

FILED
SUPREME COURT
STATE OF WASHINGTON
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BY SUSAN L. CARLSON
CLERK

No. 97618-0

IN THE WASHINGTON SUPREME COURT

SPINNAKER RIDGE COMMUNITY ASSOCIATION, INC.,
Plaintiff/Respondent,

v.

CHRISTOPHER and SUZANNE GUEST,
Defendants/Petitioners.

CHRISTOPHER and SUZANNE GUEST,
Third Party Plaintiffs/Petitioners,

v.

DAVID LANGE and KAREN LANGE; JOHN FARRINGTON and
JEAN FARRINGTON; and WALLACE "BOB" TIRMAN and
VALERIE TIRMAN,
Third Party Defendants/Respondents

RESPONDENTS' JOINT ANSWER TO PETITIONERS' MOTION FOR
EXTENSION OF TIME

Kelly DeLaat-Maher, WSBA No. 26201
SMITH ALLING, P.S.
Attorney for Plaintiff/Respondent
1501 Dock Street
Tacoma, Washington 98402
Phone: (253) 627-1091
Fax: (253) 627-0123
kelly@smithalling.com

Sharon Ambrosia Walt, WSBA No. 15212
Attorney for Counterclaim & Third Party
Defendants/Respondents
WILSON SMITH COCHRAN DICKERSON
901 Fifth Avenue, Suite 1700
Seattle, Washington 98164
(206) 623-4100; (206)623-9273 (fax)
walt@wscd.com

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I. IDENTITY OF RESPONDING PARTY

The responding parties are: Spinnaker Ridge Community Association (SRCA), both as Plaintiff and Counterclaim Defendant, as well as the Third Party Defendants, David and Karen Lange, John and Jean Farrington, and Bob and Valerie Tirman, in the underlying action.

II. STATEMENT OF RELIEF SOUGHT

Respondents ask the Court to deny Petitioners Suzanne and Christopher Guest's ("Guests") Motion for an Extension of Time to file their Petition for Review. The Guests do not provide any compelling basis that would entitle them to an extension. Review of the history of this matter before the Court of Appeals demonstrates the Guests have chronically and habitually filed pleadings late. Indeed, even their Motion for an Extension of Time was filed after the stated deadline, wholly undermining their claims that extraordinary circumstances led to the untimely filing of their Petition for Review.

III. RELEVANT RECORD

The relevant record consists of the following: 1) the Guests' untimely Petition for Review filed September 5, 2019; 2) the Guests' untimely Motion for Extension of Time filed September 23, 2019; and 3) Respondents' Joint Answer thereto with Supporting Declaration of Counsel.

IV. FACTS RELEVANT TO THE MOTION

SRCA filed its Complaint on May 19, 2014, asserting claims regarding the Guests' breach of SRCA's covenants that bind the community, and for injunctive relief to prevent the Guests' from constructing a portion of their deck that had not received Architectural Control Committee Approval. In June 2016, the trial court entered final judgment against the Guests, requiring them to remove the section of their deck constructed in violation of the SRCA's covenants, and entering monetary judgment for attorneys' fees incurred. At the same time, the trial court also dismissed the Guests' counterclaims against the SRCA and the third party claims the Guests had asserted against former and current SRCA board members Lange, Farrington and Tirman.. Following a lengthy three year appeal, Division II of the Court of Appeals affirmed the trial court's judgments in its decision issued May 7, 2019.

In their Motion for an Extension of Time to file their Petition for Review, the Guests allege they had difficulty uploading their Petition at least three times prior to successfully uploading the petition at 5:03 on September 4, 2019, which resulted in an effective filing date of September 5, 2019 – 31 days after Division II denied their motion for reconsideration. They also allege technical difficulty in compressing their appendix with a third party vendor.

The Guests' described technical difficulties, however, are chronic rather than isolated, thereby undermining their argument that the extraordinary relief of an extension on this occasion should be granted. Indeed, in the Appellate Court and just in the last year and a half alone, counsel notes at least 12 instances where the Guests either missed their deadline entirely, or filed minutes and hours past the deadline resulting in an effective late filing date of the next judicial day as the chart below demonstrates:

Document	Date Due	Date Filed	Actual Transmittal Date and Time
Guest Motion for Extension of Time to File Petition for Review	9/20/2019 ¹	9/23/2019	9/20/2019 5:00 p.m.
Guest Petition for Review	9/4/2019 ²	9/5/2019	9/4/2019 5:03 p.m.
Guest Motion for Reconsideration	5/28/2019 ³	5/29/2019	5/28/2019 5:00 p.m.
Guest Reply re: Motion for Oral Argument	1/14/2019 ⁴	1/15/2019	1/14/2019 5:08 p.m.
Guest Motion for Oral Argument	1/7/2019 ⁵	1/8/2019	1/8/2019 12:04 a.m.

¹ Per 9/06/2019 Letter from Supreme Court Clerk, APP 1

² RAP 5.2(e) (30 days after 8/5/2019 Order Denying Reconsideration)

³ RAP 12.4(b) (20 days after 5/7/2019 Decision of Court of Appeals)

⁴ RAP 17.4(e) (3 days after 1/10/2019 Response)

⁵ Per 12/27/2018 letter ruling, APP 5

Guests Reply Brief	12/31/2019 ⁶	1/2/2019	12/31/2018 5:20 p.m.
Guest Corrected Opening Brief	10/1/2018 ⁷	10/2/2018	10/1/2018 5:07 p.m.
Guest Corrected Opening Brief	9/13/2018 ⁸	<i>Nothing filed</i>	
Guest Opening Brief	8/31/2018 ⁹	9/4/2018 (Brief on behalf of Mrs. Guest) 9/6/2018 (Brief on behalf of Mr. Guest)	8/31/2018 5:17 p.m. 9/5/2018 5:00 p.m.
Guest Opening Brief	8/8/2018 ¹⁰	<i>Nothing filed</i>	
Guest Response to Respondent Motion to Modify Commissioner's Ruling	5/24/2018 ¹¹	05/25/2018	05/24/2018 5:01 p.m.
Motion to Modify Commissioner's Ruling	5/17/2018 ¹²	5/18/2018	05/17/2018 5:11 p.m.

⁶ Per 12/10/2018 letter ruling, APP 6

⁷ Per 9/19/2018 Conditional Ruling of Dismissal, APP 7

⁸ Per 9/6/2018 letter ruling, APP 8

⁹ Per 8/21/2018 Conditional Ruling of Dismissal, APP 9

¹⁰ Per 7/25/2018 Order on Motions to Modify, Extend Time, File Overlength Brief, and Sanctions, APP 10

¹¹ Per 5/14/2018 letter ruling, APP 11

¹² RAP 17.7(a) – 30 days after 4/17/2018 Commissioner Ruling, APP 12

Examples in the trial court are simply too numerous to recount here.

There is little question but that the Guests understood the risks of habitual “last minute” filing. For example, when the Guests asked the Appellate Court to modify a ruling of the Court Commissioner, they filed an overlength Motion to Modify 11 minutes late. In their Motion for an Extension of Time, their then attorney blamed the late filing on difficulties with the portal and the fact that his client had not provided him the Motion to Modify for filing purposes until *two minutes* before it was due.¹³ The Court denied their Motion to Modify as untimely, demonstrating unequivocally the consequences of failing to comply with filing deadlines (“deny the Guests’ motion for an extension of time to file a motion to modify the commissioner’s April 17, 2018 ruling and deny the Guests’ motion to modify as untimely”).¹⁴

The Guests filed their Petition for Review late. When given the opportunity to file a Motion to Extend, they filed that late as well. Nothing extraordinary has occurred here.

V. ARGUMENT

The Guests have not met the standard necessary in order for this Court to grant them an extension to file their Petition for Review. Their

¹³ See Motion for Extension, APP 13.

¹⁴ See 7/25/2018 Order on Motions to Modify, Extend Time, File Overlength Brief, and Sanctions, APP 10.

request should be denied and their Petition for Review dismissed as untimely.

