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SUPREME COURT  
STATE OF WASHINGTON  
6/1/2023 1:29 PM  
BY ERIN L. LENNON  
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NO. 101989-1

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**IN THE SUPREME COURT  
OF THE STATE OF WASHINGTON**

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(Court of Appeals No. 57581-7-II)

**ERIC C. BETTEN and MICHAEL R. MCPHERSON,  
as Co-Personal Representatives of the Estate of Julia H.  
Betten, Deceased**

**Plaintiffs/Respondents,**

**v.**

**ALLEN MCPHERSON and NIKKALA L.  
MCPHERSON, husband and wife, and the marital  
community comprised thereof; and J. DOES 1-10 and  
all other occupants of 1148 S. Pekin Rd., Woodland  
Washington 98674,**

**Defendants/Appellants.**

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**RESPONDENTS' MEMORANDUM OPPOSING  
MOTION TO EXTEND TIME**

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Bradley S. Wolf, WSBA No.  
21252  
BAUMAN & WOLF, PLLC  
Post Office Box 2095  
Tacoma, Washington 98401  
*Attorneys for Respondents*

Come now the Respondents and submit this  
Memorandum Opposing the Appellant's Motion to Extend  
Time.

### **SUMMARY OF HISTORY OF THE DISPUTE**

The following is a concise procedural history of this  
dispute.

#### **Foreclosure Action (No. 15-2-00917-7)**

Respondents Eric and Michael McPherson are the  
representatives of the Estate of Julia H. Betten, hereafter "The  
Estate." The Estate was the holder of a promissory note, secured  
by a deed of trust against property located in Cowlitz County,  
Washington. The Estate was the Plaintiff in an action to  
judicially foreclose the said deed of trust, filed under Cowlitz Co.  
Superior court Cause No. 15-2-00917-7, against Alan  
McPherson, et. al.

The action was defended under a claim that the loan in  
question was intended to be a gift and that the statute of  
limitations had expired.

On summary judgment, dismissing these defenses, the court granted a judgment of foreclosure, and a Sheriff's sale of real estate in 2016. The Estate was the successful bidder and acquired title to the property. The present Appellant, (pro se in this appeal) Allen McPherson, was represented by counsel in this case. Appellant (pro se), Nikkala L. McPherson, was identified as a "Jane Doe," Defendant, served by publication, and was defaulted.

**Quiet Title/Ejection Action (No. 18-2-01334-08)**

Due to a dispute over the validity of the above judgment against Appellant, Nikkala L. McPherson, and because Nikkala and Alan McPherson refused to vacate the property, The Estate brought an action for quiet title and ejectment against Nikkala and Alan McPherson, under Cowlitz Co. Superior court Cause No. 18-2-01334-08. In that case, both Appellants were served, and represented by counsel. The case resulted in a judgment, in 2020, quieting title in The Estate and ejection of the Defendants Nikkala and Alan McPherson. To the extent that Nikkala

McPherson had any objection to the court's jurisdiction in the prior case, she had every opportunity to present her defenses in this case. All defenses were rejected by the court.

### **Appeal in Cause No. 54507-1-II**

Appellants, Nikkala and Alan McPherson, then filed an appeal in connection with the 18-2-01334-08 cause number in Division II of the Court of Appeals, Cause No. 54507-1-II. This resulted in the trial court's decision being affirmed.

During the appeal, Nikkala and Alan McPherson attempted to raise issues related to the original 2015 foreclosure case, which they never appealed. The Unpublished Opinion at Pg. 7, Footnote 3 cited their "back door attempt to bring an untimely appeal in the [foreclosure] case." (**Exhibit A** to the Declaration of Bradley S. Wolf).

### **Appeal to Washington Supreme Court, Case No. 100670-5**

Appellants then filed a petition for review with the Washington State Supreme Court, under Case No. 10067-5. Review was denied. (**Exhibit B** to the Declaration of Bradley S. Wolf).

**Further Proceedings in the Quiet Title/Ejectment Action (No. 18-2-01334-08)**

Following mandate, Appellant's Nikkala and Allen McPherson filed a Motion for a New Trial, under No. 18-2-01334-08. This motion was denied on 8/17/22.

**Further Proceedings in the Foreclosure Action (No. 15-2-00917-7)**

On September 19, 2022, Nikkala and Alan McPherson filed a motion for a new trial. After this was denied, Appellants filed "Defendants Motion for an Order of Reconsideration" in the Foreclosure Action, No. 15-2-00917-7. This was denied by Order dated October 17, 2022.

**Second Appeal (Case No. 57581-7-II)**

On November 16, 2022, Nikkala and Alan McPherson filed a Notice of Appeal under Cause No. 15-2-00917-7. The Notice of Appeal referenced 2 Orders being appealed:

The Order on the Motion for Reconsideration under Cause No. 15-2-00917-7, dated October 17, 2022; and

The Order Denying a Motion for a New Trial under Cause No. 18-2-01334-08, dated August 18<sup>th</sup>, 2022.

### **Dismissal of This Appeal by Court Commissioner Aurora**

#### **R. Bearse**

On January 19, 2023, Court Commissioner Aurora R. Bearse dismissed the appeal from which the Appellants are now seeking review by this court. The basis of the decision by the Court of Appeals was that:

“Appellants Allen and Nikkala McPherson filed a notice of appeal on November 16, 2022, attaching two orders entered in two different superior court cause numbers. One was an October 17, 2022, order on reconsideration entered in Cowlitz County Superior Court (CCSC) No. 15-2-00917-7

(Reconsideration Order). The other was an August 18, 2022, order denying a new trial in CCSC No. 18-2-01334-08 (New Trial Order). (Page 2, Wolf **Exhibit C**).

As to the “New Trial Order,” the Notice of Appeal was filed approximately 3 months after the decision. Thus, the court ruled that “The appeal of this order is untimely.” *Id.*

As to the “Reconsideration Order,” the court noted that the notice of appeal was timely filed. But the underlying order that was being reconsidered was the rejection of a CR 59 motion filed more than 7 years after the entry of judgment. Therefore, the court noted that “the CR 59 motion was filed more than 10 days after the 2015 entry of summary judgment.”

When the court issued the above ruling, it also confronted an instance where (like the Motion to Modify), the Appellants claimed that they had not been informed of the superior court’s entry of an order. The Court of Appeals in its order made the cautionary statement of the Appellant’s own responsibility to track the entry of orders: “They appear to

argue that they were unaware of previously-entered judgments . . . In any event, litigants have a responsibility to track the entry of orders, and pro se litigants are held to the same standard. *Bostwick v. Ballard Marine, Inc.*, 127 Wn.App. 762, 775-76, 112 P.3d 571 (2006), etc.) Id. Wolf **Exhibit C**.

Appellants then filed a Motion to Modify the Commissioner's ruling. This was denied. Although the order denying the motion to modify was entered on March 8, 2023, it was apparently not emailed to the Appellants until April 10, 2023.

**Petition for Review to the Supreme Court  
(No. 101989-1, currently before this court.)**

On May 12, 2023, Appellant's filed the present Petition for Review. The Petition was untimely, having been filed over 2 months after the Order denying the Motion to Modify. But even giving the Appellants the benefit of a decision date of April 10, 2023, (when they received the order), the Petition for Review was untimely, having been filed 32 days after the Motion to Modify was denied.

