

IN THE SUPREME COURT OF THE UNITED STATES

ERIC WATSON AND SARAH WATSON,)	Case #
Petitioners,)	Motion For Extension Of Time
)	
v.)	
)	
LISA KURTZ AND DAVID KURTZ)	
Respondents.)	
)	

)	

To the Honorable Justices of the Supreme Court of the United States:

MOTION FOR LEAVE TO FILE PETITION FOR WRIT OF CERTIORARI OUT OF TIME

Pursuant to Rule 13.5 of the Rules of the Supreme Court of the United States, Petitioner respectfully moves for leave to file a Petition for a Writ of Certiorari out of time, and in support of this Motion, states as follows:

The time for filing the Petition for Writ of Certiorari expired on April 8, 2025.

Petitioner's delay in filing was caused by extraordinary circumstances, including serious and unforeseen medical issues affecting Sarah Watson and job-related emergencies affecting Eric Watson, both of whom are critical to the preparation and filing of this Petition.

In addition to those circumstances, Petitioner proceeds pro se and has limited formal education and no legal training. Eric has obtained only a GED, and Sarah's education consisted solely of basic secondary schooling, with no instruction in law, court procedure, or legal drafting.

Petitioners respectfully request that the Court consider that they are not trained attorneys, and that the complexity of legal procedures—including formatting, rules, deadlines, and jurisdictional requirements—presented significant barriers to timely filing. Petitioner did

not willfully disregard the rules but was unable to comply fully due to lack of legal understanding and capacity.

The United States Supreme Court and lower federal courts have acknowledged the necessity of ensuring access to justice for pro se litigants, particularly where mental health or cognitive limitations are involved. See Ferrelli v. River Manor Health Care Center, 323 F.3d 196 (2d Cir. 2003), where the court emphasized the need to fairly assess the procedural difficulties experienced by pro se litigants. Furthermore, the Court has instructed that pro se pleadings be liberally construed to ensure fundamental fairness (Erickson v. Pardus, 551 U.S. 89 (2007)).

This Motion is made in good faith and not for purposes of delay. Petitioners believe that the case raises important questions of federal and/or constitutional law warranting this Court's review.

PRAAYER FOR RELIEF

WHEREFORE, for the foregoing reasons, Petitioner respectfully requests that the Court grant leave to file the Petition for Writ of Certiorari out of time and accept the accompanying Petition for filing.

Respectfully submitted,



Eric Watson



Sarah Watson

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253-380-0720
pprincess4400@gmail.com
Date: 5/25/2025

NO. _____

IN THE
SUPREME COURT OF THE UNITED STATES

ERIC WATSON AND SARAH WATSON, Petitioners,

vs.

LISA KURTZ AND DAVID KURTZ, Respondents.

On Petition for a WRIT OF CERTIORARI TO

The Supreme court State of Washington

(Name Of Court That Last Ruled on Merits of Your Case)

PETITION FOR A WRIT OF CERTIORARI

Eric Watson and Sarah Watson

7807 Kapowsin Hwy E

Graham, WA 98338

253-380-0720

QUESTIONS PRESENTED

Whether the Washington Court of Appeals and Washington Supreme Court violated Petitioners' due process rights by failing to provide any legal reasoning for the denial of their appeal and subsequent motions. The Court only relied on procedural errors and not of the actual crime committed. Thus protecting the Defendants and their attorney for lying in court, providing the court false information, intentionally delaying court procedures, claiming the attorney Grady Heins in this complaint is or is not their attorney and other. (See Goldberg v. Kelly, 397 U.S. 254 (1970) (holding that due process requires an opportunity to be heard at a meaningful time and in a meaningful manner)).

This complaint is focused only on the truth, the whole truth and nothing but the truth. The affidavit/declaration Lisa Kurtz submitted into the Superior Court is full of lies, no facts, speculation and other in order to create a crown above her head to make people think she is honest. The material used is a bank statement in which she has never seen a transaction happen in the history in which she complains. Lisa Kurtz has no person to testify, no facts to support and the only reason is to create bias, discrimination and prejudice in the court.

Whether the refusal of the Washington Supreme Court to reconsider Petitioners' case, despite procedural inconsistencies and lack of explanation from lower courts, constitutes a violation of fundamental fairness and due process under the Fourteenth Amendment. (See Mathews v. Eldridge, 424 U.S. 319 (1976) (establishing factors for determining the requirements of due process)). Patterson V. New York , 432 U.S. 197 (1977) (discussing the necessity of legal standards in judicial rulings) The most convincing issue is when the Superior Court lies to the Defendants, dismisses the complaint based on the Courts unfactual opinion, denies Plaintiff the right to object during proceedings and requests the Defendants Attorney Grady Hiens to write up the Order to sign.

LIST OF PARTIES AND RELATED CASES

- All parties appear in the caption of the case on the cover page.

Petitioners: Eric Watson and Sarah Watson

Respondents: Lisa Kurtz and David Kurtz

Related Cases:

1. United States District Court Western District of Washington at Tacoma, Case No. 3:23-CV-05870-DGE
2. Pierce County Superior Court Case No: 22-2-08513-0
3. Washington State Court of Appeals Division Two Case No: 59422-6
4. Washington Supreme Court Case No: 103311

TABLE OF AUTHORITIES CITED

CASES

Goldberg v. Kelly, 397 U.S. 254 (1970)	2
Mathews v. Eldridge, 424 U.S. 319 (1976)	2
Patterson v. New York, 432 U.S. 197 (1977)	2,11
Mullane v. Central Hanover Bank & Trust Co., 339 U.S. 306 (1950)	7
Caperton v. A.T. Massey Coal Co., Inc., 556 U.S. 868 (2009)	10