RAP 1.2(a) generally compels a liberal interpretation of the Rules on Appeal to the end that each cause and issue be decided on its merits. However, explicit exceptions to that rule of liberality exist. RAP 1.2(a) provides as follows:

These rules will be liberally interpreted to promote justice and facilitate the decision of cases on the merits. Cases and issues will not be determined on the basis of compliance or noncompliance with these rules except in compelling circumstances where justice demands, *subject to the restrictions in rule 18.8(b)*.” (Emphasis added).

RAP 1.2(a). RAP 18.8 governs an extension of time. RAP 18.8(b) expressly requires a narrow application:

The appellate court will only in *extraordinary circumstances and to prevent a gross miscarriage of justice* extend the time within which a party must file a notice of appeal, a notice for discretionary review of a decision of the Court of Appeals, a petition for review, or a motion for reconsideration. The appellate court will ordinarily hold that the desirability of finality of decisions outweighs the privilege of a litigant to obtain an extension of time under this section. . . .

RAP 18.8 (Emphasis added.) Case law is clear that the standard set forth in the rule is rarely satisfied. *Scannell v. State*, 128 Wn.2d 829, 833-34, 912 P.2d 489 (1996); *Shaefco, Inc. v. Columbia River Gorge Comm’n*, 121 Wn.2d 366, 849 P.2d 1225 (1993).

The phrase “extraordinary circumstances” was defined in *Reichelt v. Raymark Indus., Inc.*, 52 Wash.App. 763, 765, 764 P.2d 653 (1988). There, the Court of Appeals refused to extend the time for filing a notice of appeal that was filed 10 days late. The appellant argued that ‘extraordinary circumstances’ existed because one of the two trial attorneys left the firm during the 30 days following entry of judgment, and the firm's appellate attorney had an unusually heavy work load. The court rejected the argument and summarized the cases allowing late filings:

In each case, the defective filings were upheld due to ‘extraordinary circumstances,’ i.e., circumstances wherein the filing, despite reasonable diligence, was defective due to excusable error or circumstances beyond the party's control. In such a case, the lost opportunity to appeal would constitute a gross miscarriage of justice because of the appellant's reasonably diligent conduct. RAP 18.8(b).

Reichelt, 52 Wn.App. at 765–66, 764 P.2d 653; *See also, Schaefco, v. Gorge Comm'n*, 121 Wn.2d 366, 368, 849 P.2d 1225 (1993) (finding that time limit for filing notice of appeal not extended by earlier untimely motion for reconsideration, no sufficient excuse for failure to file a timely notice of appeal, and no sound reason to abandon the preference for finality even where appeal “raises many important issues”); *Bostwick v. Ballard Marine Inc.*, 127 Wn.App. 762, 775–76, 112 P.3d 571 (2005) (finding no extraordinary circumstance where trial court did not notify party that it had entered an order and party lacked diligence in failing to monitor entry of

order on pending motion); *Shumway v. Payne*, 136 Wn.2d 383, 394–97, 964 P.2d 349 (1998) (reiterating and reemphasizing stringent standard of RAP 18.8(b) noted in *Reichelt*, and determining that the erroneous advice of counsel did not constitute extraordinary circumstances).

Beckman v. Dep't of Social & Health Servs., 102 Wn.App. 687, 695, 11 P.3d 313 (2000) is instructive. In that case, the Attorney General's Office failed to attend a hearing for presentation of a judgment, despite receiving proper notice. *Id.* at 690. Judgment was subsequently entered, but the AG failed to file a Notice of Appeal until 10 days after the deadline, claiming they had lacked knowledge that the judgment had actually been entered. *Id.* In determining that extraordinary circumstances were not present to justify an extension of time, the Court stated that the AG's "[n]egligence, or lack of reasonable diligence, does not amount to extraordinary circumstances." *Id.* at 695. The court stated that even if the assigned attorney had intentionally acted, extraordinary circumstances would not be present. The court noted as follows:

We find nothing in the nature of an event or circumstance so extraordinary in this case as to excuse the neglect of appellant's counsel to provide suitable office procedures to cause the judgment to be brought to counsel's attention once it was delivered into the custody and control of counsel's office. It is incumbent upon any attorney to institute internal office procedures sufficient to assure that judgments are properly dealt with once they are delivered into the custody of office personnel

subject to the control of counsel. **The failure to take necessary steps, to that end, even during periods of unusual circumstances in an attorney's office, is not an acceptable excuse for any resulting failure** to obtain personal knowledge of the entry of judgment on the part of counsel. This language aptly describes the problem here. **The Attorney General's office lacked office management procedures that could have prevented what occurred here.**

Id. at 696 (internal citations omitted)(emphasis added).

Pybas v. Paolino, 73 Wn.App. 393, 869 P.2d 427 (1994) is also instructive. That case deals with the timely filing and service of a request for trial de novo following issuance of an arbitration award. The deadline for filing the request is 20 days after the filing of the arbitration award. With only 2 days to spare, counsel requested service of the request for trial de novo on opposing counsel and filing with the court with a private messenger service. *Id.* at 395. Although the request was served on counsel within the deadline, it was not filed with the court until two days after the deadline. *Id.* The trial court determined that although it was without authority to extend the time for filing the request for trial de novo, it could vacate the subsequent judgment under the basis of excusable neglect, thereby allowing the case to proceed with a trial de novo. *Id.* at 395-396. The appellate court examined RAP 18.8(b) and cases involving extraordinary circumstances in ultimately determining that such circumstances were not present. *Id.* at 401. The court stated:

Eighteen or more days elapsed before he made any attempt to seek a trial de novo. When only 2 days remained, Hill's counsel engaged the services of the legal messenger service. **No extraordinary circumstances were presented to the Superior Court to justify the lapse of 18 days or more before any attempt was made to preserve the right to proceed to a trial de novo.**

Id. at 404 (emphasis added).

Similarly here, the Guests describe technical problems with the Court of Appeals portal, as well as problems with an outside vendor. Notwithstanding their excuse, the problems they experience with filing documents minutes past the deadline with the Court of Appeals is chronic and undermines their claims that they acted this time with reasonable diligence. It is incumbent on the Guests, and particularly Mrs. Guest, who is described as an attorney with considerable experience and skill by Mr. Guest, to adopt office procedures to avoid chronically filing a response with minutes to spare, which more often than not, led to the filing being docketed the day after the deadline. Negligence, or lack of reasonable diligence, does not amount to extraordinary circumstances. *Beckman*, 102 Wn.App. at 695.

In order to determine what the Court does consider “extraordinary circumstances,” it is also helpful to review those cases in which the court accepted a defective filing. In each of the cases, the moving party typically filed the notice of appeal within the 30-day time period, but some aspect of the filing was challenged. *Reichelt* at 765. For example, in *Weeks v. Chief*

of *Washington State Patrol*, 96 Wn.2d 893, 639 P.2d 732 (1982), the appellants timely filed a Notice of Appeal and served it on the parties, but filed it with the appellate court instead of the trial court. The court stated that although the notice was misdirected, “an effort was made at timely compliance. . .” and in that instance substance should prevail over form. *Id.* at 896.

In *State v. Ashbaugh*, 90 Wn.2d 432, 583 P.2d 1206 (1978), the petitioner’s attorney timely filed the notice of appeal, but it was rejected because the filing fee was not paid. *Id.* at 434. One day past the deadline for filing, the notice was re-filed with the accompanying filing fee. *Id.* In deciding that the defective filing would stand, the Supreme Court referred to RAP 18.8(b) as governing dismissals for failure to timely file a notice of appeal, notice for discretionary review, a petition for review, or a motion for reconsideration. *Id.* at 438. The court noted, “[h]owever, the failure to timely pay a filing fee is not mentioned by the terms of RAP 18.8(b) as a ground of dismissal, [and] such failure is therefore subject to the alternative rule of RAP 1.2(b). . .” that may result in severe sanctions. *Id.* Because the failure to pay the filing fee was an inadvertent oversight, the court allowed the appeal to proceed.

