No. 92574-7

IN THE SUPREME COURT
OF THE STATE OF WASHINGTON

(COURT OF APPEALS NO. 31435-9-III)

In Re RAPID SETTLEMENTS, LTD'S Application for
Transfer of Structured Settlement Payment Rights

RESPONDENTS' ANSWER TO PETITION FOR REVIEW

ON APPEAL FROM THE SUPERIOR COURT OF THE STATE OF
WASHINGTON FOR BENTON COUNTY
Cause No. 04-2-02767-2

Medora A. Marisseau, WSBA #23114
Jacque E. St. Romain, WSBA #44167
KARR TUTTLE CAMPBELL
701 Fifth Avenue, Suite 3300
Seattle, WA 98104
206-223-1313
Attorneys for Symetra Life Insurance Company
and Symetra Assigned Benefits Service Company

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I. INTRODUCTION

Respondents are Symetra Life Insurance Company ("Symetra Life") and Symetra Assigned Benefit Services Company ("Symetra Assigned") (collectively, "Symetra" or "Respondents"), the plaintiffs in the action pending in the Benton County Superior Court. Petitioners RSL-3B-IL, Ltd. and attorney John Gorman (collectively, "Petitioners") seek review of the Court of Appeals' August 18, 2015 decision (modified on October 29, 2015) largely upholding the Superior Court's ruling of January 10, 2013, finding Petitioners in contempt for violating a temporary restraining order. CP 524-526; *In re Structured Settlement Payment Rights of Rapid Settlements, Ltd.* ("*Rapid III*"), 189 Wn. App. 584, 359 P.3d 823 (2015). As the Superior Court and the Court of Appeals correctly found, Petitioners knowingly took actions prohibited by the temporary restraining order in place and thus violated the trial court's order. CP 524-26; *Rapid III*, 189 Wn. App. 584. The Court of Appeals' decision is the subject of the Petition for Review (the "Petition").

II. ISSUES PRESENTED

The Respondents believe the issues presented by the Petition may best be stated as follows:

A. Whether this Court should deny discretionary review where Appellants failed to establish any basis under the Rules of Appellate Procedure that would justify acceptance of review.

B. Whether the Court of Appeals correctly affirmed the Superior Court's decision, which determined that Appellants acted intentionally when they violated the temporary restraining order and that the penalties placed on Appellants were civil in nature, rather than criminal.

III. STATEMENT OF THE CASE

A. Factual Background

Rapid Settlements, Ltd. ("RSL"), now known as Liquidating Marketing, Ltd., is a Texas Limited Partnership in the business of buying the rights to future payments from injured parties who receive periodic payments under structured settlements. *See In re Rapid Settlements, Ltd.* ("*Rapid II*"), 166 Wn. App. 683, 686-87, 271 P.3d 925 (2012). The Court of Appeals, in 2012, found that a related company, RSL-3B-IL, Ltd. ("3B"), the Petitioner here, is the alter ego of RSL. *Id.* at 694. Symetra Life and Symetra Assigned, the Respondents, are Washington corporations. *Id.* at 686. Symetra Life issued the annuity contract to fund the structured settlement at issue here and is responsible for making payments thereunder. *Id.* at 686-87. Symetra Assigned is the annuity owner/obligor. *Id.*

On May 12, 2005, the Benton County Superior Court approved an amended transfer petition filed by RSL under Washington's Structured Settlement Protection Act, RCW 19.205.010 ("SSPA"), whereby the payee, Nicholas Reihs, transferred to RSL his entitlement under a Symetra

annuity contract of $60,000 due on September 2, 2012. *Id.* at 689. Although RSL had filed the transfer petition listing itself as the transferee, the order it submitted, and which the Superior Court approved, attempted to require that Symetra make payment (the "Reihs Payment") to 3B. *Id.*

B. Symetra's Judgment Against RSL under the SSPA.

In July 2004, RSL brought an SSPA application in King County Superior Court seeking to transfer payments under a Symetra annuity regarding payee William Thompson. *Rapid II*, 166 Wn. App. at 687. Because the transfer violated the SSPA, Symetra filed an objection and the trial court dismissed the application. *Id.* Thereafter, Symetra filed a Petition for Attorney's Fees and Costs against RSL for fees incurred "as a result of Rapid's non-compliance" with the SSPA. *Rapid Settlements Ltd. v. Symetra Life Ins. Co.* ("*Rapid I*"), 134 Wn. App. 329, 332, 139 P.3d 411 (2006). The trial court granted the request and entered judgment for Symetra. *Id.* RSL appealed the judgment. *Id.* Division One of the Court of Appeals affirmed the judgment on July 31, 2006. *Id.* at 335.

