

IN THE SUPREME COURT OF THE STATE OF NEVADA

JAMES NALDER, GUARDIAN AD
LITEM ON BEHALF OF CHEYANNE
NALDER; AND GARY LEWIS,
INDIVIDUALLY,
Appellants,
vs.
UNITED AUTOMOBILE INSURANCE
COMPANY,
Respondent.

No. 70504

FILED

JUL 22 2016

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *S. Young*
DEPUTY CLERK

***ORDER ACCEPTING CERTIFIED QUESTION, DIRECTING
BRIEFING AND DIRECTING SUBMISSION OF FILING FEE***

This matter involves a legal question certified to this court, under NRAP 5, by the United States Ninth Circuit Court of Appeals. Specifically, the Ninth Circuit has certified the following question to this court:

Whether, under Nevada law, the liability of an insurer that has breached its duty to defend, but has not acted in bad faith, is capped at the policy limit plus any costs incurred by the insured in mounting a defense, or is the insurer liable for all losses consequential to the insurer's breach?

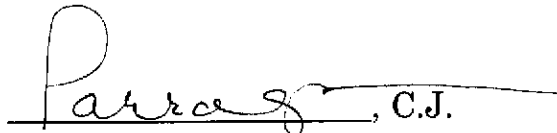
As no clearly controlling Nevada precedent exists with regard to this legal question and the answer may determine part of the federal case, we accept this certified question. *See* NRAP 5(a); *Volvo Cars of N. Am., Inc. v. Ricci*, 122 Nev. 746, 749-51, 137 P.3d 1161, 1163-64 (2006).

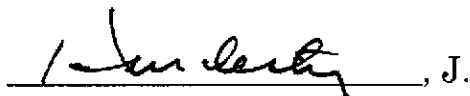
Accordingly, appellants shall have 30 days from the date of this order to file and serve an opening brief addressing the certified question. Respondent shall have 30 days from the date the opening brief is served to file and serve an answering brief. Appellants shall then have 20 days from the date the answering brief is served to file and serve any

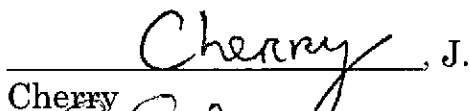
reply brief. The parties' briefs shall comply with NRAP 28, 28.2, 31(c), and 32. See NRAP 5(g)(2). To the extent that there are portions of the record that have not already been transmitted to this court, the parties may submit a joint appendix containing any additional documents necessary for this court to resolve the certified question. See NRAP 5(d).


Lastly, in any proceeding under NRAP 5, fees "shall be the same as in civil appeals . . . and shall be equally divided between the parties unless otherwise ordered by the certifying court." NRAP 5(e). The Ninth Circuit's order does not address the payment of this court's fees. Accordingly, appellants and respondent shall each tender to the clerk of this court, within 11 days from the date of this order, the sum of \$125, representing half of the filing fee. See NRAP 3(e); NRAP 5(e).

It is so ORDERED.



Parraguirre, C.J.

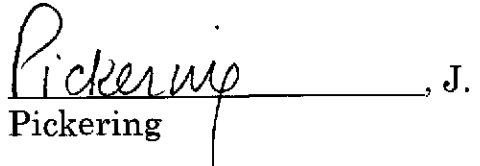

Hardesty, J.


Cherry, J.


Gibbons, J.


Douglas, J.


Saitta, J.


Pickering, J.

cc: Christensen Law Offices, LLC
Atkin Winner & Sherrod
Clerk, United States Court of Appeals for the Ninth Circuit