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SUPREME COURT
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NO. 86320-7

Case #: 1042850

COURT OF APPEALS STATE OF WASHINGTON
DIVISION I

SARA MAYNARD,

Plaintiff.

v.

JOHN MAYNARD JR., and MARY MALEY MAYNARD
(aka Mary Maley), and ATTORNEY JOHN R. HOLMES, and
ATTORNEY JAMES A. JACKSON, and ESTATE OF
HELEN B. MAYNARD (aka Helen B. Maynard Jr.) By and
Through Andrew Pollock McConnell III in His Capacity as
Personal Representative of the Estate of Helen B. Maynard, and
Does 1 through 10, Inclusive,

Defendants.

ANSWER OF RESPONDENT JOHN R. HOLMES TO
APPELLANT'S PETITION FOR REVIEW TO THE
SUPREME COURT

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I. IDENTITY OF RESPONDING PARTY

Respondent John R. Holmes (“Mr. Holmes”), defendant below, is the party answering Appellant Sara Maynard’s (“Ms. Maynard”) June 16, 2025, Petition for Review to the Supreme Court (hereinafter “Petition”).

II. INTRODUCTION

While her Petition is convoluted, Ms. Maynard essentially asks the Court review: (1) the Court of Appeals’ December 23, 2024 ruling which afforded Ms. Maynard, over Mr. Holmes’s objection, an additional seven weeks beyond her previous approximately four month extension, to file her opening brief, (2) the Court of Appeals’ February 21, 2025 decision dismissing this matter for Ms. Maynard’s failure to file her opening brief, and (3) the Court of Appeals’ May 16, 2025, three panel Judge decision denying Ms. Maynard’s request for reconsideration of the Court of Appeals’ decision dismissing this matter. As Ms. Maynard’s Petition fails to demonstrate one

or more of the considerations in RAP 13.4(b) point towards acceptance of review, her Petition should be denied.

III. ASSIGNMENTS OF ERROR

Mr. Holmes does not assign error to any of the Court of Appeals' December 23, 2024, February 21, 2025, or May 16, 2025 decisions.

IV. STATEMENT OF THE CASE

Mr. Holmes has been involved in this litigation since August 29, 2019, when Ms. Maynard filed her Complaint in the superior court against him and other defendants. On May 12, 2021, the superior court granted defendants' CR 12(b)(6) motions to dismiss, and awarded defendants' attorney fees and costs as sanctions. Ms. Maynard appealed the trial court's order of dismissal as to Mr. Holmes and John C. Maynard Jr. ("John Jr.").

On November 14, 2022, the Court of Appeals filed its unpublished opinion, *Maynard v. Maynard*, 24 Wn. App. 2d 1026 (2022), *review denied*, 530 P.3d 183 (Wash. 2023),

affirming in part and reversing in part the CR 12(b)(6) dismissal of the claims against Mr. Holmes and John Jr. On December 5, 2023, Mr. Holmes and John Jr. jointly moved the superior court for an order on summary judgment dismissing the matter. Mr. Holmes and John Jr. again sought sanctions and attorney fees under RCW 4.84.185 and CR 11.

On January 5, 2024, the superior court granted the joint summary judgment motion in its entirety and awarded Mr. Holmes and John Jr. attorney fees and costs as sanctions pursuant to CR 11 and RCW 4.84.185. On February 1, 2024, Ms. Maynard filed another Notice of Appeal with the superior court regarding its January 5, 2024 order granting summary judgment. A ruling of appealability was entered by the Court of Appeals on April 2, 2024, and a letter of perfection was issued the same day.

Ms. Maynard filed a Motion for Extension of Time to File Statement of Arrangements. Ms. Maynard also filed a first Motion for Extension of Time to File Appellant's Designation

of Clerk's Papers. Ms. Maynard then filed a Motion for Extension of Time to File Appellant's Brief. Granting her first Motion for Extension of Time to File Appellant's Brief, the Court of Appeals extended Ms. Maynard's deadline to file her opening brief from August 16, 2024, to December 12, 2024.

Ms. Maynard then filed a Second Motion for Extension of Time to File Appellant's Brief, and yet again requested the Court of Appeals extend her deadline to file her opening brief, this time to April 11, 2025. Mr. Holmes objected to Ms. Maynard's Second Motion for Extension. Granting in part her Second Motion for Extension, the Court of Appeals extended Ms. Maynard's deadline to file her opening brief to February 3, 2025, but noted if she did not file an opening brief by February 3, 2025, this matter would be referred for a ruling dismissing the case.