STATUTES AND RULES

U.S. Const. amend. XIV (Due Process Clause)	9
28 U.S.C. § 1257(a) (Supreme Court jurisdiction over state court decisions). 8,9	
RCW 2.04.010 (Jurisdiction of the Washington Supreme Court)	9
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OTHER AUTHORITIES

None

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(January 28, 2025)

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APPENDIX G: Washington Supreme Court's Ruling on Extension of Time (September 3, 2024)

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APPENDIX I: Washington Supreme Court's Ruling Denying Review (September 25, 2024)

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APPENDIX K: Washington Supreme Court's Ruling on Extension of Time (September 30, 2024)

APPENDIX L: Washington Supreme Court's Setting Letter for Department Calendar (October 30, 2024)

APPENDIX M: United States District Court Western District Of Washington At Tacoma

OPINIONS BELOW

The Washington Supreme Court denied Petitioners' motion for reconsideration on January 28, 2025, citing RAP 12.4, which states that a party may not file a motion for reconsideration of an order refusing to modify a ruling by the commissioner or clerk. The Court of Appeals also denied Petitioners' appeal without providing any legal reasoning beyond a procedural determination then changed it to Motion for Discretionary Review. On January 8, 2025, the Washington Supreme Court denied Petitioners' motion to modify the Acting Clerk's ruling without explanation allowing the Clerk to step on the Commissioners Order. Clerk further advises Defendants what to do after the Defendants filed past the time period the Commissioner orderd. These actions collectively demonstrate a failure to provide meaningful appellate review or the appeal.(see *Mullane V. Central Hanover Bank & Trust Co.*, 339 U.S. 306 (1950)

JURISDICTION

This Court has jurisdiction under 28 U.S.C. § 1257(a), as the Washington Supreme Court's decision constitutes a final judgment denying Petitioners' due process rights under the U.S. Constitution. The final ruling was issued on January 28, 2025, and this petition is filed within the 90-day period for seeking review.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

- U.S. Const. amend. XIV (Due Process Clause)
- 28 U.S.C. § 1257(a) (Supreme Court jurisdiction over state court decisions)
- RCW 2.04.010 (Jurisdiction of the Washington Supreme Court)
- RAP 12.4 (Reconsideration of decisions)

STATEMENT OF THE CASE

Petitioners filed an appeal in the Washington Court of Appeals, challenging a decision from the Pierce County Superior Court. The Court of Appeals denied the appeal without providing any reasoning other than procedural errors. Petitioners then sought review by the Washington Supreme Court, where procedural inconsistencies arose. The Supreme Court Clerk allegedly provided guidance to the Respondents beyond the court-ordered timeframe, effectively aiding their procedural standing. Petitioners challenged this action as improper judicial favoritism, but their motion was denied without explanation. Court allows Defendant to continue to lie before the court claiming a case law is not relevant to the proceedings and caused the Plaintiff to clearly explain to the Court that it is. (see Caperton V. A.T. Massey Coal Co., inc., 556 U.S. 868 (2009)(finding due process violation where Judicial Bias undermined fairness in a case)).

Petitioners filed a motion for reconsideration, arguing that the appellate court failed to provide meaningful review. Despite highlighting procedural and substantive due process concerns, the Washington Supreme Court summarily dismissed the motion without addressing the underlying issues and focused on procedural errors. This does not show the Defendants are not guilty of lying to the court. It only shows bias, prejudice and discriminates against those who file in Pro Se.

This case is a clear case of Judges, Commissioners and Court Clerks protecting a once Judge who was not elected, but placed by a Governor, and was given the option to voluntarily resign or allow it be brought to the public to decide and be fired. David Spencer Kurtz voluntarily resigned. The pattern of court actions, proceedings, focusing on procedural error and not the complaint itself, and not showing facts to show the defendants are not guilty of lying to the court shows bias, prejudice and discrimination. Nothing in any proceedings has ever focused on the Defendants lying in court. But only to protect them and deny the public the truth by using court procedures in a political way.

REASONS FOR GRANTING THE WRIT

Due Process Requires Courts to Provide a Basis for Their Rulings: The lack of explanation for the decisions denies Petitioners a fair understanding of the legal basis for the denials, which violates fundamental due process principles. *Patterson V. New York*, 432 U.S. 197 (1977)

Denial of Meaningful Appellate Review Raises a Federal Question: The procedural flaws in this case raise important constitutional questions about the fairness of the judicial process.

CONCLUSION

For the foregoing reasons, Petitioners respectfully request that this Court grant a writ of certiorari to review the decision of the Washington Supreme Court. Granting this petition is necessary to ensure that the fundamental rights of due process and fair judicial proceedings are upheld. Without intervention by this Court, the procedural deficiencies and lack of meaningful appellate review in this case will continue to erode confidence in the judicial process.

Respectfully submitted,

Eric Watson

Eric Watson, Pro Se

Sarah Watson

Sarah Watson, Pro Se

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APPENDIX A

Washington Supreme Court's Dismissal of Motion for Reconsideration and Motion to Clarify (January 28,2025)

ERIN L. LENNON
SUPREME COURT CLERK

SARAH R. PENDLETON
DEPUTY CLERK/
CHIEF STAFF ATTORNEY

THE SUPREME COURT
STATE OF WASHINGTON



TEMPLE OF JUSTICE
PO BOX 40929
OLYMPIA, WA 98504-0929

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e-mail: supreme@courts.wa.gov
www.courts.wa.gov

January 28, 2025

LETTER SENT BY E-MAIL ONLY

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Re: Supreme Court No. 1033117 – Eric Watson, et al. v. Lisa Kurtz, et al.
Court of Appeals No. 594226 – Division II
Pierce County Superior Court No. 22-2-08513-0

Counsel and Parties:

On January 28, 2025, the Court received the Petitioners’ “MOTION FOR RECONSIDERATION”. The motion seeks reconsideration of the treatment of the Petitioner’s filing as a motion for discretionary review.

