Case No. 78085

In the Supreme Court of Nevada

CHEYENNE NALDER, an individual; and GARY LEWIS,

Petitioners,

vs.

THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA, in and for the County of Clark; THE HONORABLE DAVID M. JONES, District Judge; and THE HONORABLE ERIC JOHNSON, District Judge,

Respondents,

and

UNITED AUTOMOBILE INSURANCE COMPANY,

Real Party in Interest.

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UNITED AUTOMOBILE INSURANCE COMPANY'S APPENDIX
VOLUME 6
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District Court Case No. 07A549111, Consolidated with 18-A-772220

DANIEL F. POLSENBERG (SBN 2376)
JOEL D. HENRIOD (SBN 8492)
ABRAHAM G. SMITH (SBN 13,250)
LEWIS ROCA ROTHGERBER CHRISTIE LLP
3993 Howard Hughes Pkwy, Suite 600
Las Vegas, Nevada 89169
(702) 949-8200

THOMAS E. WINNER (SBN 5168)
MATTHEW J. DOUGLAS (SBN 11,371)
ATKIN WINNER & SHERROD
1117 South Rancho Drive
Las Vegas, Nevada 89102
(702) 243-7000

Attorneys for Real Party in Interest
United Automobile Insurance Company

Docket 78085 Document 2019-29352

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The Ninth Circuit has now certified another legal question to this court under NRAP 5. The new question, which is related to the motion to dismiss pending in the Ninth Circuit, asks us to answer the following:

> Under Nevada law, if a plaintiff has filed suit against an insurer seeking damages based on a separate judgment against its insured, does the insurer's liability expire when the statute of limitations on the judgment runs, notwithstanding that the suit was filed within the six-year life of the judgment?

That question is focused on the insurer's liability, but elsewhere in the Ninth Circuit's certification order, it makes clear that the court is concerned with whether the plaintiff in this scenario can continue to seek the amount of the separate judgment against the insured as consequential damages caused by the insurer's breach of the duty to defend its insured when the separate judgment was not renewed as contemplated by NRS 11.190(1)(a) and NRS 17.214 during the pendency of the action against the insurer. We therefore choose to accept the Ninth Circuit's invitation to "rephrase the question as [we] deem necessary." Consistent with language that appears elsewhere in the certification order, we rephrase the question as follows:

> In an action against an insurer for breach of the duty to defend its insured, can the plaintiff continue to seek consequential damages in the amount of a default judgment obtained against the insured when the judgment against the insured was not renewed and the time for doing so expired while the action against the insurer was pending?

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

Appellants shall have 30 days from the date of this order to file and serve a supplemental opening brief. Respondent shall have 30 days from the date the supplemental opening brief is served to file and serve a supplemental answering brief. Appellants shall then have 20 days from the date the supplemental answering brief is served to file and serve any supplemental reply brief. The supplemental briefs shall be limited to addressing the second certified question and 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 provided to this court and are necessary for this court to resolve the second certified question, the parties may submit a joint appendix containing those additional documents. *See* NRAP 5(d). Given the relationship between the two certified questions, we lift the stay as to the first certified question.

It is so ORDERED.[1]

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Douglas, C.J.

Cherry, J.

Gibbons, J.

Pickering, J.

Hardesty, J.

Stiglich, J.

[1]As the parties have already paid a filing fee when this court accepted the first certified question, no additional filing fee will be assessed at this time.

The Honorable Ron D. Parraguirre, Justice, voluntarily recused himself from participation in the decision of this matter.

cc: Eglet Prince
Christensen Law Offices, LLC
Atkin Winner & Sherrod
Cole, Scott & Kissane, P.A.
Lewis Roca Rothgerber Christie LLP/Las Vegas
Pursiano Barry Bruce Lavelle, LLP
Laura Anne Foggan
Mark Andrew Boyle
Matthew L. Sharp, Ltd.
Clerk, United States Court of Appeals for the Ninth Circuit

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EXHIBIT "G"

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

CHEYANNE NALDER,

Plaintiff,

vs.

GARY LEWIS and DOES I through V, inclusive,

Defendants,

UNITED AUTOMOBILE INSURANCE COMPANY,

Intervenor.

GARY LEWIS,

Third Party Plaintiff,

vs.

UNITED AUTOMOBILE INSURANCE COMPANY, RANDALL TINDALL, ESQ. and RESNICK & LOUIS, P.C., and DOES I through V.,

Third Party Defendants.

CASE NO.: A-18-772220-C
DEPT. NO.: 19

AFFIDAVIT OF VICE PRESIDENT OF BODILY INJURY CLAIMS BRANDON CARROLL IN SUPPORT OF INTERVENOR/THIRD PARTY DEFENDANT UNITED AUTOMOBILE INSURANCE COMPANY'S OPPOSITION TO COUNTER-MOTION FOR SUMMARY JUDGMENT AND COUNTER-MOTION FOR STAY OF SUMMARY JUDGMENT FOR DISCOVERY PURSUANT TO N.R.C.P. 56 (f)

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I, BRANDON CARROLL, declare:

1. That I am the Vice President of Bodily Injury claims employed at United Automobile Insurance Company ("UAIC"). I make this declaration in support of UAIC's Opposition to Third Party Plaintiff Lewis' Counter-Motion for Summary Judgment and, alternatively Motion to Stay

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hearing on same summary judgment for discovery pursuant to N.R.C.P. 56(f). I have personal knowledge of the facts set forth below and, if called as a witness, could and would competently testify to them under oath.

2. I have familiarized myself with the claims file for the claims made by James Nalder, as Guardian for Minor, Cheyanne Nalder, as well as Cheyanne Nalder, individually, against Gary Lewis' implied policy of insurance with UAIC. I have familiarized myself with the Nalder's claim file since its opening. As part of that process, I reviewed claims notes made and correspondence sent and received in connection with the handling of the claim. The claims adjuster makes notes at or near the time of the activities in question occur. The creation and maintenance of the claims notes is a regularly conducted business activity of UAIC and said notes are true and accurate. Similarly, all correspondence sent by or, to, an adjuster is kept in the Claims file in the usual and ordinary course of business and those documents are true and accurate.

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3. A review of the claims reveals the following: that the Nalder's made a claim under Gary Lewis' policies with UAIC for the loss, on July 8, 2007, occurring to minor Cheyanne Nalder.

4. A review of the claims reveals the following: that the Nalders and their Counsel were informed in writing on October 10, 2007 that no coverage existed for Lewis on the date of the accident, July 8, 2007, as his policy had expired June 30, 2007 and no new policy term was incepted until July 10, 2007.

5. That, thereafter, the claims file reveals that following a judgment being entered on Nalders claim, in 2008, an action was filed against UAIC by Lewis and the Nalders alleging bad

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faith and extra-contractual remedies which was removed to U.S. Federal District Court for the District of Nevada and the case proceed there as *Nalder et al. v UAIC,* case no. 2:09-cv-01348.

6. A review of the claims reveals the following: Following Motions for summary judgment, the first District Court Judge hearing the matter, the Honorable Edward Reed, granted summary judgment in favor of UAIC finding no policy in force for Lewis for the subject loss and, as such, found no bad faith or extra-contractual breaches had been committed by UAIC.

7. A review of the claims reveals the following: Following Nalder's appeal to the U.S. Court of Appeals for the Ninth circuit, the case was remanded to the District Court due to an ambiguity in the renewal notice that had been sent to Lewis for his policy.

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8. A review of the claims reveals the following: After the matter was remanded, a new round of cross-motions for summary judgment before the Federal District court proceeded where the new judge hearing the case, The Honorable R. Clive Jones, again found that UAIC had been reasonable and granted summary judgment in favor of UAIC on all the claims for bad faith and/or extra-contractual damages; however, due to the ambiguity in the renewal, the Court implied a policy of insurance for the loss and ordered UAIC to tender its $15,000 policy limits for Gary Lewis. Said Order was entered October 30, 2013 and also, for the first time, found UAIC had a duty to defend Lewis under the implied policy for claims arising out of the July 2007 loss.

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9. A review of the claims reveals the following: UAIC paid said $15,000 policy limits, in one payment, on November 1, 2013, two days following the judgment. A true and accurate copy proof of the November 1, 2013 check payment for $15,000, kept in usual and ordinary course of business by UAIC, is attached hereto as Exhibit 'A.'

10. A review of the claims reveals the following: Nalders then appealed the October 30, 2013 ruling, again to the to the U.S. Court of appeals for the Ninth Circuit and, following briefing and oral argument, that Court certified a first certified question to the Nevada Supreme Court, on June 1, 2016, regarding whether Nalders could collect consequential damages, on the 2008 judgment against Lewis, from UAIC in the absence of bad faith by UAIC. This question was accepted by the Nevada Supreme Court.

11. A review of the claims reveals the following: While that question was pending, UAIC discovered that, pursuant to Nevada law, the Nalders' 2008 judgment against Lewis had not been renewed pursuant to N.R.S. 17.214 and, thus, the judgment had expired in June 2014, pursuant N.R.S. 11.190(1)(a).

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12. A review of the claims reveals the following: Upon learning of the expiration of the judgment against Lewis, UAIC filed a Motion to dismiss the Nalders' appeal for lack of standing on March 14, 2017.

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13. A review of the claims reveals the following: Upon learning of the Motion to dismiss, the Nevada Supreme Court stayed the first certified question for ruling on the Motion to dismiss by the U.S. Court of Appeals for the Ninth Circuit. However, that the Ninth Circuit than certified a second question to the Nevada Supreme Court on December 27, 2017, which the Nevada Supreme Court accepted on January 11, 2018. This second certified question concerns whether the potential liability for consequential damages is extinguished if the judgment has expired.

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14. A review of the claims reveals the following: This second certified question is still being briefed before the Nevada Supreme Court and it UAIC's belief that the Supreme Court's ruling will confirm whether or not the Nalder's 2008 judgment against Lewis is expired.

15. A review of the claims reveals the following: On about July 19, 2018 UAIC's received notice from a new counsel for Nalder, David Stephens, Esq., that a new suit had been filed by Nalder against Lewis, concerning the same expired 2008 judgment currently on appeal, under *Nalder v Lewis*, case no. A-18-772220-C, and that he had served Lewis with same and was giving 3 days notice of his intent to take default against Lewis. A true and accurate copy letter from David Stephens dated July 17, 2018, kept in usual and ordinary course of business by UAIC, is attached hereto as Exhibit 'B.'

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16. A review of the claims reveals the following: Upon learning of this new action, and given the October 30, 2013 ruling of the Federal District court that an implied policy in effect for Lewis for the July 2007 loss - from which case no. A-18-772220-C arises - UAIC immediately sought to retain counsel for Lewis to defend him in this new action and prevent this default

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17. A review of the claims reveals the following: UAIC also discovered that David Stephens had "amended" the expired 2008 judgment, *ex parte*, in about March 2018 – while the above-referenced appeal was pending and, accordingly, UAIC also sought to have retained defense counsel for Lewis vacate this improperly amended expired judgment.

18. A review of the claims reveals the following: UAIC engaged attorney Steven Rogers, Esq. to represent Lewis in regard to both this "amended" expired judgment in case no. 07A549111 as well as in regard to the new action case no. A-18-772220-C.

19. A review of the claims reveals the following: In early August 2018 attorney Rogers attempted to represent his client, Mr. Lewis, but was immediately met with resistance from Nalder's Counsel, Thomas Christensen, Esq., who claimed to also represent Lewis, whereby he asked Rogers if he believed his defense would cause "problems" for Lewis. Accordingly, on August 10, 2018 attorney Rogers sent a letter to attorney Christensen specifically responding to his concerns by noting Rogers did not believe his defense, seeking to relieve Lewis of a multi-million dollar judgment, would cause him any "problems." Attorney Rogers also attached copies of motions his office drafted on behalf of Lewis, to be filed in the 07A549111 action as well as in regard to the new action case no. A-18-772220-C. A true and accurate copy of the letter from Steve Rogers to Christensen dated August 10, 2018, kept in usual and ordinary course of business by UAIC, is attached hereto as Exhibit 'C.'

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20. A review of the claims reveals the following: In response to Attorney Rogers August 10, 2018 letter, Attorney Christensen responded, with a letter dated August 13, 2018, wherein he specifically advised Attorney Rogers he could neither speak to Lewis nor file the planned motions he had drafted on his behalf. A true and accurate copy of the letter from Christensen to Rogers dated August 13, 2018, kept in usual and ordinary course of business by UAIC, is attached hereto as Exhibit 'D.'

21. A review of the claims reveals the following: In response to Christensen's August 13, 2018 letter, Rogers advised he could not represent Lewis due to Christensen's interference in preventing him from speaking to his client and he confirmed same in a letter to Christensen on August 23, 2018. A true and accurate copy of the letter from Rogers to Christensen dated August 23, 2018, kept in usual and ordinary course of business by UAIC, is attached hereto as Exhibit 'E.'

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22. A review of the claims reveals the following: Learning of the interference by Christensen in preventing retained defense counsel from defending Lewis in regard to both the 07A549111 action as well as in regard to the new action case no. A-18-772220-C, UAIC had counsel for UAIC file Motions to intervene in both actions on about August 17, 2018 and August 16, 2018, respectively.

23. A review of the claims reveals the following: Thereafter, on about September 6-7, 2018, Christensen indicated to Rogers that he was retaining Attorney Breen Arntz, Esq., to represent Lewis and confirmed same in an email to Rogers. A true and accurate copy of the emails from Christensen to Rogers dated September 6-7, 2018, kept in usual and ordinary course of business by UAIC, is attached hereto as Exhibit 'F.'

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24. A review of the claims reveals the following: Fearing the 6 month deadline to seek to vacate the improperly amended judgment on the expired 2008 judgment would run in late September 2018, UAIC engaged Randy Tindall, Esq. to file the necessary Motions to protect Lewis in both actions, noted above.

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25. A review of the claims reveals the following: Christensen then threatened Tindall to withdraw all Motions on behalf of Lewis and, eventually, filed a Third Party Complaint against Tindall and his law firm as well as UAIC. The third Party Complaint also makes allegations against Nevada Bar counsel and the sitting judge that was hearing the case as co-conspirators.

26. A review of the claims reveals the following: Now Lewis has moved for summary judgment on this Third Party complaint alleging many things against UAIC, all of which UAIC disputes.

27. UAIC is not in a conspiracy with Bar Counsel and District Judge David Jones, nor any counsel in this matter, against Christensen and Lewis.

28. UAIC has been motivated by utmost good faith to comply with Federal Court's order of October 30, 2013, finding a policy for Lewis with UAIC, at law, for the first time regarding the 2007 loss, in seeking to retain counsel and defend him in regard to the 07A549111 action as well as in regard to the new action case no. A-18-772220-C.

29. That UAIC is seeking to relieve Lewis of an improperly amended expired judgment for over $3.5 million and, dismiss the new action filed against him.

30. That UAIC, through retained counsel, tried to discuss Lewis' defense with him, but this was refused by Counsel for Nalder and Lewis, Thomas Christensen.

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31. That UAIC never misinformed Attorney Steve Rogers of the legal basis for the representation of Lewis.

32. The UAIC has not engaged in trickery, delay or misrepresentation to harm Lewis.

33. That due to the prevention of retained defense counsel from ever putting forth a defense on Lewis' behalf in regard to the 07A549111 action as well as in regard to the new action case no. A-18-772220-C, UAIC has filed a declaratory judgment action regarding lack of cooperation as well as seeking a determination whether UAIC owes Lewis "Cumis Counsel" due to the conflict alleged by attorney Christensen.

34. Accordingly, at this time, Lewis has not complied with all policy conditions as he is not cooperating in his defense or investigation of this amended judgment and new suit.

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35. UAIC has never delayed investigation of this claim, or failed to respond to settlement requests or, done a one-sided investigation or, committed any other violation of the covenant of good faith and fair dealing and/or N.R.S. 686A.310.

36. Indeed, UAIC has thus far been precluded from even speaking to its insured, Lewis and, accordingly, has filed a Counter Motion for stay of the instant summary judgment for discovery pursuant to N.R.C.P. 56(f).

37. Specifically, UAIC needs discovery including, but not limited to, depositions and written interrogatories of Gary Lewis, which UAIC believes will lead to material issues of fact to understand if Lewis has been informed that UAIC's attempts to defend him seek to relieve him a multi-million dollar expired judgment such that he will owe nothing to Nalder and how and why he believes UAIC is injuring him or, in bad faith, for doing so.

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38. Additionally, UAIC seeks the depositions of Lewis and Attorneys Arntz, Christensen and Stephens to understand all of their relationships vis-à-vis Nalder as UAIC believes this reveal material issues of fact concerning a fraud perpetrated on the Court

DATED this 12th day of December, 2018.

Brandon Carroll, As VP of Bodily Injury Claims and Duly authorized representative of United Automobile Insurance Company

SUBSCRIBED AND SWORN to before me

This 12th day of December 2018

NOTARY PUBLIC in and for said Miami Dade County, Florida

AMANDA M. BENITEZ
MY COMMISSION # GG 096529
EXPIRES: April 20, 2021
Bonded Thru Notary Public Underwriters

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EXHIBIT "A"
TO AFFIDAVIT

UNITED AUTOMOBILE INSURANCE COMPANY DETACH AND RETAIN THIS STATEMENT

DATE: 11/01/13 CHECK#: 0956661 CHECK AMOUNT: $ *****15,000.00
POLICY#: NVA -030021926 LOSS DATE: 7/08/07 ADJ: V03
PAYEE: Christensen Law Office
& James Nalder, Guardian Ad Litem for minor Cheyanne Nalder
FULL AND FINAL SETTLEMENT OF ALL CLAIMS

CLAIM #: 0006000455 Claimant: 002 - CHEYANNE NALDER
Unit # : 001 - 96 CHEV PICKUP1500 Coverage: BI - BODILY INJURY
REASON:

ATKIN WINNER AND SHERROD
1117 S RANCHO DR
LAS VEGAS NV 89102-2216

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EXHIBIT "B"
TO AFFIDAVIT

STEPHENS & BYWATER, P.C.

ATTORNEYS AT LAW

David A. Stephens email: dstephens@sgblawfirm.com Gordon E. Bywater email: gbywater@sgblawfirm.com

July 17, 2018

VIA REGULAR U.S. MAIL
Thomas E. Winner, Esq.
Atkin Winner & Sherrod
1117 S. Rancho Drive
Las Vegas, Nevada 89102

RE: Cheyenne Nalder vs. Gary Lewis

Dear Tom:

I am enclosing with this letter a Three Day Notice to Plead which I filed in the above entitled matter.

I recognize that you have not appeared in this matter. I served Mr. Lewis some time ago and he has never filed an answer. Thus, as a courtesy to you, who I understand to be representing Mr. Lewis in related cases, I am providing this Three Day Notice to you in addition to Mr. Lewis.

I appreciate your consideration.

Sincerely,

STEPHENS & BYWATER

David A. Stephens, Esq.

DAS:mlg
enclosure

3636 N. Rancho Drive, Las Vegas, Nevada 89130
Telephone: (702) 656-2355 | Facsimile: (702) 656-2776
Website: www.sgblawfirm.com

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JUL 19 2018
Atkin Winner & Sherrod

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TDNP (CIV)
David A. Stephens, Esq.
Nevada Bar No. 00902
STEPHENS, GOURLEY & BYWATER
3636 North Rancho Drive
Las Vegas, Nevada 89130
Telephone: (702) 656-2355
Facsimile: (702) 656-2776
Email: dstephens@sgblawfirm.com
Attorney for Cheyenne Nalder

DISTRICT COURT

CLARK COUNTY, NEVADA

CHEYENNE NALDER, Plaintiff, vs. GARY LEWIS and DOES I through V, inclusive, Defendants.	CASE NO.: A-18-772220-C DEPT NO.: XXIX

THREE DAY NOTICE TO PLEAD

Date: n/a
Time: n/a

To: Gary Lewis, Defendant

PLEASE TAKE NOTICE that the Plaintiff intends to take a default and default judgment against you if you have not answered or otherwise filed a response of pleading within three (3) days of the date of this notice.

Dated this 17 day of July 2018.

David A. Stephens, Esq.
Nevada Bar No. 00902
Stephens Gourley & Bywater
3636 N. Rancho Drive
Las Vegas, NV 89130
Attorney for Plaintiff

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CERTIFICATE OF MAILING

I hereby certify that service of this THREE DAY NOTICE TO PLEAD was made this 17th day of July, 2018, by depositing a copy thereof in the U.S. Mail, first class postage prepaid, addressed to:

Gary Lewis
733 Minnesota Avenue
Glendora, CA 91740

Thomas E. Winner, Esq.
Atkin Winner Shorrod
1117 S. Rancho Drive
Las Vegas, NV 89102

M L Holdstein

An Employee of
Stephens Gourley & Bywater

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EXHIBIT "C"
TO AFFIDAVIT

ROGERS
MASTRANGELO
CARVALHO &
MITCHELL

Attorneys At Law
Stephen H. Rogers
Rebecca L. Mastrangelo
Daniel E. Carvalho
Bert Mitchell*
Imran Anwar
Charles A. Michalek
Dawn L. Davis^
Harissa R. Temple
Will C. Mitchell
Kimberly C. Beal
*Of Counsel
^Also admitted in AZ

August 10, 2018

Via Email: thomasc@injuryhelpnow.com

Tommy Christensen, Esq.
Christensen Law Office, LLC
1000 South Valley View Blvd.
Las Vegas, Nevada 89107

Re: Cheyenne Nalder v. Gary Lewis
Court Case Nos.: A-07-549111-C and A-18-772220-C

Dear Tommy:

In response to your recent correspondence, it is my understanding that you and Dennis represent Mr. Lewis with regard to his claims against UAIC. I have been retained to defend Mr. Lewis with regard to Ms. Nalder's 2018 actions. Please advise if you are now also acting as Mr. Lewis' personal counsel with regard to my defense of Ms. Nalder's 2018 actions. If so, I will include you on all correspondence and meetings with Mr. Lewis.

As for your question about the legal issues presented by Ms. Nalder's 2018 actions, and whether the defenses I propose would cause Mr. Lewis any "problems," I do not believe they would. Ms. Nalder moved to amend an expired $3.5 million judgment against him, and also filed a complaint for damages for the personal injuries which were previously adjudicated and to add interest through April 8, 2018, increasing the amount of the judgment to nearly $5.6 million. My advice as Mr. Lewis' defense counsel is that we should attempt to protect him by moving to void the Amended Judgment and Dismiss the new Complaint.

Regarding the motion to void the Amended Judgment, Ms. Nalder's proposition that her guardian ad litem's responsibility to renew the judgment was tolled while she was a minor, and while Mr. Lewis was out of state, is legally unsupported. Attached is a draft of our proposed Motion for Relief from Judgment which sets forth the legal arguments. Presumably, Mr. Lewis would prefer not having this judgment against him. This motion is supported by the law, and should prove successful. If not, Mr. Lewis would be in no worse position than he is now.

Regarding Ms. Nalder's 2018 Complaint, the personal injury claims appear to be subject to dismissal pursuant to the doctrine of claim preclusion, as judgment has already been entered on the claims. That Ms. Nalder's guardian ad litem did not take the appropriate steps to renew the judgment was not Mr. Lewis' responsibility. Mr. Lewis should not be placed in legal jeopardy because of the

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guardian ad litem's failure to act. Ms. Nalder's request for another amended judgment in her 2018 Complaint is procedurally inappropriate, since a request for an amended judgment is not a cause of action. Her request for declaratory relief does not meet the criteria. Overall, all of her claims regarding the validity of further amended judgments suffer from the same problems as the Amended Judgment - the original Judgment expired and cannot be revived. Attached is a copy of our proposed Motion to Dismiss the 2018 Complaint. Mr. Lewis' interests would be protected if the 2018 Complaint were dismissed, as, presumably, he would prefer not having to risk litigating Ms. Nalder's personal injury claims and potential exposure to an increased judgment. He would not be in any worse position than he is now if the Motion to Dismiss were denied.

In your letter, on Mr. Lewis' behalf, you instruct me not to file motions such as those attached. It is not clear to me why you have done so. I expect this letter and the attached motions answer any questions or concerns you may have. If you have specific concerns that I have not addressed, please advise. Otherwise, please confirm that Mr. Lewis will cooperate with his defense by agreeing to allow us to protect him by filing the attached motions, or, if not, why not.

Your prompt attention is appreciated. (**Note:** This letter is copied to Mr. Lewis so that he can participate with his counsel in our efforts to defend him his interests).

Sincerely,

ROGERS, MASTRANGELO, CARVALHO
& MITCHELL

Dictated by Stephen Rogers, Esq.
Signed in his absence

Stephen H. Rogers, Esq.

SHR:TLHK/cm
Attachments
cc: Gary Lewis
M:\Rogers\Lewis adv. Nalder\Correspondence\Tommy Chirstensen letter 080918 3 wpd

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MDSM
STEPHEN H. ROGERS, ESQ.
Nevada Bar No. 5755
ROGERS, MASTRANGELO, CARVALHO & MITCHELL
700 South Third Street
Las Vegas, Nevada 89101
Phone (702) 383-3400
Fax (702) 384-1460
Email: srogers@rmcmlaw.com
Attorneys for Defendant

DISTRICT COURT

CLARK COUNTY, NEVADA

CHEYENNE NALDER,	CASE NO.: A-18-772220-C
Plaintiff,	DEPT. NO.: 29
vs.	
GARY LEWIS and DOES I through V, inclusive,	
Defendants.	

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DEFENDANT'S MOTION TO DISMISS

Defendant, Gary Lewis, by and through his counsel, Stephen H. Rogers, Esq., of the law firm of Rogers, Mastrangelo, Carvalho & Mitchell, hereby brings his Motion to Dismiss Plaintiff's Complaint in its entirety. Plaintiff's personal injury claims have been previously litigated and judgment entered. Plaintiff's request for a second amended judgment should be dismissed because the original judgment expired in 2014, was not properly renewed, and cannot be revived via an amended judgment more than four years after it expired.

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This Motion is made and based upon the papers and pleadings on file herein, the Points and Authorities attached hereto, and such oral argument as the Court may permit.

DATED this ____ day of August, 2018.

ROGERS, MASTRANGELO, CARVALHO & MITCHELL

Stephen H. Rogers, Esq.
Nevada Bar No. 5755
700 South Third Street
Las Vegas, Nevada 89101
Attorneys for Defendant

NOTICE OF MOTION

TO: ALL INTERESTED PARTIES AND THEIR COUNSEL OF RECORD:

PLEASE TAKE NOTICE that the foregoing DEFENDANT'S MOTION TO DISMISS will come on for hearing before the above-entitled Court on the ____ day of _____, 2018 at _____ a.m. in Department 29 of the Eighth Judicial District Court, Clark County, Nevada.

DATED this ____ day of August, 2018.

ROGERS, MASTRANGELO, CARVALHO & MITCHELL

Stephen H. Rogers, Esq.
Nevada Bar No. 5755
700 South Third Street
Las Vegas, Nevada 89101
Attorneys for Defendant

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POINTS AND AUTHORITIES

I.

INTRODUCTION

Cheyenne Nalder, ("Cheyenne") alleges in her Complaint that she was injured in an accident in 2007. Cheyenne was 11 years old at the time. She did not wait until she reached the age of majority to pursue her claim for damages against the alleged at-fault driver, Gary Lewis ("Lewis"). A guardian ad litem, James Nalder, was appointed to pursue her claim. He did so, filing a complaint on her behalf and obtaining a Judgment for $3.5 million. For unknown reasons, no payments other than Lewis' $15,000 auto insurance policy limit have been sought on the Judgment. It is unknown what efforts James Nalder made to enforce the Judgment, if any. What is known is that he did not renew the Judgment before it expired in 2014, while Cheyenne was still a minor.

Despite the fact that Lewis' liability for any injuries Cheyenne may have sustained in the 2007 accident have already been adjudicated and judgment entered, Cheyenne now re-asserts those claims in the instant Complaint. Those claims are subject to dismissal pursuant to the doctrine of claim preclusion.

Cheyenne also seeks a second amended judgment from the Court. Seeking an amended judgment is not a cause of action ; rather, it is a motion. Cheyenne's request for a second amended judgment should be dismissed and she should be directed to file a motion.

Finally, Cheyenne seeks a declaration from the Court that the statute of limitations to enforce an Amended Judgment (and the second amended judgment she seeks in her Complaint) was tolled because she was a minor and Lewis resides in California. Declaratory relief is not appropriate in this matter because there is no justiciable controversy and the issues upon which Cheyenne requests declaratory relief are unripe. In addition, since the Amended Judgment should not have been issued. The original judgment expired in 2014 and was not subject to revival, there is nothing for Cheyenne to enforce.