By letter dated May 16, 2023, this Court ordered the Appellants to show good cause for the delay in the filing of their petition by May 26, 2023. However, the Appellants were late once again. They did not file either their Motion to Extend Time, or the supporting Declaration until May 30, 2023.

### **Summary**

In short, what is now before the court is an *untimely* Motion to Extend Time, for an *untimely* Petition for Review, following a dismissal of an *untimely* appeal in the 2018 case, and a dismissal of an appeal in the 2015 case of the Superior Court's dismissal of a CR 59 motion, that was itself 7 years *untimely*.

### **Prior History of Failure to Meet Other Deadlines in the Appeals**

This is also not the first instance of their failing to meet internal deadlines within those appeals. The following is a list of their previous documented failure to meet court deadlines:

Exhibit to Wolf Declaration	Court of Appeals Case No. 545071-1-II	
D.	4/6/2020	Motion to Extend Filing Date for Documents to Perfect Appeal
E.	5/6/2020	Motion to Extend Filing Date for Documents to Perfect Appeal
F.	9/2/2020	Motion for Extension of Time to File Designation of Clerks' Papers And Exhibits in Compliance with RAP 9.6
G.	10/2/2020	Motion for Extension of Time to File Designation of Clerk's Papers
H.	11/23/20	Motion for Extension of Time to File Brief in Compliance with RAP 10.2
I.	11/23/20	Motion for Extension of Time to File Brief

## ARGUMENT

As was noted by the Court of Appeals, *pro se* litigants are held to the same standard as attorneys. *Bostwick v. Ballard Marine, Inc.* 127 Wn.App. 762, 775-76, 112 P.3d 571 (2005) (citing *Beckman ex. Rel. Beckman v. State*, 102 Wn.App. 687, 695, 11 P.3d 313 (2000)); *Patterson v. Superintendent of Pub. Instruction*, 76 Wn.App. 666, 671, 887 P.2d 411 (1994).

To support a motion to extend time to file a Petition for Review, the motion must be supported by evidence of good cause for the delay. A motion for extension to file is normally not granted. RAP 18.8(b).

The denial of the Motion to Modify was entered on March 18, 2023. Yet, the Appellants waited to file their Petition for Review until May 12, 2023. This is more than two months late. The Appellants may claim that they are excused because the March 18, 2023, order was not sent to them until April 10<sup>th</sup>, 2023. But this delay is not excused when only two months prior, the

Court of Appeals specifically cautioned them that “litigants have a responsibility to track the entry of orders.”

Even if the court were to consider the denial of the Motion to Modify as having been entered April 10<sup>th</sup>, 2023, they were still 2 days late, having filed the Petition for Review on May 12, 2023.

The Appellants do not offer any explanation for missing what may otherwise have been a May 10<sup>th</sup>, 2023, deadline. The only explanation they offer is to imply some fault for the missed deadline on a paralegal they employed to assist them with their Petition. A decision to rely upon a non-attorney is not reasonable. Moreover, the email that they submitted attached to their motion indicates that the paralegal was not even retained until May 7, 2023, which is 3 days before the filing deadline. This dispute has been pending for over 7 years. If the Appellants try to meet a known court deadline by seeking assistance only 3 days from the deadline, they do so at their own peril.

Even if the Appellants had retained an attorney, Appellants are bound by the acts or omissions of their own representative. And therefore, they would have to submit evidence of why *that professional* failed to meet the deadline. This has not been done.

In conclusion, good cause has not been submitted in support of this Motion to Extend, and it should be denied.

Respectfully submitted: June 1, 2023.

*Pursuant to RAP 18.17, I hereby certify that this motion contains 1,709 words.*

**BAUMAN & WOLF, PLLC**

By: s/ Bradley S. Wolf  
Bradley S. Wolf, WSBA No. 21252  
*Attorneys for Respondents*

## CERTIFICATE OF SERVICE

The undersigned certifies under penalty of perjury under the laws of the State of Washington that I am the attorney for Respondents, over the age of 18 years, not a party to nor interested in the above-entitled action, and competent to be a witness herein. On the date stated below, I caused to be served a true and correct copy of the foregoing document on the below-listed parties record by the methods noted:

Via Appellate Portal to the following:

Nikkala L. McPherson  
9307 N.E. 95<sup>th</sup> St.  
Vancouver, WA 98662  
Nikkala66@gmail.com

Allen McPherson  
P.O. Box 1097  
Woodland, WA 98674  
allenmcpherson7@gmail.com

DATED: June 1, 2023.

**BAUMAN & WOLF, PLLC**

By: /s: *Bradley S. Wolf*  
Bradley S. Wolf, WSBA No. 21252  
*Attorneys for Respondents*

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**IN THE SUPREME COURT  
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(Court of Appeals No. 57581-7-II)

**ERIC C. BETTEN and MICHAEL R. MCPHERSON,  
as Co-Personal Representatives of the Estate of Julia H.  
Betten, Deceased**

**Plaintiffs/Respondents,**

**v.**

**ALLEN MCPHERSON and NIKKALA L.  
MCPHERSON, husband and wife, and the  
marital community comprised thereof; and J.  
DOES 1-10 and all other occupants of 1148 S.  
Pekin Rd., Woodland Washington 98674,**

**Defendants/Appellants.**

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**DECLARATION OF BRADLEY S. WOLF IN  
OPPOSITION TO APPELLANT'S MOTION TO  
EXTEND TIME**

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Bradley S. Wolf, WSBA 21252  
BAUMAN & WOLF, PLLC  
Post Office Box 2095  
Tacoma, Washington 98401  
*Attorneys for Respondents*

I, Bradley S. Wolf, do hereby declare:

1. I am an attorney representing the Respondents in the above-entitled action and offer this Declaration in Opposition to the Appellants' Motion to Extend Time.

2. Attached hereto as **Exhibit A** is a copy of the Court of Appeal's Unpublished Opinion filed in case No. 54507-1-II.

3. Attached hereto as **Exhibit B** is a copy of this Court's Order denying review in Case No. 10067-5.

4. Attached hereto as **Exhibit C** is a copy of the Order Dismissing Appeal by Commissioner Aurora R. Bearse dated January 19, 2023, under Case No. 57581-7-II

5. Attached hereto as **Exhibits D-J** are copies of various other motions filed by the Appellants in Cause No. 57581-7-II, representing instances of the Appellants failing to meet internal deadlines within their appeal:

Exhibit	Court of Appeals Case No. 545071-1-II	
D.	4/6/2020	Motion to Extend Filing Date for Documents to Perfect Appeal
E.	5/6/2020	Motion to Extend Filing Date for Documents to Perfect Appeal
F.	9/2/2020	Motion for Extension of Time to File Designation of Clerks' Papers And Exhibits in Compliance with RAP 9.6
G.	10/2/2020	Motion for Extension of Time to File Designation of Clerk's Papers
H.	11/23/20	Motion for Extension of Time to File Brief in Compliance with RAP 10.2
I.	11/23/20	Motion for Extension of Time to File Brief
J.	2/22/22	Motion for Extension of Time to File Petition for Review

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

Dated: June 1, 2023.