The Rules of Appellate Procedure (RAP) do not allow a motion for reconsideration in this situation. The treatment of the Petitioner’s filing as a motion for discretionary review was not a discretionary decision. A notice of appeal cannot be used to appeal a decision of the Court of Appeals. A notice of appeal can only be used to appeal a decision of a trial court decision directly to an appellate court. See RAP 5.1.

In addition, the Commissioner already entered a ruling denying the motion for discretionary review on September 25, 2024. The Court entered an order denying the Petitioners’ motion to modify the Clerk’s ruling, request for sanctions and Respondents’ request for attorney fees on January 8, 2025. RAP 12.4 states that “A party may not file a motion for reconsideration of an order refusing to modify a ruling by the commissioner or clerk” and therefore no motion for reconsideration can be filed at this time.

Accordingly, this case is now closed. Although the motion has been placed in the closed file, this Court can take no further action on it.

Page 2
No. 1033117
January 28, 2025

Sincerely,



Sarah R. Pendleton
Acting Supreme Court Clerk

SRP:jm

APPENDIX B

Washington Supreme Court's Denial of Motion to Modify Acting Clerk's
ruling (January 8,2025)

THE SUPREME COURT OF WASHINGTON

ERIC WATSON, et al.,)	No. 103311-7
)	
Petitioners,)	ORDER
)	
v.)	Court of Appeals
)	No. 59422-6-II
LISA KURTZ, et al.,)	
)	
Respondents.)	
)	
)	

Department II of the Court, composed of Chief Justice González and Justices Madsen, Stephens, Yu and Whitener, considered this matter at its January 7, 2025, Motion Calendar and unanimously agreed that the following order be entered.

IT IS ORDERED:

That the Petitioners' motion to modify the Acting Clerk's ruling is denied. The Petitioners' request for sanctions is denied. The Respondents' request for attorney fees is also denied.

DATED at Olympia, Washington, this 8th day of January, 2025.

For the Court



González, C.J.
CHIEF JUSTICE

APPENDIX C

Washington Court Of Appeal's Denial of Appeal



Washington State Court of Appeals

Division Two

909 A Street, Suite 200, Tacoma, Washington 98402

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 7, 2024

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CASE #: 59422-6-II Eric Watson, et al, Appellant v. Lisa M. Kurtz, et al, Respondent

Counsel:

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

A RULING BY COMMISSIONER BEARSE:

In a letter dated April 12, 2024, this court questioned the appealability of a non-prejudicial dismissal. Both sides have responded to the letter. Respondents explain that the superior court dismissed appellants' lawsuit without prejudice for lack of personal jurisdiction and appellants have the ability to refile their action before the expiration of the statute of limitations. Respondents' Resp. at 7. They add that the Notice of Appeal was untimely. Id. at 9. Appellants' response to this court's letter addresses the underlying merits of their superior court action and not the non-prejudicial dismissal or the timeliness of the April 8, 2024 notice of appeal of the February 2, 2024 superior court order.

Under Munden v. Hazelrigg, 105 Wn.2d 39, 40-41, 711 P.2d 295 (1985), a non-prejudicial dismissal is not appealable unless an appellant cannot refile in the superior court. As it appears that further superior court proceedings are not barred, Munden governs and dismissal is appropriate. For this reason, this court need not reach the issue whether the notice of appeal was timely filed.

Respondents move for sanctions under RAP 18.9. Appellants have 10 days to respond to this motion.

Sincerely,

Derek M. Byrne
Court Clerk

June 27, 2024

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

ERIC WATSON and SARAH WATSON,

Appellants,

v.

LISA KURTZ and DAVID KURTZ,

Respondents.

No. 59422-6-II

**ORDER DENYING MOTION
TO MODIFY COMMISSIONER'S
RULING**

Appellants, Eric and Sarah Watson, move this court to reconsider the commissioner's May 7, 2024 ruling dismissing appeal. After consideration, we deny the motion. It is

SO ORDERED.

Panel: Jj. Maxa, Glasgow, Veljacic

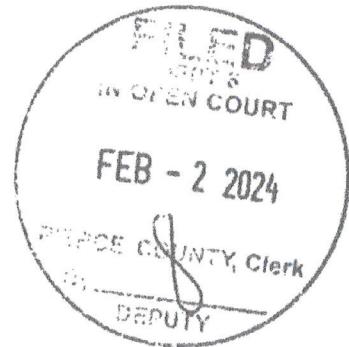
FOR THE COURT:



Acting Chief Judge

APPENDIX D

Pierce County Superior Court Judgement



IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF PIERCE

ERIC WATSON and SARAH WATSON

Plaintiffs,

vs.

LISA KURTZ and DAVID KURTZ

Defendants.

NO. 22-2-08513-0

ORDER DENYING MOTION FOR
ORDER OF DEFAULT

[PROPOSED]

THIS MATTER came on for hearing on Plaintiffs' Motion for Order of Default and the Court having heard the arguments of counsel, and having considered the files and records contained herein, specifically:

1. Motion for Order of Default;
2. Declaration in Support of Motion for Order of Default; and
3. The files and records herein;

And being fully advised in the premises, now, therefore, it is hereby

ORDERED, ADJUDGED, AND DECREED that Plaintiffs' Motion for Order of Default is DENIED. It is further

ORDERED, ADJUDGED AND DECREED, that _____

It is further

ORDER DENYING MOTION FOR ORDER OF DEFAULT - 1

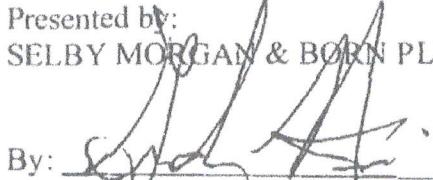
SELBY MORGAN & BORN, PLLC
1019 Regents Blvd., Suite 103
Fircrest, WA 98466
Telephone: (253) 446-8610
Facsimile: (253) 327-1700

