

FILED  
SUPREME COURT  
STATE OF WASHINGTON  
11/13/2019 3:51 PM  
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Supreme Court Case No. 97830-1

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IN THE WASHINGTON STATE SUPREME COURT

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LISA SAMUELS,  
Plaintiff/Appellant/Petitioner

v.

MULTICARE HEALTH SYSTEM, GLORIA LEM, CITY OF TACOMA  
Respondents.

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APPELLANT's MOTION FOR, AND ATTORNEY DECLARATION IN  
SUPPORT OF, EXTENSION OF TIME TO FILE PETITION FOR  
WASHINGTON SUPREME COURT REVIEW

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By:

F. Hunter MacDonald, WSBA #22857  
of FIFE LAW, P.S.  
Attorneys for Appellant, Lesa Samuels  
Post Office Box 1761  
Tacoma, WA 98401  
(206) 280-0079

## **I. IDENTITY OF MOVING PARTY**

The moving party is Petitioner Lesa Samuels, (“Samuels”), who was the plaintiff at the trial court level. Samuels appealed the Pierce County Superior Court’s termination of her case against one defendant, i.e., the City of Tacoma, via summary judgment, in *Lesa M. Samuels v Multicare Health System et. al.*

## **II. RELIEF SOUGHT**

Samuels’ November 6, 2019 petition for review was filed 6 days tardy based on the October 1, 2019 filing date of Divison 2’s opinion in Court of Appeals Case No. 51827-9-II. Samuels seeks an extension of time to the actual filing date, i.e., November 6, 2019, for her petition for review.

## **III. RELEVANT PORTIONS OF THE RECORD**

The Court of Appeals considered testimony and evidence concerning negligence and gross negligence claims of Samuels who suffered a stroke on December 24, 2015 which was not diagnosed until January 5, 2016. CP 6, 143-47, 167, 568-69, 607, 708, 735.

Samuels’ November 6, 2019 petition for review, (actually filed at 5:03 P.M. on November 5, 2018), and the October 1, 2019 Court of Appeals opinion are attached as Exhibit 1 to this Motion.

**IV. GROUNDS FOR THE RELIEF SOUGHT WITH SUPPORTING ARGUMENT AND SUPPORTING DECLARATION**

The Court of Appeals opinion in the above-captioned case was issued on October 1, 2019. I received it and communicated the option of petitioning for review to Appellant Lesa Samuels, (“Samuels”), on October 22, 2019 and also one time earlier in October, but I do not remember the date. On both occasions Samuels stated she wished to petition for review.

When the Court of Appeals issued its opinion on October 1, 2019, Luce & Associates, P.S., (“Luce”), was the law firm of record for Samuels and I was an attorney-employee of Luce. I was also the only individual attorney of record for Samuels for the appeal. Finally, I was the only individual attorney of record for approximately 30 other active litigation cases where Luce was the law firm of record.

On October 11, 2019, Luce’s owner, (Mr. Kenyon Luce), summoned me and announced that I would be terminated as of close of business on October 11, 2019, but this date was changed prior to the end of our meeting to an undetermined date in the near future.

The termination date was delayed when I reminded Mr. Luce that I believed that the RPCs required:

1. me to provide Mr. Luce with a summary of the status of each active case where I was the only individual attorney of record or client communication point,
2. communication with each client in a lawsuit if I was the only current individual attorney of record to ascertain their wishes for continuing representation,
3. the filing of notices of substitution and withdrawal reflecting communications from clients about their choices for future representation, and
4. the designation of someone to finish the briefing and/or appearances required between October 11, 2019 and November 1, 2019 for:
  - an October 24, 2019 argument before Division 2 in *In re. L'Amarca*, Court of Appeals Case No. 52049-4-II,
  - the October 31, 2019 petition for review in *Samuels v Multicare and City of Tacoma et al*, Court of Appeals Case No. 51827-9-II, and
  - pending motions in the following Pierce County Superior Court Cases:

*Hill v Vossified Ventures, LLC*, PCSC Case No. 18-2-12433-1, (heard October 25, 2019),

*Zahoxy v Oakbrook Townhouses, Inc.* PCSC Case No. 19-2-10984-5, (scheduled to be heard on October 25, 2019, but later resolved and stricken),

*Smith v Keefer*, PCSC Case No. 19-3-01793-6, (heard October 29, 2019), and

*Michael v Sunset South Homeowners Association*, PCSC Case No. 19-2-06788-3. (heard November 1, 2019).

