

SCANNED

78174-3-1

THE SUPREME COURT IN STATE OF WASHINGTON

MUFFIN F. ANDERSON)
Appellate-pro se)
V)
SUSAN A. LARSEN)
Respondent)

" MOTION "
EXTENSION OF TIME

95433-0

FILED

JAN 25 2018

WASHINGTON STATE
SUPREME COURT

Motion for an extension to file a petition for review the appellate is a recovering stroke victim and pro se this is a lot of work and the court and respondent are well aware of my medical condition, the appellate-pro se was unaware of how much work it call but to double it for with such little time is unjust. an received two cases at the same time, in the last hours of the I became overwhelm in my thought this is a lot of thinking in the mind and two cases to file a petition for review at the last hours the mind shut down. appellate asking for an over night or for the next day extension, two cases for the time of one unjust time. Ruling in the appellant court "this court will only in extraordinary circumstance and to prevent a gross miscarriage of justice extend the within which a party must file a notice of appeal."

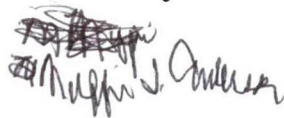
RAP18.8(b). this court " will ordinarily hold that the desirabrability of finality of decisions outweigh the privilege of a litigant it obtain an extension of time." Under the rule. RAP 18 (b) " this rigorous test has rarely been satisfied in report case law. " Bostwickwick v Ballard Marine, Inc.. 127 Wn App. 762, 776. 112 P. 3d 571 (2005) Extraordinary circumstances are'circumstance beyond The party's control. " Reichelt v Raymark Indus. Inc. 52 Wn. App. 763,765. 764. 2d 653 (1988). Negligence or the lack of reasonable diligence does not constitute extraordinary circumstances. Beckman v Dept. of Oc. & Health Servs. 102 Wn. App. 687, 695, llp, 3d, 313 (2000). Now, for the on going reason the appellant is asking for an over night rxtension of time.

2018 JAN 19 PM 4: 12

FILED
COURT OF APPEALS DIV 1
STATE OF WASHINGTON

Date: January 18, 2018

Thank you



**Superior Court [case# 15-2-15638-1 SEA]
APPEAL COURT [case# 55174-3-I Div.-1]**

ANDERSON appellant .v LARSEN respondent

**Proof of Service
MOTION TO EXTENDED TIME - MOTION ALL 3 CASE
SCHEDULE TO AMENDED.**

2016 AUG 18 PM 4:16
COURT OF APPEALS
STATE OF WASHINGTON

Superior Court [case# 15-2-15638-1 SEA]
APPEAL COURT [case# 55174-3-I Div.-1]

ANDERSON appellant .v LARSEN respondent

Proof of Service
MOTION TO EXTENDED TIME - MOTION ALL 3 CASE
SCHEDULE TO AMENDED.

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HANSEN-Bolster

APPENDIX

IN THE SUPERIOR COURT OF THE
STATE OF WASHINGTON IN AND FOR
THE COUNTY OF KING.

FILED
2015 AUG 12 PM 2:54
KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA

1st AMEND 15-2-15638-1 SCA

MUFFIN F. ANDERSON
Pro Se
Plaintiff
vs
SUSAN A. LARSEN
Defendant

COMPLAINT FOR INJUNCTIVE
RELIEF: Damages, TRESPASSING,
ENCROACHING. INTENTIONAL,
SPITE FENCE VIOLATION ON
ENCROACHING PROPERTY.

COMES NOW, Plaintiff, Muffin F. Anderson, for Causes of action against defendant above named Complaint and alleges as follows:

I
PARTIES

1.1 Plaintiff, Muffin F. Anderson, a single, black

①

woman resident of King County, Washington, who owns real property located at 3503 So. Hudson St, Seattle Washington, described as: Lot 19, Block 1, Fries add to Columbia. Assessor data for parcel: 2660500115.

1.2 Defendant, Susan A Larsen own real Estate abutting the plaintiff property which is uses as rental property, located at 3507 So Hudson St., Seattle, Washington, described as: Lot 18 Block 1, Frye's add to Columbia, Accessor data For Parcel: 2660500105.

