NO. 100620-9

THE SUPREME COURT OF THE STATE OF WASHINGTON

CHRISTOPHER AND ANGELA LARSON,
Appellants/Plaintiffs
v.
SNOHOMISH COUNTY *et al.*,
Respondents/Defendants

ON APPEAL FROM THE SUPERIOR COURT OF SNOHOMISH COUNTY, STATE OF WASHINGTON
Superior Court No. 18-2-04994-31

and

COURT OF APPEALS, DIVISION I
No. 81874-1

RESPONDENT'S ANSWERING BRIEF TO APPELLANTS' PETITION FOR DISCRETIONARY REVIEW

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I. INTRODUCTION

This Petition for Review (the "Petition") is the latest step in a fruitless crusade by the Larsons' counsel to reinvigorate the archaic Torrens Act, RCW 64.12. *et seq.* In its Published Opinion, Division One of the Court of Appeals noted that the Torrens Act has been "little used" since its adoption in 1907. Dec. 6, 2021 Published Opinion ("Opinion") at p. 15. This is because the adoption of the system of title recording has rendered the Torrens Act procedure largely obsolete.

Nevertheless, the Larsons attempted to use the Torrens Act to prevent and then unwind the foreclosure on their home. These efforts failed because, as Division One correctly noted "the Torrens Act has nothing to do with securitization of residential mortgages or the enforcement of rights under deeds of trust." Opinion at 12. The Larsons take no issue with this holding or with the Court of Appeals de novo determination that certain of the Larsons' claims were properly dismissed with prejudice under CR 12(b)(6) and judgment entered on the

remainder under CR 56. See Opinion at 22, 24, 34, 39, and 40.

Instead, the Larsons seek review only of the Court of Appeals rejection of the Larsons' argument that the trial court judges were biased and should have recused themselves. This demonstrates a fundamental flaw in the Petition for Review. By conceding that the judgment against them was legally valid and proper and claiming only that trial judges who rendered them should have been disqualified, the Larsons are essentially asking for an advisory opinion. The Larsons do not claim the Court of Appeals' independent analysis of the dismissal and summary judgment rulings is flawed or that judgment against them was not proper. Thus, any claim that the trial court judges should have been disqualified has been mooted by the concession that the rulings issued by those judges were proper.

Even if this Court were to consider the recusal issues presented in the Petition, it would find no basis to grant review. The Larsons made baseless and fanciful attacks on the trial judges' partiality and claim they should have recused

themselves from deciding the cases. The Larsons made two strained and tenuous arguments supporting their claim for recusals. First, the Larsons claimed that because judges are public employees entitled to participate in the Washington State Investment Board ("WSIB") and because WSIB invests in mortgage-backed securities, judges are necessarily biased in any case involving mortgages. Second, the Larsons argue that the trial judges in both counties were barred from hearing their cases because all the judges in those counties historically failed to comply with their duties under the Torrens Act. Both arguments were based on rank speculation and had no bearing on the validity of the judgments. The Court of Appeals nevertheless considered them, applied the proper legal standard, and found them to be meritless.

The Petition should be denied. It is nothing more than an improper request for an advisory opinion that will have no impact on the judgment rendered. It also fails to identify any novel question of law, split in authority, or other basis for

review.

II. IDENTITY OF ANSWERING PARTY

This Answer is by Deutsche Bank National Trust Company as trustee for Morgan Stanley ABS Capital I Inc. Trust 2007-HE2 Mortgage Pass Through Certificates, Series 2007 (the "Trust"). The Trust was the successor to the Larsons' original lender, New Century Mortgage Corp.

A separate but identical petition to this Court was filed by the Larsons' in the related matter[1]. The Trust's co-counsel will file a separate answer to the Larsons' petition therein.

III. STATEMENT OF THE CASES

The Opinion provides a detailed and accurate summary of the procedural and factual history of both actions. See Opinion at 3-10. For their part, the Larsons present two Statements of the Case, one for each of the two underlying actions. Both Statements are riddled with hyperbole, rank speculation, and inaccuracies. However, it is not necessary to

[1] Supreme Court of Washington No. 100619-5, Court of Appeals Division I No. 80968-7.

discuss all these defects because most of the Larsons' Statements have nothing to do with the issues presented for review. Because the sole issues presented for review relate to the Larsons' challenge to the trial court judges' failure to recuse themselves, the Trust will limit its Statement of the Cases to events relevant to that issue.