*Pursuant to RAP 18.17, I hereby certify that this declaration contains 259 words.*

**BAUMAN & WOLF, PLLC**

By: s/ Bradley S. Wolf  
Bradley S. Wolf, WSBA No. 21252  
*Attorneys for Respondents*

*Executed in Tacoma, Washington*

## CERTIFICATE OF SERVICE

The undersigned certifies under penalty of perjury under the laws of the State of Washington that I am the attorney for Respondents, over the age of 18 years, not a party to nor interested in the above-entitled action, and competent to be a witness herein. On the date stated below, I caused to be served a true and correct copy of the foregoing document on the below-listed parties record by the methods noted:

Via Appellate Portal to the following:

Nikkala L. McPherson  
9307 N.E. 95<sup>th</sup> St.  
Vancouver, WA 98662  
Nikkala66@gmail.com

Allen McPherson  
P.O. Box 1097  
Woodland, WA 98674  
allenmcpherson7@gmail.com

DATED: June 1, 2023.

**BAUMAN & WOLF, PLLC**

By: **s/ Bradley S. Wolf**

Bradley S. Wolf, WSBA No. 21252

*Attorneys for Respondents*

*Executed in Tacoma, Washington*

# EXHIBIT A

January 19, 2022

**IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON**

**DIVISION II**

ERIC C. BETTEN and MICHAEL R.  
McPHERSON, as Co-Personal Representatives  
of the Estate of Julia H. Betten, Deceased,

Respondents,

v.

ALLEN McPHERSON and NIKKALA  
McPHERSON, husband and wife, and the  
marital community comprised thereof; and  
J. DOES 1-10 and all other occupants of  
1148 S. Pekin Rd., Woodland, WA 98674,

Appellants.

No. 54507-1-II

UNPUBLISHED OPINION

PRICE, J. — Allen and Nikkala McPherson<sup>1</sup> appeal the superior court’s **decision granting** the personal representatives’ summary judgment motion in a quiet title action. Three years before the quiet title action, the personal representatives received possession of the property following a foreclosure action. The McPhersons argue that the initial foreclosure was improper because notice was not properly served. We find that arguments related to the foreclosure are barred by collateral estoppel. The McPhersons also raise additional issues that we decline to consider. Finally, the McPhersons argue that the superior **court erred by granting the personal representatives’ request** for attorney fees and that we **should deny the personal representatives’ request for attorney fees on**

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<sup>1</sup> Because the appellants share the same last name, they are referred to using their first names and collectively as the McPhersons.

appeal. We decline to consider the superior court's grant of attorney fees and decline the personal representatives' request for fees on appeal. We affirm the superior court.

## FACTS

### I. BACKGROUND

In 2008, Allen acquired property using a loan from his stepfather. The deed was conveyed to "Allen McPherson, a married man, as his separate estate." Clerk's Papers (CP) at 23 (internal quotation marks omitted). At the time, Allen was legally married although he and his wife Nikkala had been separated since 1994.<sup>2</sup> In exchange for the loan, Allen executed and delivered a promissory note payable to his stepfather in the principal sum of \$229,000. Allen also executed and delivered a deed of trust on the property to his stepfather in which he stated that he was granting the deed as "a married man, as his separate estate." CP at 52.

Allan never made payments on the promissory note. His stepfather died in March 2014, and Allan's mother then took title to the promissory note and deed of trust. She died six months later.

### II. 2015 FORECLOSURE ACTION

The personal representatives of Allen's mother's estate brought a foreclosure action in 2015 against Allen and "Jane Doe McPherson, his wife, and all other persons or parties unknown claiming any right, title, estate, heir or interest in the [property]." CP at 66. In his answer to the complaint, Allen stated that he was "unmarried." CP at 81.

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<sup>2</sup> Nikkala filed for dissolution in 1994, but the dissolution was never completed and later dismissed for failure to prosecute.

The summons was served by publication for unknown defendants. After more than sixty days following the first publication, when no unknown defendants had appeared or answered the complaint, the superior court entered an order of default and a judgment against unknown defendants. The superior court ordered that the defaulted **defendants were “forever barred and foreclosed” from further action except for the statutory right of redemption.** CP at 77.

Allen opposed the foreclosure action by arguing that the purported loan was a gift. However, the only supporting evidence he provided was his own testimony **about Carl’s** statements. The evidence was stricken by the superior **court under the dead man’s statute.** The superior court granted the personal representatives summary judgment against Allen. Allen filed a motion for reconsideration that was denied, and the decision was not appealed.

The personal representatives purchased the property at the execution sale and received the deed to the property.

### III. 2018 QUIET TITLE ACTION

After the sale, Allen refused to leave the property and instead claimed that he and Nikkala had a community interest in the property. Thus, in 2018, the personal representatives brought a claim for quiet title, trespass, and ejectment against the McPhersons. The McPhersons again asserted that the loan was actually a gift. They also argued that the foreclosure action was invalid because Nikkala had not been properly served.

The personal representatives filed a partial motion for summary judgment on the quiet title claim. In response, the McPhersons filed their own motion for summary judgment arguing that the foreclosure action was invalid. In addition to arguing that the loan was a gift and service on Nikkala was improper, the McPhersons argued that the personal representatives had breached their

fiduciary duties. The superior court denied the McPhersons motion for summary judgment and granted summary judgment to the personal representatives on the quiet title claim. When the McPhersons again refused to leave the property, the superior court issued a writ of ejectment.

Following the entry of the judgment and the issuance of the writ, the personal representatives filed a motion for an award of costs and attorney fees arguing that they were entitled to costs and fees. The personal representatives argued that an award of fees was warranted because they were forced to bring a second action to obtain possession and clear title of the property and had to reargue many of the issues adjudicated in the foreclosure action. The personal representatives also argued that the continued refusal of the McPhersons to leave the property, even after the superior court rendered judgment quieting title, forced them to obtain and enforce a writ of ejectment.

The promissory note provided that the prevailing party in an action arising out of the note is entitled to its reasonable attorney fees. The deed of trust also stated that the grantor agreed to pay reasonable attorney fees in a foreclosure action arising out of the deed. Additionally, under Washington law, a superior court may in its discretion grant costs including reasonable attorney fees to any party in proceedings involving trusts and decedent's estates and properties. RCW 11.96A.150. The superior court granted the personal representatives their fees, finding that they were entitled to them by contract and statute.

The McPhersons appeal the superior court's orders and award of fees.

## ANALYSIS

### I. SUMMARY JUDGMENT

#### A. LEGAL PRINCIPLES

Summary judgment is appropriate if there is no dispute as to any material facts and the moving party is entitled to judgment as a matter of law. CR 56(c). We review decisions on summary judgment de novo, engaging the same inquiry as the superior court viewing the facts and all reasonable inferences in a light most favorable to the nonmoving party. *Williamson, Inc. v. Calibre Homes, Inc.*, 147 Wn.2d 394, 398, 54 P.3d 1186 (2002). Whether collateral estoppel bars the relitigation of an issue is also reviewed de novo. *Christensen v. Grant County Hosp. Dist. No. 1*, 152 Wn.2d 299, 305, 96 P.3d 957 (2004).

