

IN THE SUPREME COURT OF THE STATE OF NEVADA

CENTURY SURETY COMPANY,  
Appellant,  
vs.  
DANA ANDREW, AS LEGAL  
GUARDIAN ON BEHALF OF RYAN T.  
PRETNER; AND RYAN T. PRETNER,  
Respondents.

No. 73756

**FILED**

SEP 11 2017

ELIZABETH A. BROWN  
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 District Court for the District of Nevada. Specifically, the U.S. District Court 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?

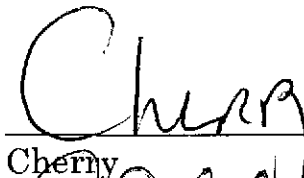
As no clearly controlling Nevada precedent exists with regard to this legal question and the answer may determine part of the federal case, we accept this certified question. *See* NRAP 5(a); *Volvo Cars of N. Am., Inc. v. Ricci*, 122 Nev. 746, 749-51, 137 P.3d 1161, 1163-64 (2006).


Accordingly, appellant shall have 30 days from the date of this order to file and serve an opening brief addressing the certified question. Respondents shall have 30 days from the date the opening brief is served to file and serve an answering brief. Appellant 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). The parties may submit a joint appendix containing any documents

they believe are 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 U.S. District Court's order does not address the payment of this court's fees. Accordingly, appellant and respondents 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).

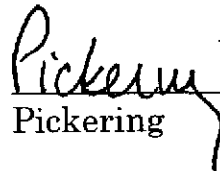
It is so ORDERED.<sup>1</sup>


\_\_\_\_\_, C.J.  
Cherry

\_\_\_\_\_, J.  
Gibbons

\_\_\_\_\_, J.  
Hardesty

\_\_\_\_\_, J.  
Douglas

\_\_\_\_\_, J.  
Pickering

\_\_\_\_\_, J.  
Stiglich

cc: Gass Weber Mullins, LLC  
Robie & Matthai  
Kravitz, Schnitzer & Johnson, Chtd.  
Eglet Prince  
Lipson Neilson Cole Seltzer & Garin, P.C.  
Clerk, United States District Court for the District of Nevada

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<sup>1</sup>The Honorable Ron Parraguirre, Justice, voluntarily recused himself from participation in the decision of this matter.