The Court of Appeals subsequently awarded Symetra its attorneys' fees and costs on appeal. CP 316.[1] RSL then petitioned this Court for

[1] CP 313-28 comprise Symetra's December 6, 2012 Motion for Permanent Injunction, filed in this matter. References to CP 315-20 are to the Statement of Facts in the motion, which sets forth the background leading

review. *Id.* This Court denied the petition for review. *Rapid Settlements, Ltd. v. Symetra Life Ins. Co.*, 160 Wn.2d 1015, 161 P.3d 1027 (2007). On July 5, 2007, this Court awarded Symetra additional attorneys' fees. CP 316. The final awarded judgment amount in favor of Symetra was entered in King County Superior Court in 2008 (the "Thompson Judgment"). *Id.*

C. RSL Refuses to Pay the Judgment.

Symetra made numerous attempts to collect upon the Thompson Judgment. CP 316. The judgment and multiple demand letters were ignored. Symetra sought to identify RSL property, through garnishment and interrogatories, in order to satisfy the judgment, only to learn that RSL, under the direction of its CEO Stuart Feldman, claimed to own no property, even in its home state of Texas.

RSL has consistently taken advantage of the Washington courts and, to date, RSL has filed at least 15 SSPA petitions in Washington, including the Reihs petition. CP 317. Under the Washington court orders approving RSL's petitions, RSL and/or its assignees will receive over $2 million from structured settlements from injured payees residing in Washington. *Id.*

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up to the Motion for Permanent Injunction. *See also* CP 329-58 (Declaration of Johanna M. Coolbaugh and exhibits thereto).

D. Benton County Modifies the May 2005 Order to Allow Offset.

On June 2, 2010, Symetra requested a CR 60(b) modification of the Benton County Superior Court's May 2005 Order in the Reihs matter to allow Symetra to set off the amount of the Thompson Judgment against the Reihs Payment. CP 317.

3B intervened and objected, claiming that the right to the Reihs Payment belonged to 3B and that Symetra's judgment against RSL could not be offset against 3B's alleged right to payment. CP 317. At the July 9, 2010 hearing on the motion, the Superior Court granted Symetra's motion and found Symetra's payment obligation was to RSL and that RSL and 3B were alter egos. *Id.* 3B unsuccessfully moved for reconsideration and then appealed to the Court of Appeals. *Id.*

On February 23, 2012, the Court of Appeals upheld the trial court's order. *Rapid II*, 166 Wn. App. 683. No timely appeal was taken and the Court of Appeals issued a mandate to the Superior Court on April 12, 2012. CP 317-18.

E. The Texas Action and the Benton County Contempt Order.

On July 20, 2012, Symetra received a letter dated July 17, 2012, from the Feldman Law Firm LLP, which had been representing RSL, purporting to represent 3B. CP 318. The Feldman Law Firm asserted: "RSL-3B-IL, Ltd ("RSL-3B") continues to assert its vested and

irrevocable right to receive the [Reihs] payment that comes due on September 2, 2012." *Id.* 3B demanded that Symetra pay the entire amount of the Reihs Payment to 3B. *Id.* The letter made no mention of the Benton County Superior Court's 2010 Order approving Symetra's setoff or the affirmance of that Order on appeal. *Id.*

On August 9, 2012, 3B, through its attorney, gave notice that it was filing a motion: (1) to vacate the stay of an action 3B had filed in Harris County, Texas District Court after Symetra moved to modify the Reihs order in Benton County; and (2) to require Symetra to deposit the Reihs Payment into the court registry. CP 318. The motion to vacate was set for hearing on August 20, 2012, and the motion to require Symetra to deposit funds into the court registry was set for August 27. CP 319.