On or about October 6, 2006, the Larsons borrowed $218,000 from New Century Mortgage (the "Loan") secured by a deed of trust against the property located at 11914 167th Drive NE, Arlington, Washington. 81874 Matter Clerk's Papers ("TACP") 1121-1134. The Loan was later assigned to Deutsche Bank. The Larsons defaulted on the Loan and Deutsche Bank's trustee was able to complete a foreclosure on November 16, 2018. TACP 1167. Despite being aware of a pending foreclosure for years, the Larsons took no action to halt the foreclosure either by paying arrears or pursuant to the provisions of the Deed of Trusts Act.

Rather than seeking to enjoin the sale, the Larsons

assisted by their counsel, Scott Stafne, chose instead to spin multiple lawsuits in both Skagit and Snohomish Counties, asserting unfounded conspiracy theories and frivolous claims of fraud and other wrongdoing against Washington State's government, judges, and the Private Defendants.

The Larsons filed their first action on June 15, 2018 as a Torrens Application with Snohomish County Superior Court commencing the Torrens Act Proceedings.[2] TACP 1038-1041.[3] On October 18, 2018, the Larsons filed a separate action in

[2] Deutsche Bank will use the same shorthand as used in the Opinion. "Torrens Act Proceedings" refers to the Snohomish County Torrens Act application filed as Snohomish County Superior Court Case No. 18-2-04994-31 and given case number 81874-1-I by the Court of Appeal. "Skagit County Case" refers to the civil action filed in Skagit County Superior Court under case number 18-2-01234-29, which was transferred to Snohomish County Superior Court and given case number 19-2-01383-31, and finally given case number 80968-7-I by the Court of Appeals.

[3] To avoid adding to the confusion created by the Larsons' separate actions but duplicative Petitions, Deutsche Bank will use the same shorthand for the two sets of Clerk's Papers used in the Petition: "CP" refers to the Clerk's Papers from the Skagit County Case (Court of Appeals Case No. 80968-7-I) and "TACP" refers to the Clerk's Papers from the Torrens Act Proceedings (Court of Appeals Case No. 81874-1-I).

Skagit County Superior Court against Deutsche Bank plus the State of Washington, Governor Inslee, the Washington Attorney General, the Snohomish County Examiner, and all judicial officers of the Snohomish County Superior Court (the "80968 Matter"). CP 3985-40. Thus began a baseless campaign claiming the entire judiciary of the State of Washington is biased against them and in favor of lenders.

The complaint in the Skagit County Case named all judicial officers in Snohomish County and claimed they had violated their duties under the Torrens Act. It asked that all judges in Snohomish County be disqualified from hearing the case. CP 4030-31. Shortly thereafter, the Larsons also filed an affidavit of prejudice against Judge Stiles in the Skagit Civil Case pursuant to RCW 4.12.050. CP 3615-18.

The Larsons falsely claim Judge Stiles recused himself based on bias arising out of the lack of operating the Torrens Act land registration system. Petition at 5. There is nothing to support this assertion in the record. Rather, Judge Stiles was

disqualified because of the Larson's notice of disqualification "pursuant [to] RCW 4.12.040 and RCW 4.12.050." CP 3616.

The Larsons next suggest that Judge Svaren should have recused himself in the Skagit County Case for the same reasons Judge Stiles had. Petition at 5. This fails to recognize that Judge Stiles recused himself pursuant the RCW 4.12.050 challenge. However, they did not file an affidavit of prejudice as to Judge Svaren and apparently only raised the issue orally at the hearing on motions to dismiss. CP 3584. Judge Svaren rejected the oral request for disqualification based on the allegation that Skagit County did not comply with the Torrens Act. *Id.*

The presiding judge of Snohomish County Superior Court then issued an order disqualifying the judicial officers and transferred the Torrens Act Proceedings matter to Skagit County where Judge Svaren was assigned to hear the matter. Petition at 7. The Larsons claim they renewed their attempt to disqualify Judge Svaren who had already issued several adverse

rulings against them. Petition at 7. However, none of the pages to the record they cite includes a challenge to Judge Svaren's impartiality or request that he recuse himself.

The Larsons' Statement of the Case next engages in a lengthy discussion of their unfounded belief that all judges are biased against borrowers and in favor of lenders because at some unknown point after 2006 the WSIB had invested some portion of judges' retirement funds in mortgages and mortgage-backed securities. Petition at 8-12. Notably absent from this assertion are citations to the record demonstrating when or how it was raised with the trial courts. Indeed, the only citation provided is to a portion of the 2018 WSIB annual report that was filed in the Torrens Application Proceeding. See Petition at 9 (citing CP 1001-1171). There is no indication as whether it was presented along with a requestion for disqualification or that it was presented in the Skagit County Case at all.

