

FILED
SUPREME COURT
STATE OF WASHINGTON
11/19/2021 8:00 AM
BY ERIN L. LENNON
CLERK

100394-3
COA #37687-7-III

Appeal No. 34615-3-III

IN THE SUPREME COURT OF THE STATE
OF WASHINGTON

GEORGIA A. PLUMB, JOSHUA C. PLUMB, KAMERON F.
PLUMB, THE WORD CHURCH A/K/A REV. GEORGIA
PLUMB

Appellants/Defendants, *Pro Se*

v.

U.S. BANK NATIONAL ASSOCIATION, ET AL

Respondent/Plaintiff

**APPELLANTS' MOTION FOR EXTENSION OF TIME
TO FILE PETITION FOR REVIEW**

Georgia A. Plumb, Joshua C. Plumb,
Kameron F. Plumb, Word Church aka
Rev. Georgia A. Plumb
Petitioners/Appellants Pro Se
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I. MOVING PARTY AND RELIEF SOUGHT

Pursuant to RAP 18.8(a), the Appellants (the Plumbs) hereby move for an extension of time to file their Petition for Review to the Supreme Court of Washington, regarding the Appellate Court's decision terminating review. The Plumbs respectfully ask that the Court extend the 30-day deadline for filing a Petition for Review set forth in RAP 13.4(a) by 2 months, deeming the Appellants' due date to file their Petition for Review filed in this matter as January 18th, 2022. As set forth herein, it would be extremely unjust if this extension of time is not granted to the Plumbs while they are dealing with a series of life-threatening medical issues being experienced by appellant Georgia A. Plumb, who has been diagnosed on September 25th, 2021 with Stage 4 cancer and has remained as a patient in the Yakima Memorial Hospital for the past 2 months. Her involvement is essential to her own defense and to the Appellants' defense. However, the effects of her cancer treatments, condition and medications have made it impossible

for her to participate in any meaningful way at this time. These medical issues have deprived the Plumbs of the time they need to seek this court's review of the Appellate Court's decision against the Plumbs, terminating review.

II. FACTS RELEVANT TO MOTION

The *pro se* Plumbs filed their Appellants' Motion for Reconsideration on September 23, 2021. On October 19th, 2021, the appellate court denied the Motion for Reconsideration and stated that a Petition for Review to the Supreme Court must be received within 30 days after the appellate court's October 19th decision was filed. Thus, November 18th is the due date. Pursuant to RAP 13.4(a), a petition for review of decision terminating review must be filed and received by the Court within 30 days after the decision by the appellate court is filed.

Beginning before and extending during the entire period of time that the Plumbs were preparing their motion for reconsideration of the appellate court's decision, Georgia

Plumb was in significant pain and was dealing with a number of serious medical issues requiring continuous daily care and assistance from her sons. Despite her sons' pleas for her to go to the hospital to receive treatment, Georgia Plumb repeatedly refused to go to the hospital, in order that the Plumbs would be able to make the September filing deadline. Afterward, Georgia Plumb was admitted to the emergency room for treatment, then was admitted as an in-patient for further care. She has remained in the hospital as a patient for almost 2 full months. Please see Declaration of Joshua C. Plumb.

III. GROUNDS FOR RELIEF AND ARGUMENT

Rule of Appellate Procedure 18.8(a) empowers this Court, "on its own initiative or on motion of a party," to "waive or alter the provisions of any of [the Rules of Appellate Procedure]" and to "enlarge or shorten the time within which an act must be done in a particular case in order to serve the ends of justice." Similarly, RAP 1.2(a) provides that the Rules of

Appellate Procedure "will be liberally interpreted to promote justice and facilitate the decision of cases on the merits..."

Extension of time to file a Petition for Review, however, is tempered by RAP 18.8(b)'s qualification that such relief will only be granted "in extraordinary circumstances and to prevent a gross miscarriage of justice." While RAP 18.8(b) establishes a rigorous test for extending the time to seek review in an appellate court, the test is satisfied in cases where "the filing, despite reasonable diligence, was defective due to excusable error or circumstances beyond the party's control." *Reichelt v. Raymark Indus., Inc.*, 52 Wn. App. 763, 765-66, 764 P.2d 653, 654 (1988).

