

FILED
SUPREME COURT
STATE OF WASHINGTON
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BY SARAH R. PENDLETON
CLERK

SUPREME COURT
OF THE STATE OF WASHINGTON

C.C., an individual,

Respondent,

and

A.B., an individual; D.E.F., an
individual; M.R., an individual;
J.L., an individual; B.F., as
guardian for K.F., an individual;
C.B., an individual; A.M., an
individual,

Plaintiffs,

v.

KIWANIS INTERNATIONAL, a
non-profit entity; KIWANIS
PACIFIC NORTHWEST
DISTRICT, a non-profit entity;
KIWANIS OF TUMWATER, a
non-profit corporation;
KIWANIS OF CENTRALIA-
CHEHALIS, a non-profit entity;
KIWANIS OF UNIVERSITY
PLACE, a non-profit entity;
KIWANIS VOCATIONAL
HOME, a nonprofit entity;
LEWIS COUNTY YOUTH
ENTERPRISES, INC. d/b/a

No. 103894-1

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

Kiwanis Vocational Homes for
Youth, a non-profit corporation,

Petitioners,

and

CHARLES McCARTHY, an
individual; EDWARD J.
HOPKINS, an individual;
UNITED WAY OF PIERCE
COUNTY, d/b/a CHILDREN'S
INDUSTRIAL HOME and/or
COFFEE CREEK CENTER;
COFFEE CREEK CENTER, a
non-profit entity; CHILDREN'S
INDUSTRIAL HOME d/b/a
COFFEE CREEK CENTER, a
non-profit entity; MENTOR
HOUSE, d/b/a CHILDREN'S
INDUSTRIAL HOME and/or
COFFEE CREEK CENTER, a
nonprofit entity; STATE OF
WASHINGTON; STATE OF
WASHINGTON,
DEPARTMENT OF SOCIAL
AND HEALTH SERVICES,
DEPARTMENT OF
CHILDREN, YOUTH AND
FAMILY SERVICES, CHILD
PROTECTIVE SERVICES,
governmental entities,

Defendants.

A. INTRODUCTION

The Kiwanis petitioners ask for the relief designated in Part B.

B. STATEMENT OF RELIEF SOUGHT

C.C. asked this Court for an extension of time for the filing of an answer to the Kiwanis petitioners' February 25, 2025 petition for review. But C.C. was not entitled under RAP 13.4(d) to file this answer at all. The Court should have barred C.C. from filing an answer. The Kiwanis petitioners ask the Court to modify the Clerk's March 27 ruling. *See* Appendix.

C. FACTS RELEVANT TO MOTION

On February 25, 2025, the Kiwanis petitioners initially filed their petition for review regarding Division II's published opinion filed on February 11, 2025.¹ On March 13, 2025, rather

¹ C.C. filed a motion to publish Division II's unpublished opinion filed on September 4, 2024 on September 19, 2024. Division II took considerable time to decide on publication, nearly five months (September 19, 2024 – February 11, 2025), affording C.C.'s counsel *ample* time to decide on seeking review by this Court.

than filing an answer to the Kiwanis petition with its own “cross-review” issues, as RAP 13.4(d) contemplates, C.C. instead filed a 32-page pleading with a 69-page appendix he denominated a “petition for review” that chose not to respond to the corporate dissolution statute of repose issue raised by Kiwanis in its February 25 petition. C.C. instead raised his own new issues for this Court’s review relating to agency/apparent authority in his separate March 13 petition for review. In effect, C.C.’s “petition for review” is simply a RAP 13.4(d) answer.

The Clerk’s March 27, 2025 ruling concluded that parties *opposing* a previously filed petition for review could file their own separate petition for review rather than abiding by the process contemplated by RAP 13.4(d).

D. GROUNDS FOR RELIEF AND ARGUMENT

C.C.’s counsel are experienced appellate advocates who advertise to the bar their availability to provide appellate services. They are charged with knowing the RAP.

This Court interprets court rules like it interprets statutes.

In interpreting a court rule, like a statute, the Court implements the Court's intent, interpreting the rule *as a whole*, effectuating all of its provisions. *State ex. rel. Schillberg v. Everett Dist. Justice Court, Snohomish County*, 90 Wn.2d 794, 797 585 P.2d 1177 (1978).

