

Supreme Court No. 94711-2
Court of Appeals No. 48644-0-II

IN THE SUPREME COURT
OF THE STATE OF WASHINGTON

City of Olympia,
Petitioner

v.

Nova Contracting, Inc.,
Respondent


RESPONDENT NOVA'S OBJECTION TO CITY OF OLYMPIA'S
REPLY TO NOVA'S ANSWER TO OLYMPIA'S
PETITION FOR DISCRETIONARY REVIEW

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Nova Contracting Inc.

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Nova Contracting, the Respondent in this matter, objects to the Reply to Nova's Answer filed by the City of Olympia, and requests that the Supreme Court strike and not consider it. Just as Olympia's original Petition for Review disregarded the requirements of RAP 2.5(a) by seeking review exclusively on issues not raised in its Motion for Summary Judgment below (which effectively deprives Nova of any opportunity to develop its counter-case or record on this issue), Olympia is now violating the clear restriction of RAP 13.4(d) by filing a Reply. RAP 13.4 only permits a party to file a Reply to An Answer if "the answering party seeks review of issues not raised in the petition for review." Further, [a] "reply to an answer should be limited to addressing only the new issues raised in the answer." Nova raised no new issues in its Answer. Therefore, RAP 13.4 prohibits Olympia from filing the Reply brief it filed. Additionally, because Nova raised no new issues in its Answer, the entirety of Olympia's Reply brief is outside the scope of a proper Reply under RAP 13.4. The Supreme Court should strike Olympia's Reply and retain it, unread, in a segregated portion of the file for historic and document retention purposes only.

DATED this 9th day of August, 2017.


Ben D. Cushman, WSBA #26358
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CERTIFICATE OF SERVICE

I certify that on the date signed below, I caused the foregoing document to be filed with this Court, and electronically served upon Petitioner's attorneys of record.

DECLARED UNDER PENALTY OF PERJURY ACCORDING TO THE LAWS OF THE STATE OF WASHINGTON.

Dated this 9th day of August, 2017, in Olympia, Washington.



Doreen Milward

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Transmittal Information

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Appellate Court Case Title: Nova Contracting, Inc. v. City of Olympia
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Comments:

1. Notice of Change of Firm and Address for Respondent's Attorney 2. Respondent Nova's Objection to City of Olympia's Reply to Nova's Answer to Olympia's Petition for Discretionary Review

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