1 ORDERED, ADJUDGED, AND DECREED that _____
2 _____
3 _____
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5 DONE IN OPEN COURT this 2 day of February 2024.
6 _____
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8 
9 JUDGE THOMAS P. QUINLAN
10

11 Presented by:
12 SELBY MORGAN & BORN PLLC
13

14 By: 
15 Stuart C. Morgan, WSBA #26368
16 Grady R. Heins, WSBA #54262
17 Attorneys for Defendants
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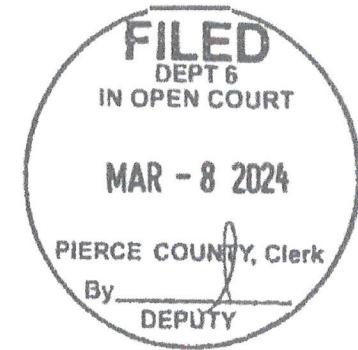
19 Approved as to Form;
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22 By: _____
23 Sarah Watson, Pro Se
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Presented by:
SELBY MORGAN & BORN PLLC

By: _____
Stuart C. Morgan, WSBA #26386
Grady R. Heins, WSBA #54262
Attorneys for Defendants

Approved as to Form;
Notice of Presentment Waived

By: _____
Sarah Watson, Pro Se

By: _____
Eric Watson, Pro Se

APPENDIX E

Washington Supreme Court's Letter initiating Case (July 30,2024)

THE SUPREME COURT

STATE OF WASHINGTON



ERIN L. LENNON
SUPREME COURT CLERK

SARAH R. PENDLETON
DEPUTY CLERK/
CHIEF STAFF ATTORNEY

TEMPLE OF JUSTICE

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

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July 30, 2024

LETTER SENT BY E-MAIL ONLY

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stu@smb-lawyers.com

Hon. Derek Byrne, Clerk
Court of Appeals, Division II
909 A Street, Suite 200
Tacoma, WA 98402

Re: Supreme Court No. 1033117 – Eric Watson, et al. v. Lisa Kurtz, et al.
Court of Appeals No. 594226 – Division II
Pierce County Superior Court No. 22-2-08513-0

Clerk, Counsel and Parties:

On July 29, 2024, the Supreme Court received the Petitioner's "NOTICE OF APPEAL", which seeks review of the above referenced Court of Appeals order dated June 27, 2024, denying the motion to modify. The case has been assigned the above referenced Supreme Court cause number.

A review of the matter discloses that the discretionary review being sought is improperly designated a notice of appeal. Because the Court of Appeals never accepted review, there is no "decision terminating review" upon which to premise a review under RAP 13.4(a). Accordingly, the Petitioner can only properly seek review pursuant to RAP 13.3(c) and RAP 13.5(a), i.e. a "motion for discretionary review". Therefore, the pleading will be treated as a motion for discretionary review.

The motion is tentatively set for consideration on the Supreme Court Commissioner's September 25, 2024, Motion Calendar, without oral argument. Any answer to the motion for discretionary review should be served and filed by **August 29, 2024**. Any reply to any answer should be served and filed by **September 12, 2024**.

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 Association lawyer directory. Counsel are responsible for maintaining a current business-related e-mail address in that directory. For the Petitioner, this Court has an e-mail address of: pprincess4400@gmail.com. If this e-mail address is incorrect or changed, the Petitioner should immediately advise this Court in writing.

Sincerely,



Sarah R. Pendleton
Supreme Court Deputy Clerk

SRP:jm

APPENDIX F

Washington Supreme Court's Letter Receiving Answer to Motion For Discretionary Review (August 30,2024)

THE SUPREME COURT

STATE OF WASHINGTON



ERIN L. LENNON
SUPREME COURT CLERK

SARAH R. PENDLETON
DEPUTY CLERK/
CHIEF STAFF ATTORNEY

TEMPLE OF JUSTICE

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August 30, 2024

LETTER SENT BY E-MAIL ONLY

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Re: Supreme Court No. 1033117 – Eric Watson, et al. v. Lisa Kurtz, et al.
Court of Appeals No. 594226 – Division II
Pierce County Superior Court No. 22-2-08513-0

Counsel and Parties:

On August 30, 2024, the Court received the “ANSWER TO MOTION FOR DISCRETIONARY REVIEW.”

By letter dated July 30, 2024, the parties were informed that any answer to the motion for discretionary review should be served and filed by August 29, 2024. The answer was filed on August 30, 2024, and is therefore rejected as untimely.

The Petitioner may seek an extension of time in which to file an answer to the motion for discretionary review by serving and filing a motion for extension of time to file an answer to the motion for discretionary review. The motion for extension of time should explain in detail the circumstances that resulted in the answer being filed late. Any such motion should be served upon the Respondent and filed with this Court by **September 4, 2024**.

Page 2
No. 1033117
August 30, 2024

Sincerely,

A handwritten signature in black ink, appearing to read "Sarah R. Pendleton".

Sarah R. Pendleton
Acting Supreme Court Clerk

SRP:jm

APPENDIX G

Washington Supreme Court's Ruling on Extensinon of time (September 03,2024)

THE SUPREME COURT
STATE OF WASHINGTON

ERIN L. LENNON
SUPREME COURT CLERK

SARAH R. PENDLETON
DEPUTY CLERK/
CHIEF STAFF ATTORNEY



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September 3, 2024

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Re: Supreme Court No. 1033117 – Eric Watson, et al. v. Lisa Kurtz, et al.
Court of Appeals No. 594226 – Division II
Pierce County Superior Court No. 22-2-08513-0

Counsel and Parties:

On September 3, 2024, the Court received the Respondent's "MOTION TO EXTEND TIME TO FILE ANSWER TO MOTION FOR DISCRETIONARY REVIEW".