The defendants then filed motions for summary judgment in the Torrens Proceedings. At some point leading up to the

ruling on those motion, the Larsons again asked Judge Svaren to recuse himself. See Petition at 11. The Petition does not cite to the contents of that request or where the grounds for the request were presented to Judge Svaren. Judge Svaren denied the request when he ruled on the motions for summary judgment. *Id.*

The Larsons then separately appealed the dismissal of the Skagit County Case pursuant to CR 12(b)(6) and the entry of judgment on the Torren Act Proceedings pursuant to CR 56. The appeal was directed almost entirely to the merits of the Larsons' claims. Division One of the Court of Appeals evaluated all the Larsons' arguments and determined the superior courts had properly granted judgement for the defendants in both actions.

Almost as an aside, the Opinion briefly addressed the Larsons' argument that the superior court judges should have recused themselves. Opinion at 41-43. That portion of the Opinion now serves as the entire basis for the Petition for

Review. Nothing in that portion of the Opinion or the issues encompassed therein warrants review under RAP 13.4.

IV. ARGUMENT

A. Considerations Governing Acceptance of Review.

The considerations governing this Court's acceptance of review are set forth in RAP 13.4(b):

> A petition for review will be accepted by the Supreme Court 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.

RAP 13.4(b).

The Larsons have invoked all sections of RAP 13.4(b)

for their basis of seeking review by the Supreme Court. However, no sections of RAP 13.4(b) actually apply to the issues asserted and the Petition should be denied.

B. Because The Larsons Do Not Contest the Validity of the Underlying Judgments, the Petition is an Improper Request for an Advisory Opinion

The only issue that the Petition raises is the issue of judicial neutrality on part of the trial court judges. The Larsons do not, however, contend that the judgments issued by the judges were flawed or erroneous. The Larsons take no issue with the Court of Appeals' extensive and detailed de novo review of the trial judges' CR 12(b)(6) and CR 56 orders leading to the judgments. Thus, the Larsons concede the validity of the judgments against them and are merely asking this Court for an advisory opinion evaluating their disqualification arguments even though that opinion will not change the outcome of the cases. This Court does not issue such advisory opinions absent exceptional circumstances not present here.

As stated in *In re Elliot,* 74 Wn.2d 600, 446 P.2d 347 (1968):

> Thus, this court can and does render advisory opinions when it is convinced that the public interest makes it desirable to do so. It does not do so often; but when proper case presents itself, this court exercises its discretion and gives its opinion, even though its judgment will not operate on any controversy between the parties before it. The power to render such opinions should of course be exercised with great reluctance and *only when there are urgent and convincing reasons* for doing so; but this court has the power to render this courtesy, which is so beneficent in most cases where it is extended.

Id. at 616(emphasis added). No such urgent and convincing reasons exist here.

As discussed below, the Petition presents nothing more than convoluted and speculative suggestions of potential judicial bias. However, the Court of Appeals fully evaluated these arguments consistent with existing precedent to find them meritless. There is no novel legal issue or uncertain standard for how such claims of bias should be evaluated which would create an urgent and convincing reason for this Court to render

an advisory opinion on the subject. The standards are well settled and Division One applied them consistent with this Court's prior rulings and the rulings of other Divisions of the Court of Appeals.

C. None of the Issues Presented for Review Fall Within the Scope of RAP 13.4.

The Petitions both present the same four issues for review. Petition at 2-3. All four issues are directed at the Larsons' claim that the trial court judges were required to recuse themselves. These are the only issues upon which review can be granted and any other issues encompassed by Division One's Opinion are waived. *Pappas v. Hershberger*, 85 Wash.2d 152, 154, 530 P.2d 642 (1975), en banc. None of the issues the Larsons identify warrant review under RAP 13.4.

1. Issue 1: The Opinion Properly Applied the Rule of Necessity

As part of their challenges to the trial judges in both cases, the Larsons asserted that *all* the judges in both counties were bias and barred from deciding the cases. Opinion at 42.

The Court of Appeals rejected the factual foundation of this assertion, but noted that even if it was true, "the rule of necessity defeats their argument. The rule of necessity is a well-settled principle at common law that … although a judge had better not, if it can be avoided, take part in the decision of a case in which he has any personal interest, yet he not only may but must do so if the case cannot be heard otherwise." *Id.* (internal quotations omitted, citing *United States v. Will*, 449 U.S. 200, 213 (1980)).

