

FILED  
SUPREME COURT  
STATE OF WASHINGTON  
7/9/2019 10:19 AM  
BY SUSAN L. CARLSON  
CLERK

NO. 9-7359-8

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

---

SIMEON OSBORN and MONICA OSBORN	)	
and the marital community composed thereof,	)	
Respondents,	)	REPLY TO OPPOSITION TO
	)	MOTION TO EXTEND TIME
	)	TO FILE PETITION FOR
v.	)	REVIEW; DECLARATION
	)	
MICHAEL CALLAHAN and ROBIN CALLAHAN	)	
individually, and the marital community composed	)	Crt of Appeals No. 77871-4-1
thereof,	)	
Appellant.	)	

---

Motion For Extension of Time

Michael J. Callahan, Pro Se  
7997 NE High School Rd.  
Bainbridge Island, WA 98110  
206-240-9019

**TABLE OF CONTENTS**

I. INTRODUCTION/BACKGROUND .....Page 3

II. THE “EXTRAORDINARY CIRCUMSTANCES” STANDARD WAS SATISFIED .....Page 3

III. CONCLUSION .....Page 5

**TABLE OF AUTHORITIES**

**State Cases**

Reichelt v. Raymark Indus., Inc., 52 Wn. App. 763, 765 (1988) .....Page 4

**Rules**

RAP 18.8(b) .....Page 4

Michael Callahan, pro se Petitioner, hereby submits this Reply to Opposition to Motion to Extend Time to File Petition for Review.

### I. Introduction/Background

I, Michael Callahan, filed my Petition for Review twenty-five minutes after the Clerk's office opened, the morning after experiencing the electronic filing problems the day the filing was due. Admittedly, the filing was late as the document was due before the 4:30 closing of the Clerk's office the day before. I thereafter filed a motion to extend time for one day, retroactively, and Respondents have objected, calling this twenty-five minute gap a "significant jurisdictional error."

Respondents accurately state that "Callahan does not feign ignorance of or confusion as to this rule", rather, I honestly and accurately explained why the filing was late, not making "excuses" as Respondent accuses, and simply set forth the "extraordinary circumstances" I experienced as allowed by RAP 18.8(b) and the cited case law. Opposition at 1. Clearly, Respondents do not want this matter decided on the merits and so they filed a curious opposition by simply ignoring the "circumstances beyond the party's control" that I set forth in my motion and declaration. I file this reply to address these inflated issues and again request that the underlying matter be decided on the merits in the interests of justice.

### II. The Extraordinary Circumstances Standard Was Satisfied

Respondents concede that the Rules of Appellate Procedure should be liberally construed and that "extraordinary circumstances" are "those instances where in the filing, despite reasonable diligence, was defective due to excusable error or circumstances beyond the parties control." Opposition at 2, citing *Reichelt v. Raymark Indus., Inc.*, 52

Wn. App. 763, 765 (1988). So the only real question is whether the “extraordinary circumstances” standard was satisfied. Apparently Respondents do believe the e-filing problems given by Petitioner would meet this standard because they go to great lengths to try and show that two Kitsap County Facebook pages and a public health cite were active on the same day. Essentially, Respondents agree that the circumstances encountered would be “extraordinary” so they resort to trying to prove Petitioner is a liar by showing these other internet cites were working in Kitsap County. The problem with this approach is two-fold: the problems Petitioner encountered were while he was in King County; and, the times they show activity occurring in Kitsap County were early in the day rather than late in the afternoon when Petitioner encountered the internet issues. Moreover, screenshots taken days later prove nothing as to internet problems occurring many days earlier, nor do they shed any light on what the e-filing problem might have been with the Court’s site or the connection thereto in King County.