After receiving multiple lengthy extensions, Ms. Maynard did not file her opening brief on February 3, 2025. On February 12, 2025, Mr. Holmes requested the Court of

Appeals dismiss Ms. Maynard's appeal pursuant to the Court of Appeals December 23, 2024 ruling, and RAP 17.2(b). On February 21, 2025, Ms. Maynard still had not filed her opening brief or another request for extension to file said brief. Commissioner Masako Kanazawa dismissed the matter.

Ms. Maynard moved to modify Commissioner Masako Kanazawa's February 21, 2025 ruling dismissing the matter. A three Judge panel considered Ms. Maynard's Motion to Modify and under RAP 17.7, and denied the Motion on May 16, 2025. Ms. Maynard then filed this Petition.

V. ARGUMENT

In summary, Ms. Maynard argues the Court should review the Court of Appeals three decisions as she has a "meritorious defense," there is relatively no prejudice to Mr. Holmes, and there are "potential" due process violations which may have produced the dismissal. Indeed, Ms. Maynard's Petition fails to demonstrate any of the requirements under RAP 13.4(b) for acceptance of review by the Supreme Court

are met. In other words, Ms. Maynard completely fails to provide a single legitimate reason establishing why this Court should accept her Petition. As such, Mr. Holmes respectfully requests the Court deny her Petition.

A. Ms. Maynard's Petition fails to demonstrate why one or more of the considerations in RAP 13.4(b) point towards acceptance of review.

Ms. Maynard's Petition fails to cite RAP 13.4(b), or demonstrate why one or more of the considerations under RAP 13.4(b) point towards acceptance of review. Pursuant to RAP 13.4(b), a petition for review will be accepted by the Supreme Court only:

- (1) If the decision of the Court of Appeals is in conflict with a decision of the Supreme Court; or
- (2) If the decision of the Court of Appeals is in conflict with a published decision of the Court of Appeals; or
- (3) If a significant question of law under the Constitution of the State of Washington or of the United States is involved; or
- (4) If the petition involves an issue of substantial public interest that should be determined by the Supreme Court.

Ms. Maynard's Petition does not address a single criteria for acceptance of review by the Supreme Court under RAP 13.4(b). Indeed, not one of the Court of Appeals' December 23, 2024, February 21, 2025, or May 16, 2025 decisions conflict with a decision of the Supreme Court, conflict with another Court of Appeals' decision, or involve a significant question of law under either of the Constitutions of the State of Washington or United States. Ms. Maynard's Petition also does not assert a significant question of law presently exists under either of the Constitutions of the State of Washington or United States, nor does she assert the three decisions of the Court of Appeals involve an issue of substantial public interest, or an issue of substantial public interest presently exists which should be determined by the Supreme Court.

Ms. Maynard's petition completely fails to demonstrate why one or more of the considerations in RAP 13.4(b) point towards acceptance of review. As a result, Ms. Maynard's Petition should be denied on this basis alone.

B. The Court of Appeals' decision dismissing this matter was justified and Ms. Maynard's arguments to the contrary lack legitimacy.

The Court of Appeals' ruling dismissing this matter, along with the three Judge panel denying Ms. Maynard's request to modify the dismissal, was justified. Furthermore, Ms. Maynard does not put forth a single legitimate argument under RAP 13.4(b) to the contrary. Accordingly, her Petition should be denied.

Ms. Maynard's appeal was dismissed by the Court of Appeals after the court granted her multiple lengthy extensions to file her opening brief. She was first granted a nearly four-month extension from August 16, 2024, to December 12, 2024, to file her opening brief, and then a second nearly two month extension from December 12, 2024, to February 3, 2025, to file her brief. Upon the Court of Appeals granting Ms. Maynard's second lengthy extension, the court placed her on reasonable notice that if she did not file her opening brief by February 3,

2025, the matter would be referred for a ruling dismissing the case.

Importantly, even though Ms. Maynard had the right and opportunity to challenge the Court of Appeals' granting of a second lengthy extension with notice of possible dismissal of the matter, she did not. Ms. Maynard then did not file her opening brief by February 3, 2205, and Mr. Holmes requested the matter be dismissed. Ms. Maynard had the right and opportunity to oppose Mr. Holmes's request for dismissal, but she again did not, and the matter was dismissed. While Ms. Maynard attempted to challenge the Court of Appeals' decision dismissing the matter, a three Judge panel upheld the dismissal. The Court of Appeals' decisions to dismiss the matter as well as uphold the dismissal were justified under the circumstances, and not subject to acceptance of review under RAP 13.4(b).