**“Collateral estoppel, or issue preclusion, bars relitigation of an issue in a subsequent proceeding involving the same parties.”** *Id.* at 306. It is distinguished from claim preclusion or *res judicata* “ ‘in that, instead of preventing a second assertion of the same claim or cause of action, it prevents a second litigation of *issues* between the parties, even though a different claim or cause of action is asserted.’ ” *Id.* at 306 (internal quotation marks omitted) (quoting *Rains v. State*, 100 Wn.2d 660, 665, 674 P.2d 165 (1983)). Collateral estoppel applies only to issues that were actually litigated and were essential and finally determined in a prior proceeding. *Id.* at 307.

The party seeking application of collateral estoppel must demonstrate that four requirements are met for the doctrine to apply:

- (1) the issue decided in the earlier proceeding was identical to the issue presented in the later proceeding,
- (2) the earlier proceeding ended in a judgment on the merits,
- (3) the party against whom collateral estoppel is asserted was a party to, or in privity with a party to, the earlier proceeding, and
- (4) application of collateral estoppel does not work an injustice on the party against whom it is applied.

*Id.*

Pro se litigants are held to the same standard as attorneys and must comply with procedural rules on appeal. *In re Marriage of Olson*, 69 Wn. App. 621, 626, 850 P.2d 527 (1993). An appellant is required to set forth “**argument in support of the issues presented for review, together with citations to legal authority and references to relevant parts of the record.**” RAP 10.3(a)(6). We need not consider arguments that are not supported by citations to the record or legal authority. *Cowiche Canyon Conservancy v. Bosley*, 118 Wn.2d 801, 809, 828 P.2d 549 (1992).

#### B. APPLICATION

The McPhersons raise several arguments in their appeal of the superior court’s summary judgment order. Most of the McPhersons’ arguments appear to be directed to the validity of the foreclosure action. The McPhersons appear to argue that the superior court should have granted the McPhersons’ motion for summary judgment because Nikkala was not properly served in the foreclosure action. They maintain that the lack of service on Nikkala violated her due process rights and Washington law, arguing that she should have been served individually and that even under service of an unknown defendant, Nikkala was not properly served. The McPhersons also argue that this failure to properly serve Nikkala in the foreclosure action was discrimination and a due process violation.

Arguably related to both the foreclosure and the quiet title, the McPhersons also argue that the personal representatives breached fiduciary duties by not following the mother’s wishes in her will, singling out Allen to “cause harm,” using their position as a weapon, and misrepresenting

facts to the superior court. **Appellant’s Opening Br.** at 3, 4. They argue that the personal representatives brought the foreclosure action in bad faith and without legal basis.

The McPhersons have incessantly attempted to relitigate the foreclosure in this case.<sup>3</sup> We find that these arguments related to the foreclosure are barred by collateral estoppel. First, the issues are identical because, here, the McPhersons are raising issues directly related to the process of the foreclosure case and the validity of the title resulting from the sale. Second, the foreclosure action ended with **the superior court granting the personal representatives’ motion for summary judgment**, which was a final judgment on the merits. Third, Nikkala was not only a party to the earlier proceeding as an unnamed defendant, she was also in privity with her husband Allen who was a party to the earlier proceeding. Fourth and finally, because there was an opportunity to litigate these issues during the foreclosure action and the McPhersons have not provided compelling reasons for why these issues were not raised in the first action, the application of collateral estoppel here does not result in injustice.

Because the requirements have been met, we find that the McPhersons’ arguments regarding service of process and breach of fiduciary duty related to the foreclosure are barred by collateral estoppel.

For issues arguably unrelated to the foreclosure, such as additional alleged breaches of fiduciary duties by the personal representatives, the McPhersons fail to support their allegations

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<sup>3</sup> Following the filing of a notice of appeal, the McPhersons requested that documents from the foreclosure action that were not a part of the record below be included on appeal. Our commissioner denied this request. **Ruling by Comm’r** (Sept. 29, 2020). The McPhersons then filed a motion requesting to modify the notice of appeal to include the foreclosure action. Our commissioner **again denied this “back door attempt to bring an untimely appeal in the [foreclosure] case.” Ruling by Comm’r** (Nov. 20, 2020).

with citations to legal authority. Under RAP 10.3(a)(6), we may decline to consider “bald assertions” that fail to reference any legal authority. *Brummet v. Washington’s Lottery*, 171 Wn. App. 664, 681, 288 P.3d 48 (2012). Therefore, we decline to address these arguments.

Finally, the McPhersons raise certain additional issues only in their reply brief and the supplement to their reply brief. They appear to argue, for example, that the personal representatives did not have standing to bring this claim and the statute of limitations related to the promissory note prevented the foreclosure. These issues generally appear to be yet another attempt to relitigate the foreclosure, but we decline to review them because an appellant may not raise new issues in a reply brief. RAP 10.3(c); *In re Marriage of Sacco*, 114 Wn.2d 1, 5, 784 P.2d 1266 (1990).<sup>4</sup>

## II. ATTORNEY FEES

### A. LEGAL PRINCIPLES

Attorney fees may also be awarded in “any action on a contract” where provided for in such contract to the prevailing party, even where the fees must be paid by an individual who was not originally a party to the contract. RCW 4.84.330; *Yuan v. Chow*, 96 Wn. App. 909, 915-16, 982 P.2d 647 (1999). “[A]n action is on a contract if the action arose out of the contract and if the contract is central to the dispute.” *Seattle First Nat’l Bank v. Washington Ins. Guar. Ass’n*, 116 Wn.2d 398, 413, 804 P.2d 1263 (1991).

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<sup>4</sup> The McPhersons argue for the first time on appeal that the personal representatives should have produced the original promissory note to the superior court instead of a copy. Because this argument was not made to the superior court, we decline to address it. RAP 2.5(a).

Additionally, attorney fees may be granted on appeal if the right to recover is granted by applicable law. RAP 18.1. **“Contractual authority as a basis for an award of attorney’s fees at trial also supports such an award on appeal.”** *Marine Enterprises, Inc. v. Sec. Pac. Trading Corp.*, 50 Wn. App. 768, 774, 750 P.2d 1290 (1988).

B. SUPERIOR COURT FEES

The McPhersons argue that the superior court incorrectly granted the personal **representatives’** attorney fees below. They offer no citations to statutes, case law, or the record in support of this contention. *See generally* Br. of Appellant. As explained above, pro se litigants are held to the same standard as attorneys. *In re Marriage of Olson*, 69 Wn. App. at 626. Under RAP 10.3(a)(6), we decline to address this issue.

C. FEES ON APPEAL

The personal representatives request that they be awarded their attorney fees and costs on appeal under contract.<sup>5</sup> We deny this request.

This action arose out of neither the promissory note nor the deed of trust, and those documents are not central to this dispute. This is a quiet title action that arose out of the **McPhersons’ refusal to relinquish control of property after the foreclosure.** Although the McPhersons have attempted to make the promissory note and the deed of trust central to this dispute, their arguments are misplaced. Because this is not an action on a contract, we deny the **personal representatives’ request for attorney fees** based on contract.

