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CLERK

No. 103894-1

THE SUPREME COURT
OF THE STATE OF WASHINGTON

C.C., an individual,

Respondent/Cross-Petitioner,

v.

KIWANIS INTERNATIONAL, et al.,

Petitioners/Cross-Respondents.

ANSWER TO MOTION TO MODIFY CLERK'S RULING
RE: ANSWER TO PETITION FOR REVIEW

PFAU COCHRAN
VERTETIS AMALA
ATTORNEYS AT LAW

909 A Street, Suite 700
Tacoma, Washington 98402
(253) 777-0799

Darrell L. Cochran
WSBA No. 22851
Selena L. Hoffman
WSBA No. 43301
Christopher E. Love
WSBA No. 42832
Kevin M. Hastings
WSBA No. 42316
Bridget T. Grotz
WSBA No. 54520
Counsel for Appellants

I. INTRODUCTION

On March 26, 2025, this Court granted Respondent-Cross-Petitioner C.C.’s motion for a seven-day extension of time to file his answer to the petition for review of the Kiwanis Petitioners-Cross-Respondents. The Kiwanis Petitioners¹ thereafter filed an opposition to the motion for extension of time, arguing not only that C.C. should not receive a seven-day extension to file his answer, but also that he should be prohibited from filing *any answer* to their petition. According to the Kiwanis Petitioners, C.C.’s own petition for review is his “answer” to their petition for review.

¹ As the Court is aware, C.C. has also filed a petition for review of the Court of Appeals decision in *C.C. v. Kiwanis International, et al.*, No. 57207-9-II (Wash. Ct. App., Sept. 4, 2024), order published in part, Feb. 11, 2025. For ease of reference, C.C. refers herein to the Kiwanis Petitioners-Cross-Respondents as “the Kiwanis Petitioners” or “Petitioners.”

In a letter ruling filed on March 27, 2025, the Clerk of this Court rejected the Kiwanis Petitioners' argument. The Clerk ruled that, because RAP 13.4 contemplates the filing of multiple petitions for review, C.C. is permitted to file an answer to their petition. The Kiwanis Petitioners now seek modification of the Clerk's ruling in an attempt to preclude C.C. from responding to the issues raised in their petition for review.

As the Clerk determined, RAP 13.4 does not prohibit C.C. from raising new issues in a separate petition for review. And the rules must be "liberally interpreted to promote justice and facilitate the decision of cases on the merits." RAP 1.2(a). The Court should deny the motion to modify and reject the Kiwanis Petitioners' attempt to preclude C.C. from answering their petition for review.

II. FACTS RELEVANT TO MOTION

On February 25, 2025, the Kiwanis Petitioners filed a petition for review of the Court of Appeals decision in *C.C.*, No. 57207-9-II, seeking review of the Court's holding that RCW

23B.14.340, the corporate dissolution survival statute, does not bar C.C.’s claims against the Kiwanis entities. On March 13, 2025, C.C. also timely filed a petition for review of the C.C. decision, seeking review of the agency issues addressed therein.² The next day, this Court ruled that both petitions would be set for Department review. *Ruling of the Washington State Supreme Court*, March 14, 2025, No. 103894-1.

On March 17, 2025, the Kiwanis Petitioners filed a motion seeking additional time to respond to C.C.’s petition. The

² On February 11, 2025, the Court of Appeals granted in part C.C.’s motion to publish the C.C. decision. The Kiwanis Petitioners suggest that, because the Court of Appeals “took considerable time to decide on publication,” C.C. should have filed his petition for review on an earlier date. Motion to Modify (Mot.) at 3 n.1. This suggestion—that the parties were required to engage in a “race to the courthouse”—is contrary to the Rules of Appellate Procedure, which provide that a petition for review must be filed within 30 days of the Court’s decision on a motion to publish. RAP 13.4(a). C.C. timely filed his petition for review.

Kiwanis Petitioners titled their filing “Motion for Extension of Time to File **Reply** on Petition for Review.” (Emphasis added.) This Court rejected the Kiwanis Petitioners’ characterization of their filing as a “reply,” ruling that the motion “for an extension of time to file an **answer** to [C.C.’s] petition for review is granted. Any **answer** to the petition for review should be served and filed by May 5, 2025.” *Ruling of the Washington State Supreme Court*, March 18, 2025, No. 103894-1 (emphases added).

On March 26, 2025, C.C. requested a seven-day extension of time to file his answer to the Kiwanis Petitioners’ petition for review. The Court granted the motion, ruling that “it serves the ends of justice for [C.C.] to have a chance to respond to the petition for review.” The Court ruled that “[a]ny answer to the petition for review should be served and filed by April 3, 2025.” *Ruling of the Washington State Supreme Court*, March 26, 2025, No. 103894-1. That same day, after the Court granted C.C.’s motion, the Kiwanis Petitioners filed an opposition to the motion.