Finally, in *Scannell v. State*, 128 Wn.2d 829, 912 P.2d 489 (1996), the Supreme Court granted the appellant an extension based upon

reasonable confusion resulting from recent amendments to Rules of Appellate Procedure. Scannell sought to appeal an order entered November 22, 1994. *Id.* at 830. Thirty days after the order was entered, he filed a motion for order of indigency, holding his appeal based upon his belief that the timeline for filing the appeal would not run until the motion for indigency was decided, pursuant to the pre-amendment rules. *Id.* In determining whether Scannell had met the standard, the court determined that his misinterpretation of the rules was reasonable due to recent amendments to the rule; that he exercised reasonable diligence in following the prior rules; and he made a good faith attempt to timely file his notice. *Id.* at 833-835. The court determined that the “unique circumstances in this case warrant an extension of time under RAP 18.8(b)”. *Id.* at 835.

Based upon the case law outlined above, it is clear that “extraordinary circumstances” require excusable error or circumstances beyond the party’s control, which also requires reasonable diligence and good faith. The Guests argue that extraordinary circumstances exist because the Court of Appeals portal rejected their filing up until 5:03 p.m. the day the filing was due, and because a third party vendor did not properly compress their file on that same date.

However, the Guests’ arguments are fatally flawed. The date that the Guests chose to submit their file to a third party vendor was entirely

within their control, as was the timing of when they began their attempts to upload the file. Extraordinary circumstances do not exist when the Guests experience foreseeable technical difficulties within minutes or even the day of a deadline, when they had 30 days prior to prepare and file their petition, including submission of all Appendix to a third party vendor. Further, any claims that they have acted with reasonable diligence to preserve their right to proceed is severely undermined by their clear pattern of behavior with this Court and the Court of Appeals.

The Guests may argue that their late filings have caused no prejudice to the responding parties. However, RAP 18.8(b) does not turn on the prejudice to the responding party. *Reichelt*, at 766. They may further argue that past acceptance of late filings by the Court of Appeals should set a precedent for acceptance of their late Petition for Review. However, untimely filings of pleadings governed by RAP 1.2(a), which compels a liberal interpretation of the Rules on Appeal to the end that each cause and issue be decided on its merits is not analogous to RAP 18.8(b) which favors instead the finality of decisions.

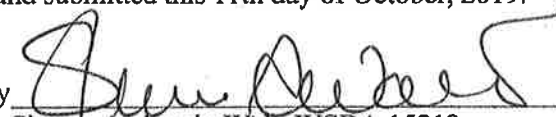
VI. CONCLUSION

The Guests' tale of last minute woe is tired and old. Their excuse is not excusable because they were in control of how they used the 30 days

they had to prepare and file their Petition. They knew both the foreseeable risks and the ultimate consequences of waiting until the last day, the last hour, and the last minute. Their reasons are not sound reasons to abandon the judicial preference for finality. The Guests' Motion to Extend should be denied.

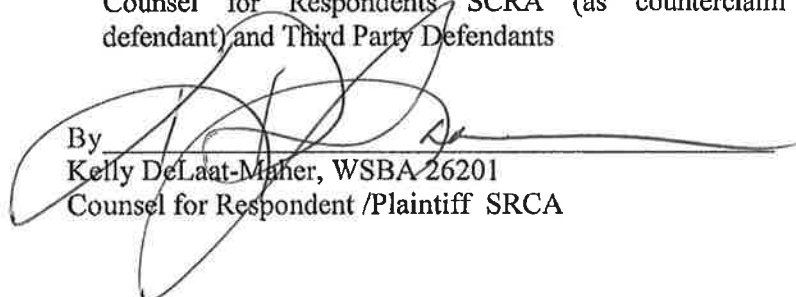
DATED and submitted this 11th day of October, 2019.

By



Sharon Ambrosia-Walt, WSBA 15212
Counsel for Respondents SCRA (as counterclaim
defendant) and Third Party Defendants

By



Kelly DeLaat-Maher, WSBA 26201
Counsel for Respondent /Plaintiff SRCA

DECLARATION OF COUNSEL

KELLY DELAAT-MAHER, under penalty of perjury under the laws of the State of Washington, declares and states as follows:

1. I am over the age of eighteen, have knowledge of the facts stated herein, and am therefore competent to testify as to the facts stated herein.

2. I am one of the attorneys of record for Spinnaker Ridge Community Association, Respondent/Plaintiff in this action. I personally have been involved in this appeal and in the underlying action before the trial court since 2015. I make this Declaration in Response to the Guests' Motion for an Extension of Time to file their Petition for Review.

3. In the trial court, the Guests consistently filed pleadings after the 4:30 deadline. The examples are too numerous to count.

4. In the Court of Appeal proceedings, the Guests habit of late filings continued. In the past year and a half period alone, I counted 12 examples of late filings, either by complete omission, several minutes, or several hours. These examples are recounted in the chart included in the Respondents' Joint Answer.

5. Exhibit 1 in the Appendix is a copy of this Court's September 6, 2019 letter ruling setting a deadline for submission of a

Motion for Extension of Time for September 20, 2019, referenced in Footnote 1 of this Response, and late transmittal record for the Motion for Extension.

6. Exhibit 2 in the Appendix is a copy of the late transmittal record of the Guest Petition for Review.

7. Exhibit 3 in the Appendix is a copy of the late transmittal record of the Guest Motion for Reconsideration.

8. Exhibit 4 in the Appendix is a copy of the late transmittal record of the Guest Reply in Support of their Motion for Oral Argument.

9. Exhibit 5 in the Appendix is a copy of the December 27, 2018 letter ruling referenced in Footnote 5 of this Response, along with the late transmittal record.

10. Exhibit 6 in the Appendix is a copy of the December 10, 2018 letter ruling referenced in Footnote 6 of this Response, along with the late transmittal record.

11. Exhibit 7 in the Appendix is a copy of the September 19, 2018 Conditional Ruling of Dismissal, referenced in Footnote 7 of this Response, along with the late transmittal record.

12. Exhibit 8 in the Appendix is a copy of the September 6, 2018 letter ruling referenced in Footnote 8 of this Response.

13. Exhibit 9 in the Appendix is a copy of the August 21, 2018 Conditional ruling of dismissal referenced in Footnote 9 of this Response, along with the late transmittal record.

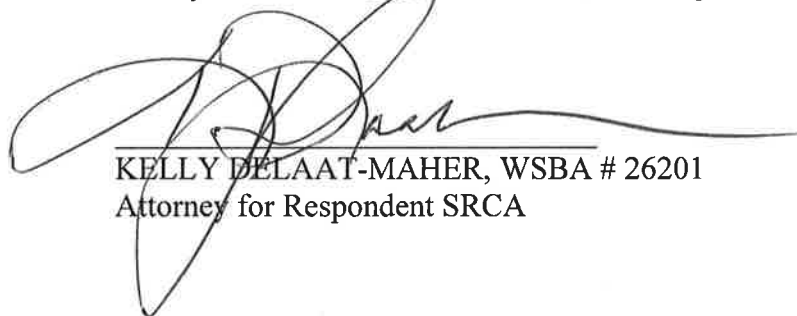
14. Exhibit 10 in the Appendix is a copy of the July 25, 2018 Order on the Guests' Motion to Modify, referenced in Footnote 10 and 14 of this Response.

15. Exhibit 11 in the Appendix is a copy of the May 14, 2018 letter ruling referenced in Footnote 11 of this Response, along with the late transmittal record.

16. Exhibit 12 in the Appendix is a copy of the late transmittal record of the Guest Motion to Modify, referenced in Footnote 12 of this Response.

17. Exhibit 13 in the Appendix is a copy of the Guests' Motion for Extension of Time to file their Motion to Modify.

DATED this 11th day of October, 2019 in Tacoma, Washington.



