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No. 99392-1

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**SUPREME COURT OF THE STATE OF WASHINGTON**

GENEVA LANGWORTHY,  
Petitioner,  
v.  
ALTERNATIVE HUMANE SOCIETY,  
and ADAM KARP,  
Respondents,

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ANSWER TO PETITION FOR REVIEW

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## **I. ISSUES PRESENTED**

Whether Langworthy has presented any issue in her Petition for Review (“Petition”) which is able to be reviewed by the Supreme Court under the Rules of Appellate Procedure (“RAP”) 13.4(b).

## **II. STATEMENT OF THE CASE**

This case consists of a contractual dispute concerning Langworthy’s relinquishment of all rights to possession of a dog, named Snorri, to AHS.<sup>1</sup> Langworthy initially approached AHS via AHS’s website to complete a request form (“Request Form”) to relinquish Snorri to AHS. See CP 184-188. Langworthy completed the Request Form and indicated that she wanted to relinquish ownership of Snorri to AHS. CP 184-188.

After completing the Request Form, Langworthy physically brought Snorri to AHS (CP 174:2-3) and Langworthy then executed the contract (the “Contract”). CP 174:3.

The Contract between AHS and Langworthy provided that Langworthy agreed to “voluntarily relinquish all rights and interest of guardianship in this (these) animal(s) to the AHS.” CP 174:3-4; CP 190. The Contract also stated Langworthy’s “intent to terminate any legal attachment to the above-described animal(s).” CP 190.

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<sup>1</sup> See Petition, pg. 2, ¶1.

After executing the Contract, Langworthy then physically handed Snorri over to AHS, completing the transaction. CP 174:2-5. After Langworthy signed the Contract, Langworthy left AHS, and left Snorri in the possession of AHS. CP 174:7-8.

On or about May 12, 2019, Langworthy contacted AHS personnel by email. CP 174:9. Langworthy's email confirmed the status of the Contract with AHS and stated, "**I realize that legally AHS now owns Snorri**" but nevertheless requested Snorri back. CP 174:9-11; Brief, pg. 43, ¶1. AHS declined to return Snorri. CP 174:12.

Thereafter, Langworthy filed suit against AHS. AHS moved for partial summary judgment and declaratory judgment asking for summary judgment dismissal of Langworthy's claims disputing the validity of the Contract, and for a declaratory judgment confirming AHS's rights of ownership of Snorri under the Contract. See CP173-215. The trial court granted AHS's motion for summary judgment and for dismissal of the entirety of the case. CP 403-404.

Langworthy appealed. The Court of Appeals affirmed the trial court's rulings.<sup>2</sup> In doing so, the Court of Appeals addressed a number of different issues raised by Langworthy in her appeal, including the trial

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<sup>2</sup> See Court of Appeals Unpublished Opinion ("Opinion"), attached in the Appendix of Langworthy's Petition, pgs. 88, et. seq.

court's rulings on AHS's motion for summary judgment, Langworthy's claims of criminal interference with a service animal, contractual issues relating to the form of the Contract, alleged lack of mental capacity, alleged disability discrimination, and AHS's motion for declaratory judgment.<sup>3</sup>

Langworthy submitted additional motions, including a motion for reconsideration and a motion to transfer certain claims to federal court, both of which were denied.<sup>4</sup>

Langworthy now presents her Petition for Review asserting discrimination on the part of the Court of Appeals. Whether there was discrimination or not by the Court of Appeals is not germane to Langworthy's claims which she brought on appeal.

### **III. ARGUMENT**

Langworthy's Petition fails to meet any of the criteria for review under RAP 13.4(b). RAP 13.4(b) sets out four criteria whereby "[a] petition for review will be accepted by the Supreme Court only" if one of the criteria is met:<sup>5</sup>

(b) Considerations Governing Acceptance of Review. A petition for review will be accepted by the Supreme Court

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<sup>3</sup> *Id.*

<sup>4</sup> See Court of Appeals Order Denying Motion for Reconsideration, attached in the Appendix of Langworthy's Petition, pg. 102. See also the December 7, 2020 Court of Appeals notation ruling indicating, *inter alia*, that the court had terminated its review and denied Langworthy's motion to transfer certain claims to federal court, attached herewith as Appendix No. 1.