They requested that this Court not only deny C.C.’s request for an extension of time, but also that the Court “preclude [C.C.] from filing an answer” to their petition.³

On March 27, 2025, the Clerk of this Court ruled that the Kiwanis Petitioners’ motion would be treated as a motion for reconsideration of the Court’s March 26 ruling. The Clerk explained that the Kiwanis Petitioners’ “motion primarily argues that RAP 13.4 does not permit the filing of a second petition for review raising issues not addressed in the petition for review and that C.C.’s petition for review should be treated as his answer to the Kiwanis petition for review.” The Clerk then ruled that

³ A party seeks relief in our appellate courts by filing a motion with the Court. RAP 17.1(a); *see also* RAP 17.3(a). Here, rather than filing a motion seeking their requested affirmative relief, the Kiwanis Petitioners improperly requested that this Court bar C.C. from filing an answer to their petition in response to C.C.’s own motion for an extension of time to file that answer.

RAP 13.4 contemplates the filing of multiple petitions for review The petition for review filed by C.C. was filed timely and although the party has the option of raising new issues in their answer, RAP 13.4 does not expressly prohibit the raising of new issues in a separate petition for review.

The Clerk thus denied the Kiwanis Petitioners' motion for reconsideration. *Ruling of the Washington State Supreme Court*, March 27, 2025, No. 103894-1. The Kiwanis Petitioners now seek modification of the Clerk's ruling that C.C. may file an answer to their petition for review.

III. ARGUMENT

As the Clerk determined, the rules contemplate that more than one petition for review may be filed, and they nowhere preclude a party from raising new issues in a separate petition for review. Moreover, the rules must be interpreted "to promote justice and facilitate the decision of cases on the merits." RAP 1.2(a). This Court should decline to modify the Clerk's ruling.

RAP 13.4(a) provides that "[a] party" seeking review by this Court of a Court of Appeals decision "must serve on all other

parties and file a petition for review or an answer to the petition that raises new issues.” Contemplating that more than one party may file a petition for review, the rule requires that “[t]he first party to file a petition” must pay the statutory filing fee. RAP 13.4(a). *See Ruling of the Washington State Supreme Court*, March 27, 2025, No. 103894-1. And although a party may raise new issues in an answer to a petition for review, no answer is required to be filed at all. Rather, answers to petitions for review are optional. RAP 13.4(d) (“A party may file an answer to a petition for review.”).

Indeed, the rules nowhere prohibit a party from raising new issues by filing a separate petition for review. They “merely require that the issue [of which review is sought] be raised” through any of the available mechanisms. *Blaney v. Int’l Ass’n of Machinists and Aerospace Workers*, Dist. No. 160, 151 Wn.2d 203, 210 n.3, 87 P.3d 757 (2004). As this Court has recognized, parties properly seek review of issues through answering an existing petition for review or filing a “cross-petition.” *See, e.g.,*

State v. Harner, 153 Wn.2d 228, 234, 103 P.3d 728 (2004) (party could have raised additional issues for review in cross-petition for review); *State v. Cardenas*, 146 Wn.2d 400, 405, 47 P.3d 127 (2002) (same); *State v. Bobic*, 140 Wn.2d 250, 258, 996 P.2d 610 (2000) (same).

The Kiwanis Petitioners acknowledge that RAP 13.4 contemplates the filing of multiple petitions for review. However, without citation to authority, they argue that the rules permit multiple petitions for review only “by the parties’ whose interests are aligned with those of the initial petitioner.” Mot. at 5. But the rule includes no such restriction. As with statutes, our courts will not add words to a court rule where those rules have not been included. *Jafar v. Webb*, 177 Wn.2d 520, 526, 303 P.3d 1042 (2013) (“Court rules are interpreted in the same manner as statutes.”); *Rest. Dev., Inc. v. Cananwill, Inc.*, 150 Wn.2d 674, 682, 80 P.3d 598 (2003) (“[A] court must not add words where the legislature has chosen not to include them.”). Nowhere does

RAP 13.4 explicitly preclude opposing parties from filing a petition for review.

Moreover, the Kiwanis Petitioners ignore the mandate of RAP 1.2(a) that the rules “be liberally interpreted to promote justice and facilitate the decision of cases on the merits.” Indeed, to serve the ends of justice, this Court may “waive or alter the provisions of [the RAPs].” RAP 1.2(c). C.C. would be greatly prejudiced if precluded from answering the Kiwanis Petitioners’ petition for review. And this Court could not fairly consider the issues presented therein on the merits without the filing of an answer that responds to those issues. For this additional reason, this Court should reject Petitioners’ attempt to prevent C.C. from filing an answer.