In such cases of excusable error, "the lost opportunity to appeal would constitute a gross miscarriage of justice because of the appellant's reasonably diligent conduct." *Id.* at 766. The Plumbs' diligence cannot be called into question here. Georgia A. Plumb even went so far as to postpone receiving necessary medical treatment in order to make the previous filing deadline

before the Appellate Court. The Plumbs respectfully request that the Court grant this extension, because the dismissal of the Plumbs' Motion for Extension of Time to File a Petition for Review would effectuate a gross miscarriage of justice.

Given the life-threatening circumstances faced by Defendant Georgia Plumb, her importance in preparing documents and the level of care that is required for her, the ends of justice will be best served by granting the requested extension of time.

In a different case, when an appellant mistakenly filed a notice of appeal in the Court of Appeals, rather than the trial court as required by the Rules of Appellate Procedure, the appellate court extended time to allow the case to be heard on the merits. *Weeks v. Chief of Washington State Patrol*, 96 Wn. 2d 893, 896, 639 P.2d 732, 733 (1982). In *Weeks*, the appellate Court observed that the Rules of Appellate Procedure "were designed to allow some flexibility to avoid harsh results." *Id.* at 895 (citing Comment, RAP 18.8).

No prejudice will be inflicted on the Respondent U.S. Bank in the granting of an extension of time. According to the United States Federal Reserve's website, U.S. Bank has \$547,853,000 in assets, as of July 2021. (*See <https://www.federalreserve.gov/releases/lbr/current/>*). The value of the Plumbs' home represents a tiny fraction of the bank's profits. In 2013, after U.S. Bank filed its foreclosure complaint against the Plumbs, the Plumbs filed a timely response. The bank then allowed the case to languish in the courts for a year, doing nothing, before filing a motion for summary judgment. It would be strange for the bank to suddenly find itself in a rush at the exact time when Defendants Georgia Plumb is in critical health condition at the hospital.

The prejudice to the Plumbs is severe if this extension of time is not granted. If the Plumbs' motion is not granted, the Plumbs will be denied the opportunity to seek this court's review of the meritorious issues the Plumbs raised to the

appellate court, which the appellate court failed to address in its recent decision.

Since the issues raised by the Plumbs overlap with the same issues ruled on by the Supreme Courts from other jurisdictions in this nation, it is clear that those other courts consider these issues to be of substantial public interest and importance, which is why they accepted review and ruled in favor of the same positions that the Plumbs are advocating in this case. It is important that the merits of the issues of first impression that we have raised be addressed. *See* RAP 1.2(a). Our efforts to clarify these issues of first impression in this state should not be denied due to a strict filing requirement that fails to take into consideration the effect of Georgia Plumb's life-threatening illness.

Such a harsh consequence would be disproportionate and inconsistent with RAP 1.2(a)'s dictate that the Rules of Appellate Procedure be implemented to "promote justice and facilitate the decision of cases on the merits." To avoid a gross

miscarriage of justice, this Court should grant the Plumbs' Motion for Extension of Time to File a Petition for Review, in order to correct the Court of Appeals' earlier error resulting from the Court's misapprehension, and in order to clarify Washington law.

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IV. CONCLUSION

For these reasons, the Plumbs respectfully request that the Court grant their Appellants' Motion for Extension of Time to File Petition for Review, and that the new filing deadline be moved from November 18th to January 18th.

This document contains 1,293 words, excluding the parts of the document exempted from the word count by RAP 18.17.

Respectfully submitted and dated this 18th day of November,
2021.