KELLY DELAAT-MAHER, WSBA # 26201
Attorney for Respondent SRCA

APPENDIX

1. September 6, 2019 letter from the Supreme Court
2. Late transmittal record of Guest Petition for Review
3. Late transmittal record of Guest Motion for Reconsideration
4. Late transmittal record of Guest Reply in Support of Motion for Oral Argument
5. December 27, 2018 letter ruling and late transmittal record
6. December 10, 2018 letter ruling and late transmittal record
7. September 19, 2018 Conditional Ruling of Dismissal and late transmittal record
8. September 6, 2018 letter ruling and late transmittal record
9. August 21, 2018 Conditional Ruling of Dismissal and later transmittal record
10. July 25, 2018 Order on Motion to Modify
11. May 14, 2018 letter ruling and late transmittal record
12. Late transmittal record for Motion to Modify
13. Guest Motion for Extension of Time for Motion to Modify

DECLARATION OF SERVICE

The undersigned hereby declares under penalty of perjury under the laws of the State of Washington, that on the below date she caused to be delivered to the Court and to the persons below, the attached document via the Washington State Appellate Court's Portal:

Suzanne Guest
Christopher Guest
6833 Main Sail Lane
Gig Harbor, WA 98335
emmalg@aol.com

John D. Burleigh
Burleigh Law, PLLC
3202 Harborview Dr
Gig Harbor, WA 98335-2125
john@burleighlegal.com

Sharon Ambrosia-Walt
Wilson Smith Cochran Dickerson
901 Fifth Avenue, Ste. 1700
Seattle, WA 98164
walt@wscd.com

DATED this 11th day of October, 2019, at Tacoma, Washington.



Teri Parr

EXHIBIT 1

SUSAN L. CARLSON
SUPREME COURT CLERK

ERIN L. LENNON
DEPUTY CLERK/
CHIEF STAFF ATTORNEY

THE SUPREME COURT

STATE OF WASHINGTON



TEMPLE OF JUSTICE

P.O. BOX 40929
OLYMPIA, WA 98504-0929

(360) 357-2077
e-mail: supreme@courts.wa.gov
www.courts.wa.gov

September 6, 2019

LETTER SENT BY E-MAIL ONLY

Christopher Guest
Suzanne Guest
6833 Main Sail Lane
Gig Harbor, WA 98335

Betsy A. Gillaspy
Patrick McKenna
Gillaspy & Rhode, PLLC
821 Kirkland Avenue, Suite 200
Kirkland, WA 98033-6311

John Goodwin Fritts
Sharon Ambrosia-Walt
Wilson Smith Cochran & Dickerson
901 5th Avenue, Suite 1700
Seattle, WA 98164-2050

Maureen Mullane Falecki
Irene Margret Hecht
Keller Rohrback LLP
1201 3rd Avenue, Suite 3200
Seattle, WA 98101-3052

Timothy Joseph Farley
Law Offices of Jason A. Winnell
520 Pike Street, Suite 915
Seattle, WA 98101-4097

Charles Tyler Shillito
Kelly Ann Delaat-Maher
Smith Alling PS
1501 Dock Street
Tacoma, WA 98402-3209

John D. Burleigh
Burleigh Law, PLLC
3202 Harborview Drive
Gig Harbor, WA 98335-2125

Hon. Derek Byrne, Clerk
Division II, Court of Appeals
950 Broadway, Suite 300
MS-TB-06
Tacoma, WA 98402

Re: Supreme Court No. 97618-0 - Spinnaker Ridge Community Assoc. v. Christopher Guest,
et ux, et al.
Court of Appeals No. 49038-2-II

Clerk, Counsel, Mr. Guest and Ms. Guest:

The Court of Appeals forwarded to this Court the "APPELLANT SUZANNE GUEST,
APPELLANT CHRISTOPHER GUEST AND APPELLANT GUEST MARITAL



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September 6, 2019

COMMUNITY'S JOINT AND COMBINED PETITION FOR REVIEW" in the referenced matter. The matter has been assigned the Supreme Court cause number indicated above.

A review of the Court of Appeals case indicates that the Court of Appeals decision terminating review was filed on August 5, 2019. RAP 13.4(a) requires the filing of a petition for review within 30 days after a decision terminating review is filed. GR 30(c) provides that an electronic document is filed when it is received during the clerk's business hours, otherwise the document is considered filed at the beginning of the next business day. In this case, the petition for review was due by 5:00 p.m. on September 4, 2019. The petition for review was filed at 5:03 p.m. on September 4, 2019. Under GR 30(c), the filing is considered filed on September 5, 2019, and therefore, it is untimely.

The Petitioners may seek an extension of time in which to file the petition for review by filing a motion for extension of time to file a petition for review. Any such motion should be served and filed in this Court by September 20, 2019. The motion should be supported by an appropriate affidavit establishing good cause for the delay in filing the petition for review; see RAP 18.8 for information on extension of time for filings and RAP Title 17 for the general rules governing motions. A motion for extension of time to file is normally not granted; see RAP 18.8(b).

It is also noted that the \$200 filing fee has not been received. The petition will be held until September 20, 2019, to allow the Petitioners time to pay the filing fee and file a motion for extension of time. If the filing fee and motion for extension of time are not received by September 20, 2019, it is likely that this matter will be dismissed. RAP 18.9(b).

At such time as the Petitioners serve and file a motion for extension of time to file a petition for review and the \$200 filing fee, a date will be established by which the Respondent may serve and file both an answer to the motion for extension of time and an answer to the petition for review.

The parties are referred to the provisions of General Rule 31(e) regarding the requirement to omit certain personal identifiers from all documents filed in this court. This rule provides that parties "shall not include, and if present shall redact" social security numbers, financial account numbers and driver's license numbers. As indicated in the rule, the responsibility for redacting the personal identifiers rests solely with counsel and the parties. The Clerk's Office does not review documents for compliance with the rule. Because briefs and other documents in cases that are not sealed may be made available to the public on the court's internet website, or viewed in our office, it is imperative that such personal identifiers not be included in filed documents.

The parties are advised that future correspondence from this Court regarding this matter will most likely only be sent by an e-mail attachment, not by regular mail. For attorneys, this office uses the e-mail address that appears on the Washington State Bar

Page 3
No. 97618-0
September 6, 2019

Association lawyer directory. Counsel are responsible for maintaining a current business-related e-mail address in that directory. For the Petitioners, this Court has an e-mail address of emma1g@aol.com. If this e-mail address is incorrect or changed, the Petitioners should immediately advise this Court in writing.

Sincerely,

A handwritten signature in cursive script that reads "Susan L. Carlson". The signature is written in dark ink and is positioned above the printed name and title.

Susan L. Carlson
Supreme Court Clerk

SLC:sk

September 20, 2019 - 5:00 PM

Transmittal Information

Filed with Court: Supreme Court
Appellate Court Case Number: 97618-0
Appellate Court Case Title: Spinnaker Ridge Community Assoc. v. Christopher Guest, et ux, et al.
Superior Court Case Number: 14-2-08865-1

The following documents have been uploaded:

- 976180_Motion_20190920165642SC504413_6367.pdf
This File Contains:
Motion 1 - Extend Time to File
The Original File Name was Motion.pdf

A copy of the uploaded files will be sent to:

- fritts@wscd.com
- john@burleighlegal.com
- kelly@smithalling.com
- ossenkop@wscd.com
- pmckenna@gillaspyrhode.com
- sanderson@gillaspyrhode.com
- timothy.farley@thehartford.com
- tyler@smithalling.com
- walt@wscd.com

Comments:

Sender Name: Suzanne Guest - Email: emma1g@aol.com
Address:
6833 Main Sail Lane
Gig Harbor, WA, 98335
Phone: (253) 495-1244

Note: The Filing Id is 20190920165642SC504413

EXHIBIT 2

September 04, 2019 - 5:03 PM

Transmittal Information

Filed with Court: Court of Appeals Division II
Appellate Court Case Number: 49038-2
Appellate Court Case Title: Spinnaker Ridge Community Assoc., Respondent v. Christopher Guest, et al.,
Appellants
Superior Court Case Number: 14-2-08865-1

The following documents have been uploaded:

- 490382_Petition_for_Review_20190904165948D2888131_5023.pdf
This File Contains:
Petition for Review
The Original File Name was Petition for Review.pdf

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- fritts@wscd.com
- john@burleighlegal.com
- kelly@smithalling.com
- ossenkop@wscd.com
- tyler@smithalling.com
- walt@wscd.com

Comments:

Sender Name: Suzanne Guest - Email: emma1g@aol.com
Address:
6833 Main Sail Lane
Gig Harbor, WA, 98335
Phone: (253) 495-1244

Note: The Filing Id is 20190904165948D2888131

EXHIBIT 3

May 28, 2019 - 5:00 PM

Transmittal Information

Filed with Court: Court of Appeals Division II
Appellate Court Case Number: 49038-2
Appellate Court Case Title: Spinnaker Ridge Community Assoc., Respondent v. Christopher Guest, et al.,
Appellants
Superior Court Case Number: 14-2-08865-1