On August 13, 2012, Symetra moved the Benton County Superior Court for a temporary restraining order ("TRO") barring 3B and its attorneys and agents from pursuing the Texas action, with notice to 3B. CP 319. The TRO was granted after a hearing on August 17, restraining 3B from "taking any further action" in the Texas action and requiring 3B to "strike any and all pending motions in that case." CP 338-40. The TRO also restrained 3B from "initiating any other lawsuits in any state that attempt to, or would have the effect of, directly or indirectly, undermining Symetra's right to offset the [Reihs] payment." *Id.*

The TRO was personally served on Stewart Feldman, registered agent for 3B, on August 20, 2012. CP 155. Despite service of the TRO, 3B continued to vigorously pursue its action against Symetra in Texas. CP 156. On August 20, 2012, the date scheduled for the hearing in Harris County on the motion to vacate the stay, 3B requested that the hearing be renoted for August 24. The request was filed by John Gorman, who had represented 3B before the Court of Appeals in *Rapid II*. CP 156, 167; CP 737, n.1. This request was granted. CP 156, 167. On August 21, Symetra filed a motion to extend the hearing date. CP 156. The next day, 3B filed a brief opposing Symetra's motion, in which 3B specifically addressed the TRO and stated that it was without effect. *Id.*, CP 169-173.

Also on August 22, counsel for Symetra advised 3B's counsel that 3B's actions in pursuing the Texas action violated the TRO and that Symetra would seek all appropriate sanctions. CP 164. No response was received. CP 156. On August 23, the Texas court heard argument on the motion to reschedule 3B's motion; 3B appeared through Gorman. CP 156, 167. The Texas Court reset the hearing on 3B's motion to lift the stay to August 28. *Id.* On September 10, the Texas action was removed to the U.S. District Court for the Southern District of Texas. CP 519.

Meanwhile, Symetra filed its Motion for Contempt of Temporary Restraining Order in Benton County Superior Court on August 24, 2012.

CP 152-59. However, 3B removed this matter on August 31, the day of the scheduled hearing on Symetra's motion, which was stricken. CP 1723. The removal was determined to be frivolous and the case was remanded on November 6, with an order of sanctions. *Id.*; CP 856-57.

Symetra's contempt motion was noted for hearing on November 30. CP 947. Local counsel for 3B, Art Klym, filed a notice of appearance and a motion for a continuance on November 29. *Id.* On November 30, Judge Spanner continued the hearing to December 28. *Id.* At the hearing, Judge Runge granted a further continuance because 3B's counsel argued that 3B's response to Symetra's motion was included in its motion for a continuance, which the Court and Symetra had not understood. CP 948.

On January 2, 2013, Symetra filed a supplemental reply in support of its motion for contempt to address the points raised in 3B's motion for continuance. CP 948. On January 10, the Court issued a letter decision granting Symetra's motion for contempt and filed the order of contempt against 3B and Gorman. *Id.*, CP 524-28. Specifically, the Court ordered the following relief:

> (1) 3B is ordered to pay Symetra for its costs and attorneys' fees incurred in bringing this motion for contempt and all costs and attorneys' fees incurred by Symetra in the Harris County, Texas, action between August 20, 2012, when the Court's Temporary Restraining Order was served on 3B and the date of this Order of Contempt. Symetra has

submitted a cost and fee bill showing the amount of these costs and fees is $47,024.50.

(2) Attorney Gorman, as attorney and agent for 3B, is ordered to pay Symetra a one-time forfeiture pursuant to RCW 7.21.030(1)(b) of One Thousand Dollars ($1,000.00).

(3) In order to purge themselves of this contempt charge, 3B and its attorney Gorman must strike all pending motions in the Harris County, Texas, action, and agree not to file any motion or take any other action in said case while an injunction from this Court restraining them from doing so is in effect.

Rapid III, 189 Wn. App. at 596-97; CP 526.

On February 11, 2013, 3B and Gorman filed a Notice of Appeal of the order of contempt. CP 951. The Court of Appeals heard oral argument on August 18, 2015, and issued a decision largely upholding the Superior Court's order of contempt. *See Rapid III*, 189 Wn. App. 584.