The Larsons frame their first issue for review as: "Whether the rule of necessity applies to Washington state superior court judicial officers and judges in this case?" Petition at 2. Framed this way, the issue clearly does not fall within RAP 13.4. It presents a question of whether the law was properly applied to the factual circumstance of this case. Such a question is not ground for review.

The Larsons nevertheless claim the application of the "rule of necessity" in the Opinion presents a significant

question of law under the Constitution of Washington State, a substantial issue of public interest, and conflicts with the Court's interpretation of conflicts in *Kennett v. Levine*, 50 Wn.2d 212, 310 P.2d 244 (1957). Petition at 19. The Larsons merely provide a brief discussion of Wash. Const. art IV, § 7, and make the conclusory assertion that this Court should review the application of the rule in this case. Petition at 18-19. This superficial argument is unconvincing.

The sum and substance of the Larsons' argument is that the rule of necessity should not apply because Art IV, § 7 permits the use of a judge *pro tempore* to serve as a judge. Petition at 18. This argument is easily dispensed with. That section of the Constitution allows use of a pro tem judge only if "agreed upon in writing by the parties litigant . . ." Wash. Const. Art. IV, § 7. There was no such agreement here and the use of a pro tem judge was not possible. As such, the Court of Appeals correctly determined the rule of necessity applied. This is not a novel legal question or matter of great public

interest. As this Court held long ago, the constitutional provision here clearly and unambiguously limits the use of judge pro tempores to cases in which the parties consent in writing. *Nat'l Bank of Washington v. McCrillis*, 15 Wn.2d 345, 130 P.2d 901 (1942). Because there was no such consent, the Larsons' assertion that all judges in the counties were biased triggered the application of the rule of necessity.

The Larsons also assert, without further discussion or analysis, that the Court of Appeals' application of the rule of necessity in the present matter conflicts with this Court's decision in *Kennett v. Levine*, 50 Wn.2d 212, 310 P.2d 244 (1957). Petition at p. 19. But then the Larsons proceed to quote language from *Kennett* which is entirely consistent with how the Court of Appeals applied the rule of necessity here. *Kennett* applied the rule of necessity to prevent a party from doing exactly what the Larsons are trying to do here: use a claim of disqualification to destroy the ability of the only available tribunal to hear the case. There is no conflict. Given

that the Larsons contended all superior court judges were disqualified, the rule of necessity would prevent recusal here just as it did in *Kennett.*

2. ***Issue 2: The Opinion Applied the Correct Standard for Evaluating Claims of Judicial Disqualification***

The second issue presented by the Petition is far from clear. The Larsons seem to be arguing that the Court of Appeals applied the wrong standard in evaluating requests for judicial recusal. If so, the argument is misguided because the Opinion shows the court correctly applied the proper standard.

The Larsons assert that the Court of Appeals improperly applied the Code of Judicial Conduct ("CJC") when evaluating their claim that the superior court judges should have recused themselves. The Larsons contend this was the wrong standard and that the issue should have been evaluated under the 14th Amendment of the U.S. Constitution and RCW 2.28.030 instead. There are several problems with this argument.

First, the Court of Appeals explicitly invokes and applies

both the due process clause and RCW 2.28.030 in its analysis. Opinion at 41. The Larsons' suggestion that the Court of Appeals disregarded these requirements is directly contradicted by the Opinion itself.

Second, as the Larsons acknowledge, the standards under the CJC encompass the broader language of the 14th Amendment and RCW 2.23.030. The Larsons articulate no way in which the standards set out in the canon materially depart from the standards required by the RCW or due process. The canon as referenced in the Opinion makes clear that judges should disqualify themselves when they have a personal bias or prejudice. Opinion at 42. This Opinion then examines the suggestion of bias and personal interest that the Larsons' claim amounted to a due process or RCW 2.28.030 violation, i.e., participation in the WSIB. Opinion at p. 43. The Opinion considered the Larsons' assertion and found it lacking. Thus, the Opinion demonstrates an application of not just the CJC canon, but the same due process and statutory principles the

Larsons have invoked. The Opinion applied these principles in an ordinary way, consistent with decades of authority. There is no basis for this Court to further review this rather mundane holding.

Third, the Larsons do not even suggest that the outcome of the analysis would be different if the Court of Appeals had not referenced the CJC at all and instead applied only the RCW and constitutional standards. That is because, as discussed above, the standards overlap and the outcome would be the same.

