

FILED  
SUPREME COURT  
STATE OF WASHINGTON  
7/1/2019 2:28 PM  
BY SUSAN L. CARLSON  
CLERK

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

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SIMEON OSBORN and MONICA OSBORN and the marital community composed thereof, Respondents,	)	No. 97359-8
	)	
v.	)	MOTION TO EXTEND TIME
	)	TO FILE PETITION FOR
	)	REVIEW; DECLARATION
	)	
MICHAEL CALLAHAN and ROBIN CALLAHAN individually, and the marital community composed thereof, Appellant.	)	Crt of Appeals No. 77871-4-1
	)	

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A. IDENTITY OF MOVING PARTY

The Petitioner, Michael Callahan, is the movant requesting the relief set forth below.

B. STATEMENT OF RELIEF SOUGHT

Pursuant to RAP 18.8(b) Mr. Callahan asks this Court to extend the time to file a petition for review by one day. The Petition was due on June 19, 2019 and was filed June 20, 2019.

Motion For Extension of Time

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

### C. GROUNDS FOR RELIEF AND ARGUMENT

1. The Court of Appeals denied Mr. Callahan's appeal by order filed March 18, 2019 and denied his Motion for reconsideration filed on May 20, 2019.

2. Under RAP 13.4(a), "a petition for review must be filed within 30 days after the decision is filed." Consequently, the petition for review was due by June 19, 2019.

3. Mr. Callahan had drafted his Petition for Review and was preparing to file it electronically on June 19, 2019. While preparing the document for filing, Mr. Callahan experienced a problem when the electricity seemed to "blink" and he lost most of the document. While the document was being "recovered" by his computer the electricity blinked again and he lost the whole document. Mr. Callahan immediately reconstructed the document (using an earlier draft) and attempted to file it electronically in the late afternoon of June 19th. However, Mr. Callahan then experienced repeated internet problems while trying to load the document and even changed locations to try to file it (thinking the WiFi may have somehow been affected by the brief power outage). Mr. Callahan experienced the same issue the rest of the day and evening, even from his own residence. Mr. Callahan decided he would go the next morning and physically file the Petition but tried it one last time on the morning of June 20<sup>th</sup>. It successfully loaded and was filed, albeit hours late. Mr. Callahan had filed documents electronically throughout this case and never experienced this extraordinary problem or circumstance.

4. This Court noted that the filing was a day late and, in a letter, advised Mr. Callahan to file this extension request.

5. Under RAP 18.8(b), this Court can extend the time to file a petition for review "in extraordinary circumstances and to prevent a gross miscarriage of justice." Mr. Callahan files this motion retroactively, requesting that this Honorable Court extend the time to file by 24 hours to prevent a gross miscarriage based upon the extraordinary circumstances of unexplained electronic filing problems.

6. "Extraordinary circumstances" under RAP 18.8(b) mean the party was reasonably diligent but the filing was delayed due to circumstances beyond the party's control. *State v. Fox*, 192 Wn.App. 512, 525, 371 P.3d 537 (2016).

7. The electricity and internet problems were beyond Mr. Callahan's control and he took measures to try to timely file but was unsuccessful. The Petition was successfully filed the very next morning and there is no prejudice to the other side by this delay of less than a day.

8. It would be a gross miscarriage of justice to deny this filing because of the importance of the matter at issue here: whether a party is entitled to the basic due process afforded by having an actual hearing in an arbitration proceeding. The rulings below are contrary to statutory and case law and an improper standard was applied and there is no other recourse available to Mr. Callahan.

9. The filing fee for the Petition for Review was mailed to the Court in Olympia on 6/20/19 along with a copy of the filing receipt, all as instructed by the clerk in a phone call with Mr. Callahan. In a phone call on June 1, 2019 the Supreme Court Clerk's office acknowledged receipt.

D. CONCLUSION

Mr. Callahan respectfully requests this Court extend the time for filing his Petition for Review by one day and accept the Petition for Review now on file.

E. DECLARATION

I, Michael Callahan, appearing pro se, declare that the foregoing statements are true and correct to the best of my knowledge and I make this declaration under penalty of perjury under the laws of the State of Washington.

DATED this 30th day of June, 2019.

Respectfully submitted:



Michael Callahan, Petitioner.

**MICHAEL CALLAHAN - FILING PRO SE**

**July 01, 2019 - 2:28 PM**

**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\_Motion\_20190701142552SC701859\_6630.pdf  
This File Contains:  
Motion 1 - Extend Time to File  
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- jeff@smythlaw.com
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**Comments:**

FILED PER REQUEST OF SUPREME COURT CLERK REQUESTING RETROACTIVE 24 HOUR EXTENSION  
DUE TO INTERNET ISSUES IN FILING PETITION FOR REVIEW.

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

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