By /s/ Georgia A. Plumb
Georgia A. Plumb

By /s/ Joshua C. Plumb
Joshua C. Plumb

By /s/ Kameron F. Plumb
Kameron F. Plumb

By /s/ Rev. Georgia A. Plumb
The Word Church
(a/k/a Rev. Georgia A. Plumb)

Appellants / Defendants *Pro Se*
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Appellants/Defendants, Pro Se

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Respondent/Plaintiff

**DECLARATION OF JOSHUA C. PLUMB IN SUPPORT
OF APPELLANTS' MOTION FOR EXTENSION OF
TIME TO FILE PETITION FOR REVIEW**

By /s/ Joshua C. Plumb

Joshua C. Plumb

Appellant / Defendant Pro Se

4902 Richey Rd. Yakima, WA 98908; Tel. (509) 965-4304;

Fax (509) 965-4334; Email josh@plumbsafety.com

I, JOSHUA C. PLUMB, declare and state as follows:

1. My name is Joshua C. Plumb. I am one of the appellants in this case, am over the age of 18, and am competent to make this declaration.

2. I make this declaration in my capacity as Georgia A. Plumb's son, and as a witness based on my personal knowledge as appears more fully herein.

3. The purpose of this declaration is to explain why we have not been able to prepare our Petition for Review in time for the November 18th deadline.

4. I was personally present with my mother on September 25, 2021 when she was diagnosed as having stage 4 bladder cancer by doctors at Yakima Memorial Hospital. She was admitted to the hospital in September 2021 and has not been discharged in the roughly 2 months since. Please see attached documents from the hospital verifying that my mother is a patient there and indicating the length of her stay. Please also

see attached letter, which is a document the hospital gave me today, verifying that my mother's ability to participate in her own affairs has been significantly impaired, both by her condition and the significant levels of medication involved. Her memory has been greatly impaired by the medication, as well as her ability to communicate and stay awake. She has been very confused. It has been virtually impossible to have a conversation with her about any legal matter.

4. My mother has been transported numerous times by ambulance from Yakima Memorial Hospital to the North Star Lodge (www.northstarlodge.com) where she received numerous radiation treatments. These treatments were very painful for her. At the nurses' request, I was present at North Star Lodge before, during and after each radiation treatment.

5. As the note from the hospital indicates, my mother is currently actively receiving treatments at the hospital. The doctors have indicated that it is extremely unlikely that she will be discharged in less than a month. However, she has slowly

begun to improve in recent days. As her condition has improved, pain levels decrease, and the medications have slowly begun to be reduced and her mental clarity has responded. However, we are not yet at a point where we can have any meaningful conversation or help in locating essential documents and research which she has produced and which we need in order to submit a competent appeal.

Her involvement is essential to our defense. She is the chief researcher for the past years, and we have been unable to locate many important documents and previous filings and research, which are essential to our case. Only she knows where they are located on her computer and where physical copies are. We have been unable to locate them, despite diligent searches.

6. The hospital has allowed me to visit my mother at the hospital. My days have been consumed with lengthy discussions with doctors, nurses, hospital staff, administrators, case workers, care coordinators, discharge planning specialists, patient advocates, state insurance specialists, etc. I have been

spending hours each day with my mother at the hospital. It is often necessary for me to be there for several hours in order to feed her. She has been unable to feed herself properly and her appetite has decreased. She has lost lots of weight. In order to avoid her vomiting, I have had to feed her a small amount over time. Since the hospital only allows me to visit her once per day, I have to stay there for hours to tend to her at a rate that works for her. The nursing staff is spread thin and they do not have the resources to dedicate to constantly caring for my mother at the level she needs.

This has dramatically limited my ability to focus on legal matters.

When nurses arrive, they tend to stay for a short time, then have to leave to take care of other patients. I have observed that if I am not there, my mother suffers tremendously due to confusion making it difficult for her to remember how to press the Nurse Call button, or to remember how to call me on the telephone, or to feed herself. The hospital only allows me to

visit her once per day (to minimize COVID exposure), so when I do visit, I have to maximize my time, make sure she is fed, making sure that I am aware of any medication changes and stay on top of things, such as her respiratory rate. She almost died due to negative reactions that she had to previous medication changes.

I have been spending up to 10 hours per day with her in the hospital. It has not been possible to conduct any meaningful discussion of any legal matters with her in her current state.