In regard to the motion for an extension of time, the following ruling is entered:

The motion for a 1-day extension of time to file an answer to the motion for discretionary review is granted. The answer filed on August 30, 2024, is therefore accepted for filing. Any reply to the answer should be served and filed by September 17, 2024.

Sincerely,

Sarah R. Pendleton
Acting Supreme Court Clerk

SRP:bw

APPENDIX H

Washington Supreme Court's Receipt of Petitioner's Summary of objections and Motions (September 18,2024)

THE SUPREME COURT
STATE OF WASHINGTON

ERIN L. LENNON
SUPREME COURT CLERK

SARAH R. PENDLETON
DEPUTY CLERK/
CHIEF STAFF ATTORNEY



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September 18, 2024

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Re: Supreme Court No. 1033117 – Eric Watson, et al. v. Lisa Kurtz, et al.
Court of Appeals No. 594226 – Division II
Pierce County Superior Court No. 22-2-08513-0

Counsel and Parties:

On September 17, 2024, the Court received the Petitioners' "SUMMARY OF OBJECTIONS AND MOTIONS". The filing both objects to the Respondents being granted an extension of time to file their answer to the motion for discretionary review and requests sanctions be entered against the Respondent for filing an untimely answer to the motion for discretionary review.

By letter ruling dated September 3, 2024, I granted a 1-day extension of time to the Respondent to file their answer to the motion for discretionary review per RAP 17.4(c)(1). Per RAP 17.4(e), any answer or objection to the motion should have been served and filed no later than ten days after the motion was served on the answering party. Because the answer to the motion for discretionary review was served and filed on August 30, 2024, any answer or objection to the motion should have been filed by September 9, 2024. Therefore, the objection is untimely and no action will be taken on the Petitioners' motion. See RAP 17.4(c) and (e).

Page 2
No. 1033117
September 18, 2024

Sincerely,



Sarah R. Pendleton
Acting Supreme Court Clerk

SRP:jm

APPENDIX I

Washington Supreme Court's ruling denying review (September 25,2024)

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

ERIC WATSON, ET AL.,

Petitioners,

v.

LISA KURTZ, ET AL.,

Respondents.

No. 103311-7

Court of Appeals No. 59422-6-II

RULING DENYING REVIEW

Pro se petitioners Eric and Sarah Watson seek discretionary review of decisions by Division Two of the Court of Appeals dismissing their appeal and awarding sanctions to respondents Lisa and David Kurtz. The motion for discretionary review is denied without sanctions for reasons explained below.

Petitioners filed a civil action against respondents. On February 2, 2024, the superior court dismissed the action without prejudice for lack of personal jurisdiction, giving petitioners a chance to refile the action before the statute of limitation expired. Rather than pursue that route, on April 8, 2024, petitioners filed a notice of appeal in the Court of Appeals. Respondents asserted the superior court's decision was not appealable and that the notice of appeal was untimely in any event. *See RAP 5.2(a) (30-day limit to file notice of appeal).* Petitioners did not address these threshold procedural issues but instead argued the underlying merits of their superior court action.

On May 7 2024, Commissioner Aurora Bearse dismissed the appeal, citing *Munden v. Hazelrigg*, 105 Wn.2d 39, 40-42, 711 P.2d 295 (1985), which holds a

nonprejudicial dismissal is not appealable unless the appellant cannot refile the action. The commissioner did not reach the issue of timeliness of the notice of appeal.

Respondents moved for sanctions under RAP 18.9. Petitioners moved to modify the commissioner's ruling and argued against sanctions. On May 20, 2024, Commissioner Bearse ruled that if the panel of judges considering the motion to modify did not address sanctions, the commissioner would rule on sanctions after the panel decided the motion to modify.

On June 27 2024, a panel of judges denied the motion to modify the commissioner's May 7, 2024, ruling, but did not address the pending motion for sanctions. On June 28, 2024, Commissioner Bearse entered a ruling imposing \$50 in sanctions, not the full amount respondents requested, citing petitioner's indigency. Petitioners did not move to modify that ruling.

Petitioners now seek discretionary review in this court, challenging both dismissal of their notice of appeal and the imposition of sanctions. RAP 13.5(a). As a threshold matter, the commissioner's ruling imposing sanctions is not properly before me because petitioners failed to seek modification of that ruling; therefore, this ruling will not discuss that issue. RAP 13.3(e). The decision to dismiss the appeal, however, will be considered. RAP 13.3(a)(2), (c), (e).

To obtain discretionary review in this court, petitioners must establish that the Court of Appeals committed obvious error that renders further proceedings useless, probable error that substantially alters the status quo or that substantially limits a party's freedom to act, or that the Court of Appeals so far departed from the accepted and usual course of judicial proceedings as to justify this court's review. RAP 13.5(b). Petitioners do not cite or discuss these criteria, mainly arguing the underlying merits of the case, asserting trial court error, and failing to address in any meaningful way why their appeal

was dismissed. No valid basis for discretionary review can be gleaned from petitioners' briefing.¹

Respondents moved for the imposition of sanctions of sufficient force to discourage frivolous and harassing litigation from petitioners, citing RAP 18.1(j) and RAP 18.9(a). As noted, petitioners appear to be indigent, as the Court of Appeals waived petitioners' filing fee pursuant to GR 34. Commissioner Bearse therefore imposed only \$50 in sanctions.

RAP 18.1(j), which authorizes an award of attorney fees to a respondent for answering a petition for review that is denied by this court if the Court of Appeals awarded such fees, does not apply to motions for discretionary review. And while RAP 18.9(a) authorizes sanctions for defending against a frivolous appeal or where a party uses the appellate rules for purposes of delay, all petitioners have really done here is exercise their rule-based right to seek discretionary review in this court. RAP 13.5(a). As indicated, the motion for discretionary review is devoid of merit, but it is not an "appeal" for purposes of RAP 18.9(a). Respondents could have saved themselves the trouble of filing an answer to the motion for discretionary review, and their answer is flawed in any event, as mentioned in the footnote. And while petitioner's briefing certainly has been misguided, it has not reached a level of vexatiousness in this court that is worthy of sanctions. Accordingly, the request for sanctions is denied for purposes of this ruling. This does not preclude a department of this court from entertaining sanctions in the event petitioners move to modify this ruling.