As set forth in the attached declaration, I was with his wife in Seattle (not in Kitsap County), babysitting our grandchild as we do each week, when I experienced the power surge and lost the document, all as described in my motion and declaration. Then, as I further explained, after reconstructing the document in time to file, the internet was not working at my daughter’s residence. As stated, I did try the internet again that evening as soon as I got back to my own home on Bainbridge. I did this despite the fact that I believed the filing was already late since it was not done by 4:30 p.m. cut-off, and when that did not work I concluded the problem to be at the Clerk’s office or somewhere in between. (The Clerk’s office closes at 4:30 according to the e-filing website.) To state

that the problems I experienced “did not rise to the level of circumstance beyond his control” is obviously incorrect because Petitioner does not control the internet.

Respondents then imply that I would lie to this Court by trying to show the internet was working – albeit at the wrong time and in the wrong County. As Respondents state, I used to practice law, still have licenses in other jurisdictions (though generally inactive), and I take my oath and position as an officer of the Court very seriously. I would not lie to this or any Court.

I have already been chewed up by this process wherein an arbitration decision was rendered without a hearing, without the presentation of evidence and without the ability to cross-examine witnesses or even respond to the Respondent’s unsworn statements. This is simply not right and this Court can correct this miscarriage of justice by granting my motion and the Petition for Review. The Court can also restore the confidence the public should have in the arbitration system by making it clear that due process is guaranteed to those who agree to arbitrate.

### III. CONCLUSION

Petitioner has met the standard of showing extraordinary circumstances beyond his control, which led to the twenty-five minute late filing, and granting the requested extension will avoid a gross miscarriage of justice.

DATED this 9th day of July 2019.

Respectfully submitted:



Michael Callahan, Petitioner.



FILED  
SUPREME COURT  
STATE OF WASHINGTON  
7/9/2019 10:21 AM  
BY SUSAN L. CARLSON  
CLERK

NO. 9-7359-8

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

---

SIMEON OSBORN and MONICA OSBORN	)	
and the marital community composed thereof,	)	
Respondents,	)	DECLARATION OF
	)	MICHAEL CALLAHAN IN
v.	)	SUPPORT OF MOTION TO
MICHAEL CALLAHAN and ROBIN CALLAHAN	)	REPLY TO
individually, and the marital community composed	)	OPPOSITION TO EXTEND
thereof,	)	TIME TO FILE PETITION
Appellants.	)	FOR REVIEW
	)	
	)	Crt of Appeals No. 77871-4-1
	)	

---

Motion For Extension of Time

Michael J. Callahan, Pro Se  
7997 NE High School Rd.  
Bainbridge Island, WA 98110  
206-240-9019

I, Michael Callahan, under penalty of perjury under the laws of the State of Washington, declare as follows:

1. I am the Petitioner in the above-entitled matter and make this declaration of my own personal knowledge about matters of which I am competent to testify.

2. The facts set forth in the foregoing Reply to Opposition to Motion to Extend Time To File Petition For Review are true and correct to the best of my knowledge.

DATED this 9th day of July 2019.

Respectfully submitted:



Michael Callahan, Petitioner.



**MICHAEL CALLAHAN - FILING PRO SE**

**July 09, 2019 - 10:21 AM**

**Transmittal Information**

**Filed with Court:** Supreme Court  
**Appellate Court Case Number:** 97359-8  
**Appellate Court Case Title:** Simeon J. and Monica Osborn v. Michael and Robin Callahan  
**Superior Court Case Number:** 16-2-22333-8

**The following documents have been uploaded:**

- 973598\_Other\_20190709102004SC183419\_1224.pdf  
This File Contains:  
Other - Decl in Support of Reply to Opp  
*The Original File Name was Declaration of Michael Callahan.pdf*

**A copy of the uploaded files will be sent to:**

- jeff@smythlaw.com
- shaunta@smythlaw.com

**Comments:**

---

Sender Name: Michael Callahan - Email: mctrustee@gmail.com  
Address:  
7997 NE High School Rd.  
Bainbridge Island, WA, 98110  
Phone: (206) 240-9019

**Note: The Filing Id is 20190709102004SC183419**