Fourth, as noted above, the Larsons' sweeping assertion that every judge was disqualified from acting in their case meant that the rule of necessity eviscerated any request for recusal.

Finally, the Larsons' equivocal suggestion that the Court of Appeals reference to the CJC canons "arguably" conflicts with *Tumey v. Ohio,* 273 U.S. 510 (1927), and *In re Murchison,* 349 U.S. 133 (1955), is unconvincing. Both cases merely stand

for the proposition that due process requires cases be overseen by an impartial judiciary. The Opinion says the same thing and then proceeds to evaluate and reject the Larsons' assertions that the entire Washington judiciary is biased against them because the WSIB had some investments in mortgage-backed securities. The language from *Tumey* quoted in the Petition makes clear that to create a due process concern the presiding judge would have to have "a direct, personal, substantial, pecuniary interest in reaching a conclusion against [the objecting party] in his case." Petition at P.26, n. 10. This is precisely the standard the Court of Appeals applied to the Larsons' allegations when it noted "The Larsons have alleged no facts indicating that either judge has control over the state retirement plans or that their decisions regarding the Torrens Act will have any impact whatsoever [let alone a direct, personal, substantial impact] on the value of securities in which the retirement plans are invested." Opinion at p. 43.

In re Murchinson held that a judge could not base his

ruling on his own investigation and personal knowledge of facts, and thereby act as "one-man judge grand jury." *In re Murchison,* 349 U.S. at 134-35. The Larsons fail to articulate any way the Opinion conflicts with this holding. There is no suggestion that either of the superior court judges had done any independent investigation or had any personal knowledge. *In re Murchison* had nothing to do with assertions of a pecuniary interest and is inapplicable. Petition at 26.

In short, the Larsons cannot establish a conflict between the Opinion and any other authority because there is none. Nor do they raise a novel or substantial question of law requiring analysis by this Court. The Opinion merely applied the same standards applied by courts, including the *Tumey* for generations.

3. Issues 3 and 4: The Opinion Applied the Correct Standard for Evaluating Claims of Judicial Disqualification

Although separately numbered in Section III of the Petition, the Argument section treats Issues 3 and 4 collectively.

Both relate to the burden and standards superior court judges are to apply in determining whether to recuse themselves. Issue 3 asks whether superior court judges have a burden to independently investigate to inform themselves of facts supporting recusal. Issue 4 asks whether the judge should evaluate recusal using an objective or subjective standard. The Larsons' argument on these issues is little more than a convoluted description of events they believe demonstrates a conspiratorial bias infecting all county employees. They present no analysis or cogent explanation for why any of the matters discussed justify review under RAP 13.4.

The Larsons start their analysis with a challenge to the Court of Appeals conclusion that the Larsons "alleged no facts indicating that either judge has control over the state retirement plans or that their decisions regarding the Torrens Act will have any impact whatsoever on the value of securities in which the retirement plans are invested." Petition at 27-28. The Larsons argue the Court of Appeals' judges "have their facts wrong"

because the Larsons contend they did set forth facts and allegations regarding judicial neutrality. Petition at 28. This argument is unavailing.

The Opinion did not say that the Larsons failed to ever raise allegations of judicial neutrality. Clearly, they did. Rather, the Opinion noted the "Larsons have alleged no facts indicating that either judge has control over the state retirement plans or that their decisions regarding the Torrens Act will have any impact whatsoever on the value of securities in which the retirement plans are invested." Opinion at p. 43. This remains indisputably true. Nothing in any of the materials cited in the Petition address these specific defects. Rather, all the materials provide generalized assertions of bias based on the mere fact that the judges *might* have participated in WSIB. Nor is there any credible allegation or evidence that the judges' rulings on the Larsons' Torrens Act claim would have any impact on the

value of the WSIB investments.[4]

Contrary to the Larsons' argument, the Opinion did not improperly shift the burden on litigants to establish disqualification. Judges are presumed to act without bias or prejudice. *In re Disciplinary Proceeding Against King*, 168 Wn.2d 888, 904, 232 P.3d 1095 (2010) (internal quotations omitted)(citing *In re Pers. Restraint of Davis*, 152 Wn.2d 647, 692, 101 P.3d 1 (2004)). Thus, while a judge is not excused from disregarding disqualifying factors known to him or her, the burden remains on the challenging party to establish bias and a basis for recusal. "The party must produce sufficient evidence demonstrating actual or potential bias, such as personal or pecuniary interest on the part of the judge; mere speculation is not enough." *Kok v. Tacoma School Dist. No. 10*, 179 Wn.App 10, 23-24, 317 P.3d 481 (2013). (citing *In re Pers.*

[4] The materials the Larsons submitted confirm this fact. The total value of the WSIB investment portfolio in 2018 was $101.44 billion. The principal amount of the Larsons' loan was just $218,000. No matter what ruling the superior court made regarding the Loan, it would not have any measurable impact on the value of the WSIB securities.

