

IN THE SUPREME COURT OF FLORIDA

FILED
SID J. WHITE

WORLD SERVICE LIFE INSURANCE COMPANY,

Petitioner,

vs.

ELEANOR V. BODIFORD, as Personal
Representative of the Estate of
GROVER T. BODIFORD, Deceased,

Respondent.

JUL 5 1988

CLERK, SUPREME COURT

By _____
Deputy Clerk

172,631

Case No. 72,361

DCA-1: 87-1351

APPEAL FROM THE FINAL ORDERS
OF THE FIRST DISTRICT
COURT OF APPEALS

JURISDICTIONAL BRIEF

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INTRODUCTORY STATEMENT

The Petitioner, World Service Life Insurance Company, will be designated as the "Petitioner" or "World." The Respondent, Eleanor V. Bodiford, as Personal Representative of the Estate of Grover T. Bodiford, Deceased, will be designated as "Respondent" or "Bodiford."

STATEMENT OF THE BASIS FOR JURISDICTION

The Petitioner, World Service Life Insurance Company, respectfully requests this Court to exercise its discretionary jurisdiction pursuant to Rule 9.030(a)(2)(A)(iv) Florida Rules of Appellate Procedure, to review two orders of the First District Court of Appeals reversing the lower court's award of attorneys fees and granting Appellate attorneys fees in favor of the Respondent, Bodiford.

Following a jury trial of the issues in the case, the lower court received testimony to establish a reasonable hourly rate utilizing lodestar multipliers for contingent attorneys fees in awarding same to the prevailing party, Bodiford. The reasonable hourly rate was then applied to the number of hours expended by Bodiford's counsel and considered in light of the terms contained in the contingent fee contract made between Bodiford and her counsel on December 13, 1984. The lower court awarded attorneys fees considering the contractual limitations and pursuant to the criteria set out in Florida Patient Compensation Fund v. Rowe, 472 So.2d 1145 (Fla, 1985).

Bodiford appealed the court's award of attorneys fees to the First District Court of Appeals and following that court's consideration of the arguments and briefs of the respective parties, reversed the lower court's award and held that the Rowe decision did not apply retroactively to contingent fee contracts

made prior to the Rowe decision. World's request for rehearing was denied on May 24, 1988 and the Florida Supreme Court on May 26, 1988 entered its decision in Miami Children's Hospital v. Tamayo, 13 FLW 340 (Fla. 1st DCA May, 1988) stating "all factors contained in Rowe apply whenever the lodestar approach applies ...". The First District Court of Appeals subsequently entered its Order of June 8, 1988 awarding Appellate attorneys fees to Bodiford and this appeal ensued.

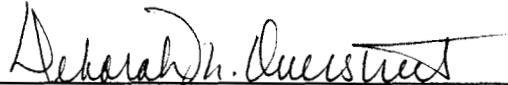
The First District Court of Appeals in this case is in direct conflict with this Court's decision in Tamayo, rendered on May 26, 1988 with regard to the applicability of the criteria set out in Rowe to contingent fee contracts entered into prior to the date of the Rowe decision.

SUMMARY OF ARGUMENT

The Orders of the First District Court of Appeals in this case are in direct conflict with the Florida Supreme Court's decision of May 26, 1988, Miami Children's Hospital v. Tamayo, 13 FLW 340 (Fla. 1st DCA May, 1988).

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I served a copy of the foregoing Jurisdictional Brief to Michel L. Stone, attorney for Respondent, at his address at 116 East 4th Street, Panama City, Florida 32401 by placing said document in the U.S. mail to that address on the 1st day of July, 1988.



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