While Ms. Maynard contends case law indicates if "there is a meritorious claim and/or relatively no prejudice to the other party or the court, a motion to set aside a dismissal should

generally be granted,” and states she has a meritorious defense, she does not identify any legitimate meritorious defense in her Motion. Furthermore, *Luckett v. Boeing Co.*, 98 Wn. App. 307, 989 P. 2d 1144 (Div. 1 1999), cited by Ms. Maynard, can be distinguished from the present issues as it interprets Washington State Superior Court Rule (“CR”) 60 regarding relief from judgments or orders in superior court, not RAP 13.4(b). Even if CR 60 was applicable here, which it is not, none of the factors set forth by the rule are present. There exist no mistakes, inadvertence, surprise, excusable neglect, or irregularity.

Additionally, while Ms. Maynard claims existence of “potential” due process violations, she fails to identify any due process violation with a legal analysis regarding the alleged violation. Indeed, the circumstances establish no due process violations exist. Further, while Ms. Maynard claims there will be “relatively” no prejudice to Mr. Holmes, to the contrary, Mr.

Holmes has faced and continues to face prejudice by this prolonged and frivolous matter.

Ms. Maynard was given a fair and clear warning on December 23, 2024, as to the consequences if she did not file her opening brief on or before February 3, 2025. She did not take any action to challenge the Court of Appeal's December 23, 2024 ruling, or ever file her opening brief. Ms. Maynard completely fails to demonstrate why one or more of the considerations in RAP 13.4(b) point towards acceptance of review. Her Petition is solely another way to delay the inevitable complete and final dismissal of her frivolous action against Mr. Holmes. Ms. Maynard's Petition should be denied.

C. Ms. Maynard asks the Court review documents, but does not properly cite to or provide said documents.

Ms. Maynard asks the Court review:

Appel. Maynard's pleadings in the Court of Appeals case file entitled Appel. Maynard's 'Reply to Holmes' Response to Appel. Maynard's Petition for Review Renamed As Motion to Modify' dated May 1, 2025 in the instant appeal matter, and also regard 'Appel. Maynard's Reply

To Respondent Holmes' Answer To Maynard's Motion For Extension Time To File Opening Briefs' dated December 16, 2024 in the instant appeal matter No. 863207.

However, Ms. Maynard does not cite or include a copy of any of the documents for the Court's review. As such, she has failed to comply with RAP 10.4. Even if copies were provided, neither document demonstrates why one or more of the considerations in RAP 13.4(b) point towards acceptance of review of this Petition. Mr. Holmes respectfully requests the Court, if it has access to the documents cited by Ms. Maynard, not consider them when making its decision on this Petition, and deny her Petition for the aforementioned reasons.

VI. CONCLUSION

Ms. Maynard's Petition fails to demonstrate why one or more of the considerations in RAP 13.4(b) point towards acceptance of review of her Petition. None of the Court of Appeals' December 23, 2024, February 21, 2025, or May 16, 2025 decisions conflict with a Supreme Court decision, another Court of Appeals decision, involve a significant question of law

under either of the Constitutions of the State of Washington or United States, or involve an issue of substantial public interest that should be determined by the Supreme Court. Ms. Maynard also fails to establish a significant question of law under either of the Constitutions of the State of Washington or United States presently exists, or a substantial public interest that should be determined by the Supreme Court presently exist.

Additionally, after multiple lengthy extensions to file her opening brief, Ms. Maynard failed to file, and the matter was properly, fairly, and justifiably dismissed. Furthermore, the three Judge panel did not err when upholding said dismissal. Ms. Maynard puts forth no legitimate reason to establish the contrary.

Mr. Holmes respectfully requests the Court deny Ms. Maynard's Petition and allow complete and final conclusion of this matter.

///

Respectfully submitted this 30th day of July, 2025.

I certify that this memorandum contains
2,126 words, in compliance with RAP
18.17.

LEE SMART, P.S., INC.

By: 

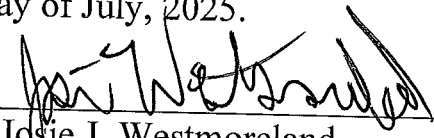
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CERTIFICATE OF SERVICE

The undersigned certifies under penalty of perjury under the laws of the State of Washington, that on July 30, 2025, I caused service of the foregoing pleading on each and every attorney of record herein via E-Mail and US Mail:

DATED this 30th day of July, 2025.



Josie J. Westmoreland
Legal Assistant

LEE SMART P.S., INC.

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