

IN THE SUPREME COURT
OF THE STATE OF WASHINGTON

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SUPREME COURT
STATE OF WASHINGTON
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Apr 19, 2016, 3:13 pm

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EDWARD M. GOODMAN and)
BERNICE S. GOODMAN, husband)
and wife,)
Respondents,)
vs.)
MARY F. GOODMAN,)
Petitioner.)
_____)

RESPONSE TO MOTION
TO STRIKE AND
RESPONDENTS' MOTION
FOR EXTENSION OF
TIME TO FILE ANSWER

I. IDENTIY OF MOVING PARTY

Respondents Edward and Bernice Goodman, request the relief described in Section II.

II. STATEMENT OF RELIEF SOUGHT

Respondents request a 21 day extension of time to file Respondents' Answer, which was due March 9, 2016. Appellants request until March 30, 2016 to file and serve the Answer. This motion is made in response to Petitioner's motion to strike the Answer.

III. FACTS RELEVANT TO MOTION

Respondents' counsel was served with the Petition For Review on February 8, 2016. First thing counsel noted is that the person signing the

Petition was not the Mary Goodman who commenced this process at the trial court level and was Appellant at the Court of Appeals. Just two days after receiving the Petition this Court issued an Order in a related appeal involving the same Goodman matter. On February 10, 2016 this Court issued an Order in cause number 91-287-4 denying Michael Goodman's Motion to Modify Clerk's Ruling and Motion to Dismiss. Counsel for Respondents left that day on vacation.

On March 1, 2016 this Court sent the parties a letter advising that the Petition For Review had been received and assigned a cause number.

Counsel for Respondents returned to Washington on March 5 and returned to work on Monday, March 7, 2016.

The completed Answer was mailed for filing and service on March 28, 2016 and received by the Court on March 30, 2016.

This motion is supported by attached declaration of counsel.

IV. GROUNDS FOR RELIEF AND ARGUMENT

This motion is made pursuant to RAP 18.8(a) which allows for the Court to enlarge a time to serve the ends of justice. The rule states:

(a) Generally. 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).

Respondents do not believe any prejudice will result to Petitioner if this motion is granted and Petitioner's motion to strike is denied. Petitioner claims "prejudice with such an egregious delay" but gives no basis for such claim. This Court advised by letter dated April 13, 2016 that Petitioner's motion will be considered without oral argument and set dates for the parties to submit further pleadings. In addition, Petitioner has not filed a reply to the Answer within 15 days as provided in RAP 13.4(d), but Respondents have no objection to a late filing.

V. CONCLUSIONS

The ends of justice will be served by enlarging the time for Respondents to submit Respondents' Answer to March 30, 2016 and denying Petitioner's motion to strike.

DATED this 19 day of April, 2016.



C. Thomas Moser
Attorney for Respondents
1204 Cleveland Avenue
Mount Vernon, WA 98273
360-428-7900
WSBA # 7287

Declaration Of Counsel

I am attorney for Respondents and competent to testify in this matter. The statements made above in this Response and Motion are true and correct and based on my personal knowledge.

I was out of State on vacation from February 10 to March 5, 2016. I do not have any associate attorney working with me on this matter and I have been the only lawyer representing the Respondents since the case was filed in the trial court.

I did receive emails on vacation but did not have access to my files. I believe the reason for not timely filing an Answer was a combination of events and circumstances. On the same day I left on vacation, I received the Order described above from this Court denying Michael Goodman's motions in a separate appeal. It is likely I did not see the Order until the following day. I also recognized that Michael Goodman is not the Petitioner in this pending matter. I obviously took no further action and in my mind was focused on the Order entered by this Court in cause number 91287-4, which denied Michael Goodman's Motion to Modify Clerk's Ruling and Motion to Dismiss.

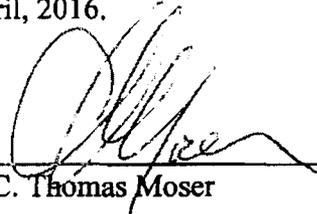
When I returned to my office on March 7, 2016 I incorrectly started counting days from the clerk's March 1, 2016 letter for filing an Answer to the Petition.

The time has passed for Petitioner to reply to our Answer. RAP 13.4(d). However, I have no objection if Petitioner is claiming he needs more time to reply to the Answer.

It would be a miscarriage of justice for this Court to not accept Respondents' Answer to the Petition. Further, I fail to see how Petitioner can claim prejudice when he did not even file a reply.

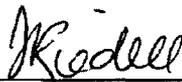
I declare under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct and that this declaration was executed at Mount Vernon, Washington.

DATED this 19 day of April, 2016.


C. Thomas Moser

I declare under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct and that this declaration was executed at Mount Vernon, Washington.

DATED this 17 day of April, 2016.



Toni Riedell

OFFICE RECEPTIONIST, CLERK

To: Toni Riedell
Cc: Tom Moser
Subject: RE: Goodman vs Goodman Case No. 92835-5

Received on 04-19-2016

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: Toni Riedell [mailto:triedell@advocateslg.com]
Sent: Tuesday, April 19, 2016 3:13 PM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Cc: Tom Moser <tmoser@advocateslg.com>
Subject: Goodman vs Goodman Case No. 92835-5

Attached please find Respondents' Response to Motion to Strike and Respondents' Motion for Extension of Time to File Answer. If you have any questions, please call 360-428-7900.

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