

Nos. 80357-9, 80366-8

SUPREME COURT
OF THE STATE OF WASHINGTON

RAJVIR PANAG, on behalf of herself and all others similarly situated,

Respondent,

v.

FARMERS INSURANCE COMPANY, a domestic insurance company,
and CREDIT CONTROL SERVICES, INC. d/b/a Credit Collection
Services,

Petitioners.

MICHAEL STEPHENS, on behalf of himself and all others similarly
situated,

Respondent

v.

OMNI INSURANCE COMPANY, a foreign insurance company,

Defendant/Appellant,

and

CREDIT CONTROL SERVICES, INC. d/b/a Credit Collection Services,

Petitioner.

**MOTION TO FILE
AMICUS CURIAE MEMORANDUM**

Thomas Wolfe, WSBA #10868
The Wolfe Firm
1200 Westlake Ave North, Suite 809
Seattle, WA 98109-3590
(206) 682-4488

Counsel for The National Association
of Subrogation Professionals

I. IDENTITY OF MOVING PARTY

The National Association of Subrogation Professionals (“NASP”) is a non-profit trade association of insurance companies, third party administrators, subrogation specialists, and attorneys practicing in the field of subrogation and recovery. NASP has approximately 2,000 members, representing more than 150 insurance companies and self-funded entities. The purpose of NASP is to “create a national forum for the education, training, networking and sharing of information and, ultimately, the most effective pursuit of subrogation on an industry-wide basis.” The sustainability of efficient and successful subrogation practices is of great concern to NASP members who routinely author recovery claim letters to tortfeasors as part of their normal business practice.

NASP is familiar with the Consumer Protection Act (“CPA”) issues relating to subrogation recovery efforts addressed in *Stephens v. Omni & Panag v. Farmers*, 138 Wn. App. 151, 159 P.3d 10 (2007). NASP is also familiar with the scope of the arguments presented by the parties, having reviewed all briefing submitted in support of and in opposition to review in *Panag v. Farmers*, Supreme Court Cause No. 80357-9, and *Stephens v. Omni*, Supreme Court Cause No. 80366-8.

II. STATEMENT OF RELIEF SOUGHT

NASP respectfully requests that this Court grant this instant Motion to File Amicus Curiae Memorandum in support of the pending Petitions for Review filed in the *Panag* and *Stephens* cases by Credit Control Services, Inc. ("CCS") and Farmers Insurance Company ("Farmers"). *See* RAP 13.4(h).

III. STATEMENT OF THE CASE

In the underlying published opinion, *Stephens v. Omni & Panag v. Farmers*, 138 Wn. App. 151, 159 P.3d 10 (2007), the Court of Appeals concluded that subrogation recovery letters sent to an uninsured motorist violated the CPA. Petitions for Review were filed, urging this Court to address the issue of whether adversarial parties can be held liable under the CPA. Based upon the date the CCS Petition for Review was filed (June 25, 2007), this Motion and the contemporaneously-filed NASP Amicus Curiae Memorandum are timely filed within 60 days thereafter (by August 24, 2007) in accordance with RAP 13.4(h).

IV. GROUNDS FOR RELIEF SOUGHT

RAP 13.4(h) authorizes this Court to grant permission to file an Amicus Curiae Memorandum in support of a pending Petition for Review. Generally, permission is granted if the filing of a memorandum would assist this Court. *See* RAP 10.6(a); RAP 13.4(h).

NASP believes that additional argument is necessary because the briefing submitted to this Court does not adequately explain the significant chilling effect the Court of Appeals opinion will have on the subrogation industry. NASP's Amicus Memorandum, which is being filed¹ contemporaneously with this Motion, provides the context of subrogation generally, explains well-established subrogation practices, and clarifies how the Court of Appeals opinion significantly impacts those practices. By doing so, NASP demonstrates the Court of Appeals opinion's widespread adverse impact on subrogation rights of insurers, insureds, and subrogation recovery professionals throughout Washington state.

Because the Amicus Memorandum will assist this Court in identifying an issue of substantial public interest that should be determined on review by this Court, NASP urges this Court to grant this Motion and consider the arguments set forth in the NASP Amicus Memorandum. *See* RAP 13.4(b)(4).