Specifically, the Court of Appeals found the following: (1) the trial court had jurisdiction over Gorman; (2) the findings of contempt were sufficient and supported by substantial evidence; (3) the relief ordered by the trial court was largely appropriate, given the civil character of the contempt proceeding; and (4) the contempt order contained a valid purge clause, making the one-time forfeiture of $1,000 a civil penalty, rather than a criminal one. *Id.* (holding that the purge clause here is valid because it "serves remedial aims" and "the condition is reasonably related to the cause or nature of the contempt.") The Court of Appeals found the

trial court correctly ordered 3B to reimburse Symetra for the fees and costs incurred because of 3B's violations of the temporary restraining order, but remanded for the trial court to limit the recovery to only those fees incurred by Symetra in responding to 3B's actions, rather than those fees incurred by Symetra in responding to actions of FinServ and/or A.M.Y.[2] *Id.* at 607, 612. This ruling is the subject of the Petition for Review.

IV. ARGUMENT

A. Petitioners Have Completely Failed to Establish That Discretionary Review Is Warranted under RAP 13.4(b).

A petition for review to the Supreme Court will only be accepted in four situations:

> (1) If the decision of the Court of Appeals is in conflict with a decision of the Supreme Court; or
>
> (2) If the decision of the Court of Appeals is in conflict with another decision of the Court of Appeals; or
>
> (3) If a significant question of law under the Constitution of the State of Washington or 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.

RAP 13.4(b). Petitioners fail to cite any section of this rule. Petitioners completely fail to address subsections (3) and (4). To the extent Petitioners

[2] FinServ and A.M.Y. were joined in this matter on November 30, 2012. CP 330-31, 354-55.

attempt to address subsections (1) and (2), they fail to establish that either applies in this case. Therefore, review should be denied.

i. The Decision of the Court of Appeals Is Not in Conflict with a Decision of the Supreme Court.

Petitioners appear to assert that the Court of Appeals' decision conflicts with the U.S. Supreme Court decision in *International Union v. Bagwell*, 512 U.S. 821, 114 S. Ct. 2552 (1994), or this Court's decision of *In re Personal Restraint of King*, 110 Wn.2d 793, 756 P.3d 1303 (1998). Petitioners fail to show that a conflict with either of those cases, or any other case, exists.

Petitioners principally contend that the contempt sanctions order upheld by the Court of Appeals contained an invalid purge clause, which they assert automatically converted the entire contempt sanction from civil to criminal contempt. Petitioner's argument is flawed because the order upheld on appeal imposed civil contempt, not criminal contempt, and is consistent with *Bagwell* and *King*.

Bagwell does not conflict with the decision of the Court of Appeals. As *Bagwell* expressly states, a contempt fine is considered "civil and remedial" if it either "coerces the defendant into compliance with the court's order, [or] . . . *compensates the complainant for losses sustained.*" *Bagwell*, 512 U.S. at 829 (emphasis added). "Where a fine is not

compensatory, it is civil only if the contemnor is afforded an opportunity to purge." *Id.* No purge clause is necessary where the fine is compensatory. *See Gompers v. Buck's Stove & Range Co.*, 221 U.S. 418, 441-42, 31 S. Ct. 492, 55 L.Ed. 797 (1911) (noting that a defendant can be "punished" in a civil contempt proceeding as long as the "punishment" is designed to compensate the party injured by the contempt).

Here, as the Court of Appeals expressly found, the sanctions against 3B were compensatory. *See Rapid III*, 189 Wn. App. at 606. They were specifically designed to compensate Symetra for the costs and fees it incurred because of 3B's failure to comply with the TRO. *Id.* at 607-08, 611-12.

As this Court stated in *King*, "In determining whether a particular contempt sanction is civil or criminal, we look to the substance of the proceeding and the character of the relief that the proceeding will afford." 110 Wn.2d at 799. *See also State v. John*, 69 Wn. App. 615, 618, 849 P.2d 1268 (1993). Washington's contempt statute expressly allows a civil contempt order awarding payment to a party for losses suffered due to the contempt. RCW 7.21.030(3). Because the contempt sanctions against 3B were compensatory, they cannot be considered criminal; rather, they are civil only, and nothing in *Bagwell* or *King* is inconsistent with the Court of Appeals' contempt order against 3B.

