

This motion was submitted as soon as practicable given other professional and personal commitments, some of which arose unexpectedly in the trial court.¹

The pertinent facts are set forth in the accompanying declaration of counsel (“Miller Dec.”) and are summarized here. The key ones involve two unexpected deaths, the second of which directly disrupted work on and completion of the petition and of counsel’s normal practice of double-checking calendared dates to insure timely filings.

The Court of Appeals’ denial of reconsideration which triggered the due date for the petition was filed and emailed to counsel on Monday, August 4. Miller Dec. ¶ 4. Counsel was at a funeral that morning and afternoon from an unexpected death of a close, long-time friend, then belatedly began his annual one-week family vacation at an island in the Salish Sea. Miller Dec., ¶ 3 and Ex. A thereto. Counsel’s legal assistant was in the middle of her

¹ When Mr. Carpenter’s letter was received the afternoon of September 16, the undersigned was in the midst of a string of 25 filings and five hearings at which counsel appeared and argued between July 30 and today, October 10. The principle filings and hearings included filing two *amicus* briefs in this Court on August 15 and September 11; filing a Division I merits oral argument on September 15; unexpected filings on September 17, 19, and 25 in Pierce County Superior Court related to a guardianship appeal pending in Division II for which the consolidated reply brief was filed by mail October 3; a filing on September 18 and argument on September 19 in Division I opposing discretionary review; a filing September 22 and argument opposing a CR 60 motion to vacate in Yakima County Superior Court on September 23; a 49-page opening brief filed in Division I on September 29; and an answer to statement of grounds filed in this Court on October 6.

two-week vacation. The order denying reconsideration in this case was filed August 4 and was calendared in the firm's scheduling system for September 4, apparently by assuming 30 days from August 4 was September 4. That calculation would normally not have resulted in a late filing because of counsel's normal back-up protocol, which is to personally double-check such deadlines by hand by the weekend before the calendared filing. Miller Dec., ¶ 5.

On the morning of Friday, August 29, the petition draft was far enough along that, with the anticipated additions and revisions that day by the assisting associate and the undersigned, a near-final draft could be sent to the client by day's end as planned and it would be ready for filing by September 2nd or 3rd, depending on comments and review after the weekend. Miller Dec., ¶¶ 6-7. However, mid-day on the 29th, counsel and his office learned that the young woman bicyclist who had been killed on Second Avenue in Seattle that morning by a truck turning into her right-of-way was the partner of one of our former associates. Miller Dec. ¶ 8. The associate had just left the firm after three years with us, had assisted the undersigned on several appeals including this one before taking maternity leave to give birth to their child, and was then the primary parent of their 8-month-old child. *Id.*

This news was a shock for the entire office. It resulted in work on the petition stopping from early afternoon on the 29th until it began to resume, slowly, on September 1. *See* Miller Dec., ¶¶ 9-12.

As detailed in the declaration, it also diverted counsel from his normal step of re-checking the calendared date the weekend before the scheduled filing. Miller Dec. ¶¶ 5, 7, 11, 13. That step would have been taken and the petition filed no later than September 3rd, but for the August 29 tragedy, something outside the control of both Petitioner and counsel. Miller Dec., ¶¶ 13-14.

4. Grounds for Relief and Argument.

Rule 1.2(a) provides for a liberal interpretation of the rules to promote justice and facilitate the decision of cases on the merits, subject to the restrictions in RAP 18.8(b), which permits extensions or waivers of time requirements in extraordinary circumstances and to prevent a gross miscarriage of justice. This standard is met by the facts here.