The Clerk's interpretation of RAP 13.4(d) is erroneous. RAP 13.4 is *explicit* as to the process for seeking this Court's review. A party raises issues for this Court's review by the filing of "a petition for review or an answer to the petition for review that raises new issues." RAP 13.4(a). For a party *opposing* a petition for review and raising new issues, that party does not file a separate petition for review, it files an answer, and raises any new issues in that pleading, to which the initial petitioner *replies*.

The Clerk believed that RAP 13.4(d) contemplates multiple petitions for review. It does. But only in narrow circumstances – petitions by the parties' whose interests are aligned with those of the initial petitioner as multiple plaintiffs or multiple defendants seeking review of a Court of Appeals

decision. A party opposing a petition for review must raise any new issues in the answer.

The Clerk's interpretation renders the process of answering a petition for review, and raising new issues, entirely superfluous. Why would any respondent raising new issues to this Court not file *both* an answer to the initial petition, *and* a separate petition for review, giving themselves extra pages in *three* pleadings – answer/PFR/possible reply. The process envisioned by the Clerk will only serve to inundate the Court and its Commissioner with unnecessary added briefing on review.

Further, the Clerk's analysis contravenes the intent of the 1994 amendments to RAP 13.4(d) that were designed to permit parties answering a petition for review to raise new issues in such an answer, rather than filing a separate petition. Elizabeth A. Turner. 3 *Wash. Practice Rules Practice* (9th ed.) at 227-29.

Under RAP 13.4(d), once the Kiwanis petitioners filed their February 25, 2025 petition for review, C.C. had 30 days to file an answer. If C.C. wanted to raise new issues, and he did,

the rule required him to “raise those new issues in an answer.” He could not file a separate petition for review, hoping to give himself an opportunity for added pages beyond those allotted to him by RAP 13.4(f)/RAP 18.17, or an additional pleading – a possible reply on his March 13 petition - not permitted by RAP 13.4(a), (d).

C.C.’s March 13, 2025 “petition for review” is his RAP 13.4(d) answer. That he chose not to address the issues raised in the Kiwanis petitioners’ February 25 petition was his choice. But he is not entitled to file a pleading not contemplated by RAP 13.4(a), (d), let alone an extension on its filing.

D. CONCLUSION

This Court should modify the Clerk’s March 27 ruling and bar C.C. from filing an “answer” to the Kiwanis entities’ petition for review. His “petition for review” is that answer. RAP 13.4(d).

This document contains 826 words, excluding the parts of the document exempted from the word count by RAP 18.17.

DATED this 1st day of April, 2025.

Respectfully submitted,

/s/ Philip A. Talmadge

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APPENDIX

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March 27, 2025

LETTER SENT BY E-MAIL ONLY

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Re: Supreme Court No. 1038941 – C.C., A.B., J.L., et al. v. Kiwanis International, et al.
Court of Appeals No. 572079 – Division II
Pierce County Superior Court No. 20-2-07087-0

Counsel:

On March 26, 2025, the Court received the “OPPOSITION TO C.C.’S MOTION FOR EXTENSION OF TIME TO FILE ANSWER TO PETITION FOR REVIEW” from the Petitioners Kiwanis.

Pursuant to RAP 17.4(d), the filing will be treated as a motion for reconsideration of my March 26, 2025, ruling granting the motion to extend time to file an answer to the Kiwanis petition for review. The following ruling is entered on the motion:

The motion seeks reconsideration of my March 26, 2025, ruling granting the Respondent/Cross-Petitioners a 7-day extension of time to file an answer to the Kiwanis petition for review. The motion requests that the motion for extension of time be denied.

The 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.

RAP 13.4 contemplates the filing of multiple petitions for review as reflected in the language in RAP 13.4(a) which states that “the first party to file a petition for review must, at the time the petition is filed, pay the statutory filing fee...” 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 new issues in a separate petition for review.

Therefore the Petitioner Kiwanis’ motion for reconsideration is denied.

Sincerely,



Sarah R. Pendleton
Supreme Court Clerk

DECLARATION OF SERVICE

On said day below I electronically served via the appellate portal a true and accurate copy of the ***Motion to Modify Clerk Ruling*** in Supreme Court Cause No. 103894-1 to the following parties:

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Original E-filed via appellate portal:
Court of Appeals, Division II
Clerk's Office

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

DATED: April 1, 2025 at Seattle, Washington.

/s/ Brad Roberts
Brad Roberts, Legal Assistant
Talmadge/Fitzpatrick

TALMADGE/FITZPATRICK

April 01, 2025 - 1:43 PM

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Motion to Modify Clerk Ruling

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