The sanctions against Gorman are similarly consistent with *Bagwell* as the court is authorized to order a forfeiture not to exceed $2,000 per day as long as the contempt continues. RCW 7.21.030(2)(b). Here, the Superior Court imposed a lesser sanction against Gorman by fining him only $1,000 and including a purge clause. *Rapid III*, 189 Wn. App. at 615-16; CP 526. The Court of Appeals also found that the purge clause served remedial aims and was reasonably related to the nature of the contempt. *Id.* at 613. This is in accord with *Bagwell*, which holds that a fine imposed in conjunction with a contempt order and which is not designed to compensate the injured party can be criminal in nature only if there is no purge clause. *Bagwell*, 512 U.S. at 829.

Similarly, *King* states, "[A] contempt sanction is criminal if it is determinate and unconditional; the sanction is civil if it is conditional and indeterminate, *i.e.*, where the contemnor carries the keys of the prison door in his own pocket and can let himself out by simply obeying the court order." *In re King*, 110 Wn.2d at 800.

King further states, and the Court of Appeals agreed, "In the context of civil contempt, the law presumes that one is capable of performing those actions required by the Court." *Id.* at 804. "Thus, *inability to comply is an affirmative defense and the contemnor has both the burden of production on ability to comply, as well as the burden of*

persuasion." *Id.* (emphasis added, internal citations omitted). *King* specifically holds that the burden is on the contemnor (Gorman) to offer evidence in the trial court of the inability to comply with the purge clause. *Id.* "The contemnor must offer evidence as to his inability to comply and the evidence must be of a kind the court finds credible." *Id.* *King* reversed the Court of Appeals' decision to grant King's personal restraint petition because "there is no indication from the record that Mr. King ever brought a motion before the trial court to review his incarceration." *Id.*

Similarly, Petitioners' argument that they could not fulfill the purge condition came too late. *Rapid III*, 189 Wn. App. at 616. Petitioners, like King, failed to present any argument in the trial court that they could not comply with the purge clause. *Id.* This issue was first raised only on appeal. Amended Brief of Appellants RSL-3B-IL, Ltd. and E. John Gorman, at 15-19. The Court of Appeals correctly declined to "entertain this issue,"[3] stating: "Since 3B and Mr. Gorman had ample advance notice of the proposed purge condition, any inability to comply with it was an affirmative defense that they needed to raise before the contempt order was entered, not after." *Rapid III*, 189 Wn. App. at 616. This is in accord with *King*.

[3] *Rapid III*, 189 Wn. App. at 616 (citing RAP 2.5(a)).

The burden was on Gorman to petition the Benton County Superior Court to modify the contempt order if he truly believed he could not comply with the purge clause. *Id.*; *U.S. v. Rylander*, 460 U.S. 752, 757, 75 L. Ed. 2d 521, 103 S. Ct. 1548 (1983); *Maggio v. Zeitz*, 333 U.S. 56, 75-76, 68 S. Ct. 401, 92 L. Ed. 476 (1948). Gorman failed to offer any evidence to the Superior Court regarding his alleged inability to comply with the Court's contempt order and did not make any such argument until he appealed the order. Therefore, as the Court of Appeals held, the $1,000 fine, in conjunction with the purge clause, is not a criminal sanction and there is no conflict between this decision and any decision of the U.S. Supreme Court or the Washington Supreme Court.

ii. The Court of Appeals' Decision Does Not Conflict With Any Other Decision of the Court of Appeals.

Petitioners have failed to argue that the Court of Appeals' decision conflicts with other decisions of the Court of Appeals. However, to the extent that they contend that it conflicts with *Britannia Holdings Ltd. v. Greer*, 127 Wn. App. 926, 933-34, 113 P.3d 1041 (2005), *review denied*, 156 Wn.2d 1032, 134 P.3d 232 (2006), or *Holiday v. City of Moses Lake*, 157 Wn. App. 347, 236 P.3d 981 (2010), they fail to show any such conflict.