In summary, the Court should dismiss the Complaint as there are no facts under which Cheyenne is entitled to relief.

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II.

STATEMENT OF FACTS

This case involves a July 8, 2007 accident. Cheyenne Nalder, ("Cheyenne") who was then a minor, alleged injuries. On October 9, 2007, Cheyenne's guardian ad litem, James Nalder, filed a Complaint against Gary Lewis ("Lewis"). *See* Complaint attached hereto as Exhibit "A."

Lewis did not respond to the Complaint and a default was taken against him. *Id.* On June 3, 2008, a judgment was entered against him in the amount of $3.5 million.[1] *See* Judgment, attached hereto as Exhibit "B." James Nalder as guardian ad litem for Cheyenne was the judgment creditor. *Id.* NRS 11.190(1)(a) provides that a judgment expires in six (6) years, unless it is timely renewed. As such, the Judgment expired on June 3, 2014.

On March 22, 2018, nearly 10 years after the Judgment was entered, and nearly four (4) years after it expired, Cheyenne filed an "Ex Parte Motion to Amend Judgment in the Name of Cheyenne Nalder, Individually" ("Ex Parte Motion") in her personal injury case, Case No. A-07-549111-C, which is also assigned to this Court. Her Motion did not advise the Court that the Judgment she sought to amend had expired. The Court granted Cheyenne's Ex Parte Motion and issued an Amended Judgment on March 28, 2018. *See* Exhibit "C." Contemporaneous with the filing of the instant motion, Lewis has filed a Motion for Relief from Judgment in Case No. A-07-549111-C, detailing the reasons the Court should void the Amended Judgment.

On April 3, 2018, one day before the statute of limitations ran for Cheyenne to file a personal injury claim (but ten years after she already obtained a judgment), she filed a Complaint alleging identical injuries from the same accident. *See* Exhibit "A," the 2007 Complaint, and the 2018 Complaint, attached as Exhibit "D." In the 2018 Complaint, she does not explain why she believes she is entitled to damages for the same injuries for which she received a judgment in 2008. *See* Exhibit "D." However, the 2018 Complaint does acknowledge that she already received a judgment against Lewis. *Id.* at p. 3, ll. 10 - 11.

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[1] Judgments are entered when filed, not when a Notice of Entry is made. NRCP 58(c).

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Finally, the 2018 Complaint seeks an amended judgment to add interest to the 2008 judgment, and declaratory relief that the statute of limitations to enforce the judgment was tolled because she was a minor and Lewis was a resident of California.

III.

MOTION TO DISMISS STANDARD

A defendant is entitled to dismissal when a plaintiff fails "to state a claim up which relief can be granted." NRCP 12(b)(5). The Nevada Supreme Court has declared that the dismissal of a complaint is appropriate where "it appears beyond a doubt that [the plaintiff] could prove no set of facts which, if true, would entitle [the plaintiff] to relief." *Buzz Stew, LLC v. City of N. Las Vegas*, 124 Nev. 224, 228, 181 P.3d 670, 672 (2008).

In evaluating a motion to dismiss, courts primarily focus on the allegations in the complaint. *Id.* As the Nevada Supreme Court held in *Baxter v. Dignity Health*, 131 Nev. Adv. Op. 76, 357 P.3d at 930 (2015) "'the court is not limited to the four corners of the complaint.'" Citing 5B Charles Alan Wright & Arthur Miller, Federal Practice & Procedure: Civil § 1357, at 376 (3d ed.2004). The *Baxter* Court also held that a court "'may also consider unattached evidence on which the complaint necessarily relies if: (1) the complaint refers to the document; (2) the document is central to the plaintiff's claim; and (3) no party questions the authenticity of the document.'" *Id.*, citing *United States v. Corinthian Colleges*, 655 F.3d 984, 999 (9th Cir.2011) (internal quotation omitted). The *Baxter* Court continued "'[w]hile presentation of matters outside the pleadings will convert the motion to dismiss to a motion for summary judgment, Fed.R.Civ.P. 12(d); NRCP 12(b), such conversion is not triggered by a court's 'consideration of matters incorporated by reference or integral to the claim,'" *Id.*, citing 5B Wright & Miller, supra, § 1357, at 376.

While Defendant's Motion to Dismiss does rely on certain documents which were not attached to the Complaint, those documents are either incorporated by reference (the Judgment and Amended Judgment) or integral to the claim (the Complaint in the 2007 case). Therefore, this Court should consider this matter a motion to dismiss and not convert it to a motion for summary judgment. As discussed below, there is no doubt that there are no facts pursuant to which Cheyenne is entitled to the relief her 2018 Complaint seeks.

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IV.

ARGUMENT

A. *The Doctrine of Claim Preclusion Mandates Dismissal of Plaintiff's Claims Related to the July 8, 2007 Accident*

The October 9, 2007 Complaint filed by Cheyenne's guardian ad litem, James Nalder, alleged personal injuries caused by the July 8, 2007 accident. *See* Complaint attached hereto as Exhibit "A." When Lewis did not respond to that Complaint, a Default was entered against him. On June 3, 2008, a Judgment in the amount of $3.5 million was entered against Lewis. *See* Judgment, attached hereto as Exhibit "B." Plaintiff acknowledged this in Paragraph 10 of her 2018 Complaint. Because the personal injury claims in the 2018 Complaint have already been litigated, it should be dismissed.

Cheyenne's claims should be dismissed pursuant to the doctrine of claim preclusion. In 2008, the Nevada Supreme Court set forth a three part test to be applied to determine when claim preclusion applies. *Five Star Capital Corp. v. Ruby*, 124 Nev. 1048, 1054–55, 194 P.3d 709, 713 (2008), holding modified by *Weddell v. Sharp*, 131 Nev. Adv. Op. 28, 350 P.3d 80 (2015) (the modification is not applicable in this case). According to the *Five Star* test, claim preclusion applies when: (1) the parties or their privies are the same; (2) the final judgment is valid; and (3) the new action is based on the same claims that were or could have been brought in the first action. Cheyenne's claims for personal injury in the instant (2018) suit clearly meet the *Five Star* factors for dismissal under the doctrine of claim preclusion.

First, the parties are the same. The only difference between the 2007 suit and the 2018 suits is that Cheyenne is now an adult, so her claims need not be litigated via a guardian ad litem.

Second, the final judgment is valid. There is no question that the Judgment issued in 2008 was valid until it expired in 2014. It could have been renewed, and, if so, would have still been valid today. However, it was not renewed. Cheyenne's (or rather her guardian ad litem's) failure to fully execute on the Judgment while it was valid does not open the door for her to re-litigate her claims.

Third, the same claims are involved in both actions. A review of the 2008 Complaint and the 2018 Complaint reveal that the personal injury claims are identical.

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As the *Five Star* Court noted, public policy supports claims preclusion in situations such as this. The *Five Star* Court cited Restatement (Second) of Judgments section 19, comment (a), noting that "the purposes of claim preclusion are 'based largely on the ground that fairness to the defendant, and sound judicial administration, require that at some point litigation over the particular controversy come to an end' and that such reasoning may apply 'even though the substantive issues have not been tried . . .'" *Id.* at 1058, 194 P.3d at 715. These policy reasons are applicable here. Lewis is entitled to finality. A Judgment was already entered against him. Renewing the Judgment was not Lewis' responsibility – that was the responsibility of Cheyenne's guardian ad litem, James Nalder. Lewis should not be exposed to judgment being entered against him a second time due to Nalder's failure to act.

Cheyenne's personal injury claims are the very type to which claims preclusion applies. The public policy considerations supporting claims preclusion cited with approval by the Court in *Five Star* apply to this action. The claims for personal injuries alleged in the Complaint should be dismissed.

B. Plaintiff's Request for A Second Amended Judgment Should Be Dismissed Because it is not a Cause of Action

Regarding Cheyenne's request that the Court enter another amended judgment, adding interest accrued through April 6, 2018, it is unclear why this was included in a Complaint. Seeking to amend a judgment is not a cause of action. Cheyenne has demonstrated that she knows how to properly petition the Court to amend a judgment, as she has already done so once. This claim is inappropriately included in the Complaint, and should be dismissed.

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C. Cheyenne's Request for Declaratory Relief Should Be Dismissed

Cheyenne does not ask for relief relative to enforcing an amended judgment, which is a cause of action. Rather, she asks the Court to declare that the statute of limitations on her original judgment was tolled because of she was a minor and because the judgment debtor lived in another State: California. Presumably, Plaintiff means the statute of limitations to enforce the judgment, but that is not clear.

Declaratory relief is only available if: "(1) a justiciable controversy exists between persons with adverse interests, (2) the party seeking declaratory relief has a legally protectable interest in the controversy, and (3) the issue is ripe for judicial determination." *Cty. of Clark, ex rel. Univ. Med. Ctr. v. Upchurch*, 114 Nev. 749, 752, 961 P.2d 754, 756 (1998), citing *Knittle v. Progressive Casualty Ins. Co.*, 112 Nev. 8, 10, 908 P.2d 724, 725 (1996). Here, declaratory relief is not available because the issue as to whether the Amended Judgment or any future amended judgment is enforceable, or whether the statute of limitations has expired, is not ripe.

The conditions under where a justiciable controversy exists were addressed by the Nevada Supreme Court in *Kress v. Corey*, 65 Nev. 1, 189 P.2d 352 (1948), where the Court noted a justiciable controversy does not exist, where damage "... is merely apprehended or feared..." *Id.* at 28-29, 189 P.2d at 366. As the Court in *Doe v. Bryan*, 102 Nev. 523, 728 P.2d 443 (1986) noted, "'the requirement of an actual controversy has been construed as requiring a concrete dispute admitting of an immediate and definite determination of the parties' rights.'" *Id.* at 526, 728 P.2d at 444. Cheyenne's concern that any effort to enforce the Amended Judgment will be thwarted by a determination that the applicable statute of limitations bars such action is "apprehended or feared" but not existing presently, because she has not taken any action to enforce the Amended Judgment.

Likewise, there is no "concrete dispute" that the statute of limitations would bar an attempt by Cheyenne to collect on the Amended Judgment because she has not tried. Unless and until Cheyenne actually tried to enforce the Amended Judgment, there is no "immediate" need for a "definite" determination of the parties' rights. Therefore, there is no justiciable controversy regarding Cheyenne's ability to seek to enforce the Amended Judgment at this time.

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"'Ripeness focuses on the timing of the action rather than on the party bringing the action . . . The factors to be weighed in deciding whether a case is ripe for judicial review include: (1) the hardship to the parties of withholding judicial review, and (2) the suitability of the issues for review.'" *Herbst Gaming, Inc. v. Heller*, 122 Nev. 887, 887, 141 P.3d 1224, 1230-31 (2006)(alteration in original)(quoting *In re T.R.*, 119 Nev. 646, 651, 80 P.3d 1276, 1279 (2003)). In the unpublished decision in *Cassady v. Main*, 2016 WL 412835, a copy of which is attached hereto as Exhibit "E," the Nevada Supreme Court noted that the plaintiff in that case would suffer no harm if declaratory relief were not considered, because he could file a complaint seeking direct redress for complaints . *Id.* at *2. Similarly here, Cheyenne could seek to have a court address her statute of limitations concerns in an action to execute on the Amended Judgment. There is no need for such a determination at this time.

Regardless as to whether Cheyenne's request for declaratory relief is appropriate at this juncture, Cheyenne's request for declaratory relief should be dismissed because there is no valid judgment to enforce. The original Judgment issued on June 3, 2008 expired on June 3, 2014. No effort to renew the Judgment was undertaken prior to its expiration. Cheyenne obtained an Amended Judgment, entered on March 28, 2018. As demonstrated in Defendant's Motion for Relief From Judgment Pursuant to NRCP 60, the Court should not have entered and Amended Judgment, and no other amended judgments should be entered. Nevada law does not permit renewal of expired judgments by amendment.

Nor is the deadline to file the appropriate documents to renew a judgment tolled by any statute or rule. The time limit to renew the Judgment was not tolled by Cheyenne's minority because her guardian ad litem, an adult, was the judgment creditor. The time limit to renew the Judgment was not tolled by the judgment creditor's absence from the state, because the requirement that a judgment be renewed is not a cause of action to which such tolling provisions might apply. Because no valid judgment exists, Cheyenne's request for declaratory relief regarding the tolling of the time to enforce a judgment should be dismissed as a matter of law.

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V.

CONCLUSION

In her 2018 Complaint, Plaintiff sets forth no facts which, if true, would entitle her to the relief she seeks. Her Complaint should be dismissed in its entirety.

DATED this ____ day of August, 2018.

ROGERS, MASTRANGELO, CARVALHO & MITCHELL

Stephen H. Rogers, Esq.
Nevada Bar No. 5755
700 South Third Street
Las Vegas, Nevada 89101
Attorneys for Defendant

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CERTIFICATE OF SERVICE

Pursuant to N.R.C.P. 5(a), E.D.C.R. 7.26(a), and Rule 9 of the N.E.F.C.R., I hereby certify that I am an employee of Rogers, Mastrangelo, Carvalho & Mitchell, and on the _____ day of August, 2018, a true and correct copy of the foregoing **DEFENDANT'S MOTION TO DISMISS** was served upon the following counsel of record as indicated below:

David A. Stephens, Esq. Stephens, Gourley & Bywater 3636 North Rancho Drive Las Vegas, Nevada 89130 Telephone: (702) 656-2355 Facsimile: (702) 656-2776 Email: dstephens@sgblawfirm.com *Attorneys for Plaintiff*	____ Via First Class, U.S. Mail, Postage Prepaid ____ Via Facsimile ____ Via Hand-Delivery __X__ Via Electronic Service Pursuant to Rule 9 of the N.E.F.C.R. (Administrative Order 14-2)

An Employee of
Rogers, Mastrangelo, Carvalho & Mitchell

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STEPHEN H. ROGERS, ESQ.
Nevada Bar No. 5755
ROGERS, MASTRANGELO, CARVALHO & MITCHELL
700 South Third Street
Las Vegas, Nevada 89101
Phone (702) 383-3400
Fax (702) 384-1460
Email: srogers@rmcmlaw.com
Attorneys for Defendant

line 6 page 3

DISTRICT COURT

CLARK COUNTY, NEVADA

CHEYENNE NALDER,	CASE NO.:	07A549111
Plaintiff,	DEPT. NO.:	29
vs.		
GARY LEWIS and DOES I through V, inclusive,		
Defendants.		

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DEFENDANT'S MOTION FOR RELIEF FROM JUDGMENT PURSUANT TO NRCP 60

Defendant, Gary Lewis, by and through his counsel, Stephen H. Rogers, Esq., of the law firm of Rogers, Mastrangelo, Carvalho & Mitchell, hereby brings his Motion for Relief from Judgment Pursuant to NRCP 60, asking that this Court declare as void the Amended Judgment entered on March 28, 2018, because the underlying Judgment expired in 2014 and is not capable of being revived.

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This Motion is made and based upon the papers and pleadings on file herein, the Points and Authorities attached hereto, and such oral argument as the Court may permit.

DATED this ____ day of August, 2018.

ROGERS, MASTRANGELO, CARVALHO & MITCHELL

Stephen H. Rogers, Esq.
Nevada Bar No. 5755
700 South Third Street
Las Vegas, Nevada 89101
Attorneys for Defendant

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NOTICE OF MOTION

TO: ALL INTERESTED PARTIES AND THEIR COUNSEL OF RECORD:

PLEASE TAKE NOTICE that the foregoing **DEFENDANT'S MOTION FOR RELIEF FROM JUDGMENT PURSUANT TO NRCP 60** will come on for hearing before the above-entitled Court on the ____ day of _____, 2018 at _____ a.m. in Department XXIX of the Eighth Judicial District Court, Clark County, Nevada.

DATED this ____ day of August, 2018.

ROGERS, MASTRANGELO, CARVALHO & MITCHELL

Stephen H. Rogers, Esq.
Nevada Bar No. 5755
700 South Third Street
Las Vegas, Nevada 89101
Attorneys for Defendant

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POINTS AND AUTHORITIES

I.

INTRODUCTION

This Court made a mistake of law based on incomplete/incorrect facts presented in an Ex Parte Motion to Amended Judgment, when entering the Order granting the Motion on March 28, 2018. The Judgment which Plaintiff, Cheyenne Nalder ("Cheyenne") moved to amend was entered on June 3, 2008. The judgment creditor, Cheyenne's guardian ad litem, James Nalder, did not renew the Judgment as required by Nevada law before it expired on June 3, 2104, six years after it was entered.

The Amended Judgment ostensibly revived the expired Judgment, despite the fact that Cheyenne presented this Court with no legal support for such revival. Cheyenne's Motion proposes that tolling provisions applicable to causes of action are also applicable to the deadlines to renew judgments. However, none of the authority cited in her Motion supports misappropriating tolling provisions applicable to certain causes of action to extend the time to renew a judgment, nor does any other authority. Pursuant to NRCP 60 the Court should declare that the Amended Judgment is void and that the original judgment has expired, and therefore is not enforceable.

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II.

STATEMENT OF FACTS

This case involves an accident which occurred on July 8, 2007. Cheyenne, who was then a minor, claimed that she suffered injuries from the accident. On October 9, 2007, Cheyenne, through her guardian ad litem, James Nalder, presumably a relative, filed a Complaint against Gary Lewis ("Lewis"). *See* Complaint attached hereto as Exhibit "A."

Lewis did not respond to the Complaint and a default was taken against him. *Id.* Eventually, a judgment was entered against him in the amount of $3.5 million. *See* Judgment, attached hereto

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as Exhibit "B." The Judgment was entered on June 3, 2008.[1] James Nalder as guardian ad litem for Cheyenne is the judgment creditor. *Id.* NRS 11.190(1)(a) provides that a judgment expires by limitation in six (6) years. As such, the Judgment expired on June 3, 2014.

On March 22, 2018, nearly 10 years after the judgment was entered, and nearly four (4) years after it expired, Cheyenne filed an "Ex Parte Motion to Amend Judgment in the Name of Cheyenne Nalder, Individually" ("Ex Parte Motion"). Her Motion did not advise the Court that the Judgment she sought to amend had expired. Rather, it cited two statutes, NRS 11.280 and 11.300, without explaining why they were applicable to her request, and asked the Court to amend the Judgment to be in her name alone. In short, the Court was not put on notice that it was being asked to ostensibly revive an expired judgment.

With an incomplete account of the issues presented, the Court granted Cheyenne's Ex Parte Motion and issued an Amended Judgment on March 28, 2018. *See* Exhibit "C."

As the Judgment had expired and an Amended Judgment could not be issued to revive it. Lewis brings the instant Motion pursuant to NRCP 60(b), to void the Amended Judgment and declare that the original Judgment has expired.

III.

ARGUMENT

A. The Judgment Expired on June 3, 2014

Nevada law provides that the statute of limitations for execution upon a judgment is six (6) years. NRS 11.190(1)(a). The judgment creditor may renew a judgment (and therefore the statute of limitations), for an additional six years by following the procedure mandated by NRS 17.214. The mandated procedures were not followed. Therefore the Judgment expired.

NRS 17.214(1)(a) sets forth the procedure that must be followed to renew a judgment. A document tiled "Affidavit of Renewal" containing specific information outlined in the statute must be filed with the clerk of court where the judgment is filed within 90 days before the date the judgment expires. Here, the Affidavit of Renewal was required to be filed by March 5, 2014. No

[1] Judgments are entered when filed, not when a Notice of Entry is made. NRCP 58(C).

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such Affidavit of Renewal was filed by James Nalder, the judgment creditor. Cheyenne was still a minor on March 5, 2014. The Affidavit of Renewal must also be recorded if the original judgment was recorded, and the judgment debtor must be served. No evidence of recordation (if such was required) or service on Lewis is present in the record.

The Nevada Supreme Court, in *Leven v. Frey*, 123 Nev. 399, 168 P.3d 712 (2007), held that judgment creditors must strictly comply with the procedure set forth in NRS 17.214 in order to validly renew a judgment. *Id.* at 405-408, 168 P.3d 717-719. There is no question that neither Cheyenne nor her guardian ad litem did so. Therefore the Judgment expired.

1. The deadline to renew the Judgment was not tolled by any statute or rule

In her Ex Parte Motion, Cheyenne suggested that the deadlines mandated by NRS 17.214 were somehow extended because certain statutes of limitation can be tolled for causes of action under some circumstances. No such tolling applies to renewal of a judgment because renewal of a judgment is not a cause of action.

The introduction to NRS 11.090, the statute of limitation law, states that it applies to: " . . . actions other than those for the recovery of real property, unless further limited by specific statute . . ." The list which follows includes various causes of action for which suit can be brought. Nowhere in the listing is renewing a judgment defined as or analogized to a cause of action.

The Nevada Supreme Court has held that actions to enforce a judgment fall under the six-year "catch all" provision of NRS 11.090(1)(a). *Leven* at 403, 168 P.3d at 715 ("An action on a judgment or its renewal must be commenced within six years under NRS 11.190(1)(a); thus a judgment expires by limitation in six years"). In summary, neither statute, NRS 11.190 nor NRS 17.214, provides for any tolling of the time period to renew a judgment.

2. The deadline to renew the Judgment was not tolled by Cheyenne's minority

Setting aside the fact that the deadline to renew a judgment is not an action to which statutes of limitation/tolling apply, Cheyenne's proposition that the deadlines set forth in NRS 17.214 were tolled by her minority are inapt for a few reasons. First, the tolling statute cited by Cheyenne, NRS 11.280, does not universally toll all statutes of limitations while a plaintiff is a minor. Rather, it is expressly limited to actions involving sales of probate estates.

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> Legal disability prevents running of statute. **NRS 11.260 and 11.270 shall not apply to minors or others under any legal disability to sue at the time when the right of action first accrues,** but all such persons may commence an action at any time within 1 year after the removal of the disability.

Emphasis added. NRS 11.260 applies to actions to recover a estate sold by a guardian. NRS 11.270 applies to actions to recover estates sold by an executor or administrator. Neither of those causes of action are at issue here. Therefore, NRS 11.280 would not authorize tolling the deadline for the renewal of a judgment while a judgment creditor was a minor. This statute would not apply in any instance because the judgment creditor, James, was not a minor, and so did not have a legal disability.

On March 5, 2014, the deadline to file the Affidavit of Renewal, Cheyenne was still a minor. The judgment creditor was her guardian ad litem, James Nalder. It was James Nalder, not Cheyenne, who had the responsibility to file the Affidavit of Renewal by the March 5, 2014 deadline. The fact that Cheyenne, the real party in interest, was a minor, is not legally relevant.

As Cheyenne was not the judgment creditor at any time prior to the date of the issuance of the Amended Judgment, anyone looking at the Judgment would believe that it expired on June 4, 2014, since there was no Affidavit of Renewal filed. If Cheyenne's apparent argument were given credence, either the judgment never expired, because she was the real party in interest and was a minor at the time, the Judgment would have otherwise expired or the judgment did expire but was revived upon her reaching the age of majority. To adopt this proposition would frustrate the certainty NRS 17.214 was enacted to promote – the reliability of title to real property.

If tolling of deadlines to amend judgments were sanctioned, title to real property owned by anyone who had ever been a judgment debtor would be clouded, as a title examiner would not know whether a judgment issued more than six years prior had expired pursuant to statute, or was still valid, or could be revived when a real party in interest who was a minor reached the age of majority. As the Court held in *Leven*, one of the primary reasons for the need to strictly comply with NRS 17.214's recordation requirement is to "procure reliability of title searches for both creditors and debtors since any lien on real property created when a judgment is recorded continues upon that judgment's proper renewal." *Id.* At 408-409, 168 P.3d 712, 719. Compliance with the notice

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requirement of NRS 17.124 is important to preserve the due process rights of the judgment debtor. *Id.* If a judgment debtor is not provided with notice of the renewal of a Judgment, he may believe that the judgment has expired and he need take no further action to defend himself against execution.

3. Lewis' residency in California did not toll the deadline to renew the Judgment

Cheyenne's Ex Parte Motion next cites NRS 11.300, which provides "if, when the cause of action shall accrue against a person, the person is out of the State, the action may be commenced within the time herein limited after the person's return to the State; and if after the cause of action shall have accrued the person departs from the State, the time of the absence shall not be part of the time prescribed for the commencement of the action." Cheyenne's argument that the deadline to renew the Judgment are tolled by NRS 11.300 fails because, again, renewing a judgment is not a cause of action. As the Supreme Court of North Dakota, a state with similar statutes to Nevada regarding judgments, held in *F/S Manufacturing v. Kensmore*, 798 N.W.2d 853 (N.D. 2011), "Because the statutory procedure for renewal by affidavit is not a separate action to renew the judgment, the specific time period [provided to renew] cannot be tolled under [the equivalent to NRS 11.300] based on a judgment debtor's absence from the state." *Id.* at 858.

In addition, applying Cheyenne's argument that the time to renew a judgment was tolled because of the judgment debtor's absence from Nevada would have a similarly negative impact on the ability for property owners to obtain clear title to their property. Nothing on a judgment would reflect whether a judgment debtor was outside of the state and a facially expired judgment was still valid. Therefore, essentially, a responsible title examiner would have to list any judgment that had ever been entered against a property owner on the title insurance policy, because he could not be sure that judgments older than six years for which no affidavit of renewal had been filed were expired or the expiration was tolled.

B. The Court Made an Error of Law, Likely Based on Mistake of Fact, When it Granted the Ex Parte Motion to Amend Judgment

NRCP 60(b) allows this Court to relieve a party from a final judgment due to mistake (NRCP 60(b)(1)) or because a judgment is void (NRCP 60(b)(4)). Both of these provisions apply.

1. The Court made a mistake of law when it granted the Amended Judgment

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Because the Ex Parte Motion was ex parte, it was not served on Lewis nor did he have an opportunity to make the Court aware that the Judgment had already expired on its own terms, and that Cheyenne's proposition that the deadline to renew the judgment was tolled was inapt. The Ex Parte Motion did not advise the Court that the Judgment had expired in 2014 and had not been properly renewed. Had the Court been fully apprised of the facts, it likely would not have granted the Ex Parte Motion. Since the Amended Judgment was entered on March 28, 2018, a motion to set aside the amended judgment on the basis of mistake is timely as it is made within six months of the entry of the judgment. This Court should rectify the mistake and void the Amended Judgment in accordance with NRCP 60(b)(1).

2. The Amended Judgment is void

As demonstrated above, the Judgment expired. It was not renewed. There is no legal or equitable basis for the Court to revive it. The six month deadline does not apply to requests for relief from a judgment because the judgment is void. Therefore, the instant motion is timely. The Amended Judgment is void and, pursuant to NRCP 60(b)(4) this Court should declare it void and unenforceable.

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IV.

CONCLUSION

Since the Judgment expired in 2014, the Amended Judgment should not have been issued. It should be voided and the Court should declare that the Judgment has expired.

DATED this ____ day of August, 2018.

ROGERS, MASTRANGELO, CARVALHO & MITCHELL

Stephen H. Rogers, Esq.
Nevada Bar No. 5755
700 South Third Street
Las Vegas, Nevada 89101
Attorneys for Defendant

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CERTIFICATE OF SERVICE

Pursuant to N.R.C.P. 5(a), E.D.C.R. 7.26(a), and Rule 9 of the N.E.F.C.R., I hereby certify that I am an employee of Rogers, Mastrangelo, Carvalho & Mitchell, and on the _____ day of August, 2018, a true and correct copy of the foregoing **DEFENDANT'S MOTION FOR RELIEF FROM JUDGMENT PURSUANT TO NRCP 60** was served upon the following counsel of record as indicated below:

David A. Stephens, Esq. Stephens, Gourley & Bywater 3636 North Rancho Drive Las Vegas, Nevada 89130 Telephone: (702) 656-2355 Facsimile: (702) 656-2776 Email: dstephens@sgblawfirm.com *Attorneys for Plaintiff*	____ Via First Class, U.S. Mail, Postage Prepaid ____ Via Facsimile ____ Via Hand-Delivery __X__ Via Electronic Service Pursuant to Rule 9 of the N.E.F.C.R. (Administrative Order 14-2)

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An Employee of
Rogers, Mastrangelo, Carvalho & Mitchell

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EXHIBIT "D"
TO AFFIDAVIT

CHRISTENSEN LAW
www.injuryhelpnow.com

August 13, 2018

Stephen H. Rogers, Esq.
ROGERS, MASTRANGELO, CARVALHO & MITCHELL
700 S. Third Street
Las Vegas, Nevada 89101

VIA Fax: (702)384-1460
Email: srogers@rmcmlaw.com

Re: Gary Lewis

Dear Stephen:

I am in receipt of your letter dated Friday, August 10, 2018. I was disappointed that you have chosen to disregard my request that you communicate with me and not directly with my client. You say you have "been retained to defend Mr. Lewis with regard to Ms. Nalder's 2018 actions." Would you be so kind as to provide me with all communications written or verbal or notes of communications you have had with UAIC, their attorneys and/or Mr. Lewis from your first contact regarding this matter to the present?

