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SUPREME COURT
STATE OF WASHINGTON
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No. 92296-9

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

In re the Matter of the Marriage of:

VICTOR M. ZANDI,

Petitioner,

vs.

DEANNA M. ZANDI,

Respondent.

Court of Appeals Cause No. 46313-0-II
Appeal from the Superior Court of the
State of Washington for Cowlitz County

RESPONSE TO PETITION FOR REVIEW

DARREL S. AMMONS
Attorney for Respondent, Deanna M. Zandi
WSBA # 18223

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CASES

Zandi v. Zandi, No.46313-0-II, 2015 WL 5287029 (Wn. Ct. App. Aug. 4, 2015) 1, 3

COURT RULES

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A. IDENTITY OF RESPONDENT

Deanna Zandi, the Respondent, requests this court to deny review of the Court of Appeals decision.

B. DECISION

The Court of Appeals decision, *Zandi v. Zandi*, No.46313-0-II, 2015 WL 5287029 (Wn. Ct. App. Aug. 4, 2015), reversed the trial court. The decision held that the trial court was bound by the child support order in apportioning uninsured medical expenses.

C. STATEMENT OF THE CASE

The order of child support between the parties, required the father to pay all uninsured medical expenses. The child is insured under the father's Kaiser Permanente (Kaiser) policy. The policy required an insured to seek care at a Kaiser-approved facility or physician or to obtain preapproval for out-of-network doctors or facilities. Emergency care is covered at non-Kaiser facilities in the event a Kaiser facility is not available.

In July 2011, while visiting her aunt in Ohio, the child developed kidney stones. Her aunt took her to a non-Kaiser emergency room, which treated and released her. Kaiser paid for this emergency room visit. She needed follow-up surgery to remove

a large kidney stone: The nearest Kaiser medical facility was 4 to 8 hours away. The aunt took the child to a non-Kaiser facility for the follow up surgery. Although a doctor at this facility stated that Kaiser would cover the costs of the surgery, Kaiser refused to pay the medical expenses. The father appealed through the Kaiser appeal process, and Kaiser denied the appeal because the surgery was performed by a non-Kaiser provider without any request for authorization or assistance from Kaiser regarding this matter.

On March 30, 2012, the mother filed a petition to modify child support and in it also requested the father to pay medical expenses incurred in July 2011 as "uninsured medical expenses." Clerk's Papers (CP) at 12. Following argument, the trial court ordered the mother to pay 25 percent and the father to pay 75 percent of the outstanding medical bills. In a written order, the court determined that because the mother was in a better position, as the primary residential parent, to secure coverage for the treatment through Kaiser, "the-uninsured medical expenses for this incident should be" divided. CP at 247. The mother appeals. She argues that the trial court lacked the authority to ignore the terms of the

child support order and apportionment payment of uninsured medical expenses.¹

Zandi v. Zandi, No.46313-0-II, 2015 WL 5287029 (Wn. Ct. App. Aug. 4, 2015).

D. ARGUMENT WHY REVIEW SHOULD BE DENIED.

Pursuant to RAP 13.4(b)(4), the Washington Supreme Court will accept review of cases which “involve an issue of substantial public interest that should be determined by the Supreme Court.” This case does not involve an issue of substantial public interest. The issue is simple: Is the trial court bound by the uninsured medical expense allocation between parents stated in the order of child support?

In the record the trial court does not make any findings that it was unreasonable to have emergency kidney stone surgery in Cincinnati, where the 17 year old child developed the medical emergency. Otherwise she would have been forced to travel 4-8 hours to a Kaiser facility in the Cleveland area. Anyone who has ever experienced a kidney stone knows that such travel would be patently unreasonable.

¹ The statement of the case was taken largely from the Court of Appeals' decision.

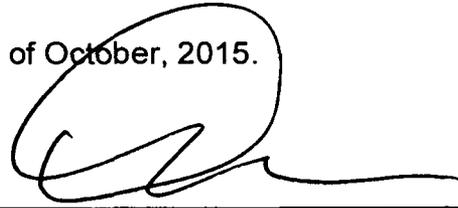
The factual basis set forth in the Petition for Review is partially incorrect. The Petitioner argues that the Respondent elected to take the child to a non-Kaiser facility. That is an incorrect statement of the facts. First, the emergency nature of the kidney stone condition removed any "election" from the equation. No parent, or aunt, should put a child at risk in an emergency situation. Had the aunt made the decision to transport the child from Cincinnati to Cleveland for Kaiser care, and the child became critically ill during the transportation, the mother or aunt would have been criticized for that decision. In any event, it was the aunt, and 17 year old child, that made the emergency health care decisions in this case. Nothing in the record suggests that the mother acted unreasonably given the circumstances. The medical decisions were made to serve the best interests of the child. Given the circumstances, the best decision was made at the time. Simply put, the emergency kidney stone condition, the lack of proximity to a Kaiser facility, and Kaiser's refusal to pay, lead to the uninsured expenses. Nothing that the mother did caused the expenses to be uninsured.

The Court of Appeals decision was correct in holding that the trial court was bound to follow the order of child support in apportioning uninsured health care expenses.

E. CONCLUSION

For the reasons set forth in this response, this court should deny review of this case.

Respectfully Submitted this 20 of October, 2015.

A handwritten signature in black ink, appearing to read 'Darrel S. Ammons', written over a horizontal line.

Darrel S. Ammons
WSBA #18223
Attorney for Respondent

NO. 92296-6

**IN THE SUPREME COURT FOR
THE STATE OF WASHINGTON**

In re the Matter of the Marriage
of:

VICTOR M. ZANDI,

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DEANNA M. ZANDI,

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DECLARATION OF SERVICE

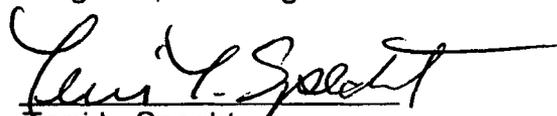
I, Terri L. Specht, declare as follows:

On October 20, 2015, I personally served a true and correct copy of Response to Petition for Review, to the address listed below:

John Hays
Attorney at Law
1402 Broadway, Ste 103
Longview, WA 98632

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

DATED October 20, 2015, at Longview, Washington.


Terri L. Specht

OFFICE RECEPTIONIST, CLERK

To: Terri Specht
Cc: jahayslaw@comcast.net; bob@falkensteinlaw.com
Subject: RE: Case # 92296-9 - In re the Marriage of: Victor M. Zandi, Jr. v. Deanna M. Zandi

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Supreme Court Clerk's Office

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Cc: jahayslaw@comcast.net; bob@falkensteinlaw.com
Subject: Case # 92296-9 - In re the Marriage of: Victor M. Zandi, Jr. v. Deanna M. Zandi

Dear Clerk:

Attached for filing, please find Respondent's Response to Petition For Review regarding the above-referenced case.

Please note that our mailing address has changed to:

Darrel S. Ammons
Attorney at Law PLLC
871 11th Ave.
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Should you have any questions, please let me know.

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