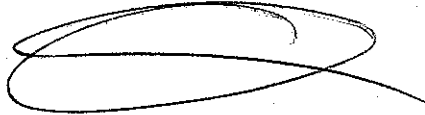
V. CONCLUSION

NASP's analysis of issues impacting the subrogation industry will assist the Court in appreciating the widespread nature of the issues raised

¹ This Motion and the NASP Amicus Curaie Memorandum are being filed by Thomas Wolfe, an attorney authorized to practice law in Washington, as required by RAP 10.6(a) and RAP 13.4(h).

in the Petitions for Review filed by CCS and Farmers. For the reasons discussed herein and in the Amicus Curiae Memorandum, NASP respectfully requests that this Court grant this Motion to File Amicus Curiae Memorandum in support of the pending Petitions for Review.

RESPECTFULLY SUBMITTED this 23rd day of August, 2007.



Thomas Wolfe, WSBA #10868
The Wolfe Firm
1200 Westlake Ave North, Suite 809
Seattle, WA 98109-3590
(206) 682-4488

Counsel for The National Association
of Subrogation Professionals

SEATTLE\603552\1 154037.000

DECLARATION OF SERVICE

Dava Z. Bowzer states:

I am a citizen of the United States of America and a resident of the State of Washington, I am over the age of 21 years, I am not a party to this action, and I am competent to be a witness herein.

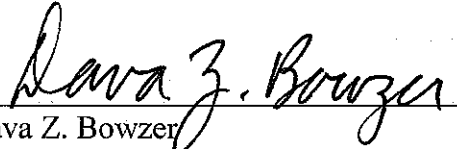
On this 24th day of August, 2007, I caused to be filed via electronic filing with the Supreme Court of the State of Washington the foregoing MOTION TO FILE AMICUS CURIAE MEMORANDUM. I also served copies of said document on the following parties as indicated below:

Parties Served	Manner of Service
<i>Counsel for Panag & Stephens:</i> Matthew J. Ide Ide Law Offices 801 Second Avenue, Suite 1502 Seattle, WA 98104-1500	(X) Via Legal Messenger () Via Overnight Courier () Via Facsimile () Via U.S. Mail
<i>Counsel for Panag & Stephens:</i> Murray T. S. Lewis Lewis Law Firm 2400 E. Roy Street Seattle, WA 98112	(X) Via Legal Messenger () Via Overnight Courier () Via Facsimile () Via U.S. Mail
<i>Counsel for Omni:</i> Jerret E. Sale Bullivant Houser Bailey PC 1601 Fifth Avenue, Suite 2300 Seattle, WA 98101-1618	(X) Via Legal Messenger () Via Overnight Courier () Via Facsimile () Via U.S. Mail

Parties Served	Manner of Service
<i>Counsel for Farmers:</i> Stevan David Phillips Margarita Latsinova Stoel Rives LLP 600 University Street, Suite 3600 Seattle, WA 98101	<input checked="" type="checkbox"/> Via Legal Messenger <input type="checkbox"/> Via Overnight Courier <input type="checkbox"/> Via Facsimile <input type="checkbox"/> Via U.S. Mail
<i>Counsel for Credit Control Svcs.:</i> John A. Granger Melissa O'Loughlin White Cozen O'Connor 1201 Third Avenue, Suite 5200 Seattle, WA 98101	<input checked="" type="checkbox"/> Via Legal Messenger <input type="checkbox"/> Via Overnight Courier <input type="checkbox"/> Via Facsimile <input type="checkbox"/> Via U.S. Mail
<i>Counsel for Credit Control Svcs.:</i> Philip A. Talmadge Talmadge Law Group, PLLC 18010 Southcenter Parkway Tukwila, WA 98188-4630	<input checked="" type="checkbox"/> Via Legal Messenger <input type="checkbox"/> Via Overnight Courier <input type="checkbox"/> Via Facsimile <input type="checkbox"/> Via U.S. Mail

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

Executed at Seattle, Washington, this 24th day of August, 2007.



 Dava Z. Bowzer