Please confirm that UAIC seeks now to honor the insurance contract with Mr. Lewis and provide a defense for him and pay any judgment that may result? This is the first indication I am aware of where UAIC seeks to defend Mr. Lewis. I repeat, please do not take any actions, including requesting more time or filing anything on behalf of Mr. Lewis without first getting authority from Mr. Lewis through me. Please only communicate through this office with Mr. Lewis. If you have already filed something or requested an extension without written authority from Mr. Lewis, he requests that you immediately reverse that action. Please also only communicate with UAIC that any attempt by them to hire any other attorneys to take action on behalf of Mr. Lewis must include notice to those attorneys that they must first get Mr. Lewis' consent through my office before taking any action including requesting extensions of time or filing any pleadings on his behalf.

Regarding your statement that Mr. Lewis would not be any worse off if you should lose your motions. That is not correct. We agree that the validity of the judgment is unimportant at this stage of the claims handling case. UAIC, however, is arguing that Mr. Lewis' claims handling case should be dismissed because they claim the judgment is not valid. If you interpose an insufficient improper defense that delays the inevitable entry of judgment against Mr. Lewis and the Ninth Circuit dismisses the appeal then Mr. Lewis will have a judgment against him and no claim against UAIC. In addition, you will cause additional damages and expense to both parties for which, ultimately, Mr. Lewis would be responsible.

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CHRISTENSEN LAW
www.Injuryhelpnow.com

Could you be mistaken about your statement that "the original Judgment expired and cannot be revived?" I will ask your comment on just one legal concept -- Mr. Lewis' absence from the state. There are others but this one is sufficient on its own. There are three statutes applicable to this narrow issue: NRS 11.190; NRS 11.300 and NRS 17.214.

NRS 11.190 Periods of limitation. ... actions .. may only be commenced as follows:

1. Within 6 years:

(a) ... an action upon a judgment or decree of any court of the United States, or of any state or territory within the United States, or the renewal thereof.

NRS 11.300 Absence from State suspends running of statute. If, ... after the cause of action shall have accrued the person (defendant) departs from the State, the time of the absence shall not be part of the time prescribed for the commencement of the action.

NRS 17.214 Filing and contents of affidavit; recording affidavit; notice to judgment debtor; successive affidavits.

1. A judgment creditor or a judgment creditor's successor in interest may renew a judgment which has not been paid by:

(a) Filing an affidavit with the clerk of the court where the judgment is entered and docketed, within 90 days before the date the judgment expires by limitation.

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These statutes make it clear that both an action on the judgment or an optional renewal is still available through today because Mr. Lewis has been in California since late 2008. If you have case law from Nevada contrary to the clear language of these statutes please share it with me so that I may review it and discuss it with my client.

Your prompt attention is appreciated. Mr. Lewis does not wish you to file any motions until and unless he is convinced that they will benefit Mr. Lewis -- not harm him and benefit UAIC. Mr. Lewis would like all your communications to go through my office. He does not wish to have you copy him on correspondence with my office. Please do not communicate directly with Mr. Lewis.

Very truly yours,

Tommy Christensen
CHRISTENSEN LAW OFFICE, LLC

1000 S. Valley View Blvd. Las Vegas, NV 89107 | office@Injuryhelpnow.com | P: 702.870.1000 | F: 702.870.6152

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EXHIBIT "E"
TO AFFIDAVIT

ROGERS
MASTRANGELO
CARVALHO &
MITCHELL

Attorneys At Law
Stephen H. Rogers
Rebecca L. Mastrangelo
Daniel E. Carvalho
Bert Mitchell*
Imran Anwar
Charles A. Michalek
Dawn L. Davis^
Marissa R. Temple
Will C. Mitchell
Kimberly C. Beal
*Of Counsel
^Also admitted in AZ

August 23, 2018

Via Email: thomasc@injuryhelpnow.com

Thomas F. Christensen, Esq.
Christensen Law Office, LLC
1000 South Valley View Blvd.
Las Vegas, Nevada 89107

Re: Cheyenne Nalder v. Gary Lewis
Court Case Nos.: A-07-549111-C and A-18-772220-C

Dear Tommy:

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You have advised that, as Mr. Lewis' personal counsel, I will not be permitted to speak with him. As such, I will not be able to defend him with respect to the amended judgment and the current Complaint. You have also advised that I am not to copy him on any letters. As I copied him on my initial letter, I ask that you advise him that I cannot represent him as he will communicate with me.

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Sincerely,

ROGERS, MASTRANGELO, CARVALHO
& MITCHELL

Dictated by Stephen Rogers, Esq.
Signed in his absence

Stephen H. Rogers, Esq.

SHR/mms
cc: Gary Lewis
M:\Rogers\Lewis adv. Nalder\Correspondence\Tommy Christensen letter 082318.wpd

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bcc: **United Automobile Insurance Company**
Brandon Carroll (via email)
Michael Harvey (via email)

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EXHIBIT "F"
TO AFFIDAVIT

Carolyn Mangundayao

From: Steve Rogers
Sent: Friday, September 07, 2018 8:12 AM
To: Carolyn Mangundayao; Thomas Christensen; breenarntz@me.com
Cc: Reception
Subject: RE: Gary Lewis

Tom:

In response to your second 09/06/18 email, you'll recall that you declined my request that you conference Mr. Lewis in on our 08/13/18 phone call. My request confirms that I was agreeable to your participation in my communications with Mr Lewis.

I will convey to UAIC your wish to retain Mr. Arntz to represent Mr. Lewis.

Please contact me with any questions.

Steve
(please f that there is a typo in the concluding line of my 08/23/18 letter: "he will communicate with me" inaccurately omitted the word "not")

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ROGERS MASTRANGELO CARVALHO & MITCHELL
Stephen H. Rogers, Esq.
ROGERS, MASTRANGELO, CARVALHO & MITCHELL
700 South Third Street
Las Vegas, Nevada 89101
Telephone: (702) 383-3400
Facsimile: (702) 384-1460
Email: srogers@rmcmlaw.com

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From: Carolyn Mangundayao
Sent: Friday, September 07, 2018 7:55 AM
To: Thomas Christensen <thomasc@injuryhelpnow.com>; Steve Rogers <srogers@rmcmlaw.com>; breenarntz@me.com
Cc: Reception <receptionist@injuryhelpnow.com>
Subject: RE: Gary Lewis

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See attached.

Thank you.



Carolyn Mangundayao
Legal Assistant to Stephen H. Rogers, Esq., Bert O. Mitchell, Esq. & William C. Mitchell, Esq.
ROGERS, MASTRANGELO, CARVALHO & MITCHELL
700 South Third Street
Las Vegas, Nevada 89101
Telephone: (702) 383-3400
Facsimile: (702) 384-1460
Email: cmangundayao@rmcmlaw.com

Notice of Confidentiality:

This e-mail, and any attachments thereto, is intended only for use by the addressee(s) named herein and may contain legally privileged and/or confidential information. If you are not the intended recipient of this e-mail, you are hereby notified that any dissemination, distribution or copying of this e-mail, and any attachments thereto, is strictly prohibited. If you have received this e-mail in error, please immediately notify me by e-mail (by replying to this message) or telephone (noted above) and permanently delete the original and any copy of any e-mail and any printout thereof. Thank you for your cooperation with respect to this matter.

From: Thomas Christensen [mailto:thomasc@injuryhelpnow.com]
Sent: Thursday, September 06, 2018 5:46 PM
To: Steve Rogers <srogers@rmcmlaw.com>; breenarntz@me.com
Cc: Carolyn Mangundayao <cmangundayao@rmcmlaw.com>; Reception <receptionist@injuryhelpnow.com>
Subject: Gary Lewis

Stephen,

What is the date of your letter and how was it delivered? We do not have that letter. Please forward it to us. Given your dual representation of UAIC and Mr Lewis and that you feel commmunication with Mr Lewis through my office is not acceptable we think it better to allow Breen Arntz to represent Mr Lewis's interest in these two actions as independent counsel. Could you make a request that UAIC pay for independent counsel? Thank you.

Tommy Christensen

Christensen Law Offices

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EXHIBIT "K"

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EXHIBIT "H"

Electronically Filed
9/13/2018 12:26 PM
Steven D. Grierson
CLERK OF THE COURT

STPJ (CIV)
David A. Stephens, Esq.
Nevada Bar No. 00902
Stephens & Bywater
3636 North Rancho Drive
Las Vegas, Nevada 89130
Telephone: (702) 656-2355
Facsimile: (702) 656-2776
Email: dstephens@sgblawfirm.com
Attorney for Cheyenne Nalder

DISTRICT COURT

CLARK COUNTY, NEVADA

CHEYENNE NALDER, Plaintiff, vs. GARY LEWIS, Defendant.	Case No. A-18-772220-C Dept. No. XXIX

STIPULATION TO ENTER JUDGMENT

Date: n/a
Time: n/a

Gary Lewis, through his attorney, E. Breen Arntz, Esq., and Cheyenne Nalder, through her attorney, David A. Stephens, Esq., to hereby stipulate as follows:

1. Gary Lewis has been continuously absent from the State of Nevada since at least 2010.

2. Gary Lewis has not been subject to service of process in Nevada since at least 2010 to the present.

3. Gary Lewis has been a resident and subject to service of process in California from 2010 to the present.

4. Plaintiff obtained a judgment against GARY LEWIS which was entered on August 26, 2008. Because the statute of limitations on the 2008 judgment had been tolled as a result of GARY LEWIS' absence from the State of Nevada pursuant to NRS 11.300, Plaintiff obtained an amended judgment that was entered on May 18, 2018.

5. Plaintiff filed an action on the judgment under *Mandlebaum v. Gregovich*, 50 P. 849, 851

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(Nev. 1897), in the alternative, with a personal injury action should the judgment be invalid.

6. Gary Lewis does not believe there is a valid statute of limitations defense and Gary Lewis does not want to incur greater fees or damages.

7. Cheyenne Nalder is willing to allow judgment to enter in the amount of the judgment plus interest minus the payment of $15,000.00 and without additional damages, attorney fees or costs. Plaintiff is also willing to accept the judgment so calculated as the resulting judgment of the alternatively pled injury claim. Plaintiff will not seek additional attorney fees from Defendant.

8. The parties stipulate to a judgment in favor of Cheyenne Nalder in the sum of $3,500,000.00, plus interest through September 4, 2018 of $2,211,820.41 minus $15,000.00 paid for a total judgment of $5,696,820.41, with interest thereon at the legal rate from September 4, 2018, until paid in full.

9. The attached judgment may be signed and entered by the Court.

Dated this 12 day of September, 2018

David A. Stephens, Esq.
Nevada Bar No. 00902
Stephens & Bywater
3636 North Rancho Drive
Las Vegas, Nevada 89130
Attorney for Cheyenne Nalder

E. Breen Arntz, Esq.
Nevada Bar No. 03853
5545 Mountain Vista, #E
Las Vegas, NV 89120
Attorney for Gary Lewis

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JMT (CIV)
David A. Stephens, Esq.
Nevada Bar No. 00902
Stephens & Bywater, P.C.
3636 North Rancho Drive
Las Vegas, Nevada 89130
Telephone: (702) 656-2355
Facsimile: (702) 656-2776
Email: dstephens@sgblawfirm.com
Attorney for Cheyenne Nalder

DISTRICT COURT

CLARK COUNTY, NEVADA

CHEYENNE NALDER, Plaintiff, vs. GARY LEWIS, Defendant.	Case No. A-18-772220-C Dept. No. XXIX

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JUDGMENT

Date: n/a
Time: n/a

Pursuant to the stipulation of the parties, and good cause appearing therefore,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED, that Plaintiff Cheyenne Nalder have and recover judgment from Defendant Gary Lewis in the sum of three million five hundred thousand dollars, ($3,500,000.00), plus prejudgment interest through September 4, 2018 in the sum of two million two hundred eleven thousand eight hundred twenty and 41/100 dollars, ($2,211,820.41), minus fifteen thousand dollars ,($15,000.00), previously paid to Cheyenne Nalder,

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for a total judgment of five million six hundred ninety six thousand eight hundred twenty and 41/100 dollars, ($5,696,820.41), with interest thereon at the legal rate from September 4, 2018, until paid in full.

DATED this _____ day of September, 2018.

_____
DISTRICT JUDGE

Submitted by:

STEPHENS & BYWATER, P.C.

_____
DAVID A. STEPHENS, ESQ.
Nevada Bar No. 00902
3636 North Rancho Drive
Las Vegas, Nevada 89130
Attorneys for Plaintiff

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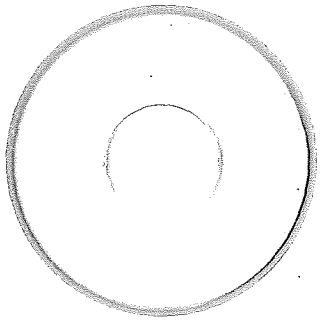
EXHIBIT "I"

ATKIN WINNER & SHERROD

Nalder

v

UAIC



Video Transcript of
January 09,2019
Hearing on Motions-Dept 20

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NEO
MATTHEW J. DOUGLAS
Nevada Bar No. 11371
ATKIN WINNER & SHERROD
1117 South Rancho Drive
Las Vegas, Nevada 89102
Phone (702) 243-7000
Facsimile (702) 243-7059
mdouglas@awslawyers.com

Attorneys for Intervenor United Automobile Insurance Company

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

CHEYANNE NALDER,

Plaintiff,

vs.

GARY LEWIS and DOES I through V, inclusive,

Defendants,

UNITED AUTOMOBILE INSURANCE COMPANY,

Intervenor.

GARY LEWIS,

Third Party Plaintiff,

vs.

UNITED AUTOMOBILE INSURANCE COMPANY, RANDALL TINDALL, ESQ. and RESNICK & LOUIS, P.C., and DOES I through V.,

Third Party Defendants.

CASE NO.: 07A549111
DEPT. NO.: XX

Consolidated with
CASE NO.: A-18-772220-C
DEPT. NO.: XX.

NOTICE OF ENTRY OF ORDER ON MOTIONS HEARD ON JANUARY 9, 2019

TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

ATKIN WINNER & SHERROD LTD
A NEVADA LAW FIRM

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Case Number: 07A549111

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PLEASE TAKE NOTICE that the attached **ORDER ON MOTIONS HEARD ON JANUARY 9, 2019** was entered by the Court on the 14th day of February 2019.

DATED this 15th day of February 2019.

ATKIN WINNER & SHERROD

Kelly M. Smith #9192 for

Matthew J. Douglas
Nevada Bar No.11371
1117 South Rancho Drive
Las Vegas, Nevada 89102
Attorneys for Intervenor UNITED AUTOMOBILE INSURANCE COMPANY

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CERTIFICATE OF SERVICE

I certify that on this 15th day of February, the foregoing **NOTICE OF ENTRY ORDER ON MOTIONS HEARD ON JANUARY 9, 2019** was served on the following by:

[XX] BY WIZNET pursuant to NEFR 9 this document(s) was electronically served through Odyssey CM/ECF for the above-entitled case to all the parties on the Service List maintained on Odyssey's website for this case on the date specified.

David Stephens, Esq.
STEPHENS & BYWATER, P.C.
3636 North Rancho Drive
Las Vegas, NV 89130
Attorney for Plaintiff

Thomas Christensen, Esq.
CHRISTENSEN LAW OFFICES
1000 S. Valley View Blvd.
Las Vegas, NV. 89107
Counsel for Third Party Plaintiff Lewis

Breen Arntz, Esq.
5545 S. Mountain Vista St. Suite F
Las Vegas, NV 89120
Additional Attorney for Defendant Lewis

Randall Tindall, Esq.
Carissa Christensen, Esq.
RESNICK & LOUIS, P.C.
8925 West Russell Road Suite 220
Las Vegas, NV 89148
Attorney for Defendant Lewis

Daniel Polsenberg, Esq.
LEWIS ROCA ROTHGERBER
CHRISTIE, LLP
3993 Howard Hughes Pkwy., Suite 600
Las Vegas, NV. 89169
Counsel for Third-Party Defendants
Tindal and Resnick & Louis

An employee of ATKIN WINNER & SHERROD

ATKIN WINNER & SHERROD LTD
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Steven D. Grierson
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ORDR
MATTHEW J. DOUGLAS
Nevada Bar No. 11371
ATKIN WINNER & SHERROD
1117 South Rancho Drive
Las Vegas, Nevada 89102
Phone (702) 243-7000
Facsimile (702) 243-7059
mdouglas@awslawyers.com

Attorneys for Intervenor United Automobile Insurance Company

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

CHEYANNE NALDER,

Plaintiff,

vs.

GARY LEWIS and DOES I through V, inclusive,

Defendants,

UNITED AUTOMOBILE INSURANCE COMPANY,

Intervenor.

GARY LEWIS,

Third Party Plaintiff,

vs.

UNITED AUTOMOBILE INSURANCE COMPANY, RANDALL TINDALL, ESQ. and RESNICK & LOUIS, P.C., and DOES I through V.,

Third Party Defendants.

CASE NO.: 07A549111
DEPT. NO.: 20

Consolidated with
CASE NO.: A-18-772220-C
DEPT. NO.: 20.

ORDER ON MOTIONS HEARD JANUARY 9th, 2019

This matter having come on for hearing on January 9th, 2019, in Department XX, before

ATKIN WINNER & SHERROD
A NEVADA LAW FIRM

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Case Number: 07A549111

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the Honorable Eric Johnson, on (1) Third Party Plaintiff Lewis' Motion for Relief from Orders and Joinder in Motions for Relief from Orders on Order Shortening Time, (2) Intervenor United Automobile Insurance Company's ("UAIC") Counter-Motion to Stay Pending Appeal, (3) Intervenor UAIC's Motion to Dismiss Plaintiff's Complaint (Case No. A-18-772220-C), (4) Defendant Lewis' (through Breen Arntz, Esq.) withdrawals of Defendant Lewis Motions to Dismiss filed in case No. A-18-772220-C and case no. 07A549111 and Defendants Lewis' Motions for Relief from Judgment pursuant to N.R.C.P. 60 in case No. A-18-772220-C and case no. 07A549111; (5) Defendant Lewis Motions to Dismiss (through Randall Tindall, Esq.) filed in case No. A-18-772220-C and case no. 07A549111 and Defendants Lewis' Motions for Relief from Judgment pursuant to N.R.C.P. 60 in case No. A-18-772220-C and case no. 07A549111; (6) UAIC's Oral Motion to Continue Defendant Lewis Motions to Dismiss (through Randall Tindall, Esq.) filed in case No. A-18-772220-C and case no. 07A549111 and Defendants Lewis' Motions for Relief from Judgment pursuant to N.R.C.P. 60 in case No. A-18-772220-C and case no. 07A549111 pending new counsel; (7) UAIC's Motion for an Evidentiary hearing for a fraud upon the court; Plaintiff appearing through her counsel of record David Stephens, Esq. of Stephens & Bywater, and Defendant Lewis appearing through his counsel of record, Breen Arntz, Esq., Intervenor/Third Party Defendant UAIC appearing through its counsel of record, Thomas E. Winner, Esq. & Matthew J. Douglas, Esq. of the Law Firm of Atkin Winner and Sherrod, Third Party Plaintiff Lewis appearing through his counsel of record Thomas Christensen, Esq. of The Christensen Law Offices, and Third Party Defendants Randall Tindall and Resnick & Louis P.C. appearing through their Counsel of record Dan R. Waite, Esq. of Lewis Roca Rothgerber Christie, LLP, the Court having reviewed the pleadings and documents on file herein, and consideration given to hearing at oral argument, finds as follows:

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FINDINGS OF FACT

1. That the issues of law on second certified question before the Nevada Supreme Court in *James Nalder, Guardian Ad Litem on behalf of Cheyanne Nalder; and Gary Lewis, individually v. United Automobile Insurance Company,* case no. 70504, are substantially similar and/or related to issues of law in these consolidated cases;
2. That the first and second claims for relief of Plaintiff Nalder in her Complaint in case no. A-18-772220-C, herein, seeking a new judgment on her original judgment, entered in case no. 07A549111 and seeking Declaratory relief, respectively, contain issues of law which substantially similar and/or related to issues of law on a second certified question before the Nevada Supreme Court in *James Nalder, Guardian Ad Litem on behalf of Cheyanne Nalder; and Gary Lewis, individually v. United Automobile Insurance Company,* case no. 70504;
3. That the third claim for relief of Plaintiff Nalder in her Complaint in case no. A-18-772220-C, herein, seeking general and special damages related to a July 2007 automobile accident have been previously litigated or, could have been litigated, in her original action, Case no. 07A549111, herein;
4. This case is unusual but the Court does not find any unethical behavior by either Mr. Christensen or Mr. Arntz.

CONCLUSIONS OF LAW

1. Pursuant to N.R.C.P. 24 and N.R.S. 12.130 UAIC has a shown right and interest to intervene in these matters;
2. That the third claim for relief of Plaintiff Nalder in her Complaint in case no. A-18-772220-C, herein, seeking general and special damages related to the July 2007 automobile accident are precluded as same have been previously litigated or, could

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have been previously litigated in Case No. 07A549111, herein, pursuant to the factor as set forth *Five Star Capital Corp. v. Ruby, 124* Nev. 1048, 1054-55, 194 P.3d 709,713 (2008).

3. That the first claim for relief of Plaintiff Nalder in her Complaint in case no. A-18-772220-C, herein, seeking a new judgment on her original 2007 judgment from case no. 07A549111 is not a valid cause of action and the Court would dismiss same under the *Medina* decision, but based upon the request of Counsel for Plaintiff David Stephens, Plaintiff's first claim for relief will be stayed pending decision in *James Nalder, Guardian Ad Litem on behalf of Cheyanne Nalder; and Gary Lewis, individually v. United Automobile Insurance Company,* case no. 70504;

ORDER

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Third Party Plaintiff Lewis' Motion for Relief from Orders and Joinder in all other Motions for Relief from Orders on Order Shortening Time, as well as Plaintiff Nalder's Motion for Relief from Orders, are DENIED, for the reasons stated in the record; and,

IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED Intervenor's UAIC's Counter-Motion to Stay Pending Appeal is GRANTED, for ther reasons stated in the record, and Plaintiff Nalder's first and second claims for relief in her Complaint in case no. A-18-772220-C, herein, (claim 1) seeking a new judgment on her original judgment entered in case no. 07A549111 and, (claim 2) seeking Declaratory relief, respectively, are STAYED pending further ruling by the Nevada Supreme Court in *James Nalder, Guardian Ad Litem on behalf of Cheyanne Nalder; and Gary Lewis, individually v. United Automobile Insurance Company,* case no. 70504; and

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IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED Intervenor UAIC's Motion to Dismiss Plaintiff's Complaint (Case No. A-18-772220-C) is GRANTED IN PART and DEFERRED IN PART, such that Plaintiff Nalder's third claim for relief in her Complaint in case no. A-18-772220-C, herein, (claim 3) seeking general and special damages related to and arising from the July 2007 automobile accident, is DISMISSED, but ruling on the Motion to Dismiss Plaintiff Nalder's first and second claims for relief in her Complaint in case no. A-18-772220-C, herein, seeking a new judgment on her original judgment, entered in case no. 07A549111 and seeking Declaratory relief, respectively, are DEFERRED pending further ruling by the Nevada Supreme Court in *James Nalder, Guardian Ad Litem on behalf of Cheyanne Nalder; and Gary Lewis, individually v. United Automobile Insurance Company,* case no. 70504;

IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED that Defendant Lewis (through Breen Arntz, Esq.) WITHDRAWALS of Defendant Lewis' Motions to Dismiss filed in case No. A-18-772220-C as well as case no. 07A549111 and Defendants Lewis' Motions for Relief from Judgment pursuant to N.R.C.P. 60 in case No. A-18-772220-C as well as case no. 07A549111 (filed by Randall Tindall, Esq.) are hereby WITHDRAWN;

IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED that Defendant Lewis Motions to Dismiss filed in case No. A-18-772220-C as well as case no. 07A549111 and Defendants Lewis' Motions for Relief from Judgment pursuant to N.R.C.P. 60 in case No. A-18-772220-C as well as case no. 07A549111 (through Randall Tindall, Esq.) are all hereby STRICKEN per WITHDRAWAL by Counsel for Lewis, Breen Arntz, Esq.;

IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED that UAIC's Oral Motion to Continue Defendant Lewis' Motions to Dismiss filed in case No. A-18-772220-C as well as case no. 07A549111 and Defendants Lewis' Motions for Relief from Judgment

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pursuant to N.R.C.P. 60 in case No. A-18-772220-C as well as case no. 07A549111 (through Randall Tindall, Esq.) pending new counsel to be retained by UAIC, is hereby DENIED WITHOUT PREJUDICE for the reasons stated in the record;

IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED UAIC's Motion for an Evidentiary hearing for a fraud upon the court is hereby DENIED WITHOUT PREJUDICE for the reasons stated in the record.

IT IS SO ORDERED.

DATED this 11 day of FEBRUARY 2019.

DISTRICT JUDGE
ERIC JOHNSON

Submitted by:

ATKIN WINNER & SHERROD, LTD.

MATTHEW J. DOUGLAS, Esq.
Nevada Bar No. 11371
1117 South Rancho Drive
Las Vegas, Nevada 89102
Attorneys for Intervenor UAIC

ATKIN WINNER & SHERROD
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NEO
MATTHEW J. DOUGLAS
Nevada Bar No. 11371
ATKIN WINNER & SHERROD
1117 South Rancho Drive
Las Vegas, Nevada 89102
Phone (702) 243-7000
Facsimile (702) 243-7059
mdouglas@awslawyers.com

Attorneys for Intervenor United Automobile Insurance Company

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

CHEYANNE NALDER,

Plaintiff,

vs.

GARY LEWIS and DOES I through V, inclusive,

Defendants,

UNITED AUTOMOBILE INSURANCE COMPANY,

Intervenor.

GARY LEWIS,

Third Party Plaintiff,

vs.

UNITED AUTOMOBILE INSURANCE COMPANY, RANDALL TINDALL, ESQ. and RESNICK & LOUIS, P.C., and DOES I through V.,

Third Party Defendants.

CASE NO.: 07A549111
DEPT. NO.: XX

Consolidated with
CASE NO.: A-18-772220-C
DEPT. NO.: XX.

NOTICE OF ENTRY OF ORDER ON MOTIONS HEARD ON JANUARY 23, 2019

TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

ATKIN WINNER & SHERROD LTD
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Case Number: 07A549111

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PLEASE TAKE NOTICE that the attached **ORDER ON MOTIONS HEARD ON JANUARY 23, 2019** was entered by the Court on the 14th day of February 2019.

DATED this 15th day of February 2019.

ATKIN WINNER & SHERROD

Kelly M. Smith #9192 for

Matthew J. Douglas
Nevada Bar No.11371
1117 South Rancho Drive
Las Vegas, Nevada 89102
Attorneys for Intervenor UNITED AUTOMOBILE INSURANCE COMPANY

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CERTIFICATE OF SERVICE

I certify that on this 15th day of February, the foregoing **NOTICE OF ENTRY ORDER ON MOTIONS HEARD ON JANUARY 23, 2019** was served on the following by:

[XX] BY WIZNET pursuant to NEFR 9 this document(s) was electronically served through Odyssey CM/ECF for the above-entitled case to all the parties on the Service List maintained on Odyssey's website for this case on the date specified.

David Stephens, Esq.
STEPHENS & BYWATER, P.C.
3636 North Rancho Drive
Las Vegas, NV 89130
Attorney for Plaintiff

Thomas Christensen, Esq.
CHRISTENSEN LAW OFFICES
1000 S. Valley View Blvd.
Las Vegas, NV. 89107
Counsel for Third Party Plaintiff Lewis

Breen Arntz, Esq.
5545 S. Mountain Vista St. Suite F
Las Vegas, NV 89120
Additional Attorney for Defendant Lewis

Randall Tindall, Esq.
Carissa Christensen, Esq.
RESNICK & LOUIS, P.C.
8925 West Russell Road Suite 220
Las Vegas, NV 89148
Attorney for Defendant Lewis

Daniel Polsenberg, Esq.
LEWIS ROCA ROTHGERBER CHRISTIE, LLP
3993 Howard Hughes Pkwy., Suite 600
Las Vegas, NV. 89169
Counsel for Third-Party Defendants Tindal and Resnick & Louis

An employee of ATKIN WINNER & SHERROD

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ORDR
MATTHEW J. DOUGLAS
Nevada Bar No. 11371
ATKIN WINNER & SHERROD
1117 South Rancho Drive
Las Vegas, Nevada 89102
Phone (702) 243-7000
Facsimile (702) 243-7059
mdouglas@awslawyers.com

Attorneys for Intervenor United Automobile Insurance Company

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

CHEYANNE NALDER,

Plaintiff,

vs.