The following documents have been uploaded:

- 490382_Motion_20190528165918D2821043_4752.pdf
This File Contains:
Motion 1 - Other
The Original File Name was Motion for Reconsideration.pdf

A copy of the uploaded files will be sent to:

- fritts@wscd.com
- john@burleighlegal.com
- kelly@smithalling.com
- ossenkop@wscd.com
- tyler@smithalling.com
- walt@wscd.com

Comments:

Sender Name: Suzanne Guest - Email: emmalg@aol.com
Address:
6833 Main Sail Lane
Gig Harbor, WA, 98335
Phone: (253) 495-1244

Note: The Filing Id is 20190528165918D2821043

EXHIBIT 4

January 14, 2019 - 5:08 PM

Transmittal Information

Filed with Court: Court of Appeals Division II
Appellate Court Case Number: 49038-2
Appellate Court Case Title: Spinnaker Ridge Community Assoc., Respondent v. Christopher Guest, et al.,
Appellants
Superior Court Case Number: 14-2-08865-1

The following documents have been uploaded:

- 490382_Briefs_20190114170529D2896288_6940.pdf

This File Contains:

Briefs - Petitioners Reply

The Original File Name was Reply.pdf

A copy of the uploaded files will be sent to:

- fritts@wscd.com
- john@burleighlegal.com
- kelly@smithalling.com
- ossenkop@wscd.com
- tyler@smithalling.com
- walt@wscd.com

Comments:

Sender Name: Suzanne Guest - Email: emma1g@aol.com

Address:

6833 Main Sail Lane

Gig Harbor, WA, 98335

Phone: (253) 495-1244

Note: The Filing Id is 20190114170529D2896288

EXHIBIT 5



Washington State Court of Appeals Division Two

950 Broadway, Suite 300, Tacoma, Washington 98402-4454

Derek Byrne, Clerk/Administrator (253) 593-2970 (253) 593-2806 (Fax)

General Orders, Calendar Dates, and General Information at <http://www.courts.wa.gov/courts> **OFFICE HOURS:** 9-12, 1-4

December 27, 2018

Sharon Ambrosia-Walt
Wilson Smith Cochran & Dickerson
901 5th Ave Ste 1700
Seattle, WA 98164-2050
walt@wscd.com

John Goodwin Fritts
Wilson Smith Cochran Dickerson
901 5th Ave Ste 1700
Seattle, WA 98164-2050
fritts@wscd.com

Kelly Ann Delaat-Maher
Smith Alling P.S.
1501 Dock St
Tacoma, WA 98402-3209
kelly@smithalling.com

Christopher Guest
Suzanne Guest
6833 Main Sail Lane
Gig Harbor, WA 98335
emma1g@aol.com

John D Burleigh
Burleigh Law, PLLC
3202 Harborview Dr
Gig Harbor, WA 98335-2125
john@burleighlegal.com

Charles Tyler Shillito
Smith Alling PS
1501 Dock St
Tacoma, WA 98402-3209
tyler@smithalling.com

CASE #: 49038-2-II

**Spinnaker Ridge Community Assoc., Respondent v. Christopher Guest, et al.,
Appellants**

Christopher & Suzanne Guest & Counsel:

After a careful review of the issues raised in the above referenced appeal, the court has decided to review this case without oral argument. RAP 11.4(j). Any request to change this decision must be filed not later than ten (10) days after the date of this letter. Unless a panel of judges concludes that oral argument would benefit the court, this matter will be set for consideration on February 25, 2019 and a written opinion will be issued thereafter. If a panel of judges agrees that argument would be beneficial, a letter setting the date and time of oral argument will be sent. In most instances, the date set for oral argument will be the date specified above.

Note: In those cases in which this court must consider an affidavit of financial need in ruling on an attorney fees request, the affidavit of financial need must be filed no later than 10 days before February 25, 2019. *See* RAP 18.1(c).

Very truly yours,

Derek M. Byrne,
Court Clerk

DMB:kc

January 08, 2019 - 12:04 AM

Transmittal Information

Filed with Court: Court of Appeals Division II
Appellate Court Case Number: 49038-2
Appellate Court Case Title: Spinnaker Ridge Community Assoc., Respondent v. Christopher Guest, et al.,
Appellants
Superior Court Case Number: 14-2-08865-1

The following documents have been uploaded:

- 490382_Motion_20190107235953D2886209_2824.pdf
This File Contains:
Motion 1 - Other
The Original File Name was Motion .pdf

A copy of the uploaded files will be sent to:

- fritts@wscd.com
- john@burleighlegal.com
- kelly@smithalling.com
- ossenkop@wscd.com
- tyler@smithalling.com
- walt@wscd.com

Comments:

Sender Name: Suzanne Guest - Email: emmalg@aol.com
Address:
6833 Main Sail Lane
Gig Harbor, WA, 98335
Phone: (253) 495-1244

Note: The Filing Id is 20190107235953D2886209

EXHIBIT 6



Washington State Court of Appeals

Division Two

950 Broadway, Suite 300, Tacoma, Washington 98402-4454

Derek Byrne, Clerk/Administrator (253) 593-2970 (253) 593-2806 (Fax)

General Orders, Calendar Dates, and General Information at <http://www.courts.wa.gov/courts> **OFFICE HOURS:** 9-12, 1-4.

December 10, 2018

Sharon Ambrosia-Walt
Wilson Smith Cochran & Dickerson
901 5th Ave Ste 1700
Seattle, WA 98164-2050
walt@wscd.com

John Goodwin Fritts
Wilson Smith Cochran Dickerson
901 5th Ave Ste 1700
Seattle, WA 98164-2050
fritts@wscd.com

Kelly Ann Delaat-Maher
Smith Alling P.S.
1501 Dock St
Tacoma, WA 98402-3209
kelly@smithalling.com

Christopher Guest
6833 Main Sail Lane
Gig Harbor, WA 98335
emma1g@aol.com

John D Burleigh
Burleigh Law, PLLC
3202 Harborview Dr
Gig Harbor, WA 98335-2125
john@burleighlegal.com

Suzanne Guest
6833 Main Sail Lane
Gig Harbor, WA 98335
emma1g@aol.com

Charles Tyler Shillito
Smith Alling PS
1501 Dock St
Tacoma, WA 98402-3209
tyler@smithalling.com

CASE #: 49038-2-II

Spinnaker Ridge Community Assoc., Respondent v. Christopher Guest, et al., Appellants

Counsel:

On the above date, this court entered the following notation ruling:

A RULING BY THE CLERK:

Appellant is granted an extension of time to and including December 31, 2018, to file the Reply Brief. Since this case will likely be set for consideration in the beginning of 2019, no further extensions will be granted.

Very truly yours,

A handwritten signature in black ink, appearing to be "Derek M. Byrne".

Derek M. Byrne
Court Clerk

December 31, 2018 - 5:20 PM

Transmittal Information

Filed with Court: Court of Appeals Division II
Appellate Court Case Number: 49038-2
Appellate Court Case Title: Spinnaker Ridge Community Assoc., Respondent v. Christopher Guest, et al.,
Appellants
Superior Court Case Number: 14-2-08865-1

The following documents have been uploaded:

- 490382_Briefs_20181231171732D2352346_9945.pdf
This File Contains:
Briefs - Appellants Reply
The Original File Name was Reply .pdf

A copy of the uploaded files will be sent to:

- fritts@wscd.com
- john@burleighlegal.com
- kelly@smithalling.com
- ossenkop@wscd.com
- tyler@smithalling.com
- walt@wscd.com

Comments:

Sender Name: Suzanne Guest - Email: emmalg@aol.com
Address:
6833 Main Sail Lane
Gig Harbor, WA, 98335
Phone: (253) 495-1244

Note: The Filing Id is 20181231171732D2352346

EXHIBIT 7

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

SPINNAKER RIDGE
COMMUNITY ASSOCIATION,

Respondent,

v.

CHRISTOPHER and SUZANNE
GUEST, and their marital
community,

Appellants.

