

No. 94129-7

SUPREME COURT
OF THE STATE OF WASHINGTON

OVERLAKE FARMS B.L.K.
III LLC, a Washington limited
liability company,

Respondent,

v.

BELLEVUE-OVERLAKE
FARM, LLC, a Washington
limited liability company,

Petitioner.

MOTION TO STRIKE REPLY
IN SUPPORT OF PETITION
FOR REVIEW

1. Relief Sought By Moving Party.

Respondent Overlake Farms L.L.K. III LLC, asks the Court to strike Petitioner Bellevue-Overlake Farms, LLC's Reply in Support of Petitioner for Review because the Answer does not seek review of any issue.

B. Argument and Grounds for Relief.

"A party 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). This Court amended RAP 13.4(d) in 2006 to prohibit a “reply to an answer that is not strictly limited to responding to *an answering party’s request that the Court review an issue* that is not raised in the initial petition for review.” RAP 13.4, 2006 Drafter’s Comments, reprinted in Tegland, 3 Wash. Practice 224 (8th Ed. 2014) (emphasis added). *See Oltman v. Holland Am. Line USA, Inc.*, 163 Wn.2d 236, 261 n.17, 178 P.3d 981 (2008) (“The answer does not raise any new issues and a reply is therefore not authorized by the rules of appellate procedure.”).

Petitioners expressly acknowledge that the respondent’s Answer does not ask this Court to review the Court of Appeals decision. While mischaracterizing the arguments in respondent’s Answer, petitioner has conceded that respondent has argued in its Answer that “this Court should decline review of the Opinion reversing and remanding this matter to the trial court.” (Reply 1) Petitioner’s reply does nothing more than reiterate its arguments for review stated in its original petition, and thus violates RAP 13.4(d).

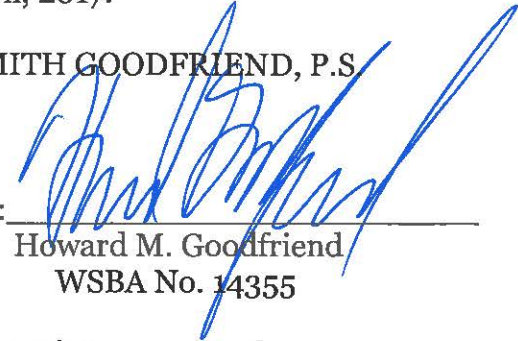
C. Conclusion.

This Court should strike petitioner’s reply.

DATED this 3rd day of April, 2017.

SMITH GOODFRIEND, P.S.

By:



Howard M. Goodfriend
WSBA No. 14355

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Attorneys for Respondent

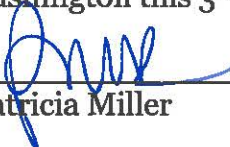
DECLARATION OF SERVICE

The undersigned declares under penalty of perjury, under the laws of the State of Washington, that the following is true and correct:

That on April 3, 2017, I arranged for service of the foregoing Motion to Strike Reply in Support of Petition for Review, to the Court and to the parties to this action as follows:

Office of Clerk Washington Supreme Court Temple of Justice P.O. Box 40929 Olympia, WA 98504-0929	<input type="checkbox"/> Facsimile <input type="checkbox"/> Messenger <input type="checkbox"/> U.S. Mail <input checked="" type="checkbox"/> E-File
Brian Lawler Denise M. Hamel Jameson Babbitt Stites & Lombard PLLC 801 Second Avenue, Ste. 1000 Seattle, WA 98104 blawler@jbsl.com dhamel@jbsl.com khuerta@jbsl.com	<input type="checkbox"/> Facsimile <input type="checkbox"/> Messenger <input type="checkbox"/> U.S. Mail <input checked="" type="checkbox"/> E-Mail
Arthur W. Harrigan, Jr. Tyler L. Farmer Theresa DeMonte Calfo Harrigan Leyh & Eakes 999 3rd Avenue, Suite 4400 Seattle, WA 98104 arthurh@harriganleyh.com tylerf@harriganleyh.com tdemonte@mcnaul.com	<input type="checkbox"/> Facsimile <input type="checkbox"/> Messenger <input checked="" type="checkbox"/> U.S. Mail <input checked="" type="checkbox"/> E-Mail

DATED at Seattle, Washington this 3rd day in April, 2017.



Patricia Miller

SMITH GOODFRIEND, PS

April 03, 2017 - 4:26 PM

Transmittal Information

Filed with Court: Supreme Court
Appellate Court Case Number: 94129-7
Appellate Court Case Title: Overlake Farms B.L.K. III, LLC v. Bellevue-Overlake Farm, LLC

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Motion to Strike Reply in Support of Petition for Review

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