The Kiwanis Petitioners accuse C.C. of attempting to procure “extra pages” by filing both a petition for review raising new issues and an answer addressing the issues raised in their

petition.⁴ Mot. at 6. But it is Petitioners who seek an advantage – the advantage of a 5,000-word petition and a 5,000-word reply, in contrast to C.C.’s sole filing of a 5,000-word answer for both responding to the issues raised by Petitioners and raising his own issues. *See* RAP 18.17(c)(10). In other words, the Kiwanis Petitioners seek to gain an advantage by forcing C.C. both to respond to the issues raised in their petition and to raise his own issues in half the number of words that Petitioners would be permitted. This Court should reject the “race the courthouse” proposed by Petitioners, which would render meaningless the 30-day time period for filing a petition for review. *See* RAP 13.4(a).

The Clerk of this Court correctly rejected the Kiwanis Petitioners’ argument that RAP 13.4 precludes C.C. from filing

⁴ Petitioners do not explain how this is unfair. Per this Court’s ruling on March 18, they may also file an answer to C.C.’s petition for review.

an answer to their petition for review. Petitioners' argument contravenes the plain language of RAP 13.4 and disregards the mandate that the rules "be liberally interpreted to promote justice and facilitate the decision of cases on the merits." RAP 1.2(a). The Court should deny Petitioners' motion to modify because the rules do not prohibit C.C. from filing his own petition. Even if the rules did preclude such a filing, the interests of justice require that C.C. be permitted to respond to the issues raised in the Kiwanis Petitioners' petition for review.

I. CONCLUSION

Because the rules do not explicitly preclude C.C. from filing his own petition for review, and because the interests of justice require that he be permitted to do so, the Court should deny the Kiwanis Petitioners' request that C.C. be prohibited from answering their petition.

Respectfully submitted this 7th day of April 2025.

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The undersigned certifies that this answer consists of
1,864 words in compliance with RAP 18.17(c)(17).

PFAU COCHRAN VERTETIS AMALA PLLC

By: /s/ Darrell L. Cochran

Darrell L. Cochran, WSBA No. 22851

Selena L. Hoffman, WSBA No. 43301

Christopher E. Love, WSBA No. 42832

Kevin M. Hastings, WSBA No. 42316

Bridget T. Grotz, WSBA No. 54520

Counsel for Respondent/Cross-Petitioner

909 A Street, Suite 700

Tacoma, Washington 98402

(253) 777-0799

**PFAU COCHRAN
VERTETIS AMALA**
ATTORNEYS AT LAW

CERTIFICATE OF SERVICE

I, Katie Hedger, hereby declare under penalty of perjury under the laws of the State of Washington that I am employed at Pfau Cochran Vertetis Amala PLLC and that on this date I served the foregoing on all parties or their counsel of record via email, legal messenger, and/or facsimile by directing delivery addressed to:

Zachary D. Rutman
Paul A. Buckley
Mallory E. Lorber
Taylor | Anderson, LLP
3655 Nobel Drive, Suite 650
San Diego, CA 92112

Amber L. Pearce
Dakota Solberg
Floyd, Pflueger, Kearns, Nedderman & Gress P.S.
200 W. Thomas Street, Suite 500
Seattle, WA 98119-4269

Aaron M. Young
Office of the Attorney General
800 Fifth Avenue, Suite 2000
Seattle, WA 98104

Charles P.E. Leitch
Patterson Buchanan Fobes & Leitch Inc. P.S.
1000 Second Avenue, 30th Floor
Seattle, WA 98104

Philip A. Talmadge
WSBA #6973
Talmadge/Fitzpatrick
2775 Harbor Avenue SW
Third Floor, Suite C
Seattle, WA 98126
(206) 574-6661

DATED this 7th day of April, 2025.

/s/ Katie Hedger
Katie Hedger
Legal Assistant

PFAU COCHRAN VERTETIS AMALA, PLLC

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- ecampbell@nwtrialattorneys.com
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- pbrown@pcvalaw.com
- phil@tal-fitzlaw.com
- shoffman@pcvalaw.com
- sklotz@nwtrialattorneys.com
- tnedderman@NWTrialAttorneys.com

Comments:

Sender Name: Jessica Meadows - Email: jmeadows@pcvalaw.com

Filing on Behalf of: Darrell L. Cochran - Email: darrell@pcvalaw.com (Alternate Email: khedger@pcvalaw.com)

Address:
909 A Street
Suite 700
Tacoma, WA, 98402
Phone: (253) 617-1642

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