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<sup>5</sup> The personal representatives did not ask for their fees under RCW 11.96A.150. Therefore, we do not address whether they would have been entitled to fees under the statute.

CONCLUSION

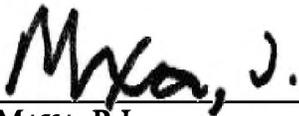
In conclusion, we affirm the superior court and deny the personal representatives their fees on appeal.

A majority of the panel having determined that this opinion will not be printed in the Washington Appellate Reports, but will be filed for public record in accordance with RCW 2.06.040, it is so ordered.



PRICE, J.

We concur:



MAXA, P.J.



VELJACIC, J.

# EXHIBIT B

# THE SUPREME COURT OF WASHINGTON

ERIC BETTEN, et al.,	)	No. 100670-5
	)	
Respondents,	)	<b>ORDER</b>
	)	
v.	)	Court of Appeals
	)	No. 54507-1-II
ALLEN MCPHERSON, et al.,	)	
	)	
Petitioners.	)	
	)	
_____	)	

Department II of the Court, composed of Chief Justice González and Justices Madsen, Stephens, Yu, and Whitener, considered at its July 12, 2022, Motion Calendar whether review should be granted pursuant to RAP 13.4(b) and unanimously agreed that the following order be entered.

IT IS ORDERED:

That the “Motion for Extension of Time to File Petition for Review in Compliance With Rule 13.4” is denied. The other motions are denied as moot.

DATED at Olympia, Washington, this 13th day of July, 2022.

For the Court

  
CHIEF JUSTICE

# EXHIBIT C

January 19, 2023

# IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

## DIVISION II

ERIC C. BETTEN and MICHAEL R.  
McPHERSON, as Co-Personal  
Representatives of the Estate of  
JULIA H. BETTEN, Deceased,

Respondents,

v.

ALLEN McPHERSON and NIKKALA  
McPHERSON,

Appellants.

No. 57581-7-II

RULING DISMISSING APPEAL

Appellants Allen and Nikkala McPherson filed a notice of appeal on November 16, 2022, attaching two orders entered in two different superior court cause numbers.<sup>1</sup> One was an October 17, 2022, order on reconsideration entered in Cowlitz

---

<sup>1</sup> It appears from the docket that the clerk of court tried to open these two matters under separate docket numbers, but Appellants objected. So, both cases are discussed in this single ruling.

County Superior Court (CCSC) No. 15-2-00917-7 (Reconsideration Order). The other was an August 18, 2022 order denying a new trial in CCSC No. 18-2-01334-08 (New Trial Order).

This court informed the parties by letter that it was setting the matter on this court's appealability docket. Both parties submitted responses. Respondents also request this court to dismiss the appeal(s). *See* RAP 18.9(c)(2) and (3).

#### New Trial Order

The appeal of this order is untimely. Appellants, in their appealability response, contend that the late appeal should be accepted. RAP 18.8(b). They appear to argue that they were unaware of previously-entered judgments, McPherson Resp. to Appealability at 1, but they do not clearly state they were not informed of the superior court's entry of the August 17, 2022 order denying their own motion for a new trial. In any event, litigants have a responsibility to track the entry of orders, and pro se litigants are held to the same standard. *Bostwick v. Ballard Marine, Inc.*, 127 Wn. App. 762, 775-76, 112 P.3d 571 (2005) (citing *Beckman ex rel. Beckman v. State*, 102 Wn. App. 687, 695, 11 P.3d 313 (2000)); *Patterson v. Superintendent of Pub. Instruction*, 76 Wn. App. 666, 671, 887 P.2d 411 (1994). And the pro se Appellants here are experienced litigants, having already appealed a grant of summary judgment in one of these two cases, CCSC No. 18-2-01334-9. *See Betten v. McPherson*, No. 54507-1-II, 2022 WL 168114 (Jan. 19, 2022).

Reconsideration Order

This notice of appeal was timely filed, but the CR 59 motion was filed more than 10 days after the 2015 entry of summary judgment. CR 59(b); *see Betten*, 2022 WL 168114, at \*1-2 (setting out the history of the 2015 action, and noting no appeal was filed). Respondents do not cite any case that affects the appealability of the superior court's decision to deny a CR 59 motion as untimely. Nevertheless, such an appeal is meritless and meets the requirements of dismissal under RAP 18.9(c)(2). Accordingly, it is hereby

ORDERED that Appellant McPhersons' appeals of the Reconsideration Order in CCSC No. 15-2-00917-7, and the New Trial Order in CCSC No. 18-2-01334-08, are both dismissed for the reasons set out in this ruling.



---

Aurora R. Bearse  
Court Commissioner

cc: Allen G. McPherson, Pro Se  
Nikkala McPherson, Pro Se  
Bradley S. Wolf  
Hon. Stephen Warning

# EXHIBIT D

FILED  
Court of Appeals  
Division II  
State of Washington

4/6/2020 8:00 AM  
COURT OF APPEALS DIVISION II OF THE STATE OF WASHINGTON

1  
2  
3  
4 Eric C. Betten and Michael R. McPherson, as Co-  
5 Personal Representatives of the Estate of Julia H. Betten,  
6 Deceased,

6 Plaintiffs - Appellees,

7 vs.

8 Allen McPherson and Nikkala McPherson, Husband and  
9 Wife, and the Marital Community Composed thereof; and  
10 J. Does 1-10 and all Other Occupants of 1148 S. Pekin  
11 Road, Woodland, Washington 98674,

10 Defendants – Appellants.

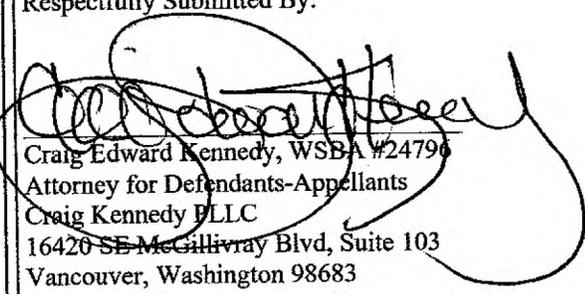
Case No.: 545071

MOTION TO EXTEND FILING DATE

12  
13  
14 COMES NOW Defendants-Appellants by and through their counsel of record and requests this Court  
15 provide an additional thirty days to ensure that the documents required to perfect this appeal be allowed to be  
16 completed and transmitted to this Court.

16 As the current Covid-19 Outbreak has slowed processing times, Defendants-Appellants request the Court  
17 grant this extension of time.

18 Respectfully Submitted By:

19  
20   
21 Craig Edward Kennedy, WSBA #24796  
22 Attorney for Defendants-Appellants  
23 Craig Kennedy PLLC  
24 16420 SE McGillivray Blvd, Suite 103  
25 Vancouver, Washington 98683  
26 (360) 609-6523 tel.

27  
28 MOTION TO EXTEND FILING DATE - 1

CRAIG EDWARD KENNEDY, WSBA #24796  
CRAIG KENNEDY PLLC  
16420 SE MCGILLIVARY BLVD SUITE #103  
VANCOUVER, WASHINGTON 98683  
(360) 609-6523 TEL.