¹ In fairness, respondents fail to cite or discuss RAP 13.5(b), also, relying instead on criteria listed in RAP 13.4(b), a rule that applies to petitions for review and certain other final decisions, not an interlocutory decision like the one at issue here.

The motion for discretionary review is denied.

Michael E. Johnson
COMMISSIONER

September 25, 2024

APPENDIX J

Washington Supreme Court's setting letter for department calendar
(September 30,2024)

THE SUPREME COURT

STATE OF WASHINGTON

ERIN L. LENNON
SUPREME COURT CLERK

SARAH R. PENDLETON
DEPUTY CLERK/
CHIEF STAFF ATTORNEY



TEMPLE OF JUSTICE
PO BOX 40929

OLYMPIA, WA 98504-0929

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www.courts.wa.gov

September 30, 2024

LETTER SENT BY E-MAIL ONLY

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Hon. Derek Byrne, Clerk
Court of Appeals, Division II
909 A Street, Suite 200
Tacoma, WA 98402

Re: Supreme Court No. 1033117 – Eric Watson, et al. v. Lisa Kurtz, et al.
Court of Appeals No. 594226 – Division II
Pierce County Superior Court No. 22-2-08513-0

Clerk, Counsel and Parties:

On September 27, 2024, the Court received the Petitioners' "MOTION REGARDING COURT CLERK'S OVERSTEPPING PROCEDURAL BOUNDARIES", which will be treated as a motion to modify the Acting Clerk's ruling.

The motion to modify is set for consideration by a Department of the Court on the Court's December 3, 2024, Motion Calendar. The motion will be determined without oral argument. See RAP 17.5(b).

Any answer to the motion should be served and filed by **October 11, 2024**. Any reply to answer should be served and filed by **October 18, 2024**.

Sincerely,

A handwritten signature in black ink, appearing to read "Sarah R. Pendleton".

Sarah R. Pendleton
Acting Supreme Court Clerk

SRP:bw

APPENDIX K

Washington Supreme Court's Ruling on extension of time (September 30,2024)

THE SUPREME COURT

STATE OF WASHINGTON



ERIN L. LENNON
SUPREME COURT CLERK

SARAH R. PENDLETON
DEPUTY CLERK/
CHIEF STAFF ATTORNEY

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September 30, 2024

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Re: Supreme Court No. 1033117 – Eric Watson, et al. v. Lisa Kurtz, et al.
Court of Appeals No. 594226 – Division II
Pierce County Superior Court No. 22-2-08513-0

Counsel and Parties:

On September 3, 2024, the Court received the Respondents' motion for a 1-day extension of time to file an answer to the motion for discretionary review. A ruling was entered on the same date granting the 1-day extension of time.

The Petitioners appear to be confused by the language in the September 3, 2024, ruling granting the 1-day extension of time which sets the due date for a reply to the answer to the motion for discretionary review for September 17, 2024. The Petitioners filed a reply to the answer to the motion for discretionary review on September 17, 2024.

Per RAP 17.4(c)(1) the Clerk of the Court may summarily determine without oral argument and without awaiting an answer, a motion which, in the judgement of the Clerk does not affect a substantial right of a party. Further, if the Clerk makes a summary determination granting a motion, and a party files a timely responsive pleading after the ruling has been entered, the Clerk will treat the responsive pleading as a motion for reconsideration of the ruling. Per RAP 17.4(e), unless the Court directs otherwise any answer must be filed and served within 10 days after the motion is served on the answering party. The answer was served and filed on September 3, 2024, therefore any answer would have been due by **September 13, 2024**.

On September 27, 2024, the Petitioners filed a “Motion Regarding Court Clerk’s Overstepping Procedural Boundaries” which objected to the Clerk’s ruling granting the 1-day extension of time. The motion was treated as a motion to modify the Clerk’s ruling.

On September 30, 2024, the Petitioner filed a “motion for extension of time” requesting a 4-day extension of time to file their objection to the motion for a 1-day extension of time to file an answer to the motion for discretionary review.

In regards to the motion for an extension of time, the following ruling is entered:

The Petitioners’ motion for a 4-day extension of time to file an objection to the Respondents’ motion for a 1-day extension of time to file an answer to the motion for discretionary review is granted. Therefore, pursuant to RAP 17.4(c)(2), the objection filed on September 17, 2024, is accepted for filing and will be treated as a motion for reconsideration of the ruling granting the 1-day extension of time to file an answer to the motion for discretionary review.

An answer to a motion for discretionary review does not fall under the strict time requirements of RAP 18.8(b) and therefore under RAP 18.8(a), the Court may on its own initiative enlarge the time to file an answer to “serve the ends of justice.” Because it is important for this Court to hear from both parties in a case, I find that it serves the ends of justice to grant the Respondents one additional day to file an answer to the motion for discretionary review. Therefore, the motion for reconsideration of the ruling granting the 1-day extension of time to the Respondents to file an answer to the motion for discretionary review is denied.

The motion to modify the Clerk’s ruling granting the 1-day extension of time to file an answer to the motion for discretionary review filed September 27, 2024, prior to the Petitioner’s motion for extension of time filed on September 30, 2024, is therefore stricken from the Court’s December 3, 2024, Department for consideration. If the Petitioners disagree with the ruling on their motion for reconsideration, they may file a motion to modify with this Court within 30-days of the date of this ruling.

