

No. 19-5816

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SUPREME COURT, U.S.

In the
Supreme Court of the United States

GABRIEL A. MAALOUF,

Petitioner,

v.

PRAETORIAN INSURANCE COMPANY,
a Foreign Corporation,

Respondent.

On Petition for a Writ of Certiorari to the
Supreme Court of Nevada

PETITION FOR REHEARING

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PETITION FOR REHEARING

Per Supreme Court Rule 44, this Petition for Rehearing is filed within 25 days of the denial of the Petition for Rehearing, allowing for extra days due to the deadline falling on a weekend, and the Veterans' Day federal holiday.

Petitioner is filing a Petition for Rehearing to improve on existing statutes as to the first "exhaustion" against an underinsured motorist based on case law *Mann v. Farmer Insurance*, 836 P.2d 620 (1992), that says insured filed complaint against automobile insurer, alleging that her damages in accident exceeded statutory cap and that insurer had in bad faith ignored her demand for underinsured motor insurance benefits. The Eighth Judicial District Court, Clark County, Carl J. Christensen, granted insurers motion to dismiss and insured appealed. The Nevada Supreme Court held had that: (1) "exhaustion clause" in policy requiring insurer to exhaust liability limit of other driver insurance before she could pursue underinsured motorist benefit, violated public policy of Nevada, and (2) insurer had prior notice of settlement and release and could not deny underinsured motorist benefits to insured simply because she settled and execute release, reversed and remanded. Subsection 1, states "exhaustion clause" in automobile policy, requiring insurer to exhaust liability limit of driver's insurance before pursuing underinsured motorist benefits violated public policy of Nevada. NR 687B.145 Subsection 2. Insurance carrier cannot deny underinsured motorist benefit if the insured notified its carrier of the proposed settlement. The upshot of the above is a violation of

NIGA proceeding in representing the invisible tortfeasor in a conspiracy of updating Respondent about the illegal arbitration with a maximum public liability coverage of \$15,000.00 knowing very well that Petitioner has \$100,000 maximum public liability coverage against uninsured and underinsured motorists. NIGA did work on behalf of Respondent, precluded Petitioner from legally pursuing contractual claims against Respondent or even hiring of those ambulance chaser's attorney the only want to represent \$100,000 tort claims. Petitioners former independent attorney could not continue to be attorney of record because he is working for law firms which prevented him to continue to be Petitioner's attorney of record. NIGA muddied up the water legally. Paragraph to Right this Court states: "that Nevada Legislature intended that uninsured and underinsured motorist benefits be available to Nevada citizens." *See* NRS 687.145(2) attached. The damage insured is placed in a difficulty situation if he or she must forego all settlement offers and go to trial (Petitioner force illegal arbitration) to obtain (or attempt to obtain) compensation up to the \$15,000.00 tortfeasor's policy limit-just to justify for underinsured benefits under his or her own policy. Even if the illegal NIGA's invisible tortfeasor award of \$1,500 for immediately shock, no award for Petitioner's spinal condition (See Page 82 Lines 15-22) and Petitioner permanent two bulge discs and a tear, NIGA's continuing the representation of their invisible tortfeasor in violation of Petitioner's "exhaustion" right under NRS 687A.100 Subsection 1. NIGA even wrote to their invisible tortfeasor a "staged" letter dated March 11, 2017 (See Page 145-146 informing their invisible tortfeasor "that Respondent has agreed

to pay the arbitration award that were entered against you in the above lawsuit."

On 05/09/2017 Respondent filed their Motion for Summary Judgment on 05/11/2017. Order dismissing Petitioner contractual claim against Respondent on 07/11/2017 and see minute order on 06/13/2017. Petitioner complaint against Respondent based on the Exhaustion Clause of NRS 687A.100 Subsection 1. If this Honorable Court would look at the chronological order of date starting from NIGA's staged letter addressed to NIGA invisible tortfeasor date 03/11/2017. Petitioner smells a continuous conspiracy caused by NIGA to aid and abet Respondent ever since they have been notified that their invisible tortfeasor insurance, American Sterling, went bankrupt on 10/26/2011 . Said liquidation notice was emailed to Nevada: Bob Laudermlch, NIGA claim manager, today. NIGA also was aware that Petitioner had \$100,00 uninsured and underinsured motorists coverage with Respondent. Finally NIGA was aware that Petitioner was insured by Respondent. Petitioner and NIGA invisible tortfeasor accident report Page 121 coverage effective 03/24/2008 to 03/24/2009. NIGA's aiding abetting Respondent convinced the Lowe Court Judge to state, "Mr. Maalouf, it will be done, your honor. The only reason what I'm trying to say to you. Your honor, they're trying to derail the uninsured claim to the Court, that's their job. That their job, etc.

