

IN THE
SUPREME COURT OF THE UNITED STATES

STACIA O'NEIL

Petitioner,

v.

MARISA BERQUIST,

TRAVELERS INDEMNITY COMPANY OF CONNECTICUT,

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI
TO THE COMMONWEALTH OF MASSACHUSETTS
SUPREME JUDICIAL COURT

Supplemental Brief to Petition for a Writ of Certiorari

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QUESTIONS PRESENTED FOR REVIEW

- Whether The Supreme Court of the State of Massachusetts denied the Petitioner Due Process of Law under the 14th Amendment, when it denied a timely filed Application For Further Appellate Review in a matter where the Petitioner did not receive Due Process in an Arbitration matter?
- Whether the Supreme Court of the State of Massachusetts incorrectly applied the State of Massachusetts' Uniform Arbitration Act for Commercial Disputes when it denied a timely filed Application For Further Appellate Review in a matter where the Petitioner did not receive Due Process in an Arbitration matter?

LIST OF PARTIES

**The caption contains the names of all of the parties to the proceedings and they
are also listed below:**

- 1) STACIA O'NEIL, Petitioner;
- 2) MARISA BERQUIST, Respondent;
- 3) TRAVELERS INDEMNITY COMPANY OF CONNECTICUT, Respondent;

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PETITION FOR A WRIT OF CERTIORARI

OPINIONS BELOW

Commonwealth of Massachusetts Supreme Judicial Court Order dated October 1, 2020.

JURISDICTION

This Petition is timely as pursuant to Supreme Court Rule 13, Review On Certiorari, Time For Petitioning, the time to file a Petition For a Writ of Certiorari runs from the date of entry of the judgment or order sought to be reviewed. This Petition is being filed by the 90 day deadline after the October 1, 2020 Order listed above.

CONSTITUTIONAL PROVISIONS INVOLVED

This case involves the 14th Amendment of the U.S. Constitution.

STATEMENT OF THE CASE

1. This matter involves an ongoing dispute as to the allocation of settlement funds and an action that was filed below by Petitioner, STACIA O'NEIL ("Ms. O'Neil" or "Petitioner") seeking to vacate an arbitration award and a subsequent appeal of a Summary Judgment that was entered against Ms. O'Neil.

2. The appeals court upheld the Summary Judgment and this is an application for further appellate review.

3. This matter involves a car collision wherein Ms. O'Neil was a passenger in an automobile driven by Respondent, Marisa Berquist ("Ms. Berquist") and at issue was a settlement amount and a subsequent arbitration that resulted in an amount of the

settlement being awarded to Ms. O'Neil and another amount being awarded to Ms. Berquist.

4. At issue in the ongoing appeals was language in the settlement agreement that provided that any disputes between Ms. Berquist and Ms. O'Neil would be subject to arbitration.

5. Ms. Berquist and Ms. O'Neil had a dispute as to how much of the settlement amount should go to each of them, with Berquist demanding \$900,000; and on March 22, 2018, there was an arbitration award that awarded Ms. Berquist \$900,000 and Ms. O'Neil only \$76,176.

6. It is in dispute that the settlement arbitration was not properly conducted.

7. Ms. O'Neil brought an action seeking to vacate the arbitration award and the Superior Court judge granted a Summary Judgment by the Defendant, Ms. Berquist, and concluded that Ms. O'Neil's claims were untimely under the Uniform Arbitration Act for Commercial Disputes, G.L. c. 251 (the "Act").

8. The appeals court upheld the Summary Judgment and pursuant to Mass. R. App. P. 27.1, Ms. O'Neil respectfully requested that the Commonwealth of Massachusetts Supreme Judicial Court grant further appellate review of the Appeals Court's opinion issued on June 2, 2020.

9. The Commonwealth of Massachusetts Supreme Judicial Court issued an Order dated October 1, 2020, which denied the application for further review.

10. This Petition seeks a writ as to that Order.

SUPPLEMENTAL BRIEF

The issue of how arbitrations are conducted is of vital importance to the judiciary, as more and more disputes are referred to arbitration.

I. THE COURT SHOULD CONSIDER THE RECENT ARGUMENTS IN THE CASE OF *HENRY SCHEIN, INC. v. ARCHER AND WHITE SALES, INC.*, No. 19-963

In the above cited case, the U.S. Supreme Court granted a Petition For a Writ of Certiorari, and later dismissed it as improvidently granted.

There are arguments from the above cited case that Petitioner wishes to have this Court consider.

Specifically, at issue is whether parties are required to arbitrate their claims and in this matter like in that matter, there is a serious issue of if there is clear and unmistakable evidence that the parties agreed to arbitrate the underlying dispute.

At the mediation that took place to resolve the issue of the amount of money from the settlement that the parties would receive, it was not clear that any dispute would head to arbitration.

Parties may agree to arbitrate questions of the scope of an arbitration clause, however that agreement must be clear and unmistakable. First Options of Chicago, Inc. v. Kaplan, 514 U.S. 938, 942 (1995)

When there is a dispute about whether a claim must be arbitrated, a court, not an arbitrator should decide that dispute. Rent-A-Center, West, Inc. v. Jackson, 561 U.S. 63 (2010)

There must be clear and unmistakable evidence that parties agreed to arbitrate.

There is not any clear and unmistakable evidence in this matter to show that the

underlying dispute should have gone to arbitration.

CONCLUSION

The petition for writ of certiorari should be granted for the foregoing reasons.

DATED this 15th day of March, 2021.

/s/Stacia O'Neil
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