I completed the above tasks, including providing the summaries, communicating with clients, and doing the briefing/appearances, with the

exception of Samuels' petition, despite the fact that my actual termination date from Luce was October 25, 2019. Approximately ten clients communicated their desire to retain me as the individual attorney of record as of October 25 despite the short window between my October 11, 2019 meeting with Mr. Luce and my last day at Luce.

The communications, motions hearings, and projects required after October 25, 2019 could only be performed by doing some under the wing of my new legal entity, (Fife Law, P.S.).

These post-October 25, 2019 projects included briefing and/or arguing *Smith v Keefer*, a contentious *pro bono* parenting case involving a 15-month old child and allegations of domestic violence and suicidal ideations by one parent on October 29, 2019, (PCSC Case No. 19-3-01793-6), and *Michael v Sunset South Homeowners Association*, a complex summary judgment hearing concerning a private right of way easement on November 1, 2019, (PCSC Case No. 19-2-06788-3).

On November 4, 2019, I reviewed the Samuels file and realized I had not met my October 31, 2019 filing deadline for the petition and spent the next two days drafting one. I managed to complete and file it by 5:03 P.M. on November 5, 2019.

The failure to file Samuels' petition until 5:03 P.M. on November 5, 2019, as opposed to sometime before 5:00 P.M. on October 31, 2019, is

not Samuels' fault. It is mine. But the volume of work required of me to fulfill my professional duties to clients, particularly those enumerated under RPCs 1.1, 1.2(a), 1.4(a)(1)-(4) and 1.4(b), and also those enumerated under RPC 3.2, in the 20 days preceding the petition for review deadline was spiked in an unanticipated fashion by a termination notice which neither Samuels, nor other clients relying on me a sole individual counsel of record, nor I, expected. As such, and in light of the fact that my oversight was corrected quickly and presents no prejudice to Appellee City of Tacoma in terms of responding to the petition for review, it should be considered excusable neglect and good cause should be found for extension of the deadline from October 31, 2019 until November 6, 2019, so matters of not only private interest, but also public interest, can be decided concerning the proper construction and application of the qualified immunity statute and applicable fault levels for first responders.

Respectfully submitted this 13<sup>th</sup> day of November, 2019.

/s/ F. Hunter MacDonald

F. Hunter MacDonald, WSBA #22857  
Attorney for Appellant/Petitioner Lesa Samuels

**DECLARATION / CERTIFICATION**

I certify and declare under penalty of perjury under the laws of the State of Washington that my name is F. Hunter MacDonald, I am over eighteen years of age and otherwise competent to testify in the above-captioned matter, I am the attorney of record for the appellant, (Lesa Samuels), and that the foregoing statements are true and correct to the best of my information, knowledge and belief.

Dated this 13<sup>th</sup> day of November, 2019.

**/s/ F. Hunter MacDonald**

F. Hunter MacDonald, WSBA #22857  
Attorney for Appellant/Petitioner Lesa Samuels

**CERTIFICATE OF SERVICE**

The undersigned does hereby declare that on November 13, 2019, the undersigned delivered a copy of the foregoing MOTION filed in the above-entitled case to the following persons:

**VIA WASHINGTON APPELLATE COURTS FILING PORTAL**

Clerk, Washington State Court of Appeals, Division II  
950 Broadway, Suite 300 MS TB 06  
Tacoma, WA 98402-4427

Monica Whitehead Cadagan  
Fain Anderson Vanderhoef Rosendahl O'Halloran Spillane, PLLC  
1301 A Street, Suite 900  
Tacoma, WA 98402

DATED this 13th day of NOVEMBER, 2019.

By: /s/ F. Hunter MacDonald  
F. Hunter MacDonald  
WSBA #22857

**FIFE LAW, P.S.**

**November 13, 2019 - 3:51 PM**

**Transmittal Information**

**Filed with Court:** Supreme Court  
**Appellate Court Case Number:** 97830-1  
**Appellate Court Case Title:** Lesa Samuels v. City of Tacoma  
**Superior Court Case Number:** 16-2-07199-1

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TACOMA, WA, 98401-1761

Phone: 206-280-0079

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