GARY LEWIS and DOES I through V, inclusive,

Defendants,

UNITED AUTOMOBILE INSURANCE COMPANY,

Intervenor.

GARY LEWIS,

Third Party Plaintiff,

vs.

UNITED AUTOMOBILE INSURANCE COMPANY, RANDALL TINDALL, ESQ. and RESNICK & LOUIS, P.C., and DOES 1 through V.,

Third Party Defendants.

CASE NO.: 07A549111
DEPT. NO.: 20

Consolidated with
CASE NO.: A-18-772220-C
DEPT. NO.: 20.

ORDER ON MOTIONS FOR JANUARY 23rd, 2019

This matter having been set for hearing on January 23rd, 2019, in Department XX, before

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Case Number: 07A549111

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the Honorable Eric Johnson, on (1) Plaintiff Nalder's Motion for Summary Judgment and Relief from Order Pursuant to N.R.C.P. 60(b), (2) Intervenor United Automobile Insurance Company's ("UAIC") Counter-Motion to Stay Plaintiff's Summary Judgment Pending Appeal, (3) Intervenor UAIC's Motion to Dismiss Third-Party Plaintiff Lewis's Complaint (Case No. A-18-772220-C), (4) Third-Party Plaintiff Lewis' Counter-Motion for summary judgment on his third-party complaint (case No. A-18-772220-C), (5) Intervenor UAIC's counter-motions to: (a) Strike the affidavit of Lewis for the counter-motion for summary judgment on the third-party complaint, and/or (b) Stay said counter-motion for summary judgment and other proceedings on the third party complaint pending Appellate ruling, and/or (c) Stay counter-Motion for summary judgment on the third party complaint pending discovery pursuant to N.R.C.P. 56 (f); the Court having reviewed the pleadings and documents on file herein, issued a minute order, dated January 22, 2018, which vacated the scheduled January 23, 2019 hearings on the above-noted motions and, per same minute order, the Court finds as follows:

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FINDINGS OF FACT

1. That the issues of law on second certified question before the Nevada Supreme Court in *James Nalder, Guardian Ad Litem on behalf of Cheyanne Nalder; and Gary Lewis, individually v. United Automobile Insurance Company,* case no. 70504, are substantially similar and/or related to issues of law in these consolidated cases;
2. That the first and second claims for relief of Plaintiff Nalder in her Complaint in case no. A-18-772220-C, herein, seeking a new judgment on her original judgment, entered in case no. 07A549111 and seeking Declaratory relief, respectively, contain issues of law which substantially similar and/or related to issues of law on a second certified question before the Nevada Supreme Court in *James Nalder, Guardian Ad Litem on behalf of Cheyanne Nalder; and Gary Lewis, individually v. United*

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Automobile Insurance Company, case no. 70504;

3. That the claims of bad faith and other extra-contractual claims alleged by third party plaintiff Gary Lewis in his third party complaint against Intervenor UAIC, herein, in case no. A-18-772220-C, contain issues of law which substantially similar and/or related to issues of law on a second certified question before the Nevada Supreme Court in *James Nalder, Guardian Ad Litem on behalf of Cheyanne Nalder; and Gary Lewis, individually v. United Automobile Insurance Company*, case no. 70504 .

CONCLUSIONS OF LAW

1. That based upon the hearings in this matter, on January 9th, 2019, and, order entered on same hearings by the court, the issues raised in Plaintiff Nalder's Motion for sumamry judgment are the same as those currently pending before the Nevada Supreme Court and, accordingly, Plaintiff's Motion will be stayed, in the interest of judicial economy, pending decision in *James Nalder, Guardian Ad Litem on behalf of Cheyanne Nalder; and Gary Lewis, individually v. United Automobile Insurance Company*, case no. 70504;
2. That the issues raised in Third Party Plaintiff Lewis' Third party complaint, and the Motion to dismiss same third party complaint as well as the motion for summary judgment on the third party complaint, are the same as those currently pending before the Nevada Supreme Court and, accordingly, Third Party Plaintiff Lewis' third party complaint and the Motion to dismiss same third party complainat and, counter-motion for summary judgment on same third party complaint, will be stayed, in the interest of judicial economy, pending decision in *James Nalder, Guardian Ad Litem on behalf of Cheyanne Nalder; and Gary Lewis, individually v. United Automobile Insurance Company*, case no. 70504.

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ORDER

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Plaintiff Nalder's Motion for Summary judgment and Relief from Orders pursuant to N.R.C.P. 60 (Case No. A-18-772220-C) is STAYED, pending further ruling by the Nevada Supreme Court in *James Nalder, Guardian Ad Litem on behalf of Cheyanne Nalder; and Gary Lewis, individually v. United Automobile Insurance Company,* case no. 70504; and

IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED Intervenor's UAIC's Counter-Motion to Stay Plaintiff Nalder's Motion for summary judgment and proceedings pending Appeal is GRANTED, because the court finds the issues raised in Plaintiff's Motion are the same as those currently before the Nevada Supreme Court in *James Nalder, Guardian Ad Litem on behalf of Cheyanne Nalder; and Gary Lewis, individually v. United Automobile Insurance Company,* case no. 70504, and Plaintiff Nalder's Motion for summary judgment is STAYED pending further ruling by the Nevada Supreme Court; and

IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED Intervenor UAIC's Motion to Dismiss Third Party Plaintiff Lewis's Complaint and Third Party Plaintiff Lewis' Counter-Motion for Summary Judgment (Case No. A-18-772220-C) are STAYED pending further ruling by the Nevada Supreme Court in *James Nalder, Guardian Ad Litem on behalf of Cheyanne Nalder; and Gary Lewis, individually v. United Automobile Insurance Company,* case no. 70504; and

IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED Intervenor UAIC's Counter-Motion to Stay UAIC's Motion to Dismiss Lewis' Third Party Complaint and Third Party Plaintiff Lewis' Counter-Motion for summary judgment and proceedings (Case No. A-18-772220-C) pending Appeal is GRANTED, because the court finds the issues raised in said Motions are the same as those currently before the Nevada Supreme Court in *James Nalder,*

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Guardian Ad Litem on behalf of Cheyanne Nalder; and Gary Lewis, individually v. United Automobile Insurance Company, case no. 70504, and Third Party Plaintiff Lewis' Motion for summary judgment and Third Party Plaintiff Lewis' Counter-Motion for summary judgment and proceedings (Case No. A-18-772220-C) are STAYED pending further ruling by the Nevada Supreme Court; and

IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED Intervenor UAIC's Counter-Motion to Strike Lewis' Affidavit for his Counter-Motion for summary Judgment on his third-party complaint as well as UAIC's Counter-motion for additional discovery pursuant to N.R.C.P. 56(f) (Case No. A-18-772220-C) are DENIED WITHOUT PREJUDICE.

IT IS SO ORDERED.

DATED this 11 day of FEBRUARY 2019.

DISTRICT JUDGE
ERIC JOHNSON

Submitted by:

ATKIN WINNER & SHERROD, LTD.

MATTHEW J. DOUGLAS, Esq.
Nevada Bar No. 11371
1117 South Rancho Drive
Las Vegas, Nevada 89102
Attorneys for Intervenor UAIC

CASE NO.: 07A549111
DEPT. NO.: 20

Consolidated with
CASE NO.: A-18-772220-C
DEPT. NO.: 20

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MOT

Thomas Christensen, Esq.
Nevada Bar No. 2326
1000 S. Valley View Blvd.
Las Vegas, Nevada 89107
T: (702) 870-1000
F: (702) 870-6152
courtnotices@injuryhelpnow.com
Attorney for Third Party Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

JAMES NALDER, Plaintiff, vs. GARY LEWIS and DOES I through V, inclusive Defendants,	CASE NO: 07A549111 DEPT. NO: XX (consolidated with 18-772220)
UNITED AUTOMOBILE INSURANCE COMPANY, Intervenor.	**MOTION FOR RECONSIDERATION, MOTION FOR HEARING AND MOTION FOR RELIEF FROM ORDER**
GARY LEWIS, Third Party Plaintiff, vs. UNITED AUTOMOBILE INSURANCE COMPANY, And DOES I through V, Third Party Defendants.	

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Third party Plaintiff, Gary Lewis, by and through his counsel, Thomas Christensen, Esq., hereby presents his Motion for Reconsideration, Motion for Hearing and Motion for Relief from Order. UAIC continues to confuse issues and misstate the facts and the law to gain advantage over its insured, Gary Lewis. UAIC has led Judge Johnson to deny the parties due process and

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make improper, ex-parte decisions that must be corrected. If the Court continues to ignore black letter law and go out of its way to rule in favor of UAIC, the Court is demonstrating bias and prejudice in favor of UAIC. This is not proper. This Motion is made and based upon the papers and pleadings on file herein, the Points and Authorities attached hereto and any oral argument that may be permitted by the Court.

Dated this 1st day of March, 2019.

CHRISTENSEN LAW OFFICES

/s/ #7019

Thomas Christensen, Esq.
Nevada Bar No. 2326
1000 S. Valley View Blvd.
Las Vegas, Nevada 89107
T: (702) 870-1000
courtnotices@injuryhelpnow.com
Attorney for Third Party Plaintiff

NOTICE OF MOTION

TO: ALL INTERESTED PARTIES AND THEIR COUNSEL

PLEASE TAKE NOTICE that the foregoing MOTION FOR RECONSIDERATION, MOTION FOR HEARING AND MOTION FOR RELIEF FROM ORDER will come on for hearing before the above-entitled Court on the 3rd day of APRIL, 2019 at 8:30 AM a.m. in Department 20 of the Eighth Judicial District Court in Clark County, Nevada.

Dated this 1st day of March 2019.

CHRISTENSEN LAW OFFICES

/s/ #7019

Thomas Christensen, Esq.
Nevada Bar No. 2326
1000 S. Valley View Blvd.
Las Vegas, Nevada 89107
T: (702) 870-1000
courtnotices@injuryhelpnow.com
Attorney for Third Party Plaintiff

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POINTS AND AUTHORITIES

I. INTRODUCTION

This court recently issued an order which denied due process to the parties, is totally unsupported by the law, and is causing great prejudice to the parties. This order is void. From the beginning, this court has refused to follow black letter law and now apparently refuses to allow the parties to file any oppositions before ruling on known contested motions. This type of procedure is appalling. If the court refuses to vacate this void order, it will be clear evidence of bias and prejudice on the part of the Court.

II. FACTS

The Court is well aware of the factual posture of this case. Attached to this motion, as Exhibit 1, is a Motion to Dismiss the SLAPP lawsuit that was recently filed by UAIC. The attached pleading contains a complete recitation of the facts regarding this litigation. The Nevada Supreme Court is **NOT deciding if the judgment is expired**. Rather, it is deciding a very narrow question of law:

> In an action against an insurer for breach of the duty to defend its insured, can the plaintiff continue to seek consequential damages in the amount of a default judgment obtained against the insured when the judgment against the insured was not renewed and the time for doing so expired while the action against the insurer was pending?

This is the way the question is phrased.

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By definition of a certified question, the Nevada Supreme Court is answering **only** the narrow question of law as set forth in the above question, as phrased by the certifying court, which is the Ninth Circuit Court of Appeals. It is obvious that the Nevada Supreme Court ***is not*** ruling on whether or not the time for renewal has passed; instead, that is assumed in the question. It is also obvious that the question does not even address the timing of an action on the judgment. And, certainly the certified question does not say anything about an expired judgment or void judgment. The factual assumption in the question is that the time for filing a renewal has passed. That is the factual assumption the Ninth Circuit made in phrasing the question. The Ninth Circuit, or more likely a trial court, where issues of fact are necessarily decided, like the Federal District Court on remand, or this court, which has jurisdiction over the parties to the judgment, will ultimately have to determine the factual basis of this question.

The question presented *in this case* is whether a party can bring an action on a judgment if there are applicable tolling statutes that toll the statute of limitations. This is not a renewal of the judgment. An action on a judgment results in a new judgment, not a renewed judgment. The issue in this case is not being dealt with in the certified question.

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Also, attached to this motion as Exhibit 2 is the transcript from the January 9, 2019 hearing. This was the only hearing that has been held in this case. The transcript clearly demonstrates that this court ***did not completely stay*** this action even orally, on the 9th of January, 2019. The Court specifically says, regarding issues surrounding the settlement agreement of Nalder and Lewis, that the Court will deal with that at the January 23, 2019 hearing. The Offer of Judgment was made on January 11, 2019. It was accepted, filed and judgment entered on January 22, 2019. The Court then issued a minute order to stay the cases and vacate the January 23, 2019 hearing. This Order was not reduced to a written, enforceable **order until February 11, 2019.** It was not served on the parties until February 15, 2019.

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III. ISSUE PRESENTED

Can this Court, or any Court, rule on an ex-parte motion denying the parties the opportunity to be heard and void a judgment entered by the clerk, without having issued an order staying the proceedings.

IV. ARGUMENT

Nalder served an Offer of Judgment on Lewis on January 11, 2019. This offer was accepted and judgment was entered by the Court Clerk pursuant to NRCP 68

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on January 22, 2019. The only written order staying anything in these consolidated cases was not signed until February 11, 2019 and served on February 15, 2019. The Court's ex-parte ruling on February 14, 2019, that the judgment was void because the case was stayed at the time judgment was entered, is clearly erroneous and void. This type of error allows for relief pursuant to NRCP 60. Until a written order is entered, the case could not have been stayed. The Nevada Supreme Court has stated, "Consequently, we hold that dispositional court orders that are not administrative in nature, but deal with the procedural posture or merits of the underlying controversy, **must be written, signed, and filed before they become effective**. *State, Div. Child Fam. Servs. v. Dist. Ct.*, 120 Nev. 445, 92 P.3d 1239 (Nev. 2004). The reasons for that are many. "Prior to the entry of a final judgment, the district court remains free to reconsider and issue a written judgment different from its oral pronouncement." *Rust v. Clark County School Dist.*, 747 P. 2d 1380 - Nev: Supreme Court 1987 *citing* *Tener v. Babcock*, 97 Nev. 369, 632 P.2d 1140 (1981); *Lagrange Constr. v. Del E. Webb Corp.*, 83 Nev. 524, 435 P.2d 515 (1967); See also *Rae v. All American Life & Cas. Co.*, 95 Nev. 920, 605 P.2d 196 (1979).

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Even if the case was stayed, which it clearly was not, the parties can still settle and resolve the case during a stay. In fact, third party plaintiff Lewis and third party Defendant Tindall resolved and dismissed their claims during this same time frame. The case *Westside Chtr. Serv. v. Gray Line Tours*, 99 Nev. 456 (Nev. 1983), which has been cited by UAIC as authority for interfering with the parties settlement of the claims, is totally inapplicable to this situation. That case involved administrative action while a prior written judgment had been entered by a reviewing court and that judgment was on appeal to the Nevada Supreme Court.

V. CONCLUSION

The Court must vacate its order and reinstate the judgment reached by the parties, or in the alternative, vacate its order allow for briefing and set a hearing to provide an opportunity to be heard.

DATED this 1st day of March, 2019.

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THOMAS F. CHRISTENSEN, ESQ.
Nevada Bar 2326
CHRISTENSEN LAW OFFICES
1000 S. Valley View Blvd.
Las Vegas, NV 89107
T: 702-870-1000
courtnotices@injuryhelpnow.com
Attorney for third party plaintiff Gary Lewis

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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of CHRISTENSEN LAW OFFICES, LLC and that on this 1st day of March, 2019, I served a copy of the foregoing **MOTION FOR RECONSIDERATION, MOTION FOR HEARING AND MOTION FOR RELIEF FROM ORDER** as follows:

□ U.S. Mail—By depositing a true copy thereof in the U.S. mail, first class postage prepaid and addressed as listed below; and/or

XX E-Served through the Court's e-service system.

E. BREEN ARNTZ, ESQ.
Nevada Bar No. 3853
5545 Mountain Vista Ste. E
Las Vegas, Nevada 89120
T: (702) 384-8000
F: (702) 446-8164
breen@breen.com

David A. Stephens, Esq.
Stephens, Gourley & Bywater
3636 North Rancho Drive
Las Vegas, NV 89130
dstephens@sgblawfirm.com

Matthew Douglas, Esq.
Atkin Winner & Sherrod
1117 South Rancho Drive
Las Vegas, NV 89102
mdouglas@awslawyers.com



An employee of CHRISTENSEN LAW OFFICES, LLC.

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EXHIBIT 1

JAMES E. WHITMIRE, ESQ.
Nevada Bar No. 6533
jwhitmire@santoronevada.com
SANTORO WHITMIRE
10100 W. Charleston Blvd., Suite 250
Las Vegas, Nevada 89135
Telephone: 702/948-8771
Facsimile: 702/948-8773
Attorney for Defendant Thomas Christensen

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

UNITED AUTOMOBILE INSURANCE COMPANY, Plaintiff, vs. THOMAS CHRISTENSEN, an individual; E. BREEN ARNTZ, an individual; GARY LEWIS, an individual, Defendants.	Case No.: 2:18-cv-02269-JAD-PAL **DEFENDANT THOMAS CHRISTENSEN'S SPECIAL MOTION TO DISMISS PURSUANT TO NRS 41.660** **(Oral Argument Requested)**

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THOMAS CHRISTENSEN ("Defendant" or "Christensen"), by and through his counsel of record, James E. Whitmire, Esq. of the law firm Santoro Whitmire, Ltd., hereby files Defendant Thomas Christensen's Motion to Dismiss Pursuant to NRS 41.660. This Motion is made and based on the Points and Authorities set forth below, together with the pleadings and papers on file herein, and any oral argument that may be permitted by the Court.

Dated this 22nd day of February, 2019.

SANTORO WHITMIRE

/s/ James E. Whitmire
JAMES E. WHITMIRE, ESQ.
Nevada Bar No. 6533
SANTORO WHITMIRE
10100 W. Charleston Blvd., Suite 250
Las Vegas, Nevada 89135
Attorney for Defendant Thomas Christensen

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MEMORANDUM OF POINTS & AUTHORITIES

INTRODUCTION

This is a textbook Strategic Lawsuit Against Public Participation ("SLAPP") filed by a disgruntled insurer (Plaintiff UAIC) against its insured (Defendant Gary Lewis) and his two lawyers (Defendants Breen Arntz, Esq. and Thomas Christensen, Esq.).[1] In this case, UAIC has filed an improper Complaint, which asserts a medieval barratry claim against Defendant Christensen. UAIC, which has already been found to have breached its duty to defend by the Ninth Circuit Court of Appeals, is continuing its pattern of bad faith by lashing out at defendants and trying to punish them for advocating certain arguments in the United States' adversarial judicial system.[2] Simply put, UAIC, which has repeatedly lost certain arguments in this matter, is retaliating against its insured and seeking to impose personal liability on the insured's attorneys simply because they are advocating certain positions (as is their duty) on behalf of their client (UAIC's insured). Put another way, UAIC is attempting to chill and muzzle defendants in violation of the law.

UAIC's barratry claim is subject to immediate dismissal pursuant to Nevada's anti-SLAPP statute (NRS 41.660), which protects persons from civil liability arising out of good faith communication in furtherance of the right to petition a judicial body. Here, Christensen's Special Motion to Dismiss should be granted because Christensen satisfies the two-pronged test for dismissal. First, Christensen will make a threshold showing, by a preponderance of the

[1] A "SLAPP" lawsuit is "a meritless suit filed primarily to chill the defendant's exercise of First Amendment rights." Dickens v. Provident Life and Acc. Ins. Co., 11 Cal. Rptr. 3d 877, 882 (2004).

[2] United Automobile Insurance Company ("Plaintiff" or "UAIC") chose not to defend Mr. Lewis in a catastrophic personal injury lawsuit. As a result, a substantial default judgment was entered against its insureds in a state court action. Since then, UAIC has been unsuccessful in its never-ending efforts, at whatever cost, to evade responsibility for the judgment.

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evidence, that UAIC's claim is based on the defendant's free speech, petitioning or other protected activity. Second, UAIC cannot meet its burden to show a probability of prevailing on its claim. Not only does the First Amendment protect Christensen, so does the absolute litigation privilege given that Christensen and the co-defendants were at all times acting on behalf of their respective clients in furtherance of the litigation process. If allowed to proceed, the claims brought by UAIC would effectively chill Christensen and other attorneys from vigorously advocating for injured clients by forcing attorneys to defend themselves against claims for personal liability for purely strategic litigation decisions. Moreover, UAIC's claim is not even ripe for adjudication given ongoing proceedings involving this case.[3] Furthermore, UAIC cannot otherwise establish a barratry claim as the litigation brought about by Cheyanne Nalder brought by David A. Stephens, Esq. was a direct result of UAIC's arguments to the Ninth Circuit.

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I.

STATEMENT OF FACTS[4]

The following facts are based, in part, on express statements contained in Nalder v. United Auto Ins. Co., 824 F.3d 854 (9th Cir. 2016). The Nalder case directly involves Defendants Gary Lewis and Christensen. As discussed herein, the Nalder case has a complex procedural history, and the case has two underlying final judgments and is still ongoing in

[3] UAIC has been litigating the issues raised in its Complaint for several years now, and there are ongoing proceedings involving this case that are pending before the Nevada State District Court, the Nevada Supreme Court and the Ninth Circuit Court of Appeals. If anyone is guilty of multiplying the proceedings, it is UAIC.

[4] Given that anti-SLAPP motions to dismiss are to be treated like summary judgment motions, Christensen sets forth his statement of facts in numerical format consistent with LR 56-1.

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multiple different courts. Other statements of fact set forth herein are based on issues being litigated in other courts.[5]

The Underlying Collision

1. On July 8, 2007, Gary Lewis ("Lewis") ran over Cheyanne Nalder.[6]

2. At the time of the collision, Cheyanne (born April 4, 1998) was a nine-year-old girl.

3. This incident, which occurred on private property, caused catastrophic injuries.

Gary Lewis Was Insured by UAIC at the Time of the Collision

4. Lewis had taken out an automobile insurance policy with UAIC, which was renewable on a monthly basis.[7]

5. Before the accident, Lewis had received a statement instructing him that his renewal payment was due by June 30, 2007. The statement also specified that "[t]o avoid lapse in coverage, payment must be received prior to expiration of your policy." The statement listed June 30, 2007, as the policy's effective date and July 31, 2007, as its expiration date.[8]

6. Lewis paid to renew his policy on July 10, 2007, two days after the accident, but before the expiration of the policy.[9]

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[5] Consistent with this Court's Local Rules, Defendant is not attaching reams of documents filed in other courts and/or various court rulings. Defendant is attaching various docket sheets as exhibits to demonstrate to the Court various matters relevant to this Motion. To the extent the Court believes additional documents are necessary or helpful, Defendant will certainly provide whatever is deemed necessary to the Court. Leave to supplement is also sought if the Court believes a particular matter needs to be further supported.

[6] Nalder v. United Auto Ins. Co., 824 F.3d at 855.

[7] Id.

[8] Id.

[9] Id.

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UAIC Rejected a $15,000 Policy Limits Offer to Settle Without Informing Lewis, Denied the Claim, and Refused to Defend Lewis

7. James Nalder ("Nalder"), Cheyanne's father, made an offer to UAIC to settle her claim for $15,000, the insurance policy limit.

8. UAIC rejected the offer, arguing Lewis was not covered at the time of the accident because he did not renew the policy by June 30, 2007.

9. UAIC never informed Lewis that Nalder was willing to settle.[10]

The First Lawsuit – State Court Litigation/Underlying Case and Resulting Default Judgment

10. After UAIC rejected Nalder's offer, Nalder sued Lewis in Nevada state court (Case No. A-07-549111). See, Docket Sheet attached hereto as Ex. A.

11. UAIC was notified of the lawsuit but declined to defend Lewis or file a declaratory relief action regarding coverage.

12. Lewis failed to appear and answer the complaint.

13. As a result, Nalder obtained a default judgment against Lewis for $3,500,000. Notice of entry of judgment was filed on August 26, 2008.

Voluntary Assignment By Lewis Instead of Judicial Execution and Assignment

14. After the default judgment was entered, Lewis moved to California. Then Lewis and Nalder entered into a settlement agreement regarding collection of the default judgment from UAIC.

15. As part of the settlement, Lewis assigned to Nalder his rights to collect from UAIC all funds necessary to satisfy the Judgment plus interest.

[10] Id. at 856.

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The Second Lawsuit --
Federal Court Coverage Action, Whereby the Ninth Circuit
Court of Appeals Ultimately Found that UAIC Breached Its Duty to Defend

16. After the default judgment was entered, Nalder and Lewis then filed suit against UAIC in state court (State Court Case No. A-09-590967-C).[11] See, Docket Sheet attached hereto as Ex. B.

17. The case was then removed by UAIC to Federal Court. (Case No. 2:09-cv-01348-ECR-GWF). See, Docket Sheet attached hereto as Ex. C.

18. Nalder and Lewis alleged an action on the judgment, breach of contract, breach of the implied covenant of good faith and fair dealing, bad faith, fraud, and breach of section 686A.310 of the Nevada Revised Statutes.

19. UAIC moved for summary judgment on the basis that Lewis had no insurance coverage on the date of the accident. Nalder and Lewis opposed the motion arguing that Lewis was covered on the date of the accident because the renewal notice was ambiguous as to when payment had to be received to avoid a lapse in coverage, and that this ambiguity had to be construed in favor of the insured.[12]

20. The district court found that the contract could not be reasonably interpreted in favor of Nalder and Lewis' argument and granted summary judgment in favor of UAIC.[13]

21. An appeal thereafter occurred to the Ninth Circuit Court of Appeals (Case No. 11-15010) (Federal Court Appeal No. 1). See, Docket Sheet attached hereto as Ex. D.

22. On December 17, 2012, the Ninth Circuit reversed the District Court holding "that summary judgment 'with respect to whether there was coverage' was improper because the

[11] Id.

[12] Id.

[13] Id. at 856.

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'[p]laintiffs came forward with facts supporting their tenable legal position.' Nalder v. United Auto. Ins. Co., 500 F. App'x 701, 702 (9th Cir. 2012)."

23. On remand, on October 30, 2013, the district court (Hon. Robert C. Jones) granted partial summary judgment to each party. First, the court found the renewal statement ambiguous, so it construed this ambiguity against UAIC by finding that Lewis was covered on the date of the accident. Second, the court found that UAIC did not act in bad faith because it had a reasonable basis to dispute coverage.[14] Third, the court found that UAIC breached its duty to defend Lewis but awarded no damages "because [Lewis] did not incur any fees or costs in defending the underlying action" as he took a default judgment.[15] The court ordered UAIC "to pay Cheyanne Nalder the policy limits on Gary Lewis' implied insurance policy at the time of the accident."[16]

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24. UAIC made three payments on the judgment: on June 23, 2014; on June 25, 2014; and on March 5, 2015, but made no effort to defend Lewis or relieve him of the judgment against him.

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25. Both Nalder and Lewis appealed from Judge Jones' October 30, 2013 judgment (Case No. 13-17441) (Federal Court Appeal No. 2). See, Docket Sheet attached hereto as Ex. E.

26. Two issues have since been certified by the Ninth Circuit Court of Appeals to the Nevada Supreme Court (from Federal Court Appeal No. 2).

The First Certified Question in Appeal No. 2,
Which Has Been Answered in Favor of Gary Lewis and Against UAIC

27. The first certified question to the Nevada Supreme Court in Appeal No. 2 pertains

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[14] Id. The basis for reasonableness was the Court's prior erroneous summary judgment ruling.

[15] Id.

[16] Id. at 856.

to whether an insurer that breaches its duty to defend is liable for all foreseeable consequential damages to the breach. In Nalder v. UAIC, 824 F.3d 854 (9th Cir. 2016), the following question was certified to the Nevada Supreme 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?

Id. at 855.[17]

28. The first certified question was answered by the Nevada Supreme Court on December 13, 2018, wherein the Nevada Supreme Court held:

> In answering the certified question, we conclude that an insured may recover any damages consequential to the insurer's beach of its duty to defend. As a result, an insurer's liability for the breach of the duty to defend is not capped at the policy limits, even in the absence of bad faith.

