

May 13 2009

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

IN THE SUPREME COURT OF THE STATE OF MONTANA

ORIGINAL

No. DA 09-0102

IN THE MATTER OF

FILED

M.I. and L.I.,

MAY 13 2009

Youths in Need of Care.

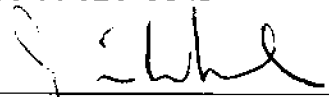
Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

**MOTION FOR EXTENSION OF TIME
AND AFFIDAVIT IN SUPPORT**

COMES NOW, Jim Wheelis, counsel of record for Appellant and father (B.I.), and respectfully requests an extension of time until June 2, 2009, in which to prepare, file, and serve the Appellant's opening brief in the above-entitled matter. In support of this motion, undersigned counsel respectfully submits the following affidavit.

Respectfully submitted this 13th day of May, 2009.

OFFICE OF THE STATE PUBLIC DEFENDER
Appellate Defender Office
301 South Park, Room 568
P.O. Box 200145
Helena, MT 59620-0145

By: 
JIM WHEELIS
Chief Appellate Defender

STATE OF MONTANA)
 : ss.

County of Lewis and Clark)

I, Jim Wheelis, being first duly sworn upon my oath, depose and state as follows:

1. I am a licensed, practicing attorney in the State of Montana, and am currently employed by the Office of State Public Defender, Appellate Defender Office, as the Chief Appellate Defender.

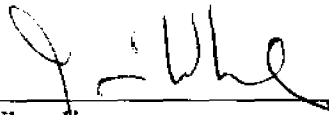
2. In my capacity as Chief Appellate Defender, I have been assigned to handle the above-entitled matter.

3. The opening brief in this cause was initially due May 4, 2009. Counsel requested and received a two-week extension until May 20, 2009. Counsel acknowledges the presumption against granting such extensions in cases involving the termination of parental rights under Mont. R. App. P. 26(2). Counsel requests this second extension of approximately two weeks for essentially the same reasons he requested the first. He was required to undergo a second cardiac catheter procedure in Missoula to implant two stents on May 9, 2009 (*see* Exhibit A.), because the catheter laboratory in Helena did not have the necessary equipment to complete the procedure. Although the May 9 procedure went well, the soporific used during the procedure predictably causes fatigue for about a week or so, although counsel has been diligent within limits in preparing this brief and

attending to other matters in the office. Additionally, two of the office's attorney positions are vacant, and the new attorneys will not start until the end of May, so this cause cannot practically be reassigned. Counsel assures the Court he will not seek another extension.

4. Opposing counsel has been contacted concerning this motion and does not object.

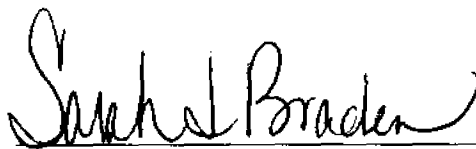
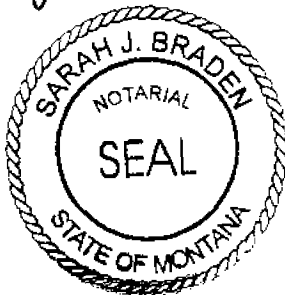
5. Further your affiant sayeth naught.



Jim Wheelis

SUBSCRIBED AND SWORN to before me this 18th day of

May, 2009.



Sarah J. Braden

Notary Public for the State of Montana

Residing at Helena

My commission expires 1/25/2011

CERTIFICATE OF SERVICE

I hereby certify that I caused a true and accurate copy of the foregoing
Motion for Extension of Time and Affidavit in Support to be mailed to:

STEVE BULLOCK
Montana Attorney General
MARK MATTIOLI
Assistant Attorney General
215 North Sanders
P.O. Box 201401
Helena, MT 59620-1401

DENNIS PAXINOS
Yellowstone County Attorney
P.O. Box 35025
Billings, MT 59107-5025

Father of the youths, B.I.