II

JURISDICTION AND VENUE

2.1 Jurisdiction and VENUE are proper because the real property at issue is in King County, Washington.

③

III FACTS

- 3.1 Plaintiff's property were member of family. Plaintiff purchased in the late 80's
- 3.2 According to the Defendant purchased the property on line as is (cash) without any inspection, and thereafter began construction.
- 3.3 About August 2005 or shortly after defendant hired worker (employees). without Plaintiff permission, defendant began to trespass by entering the Plaintiff property intentional. on on going encroaching without Plaintiff permission
- 3.4 Defendant's hired workers removed the original electrical utility meter without a permit from the City of Seattle and trespass on Plaintiff property, and place it abutting of Plaintiff property.

③

- 3.5 Sometime before May 5 2006 defendant hired workers or both entering the plaintiff property without permission and added a second electrical utility meter by trespassing and encroaching the plaintiff property without permission.
- 3.6 In Year 2007 or shortly after, defendant's trespass plaintiff property without permission adding a wind vent abutting plaintiff's property.
- 3.7. 2005, plaintiff and defendant first meeting were across the front fence and discussed the spite fence encroach on plaintiff property also a sticky tree, defendant promise to remove both fence and tree. Defendant removed the sticky tree but not the spite fence as promise. Add three more trees abutting plaintiff property
- 3.8
The defendant and the hired workers enter plaintiff property without permission 2008

or shortly after change downspouts by trees -
Passing on plaintiff property without permission
turn the downspout in an angle abutting Plaintiff
Property. Water entering Plaintiff Property & Home.

3.9

Defendant or Worker Moved Land Marks and
believe to Moved Land Marks of old Wired fence
to gain more encroachment, 3 Ft. without
Plaintiff about 2009 without plaintiff permission
by trespassing on plaintiff property

3.10 Defendant hired workers to moved the Garage
without a permit. The Garage has no foundation
and has been moved about 3 ft off - suit on the
Property line abutting plaintiff property and
adding a second spite fence and another gates
abutting plaintiff which only exist is on Plaintiff
property. Defendants are trespassing on plaintiff
Property without plaintiff permission.

3.11 Defendant's water drain abutting plaintiff

(5)

Property is busted water is approach in plaintiff home, which is a Nuisance.

IV

CLAIM AND CAUSE OF ACTION

VIOLATION OF RCW 64:12

- 4.1 Trespassing, Encroaching the Abutting Plaintiff property without Plaintiff Permission are defendant and defendant's hired help, employee's and defendant Rental.
- A. Electrical Meters
 - B. Painting
 - C. Downspouts
 - D. gutters
 - E. Off-set Garage
 - F. Apple, Pine Tree Front Yard Abutting Plaintiff Yard
 - G. Berry, Pine tree Back Yard Abutting Plaintiff Yard
 - H. Wooden fence Abutting and encroach about 3 ft
 - I. Two gates Front & Back Abutting Plaintiff property
 - J. Chain fence were Painted Black encroach
 - K. Drain run-off plaintiff home.
 - L. Violation of Plaintiff Air space overhang structure(wires)

(6)

- M. Land Mark wired been Moved in the back Yard
- N. Violation of Spite fence RCW 7.40.030
- O. Nuisance overhang tree's on abutting of plaintiff Property

Defendant dogs, Rental, defendant hired help shouting obscenities and Making hostile remarks and permitting and/or encouraging rental or guests to shout obscenities and Make hostile remarks toward plaintiff when outside on plaintiff property, has propimately caused, and continues to cause to suffer severe emotional emotional distress in an amount to be proven at trial

May 2012 or Shortly after the defendant in violation of RCW Ch 64.12, defendant employee / worker "Lance" had stretch latter on Plaintiff property (working) without permission, Plaintiff personally advised the Apparent head workman that they were trespassing on Plaintiff property, defendant continued with the trespass and construction on an after such Notice.

The action of the defendant's and each of them, constitutes the Malicious erection of a structure for the purpose of injuring or annoying the plaintiff. RCW 7.40.030

(7)

- F. For removal of Electrical Meters that abutting Plaintiff Property
- G. For removal of two downspouts that abutting Plaintiff Property on the run off water enter plaintiff Property.
- H. For removal of wires air space overhang structure.
- I. For removal Two gates Front & Back abutting Plaintiff Property.
- J. For Cease all water damage from dependant Property to Plaintiff (halt the water)
- K. For removal the utility Underground pipe that extend out on the surface encroach on plaintiff Property in violation.
- L. For special damages in an amount to be proven at the time of trial
- M. For any futher relief the Court May deem just and equitable Under the Circumstances.