Century Sur. Co. v. Andrew, 134 Nev. Adv. Rep. 100, 432 P.3d 180 (Nev. 2018).[18]

29. Accordingly, Judge Jones' October 30, 2013 decision limiting Gary Lewis' damages is erroneous such that Lewis has once again prevailed against UAIC.

The Second Certified Question in Appeal No. 2, Which Has Not Yet Been Answered

30. After the first certified question was fully briefed and pending before the Nevada Supreme Court, UAIC embarked on a new strategy putting its interests ahead of Lewis' interests.

[17] The first certified question arose in light of conflicting opinions within the Nevada District Court. Unlike Judge Jones' decision to cap damages in the underlying Nalder case, the Hon. Andrew P. Gordon issued a directly opposite decision in Andrew v. Century Sur. Co., 134 F. Supp. 3d 1249 (D. Nev. 2015) whereby Judge Gordon ruled "[t]here is no special rule for insurers that caps their liability at policy limits for a breach of the duty to defend." Id.

[18] As noted above, the certified question was the same in both the Nalder and Andrew cases.

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31. UAIC, mischaracterized Nevada law and brought in new facts and issues into the appeal process that were not addressed in the underlying case and were not part of the trial court record. UAIC claims that neither Nalder nor Lewis have standing to maintain a lawsuit against UAIC. UAIC argues that a renewal of judgment pursuant to NRS 17.214 was not timely filed such that claims are time barred pursuant to NRS 11.190(1)(a).[19]

32. As a result, UAIC contends unless Nalder takes some action in the underlying case to preserve the judgment against Lewis, Nalder can no longer recover damages above the $15,000.00 policy limit for breach of the contractual duty to defend.

33. In its Motion to Dismiss before the Ninth Circuit, UAIC ignored Nevada tolling statutes and inappropriately presented new evidence into the appeal process.[20]

34. The Ninth Circuit has concluded the parties failed to identify Nevada law that conclusively answers whether a plaintiff can recover consequential damages based on a judgment that is over six years old and the statute of limitations has possibly expired. The Ninth Circuit was also unable to determine whether the possible expiration of the statute of limitations on the judgment reduces the consequential damages to zero or if the damages should be calculated from the date when the suit against UAIC was initiated, or when the judgment was entered by the trial court.

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[19] Even though UAIC knew at this point that it owed a duty to defend Gary Lewis, UAIC did not undertake to investigate the factual basis or the legal grounds or to discuss this with Gary Lewis, nor did it seek declaratory relief on Lewis' behalf regarding the statute of limitations on the judgment. All of these actions would have been attempts to protect Gary Lewis. UAIC, instead, tried to protect itself and harm Lewis by filing a motion to dismiss Lewis' and Nalder's appeal with the Ninth Circuit for lack of standing.

[20] UAIC has ignored, among other things, applicable Nevada case law that holds that a six-year statute of limitation for enforcing a judgment is tolled so long as the judgment debtor has not resided in the State of Nevada. Mandlebaum v. Gregovich, 24 Nev. 154, 50 P. 849 (1897).

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35. The Ninth Circuit Court of Appeals has accordingly certified a second question to the Nevada Supreme Court, to wit:

> Under Nevada law, if a plaintiff has filed suit against an insurer seeking damages based on a separate judgment against its insured, does the insurer's liability expire when the statute of limitations on the judgment runs, notwithstanding that the suit was filed within the six-year life of the judgment?

Nalder v. United Auto. Ins. Co., 878 F.3d 754, 755-56 (9th Cir. 2017).

36. The Nevada Supreme Court has not, to date, answered the second certified question.

Nalder, Through David Stephens, Esq. , Recently Filed A Separate State Court Action to Preserve Her Judgment Against Lewis Pursuant to the Mandlebaum Decision

37. Even though Nalder believed the law is clear that UAIC is bound by the judgment, regardless of its continued validity against Lewis, Nalder took action in Nevada and California to assure and demonstrate the continued validity of the underlying judgment against Lewis as UAIC argued to the Ninth Circuit she should do. See, Docket Sheets attached hereto as Ex. F (A-18-772220-C) and Ex. G (California Case No. KS021378).

38. The Nevada and California state court actions are further harming Lewis and Nalder, but were undertaken to demonstrate that UAIC has again tried to evade responsibility by making misrepresentations to the Federal and State Courts and putting its interests ahead of its insured's interests.

39. Nalder hired David Stephens, Esq. to obtain a new judgment. First, David Stephens, Esq. obtained an amended judgment in Cheyanne's name as a result of her reaching the age of majority and because the statute of limitations was tolled because of Lewis' absence from Nevada by NRS 11.300. See, Ex. F attached hereto.

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40. A separate action was then filed with three distinct causes of action pled in the alternative. The first and main claim, an action on the amended judgment pursuant to Mandlebaum to obtain a new judgment and have the total principal and post-judgment interest reduced to judgment so that interest would now run on the new, larger principal amount. The second alternative action was one for declaratory relief as to when a renewal must be filed base on when the statute of limitations, which is subject to tolling provisions, is running on the judgment. The third cause of action was, should the court determine that the judgment is invalid, Cheyanne brought the injury claim within the applicable statute of limitations for injury claims - 2 years after her majority. Id..

41. Nalder also retained California counsel, who filed a judgment in California, which has a ten year statute of limitations regarding actions on a judgment. See, Ex. G attached hereto.

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42. Nalder maintains that all of these actions are unnecessary to the questions on appeal regarding UAIC's liability for the judgment. However, because UAIC contends it is necessary, and out of an abundance of caution and to maintain the judgment against Lewis, she brought them to demonstrate the actual way this issue should have been litigated in the State Court of Nevada, not for the first time in an appellate court at the tail end of an appeal.

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Lewis Welcomes a Defense Provided by UAIC, but Requests All Communication through Christensen Because of the Obvious Conflict With UAIC

43. After Stephens notified UAIC of the new action on a judgment, UAIC appointed counsel – Stephen Rogers -- to represent Lewis. Lewis welcomed an ethical representation by Rogers and asked that Rogers communicate through Christensen who represents Lewis against UAIC. Christensen requested that Rogers explain the basis for the proposed defense with case law and likelihood of success in overcoming the clear precedent in Mandlebaum that the

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judgment was valid because of Lewis' absence from the state of Nevada for eight years where the Mandlebaum judgment was still valid after a fifteen year absence from the state. See, Ex. F.

44. After Rogers declined to represent Lewis, UAIC appointed counsel -- Randall Tindal -- to represent Lewis without authority from Lewis. UAIC's appointment of Mr. Tindall was done without any discussion with Mr. Lewis or Mr. Lewis' independent counsel E. Breen Arntz or Lewis' counsel versus UAIC Thomas Christensen, Esq. Id.

Lewis Files a Second Action Against UAIC for Recent Acts of Fraud and Breach of the Covenant of Good Faith and Fair Dealing Occurring in 2018

45. UAIC has also failed to recognize and compensate co-defendant in this action, Breen Arntz, who is representing Lewis as the defendant in the ongoing state court action as independent Cumis/Hansen counsel.

46. UAIC had no right to control any defense given that UAIC breached its duties to Lewis long ago.

47. Lewis, in the most recent state court case filed an action against UAIC through Thomas Christensen for breach of the covenant of fair dealing and fraud in presenting a frivolous defense in his name without his authority.

48. UAIC's unilaterally imposed counsel, Mr. Tindall, has since withdrawn from representing Lewis because there is a conflict between Lewis and UAIC. See, Ex. F.

49. UAIC's strategy has, at all times, been to benefit UAIC at Lewis' expense.

50. The recent state court proceedings have involved Lewis' continued efforts to protect him and to preserve his claims against UAIC, which stem from its original wrongful refusal to defend.

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UAIC Retaliatory SLAPP Suit

51. Rather than letting the ongoing litigation process unfold in the Ninth Circuit Court of Appeals and Nevada District Court, UAIC has lashed out against its insured Lewis, and his attorneys by filing the instant lawsuit.

52. The only claim for relief asserted against Christensen is the barratry claim, which is UAIC's third claim for relief. ECF No. 1.

II.

NEVADA'S ANTI-SLAPP STATUTE

In 1993, the Nevada legislature enacted statutory provisions to protect persons making good faith communications to judicial bodies from being subject to retaliatory litigation arising from those communications, commonly called the "anti-Strategic Lawsuits Against Public Participation" or "anti-SLAPP" statute. John v. Douglas County School Dist., 219 P.3d 1276 (Nev. 2009). In 1997, the Legislature explained that SLAPP lawsuits abuse the judicial process by chilling, intimidating, and punishing individuals for their involvement in public affairs. 1997 Nev. Stat., Ch. 387, Preamble, at 1364.

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III.

SPECIAL ANTI-SLAPP MOTION TO DISMISS STANDARDS

To ensure that speech made in connection with a public issue is not chilled through abuse of the judicial process, Nevada's anti-SLAPP statute (NRS 41.660) authorizes a party to file a special motion to dismiss any cause of action that is "based upon a good faith communication in furtherance of the right to petition…" NRS 41.660(1)(a); Stubbs v. Strickland, 129 Nev. Adv. Op. 15, 297 P.3d 326, 329 (2013).

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A. Nevada Substantive Law Applies to This Action

When sitting in diversity, a federal district court must apply the substantive law of the forum state in which it resides. Erie R.R. v. Tompkins, 304 U.S. 64, 78 (1938). In the absence of controlling precedent from the Nevada Supreme Court, a federal district court must use its own best judgment to predict how the state's highest court would decide the relevant substantive issue. Allstate Ins. Co. v. Sanders, 495 F. Supp. 2d 1104, 1106 (D. Nev. 2007).

B. Anti-SLAPP Special Motion to Dismiss Standard

Nevada's "anti-SLAPP" statute governs how a court is to rule upon a Special Motion to Dismiss. Pursuant to Nev. Rev. Stat. § 41.660(3), the court shall:

> (a) Determine whether the moving party has established, by a preponderance of the evidence, that the claim is based upon a good faith communication in furtherance of the right to petition or the right to free speech in direct connection with an issue of public concern;
>
> (b) If the court determines that the moving party has met the burden pursuant to paragraph (a), determine whether the plaintiff has demonstrated with prima facie evidence a probability of prevailing on the claim

Id.[21]

C. Federal Rules of Civil Procedure Plausibility Standard

The court may dismiss a plaintiff's complaint for failure to state a claim upon which relief can be granted. To survive a motion to dismiss, a complaint must contain sufficient factual matter to "state a claim to relief that is plausible on its face." Ashcroft v. Iqbal, 556 U.S. 662, 677 (2009) (citation omitted). Where the complaint does not permit the court to infer more than

[21] Discovery is to be stayed pending a ruling on the Special Motion to Dismiss. NRS 41.660(3)(e).

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the mere possibility of misconduct, the complaint has "alleged — but not shown — that the pleader is entitled to relief." Id. at 679.

IV.

CHRISTENSEN'S SPECIAL MOTION TO DISMISS SHOULD BE GRANTED ON MULTIPLE INDEPENDENT GROUNDS

A. Persuasive Case Law From This Jurisdiction With Similar Facts Justifies Dismissal.

A recent, on-point case from within this jurisdiction supports dismissal of UAIC's Complaint. Century Sur. Co. v. Prince, 265 F. Supp. 3d 1182 (D. Nev. 2017). In Prince, an overzealous insurance company (which, similar to UAIC, refused to defend its insured) sued a local attorney, Dennis Prince, Esq. claiming that he and other attorneys engaged in an "alleged scheme to fraudulently procure a multi-million dollar judgment against Century as a result of a catastrophic vehicle accident."[22] Racketeering and civil conspiracy claims were pled against Prince and others. Century claimed, as in this case, that defendants engaged in a "bad faith insurance 'setup.'" Similar to this case, Century lashed out at various attorneys after it failed to defend its insured, which led to a multi-million judgment against its insured.[23]

Prince thereafter filed a "Special Motion to Dismiss" pursuant to NRS 41.660. Prince argued that Century's complaint is a strategic lawsuit against public participation ("SLAPP") complaint contending that the complaint was brought against the three attorney defendants personally for improper and retaliatory purposes. Prince also emphasized that the complaint directly targeted the defendants' First Amendment right to petition the court system by seeking

[22] Dennis Prince represented the insured in the Andrew case, which was discussed in the Statement of Facts above.

[23] As in this case, Century refused to defend its insured; a default judgment was entered against the insured and the insurance carrier thereafter sued attorneys personally.

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to "effectively chill Prince and other attorneys from vigorously advocating for injured clients by forcing attorneys to defend themselves against claims for personal liability for purely strategic litigation decisions."

The Court agreed with Prince and dismissed the Complaint. The Hon. James Mahan engaged in a two-prong analysis in deciding the motion. First, the court determined if Century's complaint was based on defendants' good faith communication in furtherance of the right to petition or the right to free speech in direct connection with an issue of public concern. Second, the court determined whether Century had shown a likelihood of prevailing on either of its claims.

Analyzing the first prong of the anti-SLAPP analysis, the court held that Prince had shown by a preponderance of the evidence, that the claim is based upon a good faith communication in furtherance of the right to petition or the right to free speech in direct connection with an issue of public concern. Prince, 265 F. Supp. 3d at 1189. In addition, the court held that Century had not sufficiently shown that 'the defendant[s] abused the privilege [to petition the court] by publishing the communication with malice in fact.' Circus Circus Hotels, Inc. v. Witherspoon, 99 Nev. 56, 657 P.2d 101, 105 (Nev. 1983)." Id.

Analyzing the second prong of the anti-SLAPP analysis, the court held that Century could not satisfy its burden to show, by a preponderance of the evidence, a likelihood of prevailing on its claims. Among other things, the court observed:

- That Century had notice of the complaint in the underlying action before a default judgment was taken;
- That Century admitted it "was aware of the underlying litigation" but chose not to appear in the litigation to defend its insured;
- That the tortfeasor and other insured of the tortfeasor had the right to enter into a good-faith settlement agreement;

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- That negotiating a settlement agreement and covenant not to enforce and then "persuading" the tortfeasor to sign did not meet the statutory definition of insurance fraud under Nev. Rev. Stat. § 686A.2815;

- That the attorneys' actions can, at best, be "characterized as a single episode, with a single purpose," which is insufficient to sustain a RICO cause of action;

- That because all of the alleged instances of insurance fraud referenced in Century's complaint are in furtherance of a purported single bad-faith insurance "set up," Century had not adequately alleged multiple instances of insurance fraud;

- That Century had not sufficiently pleaded a pattern of illegal activity or conduct;

- That Prince's complaint did not satisfy the statutory definition of "offering false evidence" because Prince's complaint was not forged or fraudulently altered;

- That Century had not shown that Prince ever "knowingly and willfully" acted to defraud Century;

- That Prince's settlement agreement with Progressive in this case is not tortious, and therefore cannot be the basis for an "unlawful objective" to sustain Century's conspiracy claim.

- That Century had ample opportunity to engage in the litigation to protect its own interests and those of the insured, but it elected instead to rely on its belief that another insurer was litigating in its place;

- That Century had the opportunity to pay out on the insurance claim for its policy limit;

- That Century could have appeared in the litigation to dispute the existence of coverage, rather than unilaterally closing its file. As a result, Century had not shown that the aim of the negotiated settlement in the underlying case was to injure Century's interests.

Id. at *passim*.

A central theme of the court's decision was that Prince and others were merely advocating as part of the litigation process that exists in the United States. Moreover, the Court repeatedly noted that Century had both notice of the claims giving rise to the default judgment and an opportunity to contest the factual and legal allegations in the underlying state court

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complaint. Instead of doing that, Century was the one that elected not to defend its insureds.

Furthermore, the court recognized that Judge Gordon, who presided over the underlying case, expressly ruled that "Century breached its duty to defend" in the underlying case. Id. at 1193. Similarly, the court noted that Judge Douglas Herndon, in the underlying state court action, commented on Century's failure to act as follows:

> I think Century stuck their head in the sand and said, hey. We determined we're not going to have coverage here because of what we believe the facts to be. So we're going to stand back and were not going to defend. We're not going to intervene. We're not going to seek any reservation of rights or any declaratory relief. We're just going to let the baby fall forward and hopefully we won't have any involvement. Then oops. It's going into default.

Id.

The court concluded, "[a]ccordingly, Prince did not and could not 'orchestrate' Century's failure to defend. Instead, Prince contacted Century regarding Pretner's claims, and Century made a unilateral decision to deny coverage, refuse to defend Vasquez or Blue Streak, and to not appear in the state court litigation." Id.

Ultimately, Judge Mahan granted Prince's Special Motion to Dismiss. For similar reasons, this Court should grant Christensen's Special Motion to Dismiss.

B. Christensen Satisfies The First Prong of The Anti-SLAPP Analysis Because UAIC's Barratry Claim Arises From Protected Activity

Similar to Prince, UAIC is complaining about Christensen's protected free speech or petitioning activity. More particularly, the basis for UAIC's sole barratry claim against Christensen is centered on Christensen's communications (e.g. "right to petition") in connection with the litigation process. Simply because Christensen is petitioning a court as a lawyer zealously advocating for his client, UAIC is suing Christensen and seeking to hold him personally liable. Putting aside that UAIC's claims are reckless and being pursued even though

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UAIC has repeatedly failed to prevail in connection with the convoluted proceedings, UAIC cannot get around a threshold determination that Christensen's communications are protected by Nevada's Anti-SLAPP statute.

More particularly, NRS 41.637 defines a "good faith communication in furtherance of the right to petition" to include "[w]ritten or oral statement[s] made in direct connection with an issue under consideration by a legislative, executive or judicial body, or any other official proceeding authorized by law" or "[c]ommunication[s] made in direct connection with an issue of public interest in a place open to the public or in a public forum[.]" In effect, "petitioning activity" includes any statements, writings, or pleadings made in connection with civil litigation.

To be afforded protection, the defendant need only show that the plaintiff's cause of action arises out of protected activity. Feldman v. 1100 Park Lane Associates, 160 Cal. App. 4th 1467, 1478 (2008). Here, UAIC's barratry claim centers on Christensen's communications on behalf of his client. By definition, the barratry claim is intertwined with judicial proceedings, which are expressly covered by Nevada's anti-SLAPP statute. Thus, UAIC's claim arises from activity protected under the anti-SLAPP statute such that the first prong of the anti-SLAPP analysis has been satisfied.

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C. UAIC Cannot Satisfy the Second Prong of the Anti-SLAPP Analysis Because It Cannot Show that it Has a Probability of Prevailing On its Claim.

There are multiple reasons why UAIC should not prevail on its barratry claim against Christensen. Any one of the following reasons justifies the dismissal of UAIC's case. Each different basis for dismissal is discussed below.

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1. UAIC's Claims are Not Even Ripe In Light of the Ongoing Proceedings.

UAIC's barratry claim is not ripe for adjudication. Here, UAIC's claims are at issue in ongoing litigation in the Nevada lower state court, the Nevada Supreme Court and Ninth Circuit Court of Appeals. UAIC is acting like it is entitled to prevail even though it has already lost various arguments before the Ninth Circuit Court of Appeals (i.e. finding that UAIC breached its duty to defend) and Nevada Supreme Court (i.e. finding that Lewis' damages are not capped). Put another way, having already lost twice on appeal, UAIC now wants this Court to jump the gun and begin litigating a barratry claim even though UAIC may lose again before the relevant courts.

Currently, ongoing questions exist as to Lewis' ability to pursue claims against UAIC, and there is nothing wrong with Christensen advocating on behalf of his client. Until the ongoing proceedings are decided, UAIC's barratry claim is premature, and is nothing more than an effort to chill Christensen's advocacy. On this basis alone, UAIC cannot make a prima facie showing of a probability of prevailing on its claims as required by NRS 41.660.

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2. Even if the Barratry Claim Was Ripe, UAIC Cannot Prevail Because Christensen's Conduct, Statements and Court Filings Fall Within the Absolute Litigation Privilege.

In Feldman v. 1100 Park Lane Associates, 160 Cal. App. 4th 1467, 1485 (2008), the court recognized, "the litigation privilege is 'relevant to the second step in the anti-SLAPP analysis in that it may present a substantive defense a plaintiff must overcome to demonstrate a probability of prevailing."[24] The Nevada Supreme Court has recognized "the long-standing common law rule that communications uttered or published in the

[24] The Nevada Supreme Court has repeatedly recognized the similarities between California's and Nevada's anti-SLAPP statutes, and routinely look to California courts for guidance in the area. See, e.g., Coker v. Sassone, 135 Nev. Adv. Op. 2 (Jan. 3, 2019).

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course of judicial proceedings are absolutely privileged." Circus Circus Hotels v. Witherspoon, 99 Nev. 56, 60, 657 P.2d 101, 104 (1983).

The policy behind the absolute privilege, as it applies to attorneys participating in judicial proceedings, is to grant them "as officers of the court the utmost freedom in their efforts to obtain justice for their clients." As its name indicates, the privilege is absolute. It "precludes liability even where the defamatory statements are published with knowledge of their falsity and personal ill will toward the plaintiff." Fink v. Oshins, 118 Nev. 428, 432, 49 P.3d 640, 643 (2002).[25]

The litigation privilege, the backbone to an effective and smoothly operating judicial system, is broadly recognized, liberally applied, and "based upon a public policy of security to attorneys as officers of the court the utmost freedom in their efforts to secure justice for their clients." Restatement (Second) of Torts § 586 cmt. a (1977).[26] As recognized in Alpert

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[25] This "litigation privilege" extends to attorneys during the representation of their clients based on policy considerations, including: (1) promoting candid, objective, and undistorted disclosure of evidence; (2) placing the burden of testing the evidence upon the litigants during trial; (3) avoiding the chilling effect resulting from the threat of subsequent litigation; (4) reinforcing the finality of judgments; (5) limiting collateral attacks upon judgments; (6) promoting zealous advocacy; (7) discouraging abusive litigation practices; and (8) encouraging settlement. Matsuura v. E.I. du Pont de Nemours & Co., 102 Haw. 149, 155, 73 P.3d 687, 693 (2003).

The Florida Supreme Court has held that the absolute privilege afforded defamatory statements also applies to other misconduct, "[A]bsolute immunity must be afforded to any act occurring during the course of a judicial proceeding, regardless of whether the act involves a defamatory statement or other tortious behavior…." Levin, Middlebrooks, Mabie, Thomas, Mayes & Mitchell, P.A. v. United States Fire Insurance Company 639 So.2d 606, 608 (Fla. 1994) (emphasis added).

[26] The privilege, rooted in defamation, has been applied to protect attorneys in a broad range of other claims including, defense of claims for bad faith and breach of fiduciary duty, interference with business relationships, civil conspiracy and racketeering. See, e.g., Jackson v. BellSouth Telecomms, 372 F.3d 1250 (11th Cir. 2004) (tortious interference and conspiracy to defraud); Crockett & Myers, Ltd. v. Napier, Fitzgerald & Kirby, LLP, 440 F. Supp. 2d

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v. Crain, Caton & James, P.C., 178 S.W.3d 398, 405 (Tex. Ct. App. 2005), "if an attorney could be held liable to an opposing party for statements made or actions taken in the course of representing his client, he would be forced constantly to balance his own potential exposure against his client's best interest."

Here, UAIC's Complaint challenges Christensen in connection with his advocacy in legal proceedings. UAIC's claims are barred by the litigation privilege. That is true even if Christensen intentionally engaged in conduct or communications he knew to be false (which he firmly denies). Thus, UAIC cannot succeed on the merits on this independent basis, and the Complaint should be immediately dismissed.

3. UAIC Cannot Prevail On Its Claims Because Christensen's Conduct, Statements In Court Are Protected by the First Amendment

Courts have recognized that the First Amendment is a viable defense to alleged barratry claims. For example, in NAACP v. Button, 371 U.S. 415, 432–33 (1963), the United States Supreme Court recognized, "[h]owever valid may be Virginia's interest in regulating the traditionally illegal practices of barratry, maintenance and champerty, that interest does not justify the prohibition of the NAACP [First Amendment] activities disclosed by this record."). See also United States v. Smith, 928 F.2d 409, 1991 WL 33104, at *6 (9th Cir. 1991) (citing Button for the proposition that "enforcement of barratry statute may be invalid if it infringes on protected first amendment rights 'whether or not ... the petitioner has engaged in privileged

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1184 (D. Nev. 2006) (bad faith and breach of fiduciary duty); Boca Investors Group, Inc. v. Potash, 835 So.2d, 273 (Fla. Dist. Ct. App. 2002) (interference with business relationships); Kahala Royal Corp. v. Goodsill Anderson Quinn & Stifel, 151 P.3d 732 (Haw. 2007) (interference with prospective economic advantage); Debry v. Godbe, 992 P.2d 979 (Utah 1999) (judicial proceedings privilege extends not only to defamation, but to all claims arising from the same statements).

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conduct.'"). In this case, First Amendment grounds also justify the dismissal of UAIC's barratry claim.

4. UAIC Cannot Otherwise Prevail On Its Barratry Claim.

UAIC's medieval (albeit novel) barratry claim is otherwise invalid. "Barratry" refers to a continuing practice of maintenance of champerty.[27] The doctrines of champerty and maintenance originated in medieval England.[28] Some states have outright abolished these ancient doctrines.[29] Christensen maintains, in good faith, that a barratry claim should no longer be recognized in Nevada. This is especially true in the context of attorneys given the permutations associated

[27] As recognized in In re Primus, 436 U.S. 412, 424 n.15 (1978), "barratry is a continuing practice of maintenance or champerty." Accord, Schwartz v. Eliades, 113 Nev. 586, 589–90, 939 P.2d 1034, 1036 (1997) ("A champertous agreement is one in which a person without interest in another's litigation undertakes to carry on the litigation at his own expense, in whole or in part, in consideration of receiving, in the event of success, a part of the proceeds of the litigation." (citation omitted)); Lum v. Stinnett, 87 Nev. 402, 408, 488 P.2d 347, 350 (1971) ("Maintenance exists when a person without interest in a suit officiously intermeddles therein by assisting either party with money or otherwise to prosecute or defend it." (quoting 14 C.J.S. Champerty and Maintenance s 1b).

[28] Osprey, Inc. v. Cabana Ltd. Partnership, 340 S.C. 367, 532 S.E.2d 269 (S.C. 2000). In medieval England, feudal lords and other privileged society members would often assist others, usually those of little means, by supporting the unprivileged's legal disputes against a third party, often the wealthy citizen's personal or political enemy. Id. at 374-75. In return for funding the lawsuit, the party to whom the claim actually belonged promised to give his or her benefactor a stake in the outcome of the lawsuit. Id. By such practices, the wealthier actually became wealthier. "Champerty was a 'means by which powerful men aggrandized their estates and the background was unquestionably that of private war.'" Id. at 375.

[29] In Saladini v. Righellis, 687 N.E.2d 1224, 1226 (Mass. 1997), the Massachusetts Supreme Court held that champerty and maintenance would no longer be recognized in the state. The court stated:

> We also no longer are persuaded that the champerty doctrine is needed to protect against the evils once feared: speculation in lawsuits, the bringing of frivolous lawsuits, or financial overreaching by a party of superior bargaining position. There are now other devices that more effectively accomplish these ends.

Id. at 1226.

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with the litigation privilege, First Amendment issues and the anti-SLAPP statute.

Even if a barratry claim is still recognized in Nevada, UAIC's claim still fails because "[m]alicious intent [is] the essence of the common-law offenses of fomenting or stirring up litigation" (Button, 371 U.S. at 438). Here, UAIC's Complaint does not even allege malicious intent.

UAIC's Complaint also fails on plausibility grounds. In this case, it is simply implausible to suggest, much less conclude, that Christensen is being malicious. All Christensen is doing is trying to advocate in the context of our judicial system. At least twice now, Christensen's positions have been vindicated on appeal. Now, similar to Century Surety in the Andrew case, UAIC is taking desperate attempts to personally sue adverse attorneys after the insurance company set the chain of events into motion by refusing to defend its insureds.

Finally, if anyone is guilty of "stirring up quarrels," it is UAIC. It is UAIC which refused to defend its insured.[30] It is UAIC that rejected a $15,000 policy limits offer in a catastrophic injury case. It is UAIC which has repeatedly taken adverse actions to its insured. It is UAIC that has repeatedly looked out for its own interests. In reality, it is UAIC that is responsible for the evolution of proceedings. Accordingly, there is yet another independent basis for dismissal.