<sup>5</sup> See RAP 13.4(b).

only: (1) If the decision of the Court of Appeals is in conflict with a decision of the Supreme Court; or (2) If the decision of the Court of Appeals is in conflict with a published decision of the Court of Appeals; or (3) If a significant question of law under the Constitution of the State of Washington or of the United States is involved; or (4) If the petition involves an issue of substantial public interest that should be determined by the Supreme Court.<sup>6</sup>

**A. The decision of the Court of Appeals is not in conflict with a decision of the Supreme Court.**

Langworthy alleges a conflict with a decision of the Supreme Court. However, no such conflict exists. Langworthy merely argues that the Court of Appeals should have ruled differently and fails to point to any part of the court's decision which conflicts with a decision of the Supreme Court.

Specifically, Langworthy cites to *Keck v. Collins*, 184 Wn.2d 358, 362, 357 P.3d 1080, 1082 (2015) ("Keck"), relating to analysis the trial court must consider before striking evidence. However, Langworthy does not point to any part of the Court of Appeals opinion which allegedly conflicts with the Supreme Court's decision in *Keck*.

Instead, Langworthy only states that the Court of Appeals should have ruled differently based on a "late-filed medical affidavit."<sup>7</sup> However, the Court of Appeals stated that "Langworthy had a fair opportunity to present evidence to the court in opposition to AHS's motion for summary

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<sup>6</sup> *Id.*

<sup>7</sup> See Petition, pg. 13, ¶1.

judgment and declaratory judgment.”<sup>8</sup> Therefore, where Langworthy fails to identify any part of the Court of Appeals opinion which conflicts with a decision of the Supreme Court there is no conflict with a decision of the Supreme Court.

**B. The decision of the Court of Appeals is not in conflict with a published decision of the Court of Appeals.**

Similarly, there is no conflict with a published decision of the Court of Appeals. Langworthy alleges the Court of Appeals “refused to consider” evidence which was attached to a motion for reconsideration filed with the trial court.<sup>9</sup> However, the Court of Appeals opinion points out that there was “no appealable order regarding this matter in the record for this court to review.”<sup>10</sup> The court also pointed out the fact that AHS argued that the motion for reconsideration should have been stricken as it was renoted outside the time period permitted by CR 59(b) “in an apparent attempt to have the motion considered by a different judge.”<sup>11</sup> The court went on to point out that its review “is limited to the record considered by the trial court.”<sup>12</sup>

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<sup>8</sup> See Court of Appeals Opinion, pg. 14, ¶2.

<sup>9</sup> See Petition for Review, pg. 10, ¶3.

<sup>10</sup> See Court of Appeals Opinion, pg. 11, ¶1.

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

With no order in the record for the Court of Appeals to consider, there cannot be a conflict with a published decision of the Court of Appeal. It is Langworthy's burden on appeal to provide the court with the documents she deems necessary for appeal: "The appellant has the burden of perfecting the record so that the court has before it all the evidence relevant to the issue."<sup>13</sup> (citations omitted). Moreover, "[a]n insufficient record on appeal precludes review of the alleged errors."<sup>14</sup>

Further, although Langworthy argues that the order in question was made a part of the record as it was attached to an amended notice of appeal, it should be noted that Langworthy also filed a motion for reconsideration on appeal. The motion for reconsideration submitted with the Court of Appeals raised the same issue she raises here concerning the trial court's order and the alleged evidence presented with her motion for reconsideration at the trial court. The Court of Appeals denied her motion for reconsideration. Therefore, even presuming the order in question was in fact a part of the record on appeal, the evidence Langworthy argues was not considered by the Court of Appeals was brought to the court's attention when she filed a motion for reconsideration with the Court of Appeals. The