Page 3
No. 1033117
September 30, 2024

Sincerely,



Sarah R. Pendleton
Acting Supreme Court Clerk

SRP:bw

APPENDIX L

Washington Supreme Court's setting letter for department calendar (October 30,2024)

THE SUPREME COURT
STATE OF WASHINGTON

ERIN L. LENNON
SUPREME COURT CLERK

SARAH R. PENDLETON
DEPUTY CLERK/
CHIEF STAFF ATTORNEY



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October 30, 2024

LETTER SENT BY E-MAIL ONLY

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Hon. Derek Byrne, Clerk
Court of Appeals, Division II
909 A Street, Suite 200
Tacoma, WA 98402

Re: Supreme Court No. 1033117 – Eric Watson, et al. v. Lisa Kurtz, et al.
Court of Appeals No. 594226 – Division II
Pierce County Superior Court No. 22-2-08513-0

Clerk, Counsel and Parties:

On October 30, 2024, the Court received the Petitioners' "MOTION TO MODIFY", which seeks modification of the Acting Clerk's ruling dated September 30, 2024.

The motion to modify is set for consideration by a Department of the Court on the Court's January 7, 2025, Motion Calendar. The motion will be determined without oral argument. See RAP 17.5(b).

Any answer to the motion should be served and filed by **November 13, 2024**. Any reply to answer should be served and filed by **November 20, 2024**.

Sincerely,

A handwritten signature in black ink, appearing to read "Sarah R. Pendleton".

Sarah R. Pendleton
Acting Supreme Court Clerk

SRP:bw

APPENDIX M

United States District Court Western District of Washington at Tacoma
(December 11,2023)

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

ERIC WATSON et al.,

CASE NO. 3:23-cv-05870-DGE

Plaintiffs,

ORDER ON MOTION TO
REMAND

LISA KURTZ et al.

Defendants.

This matter comes before the Court on Plaintiffs' motion to remand this case to the Pierce County Superior Court. (Dkt. No. 7.)

Having considered Plaintiffs' motion, Defendants' response, the exhibits and declarations attached thereto, and the remainder of the record, the Court GRANTS Plaintiffs' motion.

FACTUAL AND PROCEDURAL BACKGROUND

This case stems from a family dispute. On August 31, 2022, Plaintiffs Eric Watson and Sarah Watson filed a complaint in the Pierce County Superior Court, Cause No. 22-2-08513-0 (the “State Court Lawsuit”). (Dkt. No. 1-1.) Plaintiffs allege Defendants defamed them by

1 making false claims about Plaintiffs' treatment of their mother, Marie Edna Watson, now
2 deceased. (*Id.* at 2.) Plaintiffs seek \$10 million in damages for Eric Watson and an additional
3 \$10 million in damages for Sarah Watson. (*Id.* at 3–4.) Plaintiffs also appear to seek an
4 additional \$10 million for mental and emotional distress for Eric Watson. (*Id.* at 3.) Plaintiffs
5 also seek to have Lisa Kurtz removed as executor of her mother's estate and for Lisa Kurtz to
6 forfeit any claim to the estate. (*Id.* at 4.)

7 Attorney Grady R. Heins was/is the attorney of record for defendant Lisa Kurtz in her
8 capacity as the Personal Representative of the Estate of Marie Edna Watson in three separate
9 matters filed in the Pierce County Superior Court. (Dkt. No. 5-9 at 1.) On August 31, 2022, a
10 copy of the summons and complaint filed in the State Court Lawsuit was delivered to Heins' law
11 firm. (Dkt. No. 5-8.) Heins asserted Plaintiffs never properly served Defendants Lisa and David
12 Kurtz with the summons and complaint as (1) Heins had no authority to accept service on their
13 behalf, and (2) even if he did, the documents were merely left at his law firm and not served on
14 Heins. (Dkt. No. 5-9 at 1–2.)

15 On December 27, 2022, Heins entered a limited notice of appearance on behalf of
16 Defendants in the State Court Lawsuit. (Dkt. No. 5-10.) In doing so, Heins acknowledged he
17 represented Defendants in the State Court Lawsuit, but was not authorized to accept service, and
18 asserted proper service had never been accomplished. (*Id.*) On April 21, 2023, Heins filed a
19 "Status Report" in the State Court Lawsuit again asserting the Defendants had never been
20 properly served. (Dkt. No. 5-17.)

21 On July 13, 2023, an order allowing service by publication on Defendants was entered in
22 the State Court Lawsuit. (Dkt. No. 5-23.) Service by publication was completed on August 23,
23 2023. (Dkt. No. 5-26.)

24

1 On September 22, 2023, Defendants filed a notice of removal with this Court. (Dkt. No.
2 1.) Defendants contend removal is appropriate because the amount in controversy exceeds the
3 jurisdictional minimum. (*Id.* at 2.) Defendants further contend Plaintiffs have already conceded
4 Defendants are citizens of a different state because they asked to serve Defendants through
5 publication. (*Id.*)

6 **II. DISCUSSION**

7 **A. Legal Standard**

8 “A civil case commenced in state court may, as a general matter, be removed by the
9 defendant to federal district court, if the case could have been brought there originally.” *Martin*
10 *v. Franklin Capital Corp.*, 546 U.S. 132, 134 (2005); *see* 28 U.S.C. § 1441(a).

11 One such basis for removal is diversity jurisdiction, which exists if the suit is brought
12 between citizens of different states and the amount in controversy exceeds \$75,000.00. *See* 28
13 U.S.C. § 1332(a)(1). It is a “longstanding, near-canonical rule that the burden on removal rests
14 with the removing defendant.” *Abrego Abrego v. The Dow Chem. Co.*, 443 F.3d 676, 684 (9th
15 Cir. 2006). Furthermore, “[courts] strictly construe the removal statute against removal
16 jurisdiction.” *Gaus v. Miles, Inc.*, 980 F.2d 564, 566 (9th Cir. 1992); *see also Shamrock Oil &*

17 *Gas Corp. v. Sheets*, 313 U.S. 100, 108–109 (1941).