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[30] Once faced with allegations triggering coverage, UAIC had four options: (1) defend the case and dispute liability; (2) proceed under a reservation of rights and defend the case; (3) proceed under a reservation of rights and file a declaratory relief action as to coverage; or (4) decline to defend its insureds. Despite having notice of these allegations against Lewis, UAIC chose the most aggressive option it could – the option not to defend at all. This choice has been described by courts as the "riskiest of all litigation strategies." Transportation Ins. Co. v. Piedmont Construction Group, LLC, 686 S.E.2d 824 (Ga. App. 2009).

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CONCLUSION

For the reasons stated herein, Defendant Christensen respectfully requests this Court to enter an order pursuant to NRS 41.660 granting its Special Motion to Dismiss, and make an award of attorney's fees allowed by the statute.

Dated this 22nd day of February, 2019.

SANTORO WHITMIRE

/s/ James E. Whitmire
JAMES E. WHITMIRE, ESQ.
Nevada Bar No. 6533
SANTORO WHITMIRE
10100 W. Charleston Blvd., Suite 250
Las Vegas, Nevada 89135
Attorney for Defendant Thomas Christensen

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on the 22nd day of February, 2019, a true and correct copy of the **DEFENDANT THOMAS CHRISTENSEN'S MOTION TO DISMISS PURSUANT TO NRS 41.660** was served electronically with the Clerk of the Court using the CM/ECF system and/or deposited for mailing in the U.S. Mail, postage prepaid and addressed to the following:

Matthew John Douglas
Atkin Winner & Sherrod
1117 South Rancho
Las Vegas, NV 89102
702-245-7000
Email: mdouglas@awslawyers.com

Thomas E. Winner
Atkin Winner & Sherrod
1117 South Rancho Drive
Las Vegas, NV 89102
702-243-7000
Fax: 702-234-7059
Email: twinner@awsvlaw.com

Attorneys for Plaintiff

/s/ Asmeen Olila-Stoilov
An employee of SANTORO WHITMIRE

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EXHIBITS TO DEFENDANT THOMAS CHRISTENSEN'S SPECIAL MOTION TO DISMISS PURSUANT TO NRS 41.660

Exhibit	Title	Bates No.
A	Docket Report for Case No. 07A549111	0001-0009
B	Docket Report for Case No. A-09-590967-C	0010-0011
C	Docket Report for Case No. 2:09-cv-01348-RJC-GWF	0012-0028
D	Docket Report for Case No. 11-15010	0029-0036
E	Docket Report for Case No. 13-17441	0037-0045
F	Docket Report for Case No. A-18-772220-C	0046-0050
G	Docket Report for Case No. KS021378	0051-0059

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“EXHIBIT A”

Docket Report for
Case No. 07A549111

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Register of Actions
Case No. 07A549111

James Nalder vs Gary Lewis

§
§
§
§
§
§

Case Type: **Negligence - Auto**
Date Filed: **10/02/2007**
Location: **Department 20**
Cross-Reference Case Number: **A549111**

Related Case Information

Related Cases
A-18-772220-C (Consolidated)

Party Information

		Lead Attorneys
Defendant	**Lewis, Gary**	~~**E. Breen Arntz**~~ *Retained* ~~702-384-8000(W)~~
Guardian Ad Litem	**Nalder, James**	~~**Thomas F. Christensen**~~ *Retained* ~~7028701000(W)~~
Intervenor	**United Automobile Insurance Company**	**Matthew J Douglas** *Retained* 702-243-7000(W)
Plaintiff	**Nalder, Cheyenne**	**David Allen Stephens** *Retained* 702-656-2355(W)
Plaintiff	**Nalder, James**	**David Allen Stephens** *Retained* 702-656-2355(W)
Subject Minor	**Nalder, Cheyenne**	~~**Thomas F. Christensen**~~ *Retained* ~~7028701000(W)~~

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Events & Orders of the Court

DISPOSITIONS

01/04/2008 **Order Approving Minor's Compromise** (Judicial Officer: Cadish, Elissa F.)
Converted Disposition:
Entry Date & Time: 01/07/2008 @ 08:24 Description: ORDER OF APPROVAL OF MINORS CLAIM Debtor: Lewis, Gary Creditor: Nalder, Cheyenne Amount Awarded: $66519.11 Attorney Fees: $33333.33 Costs: $147.56 Interest Amount: $0.00 Total: $100000.00

06/03/2008 **Default Judgment Plus Legal Interest** (Judicial Officer: Cadish, Elissa F.)
Converted Disposition:
Entry Date & Time: 06/05/2008 @ 11:09 Description: DEFAULT JUDGMENT PLUS LEGAL INTEREST Debtor: Lewis, Gary Creditor: Nalder, Cheyenne Amount Awarded: $3500000.00 Attorney Fees: $0.00 Costs: $0.00 Interest Amount: $0.00 Total: $3500000.00

03/28/2018 **Amended Default Judgment Plus Legal Interest** (Judicial Officer: Cadish, Elissa F.) Reason: Amended
Converted Disposition:
Entry Date & Time: 06/05/2008 @ 11:00 Description: DEFAULT JUDGMENT PLUS LEGAL INTEREST Debtor: Lewis, Gary Creditor: Nalder, James Amount Awarded: $3500000.00 Attorney Fees: $0.00 Costs: $0.00 Interest Amount: $0.00 Total: $3500000.00
Debtors: Gary Lewis (Defendant)
Creditors: James Nalder (Plaintiff)
Judgment: 03/28/2018, Docketed: 03/29/2018
Total Judgment: 3,434,444.63

06/03/2008 **Default Judgment Plus Legal Interest** (Judicial Officer: Cadish, Elissa F.)
Converted Disposition:
Entry Date & Time: 06/05/2008 @ 11:00 Description: DEFAULT JUDGMENT PLUS LEGAL INTEREST Debtor: Lewis, Gary Creditor: Nalder, James Amount Awarded: $3500000.00 Attorney Fees: $0.00 Costs: $0.00 Interest Amount: $0.00 Total: $3500000.00

01/28/2019 **Order of Dismissal With Prejudice** (Judicial Officer: Johnson, Eric)
Debtors: Gary Lewis (Third Party Plaintiff)
Creditors: Resnick and Louis PC (Third Party Defendant), Tindall, Randall Esq (Third Party Defendant), United Automobile Insurance Company (Third Party Defendant)
Judgment: 01/28/2019, Docketed: 01/29/2019

01/30/2019 **Compromise Settlement** (Judicial Officer: Johnson, Eric)
Debtors: Gary Lewis (Defendant)
Creditors: Cheyenne Nalder (Plaintiff)
Judgment: 01/30/2019, Docketed: 01/22/2019
Total Judgment: 5,696,810.41
Comment: 2/14/19 Judgment Withdrawn Per Order

02/14/2019 **Amended Compromise Settlement** (Judicial Officer: Johnson, Eric) Reason: Vacated
Debtors: Gary Lewis (Defendant)
Creditors: Cheyenne Nalder (Plaintiff)
Judgment: 02/14/2019
Total Judgment: 5,696,810.41
Comment: 2-14-19 Per Order Judgment Withdrawn (See also in Cons. Case)
Debtors: Gary Lewis (Defendant)
Creditors: Cheyenne Nalder (Plaintiff)
Judgment: 01/23/2019, Docketed: 01/22/2019
Total Judgment: 5,696,810.41

01/23/2019 **Compromise Settlement** (Judicial Officer: Johnson, Eric)
Debtors: Gary Lewis (Defendant)
Creditors: Cheyenne Nalder (Plaintiff)
Judgment: 01/23/2019, Docketed: 01/22/2019
Total Judgment: 5,696,810.41

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OTHER EVENTS AND HEARINGS

10/02/2007 **Petition**
PETITION FOR ORDER APPOINTING GUARDIAN AD LITEM Fee $148.00
07A5491110001.tif pages

10/09/2007 **Order Appointing Guardian Ad Litem**
ORDER APPOINTING GUARDIAN AD LITEM
07A5491110002.tif pages

10/09/2007 **Initial Appearance Fee Disclosure**
INITIAL APPEARANCE FEE DISCLOSURE
07A5491110003.tif pages

10/09/2007 **Complaint**
COMPLAINT FILED
07A5491110004.tif pages

11/02/2007 **Summons**
SUMMONS
07A5491110005.tif pages

12/13/2007 **Default**
DEFAULT
07A5491110006.tif pages

12/21/2007 **Petition for Compromise of Minors Claim**
PETITION TO COMPROMISE CLAIM OF MINORS
07A5491110007.tif pages

01/04/2008 **Conversion Case Event Type**
STATUS CHECK: BLOCKED ACCOUNT /1
07A5491110008.tif pages

01/04/2008 **Judgment**
ORDER OF APPROVAL OF MINORS CLAIM
07A5491110009.tif pages

03/03/2008 **Status Check: Blocked Account** (3:00 AM) (Judicial Officer Cadish, Elissa F.)
STATUS CHECK: BLOCKED ACCOUNT /1
Minutes
Result: Continuance Granted

03/31/2008 *CANCELED* **Status Check: Blocked Account** (9:00 AM) (Judicial Officer Cadish, Elissa F.)
Vacated
Minutes
Result: Continuance Granted

04/08/2008 **Conversion Case Event Type**
HEARING RE: SHOW CAUSE /2
07A5491110010.tif pages

04/14/2008 **Motion**
ALL PENDING MOTIONS 4-14-08
07A5491110011.tif pages

04/14/2008 **Conversion Case Event Type**
STATUS CHECK: PAYMENT OF SANCTIONS/ FURTHER PROCEEDINGS VR 5/21/08
07A5491110012.tif pages

04/14/2008 *CANCELED* **Status Check: Blocked Account** (9:00 AM) (Judicial Officer Cadish, Elissa F.)
Vacated
Result: Continuance Granted

04/14/2008 **Show Cause Hearing** (9:00 AM) (Judicial Officer Cadish, Elissa F.)
HEARING RE: SHOW CAUSE /2

04/14/2008 **All Pending Motions** (9:00 AM) (Judicial Officer Cadish, Elissa F.)
ALL PENDING MOTIONS 4-14-08 Court Clerk: Keith Reed Reporter/Recorder: Jessica Ramirez Heard By: ELISSA CADISH
Minutes
Result: Matter Heard

04/21/2008 **Conversion Case Event Type**
PROVE UP OF DEFAULT /5
07A5491110013.tif pages

04/22/2008 **Motion**
ALL PENDING MOTIONS 4-22-08
07A5491110014.tif pages

04/22/2008 *CANCELED* **Status Check: Blocked Account** (9:00 AM) (Judicial Officer Cadish, Elissa F.)
Vacated
Result: Continuance Granted

04/22/2008 **Status Check** (9:00 AM) (Judicial Officer Cadish, Elissa F.)
STATUS CHECK: PAYMENT OF SANCTIONS/ FURTHER PROCEEDINGS VR 5/21/08
Result: Continuance Granted

04/22/2008 **All Pending Motions** (9:00 AM) (Judicial Officer Cadish, Elissa F.)
ALL PENDING MOTIONS 4-22-08 Court Clerk: Keith Reed Reporter/Recorder: Jessica Ramirez Heard By: ELISSA CADISH
Minutes
Result: Matter Heard

04/30/2008 **Motion**
ALL PENDING MOTIONS 4-30-08
07A5491110015.tif pages

04/30/2008 *CANCELED* **Status Check: Blocked Account** (9:00 AM) (Judicial Officer Cadish, Elissa F.)
Vacated
Result: Continuance Granted

04/30/2008 *CANCELED* **Status Check** (9:00 AM) (Judicial Officer Cadish, Elissa F.)
Vacated
Result: Continuance Granted

04/30/2008 **All Pending Motions** (9:00 AM) (Judicial Officer Cadish, Elissa F.)
ALL PENDING MOTIONS 4-30-08 Court Clerk: Keith Reed Reporter/Recorder: Jessica Ramirez Heard By: ELISSA CADISH
Parties Present
Minutes
Result: Matter Heard

05/15/2008 **Application**
APPLICATION FOR JUDGMENT BY DEFAULT
07A5491110016.tif pages

05/15/2008 **Notice**
NOTICE OF PAYING SANCTIONS
07A5491110017.tif pages

05/16/2008 **Application**
AMENDED APPLICATION FOR JUDGMENT BY DEFAULT
07A5491110018.tif pages

05/21/2008 **Minute Order** (3:00 AM) (Judicial Officer Cadish, Elissa F.)
MINUTE ORDER RE: BLOCKED ACCOUNT Relief Clerk: Phyllis Irby/pi Heard By: ELISSA CADISH
Minutes
Result: Matter Heard

05/22/2008 **Prove Up/Default** (9:00 AM) (Judicial Officer Cadish, Elissa F.)
PROVE UP OF DEFAULT /5 Relief Clerk: Phyllis Irby/pi Reporter/Recorder: Jessica Ramirez Heard By: ELISSA CADISH
Parties Present
Minutes
Result: Motion Granted

05/28/2008 **Conversion Case Event Type**
MINUTE ORDER RE: BLOCKED ACCOUNT
07A5491110019.tif pages

05/29/2008 **Conversion Case Event Type**
STATUS CHECK: PAYMENT OF SANCTIONS/ FURTHER PROCEEDINGS
07A5491110020.tif pages

05/29/2008 **Conversion Case Event Type**
STATUS CHECK: BLOCKED ACCOUNT
07A5491110021.tif pages

05/29/2008 *CANCELED* **Status Check: Blocked Account** (9:00 AM) (Judicial Officer Cadish, Elissa F.)
Vacated

05/29/2008 *CANCELED* **Status Check** (9:00 AM) (Judicial Officer Cadish, Elissa F.)
Vacated

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05/29/2008 **Status Check** (9:00 AM) (Judicial Officer Cadish, Elissa F.)
STATUS CHECK: PAYMENT OF SANCTIONS/ FURTHER PROCEEDINGS Relief Clerk: Nora Pena Reporter/Recorder: Jessica Ramirez Heard By: ELISSA CADISH
Parties Present
Minutes
Result: Matter Heard

06/03/2008 **Judgment**
DEFAULT JUDGMENT PLUS LEGAL INTEREST
07A5491110022.tif pages

06/03/2008 **Judgment**
DEFAULT JUDGMENT PLUS LEGAL INTEREST
07A5491110023.tif pages

06/26/2008 **Status Check** (9:00 AM) (Judicial Officer Cadish, Elissa F.)
STATUS CHECK: BLOCKED ACCOUNT Court Clerk: Keith Reed Reporter/Recorder: Jessica Ramirez Heard By: ELISSA CADISH
Parties Present
Minutes
Result: Blocked Account / Proof Filed

06/30/2008 **Acknowledgment**
ACKNOWLEDGEMENT OF BLOCKED ACCOUNT
07A5491110024.tif pages

08/01/2008 **Motion**
PLTF'S MTN TO STRIKE SOCIAL SECURITY NUMBER/11 (vj 9/2/08)
07A5491110025.tif pages

08/26/2008 **Notice of Entry of Judgment**
NOTICE OF ENTRY OF JUDGMENT
07A5491110028.tif pages

09/02/2008 **Conversion Case Event Type**
MINUTE ORDER RE: PLTF'S MTN TO STRIKE SOCIAL SECURITY NUMBER
07A5491110026.tif pages

09/02/2008 **Minute Order** (3:00 AM) (Judicial Officer Cadish, Elissa F.)
MINUTE ORDER RE: PLTF'S MTN TO STRIKE SOCIAL SECURITY NUMBER Relief Clerk: Monica Schmidt Heard By: ELISSA CADISH
Minutes
Result: Matter Heard

09/03/2008 **Conversion Case Event Type**
STATUS CHECK: HEARING Vl 10-3-08
07A5491110027.tif pages

09/03/2008 *CANCELED* **Motion to Strike** (3:00 AM) (Judicial Officer Cadish, Elissa F.)
Vacated

09/05/2008 **Acknowledgment**
ACKNOWLEDGEMENT OF BLOCKED ACCOUNT
07A5491110029.tif pages

10/06/2008 *CANCELED* **Status Check** (3:00 AM) (Judicial Officer Cadish, Elissa F.)
Vacated
Minutes
Result: Matter Heard

07/29/2009 **Writ of Execution**

02/01/2010 **Affidavit of Service**
Affidavit of Service

06/24/2011 **Case Reassigned to Department 29**
Case reassigned from Judge Kathleen E. Delaney

01/02/2017 **Case Reassigned to Department 29**
Case reassigned from Judge Susan Scann Dept 29

03/22/2018 **Ex Parte Motion**
Ex Parte Motion to Amend Judgment in the Name of Cheyenne Nalder, Individually

03/28/2018 **Amended Judgment**
Amended Judgment

05/18/2018 **Notice of Entry**
Notice of Entry of Amended Judgment

08/17/2018 **Motion to Intervene**
UAIC's Motion to Intervene

09/17/2018 **Opposition**
Plaintiff's Opposition to Motion to Intervene

09/18/2018 **Reply in Support**
UAIC's Reply in Support of its Motion to Intervene

09/19/2018 **Motion to Intervene** (3:00 AM) (Judicial Officer Jones, David M)
UAIC's Motion to Intervene
Minutes
Result: Granted

09/27/2018 **Initial Appearance Fee Disclosure**
Initial Appearance Fee Disclosure (NRS Chapter 19)

10/08/2018 **Opposition**
Plaintiff's Opposition to Defendant's Motion for Relief from Judgment

10/17/2018 **Motion to Strike**
Defendant's Motion to Strike Defendant's Motion for Relief from Judgment

10/19/2018 **Order Granting Motion**
Order Granting UAIC's Motion to Intervene

10/19/2018 **Initial Appearance Fee Disclosure**
Initial Appearance Fee Disclosure

10/19/2018 **Notice of Entry of Order**
Notice of Entry of Order on Intervenor United Automobile Insurance Company's Motion to Intervene

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10/19/2018 **Motion**
UAIC's Motion for Relief from Judgment Pursuant to NRCP 60
10/24/2018 **Minute Order** (10:55 AM) (Judicial Officer Jones, David M)
Minute Order Re: Recusal
Parties Present
Minutes
Result: Recused
10/29/2018 **Notice of Department Reassignment**
Notice of Department Reassignment
10/29/2018 **Notice of Department Reassignment**
Amended Notice of Department Reassignment
10/29/2018 **Opposition**
Defendant's Opposition to Intervenor's Motion for Relief From Judgment Pursant to NRCP 60
10/29/2018 **Opposition**
Plaintiff's Opposition to UAIC's Motion for Relief from Judgment
11/01/2018 **Opposition**
Opposition to Gary Lewis' Motion to Strike Motion to Set Aside Judgment
11/02/2018 **Opposition**
UAIC'S Opposition to Defendant's Motion to Strike Defendant's Motion for Relief from Judgment & Counter-Motion for Evidentiary Hearing for a Fraud Upon the Court or, Alternatively, for the Court to Vacate the 3/28/18 Amended Judgment on Its Own Motion
11/08/2018 **Motion for Sanctions**
NRCP 11 Motion for Sanctions
11/08/2018 **Notice of Hearing**
Notice of Hearing
11/15/2018 **Opposition**
Defendant's Opposition To Counter-Motion For Evidentiary Hearing For A Fraud Upon The Court Or, Alternatively, For The Court To Vacate The 3/28/18 Amended Judgment On It's Own Motion
11/20/2018 **Opposition and Countermotion**
Plaintiff's Opposition to UAIC's Counter Motion for Evidentiary Hearing for Fraud Upon the Court or, Alternatively, for the Court to Vacate the 3/28/2018 Amended Judgment on its Own Motion
11/26/2018 **Motion to Consolidate**
Intervenor's Motion to Consolidate on Order Shortening Time
11/27/2018 **Opposition**
Plaintiff's Opposition to Intervenor UAIC's Motion to Consolidate
11/27/2018 **Opposition**
Opposition to UAIC's Motion to Consolidate and Countermotion to Set Aside Void Order and To Strike All Filings By Intervenor
11/28/2018 *CANCELED* **Motion to Consolidate** (10:30 AM) (Judicial Officer Johnson, Eric)
Vacated
Intervenor's Motion to Consolidate on OST
11/28/2018 *CANCELED* **Motion to Consolidate** (10:30 AM) (Judicial Officer Johnson, Eric)
Vacated - per Law Clerk
Intervenor's Motion to Consolidate on Order Shortening Time
11/28/2018 **Opposition**
UAIC's Opposition to Defendant Lewis' Motions for Sanctions Against Randall Tindall, Esq.
11/30/2018 **Minute Order** (11:30 AM) (Judicial Officer Johnson, Eric)
Minutes
Result: Minute Order - No Hearing Held
12/03/2018 **Notice of Hearing**
Notice of Hearings
12/10/2018 **Motion**
(1/3/18 Withdrawn) Motion For Relief From Orders And Joinder In Motions For Relief From Orders
12/12/2018 **Motion**
(2/14/19 Withdrawn- Filed also in A772220) - Motion For Relief From Orders And Joinder In Motions For Relief From Orders On Order Shortening Time
12/12/2018 **Stipulation and Order**
Stipulation Regarding Scheduling Of Hearing Dates
12/13/2018 **Motion to Set Aside**
Plaintiff's Motion to Set Aside Order, Pursuant to NRCP 60(b) Allowing UAIC to Intervene
12/14/2018 **Opposition**
Uaic s Opposition To Third Party Plaintiff Lewis Counter-Motion For Summary Judgment & Counter-Motion To Strike Affidavit Of Lewis In Support Of Same Counter-Motion For Summary Judgment And/Or Stay Proceedings Pending Appellate Ruling And/Or Stay Counter-Motion For Summary Judgment Pending Necessary Discovery Pursuant To N.R.C.P. 56(F)
12/20/2018 **Opposition to Motion For Summary Judgment**
UAIC s Opposition To Plaintiff Nalder s Motion For Summary Judgment & Counter-Motion To Stay Proceedings Pending Appellate Ruling
12/20/2018 **Opposition to Motion**
Randall Tindall, Esq., and Resnick & Louis P.C.'s Opposition to Defendant/Cross-Claimant's NRCP 11 Motion for Sanctions
12/27/2018 **Stipulation**
Stipulation Re: Early Case Conference and Early Case Conference Report
12/27/2018 **Order Granting Motion**
Order Granting Intervenor's Motion to Consolidate Cases on Order Shortening Time
12/28/2018 **Notice of Entry**
Notice of Entry of Order Granting Intervenor's Motion to Consolidate Cases on Order Shortening Time
12/31/2018 **Opposition**
UAIC s Opposition to Third Party Plaintiff Lewis Motion for Relief from Order and Joinder in Motions for Relief from Orders on Order Shortening Time as well as UAIC s Opposition to Plaintiff s Motion to Set Aside Order, Pursuant To N.R.C.P. 60(B), Allowing UAIC to Intervene & Opposition to Defendant Lewis Motion for Relief from Orders and Joinder in Motions for Relief from Orders and, UAIC s Counter-Motion to Stay Pending Ruling on Appeal
01/02/2019 **Reply in Support**
UAIC's Reply in Support of its Motion for Relief from Judgment Pursuant to NRCP 60
01/02/2019 **Reply in Support**
UAIC s Reply In Support of Its Counter-Motion for Evidentiary Hearing for a Fraud Upon the Court or, Alternatively, for the Court to Vacate The 3/28/18 Amended Judgment on its Own Motion

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01/02/2019 **Reply in Support**
UAIC'S REPLY IN SUPPORT OF ITS MOTION TO DISMISS PLAINTIFF'S COMPLAINT & MOTION FOR COURT TO DENY STIPULATION TO ENTER JUDGMENT BETWEEN PLAINTIFF AND LEWIS and/or, IN THE ALTERNATIVE TO STAY SAME PENDING HEARING ON MOTION TO DISMISS

01/02/2019 **Opposition**
Opposition to Counter-Motion to Strike Affidavit of Lewis in Support of his Counter-Motion for Summary Judgment AND Opposition to UAIC's Counter-Motion to Stay proceedings pending Appellate Ruling and Stay Counter-Motion for Summary Judgment Pending Necessary Discovery Pursuant to NRCP 56(f) and Reply in Support of Motion to Set Aside Order Allowing Intervention and Oppositions and Replies in Support of any other Motions to be heard on January 9, 2019

01/02/2019 **Withdrawal**
Defendant's Withdrawal Of Defendant's Motion For Relief From Judgment Pursuant To NRCP 60

01/02/2019 **Withdrawal**
Defendant's Withdrawal Of Defendant's Motion To Dismiss And Withdrawal Of Defendant's Motion For Relief From Judgment Pursuant To NRCP 60

01/07/2019 **Motion to Withdraw As Counsel**
Motion to Withdraw As Counsel on Order Shortening Time

01/09/2019 **Motion for Relief** (8:30 AM) (Judicial Officer Johnson, Eric)
Defendant's Motion for Relief from Judgment Pursuant to NRCP 60
10/31/2018 Reset by Court to 11/21/2018
11/21/2018 Reset by Court to 12/12/2018
12/12/2018 Reset by Court to 01/09/2019
Result: Withdrawn

01/09/2019 **Motion to Strike** (8:30 AM) (Judicial Officer Johnson, Eric)
Defendant's Motion to Strike Defendant's Motion for Relief from Judgment
12/12/2018 Reset by Court to 01/09/2019
12/12/2018 Reset by Court to 12/12/2018
Result: Granted

01/09/2019 **Motion for Relief** (8:30 AM) (Judicial Officer Johnson, Eric)
UAIC's Motion for Relief from Judgment Pursuant to NRCP 60
12/12/2018 Reset by Court to 01/09/2019
12/12/2018 Reset by Court to 12/12/2018
Result: Denied

01/09/2019 **Motion to Dismiss** (8:30 AM) (Judicial Officer Johnson, Eric)
Defendant's Motion to Dismiss
12/19/2018 Reset by Court to 01/09/2019
Result: Withdrawn

01/09/2019 **Motion to Dismiss** (8:30 AM) (Judicial Officer Johnson, Eric)
UAIC's Motion to Dismiss Plaintiff's Complaint and Motion for Court to Deny Stipulation to Enter Judgment Between Plaintiff and Lewis and/or in the Alternative to Stay Same Pending Hearing on Motion to Dismiss
12/19/2018 Reset by Court to 01/09/2019
Result: Granted in Part

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01/09/2019 **Motion for Relief** (8:30 AM) (Judicial Officer Johnson, Eric)
Defendant's Motion for Relief From Judgment Pursuant to NRCP 60
12/19/2018 Reset by Court to 01/09/2019
Result: Withdrawn

01/09/2019 **Motion to Strike** (8:30 AM) (Judicial Officer Johnson, Eric)
Defendant's Motion to Strike Both Defendant's Motion for Relief from Judgment and Defendant's Motion to Dismiss
Result: Granted

01/09/2019 **Joinder** (8:30 AM) (Judicial Officer Johnson, Eric)
Motion For Relief From Orders And Joinder In Motions For Relief From Orders On Order Shortening Time
Result: Denied

01/09/2019 **Motion to Set Aside** (8:30 AM) (Judicial Officer Johnson, Eric)
Plaintiff's Motion to Set Aside Order, Pursuant to NRCP 60(b) Allowing UAIC to Intervene
01/23/2019 Reset by Court to 01/09/2019
Result: Denied

01/09/2019 **Opposition and Countermotion** (8:30 AM) (Judicial Officer Johnson, Eric)
UAIC s Opposition to Third Party Plaintiff Lewis Motion for Relief from Order and Joinder in Motions for Relief from Orders on Order Shortening Time as well as UAIC s Opposition to Plaintiff s Motion to Set Aside Order, Pursuant To N.R.C.P. 60(B), Allowing UAIC to Intervene & Opposition to Defendant Lewis Motion for Relief from Orders and Joinder in Motions for Relief from Orders and, UAIC s Counter-Motion to Stay Pending Ruling on Appeal
Result: Granted in Part

01/09/2019 **Motion to Withdraw as Counsel** (8:30 AM) (Judicial Officer Johnson, Eric)
Defense's Motion to Withdraw As Counsel on OST
Result: Granted

01/09/2019 *CANCELED* **Motion to Withdraw as Counsel** (8:30 AM) (Judicial Officer Johnson, Eric)
Vacated - Duplicate Entry
Motion to Withdraw As Counsel on Order Shortening Time

01/09/2019 **All Pending Motions** (8:30 AM) (Judicial Officer Johnson, Eric)
Parties Present
Minutes
Result: Matter Heard

01/16/2019 **Reply in Support**
UAIC's Reply in Support of its Motion to Dismiss Lewis' Third Party Complaint & Replies in Support of its Counter-Motion to Strike Affidavit of Lewis in Support of the Counter-Motion for Summary Judgment and/or to Stay Proceedings Pending Appellate Ruling and/or Stay Counter-Motion for Summary Judgment Pending Necessary Discovery Pursuant to N.R.C.P. 56(f)

01/16/2019 **Reply**
Third Party Plaintiff's Reply in Support of his Counter-Motion for Summary Judgment

01/16/2019 **Reply in Support**
Plaintiff's Reply in Support of Her Motion for Summary Judgment and Opposition to Countermotion for Stay

01/22/2019 **Minute Order** (7:15 AM) (Judicial Officer Johnson, Eric)
Minutes
Result: Minute Order - No Hearing Held

01/22/2019 **Notice of Acceptance of Offer**
Notice of Acceptance of Offer of Judgment in Case 18-A-772220

01/22/2019 **Judgment**
(A772220) Judgment Pursuant to NRCP 68 in Case No. 18-A-772220

01/23/2019 *CANCELED* **Motion for Sanctions** (8:30 AM) (Judicial Officer Johnson, Eric)
Vacated - per Law Clerk
NRCP 11 Motion for Sanctions
12/19/2018 Reset by Court to 01/23/2019

01/23/2019 *CANCELED* **Motion for Sanctions** (8:30 AM) (Judicial Officer Johnson, Eric)
Vacated - per Law Clerk
NRCP 11 Motion for Sanctions
12/19/2018 Reset by Court to 01/09/2019
12/19/2018 Reset by Court to 01/23/2019
01/09/2019 Reset by Court to 12/19/2018

01/23/2019 *CANCELED* **Motion for Summary Judgment** (8:30 AM) (Judicial Officer Johnson, Eric)
Vacated - per Law Clerk
Plaintiff's Motion for Summary Judgment and Relief From Order Pursuant to NRCP 60(b)

01/23/2019 *CANCELED* **Motion to Dismiss** (8:30 AM) (Judicial Officer Johnson, Eric)
Vacated - per Law Clerk
UAIC's Motion to Dismiss Third Party Plaintiff Lewis's Third Party Complaint

01/23/2019 *CANCELED* **Opposition and Countermotion** (8:30 AM) (Judicial Officer Johnson, Eric)
Vacated - per Law Clerk
Opposition to UAIC's Motion to Dismiss and Countermotion for Summary Judgment

01/23/2019 *CANCELED* **Opposition and Countermotion** (8:30 AM) (Judicial Officer Johnson, Eric)
Vacated - per Law Clerk
Uaic s Opposition To Third Party Plaintiff Lewis Counter-Motion For Summary Judgment & Counter-Motion To Strike Affidavit Of Lewis In Support Of Same Counter-Motion For Summary Judgment And/Or Stay Proceedings Pending Appellate Ruling And/Or Stay Counter-Motion For Summary Judgment Pending Necessary Discovery Pursuant To N.R.C.P. 56(F)

01/23/2019 *CANCELED* **Opposition and Countermotion** (8:30 AM) (Judicial Officer Johnson, Eric)
Vacated - per Law Clerk
UAIC s Opposition To Plaintiff Nalder s Motion For Summary Judgment & Counter-Motion To Stay Proceedings Pending Appellate Ruling

01/28/2019 **Notice of Entry of Judgment**
Notice of Entry of Judgment

01/28/2019 **Stipulation and Order**
Stipulation and Order for Dismissal of All Third-Party Claims with Prejudice Against Third-Party Defendants Randall Tindall, Esq. and Resnick & Louis P.C.