No. 49038-2-II

CONDITIONAL RULING OF DISMISSAL

FILED
COURT OF APPEALS
DIVISION II
2018 SEP 19 PM 2:44
STATE OF WASHINGTON
DEPUTY

THIS MATTER comes before the undersigned upon a motion by the clerk of this court to dismiss the above-entitled appeal for failure to file the Amended Appellants' Brief, due since September 13, 2018. It appears that dismissal is warranted, but that a brief grace period is also warranted. Accordingly, it is

ORDERED that the above-entitled appeal will be dismissed without further notice unless the Amended Appellants' Brief is on file with the Clerk before the close of business on **October 1, 2018**. Since the Court previously granted Spinnaker Ridge's motion to sanction the Guests under RAP 18.9(a) for using the rules of appellate procedure for the purpose of delay, this Court will impose a further sanction of \$1,000 against the Guests to be paid to the Court of Appeals if the Amended Appellants' Brief is not filed by October 1, 2018.

DATED this 19th day of September, 2018.

Eric B. Schmal
COURT COMMISSIONER

CASE #: 49038-2-II
Spinnaker Ridge Community Assoc., Respondent v. Christopher Guest, et al., Appellants
Ruling – Page 2

Sharon Ambrosia-Walt
Wilson Smith Cochran & Dickerson
901 5th Ave Ste 1700
Seattle, WA 98164-2050
walt@wscd.com

John Goodwin Fritts
Wilson Smith Cochran Dickerson
901 5th Ave Ste 1700
Seattle, WA 98164-2050
fritts@wscd.com

Kelly Ann Delaat-Maher
Smith Alling P.S.
1501 Dock St
Tacoma, WA 98402-3209
kelly@smithalling.com

Christopher Guest
6833 Main Sail Lane
Gig Harbor, WA 98335
emma1g@aol.com

John D Burleigh
Burleigh Law, PLLC
3202 Harborview Dr
Gig Harbor, WA 98335-2125
john@burleighlegal.com

Suzanne Guest
6833 Main Sail Lane
Gig Harbor, WA 98335
emma1g@aol.com

Charles Tyler Shillito
Smith Alling PS
1501 Dock St
Tacoma, WA 98402-3209
tyler@smithalling.com

October 01, 2018 - 5:07 PM

Transmittal Information

Filed with Court: Court of Appeals Division II
Appellate Court Case Number: 49038-2
Appellate Court Case Title: Spinnaker Ridge Community Assoc., Respondent v. Christopher Guest, et al.,
Appellants
Superior Court Case Number: 14-2-08865-1

The following documents have been uploaded:

- 490382_Briefs_20181001170436D2549648_5945.pdf
This File Contains:
Briefs - Appellants - Modifier: Amended
The Original File Name was Brief.pdf

A copy of the uploaded files will be sent to:

- fritts@wscd.com
- john@burleighlegal.com
- kelly@smithalling.com
- muul@wscd.com
- tyler@smithalling.com
- walt@wscd.com

Comments:

Sender Name: Suzanne Guest - Email: emmalg@aol.com
Address:
6833 Main Sail Lane
Gig Harbor, WA, 98335
Phone: (253) 495-1244

Note: The Filing Id is 20181001170436D2549648

EXHIBIT 8



Washington State Court of Appeals Division Two

950 Broadway, Suite 300, Tacoma, Washington 98402-4454

Derek Byrne, Clerk/Administrator (253) 593-2970 (253) 593-2806 (Fax)

General Orders, Calendar Dates, and General Information at <http://www.courts.wa.gov/courts> OFFICE HOURS: 9-12, 1-4.

September 6, 2018

Sharon Ambrosia-Walt
Wilson Smith Cochran & Dickerson
901 5th Ave Ste 1700
Seattle, WA 98164-2050
walt@wscd.com

John Goodwin Fritts
Wilson Smith Cochran Dickerson
901 5th Ave Ste 1700
Seattle, WA 98164-2050
fritts@wscd.com

Kelly Ann Delaat-Maher
Smith Alling P.S.
1501 Dock St
Tacoma, WA 98402-3209
kelly@smithalling.com

Christopher Guest
6833 Main Sail Lane
Gig Harbor, WA 98335
emma1g@aol.com

John D Burleigh
Burleigh Law, PLLC
3202 Harborview Dr
Gig Harbor, WA 98335-2125
john@burleighlegal.com

Suzanne Guest
6833 Main Sail Lane
Gig Harbor, WA 98335
emma1g@aol.com

Charles Tyler Shillito
Smith Alling PS
1501 Dock St
Tacoma, WA 98402-3209
tyler@smithalling.com

CASE #: 49038-2-II
Spinnaker Ridge Community Assoc., Respondent v. Christopher Guest, et al., Appellants
Case Manager: Cheryl

Suzanne Guest and Christopher Guest:

The Appellant Suzanne Guest's Brief submitted on September 4, 2018, and the Appellant Christopher Guest's Brief submitted on September 5, 2018, to this court in this matter do not conform to the content and form requirements set out in the Rules of Appellate Procedure for one or more of the following reasons:

Briefs are overlength. RAP 10.4(b).

The Court will not file the briefs as part of the official record but will stamp them and place them in the pouch without filing. Therefore, you must submit and re-serve a corrected brief by **September 13, 2018**.

Accordingly, we will impose a sanction of \$200 against you unless you filed the Amended Appellants' Brief with this court on September 13, 2018. If you do not, a check for the amount of the sanction, payable to the State of Washington, will be due. Once a sanction becomes due, we will accept no further filings from you until you pay that sanction in full.

Further, we have scheduled a motion for dismissal and/or further sanctions because of your failure to timely file the Amended Appellants' Brief. A commissioner will consider this motion, without oral argument, if you do not file the Amended Appellants' Brief, by September 17, 2018. We will strike the clerk's motion for further sanctions if you cure the defect before that date. Please note, however, that even if we strike the clerk's motion for dismissal, you will not be released from paying the sanction imposed on **September 13, 2018**, unless you file your response before that date.

Very truly yours,

A handwritten signature in black ink, appearing to be 'Derek M. Byrne', with a long horizontal line extending to the right.

Derek M. Byrne
Court Clerk

DMB:C

EXHIBIT 9

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

SPINNAKER RIDGE
COMMUNITY ASSOCIATION,

Respondent,


v.

CHRISTOPHER and SUZANNE
GUEST, and their marital
community,

Appellants.

No. 49038-2-II

CONDITIONAL RULING OF DISMISSAL

FILED
COURT OF APPEALS
DIVISION II
2018 AUG 21 PM 1:04
STATE OF WASHINGTON
BY 
DEPUTY

THIS MATTER comes before the undersigned upon a motion by the Clerk of the court to dismiss the above-entitled appeal for failure to file the Appellant's Brief and pay the \$250 sanctions to Spinnaker Ridge, due since August 9, 2018. It appears that dismissal is warranted, but that a brief grace period is also warranted. Accordingly, it is

ORDERED that the above-entitled appeal will be dismissed without further notice unless the Appellant's Brief and a declaration indicating that the \$250 sanctions were paid to Spinnaker Ridge are on file with the Clerk before the close of business on **August 31, 2018**. Since the Court previously granted Spinnaker Ridge's motion to sanction the Guests under RAP 18.9(a) for using the Rules of Appellate Procedure for the purpose of delay, this court imposes a further sanction of \$1,000 against the Guests to be paid to the Court of Appeals by **August 31, 2018**.

DATED this 21st day of August, 2018.