18 **B. Plaintiffs’ Argument**

19 Plaintiffs contend Defendants live in Washington State. (Dkt. No. 7 at 1.) Plaintiffs
20 claim Defendants refused to provide addresses so they could be served, and that they were
21 required to seek an order in the State Court Lawsuit permitting them to serve Defendants by
22 publication. (*Id.* at 3–4.) Plaintiffs argue that without evidence of Defendants’ out-of-state
23
24

1 address, the existence of Defendants' Washington State post office boxes are sufficient to
2 establish that Defendants reside in Washington. (*Id.* at 11-12.)

3 Plaintiffs contend Defendants own three properties in Washington State. (Dkt. No. 11 at
4 3.) Plaintiffs state they visited a Vancouver, Washington townhome allegedly owned by
5 Defendants, asked neighbors if Defendants lived there, and allowed their children to trick-or-
6 treat in the neighborhood, all in an effort to establish whether Defendants resided in Washington
7 State. (*Id.* at 3-4.)

8 **C. Defendants' Response**

9 Defendants David Kurtz and Lisa Kurtz contend they are citizens of Oregon. (Dkt. No. 8
10 at 2.) In declarations, David Kurtz and Lisa Kurtz assert they have been residents and citizens of
11 Oregon since March of 2022. (Dkt. Nos. 9, 10.) Defendants state they cannot disclose their
12 Oregon address because they fear harassment and threats from Plaintiffs. (*Id.*) Defendants'
13 counsel claims Plaintiffs have cyberstalked Defendants and driven hundreds of miles to
14 addresses they believed to be Defendants' in Vancouver, Washington in an attempt to confront
15 and intimidate Defendants. (Dkt. No. 12.)

16 Defendants claim Plaintiffs have never served Defendants with their complaint or
17 summons. (Dkt. No. 8 at 1.) Defendants allege Plaintiffs waited 322 days to begin service by
18 publication, with Plaintiffs claiming service by publication was completed by August 23, 2023.
19 (*Id.* at 2.) Defendants contend service by publication in the State Court Lawsuit was improper
20 because it was in violation of a Washington statute which, according to Defendants, required
21 service to have occurred within ninety days from the date of the filing of the complaint. (*Id.*)
22 Defendants contend their notice of removal was filed within 30 days of service by publication, as
23 required by the federal removal statute. (*Id.* at 3-4.)

24

1 D. Analysis

2 1. Whether Defendants are Citizens of Oregon

3 For purposes of determining diversity jurisdiction, a natural person must be both a citizen
4 of the United States and be “domiciled” in the state. *Kantor v. Wellesley Galleries, Ltd.*, 704
5 F.2d 1088, 1090 (9th Cir. 1983). A person's domicile is the place where he or she resides with
6 the intention to remain or to which he or she intends to return. *Kanter v. Warner-Lambert Co.*,
7 265 F.3d 853, 857 (9th Cir. 2001). Given the substance of declarations submitted by counsel and
8 Defendants, the Court finds Defendants are domiciled in Oregon for purposes of determining
9 diversity jurisdiction.

10 2. Whether Removal Was Timely

11 28 U.S.C. § 1446(b)(1) provides that a notice of removal of a civil action or proceeding
12 “shall be filed within 30 days after the receipt by the defendant, through service *or otherwise*, of
13 a *copy of the initial pleading* setting forth the claim for relief upon which such action or
14 proceeding is based, or within 30 days after the service of summons upon the defendant if such
15 initial pleading has then been filed in court and is not required to be served on the defendant,
16 *whichever period is shorter.*” (emphasis added).

17 In this matter, even if not properly served, it is reasonable to conclude Defendants had a
18 copy of the complaint filed in the State Court Lawsuit as early as December 27, 2022 and
19 certainly no later than April 21, 2023. This is because attorney Heins entered his limited notice
20 of appearance on Defendants' behalf on December 27, 2022 (Dkt. No. 5-10) and subsequently
21 filed a Status Report on their behalf on April 21, 2023. (Dkt. No. 5-17). As their attorney, Heins
22 would have shared the complaint with the Defendants as Heins would not have had authority to
23
24

1 act on Defendants' behalf in the State Court Lawsuit absent review and discussions with them
2 about the contents of the complaint.

3 Moreover, Defendants have always known they are citizens of Oregon. Given
4 Defendants' familial relationship to Plaintiffs and the legal matters involving the Estate of Marie
5 Edna Watson, Defendants also would have known Plaintiffs were citizens of Washington.
6 Indeed, the removal statute requires defendants to apply "a reasonable amount of intelligence in
7 ascertaining removability." *Kuxhausen v. BMW Fin. Servs. NA LLC*, 707 F.3d 1136, 1140 (9th
8 Cir. 2013) (internal citation omitted). "A defendant should not be able to ignore pleadings or
9 other documents from which removability may be ascertained and seek removal only when it
10 becomes strategically advantageous for it to do so." *Roth*, 720 F.3d at 1125.

11 Thus, the complaint on its face, together with Defendants own knowledge of their state of
12 citizenship provided Defendants with sufficient knowledge of their ability to remove the matter
13 to federal court no later than April 21, 2023. Because Defendants' removal notice was filed on
14 September 22, 2023, beyond the thirty-day time limit contained in 28 U.S.C. § 1446(b), the

15 Notice of Removal is invalid.

16 III. ORDER

17 For the reasons stated herein, Plaintiffs' motion to remand this case to the Pierce County
18 Superior Court (Dkt. No. 7) is GRANTED.

19 Dated this 11th day of December, 2023.

20 
21 _____
22 David G. Estudillo
23 United States District Judge
24