01/29/2019 **Notice of Entry of Stipulation & Order for Dismissal**
Notice of Entry Stipulation and Order for Dismissal of all Third-Party Claims, With Prejudice, Against Third Party Defendants Randall Tindall, Esq., And Resnick & Louis, P.C.

01/30/2019 *CANCELED* **Motion to Dismiss** (10:30 AM) (Judicial Officer Johnson, Eric)
Vacated - per Law Clerk
Third-Party Defendants Randall Tindall, Esq., and Resnick & Louis P.C.'s (1) Motion to Dismiss or, (2) In the Alternative for a More Definite Statement or (3) In the Alternative, to Dismiss Resnick & Louis for Failure to State a Claim

02/05/2019 **Order Granting Motion**
A549111 and A772220 Order Granting Randall Tindall's Resnick & Louis P.C.'s Motion to Withdraw As Counsel

02/05/2019 **Notice of Entry of Order**
Notice of Entry of Order Granting Randall Tindall and Resnick & Louis P.C.'s Motionto Withdraw as Counsel

02/11/2019 **Motion for Relief**
UAIC s Motion For Relief From Judgment, Entered 1/23/19 In Case No A-18-772220-C, Pursuant to NRCP 60 and/or, in The Alternative, Motion for Rehearing on Motion to Dismiss Plaintiff s First Cause of Action in Case No A-18-772220-C on an Order Shortening Time

02/14/2019 **Order**
Order Granting in Part Motion for Relief From Judgment, Entered 1/23/19 In Case No A-18-772220-C, Pursuant To NRCP 60 And/Or, In the Alternative, Motion for Rehearing on Motion to Dismiss Plaintiff's First Cause of Action In Case No A-18-772220-C On An Order Shortening Time

02/14/2019 **Notice of Entry of Order**
NOTICE OF ENTRY OF ORDER GRANTING IN PART MOTION FOR RELIEF FROM JUDGMENT, ENTERED 1123/19 IN CASE NO A-18-772220-C, PURSUANT TO NRCP 60 AND/OR, IN THE ALTERNATIVE, MOTION FOR REHEARING ON MOTION TO DISMISS PLAINTIFF'S FIRST CAUSE OF ACTION IN CASE NO A.18.772220-C ON AN ORDER SHORTENING TIME

02/14/2019 **Transcript of Proceedings**
Defense's Motion to Withdraw on Order Shortening Time Defendant's Motions to Dismiss and Motions for Relief Defendant's Motions to Strike Motions to Dismiss and for Relief UAIC's Motion for Relief, Motion to Dismiss Plaintiffs' Complaint, Motion for Court to Deny Stipulation to Enter Judgment Between Plaintiff and Lewis, and Opposition to Third Party Plaintiff Lewis's Motion for Relief From Order and Joinder in Motions for Relief From Orders on Order Shortening Time, January 9, 2019

02/14/2019 **Order**
Order on Motions Heard on January 9, 2019

02/14/2019 **Order**
Order on Motions for January 23, 2019

02/15/2019 **Notice of Entry of Order**
NOTICE OF ENTRY OF ORDER ON MOTIONS HEARD ON JANUARY 23, 2019

02/15/2019 **Notice of Entry of Order**
NOTICE OF ENTRY OF ORDER ON MOTIONS HEARD ON JANUARY 9, 2019

02/15/2019 **Request**
Request for Stay

02/20/2019 *CANCELED* **Motion for Relief** (8:30 AM) (Judicial Officer Johnson, Eric)
Vacated
UAIC's Motion for Relief from Judgment, Entered 01/23/19 in Case No. A-18-772220-C, Pursuant to NRCP 60 and/or, In the Alternative, Motion for Rehearing on Motion to Dismiss Plaintiff's First Cause of Action in Case No. A-18-772220-C on OST

10/23/2019 **Status Check** (8:30 AM) (Judicial Officer Johnson, Eric)
Status Check: Supreme Court Decision

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Financial Information

Conversion Extended Connection Type No Convert Value @ 07A549111

	Total Financial Assessment			161.00
	Total Payments and Credits			161.00
	Balance Due as of 02/21/2019			**0.00**
10/02/2007	Transaction Assessment			148.00
10/02/2007	Conversion Payment	Receipt # 01384855	CHRISTENSEN LAW OFFICES LLC	(148.00)
07/22/2009	Transaction Assessment			6.00
07/22/2009	Payment (Window)	Receipt # 2009-40253-FAM	Christensen, Thomas F.	(6.00)
02/25/2010	Transaction Assessment			7.00
02/25/2010	Payment (Window)	Receipt # 2010-11919-FAM	Christensen, Thomas F.	(7.00)

Defendant Lewis, Gary

	Total Financial Assessment			231.00
	Total Payments and Credits			231.00
	Balance Due as of 02/21/2019			**0.00**
09/28/2018	Transaction Assessment			223.00
09/28/2018	Efile Payment	Receipt # 2018-64986-CCCLK	Lewis, Gary	(223.00)
01/23/2019	Transaction Assessment			8.00
01/23/2019	Payment (Window)	Receipt # 2019-04784-CCCLK	Christensen Law Offices	(8.00)

Intervenor United Automobile Insurance Company

	Total Financial Assessment			223.00
	Total Payments and Credits			223.00
	Balance Due as of 02/21/2019			**0.00**
10/19/2018	Transaction Assessment			223.00
10/19/2018	Efile Payment	Receipt # 2018-70094-CCCLK	United Automobile Insurance Company	(223.00)

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Third Party Defendant Resnick & Louis P.C. Randall Tindall, Esq.

	Total Financial Assessment			3.50
	Total Payments and Credits			3.50
	Balance Due as of 02/21/2019			**0.00**
01/30/2019	Transaction Assessment			3.50
01/30/2019	Efile Payment	Receipt # 2019-06163-CCCLK	Resnick & Louis P.C. Randall Tindall, Esq.	(3.50)

Third Party Defendant Tindall, Randall Esq

	Total Financial Assessment			10.50
	Total Payments and Credits			10.50
	Balance Due as of 02/21/2019			**0.00**
12/21/2018	Transaction Assessment			3.50
12/21/2018	Efile Payment	Receipt # 2018-83811-CCCLK	Tindall, Randall Esq	(3.50)
12/21/2018	Transaction Assessment			3.50
12/21/2018	Efile Payment	Receipt # 2018-84091-CCCLK	Tindall, Randall Esq	(3.50)
01/29/2019	Transaction Assessment			3.50
01/29/2019	Efile Payment	Receipt # 2019-05821-CCCLK	Tindall, Randall Esq	(3.50)

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“EXHIBIT B”

Docket Report for
Case No. A-09-590967-C

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Register of Actions
Case No. A-09-590967-C

James Nalder, Plaintiff(s) vs. United Automobile Insurance Co, Defendant(s)

§
§
§
§
§
§

Case Type: **Other Tort**
Date Filed: **05/22/2009**
Location: **Department 15**
Cross-Reference Case Number: **A590967**

Party Information

		Lead Attorneys
Defendant	**United Automobile Insurance Co**	
Plaintiff	**Lewis, Gary**	**Thomas F. Christensen** *Retained* 7028701000(W)
Plaintiff	**Nalder, James**	**Thomas F. Christensen** *Retained* 7028701000(W)

Events & Orders of the Court

OTHER EVENTS AND HEARINGS

05/22/2009	**Complaint** *Complaint*
05/22/2009	**Initial Appearance Fee Disclosure** *Initial Appearance Fee Disclosure*
07/27/2009	**Notice** *Notice of Removal*
09/10/2010	**Order to Statistically Close Case** *Civil Order to Statistically Close Case*
01/05/2015	**Judicial Elections 2014 - Case Reassignment** *District Court Judicial Officer Reassignment 2014*
05/04/2015	**Case Reassigned to Department 15** *Case reassigned from Judge Richard F Scotti Dept 2*

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Financial Information

Plaintiff Nalder, James

	Total Financial Assessment			181.00
	Total Payments and Credits			181.00
	Balance Due as of 02/21/2019			**0.00**
05/22/2009	Transaction Assessment			151.00
05/22/2009	Payment (Window)	Receipt # 2009-23914-FAM	Christensen Law Offices, LLC	(151.00)
05/22/2009	Transaction Assessment			30.00
05/22/2009	Payment (Window)	Receipt # 2009-24075-FAM	Christensen Law Offcies, LLC	(30.00)

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“EXHIBIT C”

Docket Report for
Case No. 2:09-cv-01348-RJC-GWF

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CLOSED,APPEAL

United States District Court
District of Nevada (Las Vegas)
CIVIL DOCKET FOR CASE #: 2:09-cv-01348-RCJ-GWF

Nalder et al v. United Automobile Insurance Company
Assigned to: Chief Judge Robert C. Jones
Referred to: Magistrate Judge George Foley, Jr
Case in other court: 9th Circuit Court of Appeal, 11-15010
9th Circuit Court of Appeal, 11-15462
9th Circuit Court of Appeals, 13-17441
Eighth Judicial District Court, A590967
Cause: 28:1332 Diversity-Insurance Contract

Date Filed: 07/24/2009
Date Terminated: 10/30/2013
Jury Demand: Both
Nature of Suit: 110 Insurance
Jurisdiction: Diversity

Plaintiff

James Nalder
Gaurdian Ad Litem
on behalf of
Cheyanne Nalder

represented by **David F Sampson**
Law Office of David Sampson, LLC.
200 E. Charleston Blvd.
Las Vegas, NV 89104
702-605-1099
Fax: 888-209-4199
Email: davidsampsonlaw@gmail.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Thomas F. Christensen
Christensen Law Offices LLC
1000 S Valley View Blvd
Las Vegas, NV 89107-
702-870-1000
Fax: 702-870-6152
Email: courtnotices@injuryhelpnow.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Plaintiff

Gary Lewis

represented by **David F Sampson**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Thomas F. Christensen
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

V.

Defendant

United Automobile Insurance Company represented by **Thomas E. Winner**
Atkin Winner & Sherrod
1117 South Rancho Drive
Las Vegas, NV 89102
702-243-7000
Fax: 702-234-7059
Email: twinner@awsvlaw.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Douglas M Rowan
Wilson Elser Moskowitz Edelman & Dicker LLP
300 South Fourth Street, 11th Floor
Las Vegas, NV 89101
702-727-1400
Fax: 702-727-1401
Email: douglas.rowan@wilsonelser.com
ATTORNEY TO BE NOTICED

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Matthew John Douglas
Atkin Winner & Sherrod
1117 South Rancho
Las Vegas, NV 89102
702-245-7000
Email: mdouglas@awslawyers.com
ATTORNEY TO BE NOTICED

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Susan M Sherrod
Atkin Winner Sherrod
7201 W Lake Mead Blvd
Suite 360
Las Vegas, NV 89128
702-243-7000
Fax: 702-234-7059
Email: ssherrod@awslawyers.com
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
07/24/2009	1	PETITION FOR REMOVAL from Eighth Judicial District Court, Case Number A590967, (Filing fee $ 350 receipt number 0978000000001309652), filed by United Automobile Insurance Company. Certificate of Interested Parties due by 8/3/2009. (Rowan, Douglas) (Entered: 07/24/2009)

07/24/2009	2	CERTIFICATE of Interested Parties filed by United Automobile Insurance Company.. There are no known interested parties other than those participating in the case. (Rowan, Douglas) (Entered: 07/24/2009)
07/24/2009		Case assigned to Judge Edward C. Reed, Jr and Magistrate Judge George Foley, Jr. (SD) (Entered: 07/24/2009)
07/24/2009	3	NOTICE PURSUANT TO LOCAL RULE IB 2-2: In accordance with 28 USC § 636(c) and FRCP 73, the parties in this action are provided with a link to the "AO 85 Notice of Availability, Consent, and Order of Reference - Exercise of Jurisdiction by a U.S. Magistrate Judge" form on the Court's website - www.nvd.uscourts.gov. **Consent forms should NOT be electronically filed.** Upon consent of all parties, counsel are advised to manually file the form with the Clerk's Office. **(no image attached)** (SD) (Entered: 07/24/2009)
07/24/2009	4	MINUTE ORDER IN CHAMBERS of the Honorable Judge Edward C. Reed, Jr, on 7/24/2009. Statement regarding removed action is due by 8/11/2009. Joint Status Report regarding removed action is due by 8/26/2009. (Copies have been distributed pursuant to the NEF - SD) (Entered: 07/24/2009)
07/24/2009	5	DEMAND for Trial by Jury by Plaintiffs Gary Lewis, James Nalder. (Sampson, David) (Entered: 07/24/2009)
07/24/2009	6	CERTIFICATE of Interested Parties filed by Gary Lewis, James Nalder.. There are no known interested parties other than those participating in the case *JURY TRIAL REQUESTED*. (Sampson, David) (Entered: 07/24/2009)
08/06/2009	7	ANSWER to Complaint with Jury Demand *with Affirmative Defenses* filed by United Automobile Insurance Company. Certificate of Interested Parties due by 8/16/2009. Discovery Plan/Scheduling Order due by 9/20/2009.(Winner, Thomas) (Entered: 08/06/2009)
08/07/2009	8	STATEMENT RE: REMOVAL filed by Defendant United Automobile Insurance Company. (Douglas, Matthew) (Entered: 08/07/2009)
08/24/2009	9	Interim STATUS REPORT by Plaintiffs Gary Lewis, James Nalder. (Sampson, David) (Entered: 08/24/2009)
09/03/2009	10	PROPOSED Discovery Plan/Scheduling Order filed by Plaintiffs Gary Lewis, James Nalder, Defendant United Automobile Insurance Company. (Sampson, David) (Entered: 09/03/2009)
09/04/2009	11	SCHEDULING ORDER. Discovery due by 5/6/2010. Motions due by 6/7/2010. Proposed Joint Pretrial Order due by 7/7/2010. Signed by Magistrate Judge George Foley, Jr on 9/4/2009. (Copies have been distributed pursuant to the NEF - SD) (Entered: 09/08/2009)
02/05/2010	12	MOTION to Compel *to Overrule Objections and Compel Plaintiff's Answers to Written Interrogatories and Requests for Production Under FRCP 37(a)(3)(B)(iii)* by Defendant United Automobile Insurance Company. Responses due by 2/22/2010. (Attachments: # 1 Exhibit Group, # 2 Exhibit Group, # 3 Exhibit Group, # 4 Exhibit Group, # 5 Exhibit Group)(Rowan, Douglas) (Entered: 02/05/2010)
02/11/2010	13	NOTICE of Hearing on 12 Defendant's MOTION *to Overrule Objections and Compel Plaintiff's Answers to Written Interrogatories and Requests for Production Under*

		FRCP 37(a)(3)(B)(iii) : Motion Hearing set for **Monday, March 8, 2010, at 9:30 AM** in LV Courtroom 3A before Magistrate Judge George Foley Jr.(JBW) (Entered: 02/11/2010)
02/22/2010	14	RESPONSE to 12 MOTION to Compel *to Overrule Objections and Compel Plaintiff's Answers to Written Interrogatories and Requests for Production Under FRCP 37(a)(3)(B)(iii)* MOTION to Compel *to Overrule Objections and Compel Plaintiff's Answers to Written Interrogatories and Requests for Production Under FRCP 37(a)(3)(B)(iii)*, filed by Plaintiff Gary Lewis. Replies due by 3/4/2010. (Sampson, David) (Entered: 02/22/2010)
03/03/2010	15	REPLY to Response to 12 MOTION to Compel *to Overrule Objections and Compel Plaintiff's Answers to Written Interrogatories and Requests for Production Under FRCP 37(a)(3)(B)(iii)* MOTION to Compel *to Overrule Objections and Compel Plaintiff's Answers to Written Interrogatories and Requests for Production Under FRCP 37(a)(3)(B)(iii)* ; filed by Defendant United Automobile Insurance Company. (Rowan, Douglas) (Entered: 03/03/2010)
03/08/2010	16	MINUTES OF PROCEEDINGS - Motion Hearing held on 3/8/2010 before Magistrate Judge George Foley, Jr. Crtrm Administrator: *Donna Smith*; Pla Counsel: *David Sampson*; Def Counsel: *Matthew Douglas, Thomas Winner*; Court Reporter/FTR #: *9:29:24-9:45:58*; Time of Hearing: *9:30 a.m.*; Courtroom: *3A*; Representations of Mr. Douglas and Mr. Sampson heard. Defendant's 12 Motion to Compel is **granted** as stated on the record. The Court declines to award costs or impose sanctions at this time. Mr. Sampson moves for an extension of the discovery deadline. The Court **denies** the motion. (Copies have been distributed pursuant to the NEF - DES) (Entered: 03/08/2010)
03/18/2010	17	MOTION for Summary Judgment *on all Claims; Alternatively Motion for Summary Judgment on Extra-Contractual Remedies; or Further in the Alternative, Motion to Stay Discovery and Bifurcate Claims for Extra-Contractual Remedies; Finally in the Alternative, Motion for Leave to Amend* by Defendant United Automobile Insurance Company. Responses due by 4/11/2010. (Attachments: # 1 Exhibit, # 2 Exhibit, # 3 Exhibit, # 4 Exhibit, # 5 Exhibit)(Rowan, Douglas) (Entered: 03/18/2010)
03/18/2010	18	DECLARATION of Jan Cook re 17 MOTION for Summary Judgment *on all Claims; Alternatively Motion for Summary Judgment on Extra-Contractual Remedies; or Further in the Alternative, Motion to Stay Discovery and Bifurcate Claims for Extra-Contractual Remedies; Finally in the Alternat ; by Defendant United Automobile Insurance Company. (Rowan, Douglas) (Entered: 03/18/2010)*
03/18/2010	19	DECLARATION of Denise Davis re 17 Motion for Summary Judgment; by Defendant United Automobile Insurance Company. (Rowan, Douglas) **Docket entry relationship added on 3/23/2010. (MJZ)** (Entered: 03/18/2010)
04/09/2010	20	RESPONSE to 17 MOTION for Summary Judgment *on all Claims; Alternatively Motion for Summary Judgment on Extra-Contractual Remedies; or Further in the Alternative, Motion to Stay Discovery and Bifurcate Claims for Extra-Contractual Remedies; Finally in the Alternat, filed by Plaintiffs Gary Lewis, James Nalder. Replies due by 4/26/2010. (Attachments: # 1 Exhibit UAIC Claims File, # 2 Exhibit UAIC Claims File, # 3 Exhibit UAIC Claims File, # 4 Exhibit Judgment, # 5 Exhibit Interrogatory Answers, # 6 Exhibit Expert Report)(Sampson, David) (Entered:*

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		04/09/2010)
04/26/2010	21	REPLY to Response to 17 MOTION for Summary Judgment *on all Claims; Alternatively Motion for Summary Judgment on Extra-Contractual Remedies; or Further in the Alternative, Motion to Stay Discovery and Bifurcate Claims for Extra-Contractual Remedies; Finally in the Alternat ; filed by Defendant United Automobile Insurance Company. Reply in Support (Rowan, Douglas) (Entered: 04/26/2010)*
05/05/2010	22	STIPULATION *and Order to Amend the Discovery Plan and Scheduling Order (First Request)* by Defendant United Automobile Insurance Company. (Rowan, Douglas) (Entered: 05/05/2010)
05/06/2010	23	NOTICE of Hearing: Discovery Hearing regarding the Stipulation and Order to Amend the Discovery Plan and Scheduling Order (First Request) (#22) is set for **Thursday, May 13, 2010, at 9:30 AM** in LV Courtroom 3A before Magistrate Judge George Foley Jr.(JBW) (Entered: 05/06/2010)
05/13/2010	24	SCHEDULING ORDER re: 22 Stipulation to Amend Discovery Plan and Scheduling Order. Discovery due by 9/1/2010. Motions due by 10/1/2010. Proposed Joint Pretrial Order due by 11/2/2010. Signed by Magistrate Judge George Foley, Jr on 5/13/10. (Copies have been distributed pursuant to the NEF - ASB) (Entered: 05/13/2010)
05/13/2010	25	MINUTES OF PROCEEDINGS - Status Conference held on 5/13/2010 before Magistrate Judge George Foley, Jr. Crtrm Administrator: *Melissa Jaime*; Pla Counsel: *David Sampson*; Def Counsel: *Thomas Winner*; Court Reporter/FTR #: *9:30 a.m.*; Time of Hearing: *9:30 - 9:35 a.m.*; Courtroom: *3A*; The Court makes an inquiry of counsel with respect to 22 Stipulation and Order to Amend the Discovery Plan and Scheduling Order. The parties represent that there are no issues regarding completing discovery. The Court will APPROVE 22 Stipulation to Amend Discovery Plan and Scheduling Order. **(no image attached)** (Copies have been distributed pursuant to the NEF - MAJ) (Entered: 05/14/2010)
08/24/2010	26	SUPPLEMENT to 17 MOTION for Summary Judgment *on all Claims; Alternatively Motion for Summary Judgment on Extra-Contractual Remedies; or Further in the Alternative, Motion to Stay Discovery and Bifurcate Claims for Extra-Contractual Remedies; Finally in the Alternat, 20 Response to Motion,, ; by Plaintiffs Gary Lewis, James Nalder. (Attachments: # 1 Exhibit Deposiotion, # 2 Exhibit Depositon, # 3 Exhibit Depostion, # 4 Exhibit Receipt, # 5 Exhibit Poliy)(Sampson, David) (Entered: 08/24/2010)*
08/24/2010	27	MOTION for Leave to File Response by Plaintiffs Gary Lewis, James Nalder. Responses due by 9/10/2010. (Sampson, David) **Event type corrected on 8/25/2010. (MJZ)** (Entered: 08/24/2010)
09/08/2010	28	SUBPOENA Returned Executed as to Plaintiff (Sampson, David) (Entered: 09/08/2010)
09/10/2010	29	RESPONSE to 27 MOTION for Leave to File Response, filed by Defendant United Automobile Insurance Company. *Opposition to Plaintiff's Motion for Leave to File a Supplement to his Opposition to Motion for Summary Judgment on all Claims and Other Issues; Alternatively Defendant COUNTER-MOTIONS for Leave to File a Response to Plaintiff's Supplement and for Leave to Defendant to file a Supplement to its Original Motion* Replies due by 9/27/2010. (Rowan, Douglas) (Entered: 09/10/2010)

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10/25/2010	30	MINUTE ORDER IN CHAMBERS of the Honorable Judge Edward C. Reed, Jr, on 10/25/2010. Plaintiffs Motion for Leave 27 to file a Supplement 26 to Defendants Motion for Summary Judgment 17 is GRANTED. Defendants shall have twenty-one (21) days within which to file a supplement to its Reply 21 in support of Defendants Motion for Summary Judgment 17 . (Copies have been distributed pursuant to the NEF - ECS) (Entered: 10/25/2010)
10/25/2010	31	MINUTE ORDER IN CHAMBERS of the Honorable Judge Edward C. Reed, Jr, on 10/25/2010. A hearing is scheduled for 1:00 p.m., 12/7/10, on Defendants Motion for Summary Judgment 17 . The hearing will be held at the Lloyd D. George United States Courthouse, Las Vegas, Nevada. At the hearing, each side shall be allowed one (1) hour for oral argument. (Copies have been distributed pursuant to the NEF - ECS) (Entered: 10/25/2010)
11/05/2010	32	PROPOSED Pretrial Order *Joint* by Defendant United Automobile Insurance Company. (Rowan, Douglas) (Entered: 11/05/2010)
11/15/2010	33	RESPONSE to 17 MOTION for Summary Judgment *on all Claims; Alternatively Motion for Summary Judgment on Extra-Contractual Remedies; or Further in the Alternative, Motion to Stay Discovery and Bifurcate Claims for Extra-Contractual Remedies; Finally in the Alternat, filed by Defendant United Automobile Insurance Company. Response to Plaintiffs' Supplement to their Opposition to Defendant's Motion for Summary Judgment on all Claims; Alternatively, Motion for Summary Judgment on Extra-Contractual Remedies; or Furhter, in the Alternative, Motion to Stay Discovery and Bifurcate Claims for Extra-Contractual Remedies; Finall, in teh Alternative, Motion for Leave to Amend Replies due by 12/2/2010. (Rowan, Douglas) (Entered: 11/15/2010)*
11/15/2010	34	EXHIBIT(s) *1* to 33 Response to Motion,, ; filed by Defendant United Automobile Insurance Company. (Rowan, Douglas) (Entered: 11/15/2010)
11/15/2010	35	EXHIBIT(s) *2* to 33 Response to Motion,, ; filed by Defendant United Automobile Insurance Company. (Rowan, Douglas) (Entered: 11/15/2010)
11/15/2010	36	EXHIBIT(s) *3* to 33 Response to Motion,, ; filed by Defendant United Automobile Insurance Company. (Rowan, Douglas) (Entered: 11/15/2010)
11/15/2010	37	EXHIBIT(s) *4* to 33 Response to Motion,, ; filed by Defendant United Automobile Insurance Company. (Rowan, Douglas) (Entered: 11/15/2010)
11/15/2010	38	EXHIBIT(s) *5* to 33 Response to Motion,, ; filed by Defendant United Automobile Insurance Company. (Rowan, Douglas) (Entered: 11/15/2010)
11/18/2010	39	MINUTE ORDER IN CHAMBERS of the Honorable Judge Edward C. Reed, Jr, on 11/18/2010. By Deputy Clerk: C. Larsen. RE: 17 MOTION for Summary Judgment *on all Claims; Alternatively Motion for Summary Judgment on Extra-Contractual Remedies; or Further in the Alternative, Motion to Stay Discovery and Bifurcate Claims for Extra-Contractual Remedies; Finally in the Alternat Motion Hearing set for 12/7/2010 at 1:30, is RESCHEDULED on 12/7/2010 at 02:00 PM in LV Courtroom 4B before Judge Edward C. Reed Jr.**(no image attached)** (Copies have been distributed pursuant to the NEF - CLL) (Entered: 11/18/2010)*
12/03/2010	40	ERRATA to Response to 17 MOTION for Summary Judgment, by United Automobile Insurance Company. (Rowan, Douglas) **Event type corrected on 12/6/2010. (MJZ)** (Entered: 12/03/2010)