**CRAIG KENNEDY PLLC**

**April 05, 2020 - 11:06 PM**

**Transmittal Information**

**Filed with Court:** Court of Appeals Division II  
**Appellate Court Case Number:** 54507-1  
**Appellate Court Case Title:** Eric Betten et al., Respondents v. Allen McPherson et al., Appellants  
**Superior Court Case Number:** 18-2-01334-9

**The following documents have been uploaded:**

- 545071\_Motion\_20200405230629D2783632\_4917.pdf  
This File Contains:  
Motion 1 - Extend Time to File  
*The Original File Name was 20200405\_220140.PDF*

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

- bwolf@wolflaw.us

**Comments:**

---

Sender Name: Craig Kennedy - Email: kennedyced@gmail.com  
Address:  
16420 SE MCGILLIVRAY BLVD STE 103  
VANCOUVER, WA, 98683-3599  
Phone: 360-609-6523

**Note: The Filing Id is 20200405230629D2783632**

# EXHIBIT E

FILED  
Court of Appeals  
Division II  
State of Washington  
5/6/2020 8:00 AM

**COURT OF APPEALS OF THE STATE OF WASHINGTON  
DIVISION II**

ERIC C. BETTEN and MICHAEL  
R. McPHERSON, CO-PERSONAL  
REPRESENTATIVES, ESTATE OF  
JULIA BETTEN,

Plaintiff,

vs.

ALLEN McPHERSON and  
NIKKALA McPHERSON, et.al.,

Defendants.

NO. D2 545071

APPELLANT'S MOTION TO EXTEND  
TIME

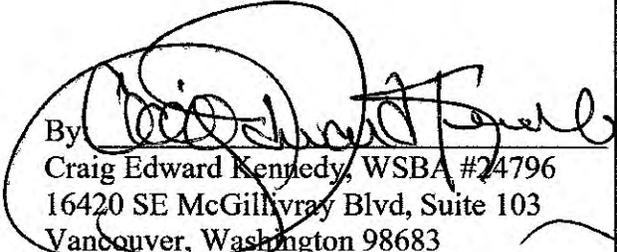
COMES NOW the Appellant's and hereby move this Court for an extension of  
time.

I. Relief Requested

1. Previously, this Court issued notice on March 2<sup>nd</sup>, 2020 that to perfect review of the trial court's orders on summary judgment, appellants needed to comply by filing an order from the trial court below in compliance with RAP 9.12 – e.g. evidence and issues called to the attention of the trial court.

2. Counsel has filed a pending motion before the Honorable Steven Warning in Cowlitz Superior Court requesting: 1) that the trial court stay the judgment pending appeal; 2) Requesting guidance respecting the personal property remaining on the subject property, and 3) for an Order/Findings disclosing what issues and documents were considered by the trial court in issuing its summary judgment orders per RAP 9.12.
3. Due to the Covid-19 outbreak and the subsequent orders by Governor Inslee and the Washington State Supreme Court, The Superior Court Clerk's Office in Cowlitz County is not accepting citations for matters in the Superior Court until after June 1<sup>st</sup>, 2020. Therefore, the request remains pending in the court below.
4. Since this matter was anticipated and the motion filed and due to circumstances beyond the parties' control, appellants ask this court to grant another extension of time until June 17<sup>th</sup> to come in to compliance with RAP 9.12.

DATED: May 5<sup>th</sup>, 2020

By   
Craig Edward Kennedy, WSBA #24796  
16420 SE McGilivray Blvd, Suite 103  
Vancouver, Washington 98683  
(360) 609-6523 tel.  
E-mail: Kenneyced@gmail.com

**CRAIG KENNEDY PLLC**

**May 05, 2020 - 9:27 PM**

**Transmittal Information**

**Filed with Court:** Court of Appeals Division II  
**Appellate Court Case Number:** 54507-1  
**Appellate Court Case Title:** Eric Betten et al., Respondents v. Allen McPherson et al., Appellants  
**Superior Court Case Number:** 18-2-01334-9

**The following documents have been uploaded:**

- 545071\_Motion\_20200505161140D2886304\_9180.pdf  
This File Contains:  
Motion 1 - Extend Time to File  
*The Original File Name was 20200505\_201818.PDF*

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

- bwolf@wolflaw.us

**Comments:**

For Compliance With RAP 9.12

---

Sender Name: Craig Kennedy - Email: kennedyced@gmail.com  
Address:  
16420 SE MCGILLIVRAY BLVD STE 103  
VANCOUVER, WA, 98683-3599  
Phone: 360-609-6523

**Note: The Filing Id is 20200505161140D2886304**

# EXHIBIT F

**FILED**  
**Court of Appeals**  
**Division II**  
**State of Washington**  
9/2/2020 8:00 AM  
DIVISION II OF THE STATE OF WASHINGTON

<b>ERIC BETTEN, et al.,</b>	)	
	)	
Plaintiffs/Appellees,	)	Court of Appeals No.: 545071-1-II
	)	Lower Tribunal Cause No.: 18-2-01334-08
v.	)	
	)	
<b>ALLEN McPHERSON, et al.,</b>	)	<b>Motion for Extension of Time</b>
	)	<b>To File Designation of Clerk's Papers</b>
Defendants/Appellants.	)	<b>And Exhibits in compliance with RAP 9.6</b>
	)	
	)	
	)	

**1. Identify of Moving Party**

Appellants, Allen McPherson and Nikkala L. McPherson (the "Appellants") ask for the relief designated in Part 2.

**2. Statement of Relief Sought**

In this matter, pursuant to a letter from the Appeals Court, the Appellants are required to submit a Designation of Clerk's Papers in Compliance with RAP 9.6.

The Appellants are seeking an additional 30 days in which to comply with this requirement.

**3. Facts Relevant to Motion**

Appellants will be filing a Motion To Supplement Record on Appeal to add relevant documents from a companion case, which involved a foreclosure of a deed of trust, for the same property that is the subject of this current appeal.

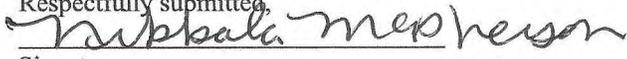
**4. Grounds For Relief and Argument**

RAP 18.8(a) sets forth, "The appellate court may, on its own initiative or on motion of a party, waive or alter the provisions of any of these rules and enlarge or shorten the time within which an act must be done in a particular case in order to serve the ends of justice, subject to the restrictions in sections (b) and (c)."

This motion is not being filed for any undue delay and based on information and belief,  
there is no undue burden that the Appellees will incur, if this motion is granted.