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<sup>13</sup> *In re Marriage of Haugh*, 58 Wn. App. 1, 6, 790 P.2d 1266, 1269 (1990)

<sup>14</sup> *Bulzomi v. Dep't of Labor & Indus.*, 72 Wn. App. 522, 525, 864 P.2d 996, 998 (1994)

Court of Appeals considered Langworthy's motion for reconsideration and denied it.<sup>15</sup>

Langworthy confirms this in her Petition for Review with this Court. Langworthy states that she "apprised the Court of Appeals of the presence of the order denying the motion for reconsideration and striking the hearing...in her motion for reconsideration."<sup>16</sup> Langworthy continues, "[t]he Court of Appeals then knew that the notarized medical affidavit...was properly before the court, but they denied reconsideration."<sup>17</sup>

Therefore, contrary to Langworthy's argument that the Court of Appeals refused to consider certain evidence, Langworthy herself confirms that the evidence was presented to the court, but the Court of Appeals still denied reconsideration. Consequently, Langworthy's argument that the Court of Appeals refused to consider certain evidence is nothing more than an expression of dissatisfaction with court's decision, which is not a proper basis for appeal.<sup>18</sup>

Therefore, there is no conflict with a decision of the Court of Appeals where Langworthy argues that the court refused to consider

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<sup>15</sup> See Court of Appeals notation ruling at Appendix 1.

<sup>16</sup> See Petition for Review, pg. 17, ¶1.

<sup>17</sup> *Id.*

<sup>18</sup> See *Monty v. Peterson*, 85 Wn.2d 956, 961, 540 P.2d 1377, 1381 (1975) ("Monty").

evidence when it appears the court did in fact consider the evidence when the court considered her motion for reconsideration.

**C. There is no significant question of law under the Constitution of the State of Washington or of the United States.**

Langworthy's Petition also does not provide any basis for asserting that there is any significant question of law under the Constitution of the State of Washington or of the United States. The gravamen of Langworthy's argument is that the Court of Appeals failed to see things her way and rule in her favor. See Langworthy's Petition where she states that the Court of Appeals "failed to recognize disability discrimination", failed "to recognize that Snorri...is a service dog", failed "to effectively communicate", and "overlooked the fact that Langworthy established a prima facie case for discrimination in her original complaint."<sup>19</sup> Each of these arguments amount to nothing more than an expression of dissatisfaction with the Court of Appeals ruling which is not a basis for further appeal.<sup>20</sup>

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<sup>19</sup> See Petition, pg. 13, ¶2-3; pg. 15, ¶5; pg. 16, ¶2.

<sup>20</sup> See *Monty, supra*.

**D. The Petition does not involve an issue of substantial public interest that should be determined by the Supreme Court.**

Three factors are considered when determining whether an issue is of substantial public interest:

(1) whether the issue is of a public or private nature, (2) whether an authoritative determination is desirable to provide future guidance to public officers, and (3) whether the issue is likely to recur. (citation omitted).<sup>21</sup>

None of the three factors are met here. What was at issue in this case was a private contract between AHS and Langworthy relating to the voluntary relinquishment of a dog to AHS.<sup>22</sup> Langworthy specifically mentions the contract, i.e. the “Guardian Release Form”,<sup>23</sup> when discussing the alleged public interest. The only interests affected by the contract are the parties that entered into it - AHS and Langworthy. This is an entirely private issue.

Moreover, because the issue here concerns a private contract, no further guidance to public officers is required. Further, the issue is not likely to recur, and if somehow the issue did recur, it would recur only as additional issues involving other private contracts with individuals.

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<sup>21</sup> *Sessom v. Mentor*, 155 Wn. App. 191, 195, 229 P.3d 843, 845 (2010).