As to NRS 687A.100 (1) Petitioner is citing *Nevada Ins. Guaranty v. Sierra Auto Center*, 108 Nev. 1123, 1125 (1992). Said case is attached whereby NIGA erroneously thought Sierra had UM policy to exhaust under NRS 687A.100(1) before they take the shoes of Sierra's Mission Insurance Company. In Page 2 in said cite Sierra's

case under opinion (the facts) 4th paragraph states, "NIGA discovered that Fellon possessed an uninsured motorist ("UM") insurance policy with California State Automobile Association "CSAA". NIGA believed that Mission's insolvency triggered the coverage provisions of Fellon's UM policy; in turn, pursuant to its interpretation of NRS 687A.100(1), NIGA refused to continue in Sierra's defense until Fellon's heir fully exhausted the coverage of the CSAA UM policy. NRS 687A.100 provides in pertinent part, "1. Any person having a claim against his insurer, under any provision in his insurance policy, any amount payable on a covered claim under this chapter shall be reduced by the amount of the recovery under the claimant's insurance." In reading the above Petitioner wonders why NIGA did not refuse to continue in their invisible tort feasible defense until Petitioner fully exhausted the coverage of the Respondent \$100,000 uninsured and underinsured policy. NRS 687A.100.

In conclusion, Petitioner's due process under the 14th Amendment which says "no shall any state deny to any person the equal protection of the laws."

Petitioner feels that he has been put through the meat grinder legally to exercise his legal contractual rights with Respondent, stone walling tactics every since Respondent's accident claims Manager, Donald Chang, knew about the accident from Petitioner shortly after the date of loss of 08/02/2008. The Honorable Court should read all Petitioner's correspondence from Petitioner's former attorney, Richard Small to Respondent Representative Donald Chang and Bob Laudermilch of NIGA. Petitioner was shocked to read Respondent Motion for Summa Judgment

citing 32 case laws not a single case law out of the 3 cases cited is on point. Petitioner again prays to declare NIGA's pursuing their invisible tortfeasor arbitration as an illegal act based on the exhaustion NRS 687A.100(1) which makes lower court's dismissal of Petitioner's contractual complaint moot or if this Honorable Court sustained lower Court's Motions for Summary Judgment ruling to consider NRS 687B.145(2) in regards of exhaustion clause of underinsured. Petitioner also prays this Honorable Court is prevailed to let Petitioner preempt lower Court's Judge, and reinstate Petitioner to a Jury Trial.

The bottom line, Petitioner got in a head-on collision on 08/02/2018 by NIGA's tortfeasor, left the country after he was released from jail. It was his second DUI NIGA invisible tortfeasor insurance went broke. Petitioner still today did not have his day in a jury trial court and Petitioner could not even go after his own UM and underinsured motorists \$100,000 coverage to compensate Petitioner for his permanent lower spine in July, at age 79.

In Defendant Efrain Loza's Arbitration Brief (See Rehearing App.1a, 4a) "Conclusion" line 26 & 27 quotes "The purpose of this arbitration is to determine the damages suffered by Plaintiffs (Maalouf) as a result of the subject MVA" since when NIGA became an Adjuster to Praetorian by participating in continuing defending the uninsured and underinsured Tortfeasor in a half-day arbitration masquerade knowing that Maalouf had Praetorian \$100,000.00 contractual personal coverage against an Insured/Underinsured motorists in Violation of their own Exhaustion Statute NRS A.100 (1) cited in page 3 line 23 to line 27 in Loza's Arbitration brief,

said arbitration award precluded Maalouf from exercising his "Constitutional Rights" to sue contractually in a jury trial his Praetorian insurance under his \$100.000.00 personal injury Uninsured/Underinsured coverage. Specifically when I reported my back injury claim shortly after the MVA of 8/3/08 taking the motorcycle Metro police advice stating to call my Insurance since he Cited for no insurance, DUI, & no Driver license said NVA undated report was taken & initialed by Praetorian's Donald Chang note said loss has the same address of Sunset Road as it is the same address MVA report !! It had a newly created claim number of D5430 shortly after 8/3/08 reported MVA back injury to Praetorian's Donald Chang !!

CONCLUSION

Petitioner prays this court, as a last resort, reviews this Rehearing Petition and issues the Writ of Certiorari and reinstates the Complaint against Respondent alleging "negligence, breach of contract, and bad faith"

Respectfully submitted,



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