Like *King*, *Britannia Holdings* holds that "the law presumes that one is capable of performing those actions required by the court." 127 Wn. App. at 933. While *Britannia Holdings* does require a threshold determination of a contemnor's ability to comply with the purge clause, this case does not apply here because it does not address a situation where the contemnor (Gorman) had ample notice of the purge clause and failed to assert an inability to comply until the appeal. *See Rapid III*, 189 Wn. App. at 615-16.

Pursuant to the Rules of Appellate Procedure, the Court of Appeals correctly decided not to entertain Gorman's alleged inability to cure where this issue was not raised below, despite his knowledge of the proposed purge clause almost two months before the trial court issued the order on contempt. *Id.* at 615-18 (citing RAP 2.5(a)); CP 356-58.

Holiday v. City of Moses Lake also does not conflict with the Court of Appeals' decision. In *Holiday*, the Court stated that "a finding that a violation of a previous court order was intentional is required for a finding of contempt." 157 Wn. App. at 355.

However, as the Court of Appeals correctly noted here, neither *Holiday* nor the contempt statute itself, RCW 7.21.030, requires an express written finding that the violation was intentional. *Rapid III*, 187 Wn. App. at 605 ("When the Washington legislature intends to require

that an explicit finding must be made for a court to act, it says so. ... Nothing in chapter 7.21 RCW requires that the court make a written finding of intentional conduct.")

Similarly, other Court of Appeals decisions have not required that the contemnor have intentionally violated the court order, and, have found an actor to be in contempt despite the fact that he never read the TRO with which he was served. *See In re Estates of Smaldino*, 151 Wn. App. 356, 364-65, 212 P.3d 579 (2009). "The violation of a court order without reasonable excuse is deemed willful." *Id.* at 364. As long as the *act* that violates the TRO is intentional, the violation is intentional. *Id.* at 366. *Holiday* essentially says the same thing, *i.e.*, if the act that violates a court order is intentional, the actor is in contempt.

Here, the Benton County Superior Court made, and the Court of Appeals upheld, multiple findings showing the actions of 3B and Gorman to be intentional. The Superior Court expressly found that, *after having actual notice of the TRO*, 3B and Gorman: (1) continued pursuing the lawsuit in Harris County, Texas; (2) failed to strike the pending motions in the Harris County lawsuit; (3) opposed Symetra's motion for an extension on 3B's pending motions in the Texas action; and (4) argued at two different hearings in the Harris County action. CP 524-25, *Rapid III*, 189 Wn. App. at 602-03. Each of these findings shows an intentional act by

3B and Gorman in direct violation of the TRO. Thus, the Court of Appeals correctly upheld the trial court's findings and such a decision does not conflict with other decisions of the Court of Appeals. The Court of Appeals did not "reverse its own precedent sub silentio." Petition at 12.

B. The Court of Appeals Correctly Awarded Symetra Attorneys' Fees Incurred after the TRO Expired.

Petitioners argue that the Court of Appeals erred by awarding Symetra attorneys' fees incurred after the expiration of the TRO. However, RAP 13.4(b) does not authorize review in every case. Even if the Court of Appeals erred, review would not be warranted because Petitioners have failed to show that this alleged error satisfies the requirements of RAP 13.4(b).

In any event, the Court of Appeals did not err. RCW 7.21.030 specifically allows the court to order a person found in contempt to pay a party for any losses suffered by that party as a result of the contempt. RCW 7.21.030(3). Washington courts have long held that compensatory damages or fines payable to the injured party as relief are proper in a civil contempt proceeding. *State ex rel. Lemon v. Coffin*, 52 Wn.2d 894, 896, 332 P.2d 1096 (1958).

The Superior Court and the Court of Appeals correctly found that Symetra was entitled to the attorneys' fees and costs incurred after the

TRO expired on August 31, 2012, because those fees and costs were specifically incurred because of the contemptuous acts of Petitioners. CP 526; *Rapid III*, 189 Wn. App. at 610-11.