The extraordinarily tragic events of August 29 completely disrupted work on the petition and the normal back-up protocol of Petitioner's counsel for insuring the filing of petitions for review early or on time. Because the extraordinary circumstances of that tragedy were outside the control of Petitioner and her counsel, it would be a gross miscarriage of justice if the Court did not accept the petition on the date it was received by the Court of Appeals; or did not, in the alternative, grant a one-day extension to permit timely filing on September 4. Not only would it deny Petitioner the opportunity for this Court to pass on her petition, but it also would be a gross miscarriage of justice because her petition raises

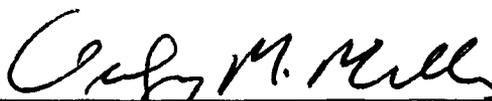
important issues that are continuing in nature which the Court should address. This includes the form of restrictive orders that may be imposed on parents under parenting plans consistent with the First Amendment and *Marriage of Suggs*, 154 Wn.2d 74, 93 P.3d 161 (2004). See, e.g., Petition, pp. 3-4 (issues 1 & 2); pp. 9-12.

Finally, there is no genuine prejudice to Respondent as the appellate rules provide for recovery of attorneys' fees for responding to a petition for review should it not be successful. RAP 18.1(j).

Petitioner Karla Maia therefore respectfully requests the Court grant her motion and accept the petition for review on September 4, 2014, the date it was received at the Court of Appeals, due to the extenuating circumstances over which she and her counsel had no control.

DATED this 10th day of October, 2014.

CARNEY BADLEY SPELLMAN, P.S.

By 
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OFFICE RECEPTIONIST, CLERK

To: Goldmann, Wendy
Subject: RE: Motion in Case # 90753-6 - In re the Marriage of Karla Maia-Hanson v. Bradley Hanson

Received 10-13-2014

Supreme Court Clerk's Office

Please note that any pleading filed as an attachment to e-mail will be treated as the original. Therefore, if a filing is by e-mail attachment, it is not necessary to mail to the court the original of the document.

From: Goldmann, Wendy
Sent: Monday, October 13, 2014 8:10 AM
To: OFFICE RECEPTIONIST, CLERK
Subject: FW: Motion in Case # 90753-6 - In re the Marriage of Karla Maia-Hanson v. Bradley Hanson

Please process this as you normally would if it had come to the front desk.

Thank you,
Wendy

From: Miller, Greg [<mailto:miller@carneylaw.com>]
Sent: Friday, October 10, 2014 10:37 PM
To: Goldmann, Wendy
Cc: teresa@mcnallylegal.com; cate@washingtonappeals.com; valerie@washingtonappeals.com; Cunningham, Melissa J.
Subject: Motion in Case # 90753-6 - In re the Marriage of Karla Maia-Hanson v. Bradley Hanson

Case Name: In re Marriage of Karla Maia-Hanson v. Bradley Hanson
Case No.: SCT No. 90753-6, COA No. 70249-1-I

Filer: Gregory M. Miller, WSBA 14459, phone #206-622-8020 ext. 176, email: miller@carneylaw.com

Mr. Ronald R. Carpenter, Clerk of Court:

Attached please find the following documents to be filed:

1. Motion to Accept Petition for Review
2. Declaration of Counsel
3. Certificate of Service

The timing of the filing is addressed in the motion. Please let me know if you need anything further.

Very Truly Yours,

Gregory M. Miller, WSBA No. 14459



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From: Goldmann, Wendy [<mailto:Wendy.Goldmann@courts.wa.gov>]
Sent: Tuesday, September 16, 2014 2:50 PM
To: Miller, Greg; Cunningham, Melissa J.; teresa@mcnallylegal.com; cate@washingtonappeals.com; valerie@washingtonappeals.com; Div-1 Front Desk
Subject: Case # 90753-6 - In re the Marriage of Karla Maia-Hanson v. Bradley Hanson
Importance: High

Clerk and Counsel:

Attached is a copy of the letter issued by the Clerk or Deputy Clerk on this date in the above referenced case. Please consider this as the original for your files, a copy will not be sent by regular mail. When filing documents by email with this Court, please use the main email address at supreme@courts.wa.gov

Thank you,
Wendy Goldmann
Administrative Office Assistant
Washington State Supreme Court
wendy.goldmann@courts.wa.gov