of the Attorney General Manufactured Housing Dispute Resolution Program 800 Fifth Avenue, Ste. 2000 Seattle, WA 98104 Email: amyt2@atg.wa.gov	<input checked="" type="checkbox"/> U.S. First Class Mail <input type="checkbox"/> Via Legal Messenger <input type="checkbox"/> Overnight Courier <input checked="" type="checkbox"/> Electronically via email
Seth Goodstein/Carolyn A. Lake Goodstein Law Group PLLC 501 S. G Street Tacoma, WA 98405 sgoodstein@goodsteinlaw.com clake@goodsteinlaw.com	<input checked="" type="checkbox"/> U.S. First Class Mail <input type="checkbox"/> Via Legal Messenger <input type="checkbox"/> Overnight Courier <input checked="" type="checkbox"/> Electronically via email
Walter H. Olsen, Jr., Esq. Olsen Law Firm PLLC 205 S Meridian Puyallup, WA 98371-5915 Email: walt@olsenlawfirm.com	<input checked="" type="checkbox"/> U.S. First Class Mail <input type="checkbox"/> Via Legal Messenger <input type="checkbox"/> Overnight Courier <input checked="" type="checkbox"/> Electronically via email
Kelly Ann Owen, Esq. Northwest Justice Project 1814 Cornwall Ave Bellingham, WA 98225-4615 Email: kellyo@nwjustice.org	<input checked="" type="checkbox"/> U.S. First Class Mail <input type="checkbox"/> Via Legal Messenger <input type="checkbox"/> Overnight Courier <input checked="" type="checkbox"/> Electronically via email

Stephen Parsons, Esq. Northwest Justice Project 715 Tacoma Avenue S Tacoma, WA 98402 Email: stevep@nwjustice.org	<input checked="" type="checkbox"/> U.S. First Class Mail <input type="checkbox"/> Via Legal Messenger <input type="checkbox"/> Overnight Courier <input checked="" type="checkbox"/> Electronically via email
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DATED this 8th day of October 2019, at Seattle, Washington.

s/Dan R. Young
Dan R. Young

LAW OFFICE OF DAN R. YOUNG

October 08, 2019 - 4:25 PM

Transmittal Information

Filed with Court: Supreme Court
Appellate Court Case Number: 97530-2
Appellate Court Case Title: Estate of Edna Allen v. Dan and Bills RV Park
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The following documents have been uploaded:

- 975302_Answer_Reply_20191008162337SC017470_3865.pdf
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Answer to clerk's answer to Strike

Sender Name: Camille Minogue - Email: camille@truthandjustice.legal

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