**September 01, 2020**

Respectfully submitted,

  
Signature

Nikkala L. McPherson  
9307 NE 95<sup>th</sup> Street  
Vancouver, WA 98662

  
Signature

Allen McPherson  
9307 NE 95<sup>th</sup> Street  
Vancouver, WA 98662

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I served the foregoing Motion with attachments on the attorneys listed below:

Bradley S. Wolfe, Esq.  
WSBA #21252  
Attorney for Plaintiffs  
Bauman & Wolf, PLLC  
811 First Avenue, Suite 350  
Seattle, Washington 98104  
(206) 264-4577

[X] By causing a full, true and correct copy thereof to be mailed in a sealed, postage-paid envelope, addressed as shown above, which is the last known address for the party's office, and deposited with the U.S. Postal Service at Vancouver, Washington, on the date set forth below:

**September 01, 2020**

Respectfully submitted,

  
Signature

Nikkala L. McPherson  
9307 N.E. 95th St.  
Vancouver, WA. 98662

  
Signature

Allen McPherson  
P.O. Box 1097  
Woodland WA. 98674

**NIKKALA MCPHERSON - FILING PRO SE**

**September 01, 2020 - 5:31 PM**

**Transmittal Information**

**Filed with Court:** Court of Appeals Division II  
**Appellate Court Case Number:** 54507-1  
**Appellate Court Case Title:** Eric Betten et al., Respondents v. Allen McPherson et al., Appellants  
**Superior Court Case Number:** 18-2-01334-9

**The following documents have been uploaded:**

- 545071\_Other\_20200901170240D2915042\_2893.pdf  
This File Contains:  
Other - Comment box below  
*The Original File Name was EXTENSION OF TIME TO FILE DESIGNATION OF CLERK'S PAPERS8.pdf*

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

- allenmcpherson7@gmail.com
- bwolf@wolflaw.us

**Comments:**

I am filing a motion of Extension of Time to file Designation of Clerk's papers and Exhibits to comply with RAP 9.6. With an extension of time this will allow me time to file a Motion to Supplement Record on Appeal to add relevant documents from companion case that involves same property to Designation of Clerk's Papers for courts review.

---

Sender Name: Nikkala McPherson - Email: nikkala66@gmail.com

Address:  
9307 N.E. 95th St.  
Vancouver, WA, 98662  
Phone: (360) 901-1362

**Note: The Filing Id is 20200901170240D2915042**

# EXHIBIT G

**FILED**  
**Court of Appeals**  
**Division II**  
**State of Washington**  
CC10/2/2020 4:50 PM  
DIVISION n OF THE STATE OF WASHINGTON

<b>ERIC BETTEN, et al.,</b>	)	
Plaintiffs/Appellees,	)	
v.	)	Court of Appeals No.: 545071-1 -II
	)	Lower Tribunal Cause No.: 18-2-01334-08
<b>ALLEN McPHERSON, et al.,</b>	)	
Defendants/Appellants.	)	<b>Motion for Extension of Time</b>
	)	<b>To File Designation of Clerk's Papers</b>
	)	<b>And Exhibits in compliance with RAP 9.6</b>
	)	
	)	
	)	

**1. Identify of Moving Party**

Appellants, Allen McPherson and Nikkala L. McPherson (the "Appellants") ask for the relief designated in Part 2.

**2. Statement of Relief Sought**

In this matter, pursuant to a letter from the Appeals Court, the Appellants are required to submit a Designation of Clerk's Papers in Compliance with RAP 9.6.

The Appellants are seeking an additional 30 days in which to comply with this requirement.

**3. Facts Relevant to Motion**

Appellants will be filing a Motion To Supplement Record on Appeal to add relevant documents from a companion case, which involved a foreclosure of a deed of trust, for the same property that is the subject of this current appeal.

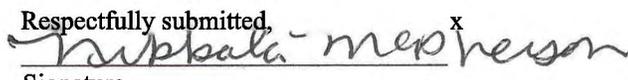
**4. Grounds For Relief and Argument**

RAP 18.8(a) sets forth, "The appellate court may, on its own initiative or on motion of a party, waive or alter the provisions of any of these rules and enlarge or shorten the time within which an act must be done in a particular case in order to serve the ends of justice, subject to the restrictions in sections (b) and (c)."

This motion is not being filed for any undue delay and based on information and belief,  
there is no undue burden that the Appellees will incur, if this motion is granted.

**October 02, 2020**

Respectfully submitted,

  
Signature

Nikkala L. McPherson  
9307 NE 95<sup>th</sup> Street  
Vancouver, WA 98662

  
Signature

Allen McPherson  
P.O. Box 1097  
Woodland WA. 98674

**CERTIFICATE OF SERVICE**

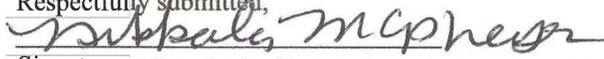
I HEREBY CERTIFY that I served the foregoing Motion with attachments on the attorneys listed below:

Bradley S. Wolfe, Esq.  
WSBA #21252  
Attorney for Plaintiffs  
Bauman & Wolf, PLLC  
811 First Avenue, Suite 350  
Seattle, Washington 98104  
(206) 264-4577

Via Appellate Portal to the above

**October 02, 2020**

Respectfully submitted,



Signature

Nikkala L. McPherson  
9307 N.E. 95th St.  
Vancouver?WA. 98662

Signature



Allen McPherson  
P.O. Box 1097  
Woodland WA. 98674

**NIKKALA MCPHERSON - FILING PRO SE**

**October 02, 2020 - 4:50 PM**

**Transmittal Information**

**Filed with Court:** Court of Appeals Division II  
**Appellate Court Case Number:** 54507-1  
**Appellate Court Case Title:** Eric Betten et al., Respondents v. Allen McPherson et al., Appellants  
**Superior Court Case Number:** 18-2-01334-9

**The following documents have been uploaded:**

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Motion 1 - Extend Time to File  
*The Original File Name was EXTENSION OF TIME TO FILE DESIGNATION OF CLERK'S oct 02 2020\_OCR.pdf*

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

- allenmcpherson7@gmail.com
- bwolf@wolflaw.us

**Comments:**

I am still waiting for the index from Couwlitz County Clerk to pay for clerk's papers to have them forwarded.

---

Sender Name: Nikkala McPherson - Email: nikkala66@gmail.com  
Address:  
9307 N.E. 95th St.  
Vancouver, WA, 98662  
Phone: (360) 901-1362

**Note: The Filing Id is 20201002164331D2153644**

# EXHIBIT H

**FILED**  
**Court of Appeals**  
**Division II**  
**State of Washington**  
CC11/23/2020 8:00 AM  
DIVISION n OF THE STATE OF WASHINGTON

<b>ERIC BETTEN, et al.,</b>	)	
	)	
Plaintiffs/Appellees,	)	Court of Appeals No.: 545071-1-II
	)	Lower Tribunal Cause No.: 18-2-01334-08
v.	)	
	)	
<b>ALLEN McPHERSON, et al.,</b>	)	<b>Motion for Extension of Time</b>
	)	<b>To File Brief in compliance with</b>
Defendants/Appellants.	)	<b>RAP 10.2)</b>
	)	
	)	
	)	

**I. Identify of Moving Party** Appellants, Allen McPherson and Nikkala L. McPherson respectfully ask for the relief designated in Part 2.

**II. Statement of Relief Sought**

Pursuant to RAP 10.2, Appellants are respectfully seeking an additional 21 days in which to comply with this requirement.

**III. Facts Relevant to Motion**

Appellants filed a Motion to Clarify the Notice of Appeal on November 6, 2020. In accordance with the court's general order 91-1, a commissioner has determined that the motion will be considered without oral argument. A response to the motion should be filed no later than November 23, 2020.

A response to the motion was filed on November 20, 2020.

