

FILED
SUPREME COURT
STATE OF WASHINGTON
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BY ERIN L. LENNON
CLERK

IN THE SUPREME COURT
OF THE STATE OF WASHINGTON

SUPREME COURT NO. 101884-3

(Court of Appeals, Division One No. 83722-2-I,
consolidated with No. 83788-5-I)
(Whatcom County Court Case No. 20-2-00743-37)

MUTUAL OF ENUMCLAW
INSURANCE COMPANY,

Respondent,

vs.

RONALD AND KAYE
MORGAN, Respondents,

and

DAVID C. AND JOAN S.
COTTINGHAM,
Appellants/Petitioners,

**JOINER IN
RESPONDENTS
RONALD AND KAYE
MORGAN'S RESPONSE
TO APPELLANTS
COTTINGHAMS'
PETITION(S) FOR
REVIEW**

JOINER IN RESPONSE TO
COTTINGHAMS' PETITION(S) FOR
REVIEW – 1
3482149 / 611.0040

FORSBERG & UMLAUF, P.S.
ATTORNEYS AT LAW
901 FIFTH AVENUE • SUITE 1400
SEATTLE, WASHINGTON 98164
(206) 689-8500 • (206) 689-8501 FAX

I. Identity of Responding Party.

Respondent Mutual of Enumclaw Insurance Company (“Mutual of Enumclaw”), through their counsel Carl E. Forsberg and James E. Horne, hereby joins in and adopts Respondents Ronald and Kaye Morgan’s Response to Appellants Cottinghams’ Petition for Review (“Respondents Morgans’ Response to Petition for Review”), except for the limited issues indicated below.

II. Relief Requested.

Respondent Mutual of Enumclaw requests that this Court deny Appellants Cottinghams’ Petition for Review of the decisions of the Washington Court of Appeals, Division One, in consolidated Cases Nos. 83722-2-I and 83788-5-I, as outlined in Respondents Morgans’ Response to Petition for Review for the reasons set forth in their brief relating to the failure of Appellants Cottingham to satisfy any of the requirements of RAP 13.4(b) for acceptance of review by the Washington Supreme Court.

Respondent Mutual of Enumclaw adopts and incorporates by reference the reasoning and arguments made by Respondents Morgans except to the following extent: Respondent Mutual of Enumclaw does not seek an award of attorneys' fees or sanctions against Appellants Cottingham.

III. Summary and Conclusion.

Respondent Mutual of Enumclaw agrees with Respondents Ronald and Kaye Morgan that Appellants Cottingham have failed to satisfy the requirements for discretionary review by the Supreme Court set forth in RAP 13.4(b). Respondent Mutual of Enumclaw also agrees that the Cottingshams' appeal is moot, that Respondent Mutual of Enumclaw's declaratory judgment action is over, that Appellants Cottingham were diligently defended by Respondent Mutual of Enumclaw through the resolution of this matter when Respondent Mutual of Enumclaw acted to preclude the underlying lawsuit to result in personal, and likely uninsured, losses to the Cottingshams by agreeing to a settlement of claims

against the Cottinghams potentially covered by their homeowners' policies with Respondent Mutual of Enumclaw.

Respondent Mutual of Enumclaw does not, however, join in Respondents Ronald and Kaye Morgan's request for an award of attorneys' fees and sanctions on appeal, but submits those requests should be resolved by this Court on the merits of those claims as presented by Respondents Morgan.

DATED this 24th day of May, 2023.

Respectfully submitted,

FORSBERG & UMLAUF, P.S.

By: *s/James E. Horne*

Carl E. Forsberg, WSBA #17025

James E. Horne, WSBA # 12166

Of Attorneys for Respondent Mutual
of Enumclaw Insurance Company

Pursuant to RAP 18.17(c)(17), the undersigned certifies that Respondent's Motion contains 336 words, exclusive of the title sheet, certificate of compliance, the certificate of service, signature blocks, and pictorial images as calculated by the word processing software use to prepare this motion.

By: *s/James E. Horne*

James E. Horne, WSBA #12166

CERTIFICATE OF SERVICE

The undersigned certifies under the penalty of perjury under the laws of the State of Washington that I am now and at all times herein mentioned, a citizen of the United States, a resident of the State of Washington, over the age of eighteen years, not a party to or interested in the above-entitled action, and competent to be a witness herein.

On the date given below I caused to be served the foregoing JOINDER IN RESPONDENTS RONALD AND KAYE MORGAN'S RESPONSE TO APPELLANTS COTTINGHAMS' PETITION(S) FOR REVIEW on the following individuals in the manner indicated:

Mr. David C. Cottingham
Cottingham Law Office, P.S.
P.O. Box 229140
Bellingham, WA 98229
*Attorneys for David and Joan
Cottingham and
Cottingham Law Office,
P.S.*

(X) Via COA Portal E-
File/Delivery

Mr. Douglas R. Shepherd
Mr. Kyle S. Mitchell
Ms. Heather C. Shepherd
Shepherd and Allen
2011 Young St., Suite 202
Bellingham, WA 98225-
4052
*Attorneys for Ronald and
Kaye Morgan*

(X) Via COA Portal E-
File/Delivery

SIGNED this 24th day of May, 2023, at Seattle,
Washington.

s/Abbie L. Robinson

Abbie L. Robinson

FORSBERG & UMLAUF

May 24, 2023 - 4:15 PM

Transmittal Information

Filed with Court: Supreme Court
Appellate Court Case Number: 101,884-3
Appellate Court Case Title: Mutual of Enumclaw Insurance Company v. David C. Cottingham, et al.
Superior Court Case Number: 20-2-00743-5

The following documents have been uploaded:

- 1018843_Other_20230524160836SC972988_7354.pdf
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- kyle@saalawoffice.com
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Sender Name: Abbie Robinson - Email: arobinson@foum.law

Filing on Behalf of: James Edward Horne - Email: jhorne@foum.law (Alternate Email:)

Address:

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Seattle, WA, 98164

Phone: (206) 689-8500

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