

FILED
SUPREME COURT
STATE OF WASHINGTON
12/13/2023 4:55 PM
BY ERIN L. LENNON
CLERK

Case No. 102323-5

**IN THE SUPREME COURT
OF THE STATE OF WASHINGTON**

Court of Appeals Division I, Case No. 83427-4

KEITH WELCH

Plaintiff/Appellant,

v.

CHRIS WALDEN

Defendant/Respondent.

**APPELLANT'S RESPONSE TO CLERK'S MOTION
TO STRIKE APPELLANT'S REPLY TO RESPONDENT'S
ANSWER TO PETITION FOR REVIEW**

Keith Welch, Plaintiff/Appellant
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I. IDENTITY OF RESPONDING PARTY

Petitioner and Appellant, Keith Welch, *pro se*, seeks for the relief set forth below.

II. REPLY

Respondent Walden's Answer conditionally raises issues for review. Petitioner Welch's Reply was limited to addressing Walden's Answer to these conditional issues in accordance with RAP 13.4(d). Petitioner Welch's Reply is proper and should be considered.

Walden's Answer first argues that review should be denied, but in the alternative it argues that if review is granted, "conditional issues" should be considered by this Court. Petitioner Welch's Reply was limited to addressing these conditional issues in accordance with RAP 13.4(d).

Additionally, Petitioner Welch's Reply was solely intended to oppose Walden's conditional issues for review. Contrary to this Court, there was no other purpose behind the Reply.

RAP 13.4(d) provides in relevant part that "[a] reply to an answer should be limited to addressing only the new issues raised in the answer."

Petitioner Welch's Reply followed this rule and was for the most part, limited to addressing the conditional issues raised by Walden.

Furthermore, Petitioner Welch was not rearguing the Court of Appeals Opinion, but replying to Walden's Response, to the Court of Appeals Opinion.

As this Court considered, in the case, *Olver v. Fowler* 168 P.3d 348 (2007), pursuant to RAP 13.4(d), that a party *may* file a reply to arguments that the answering party raised in their answer.

In the case above, Petitioner Vu filed a petition for review in this court. In his answer, Respondent Olver again, argued that the trial court erred when it allowed Vu to intervene. The Court granted review of the issues raised by both parties. See *Olver v. Fowler*, 158 Wn.2d 1006, 143 P.3d 829 (2006).

Petitioner Welch filed a Reply to Walden's Response, pursuant to RAP 13.4(d), which as in the *Olver v. Fowler*, 2007 case, this Court considers arguments contained in a Response, therein, that respond to issues raised in a Response answer.

III. CONCLUSION

For the reasons set forth above, Petitioner respectfully request that the Clerk's motion be denied.

DATED this 13th day of December, 2023.

RESPECTFULLY SUBMITTED:

/s/ Keith Welch
Keith Welch, Plaintiff/Appellant

IV. CERTIFICATE OF COMPLIANCE

The undersigned certifies that this document, exclusive of words contained in the appendices, the title sheet, the table of contents, the table of authorities, the certificate of compliance, the certificate of service, signature blocks, and pictorial images, if any, contains 338 words, in compliance with RAP 18.17.

Respectfully submitted this 13th day of December, 2023.

/s/ Keith Welch

Keith Welch, Plaintiff/Appellant

DECLARATION OF SERVICE

I, Keith Welch, certify under penalty of perjury under the laws of the State of Washington, that on the day I signed this declaration of service, I caused a copy of Appellant's Response to Clerk's Motion to Strike Appellant's Reply to Respondent's Answer to Petition for Review, to be serve electronically *via* the Appellate Courts Portal, to this Court, and electronically mailed upon Counsel and Transcriptionist of record:

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Attn: Eileen Sterns

Signed at Mount Vernon, Washington, this 13th day of December, 2023.

/s/ Keith Welch
Keith Welch, Plaintiff/Appellant

KEITH WELCH - FILING PRO SE

December 13, 2023 - 4:55 PM

Transmittal Information

Filed with Court: Supreme Court
Appellate Court Case Number: 102,323-5
Appellate Court Case Title: Keith Welch v. Chris Walden
Superior Court Case Number: 21-2-00112-1

The following documents have been uploaded:

- 1023235_Answer_Reply_20231213165208SC383830_5770.pdf

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