C. The Court of Appeals Correctly Refused to Consider The Issue of Personal Jurisdiction.

Gorman's argument regarding personal jurisdiction also fails. Gorman, despite his arguments to the contrary, had appeared in Washington to represent 3B. He was admitted pro hac vice in the trial court for the purposes of this very case and argued on 3B's behalf before the Court of Appeals. *See Rapid II*, 166 Wn. App. at 685 (listing Gorman as one of the attorneys appearing on behalf of appellant). The Court of Appeals specifically addressed this issue, stating:

> We have no doubt that Mr. Gorman's appearance in Washington in a legal proceeding whose outcome he then collaterally attacks elsewhere, in contempt of court, is a contact of such character that maintenance of the contempt action does not offend traditional notions of fair play and substantial justice.

Rapid III, 189 Wn. App. at 599, n.5.

Further, Gorman failed to even raise this issue until Petitioners' reply brief before the Court of Appeals; therefore, the Court of Appeals correctly did not address this issue. *Id.*; RAP 2.5(a); *In re Marriage of Maddix*, 41 Wn. App. 248, 251, 703 P.2d 1062 (1985) (holding that one

waives any challenges to personal jurisdiction if he/she does not request "an immediate ruling on the jurisdictional issue.").

D. Attorneys' Fees on Appeal

Symetra seeks its fees and expenses on appeal pursuant to RAP 18.1(a) and RCW 7.21.030(3). *See R.A. Hanson Co. v. Magnuson,* 79 Wn. App. 497, 503, 903 P.2d 496 (1995) ("RAHCO successfully defended Witherspoon Kelley's appeal of the contempt order and is entitled to attorney fees on appeal.").

V. CONCLUSION

This Court should deny the Petition for Review because Petitioners have failed to show that any of the provisions of RAP 13.4(b) for accepting review apply.

RESPECTFULLY SUBMITTED this 22nd day of January, 2016.

KARR TUTTLE CAMPBELL

By: _____
Medora A. Marisseau, WSBA #23114
Jacque E. St. Romain, WSBA #44167
Attorneys for Symetra Life Insurance Company and Symetra Assigned Benefit Services Company

CERTIFICATE OF SERVICE

I, Ileen Osorio, affirm and state that I am employed by Karr Tuttle Campbell in King County, in the State of Washington. I am over the age of 18 and not a party to the within action. My business address is: 701 Fifth Ave., Suite 3300, Seattle, WA 98104. On this day, I caused the foregoing RESPONDENTS' ANSWER TO PETITION FOR REVIEW to be served on the parties listed below in the manner indicated.

George E. Telquist Telequist Ziobro McMillen Clare 1321 Columbia Park Trail Richland, WA 99352 George@tzmlaw.com	☒ ☐ ☒ ☐ ☐	Via U.S. Mail Via Hand Delivery Via Electronic Mail Via Overnight Mail CM/ECF via court's website

Attorneys for Petitioners

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct, to the best of my knowledge. Executed on this 22nd day of January, 2016, at Seattle, Washington.

Ileen Osorio
Legal Secretary to
Medora A. Marisseau and
Jacque E. St. Romain

OFFICE RECEPTIONIST, CLERK

To: Ileen C. Osorio
Subject: RE: Supreme Court Case No. 92574-7

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Case Name: In re Rapid Settlements, Ltd's Application for Transfer of Structured Settlement Payment Rights
Case Number: Supreme Court Case No. 92574-7/COA Case No. 31435-9-III

Please find attached the Respondents' Answer to Petition for Review for filing with the Supreme Court of the State of Washington.

Please provide a "received" email once the attached has been filed.

Per your procedures listed on the Supreme Court Clerk's website, I will not be sending the original as the attached will be treated as the original for your file.

If you require anything further, please feel free to contact me.

Thank you.

ILEEN C. OSORIO
LEGAL SECRETARY | IOSORIO@KARRTUTTLE.COM | OFFICE: 206.224.8133 | FAX: 206.682.7100
KARR TUTTLE CAMPBELL | 701 Fifth Avenue, Suite 3300 | Seattle, WA 98104 | www.karrtuttle.com

ILEEN C. OSORIO
LEGAL SECRETARY | IOSORIO@KARRTUTTLE.COM | OFFICE: 206.224.8133 | FAX: 206.682.7100
KARR TUTTLE CAMPBELL | 701 Fifth Avenue, Suite 3300 | Seattle, WA 98104 | www.karrtuttle.com