DATED: _____

5-13-2009

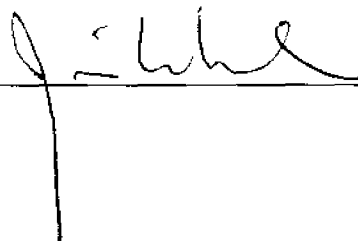
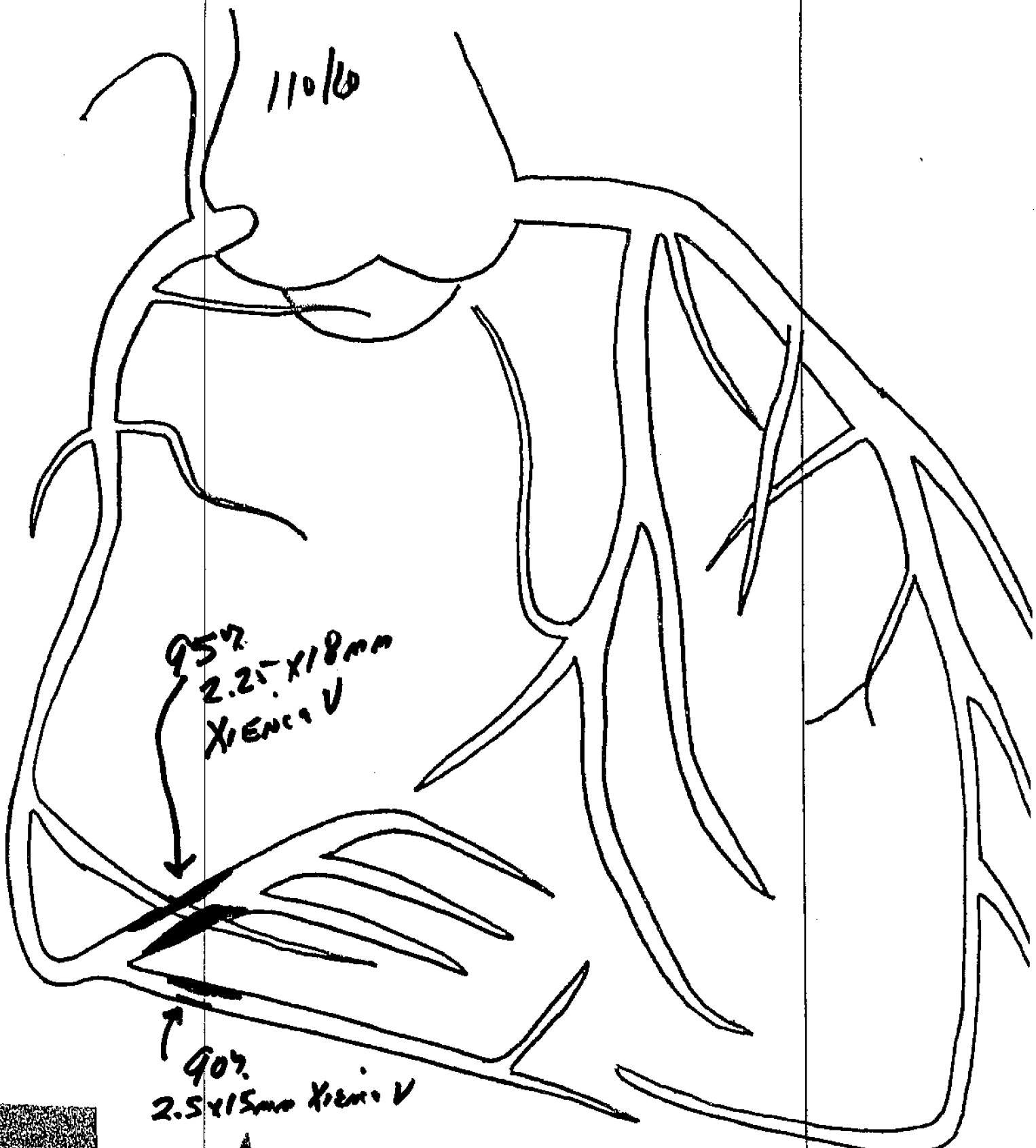
A handwritten signature in black ink, appearing to read 'J. L. White', written over a horizontal line. A vertical line extends downwards from the end of the signature.

EXHIBIT A



11/0/0

95%
2.25 x 18mm
Xience V

90%
2.5 x 15mm Xience V

MONTANA
CARDIOLOGY

2809 Great Northern Loop
Missoula, MT 59808
406-541-7000

whull@montonacardiology.com



MR#: M000499614
WHEELIS, JAMES

ACCT#:

PRE SDC

M Adm: 05/08/09

ATT/ER: Hull DO, William L
ADMIT: Hull DO, William L