COURT COMMISSIONER

CASE #: 49038-2-II

Spinnaker Ridge Community Assoc., Respondent v. Christopher Guest, et al., Appellants

Sharon Ambrosia-Walt
Wilson Smith Cochran & Dickerson
901 5th Ave Ste 1700
Seattle, WA 98164-2050
walt@wscd.com

John Goodwin Fritts
Wilson Smith Cochran Dickerson
901 5th Ave Ste 1700
Seattle, WA 98164-2050
fritts@wscd.com

Kelly Ann Delaat-Maher
Smith Alling P.S.
1501 Dock St
Tacoma, WA 98402-3209
kelly@smithalling.com

Christopher Guest
6833 Main Sail Lane
Gig Harbor, WA 98335
emma1g@aol.com

John D Burleigh
Burleigh Law, PLLC
3202 Harborview Dr
Gig Harbor, WA 98335-2125
john@burleighlegal.com

Suzanne Guest
6833 Main Sail Lane
Gig Harbor, WA 98335
emma1g@aol.com

Charles Tyler Shillito
Smith Alling PS
1501 Dock St
Tacoma, WA 98402-3209
tyler@smithalling.com

August 31, 2018 - 5:17 PM

Transmittal Information

Filed with Court: Court of Appeals Division II
Appellate Court Case Number: 49038-2
Appellate Court Case Title: Spinnaker Ridge Community Assoc., Respondent v. Christopher Guest, et al.,
Appellants
Superior Court Case Number: 14-2-08865-1

The following documents have been uploaded:

- 490382_Briefs_20180831171611D2398819_1897.pdf
This File Contains:
Briefs - Appellants
The Original File Name was Appellant Suzane Guest Opening Brief .pdf

A copy of the uploaded files will be sent to:

- fritts@wscd.com
- john@burleighlegal.com
- kelly@smithalling.com
- muul@wscd.com
- tyler@smithalling.com
- walt@wscd.com

Comments:

Sender Name: Suzanne Guest - Email: emma1g@aol.com
Address:
6833 Main Sail Lane
Gig Harbor, WA, 98335
Phone: (253) 495-1244

Note: The Filing Id is 20180831171611D2398819

CHRISTOPHER GUEST - FILING PRO SE

September 05, 2018 - 5:00 PM

Transmittal Information

Filed with Court: Court of Appeals Division II
Appellate Court Case Number: 49038-2
Appellate Court Case Title: Spinnaker Ridge Community Assoc., Respondent v. Christopher Guest, et al.,
Appellants
Superior Court Case Number: 14-2-08865-1

The following documents have been uploaded:

- 490382_Briefs_20180905165155D2984205_2673.pdf
This File Contains:
Briefs - Appellants
The Original File Name was Appellant Brief.pdf

A copy of the uploaded files will be sent to:

- fritts@wscd.com
- john@burleighlegal.com
- kelly@smithalling.com
- muul@wscd.com
- tyler@smithalling.com
- walt@wscd.com

Comments:

Sender Name: Christopher Guest - Email: suzanneguest3@gmail.com
Address:
6833 Main Sail Lane
Gig Harbor, WA, 98335
Phone: (253) 495-1244

Note: The Filing Id is 20180905165155D2984205

EXHIBIT 10

July 25, 2018

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

SPINNAKER RIDGE COMMUNITY
ASSOCIATION,

Plaintiff/Respondent,

v.

CHRISTOPHER and SUZANNE GUEST, and
their marital community,

Defendants/Appellants,

v.

CHRISTOPHER and SUZANNE GUEST, and
their marital community,

Third Party Plaintiff/Appellants,

v.

DAVID LANGE and KAREN LANGE, JOHN
FARRINGTON, individually and the marital
community comprised thereof; JOHN
FARRINGTON, individually and the marital
community comprised of John Farrington and
Jean Farrington; WALLACE "BOB" TIRMAN,
individually and the marital community
comprised of Wallace "Bob" Tirman and Valerie
Tirman; and JOHN DOES 1-50,

Third Party Defendants/Respondents

No. 49038-2-II

Consolidated with
Nos. 49465-5-II
49775-1-II
49258-0-II
50145-7-II
50355-7-II
50488-0-II
50655-6-II
50828-1-II

ORDER ON
MOTIONS TO MODIFY
EXTEND TIME,
FILE OVERLENGTH BRIEF,
and SANCTIONS

This order addresses the following pending motions: Spinnaker Ridge's and the Guests' motions to modify the Commissioner's April 17, 2018 ruling; the Guests' motion for extension

No. 490382 (Consolidated)
Christopher and Suzanne Guest, et al. v David and Karen Lange, et al.
Order on Motions to Modify

to file motion to modify; the Guests' motion for over-length reply; and the Guests' motion to file a late reply.

Following consideration, the court rules as follows: (1) grant Spinnaker Ridge's motion to modify the commissioner's April 17, 2018 ruling, but allow the Guests 14 days from the date of the order to file their opening brief; (2) deny the Guests' motion for an extension of time to file a motion to modify the commissioner's April 17, 2018 ruling and deny the Guests' motion to modify as untimely; (3) deny as moot the Guests' motions to file on over-length reply to Spinnaker Ridge's response to the Guests' motion to modify and the Guests' motion for an extension of time to file a reply to third party respondents' amended reply to Guests' motion to modify; and (4) grant Spinnaker Ridge's motion for sanctions and assess sanctions of \$250 against the Guests payable to Spinnaker Ridge. Accordingly, it is

SO ORDERED.

PANEL: Jj. Worswick, Johanson, Bjorgen

FOR THE COURT:


PRESIDING JUDGE

EXHIBIT 11



Washington State Court of Appeals Division Two

950 Broadway, Suite 300, Tacoma, Washington 98402-4454
Derek Byrne, Clerk/Administrator (253) 593-2970 (253) 593-2806 (Fax)

General Orders, Calendar Dates, and General Information at <http://www.courts.wa.gov/courts> **OFFICE HOURS:** 9-12, 1-4.

May 14, 2018

Sharon Ambrosia-Walt
Wilson Smith Cochran & Dickerson
901 5th Ave Ste 1700
Seattle, WA 98164-2050
walt@wscd.com

John Goodwin Fritts
Wilson Smith Cochran Dickerson
901 5th Ave Ste 1700
Seattle, WA 98164-2050
fritts@wscd.com

Kelly Ann Delaat-Maher
Smith Alling P.S.
1501 Dock St
Tacoma, WA 98402-3209
kelly@smithalling.com

Christopher Martin Constantine
of Counsel Inc PS
PO Box 7125
Tacoma, WA 98417-0125
ofcouns1@mindspring.com

John D Burleigh
Burleigh Law, PLLC
3202 Harborview Dr
Gig Harbor, WA 98335-2125
john@burleighlegal.com

Charles Tyler Shillito
Smith Alling PS
1501 Dock St
Tacoma, WA 98402-3209
tyler@smithalling.com

CASE #: 49038-2-II

Spinnaker Ridge Community Assoc., Respondent v. Christopher Guest, et al., Appellants

Counsel:

On May 11, 2018, a motion to modify a Commissioner's ruling of April 17, 2018, was filed in the above-referenced matter. A panel of judges will consider the motion without oral argument on the next available motion calendar. Any response to the motion should be filed no later than **May 24, 2018**. A reply, if any, must be filed within seven days after the response has been filed.

If you have any questions, please contact this office.

Very truly yours,

Derek M. Byrne
Court Clerk

DMB:C

OF COUNSEL INC PS

May 24, 2018 - 5:01 PM

Transmittal Information

Filed with Court: Court of Appeals Division II
Appellate Court Case Number: 49038-2
Appellate Court Case Title: Spinnaker Ridge Community Assoc., Respondent v. Christopher Guest, et al.,
Appellants
Superior Court Case Number: 14-2-08865-1

The following documents have been uploaded:

- 490382_Answer_Reply_to_Motion_20180524164719D2249207_3712.pdf
This File Contains:
Answer/Reply to Motion - Response
The Original File Name was Response to Motion Modify.pdf

A copy of the uploaded files will be sent to:

- emma1g@aol.com
- fritts@wscd.com
- john@burleighlegal.com
- kelly@smithalling.com
- muul@wscd.com
- tyler@smithalling.com
- walt@wscd.com

Comments:

Sender Name: Christopher Constantine - Email: ofcounsel1@mindspring.com

Address:

PO BOX 7125

TACOMA, WA, 98417-0125

Phone: 253-752-7850

Note: The Filing Id is 20180524164719D2249207

EXHIBIT 12

OF COUNSEL INC PS

May 17, 2018 - 5:10 PM

Transmittal Information

Filed with Court: Court of Appeals Division II
Appellate Court Case Number: 49038-2
Appellate Court Case Title: Spinnaker Ridge Community Assoc., Respondent v. Christopher Guest, et al.,
Appellants
Superior Court Case Number: 14-2-08865-1

The following documents have been uploaded:

- 490382_Motion_20180517170933D2301913_4568.pdf
This File Contains:
Motion 1
The Original File Name was Motion to Modify.pdf

A copy of the uploaded files will be sent to:

- fritts@wscd.com
- john@burleighlegal.com
- kelly@smithalling.com
- muul@wscd.com
- tyler@smithalling.com
- walt@wscd.com

Comments:

Sender Name: Christopher Constantine - Email: ofcounsl1@mindspring.com
Address:
PO BOX 7125
TACOMA, WA, 98417-0125
Phone: 253-752-7850

Note: The Filing Id is 20180517170933D2301913

EXHIBIT 13

FILED
Court of Appeals
Division II
State of Washington
5/21/2018 4:57 PM

No. 49038-2-II

IN THE COURT OF APPEALS, DIVISION III,
OF THE STATE OF WASHINGTON

SPINNAKER RIDGE COMMUNITY ASSOCIATION, INC.
Plaintiff/Respondent.

v.