Dated This 12 day of August 2015

Respectfully Submitted
Muffin F. Anderson
Muffin F. Anderson
3503 So Hudson St
Seattle WA 98114
206 760 1077

(9)

CP

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

MUFFIN ANDERSON,)
) No. 75174-3-1
 Appellant,)
) DIVISION ONE
 v.)
)
 SUSAN LARSEN,) UNPUBLISHED OPINION
)
 Respondent.) FILED: October 2, 2017

FILED
COURT OF APPEALS DIV. 1
STATE OF WASHINGTON
2017 OCT -2 AM 8:54

BECKER, J. — The trial court did not abuse its discretion in denying appellant's requests for a stay or relief under CR 60(b) because she has not shown how her alleged illness impacted or impeded her ability to prosecute her case. We affirm.

Appellant Muffin Anderson is a Seattle homeowner. She sued her next door neighbor, respondent Susan Larsen, in summer 2015. She alleged claims for trespass, encroachment on her property, malicious erection of a spite fence, and emotional distress. Anderson filed her complaint pro se and has represented herself through the entire proceedings, including this appeal.

Anderson states that she suffered a stroke on September 1, 2015. She made at least nine filings between September 2015 and March 2016 for the purpose of seeking a continuance due to this stroke. She filed several motions to

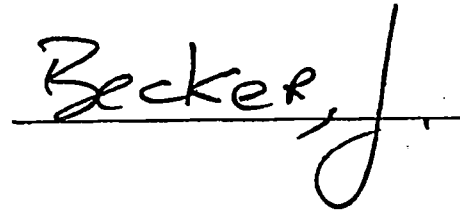
No. 75175-1-1/4

abuse its discretion in denying Anderson's motions for relief under CR 60(b)(1), (2) and (9).

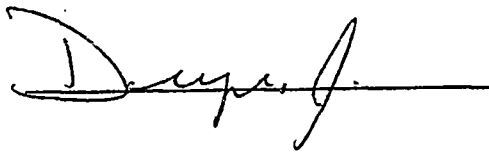
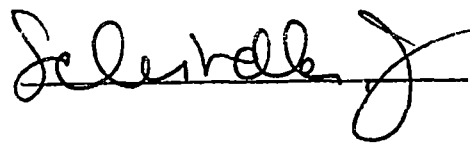
Anderson also claims that the trial court erred in refusing to consider her medical reports. She does not point to any evidence of such refusal in the record.

The Wills previously moved to dismiss Anderson's appeal as frivolous under RAP 18.9(c)(2). In a ruling on November 23, 2016, this court's commissioner denied the motion "at this time." Anderson then filed her opening brief on February 28, 2017. The Wills filed a response brief on March 30, 2017. Anderson filed a reply brief on April 26, 2017. The Wills continue to argue that the appeal is frivolous. Upon review of the briefs, we agree. As a sanction under RAP 18.9(a), we order Anderson to pay the Wills' attorney fees for this appeal, subject to their compliance with RAP 18.1(d).

Affirmed.

Handwritten signature of Becker, J. in cursive script, written over a horizontal line.

WE CONCUR:

Handwritten signature of Dwyer, J. in cursive script, written over a horizontal line.Handwritten signature of Schmalz, J. in cursive script, written over a horizontal line.

2017 OCT -2 AM 8:54
ORIGINAL SUBMITTED

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

MUFFIN ANDERSON,

Appellant,

v.

SUSAN LARSEN,

Respondent.

No. 75174-3-1

DIVISION ONE

UNPUBLISHED OPINION

FILED: October 2, 2017

BECKER, J. — The trial court did not abuse its discretion in denying appellant's requests for a stay or relief under CR 60(b) because she has not shown how her alleged illness impacted or impeded her ability to prosecute her case. We affirm.

Appellant Muffin Anderson is a Seattle homeowner. She sued her next door neighbor, respondent Susan Larsen, in summer 2015. She alleged claims for trespass, encroachment on her property, malicious erection of a spite fence, and emotional distress. Anderson filed her complaint pro se and has represented herself through the entire proceedings, including this appeal.

Anderson states that she suffered a stroke on September 1, 2015. She made at least nine filings between September 2015 and March 2016 for the purpose of seeking a continuance due to this stroke. She filed several motions to

stay or to stop proceedings and letters from her doctors. Meanwhile, Larsen moved for summary judgment.

