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No. 92655-7 _____
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**IN THE SUPREME COURT
OF THE STATE OF WASHINGTON**

TRACI TURNER,

Petitioner,

v.

**VULCAN INC., PAUL ALLEN, JODY ALLEN, RAY COLLIVER,
and LAURA MACDONALD,**

Respondents.

**RESPONDENT VULCAN INC.'S MOTION TO STRIKE
PETITIONER'S UNAUTHORIZED REPLY**

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RELIEF REQUESTED

The relief sought by this motion is an order striking Petitioner Traci Turner's reply brief improvidently filed on February 2, 2016.

ARGUMENT

Petitioner Traci Turner filed her petition on December 2, 2015, seeking this Court's review of the Court of Appeals' unpublished decision affirming the trial court's orders (1) compelling arbitration; (2) denying Turner's motion to vacate the arbitration award; and (3) awarding attorney fees against Turner as provided in the arbitration agreement she had signed. Respondents answered Turner's petition in a timely manner, *but did not seek review of any aspect of the Court of Appeals' decision*. On February 2, 2016, Turner filed a reply.

The Court should strike Turner's reply because a petitioner "may file a reply to an answer *only if* the answering party seeks review of issues not raised in the petition for review." RAP 13.4(d) (emphasis added); *Oltman v. Holland Am. Line USA, Inc.*, 163 Wn.2d 236, 261, 178 (2008). Here, the answering parties did not seek review of any issue.

Misunderstanding the rule, Turner asserts that Vulcan's answer "raises new issues." Reply at 1. But the relevant question is whether the respondent affirmatively "*seeks review* of issues not raised in the petition." RAP 13.4(d) (emphasis added). Clearly, none of the Respondents have sought review of any aspect of the decision below. Respondents' answering briefs simply presented

legal arguments on the issues Turner had raised—albeit arguments which Turner chose not to address, such as the significance of *Prima Paint Corp. v. Flood & Conklin Manufacturing Co.*, 388 U.S. 395 (1967), and its progeny, the controlling precedents that govern this Federal Arbitration Act case.

Because Respondents did not seek this Court’s review of any issue, Turner’s reply is improper and should be struck. *See, e.g., Doe v. Gonzaga Univ.*, 143 Wn.2d 687, 700 n.8 (2001) (striking reply because answer “did not request that this Court address additional issues”), *rev’d on other grounds sub nom. Gonzaga Univ. v. Doe*, 536 U.S. 273 (2002).

DATED: February 3, 2016

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CERTIFICATE OF SERVICE

I, the undersigned, certify that on February 3, 2016, I caused to be served upon the following, at the address stated below, via the method of service indicated, a true and correct copy of the foregoing document.

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I certify under penalty of perjury and the laws of the State of Washington that the foregoing is true and correct.

DATED this 3rd day of February, 2016, at Seattle, Washington.

s/ Julie DeShaw
 Julie DeShaw, Legal Secretary

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Traci Turner v. Vulcan Inc., et al.
Supreme Court No. 92655-7
Court of Appeals No. 71855-0-I

Dear Clerk:

Attached for filing, please find ***Respondent Vulcan Inc.'s Motion to Strike Petitioner's Unauthorized Reply*** submitted by Counsel for Vulcan Inc., Paul Allen, and Jody Allen:

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Thank you for your assistance.

Respectfully,

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