

FILED
SUPREME COURT
STATE OF WASHINGTON
1 8/24/2020 4:31 PM
2 BY SUSAN L. CARLSON
CLERK

SUPREME COURT
STATE OF WASHINGTON

ROY D CHEESMAN,

No. 984646

Plaintiff-Petitioner,

v.

**RESPONDENTS' OBJECTION TO
PETITIONER'S MOTION TO MODIFY
PETITION FOR DISCRETIONARY
REVIEW**

JOHN GRAF, TIA ROSS, NANCY
WILLBANKS, BEN MOUNT, AND
ELLENSBURG SCHOOL DISTRICT,

Defendants-Respondents.

I. STATEMENT OF FACTS

On June 15, 2020, Respondents received "Plaintiff/Appellant Petition for Review to the Supreme Court of Washington State" dated June 12, 2020. The brief was signed by Petitioner and mailed to Respondents on June 13, 2020. The brief had the caption as Division III of the Court of Appeals and used Court of Appeals No. 363473.

On July 1, 2020, Respondents filed the "Answer of Respondents." Respondents argued that discretionary review is not warranted under RAP 13.4(b).

\\PROLAWSVR\lawdata\Documents\Ellensburg SD\Cheesman, Roy v Ellensburg SD (SIAW) APPEAL\Pleadings - Misc\595619.doc

RESPONDENTS' OBJECTION TO PETITIONER'S MOTION TO
MODIFY PETITION FOR DISCRETIONARY REVIEW -- Page 1 of 4
No. 984646



P.O. Box 130 | 124 3rd AVE S.W.
Ephrata, WA 98823
(509) 754-2356 | Fax (509) 754-4202

1 On July 27, 2020, Respondents received the “Brief of Petitioner.” The brief was signed
2 by Petitioner on July 22, 2020. The brief had the caption as the Supreme Court of the State of
3 Washington and used Supreme Court No. 984646.

4 On July 28, 2020, Respondents filed “Respondents’ Objection to Brief of Petitioner dated
5 July 22, 2020 and Declaration of Counsel for Respondents.” Respondents noted that Petitioners
6 opening brief had a caption of “The Court of Appeals of the State of Washington – Division 111”
7 under “Case No. 363473.” Respondents objected to Petitioner’s brief dated June 22, 2020 “to the
8 extent that the Court considers Mr. Cheesman’s most recent filing to be a reply to the “Answer of
9 Respondents.” (Respondents hereby withdraw this objection.) Respondents also objected to
10 Petitioner’s brief dated July 22, 2020 because it was filed more than 15 days after the service of
11 the “Answer of Respondents.” Respondents also objected to Petitioner’s brief dated July 22,
12 2020 because it exceeded the 20-page limit.

13 On Aug. 3, 2020, Respondents received Petitioner’s “Motion to Modify Brief of
14 Petitioner, Appeal, Petition for Review” dated Aug. 1, 2020. Petitioner stated:

15 Petitioner . . . would like to seek permission to modify the “Appeal, Petition for
16 Review” because it does not contain a signature of the Petitioner Mr. Roy D.
Cheesman and the cover page format titled “Brief of Petitioner.”

17 (Petitioner’s Motion at 1.)

18 By letter dated Aug. 6, 2020 by Erin L. Lennon, Deputy Clerk, Mr. Lennon stated that the
19 Court would treat Petitioner’s motion as a motion to amend the petition for review.” Mr. Lennon
20 further stated:

21 Counsel for Respondent may serve and file any answer to the motion by August
22 21, 2020. Any reply to any answer should be served and filed by September 8,
2020. The motion will be set for consideration at the same time that the Court
23 considers the pending petition for review.

24 \PROLAWSVR\lawdata\Documents\Ellensburg SD\Cheesman, Roy v Ellensburg SD (SIAW) APPEAL\Pleadings - Misc\595619.doc

1 (Paragraphing omitted.)
2

3 **II. RESPONDENTS' OBJECTION**

4 Petitioners' brief dated June 12, 2020 should be treated as Petitioner's motion for
5 discretionary review. Respondents waive the fact that Petitioner's brief dated June 12, 2020 used
6 a Court of Appeals caption and number. Petitioner's brief dated July 22, 2020 should be treated
7 as Petitioner's reply to the "Answer of Respondents." Any substantive argument advanced in
8 Petitioner's brief dated Aug. 1, 2020 should be disregarded.

9 **III. CONCLUSION**

10 The Court should deny Petitioner's motion to amend petition for review.

11 RESPECTFULLY SUBMITTED this 24th day of August 2020.

12 MOBERG RATHBONE KEARNS, P.S.

13 */s/ James E. Baker*

14 JAMES E. BAKER, WSBA No. 9459
15 Attorneys for Respondents
16
17
18
19
20
21
22

23 \PROLAWSVR\lawdata\Documents\Ellensburg SD\Cheesman, Roy v Ellensburg SD (SIAW) APPEAL\Pleadings - Misc\595619.doc

24 RESPONDENTS' OBJECTION TO PETITIONER'S MOTION TO
MODIFY PETITION FOR DISCRETIONARY REVIEW -- Page 3 of 4
No. 984646



P.O. Box 130 | 124 3rd AVE S.W.
Ephrata, WA 98823
(509) 754-2356 | Fax (509) 754-4202

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

CERTIFICATE OF SERVICE

I certify that I mailed a copy of the foregoing to:

Roy D Cheesman
1708 N Indiana Drive
Ellensburg, WA 98926

DATED this 24th day of August 2020 at Ephrata, WA.

MOBERG RATHBONE KEARNS, P.S.

/s/ Dawn Severin
DAWN SEVERIN, PARALEGAL



MOBERG RATHBONE KEARNS

August 24, 2020 - 4:31 PM

Transmittal Information

Filed with Court: Supreme Court
Appellate Court Case Number: 98464-6
Appellate Court Case Title: Roy D. Cheesman v. Ellensburg School District, et al.
Superior Court Case Number: 17-2-00020-8

The following documents have been uploaded:

- 984646_Answer_Reply_20200824162801SC174046_3008.pdf
This File Contains:
Answer/Reply - Answer to Motion
The Original File Name was Cheesman Roy - Objection to Motion.pdf

Comments:

Attached please find Respondents' Objection to Motion to Modify

Sender Name: Dawn Severin - Email: dseverin@mrklawgroup.com

Filing on Behalf of: James Edyrn Baker - Email: jbaker@mrklawgroup.com (Alternate Email: frontdesk@mrklawgroup.com)

Address:
124 3rd Ave SW
PO Box 130
Ephrata, WA, 98823
Phone: (509) 754-2356

Note: The Filing Id is 20200824162801SC174046