On November 20, 2020 the Court denied the Motion to Clarify the Notice of Appeal.

**IV. Grounds For Relief and Argument**

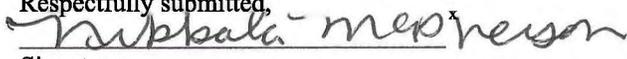
The extension of time to file the brief is appropriate due to the complexity of the matter within this Appeal. Given the outcome of the decision to Clarify the Notice, would have a great bearing on the perfection of the brief.

Finally, for the foregoing reasons the Appellants respectfully request that the additional twenty one (21) days be extended to comply with RAP 10.2 in filing the brief.

This motion is not being filed for any undue delay and based on information and belief,  
there is no undue burden that the Appellees will incur, if this motion is granted.

November 20, 2020

Respectfully submitted,

  
Signature

Nikkala L. McPherson  
9307 NE 95<sup>th</sup> Street  
Vancouver, WA 98662

  
Signature

Allen McPherson  
P.O. Box 1097  
Woodland, WA.98674

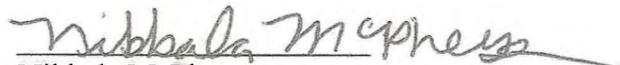
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I served the foregoing Motion To Clarify Notice of Appeal with attachments on attorney listed below:

Bradley S. Wolf, WSBA #21252  
Law Office of Bradley S Wolf  
811 1st Ave Ste. 350  
Seattle, WA. 98104-1434  
[bwolf@wolflaw.us](mailto:bwolf@wolflaw.us)

By causing a full, true and correct copy thereof to be Emailed to above Attorney via Court of Appeals Division Two, Tacoma WA.

November 20, 2020

  
Nikkala McPherson

  
Allen McPherson

**NIKKALA MCPHERSON - FILING PRO SE**

**November 20, 2020 - 5:27 PM**

**Transmittal Information**

**Filed with Court:** Court of Appeals Division II  
**Appellate Court Case Number:** 54507-1  
**Appellate Court Case Title:** Eric Betten et al., Respondents v. Allen McPherson et al., Appellants  
**Superior Court Case Number:** 18-2-01334-9

**The following documents have been uploaded:**

- 545071\_Motion\_20201120165028D2468590\_4857.pdf  
This File Contains:  
Motion 1 - Extend Time to File  
*The Original File Name was MOTION FOR BRIEF .pdf*

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

- bwolf@wolflaw.us

**Comments:**

Motion for extension of time to file brief

---

Sender Name: Nikkala McPherson - Email: nikkala66@gmail.com  
Address:  
9307 N.E. 95th St.  
Vancouver, WA, 98662  
Phone: (360) 901-1362

**Note: The Filing Id is 20201120165028D2468590**

# EXHIBIT I

FILED  
Court of Appeals  
Division II  
State of Washington  
2/22/2022 8:00 AM

COURT OF APPEALS  
DIVISION II OF THE STATE OF WASHINGTON

ERIC BETTEN, et al.,	)	
	)	
Plaintiffs/Appellees,	)	Court of Appeals No.: 545071-1-II
	)	Lower Tribunal Cause No.: 18-2-01334-08
v.	)	
	)	
ALLEN McPHERSON, et al.,	)	<b>Motion for Extension of Time</b>
	)	<b>To File Petition for Review In Compliance</b>
Defendants/Appellants.	)	<b>with Rule 13.4</b>
	)	
	)	
	)	

1. **Identify of Moving Party**

Appellants, Allen McPherson and Nikkala L. McPherson (the "Appellants") ask for the relief designated in Part 2.

2. **Statement of Relief Sought**

In this matter, the Appellants have filed a Motion for an extension of time to comply with rule 13.4 This was due on 2/18/2022 and we would like to amend the unfinished petition for review that was already sent in

3. **Facts Relevant to Motion**

Under RAP 18.8 (b) States under extraordinary circumstances and to prevent s miscarriage of justice an extension of time may be granted if needed. This is one of those times. We are forced to do this appeal Pro Se. After Project Justice led us to believe they were going to help us with the appeal after it had been filed we received a phone call stating they in fact were not going to be able to assist us in the appeal as there was not an attorney available in Cowlitz County to help us. As a result we have been struggling to comply in a timely manner.

Motion For Stay Pending Appeal and Other Relief Requested, and it included a Proposed Supplemental Order in Compliance with RAP 9.12 and a copy of it is attached as **Exhibit "A"**.

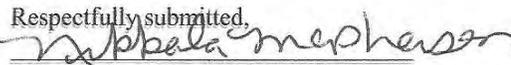
At this point, the Proposed Supplemental Order has NOT been entered, but the failure of it to be entered, is not due to any delay on the part of the Appellants.

**4. Grounds For Relief and Argument**

**We ask that this motion will allow our petition for review be supplemented.**

2/21/2022

Respectfully submitted,



Signature

Nikkala L. McPherson  
9307 NE 95<sup>th</sup> Street  
Vancouver, WA 98662

**NIKKALA MCPHERSON - FILING PRO SE**

**February 21, 2022 - 8:38 AM**

**Transmittal Information**

**Filed with Court:** Court of Appeals Division II  
**Appellate Court Case Number:** 54507-1  
**Appellate Court Case Title:** Eric Betten et al., Respondents v. Allen McPherson et al., Appellants  
**Superior Court Case Number:** 18-2-01334-9

**The following documents have been uploaded:**

- 545071\_Motion\_20220221083730D2338588\_1423.pdf  
This File Contains:  
Motion 1 - Other  
*The Original File Name was Motion .pdf*

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

- bwolf@wolflaw.us

**Comments:**

---

Sender Name: Nikkala McPherson - Email: nikkala66@gmail.com  
Address:  
9307 N.E. 95th St.  
Vancouver, WA, 98662  
Phone: (360) 901-1362

**Note: The Filing Id is 20220221083730D2338588**

**BAUMAN & WOLF, PLLC**

**June 01, 2023 - 1:29 PM**

**Transmittal Information**

**Filed with Court:** Supreme Court  
**Appellate Court Case Number:** 101,989-1  
**Appellate Court Case Title:** Eric C. Betten, et al. v. Allen and Nikkala McPherson  
**Superior Court Case Number:** 15-2-00917-7

**The following documents have been uploaded:**

- 1019891\_Affidavit\_Declaration\_20230601132505SC676174\_2332.pdf  
This File Contains:  
Affidavit/Declaration - Other  
*The Original File Name was Declaration of Bradley S. Wolf in Opposition to Motion to Extend Time.pdf*
- 1019891\_Motion\_20230601132505SC676174\_6873.pdf  
This File Contains:  
Motion 1 - Other  
*The Original File Name was Respondents Opposition to Motion to Extend Time.pdf*

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**BAUMAN & WOLF, PLLC**

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**Transmittal Information**

**Filed with Court:** Supreme Court  
**Appellate Court Case Number:** 101,989-1  
**Appellate Court Case Title:** Eric C. Betten, et al. v. Allen and Nikkala McPherson  
**Superior Court Case Number:** 15-2-00917-7

**The following documents have been uploaded:**

- 1019891\_Affidavit\_Declaration\_20230601132505SC676174\_2332.pdf  
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