<sup>22</sup> See Petition, pg. 2, 1.

<sup>23</sup> See Petition, pg. 20, ¶1.

Langworthy also points to a case the Court of Appeals cited to – *Page v. Prudential Life Ins. Co. of Am.*, 12 Wn.2d 101, 120 P.2d 527 (1942) as “obsolete”.<sup>24</sup> In fact, the court’s citation to this case concerned an age-old legal issue – the mental capacity to contract.<sup>25</sup> The fact that this case is still binding precedent and has not been overturned some seventy-nine years later indicates that the holdings of the case are in fact well-founded.

Langworthy also discusses an issue relating to the Americans with Disabilities Act (“ADA”). However, the Court of Appeals held that the ADA simply does not apply here: “[e]ven assuming that Langworthy is disabled and that AHS is a place of public accommodation under federal and state law, there is no material question of fact whether AHS failed to accommodate her disability by providing treatment not comparable to those without disabilities.”<sup>26</sup>

Therefore, with none of the required factors met here, there can be no issue of substantial public interest.

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<sup>24</sup> See Petition, pg. 18, ¶2.

<sup>25</sup> See Court of Appeals Opinion, pg. 9, ¶2.

<sup>26</sup> *Id.*, pg. 12, ¶1.

### **E. Langworthy's Request for Fees and Costs**

Langworthy is appearing pro-se, and is not an attorney herself, and consequently should not be entitled to any attorney fees as part of this appeal. Moreover, Langworthy has not cited to any authority which would entitle her to any fees or costs. RAP 18.1 which concerns requests for attorney fees and costs, "requires more than a bald request for attorney fees on appeal."<sup>27</sup> Further, as stated by the same Supreme Court, "[a]rgument and citation to authority are required under the rule to advise us of the appropriate grounds for an award of attorney fees as costs."<sup>28</sup> Here, there is nothing more than a bald request for fees and costs. No argument or citation to authority are present as required. Therefore, any request for fees and/or costs should be denied.

### **IV. CONCLUSION**

Langworthy has not presented any issue in her Petition which is able to be reviewed by the Supreme Court under RAP 13.4(b). None of the criteria for review under RAP 13.4(b) have been met. Therefore, for each of the foregoing reasons, Langworthy's Petition for Review should be denied.

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<sup>27</sup> *Wilson Court Ltd. P'ship v. Tony Maroni's, Inc.*, 134 Wn.2d 692, 710, 952 P.2d 590, 599 (1998).

<sup>28</sup> *Id.*

DATED this 10<sup>th</sup> day of March 2021.

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**APPENDIX**

**No. 1**

*The Court of Appeals  
of the  
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*Court Administrator/Clerk*

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CASE #: 80754-4-I

Geneva Langworthy, Appellant v. Alternative Humane Society and Adam P. Karp,  
Respondents

Counsel:

The following notation ruling by Commissioner Masako Kanazawa of the Court was entered on December 7, 2020:

This Court has terminated review in this case by issuing an opinion affirming the trial court's summary dismissal of Geneva Langworthy's lawsuit and denying her motion for reconsideration. Langworthy's motion to transfer certain claims to federal court is denied.

Sincerely,



Richard D. Johnson  
Court Administrator/Clerk

HCL

*Geneva Langworthy v. Alternative Humane Society, et. al.*  
Washington State Court of Appeals Division One  
Court of Appeals No. 807544

**CERTIFICATE OF SERVICE**

The undersigned certifies under the penalty of perjury under the laws of the State of Washington that I am now and at all times herein mentioned, a citizen of the United States, a resident of the State of Washington, over the age of eighteen years, not a party to or interested in the above-entitled action, and competent to be a witness herein.

On the date given below I caused to be served true and accurate copies of the on the following individuals via electronic mail:

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DATED this 10<sup>th</sup> day of March 2021.

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