CHRISTOPHER and SUZANNE GUEST, and their marital community,
Defendants/Appellants.

CHRISTOPHER and SUZANNE GUEST, and their marital community,
Third Party Plaintiffs/Appellants.

v.

DAVID LANGE and KAREN LANGE, individually and the marital
community comprised thereof; JOHN FARRINGTON, individually and
the marital community comprised of John Farrington and Jean Farrington;
WALLACE "BOB" TIRMAN, individually and the marital community
comprised of Wallace "Bob" Tirman and Valerie Tirman; and JOHN
DOES 1-50,
Third Party Defendants/Respondents

APPEAL FROM THE SUPERIOR COURT OF PIERCE COUNTY,
THE HONORABLE GRETCHEN LEANDERSON, PRESIDING

APPELLANTS' MOTION FOR EXTENSION OF TIME TO FILE
AMENDED MOTION TO MODIFY COMMISSIONER'S RULING

Christopher M. Constantine
WSBA 11650 Attorney for Appellants,

Of Counsel, Inc., P.S.
P. O. Box 7125
Tacoma, WA 98417-2522
(253) 752-7850

I. IDENTITY OF PERSON REQUESTING RELIEF

Appellants, Christopher and Suzanne Guest, ask the Court, through the undersigned counsel, for the relief requested in Part II of this motion.

II. STATEMENT OF RELIEF SOUGHT

Appellants request an extension of the deadline for filing Appellants' Amended Motion to Modify Commissioner's Ruling of April 17, 2018.

III. FACTS RELEVANT TO MOTION

The request for extension of time to file Appellants' Amended Motion to Modify Commissioner's Ruling in this matter is made pursuant to RAP 18.8, and the attached declaration of Christopher M. Constantine.

IV. GROUNDS FOR RELIEF AND ARGUMENT

Appellants invoke RAP 1.2:

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

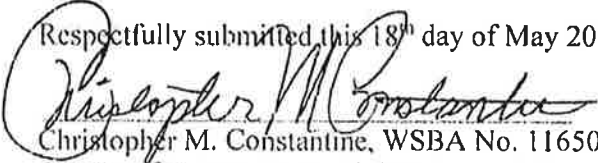
Appellants also invoke RAP 18.8 (a):

"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)."

As more fully set forth in the accompanying declaration of Christopher M. Constantine, on May 17, 2018, Appellants' counsel attempted to upload the final draft of Appellants' motion to the Washington Court's Appellate Portal. Appellants' counsel encountered difficulty with entering the portal, due to a recent change in his password. As a result, Appellants' counsel did not successfully upload Appellants' motion until approximately 5:11 p.m. Appellants' counsel made every attempt to file Appellants' motion by 5:00 p.m. on May 17, 2018 but was unsuccessful. The interests of justice will therefore best be served by allowing Appellants to file their Amended Motion to Modify on May 21, 2018.

V. CONCLUSION

The Court should grant Appellants request to extend until May 21, 2018, the date for filing Appellants' Amended Motion to Modify Commissioner's Ruling of April 17, 2018.

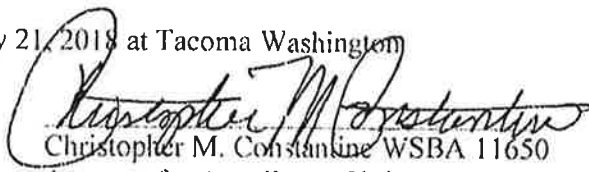
Respectfully submitted this 18th day of May 2018.

Christopher M. Constantine, WSBA No. 11650
Attorney for Appellants, Christopher and Suzanne
Guest

DECLARATION OF CHRISTOPHER M. CONSTANTINE

I, Christopher M. Constantine, do hereby declare under penalty of perjury under the law of the State of Washington in the County of Pierce as follows:

1. I am an attorney admitted to practice under the law of the State of Washington. My WSBA number is 11650.
2. I have personal knowledge of the matters testified to herein.
3. At approximately 4:58 p.m. on May 17, 2018, I received from Appellants the final draft of their Motion to Modify, following several revisions. I attempted to upload the final draft of Appellants' motion to the Washington Court's Appellate Portal. I encountered difficulty with entering the portal. due to a recent change in my password. As a result, I did not successfully upload Appellants' motion until approximately 5:11 p.m. I made every attempt to file Appellants' motion by 5:00 p.m. on May 17, 2018 but was unsuccessful. The interests of justice will therefore best be served by allowing Appellants to file their Amended Motion to Modify on May 21, 2018.

Dated: May 21, 2018 at Tacoma Washington


Christopher M. Constantine WSBA 11650
Attorney for Appellants, Christopher and
Suzanne Guest

CERTIFICATE OF SERVICE

I, the undersigned, certify under penalty of perjury under the laws of the State of Washington that on this day I caused to be delivered the foregoing APPELLANTS' MOTION FOR EXTENSION OF TIME TO FILE AMENDED MOTION TO MODIFY COMMISSIONER'S RULING to the Court and to Respondents through the following counsel:

VIA Washington State Appellate Courts' Portal:
Court of Appeals
State of Washington
Division II

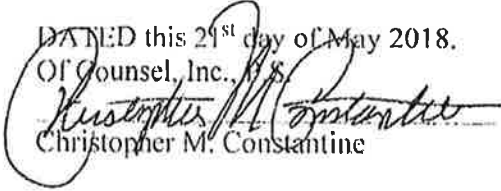
John G. Fritts, Sharon Ambrosia-Walt
Wilson, Smith, Cochran, Dickerson
901 Fifth Avenue Suite 1700
Seattle, WA 98164

John Burleigh
Burleigh Law, PLLC
3202 Harborview Dr.
Gig Harbor, WA 98335-2125

C. Tyler Shillito
Kelly DeLaat-Maher
Smith Alling PS
1501 Dock St.
Tacoma, WA 98402-3209

Christopher and Suzanne Guest
6833 Main Sail Lane
Gig Harbor, WA 98335

DATED this 21st day of May 2018.
Of Counsel, Inc., WA


Christopher M. Constantine

SMITH ALLING, P.S.

October 11, 2019 - 1:44 PM

Transmittal Information

Filed with Court: Supreme Court
Appellate Court Case Number: 97618-0
Appellate Court Case Title: Spinnaker Ridge Community Assoc. v. Christopher Guest, et ux, et al.
Superior Court Case Number: 14-2-08865-1

The following documents have been uploaded:

- 976180_Answer_Reply_20191011134120SC521789_1687.pdf
This File Contains:
Answer/Reply - Answer to Motion
The Original File Name was Respondents Joint Answer to Motion for Extension of Time 10.11.19.pdf

A copy of the uploaded files will be sent to:

- emmalg@aol.com
- fritts@wscd.com
- john@burleighlegal.com
- ossenkop@wscd.com
- pmckenna@gillaspyrhode.com
- sanderson@gillaspyrhode.com
- timothy.farley@thehartford.com
- tyler@smithalling.com
- walt@wscd.com

Comments:

Sender Name: Julie Perez - Email: julie@smithalling.com

Filing on Behalf of: Kelly Ann Delaat-Maher - Email: kelly@smithalling.com (Alternate Email:)

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