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SUPREME COURT
STATE OF WASHINGTON
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No. 92161-0

Court of Appeals No. 45756-3-II

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IN THE SUPREME COURT OF
THE STATE OF WASHINGTON

MIKE BELENSKI,

Appellant

v.

JEFFERSON COUNTY,

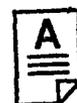
Respondent,

RESPONDENT'S MOTION TO STRIKE REPLY TO ANSWER TO
PETITION FOR REVIEW

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Attorneys for Respondent Jefferson County



ORIGINAL

I. INTRODUCTION

Respondent Jefferson County hereby moves to strike the reply filed by Petitioner Mike Belenski in response to the answer to the petition for review. The Rules of Appellate Procedure do not allow filing of a reply in this context.

II. ARGUMENT

A. **RAP 13.4 (D) PROHIBITS FILING OF A REPLY WHERE THE ANSWER DOES NOT SEEK REVIEW OF ADDITIONAL ISSUES.**

A party who files a petition for review is not allowed to file a reply to a responding party's answer unless the answering party seeks review of issues not raised in the petition for review. RAP 13.4(d). The reply must be limited to addressing only the new issues raised in the answer for which the Respondent seeks review. *Id.* Otherwise, the Supreme Court may request a reply on its own initiative. Neither event allowing the filing of a reply has occurred in this case.

In its Answer to the Petition for Review, Respondent Jefferson County did not seek review of any additional issues arising from the decision of the Court of Appeals. Petitioner's reply points only to arguments raised as to why the Petition for Review should not be granted. However, the County's Answer does not request review of additional

issues, such as the court's decision that automatically generated computer logs are "public records".

Because the Answer did not seek review of additional issues, there is nothing for Petitioner to file a reply to. As such the filing of the reply in this case violates RAP 13.4 (d).

B. PETITIONERS FAIL TO FILE A PROOF OF SERVICE.

RAP 18.5 (d) requires that all papers filed with the Court must contain a proof of service. Plaintiff did not file such proof of service.

III. CONCLUSION

The Reply to Answer to Petition for Review should be stricken and should not be considered by the Court.

DATED this 20th day of October, 2015.

Respectfully submitted,


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Attorneys for Respondent Jefferson County

DECLARATION OF SERVICE

I certify under penalty of perjury under the laws of the State of Washington that on the date specified below, I served a copy of the following document upon Petitioner, via e-mail per service agreement of the parties:

RESPONDENT'S ANSWER TO PETITION FOR REVIEW

As follows:

Mike Belenski
P.O. Box 1132
Poulsbo, WA 98370
mbelenski@gmail.com

Dated this 20th day of October, 2015 at Tumwater, Washington.


Jeffrey S. Myers

OFFICE RECEPTIONIST, CLERK

To: Marry Marze
Subject: RE: Belenski v. Jefferson County; Cause No.: 92161-0; Respondent's Mtn to Strike Reply to Answer to Petition for Review

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Supreme Court Clerk's Office

Please note that any pleading filed as an attachment to e-mail will be treated as the original. Therefore, if a filing is by e-mail attachment, it is not necessary to mail to the court the original of the document.

From: Marry Marze [mailto:Marry@lldkb.com]
Sent: Tuesday, October 20, 2015 10:30 AM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Cc: Jeff Myers <jmyers@lldkb.com>; mbelenski@gmail.com
Subject: Belenski v. Jefferson County; Cause No.: 92161-0; Respondent's Mtn to Strike Reply to Answer to Petition for Review

Please find attached Respondent's Motion to Strike Reply to Answer to Petition for Review in Belenski v. Jefferson County; Cause No.: 92161-0.

Thank you,

Marry Marze
Legal Assistant Jeff Myers
Law Lyman Daniel Kamerrer & Bogdanovich PS
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