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SUPREME COURT  
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NO. 96528-5

SUPREME COURT OF THE STATE OF WASHINGTON

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ZURICH AMERICAN INSURANCE COMPANY,

Appellant,

V.

BRIAN SYKES, ET AL

Respondents.

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**RESPONDENT JOGINDER SINGH'S ANSWER TO  
APPELLANT'S PETITION FOR REVIEW**

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## **I. INTRODUCTION**

Respondent Joginder Singh DBA AP Transport (“Singh”) submits the following Answer to Appellant’s Petition for Review pursuant to RAP 13.4(d).

A trial court presiding over a reasonableness hearing must determine if a proposed settlement is reasonable and free of fraud and collusion. In make the determination, the court is required to weigh several factors. The trial court did so in this case and Division I properly affirmed the determination. This Court should decline Review.

## **II. COUNTERSTATEMENT OF ISSUES**

1. Whether the Court should reject Zurich’s request to rewrite the procedure for reasonableness hearings in Washington?

## **III. COUNTERSTATEMENT OF CASE**

Without his insurance company providing a defense against the Sykes family’s lawsuit, Singh was forced to hire a private attorney. Defense counsel propounded written discovery requests, gathered complete copies of all of Mr. Sykes’ medical records and bills, and deposed Mr. Sykes. CP 74, 81, 130, 324-325, 592. Defense counsel also retained and paid an orthopedic surgeon to perform a medical examination of Mr. Sykes. CP 589-590.

Due to Zurich's bad faith decision in the Beckwith lawsuit, Singh stipulated to binding arbitration of the Sykes' claims with a former President of the Washington State Bar Association. CP 129-130. Days before the arbitration hearing the parties negotiated a stipulated judgment and covenant not to execute, for a total amount of \$250,000.

The parties sought a joint determination of the reasonableness of the settlement. CP 73-79. Zurich intervened and conducted discovery and fully participated in two hearings, that included live testimony. Ultimately the Court found the settlement reasonable. CP 558-559. In all, the trial court considered live testimony, oral argument, and several hundred pages of written briefing and supporting evidence. The trial court's ruling addressed the *Chaussee* factors. CP 561-564. Division I properly affirmed the trial court's finding that this settlement agreement was reasonable.

#### **IV. ARGUMENT**

Zurich seeks review under RAP 13.4(b)(3) and (4) which provide, “[a] petition for review will be accepted by the Supreme Court only:

- (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.

Zurich does not offer any briefing explaining why this Court should accept review under the foregoing standards. Indeed, Zurich concedes this

Court addressed the constitutionality of these proceedings in *Bird v. Best Plumbing Grp., LLC*, 175 Wn.2d 756, 287 P.3d 551 (2012).

The *Chausee/Glover* factors provide an exhaustive list of considerations for the trial court to consider when determining whether a settlement is reasonable. *Glover for Cobb v. Tacoma General Hospital*, 98 Wn.2d 708, 717-18, 658 P.2d 1230 (1983), overruled on other grounds by *Crown Controls, Inc. v. Smiley*, 110 Wn.2d 695, 756 P.2d 717 (1988); *Chaussee v. Maryland Cas. Co.*, 60 Wn. App. 504, 510-11, 803 P.2d 1339, 812 P.2d 487, *review denied*, 117 Wn.2d 1018, 818 P.2d 1099 (1991). There is no reason to create additional standards for a trial judge to consider when deciding the reasonableness of a settlement.

## V. CONCLUSION

Based on the foregoing, Singh requests this Court reject Zurich's Petition for Review and award all reasonable attorney fees and costs pursuant to RAP 18.1.

RESPECTFULLY SUBMITTED this 17th day of December, 2018.

MIX SANDERS THOMPSON, PLLC

s/George A. Mix

s/Michael K. Rhodes

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*Attorney for Respondent Singh*

## PROOF OF SERVICE

I hereby certify that on December 17, 2018 Respondent Singh's Respondent's Brief was served on counsel via email per agreement to the below named individuals:

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I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED this 17th day of December, 2018, at Seattle, Washington.

s/Leyda Greenwood  
Leyda Greenwood  
*Paralegal for Respondent Singh*

**MIX SANDERS THOMPSON, PLLC**

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**Transmittal Information**

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