The court held a hearing on March 18, 2016. The trial court granted Larsen's motion for summary judgment and denied Anderson's request for a stay. The court explained that it was denying Anderson's request for a stay because the evidence she submitted was insufficient and because she had not been prejudiced in her ability to pursue the case:

But at one point, Ms. Anderson had asked for a . . . stay of the proceedings. And she had asserted that she had some health concerns going on, and she attached a letter that was purported to be from her doctor's office.

. . . The letter . . . in relevant part, said, my client feels that she can't maintain this lawsuit and . . . therefore, she's asking that it be stayed. I just thought that information . . . was not sufficient, and that's why I denied the motion to stay.

. . . .
. . . I would also note for the record that Ms. Anderson has asserted that she's had some health issues and that, because of that, she's requested a stay.

The . . . record also is going to support the fact that, despite Ms. Anderson saying that she has health concerns, that actually has not stopped her from filing motions. It hasn't stopped her from filing a response that includes . . . a number of different documents to the defense motion for summary judgment.

So as to whether an actual stay is warranted in this case, . . . it doesn't seem like it's warranted because Ms. Anderson does not appear to have been at all prejudiced in her ability to pursue this action.

Anderson thereafter filed several motions for relief: for a new trial, to strike the summary judgment order and stay proceedings under CR 60(b)(1) and (9), to seal medical documents, and to vacate the order of dismissal and stay proceedings. The court denied these motions on April 6, 2016.

(1990). We will not overturn the decision unless the trial court exercised its discretion on untenable grounds or for untenable reasons. Tang, 57 Wn. App. at 652. An appeal from the denial of a CR 60(b) motion is not a substitute for an appeal and is limited to the propriety of the denial, not the impropriety of the underlying order. Bjurstrom v. Campbell, 27 Wn. App. 449, 450-51, 618 P.2d 533 (1980). We also review a trial court's denial of a motion to continue a summary judgment proceeding for an abuse of discretion. Barkley v. GreenPoint Mortg. Funding, Inc., 190 Wn. App. 58, 71, 358 P.3d 1204 (2015), review denied, 184 Wn.2d 1036 (2016).

“On motion and upon such terms as are just, the court may relieve a party . . . from a final judgment, order, or proceeding for the following reasons: . . . (1) mistakes, inadvertence, surprise, excusable neglect or irregularity in obtaining a judgment or order; (2) for erroneous proceedings against a . . . person of unsound mind, when the condition of such defendant does not appear in the record, nor the error in the proceedings; . . . [or] (9) unavoidable casualty or misfortune preventing the party from prosecuting or defending.” CR 60(b)(1), (2) and (9).

On appeal, Anderson attacks the court's denial of a stay. She claims she was denied the opportunity to have her case heard or was denied a full and fair hearing on the merits of her claim because she had a stroke and could not participate in the proceedings.

In its oral ruling, the trial court explained that it was denying Anderson's request for a stay because the evidence she submitted was insufficient and

because she had not been prejudiced in her ability to pursue the case. These reasons are not untenable. They are supported by the record, which shows that Anderson participated in the proceedings during the time period she alleges she was incapacitated. As mentioned, she made at least nine filings during this time.

Anderson has not explained how her alleged illness impacted or impeded her ability to prosecute her case. She has not shown that she was prevented from prosecuting or that her mind was unsound. CR 60(b)(2) and (9). Nor has she shown that there was a mistake, excusable neglect, or an irregularity in obtaining the orders granting summary judgment and denying a continuance. CR 60(b)(1). The trial court did not abuse its discretion in denying Anderson's request for relief under CR 60(b) or her request for a stay.

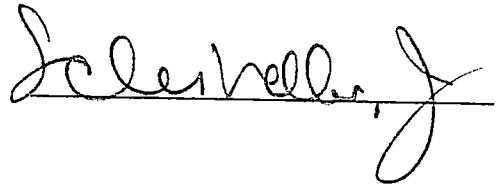
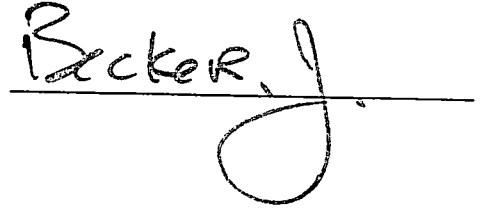
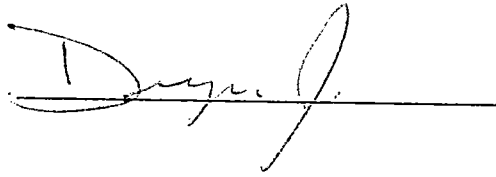
Anderson also contends that the trial court refused her medical reports or refused to seal the medical reports. The court did accept and consider the letters from Anderson's doctors written to the court. The record reflects that Anderson also sent what she described as confidential medical documents directly to the court, but the court returned the documents to her unread because Anderson did not want the opposing party to see the documents. Anderson has not explained how this return of medical documents was improper, given her refusal to show them to the opposing party.