This life-and-death situation, combined with a lack of ability to find critically important documents and research, has severely crippled our ability to defend ourselves.

I have been spending hours in the same room as she slept, watching her oxygen levels, waking her up when the oxygen alarm would go off, and telling her to take deep breaths. In addition to medication requests. It has been a challenge to find a medication balance that works for her. She has been treated

for blood clots, hypercalcemia, hemorrhaging, has received multiple blood transfusions, etc.

My brother is disabled. And is very unfamiliar with many aspects of this case and has been unable to assist at this time due to our inability to find important documents related to this case.

We take this case extremely seriously. It represents the difference between homelessness and having a home. My mother has bled and suffered to make deadlines. That indicates the level of seriousness we have about this case.

Furthermore, we have been dealing with many things happening at once, including trying to get my mom signed up for insurance, lawyers from U.S. Bank (the plaintiff in this case) posting a notice on our front door on November 3rd demanding that we evacuate the property in 3 days or else they will file a lawsuit against us to evict us from the property. Which required a scramble on our part to investigate and respond to.

Furthermore, we are pro se defendants, not by choice, but being forced to be this, because we have no funds to hire a lawyer. We believe that this case would have been decided in our favor long ago, had we been able to afford a lawyer handling our case for us. As novices, we are at a tremendous disadvantage.

The combination of factors, including life-threatening illness have combined to form an extraordinary circumstance that has prevented us from completing a petition for review.

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I DECLARE UNDER PENALTY OF PERJURY OF THE
LAWS OF THE STATE OF WASHINGTON THAT THE
FOREGOING IS TRUE AND CORRECT TO THE BEST OF
MY KNOWLEDGE AND BELIEF.

Executed at Yakima, Washington, this 18th day of
November, 2021.

By /s/ Joshua C. Plumb
Joshua C. Plumb

Appellant / Defendant *Pro Se*
4902 Richey Rd. Yakima, WA 98908; Tel. (509) 965-4304;
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**CERTIFICATE OF SERVICE
OF APPELLANTS' MOTION FOR EXTENSION OF
TIME TO FILE PETITION FOR REVIEW**

By /s/ Joshua C. Plumb
Joshua C. Plumb
4902 Richey Rd.
Yakima, WA 98908
Tel. (509) 965-4304; Fax (509) 965-4334
Email: josh@plumbsafety.com

CERTIFICATE OF SERVICE

I hereby certify that on this day, November 18th, 2021, the **1) APPELLANTS' MOTION FOR EXTENSION OF TIME TO FILE PETITION FOR REVIEW**; and **2) JOSHUA PLUMB'S DECLARATION IN SUPPORT** and **3) this CERTIFICATE OF SERVICE** was served by this Court's electronic case filing system to:

Warren Lance, WSBA No. 51586
McCarthy & Holthus, LLP
108 1st Avenue South, Ste. 300
Seattle, WA 98104
warren.lance@mccalla.com

Renee S. Townsley, Clerk/Administrator
Washington State Court of Appeals: Division III
500 N. Cedar St.
Spokane, WA 99201
Fax Number: 509-456-4288; Tel. Number 509-456-3082

DATED this 18th day of November 2021 in Yakima
(Yakima County) Washington.

By /s/ Joshua C. Plumb
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Yakima, WA 98908
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Email: josh@plumbsafety.com

GEORGIA PLUMB - FILING PRO SE

November 18, 2021 - 5:00 PM

Filing Petition for Review

Transmittal Information

Filed with Court: Supreme Court
Appellate Court Case Number: Case Initiation
Appellate Court Case Title: US Bank National Association, et al v. Estate of Carl Plumb, et al (376877)

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The Original File Name was Cover Page 1.pdf
- PRV_Other_20211118165238SC421141_2885.pdf
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Other - Declaration in Support of Motion to extend time
The Original File Name was Declaration of Joshua Plumb.pdf

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- jmcintosh@mccarthyholthus.com
- warren.lance@mccalla.com

Comments:

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Address:
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Yakima, WA, 98908
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