Restraint of Hayes, 10 Wn.App 366, 377 n. 23, 996 P.2d 637 (2000)); see also *Ritter v. Board of Com'rs of Adams County Pub. Hosp. Dist.No.1*, 96 Wn.2d 503, 513, 637 P.2d 940 (1981). The Court of Appeals properly applied this rule when it examined the record to determine whether the Larsons had alleged facts establishing a basis for recusal. Finding none, it rejected the argument.

The Larsons' disagreement with the Court of Appeals analysis of the contents of the record before it is not grounds for review under RAP 13.4. The Larsons could and did request reconsideration by the Court of Appeals pointing out the material in the record the Larsons believed the Court of Appeals missed. This request was denied. The Court of Appeals did not miss the allegations, it just recognized them for the rank speculation they were. Regardless, a disagreement over the record is not the type of issue warranting review by this Court under Rule 13.4.

The Larsons also suggest the overall body of law

developed during the mortgage crisis is evidence of bias. They contend rulings throughout the state (including by this Court) "after 2007" which approved "the enforceability of these types of sub-prime mortgages and mortgage-backed securities through foreclosure" evidence systemic judicial bias because they were designed to bolster the value of judicial retirement funds. Petition at 31. The Larsons fail to explain how rulings by other judicial officers more than ten years ago evidence bias on the part of the superior court judges here. This wholesale attack on the entire Washington judiciary merely confirms the applicability of the rule of necessity discussed above. In any event, the Court of Appeals properly rejected this argument as unsupported by the record.

The Larsons' next list several adverse rulings or clerical errors they contend evidence bias. As a threshold matter, it should be noted that the Larsons have not raised these matters as issues for review. They just contend they evidence bias. Alleged mis-filings by the clerk's office and adverse rulings are

not evidence of judicial bias. The Larsons did not assert a farfetched conspiracy by judges and court staff as a basis for recusal to the superior court or the court of appeal and they may not do so now. If the Larsons believed the trial courts failed to consider material, they could seek reconsideration and raise the issue on appeal. They did not and the argument is waived.

The Larsons also continue to claim the superior court judges were biased because they "failed to perform those statutory duties required of them to set up title registration systems in their counties." Petition at p.32. The Larsons cannot point to anything in the Torrens Act that would place such a burden on superior court judges, let alone these two particular judges.

Finally, the Larsons provide a superficial argument in support of Issue 4, arguing that the Opinion "excuses Judge Svaren's application of a subjective standard [for evaluating recusal]. . ." Petition at 35. The Opinion did no such thing. Rather, it clearly and unambiguously applied the established

settled objective standard. See Opinion at p. 41 ("The test for determining whether a judge's impartiality might reasonably be questioned *is an objective test* that assumes a reasonable person knows and understands all the relevant facts." Quoting *State v. Gentry*, 183 Wn.2d 749, 762 (2015)); see also p. 43 (holding "No reasonable person could conclude that either Judge Svaren or Judge Okrent acted in any way other than impartially in handling these cases."). There is nothing for this Court to review because the Court of Appeals applied the correct legal standard based on the record before it.[5]

V. CONCLUSION

The Larsons fail to establish grounds for review under RAP 13.4. The Court of Appeals followed well established precedent and its holding is well reasoned and correct.

[5] Ironically, Judge Svaren's statement that he did not have "a dog in this fight" demonstrates he performed an inquiry into his potential partiality as the Larsons contend he was required to do. See Petition at 35.

VI. CERTIFICATE OF COMPLIANCE

I certify that the number of words contained in the Response to Appellants' Petition for Discretionary Review, exclusive of words contained in the appendices, title sheet, table of contents, table of authorities, certificate of compliance, signature blocks, and pictorial images is 4,994 words.

Respectfully submitted this 18th day of March 2022.

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CERTIFICATE OF SERVICE

I hereby certify that on March 18, 2022, I filed the foregoing *Respondent's Answering Brief to Appellants' Petition for Discretionary Review* which was served on all parties by the Appellate Court's electronic case filling system.

Dated this 18th day of March 2022, in Seattle, Washington.

s/ Karrie L. Blevins
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