Larsen requests an award of attorney fees because, she argues, Anderson's appeal is so devoid of merit that it is frivolous. We agree. An appeal is frivolous "if no debatable issues are presented upon which reasonable minds might differ, and it is so devoid of merit that no reasonable possibility of reversal

exists." Chapman v. Perera, 41 Wn. App. 444, 455-56, 704 P.2d 1224, review denied, 104 Wn.2d 1020 (1985); see also RCW 4.84.185. By this standard, Anderson's appeal is frivolous. Larsen's request for attorney fees is granted, subject to compliance with RAP 18.1(d).

Affirmed.

WE CONCUR:



*The Court of Appeals
of the
State of Washington*

RICHARD D. JOHNSON,
Court Administrator/Clerk

DIVISION I
One Union Square
600 University Street
Seattle, WA
98101-4170
(206) 464-7750
TDD: (206) 587-5505

December 19, 2017

Bennett J. Hansen
Preg O'Donnell & Gillett PLLC
901 5th Ave Ste 3400
Seattle, WA 98164-2026
bhansen@pregodonnell.com

Muffin Faye Anderson
3503 S. Hudson St
Seattle, WA 98118

Justin E Bolster
Preg O'Donnell & Gillett PLLC
901 5th Ave Ste 3400
Seattle, WA 98164-2026
jbolster@pregodonnell.com

CASE #: 75174-3-1
Muffin Faye Anderson, Appellant v. Susan A. Larsen, Respondent

Counsel:

Enclosed please find a copy of the Order Denying Motion for Reconsideration and Motion to Publish Opinion entered in the above case.

Within 30 days after the order is filed, the opinion of the Court of Appeals will become final unless, in accordance with RAP 13.4, counsel files a petition for review in this court. The content of a petition should contain a "direct and concise statement of the reason why review should be accepted under one or more of the tests established in [RAP 13.4](b), with argument." RAP 13.4(c)(7).

In the event a petition for review is filed, opposing counsel may file with the Clerk of the Supreme Court an answer to the petition within 30 days after the petition is served.

Sincerely,



Richard D. Johnson
Court Administrator/Clerk

LAW

Enclosure

c: Reporter of Decisions

THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION ONE

MUFFIN FAYE ANDERSON,

Appellant,

v.

SUSAN A. LARSEN,

Respondent.

No. 75174-3-1

ORDER DENYING
MOTION TO MODIFY

Respondent, Susan Larsen, has filed a motion to modify the commissioner's August 3, 2016 ruling waiving the appellant's filing fee. The appellant has filed a response and the respondent has filed a reply. We have considered the motion under RAP 17.7 and have determined that it should be denied. Now, therefore, it is hereby

ORDERED that the motion to modify is denied.

Done this 15th day of December, 2016.

Becker, J.

Leach, J.

Dryden

2016 DEC 15 PM 12:50

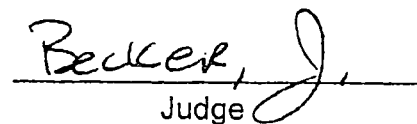
IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

MUFFIN ANDERSON,)	
)	No. 75174-3-I
Appellant,)	
)	ORDER DENYING MOTION
v.)	FOR RECONSIDERATION AND
)	MOTION TO PUBLISH OPINION
SUSAN LARSEN,)	
)	
Respondent.)	
<hr/>		

Appellant, Muffin Anderson, has filed a motion for reconsideration of the opinion filed on October 2, 2017, and a motion to publish the opinion. Respondent, Susan Larsen, has not filed an answer to appellant's motions. The court has determined that appellant's motion for reconsideration and motion to publish should be denied. Now, therefore, it is hereby

ORDERED that appellant's motion for reconsideration of the opinion filed on October 2, 2017, and appellant's motion to publish the opinion are denied.

FOR THE COURT:


Judge