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12/06/2010		NOTICE of Docket Correction to 40 RESPONSE to Motion. ERROR: Wrong event selected by attorney Douglas Rowan. CORRECTION: Entry corrected by court to 40 ERRATA. **(no image attached)**(MJZ) (Entered: 12/06/2010)
12/07/2010	41	MINUTES OF PROCEEDINGS - Motion Hearing held on 12/7/2010 before Judge Edward C. Reed, Jr. Crtrm Administrator: *C. Larsen*; Pla Counsel: *D. Sampson*; Def Counsel: *M. Douglas; T. Winner*; Court Reporter/FTR #: *F. Zabin*; Time of Hearing: *2:15 PM to 4:35 PM*; Arguments presented; written order to follow. (Copies have been distributed pursuant to the NEF - CLL) (Entered: 12/07/2010)
12/20/2010	42	ORDER granting Defendant's 17 Motion for Summary Judgment with respect to all of Plaintiffs' claims. Signed by Judge Edward C. Reed, Jr on 12/17/10. (Copies have been distributed pursuant to the NEF - ECS) (Entered: 12/20/2010)
12/20/2010	43	CLERK'S JUDGMENT in favor of United Automobile Insurance Company against Gary Lewis, James Nalder. Signed by Clerk of Court, Lance S. Wilson on 12/20/10. (Copies have been distributed pursuant to the NEF - ECS) (Entered: 12/20/2010)
12/22/2010	44	BILL OF COSTS by Defendant United Automobile Insurance Company. Tax or object to Bill of Costs by 1/9/2011. (Rowan, Douglas) (Entered: 12/22/2010)
12/22/2010	45	MOTION for Attorney Fees by Defendant United Automobile Insurance Company. Responses due by 1/8/2011. (Attachments: # 1 Exhibit Exhibit A)(Rowan, Douglas) (Entered: 12/22/2010)
01/03/2011	46	NOTICE OF APPEAL by Plaintiff Gary Lewis. Filing fee $ 455, receipt number 0978-1839446. E-mail notice (NEF) sent to the US Court of Appeals, Ninth Circuit. (Sampson, David) (Entered: 01/03/2011)
01/04/2011	47	USCA Appeal Fees received $455 receipt number 0978-1839446 re 46 Notice of Appeal filed by Gary Lewis. E-mail notice (NEF) sent to the US Court of Appeals, Ninth Circuit. (JAG) (Entered: 01/04/2011)
01/04/2011	48	Designation of Transcripts and Transcript Order forms and instructions for 46 Notice of Appeal. The forms may also be obtained on the Court's website at www.nvd.uscourts.gov/Forms.aspx. (JAG) (Entered: 01/04/2011)
01/07/2011	49	RESPONSE to 45 MOTION for Attorney Fees, filed by Plaintiffs Gary Lewis, James Nalder. Replies due by 1/17/2011. (Sampson, David) (Entered: 01/07/2011)
01/07/2011	50	OBJECTION to 44 Bill of Costs ; filed by Plaintiffs Gary Lewis, James Nalder. (Sampson, David) (Entered: 01/07/2011)
01/07/2011	51	ORDER for Time Schedule as to 46 Notice of Appeal filed by Gary Lewis. **USCA Case Number 11-15010**. (JAG) (Entered: 01/07/2011)
01/11/2011	52	ERRATA to 45 MOTION for Attorney Fees ; filed by Defendant United Automobile Insurance Company. (Rowan, Douglas) (Entered: 01/11/2011)
01/14/2011	53	REPLY to Response to 45 MOTION for Attorney Fees ; filed by Defendant United Automobile Insurance Company. *Combined reply to Plaintiff's Response to Motion for Attorneys Fees and Objection to Bill of Costs and Motion for Leave to Amend Bill of Costs to include Documentation of Costs* (Rowan, Douglas) (Entered: 01/14/2011)
01/14/2011	54	EXHIBIT(s) to Reply to Response to 45 MOTION for Attorney Fees, 58 MOTION to Amend/Correct 44 Bill of Costs; filed by Defendant United Automobile Insurance

		Company. (Rowan, Douglas) **Docket entry relationship added on 1/24/2011. (MJZ)** (Entered: 01/14/2011)
01/14/2011	55	EXHIBIT(s) *Group Exhibit A Part 1* to Reply to Response to 45 MOTION for Attorney Fees, 58 MOTION to Amend/Correct 44 Bill of Costs ; filed by Defendant United Automobile Insurance Company. (Rowan, Douglas) **Docket entry relationship added on 1/24/2011. (MJZ)** (Entered: 01/14/2011)
01/14/2011	56	EXHIBIT(s) *Group Exhibit A Part 3* to Reply to Response to 45 MOTION for Attorney Fees, 58 MOTION to Amend/Correct 44 Bill of Costs; filed by Defendant United Automobile Insurance Company. (Rowan, Douglas) **Docket entry relationship added on 1/24/2011. (MJZ)** (Entered: 01/14/2011)
01/14/2011	57	EXHIBIT(s) *Group Exhibit A Part 4* to Reply to Response to 45 MOTION for Attorney Fees, 58 MOTION to Amend/Correct 44 Bill of Costs; filed by Defendant United Automobile Insurance Company. (Rowan, Douglas) **Docket entry relationship added on 1/24/2011. (MJZ)** (Entered: 01/14/2011)
01/14/2011	58	MOTION to Amend/Correct 44 Bill of Costs, by Defendant United Automobile Insurance Company. Responses due by 1/31/2011. (MJZ) (Entered: 01/24/2011)
01/24/2011		NOTICE of Docket Correction to 53 REPLY to Response to Motion. ERROR: Document should've been filed as ***two*** separate entries by attorney Douglas Rowan in accordance with Special Order 109. CORRECTION: Entry refiled by Court as 58 MOTION to Amend/Correct 44 Bill of Costs. **(no image attached)**(MJZ) (Entered: 01/24/2011)
01/26/2011	59	MINUTE ORDER IN CHAMBERS of the Honorable Judge Edward C. Reed, Jr, on 1/26/2011. By Deputy Clerk: Colleen Larsen. Granting 58 Motion to Amend/Correct 44 Bill of Costs. Bill of Costs due by 2/2/2011. Tax or object to Bill of Costs by 2/12/2011. (Copies have been distributed pursuant to the NEF - ASB) (Entered: 01/27/2011)
01/26/2011	60	MINUTE ORDER IN CHAMBERS of the Honorable Judge Edward C. Reed, Jr, on 1/26/2011. By Deputy Clerk: Colleen Larsen. Denying 45 Motion for Attorney Fees. (Copies have been distributed pursuant to the NEF - ASB) (Entered: 01/27/2011)
02/01/2011	61	BILL OF COSTS by Defendant United Automobile Insurance Company. Tax or object to Bill of Costs by 2/19/2011. (Attachments: # 1 Exhibit Exhibit 1, # 2 Exhibit Group Exhibit 2, # 3 Exhibit Exhibit 3, # 4 Exhibit Exhibit 4, # 5 Exhibit Exhibit 5, # 6 Exhibit Exhibit 6, # 7 Exhibit Exhibit 7, # 8 Exhibit Exhibit 8, # 9 Exhibit Exhibit 9)(Rowan, Douglas) (Entered: 02/01/2011)
02/01/2011	62	DESIGNATION of Transcripts by Plaintiff James Nalder re 46 Notice of Appeal. (ECS) (Entered: 02/02/2011)
02/01/2011	63	NOTICE: Attorney Notification of Error re 62 Designation of Transcripts. Attorney David F. Sampson advised to file any future Designation of Transcripts electronically. **(no image attached)**(ECS) (Entered: 02/02/2011)
02/10/2011	64	OBJECTION to 61 Bill of Costs, 44 Bill of Costs ; filed by Plaintiffs Gary Lewis, James Nalder. (Sampson, David) (Entered: 02/10/2011)
02/10/2011	65	MOTION for Re-Taxation of Costs by Plaintiffs Gary Lewis, James Nalder. Responses due by 2/27/2011. (Sampson, David) (Entered: 02/10/2011)

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02/16/2011	66	MINUTE ORDER IN CHAMBERS of the Honorable Judge Edward C. Reed, Jr, on 2/16/2011. By Deputy Clerk: Colleen Larsen. Denying 65 Motion for Re-Taxation of Costs. (Copies have been distributed pursuant to the NEF - ASB) (Entered: 02/17/2011)
02/18/2011	67	REPLY to 61 Bill of Costs, ; *Defendant United Automobile Insurance Company's Reply to Plaintiff's Objection to Amended Bill of Costs* filed by Defendant United Automobile Insurance Company. (Rowan, Douglas) (Entered: 02/18/2011)
02/24/2011	68	NOTICE OF APPEAL as to 60 Order on Motion for Attorney Fees, Minute Order by Defendant United Automobile Insurance Company. Filing fee $ 455, receipt number 0978-1896982. E-mail notice (NEF) sent to the US Court of Appeals, Ninth Circuit. (Rowan, Douglas) (Entered: 02/24/2011)
02/24/2011	69	TRANSCRIPT of Proceedings, 16 Order on Motion to Compel, Motion Hearing, held on 3/8/2010, before Magistrate Judge George Foley, Jr. Transcriber: Felicia Zabin, 702-676-1087. Tape Number: 9:29:24 to 9:45:48. Transcript may be viewed at the court public terminal or purchased through the Transcriber using the court's "Transcript Order" form available on our website www.nvd.uscourts.gov before the deadline for Release of Transcript Restriction. After that date, it may be obtained either through the Transcriber or PACER. Redaction Request due 3/17/2011. Redacted Transcript Deadline set for 3/27/2011. Release of Transcript Restriction set for 5/25/2011. (FRZ) (Entered: 02/24/2011)
02/24/2011	70	TRANSCRIPT of Proceedings, 41 Reporter's Transcript of Motion Hearing, held on 12/7/2010, before Judge Edward C. Reed, Jr. Court Reporter: Felicia Zabin, 702-676-1087. Transcript may be viewed at the court public terminal or purchased through the Transcriber using the court's "Transcript Order" form available on our website www.nvd.uscourts.gov before the deadline for Release of Transcript Restriction. After that date, it may be obtained either through the Court Reporter or PACER. Redaction Request due 3/17/2011. Redacted Transcript Deadline set for 3/27/2011. Release of Transcript Restriction set for 5/25/2011. (FRZ) (Entered: 02/24/2011)
02/25/2011	71	USCA Appeal Fees received $455 receipt number 0978-1896982 re 68 Notice of Appeal, filed by United Automobile Insurance Company. E-mail notice (NEF) sent to the US Court of Appeals, Ninth Circuit. (JAG) (Entered: 02/25/2011)
02/25/2011	72	Designation of Transcripts and Transcript Order forms and instructions for 68 Notice of Appeal,. The forms may also be obtained on the Court's website at www.nvd.uscourts.gov/Forms.aspx. (JAG) (Entered: 02/25/2011)
02/28/2011	73	ORDER for Time Schedule as to 68 Notice of Appeal, filed by United Automobile Insurance Company. **USCA Case Number 11-15462**. (JAG) (Entered: 02/28/2011)
03/01/2011	74	COSTS TAXED in the amount of $8,552.24 and included in the judgment re 61 Bill of Costs. (MJZ) (Entered: 03/01/2011)
08/02/2011	75	MOTION for Bond *Defendant United Automobile Insurance Company's Motion for Plaintiff to Post Cost Bond on Appeal Pursuant to F.R.A.P.7* by Defendant United Automobile Insurance Company. Responses due by 8/19/2011. (Rowan, Douglas) (Entered: 08/02/2011)

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08/09/2011	76	CERTIFICATE OF RECORD on 46 Notice of Appeal. The record on appeal, consisting of the reporter's transcripts and the United States District Court clerk's record is ready for the purpose of the appeal. This file exists in electronic format and is accessible via CM/ECF - PACER. The documents comprising the United States District Court clerk's record have been numbered in conformance with Rule 11(b) of the Federal Rules of Appellate Procedure. These document numbers are reflected on the United States District Court's docket sheet and should be used for reference purposes in the briefs. Appeals in Habeas Corpus and 28 USC 2255 Motion to Vacate Sentence cases are treated as civil appeals in the Court of Appeals. Criminal appeals briefing schedules will be issued upon the filing of this document. E-mail notice (NEF) sent to the US Court of Appeals, Ninth Circuit. **(no image attached)** (JAG) (Entered: 08/09/2011)
08/09/2011	77	USCA Appeal Fees received $455 receipt number 0978-1896982 re 68 Notice of Appeal, filed by United Automobile Insurance Company. E-mail notice (NEF) sent to the US Court of Appeals, Ninth Circuit. (JAG) (Entered: 08/09/2011)
08/09/2011	78	Designation of Transcripts and Transcript Order forms and instructions for 68 Notice of Appeal,. The forms may also be obtained on the Court's website at www.nvd.uscourts.gov/Forms.aspx. (JAG) (Entered: 08/09/2011)
08/15/2011	79	RESPONSE to 75 MOTION for Bond *Defendant United Automobile Insurance Company's Motion for Plaintiff to Post Cost Bond on Appeal Pursuant to F.R.A.P.7*, filed by Plaintiffs Gary Lewis, James Nalder. Replies due by 8/25/2011. (Sampson, David) (Entered: 08/15/2011)
08/22/2011	80	REPLY to Response to 75 MOTION for Bond *Defendant United Automobile Insurance Company's Motion for Plaintiff to Post Cost Bond on Appeal Pursuant to F.R.A.P.7* ; filed by Defendant United Automobile Insurance Company. *Defendant United Automobile Insurance Company's Reply in Support of Its Motion for Plaintiff to Post Cost Bond on Appeal Pursuant to F.R.A.P.7* (Rowan, Douglas) (Entered: 08/22/2011)
10/14/2011	81	ORDER Denying 75 Motion for Plaintiff to Post Cost Bond on Appeal Pursuant to F.R.A.P.7. Signed by Judge Edward C. Reed, Jr on 10/14/11. (Copies have been distributed pursuant to the NEF - ASB) (Entered: 10/14/2011)
12/17/2012	82	MEMORANDUM/OPINION of USCA, Ninth Circuit, REVERSING AND REMANDING in part and AFFIRMING in part 68 Notice of Appeal and 46 Notice of Appeal filed by Gary Lewis. (EDS) (Entered: 12/17/2012)
01/11/2013	83	MANDATE of USCA, Ninth Circuit, as to 82 USCA Memorandum/Opinion REVERSING AND REMANDING in part and AFFIRMING in part as to 46 and 68 Notices of Appeal. (MMM) (Entered: 01/18/2013)
01/29/2013	85	MINUTE ORDER IN CHAMBERS of the Honorable Chief Judge Robert C. Jones, on 1/29/2013. IT IS ORDERED that this case is reassigned to Chief Judge Robert C. Jones for all further proceedings. Judge Edward C. Reed, Jr no longer assigned to case. All further documents must bear the correct case number 2:09-cv-01348-RCJ-GWF.

		(no image attached) (Copies have been distributed pursuant to the NEF - MMM) (Entered: 01/29/2013)
02/22/2013	86	Submission of PROPOSED ORDER on 83 USCA Mandate, 82 USCA Memorandum/Opinion, 68 Notice of Appeal, 46 Notice of Appeal ;. (BLG) (Entered: 02/22/2013)
02/25/2013	87	ORDER on Mandate as to 82 USCA Memorandum/Opinion and 83 USCA Mandate AFFIRMING, REVERSING, and REMANDING judgment of the US District Court re 68 and 46 Notices of Appeal. Signed by Chief Judge Robert C. Jones on 2/22/13. (EDS) (Entered: 02/25/2013)
03/04/2013	88	MOTION for Summary Judgment by Plaintiff James Nalder. Responses due by 3/28/2013. (Attachments: # 1 Exhibit 1, # 2 Exhibit 2, # 3 Exhibit 3, # 4 Exhibit 4, # 5 Exhibit 5, # 6 Exhibit 6, # 7 Exhibit 7)(Christensen, Thomas) (Entered: 03/04/2013)
03/26/2013	89	Counter MOTION for Summary Judgment *on All Extra-Contractual Claims or Remedies;or in the Alternative, Motion to Bifurcate Claims for Extra-Contractual Claims or Remedies; Further, in the Alternative, Motion for Leave to Amend Answer to File Counter-Claim Oral Argument Requested* by Defendant United Automobile Insurance Company. Responses due by 4/19/2013. (Attachments: # 1 Exhibit, # 2 Exhibit, # 3 Exhibit, # 4 Exhibit, # 5 Exhibit, # 6 Exhibit, # 7 Exhibit, # 8 Exhibit, # 9 Exhibit, # 10 Exhibit, # 11 Exhibit, # 12 Declaration, # 13 Declaration)(Sherrod, Susan) (Entered: 03/26/2013)
03/26/2013	90	RESPONSE to 88 MOTION for Summary Judgment, filed by Defendant United Automobile Insurance Company. *Oral Argument Requested* Replies due by 4/12/2013. (Attachments: # 1 Exhibit, # 2 Exhibit, # 3 Exhibit, # 4 Exhibit, # 5 Exhibit, # 6 Exhibit, # 7 Exhibit, # 8 Exhibit, # 9 Exhibit, # 10 Exhibit, # 11 Exhibit)(Sherrod, Susan) (Entered: 03/26/2013)
03/26/2013	91	DECLARATION re 89 Counter MOTION for Summary Judgment *on All Extra-Contractual Claims or Remedies;or in the Alternative, Motion to Bifurcate Claims for Extra-Contractual Claims or Remedies; Further, in the Alternative, Motion for Leave to Amend Answer to File Counte ; by Defendant United Automobile Insurance Company. (Sherrod, Susan) (Entered: 03/26/2013)*
03/26/2013	92	ERRATA to 89 Counter MOTION for Summary Judgment *on All Extra-Contractual Claims or Remedies;or in the Alternative, Motion to Bifurcate Claims for Extra-Contractual Claims or Remedies; Further, in the Alternative, Motion for Leave to Amend Answer to File Counte ; filed by Defendant United Automobile Insurance Company. (Sherrod, Susan) (Entered: 03/26/2013)*
03/26/2013	93	DECLARATION of Jan Cook *in Support of Defendant's Opposition to Plaintiff's Motion for Summary Judgment* by Defendant United Automobile Insurance Company. (Sherrod, Susan) (Entered: 03/26/2013)
03/26/2013	94	DECLARATION of Denise Davis re 90 Response to Motion, ; *Defendant's Opposition to Plaintiff's Motion for Summary Judgment* by Defendant United Automobile Insurance Company. (Sherrod, Susan) (Entered: 03/26/2013)
04/12/2013	95	REPLY to Response to 88 MOTION for Summary Judgment filed by Plaintiffs Gary Lewis, James Nalder. (Attachments: # 1 Exhibit 1, # 2 Exhibit 2, # 3 Exhibit 3, # 4 Exhibit 4, # 5 Exhibit 5, # 6 Exhibit 6, # 7 Exhibit 7, # 8 Exhibit 8)(Christensen, Thomas) (Entered: 04/12/2013)

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04/18/2013	96	RESPONSE to 89 Counter MOTION for Summary Judgment *on All Extra-Contractual Claims or Remedies;or in the Alternative, Motion to Bifurcate Claims for Extra-Contractual Claims or Remedies; Further, in the Alternative, Motion for Leave to Amend Answer to File Counte*, filed by Plaintiffs Gary Lewis, James Nalder. Replies due by 5/5/2013. (Attachments: # 1 Exhibit 1, # 2 Exhibit 2, # 3 Exhibit 3, # 4 Exhibit 4, # 5 Exhibit 5, # 6 Exhibit 6, # 7 Exhibit 7)(Christensen, Thomas) (Entered: 04/18/2013)
05/03/2013	97	REPLY to Response to 89 Counter MOTION for Summary Judgment *on All Extra-Contractual Claims or Remedies;or in the Alternative, Motion to Bifurcate Claims for Extra-Contractual Claims or Remedies; Further, in the Alternative, Motion for Leave to Amend Answer to File Cou* by Defendant United Automobile Insurance Company. (Sherrod, Susan) (Entered: 05/03/2013)
05/03/2013		**NOTICE of Docket Correction** to 97 Reply Brief. **ERROR**: Wrong event selected by attorney Susan Sherrod. **CORRECTION**: Clerk's office modified event as 97 REPLY to Response to Motion. **(no image attached)**(ASB) (Entered: 05/03/2013)
07/19/2013	98	MOTION for Hearing re 88 MOTION for Summary Judgment by Plaintiffs Gary Lewis, James Nalder. Motion ripe 7/19/2013. (Christensen, Thomas) (Entered: 07/19/2013)
09/25/2013	99	MINUTE ORDER IN CHAMBERS of the Honorable Chief Judge Robert C. Jones, on September 25, 2013, by Carrie Lipparelli, Judicial Assistant. IT IS HEREBY ORDERED that Plaintiffs Request for Hearing (ECF #98) is GRANTED. IT IS HEREBY ORDERED that ORAL ARGUMENT RE: (ECF #88) Motion for Summary Judgment and (ECF #89) Defendant United Automobile Insurance Companys Counter-Motion for Summary Judgment on All Extra-Contractual Claims or Remedies; or, in the Alternative, Motion to Bifurcate Claims for Extra-Contractual Claims or Remedies; Further, in the Alternative, Motion for Leave to Amend Answer to File Counter-Claim is set for TUESDAY, OCTOBER 22, 2013, 09:00 A.M., in LAS VEGAS COURTROOM 4B, before Chief Judge Robert C. Jones. IT IS SO ORDERED. Signed Chief Judge Robert C. Jones. (Copies have been distributed pursuant to the NEF - CL) (Entered: 09/25/2013)
10/21/2013	100	MINUTE ORDER IN CHAMBERS of the Honorable Chief Judge Robert C. Jones, on 10/21/2013. By Deputy Clerk: Lesa Ettinger. IT IS ORDERED that oral argument RE: 88 MOTION for Summary Judgment, 89 Counter MOTION for Summary Judgment currently set for 10/22/2013 9:00 AM is **RESCHEDULED (IN TIME ONLY) to 02:00 PM** in LV Courtroom 4B before Chief Judge Robert C. Jones. **(no image attached)** (Copies have been distributed pursuant to the NEF - LE) (Entered: 10/21/2013)
10/22/2013	101	MINUTES OF PROCEEDINGS - Motion Hearing held on 10/22/2013 before Chief Judge Robert C. Jones. Crtrm Administrator: *Eileen Wood*; Pla Counsel: *Thomas Christensen*; Def Counsel: *Matthew Douglas*; Court Reporter: *Kathy Eismann*; Time

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		of Hearing: *1:58-2:33 PM*; Courtroom: *4B*. Representations of counsel are heard re 88 MOTION for Summary Judgment and 89 Counter MOTION for Summary Judgment. The Court takes this matter under advisement and a written order will issue.**(no image attached)** (Copies have been distributed pursuant to the NEF - EW) (Entered: 10/22/2013)
10/30/2013	102	ORDER Granting in part and Denying in part 88 Motion for Summary Judgment. Granting 89 Motion for Summary Judgment. Signed by Chief Judge Robert C. Jones on 10/30/2013. (Copies have been distributed pursuant to the NEF - SLR) (Entered: 10/30/2013)
10/30/2013	103	CLERK'S JUDGMENT. The Court grants summary judgment in favor of Nalder and finds that the insurance renewal statement contained an ambiguity and, thus, the statement is construed in favor of coverage during the time of the accident. The Court denies summary judgment on Nalders remaining bad-faith claims. The Court grants summary judgment on all extra-contractual claims and/or bad faith claims in favor of Defendant. The Court directs Defendant to pay Cheyanne Nalder the policy limits on Gary Lewiss implied insurance policy at the time of the accident. Signed by Clerk of Court, Lance S. Wilson on 10/30/2013. (Copies have been distributed pursuant to the NEF - SLR) (Entered: 10/30/2013)
11/13/2013	104	MOTION for Attorney Fees by Defendant United Automobile Insurance Company. Responses due by 11/30/2013. (Sherrod, Susan) (Entered: 11/13/2013)
11/13/2013	105	BILL OF COSTS *against Defendant United Automobile Insurance Company* by Plaintiffs Gary Lewis, James Nalder. Tax or object to Bill of Costs by 12/1/2013. (Christensen, Thomas) (Entered: 11/13/2013)
11/13/2013	106	MOTION for Attorney Fees filed by Plaintiffs Gary Lewis, James Nalder. Responses due by 11/30/2013. (Christensen, Thomas) (Entered: 11/13/2013)
11/21/2013	107	OBJECTION to 105 Bill of Costs ; filed by Defendant United Automobile Insurance Company. (Sherrod, Susan) (Entered: 11/21/2013)
11/25/2013	108	MOTION to Strike 106 MOTION for Attorney Fees , *Costs and Prejudgment Interest Affidavit of Jason S. Gordon, Esq.* by Defendant United Automobile Insurance Company. Responses due by 12/12/2013. (Sherrod, Susan) (Entered: 11/25/2013)
11/25/2013	109	REPLY to Response to 106 MOTION for Attorney Fees , *Costs and Prejudgment Interest* filed by Defendant United Automobile Insurance Company. (Sherrod, Susan) (Entered: 11/25/2013)
11/25/2013	110	RESPONSE to 106 MOTION for Attorney Fees , *Costs and Prejudgment Interest*, filed by Defendant United Automobile Insurance Company. Replies due by 12/5/2013. (Sherrod, Susan) (Entered: 11/25/2013)
11/27/2013	111	RESPONSE to 104 MOTION for Attorney Fees , filed by Plaintiffs Gary Lewis, James Nalder. Replies due by 12/7/2013. (Christensen, Thomas) (Entered: 11/27/2013)
11/27/2013	112	NOTICE OF APPEAL as to 102 Order on Motion for Summary Judgment, 103 Clerk's Judgment,, by Plaintiffs Gary Lewis, James Nalder. Filing fee $ 455, receipt number 0978-3049606. E-mail notice (NEF) sent to the US Court of Appeals, Ninth Circuit. (Christensen, Thomas) (Entered: 11/27/2013)

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11/27/2013	114	ORDER for Time Schedule as to 112 Notice of Appeal, filed by Gary Lewis and James Nalder. **USCA Case Number 13-17441**. (EDS) (Entered: 12/03/2013)
12/02/2013	113	Designation of Transcripts and Transcript Order forms and instructions for 112 Notice of Appeal,. The forms may also be obtained on the Court's website at www.nvd.uscourts.gov/Forms.aspx. (ASB) (Entered: 12/02/2013)
12/03/2013	115	MINUTE ORDER IN CHAMBERS of the Honorable Chief Judge Robert C. Jones, on 12/3/2013. ORDERED that Oral Argument RE: 104 MOTION for Attorney Fees; 106 MOTION for Costs, Attorney's Fees and Pre-Judgment Interest; and 108 MOTION to Strike Affidavit of Jason S. Gordon, Esq., in Support of Plaintiffs' Motion for Costs, Attorneys' Fees, and Pre-Judgment Interest Pursuant to F.R.C.P. 56(e) is set for 10:00 a.m. on Thursday, February 13, 2014, in LV Courtroom 4B before Chief Judge Robert C. Jones. (Copies have been distributed pursuant to the NEF - MMM) (Entered: 12/03/2013)
12/05/2013	116	REPLY to Response to 104 MOTION for Attorney Fees filed by Defendant United Automobile Insurance Company. *Reply in Support of its Motion for Attorney Fees* (Sherrod, Susan) (Entered: 12/05/2013)
12/05/2013	117	REPLY to Response to 106 MOTION for Attorney Fees , *Costs and Prejudgment Interest* filed by Plaintiffs Gary Lewis, James Nalder. (Christensen, Thomas) (Entered: 12/05/2013)
12/12/2013	118	RESPONSE to 108 MOTION to Strike 106 MOTION for Attorney Fees , *Costs and Prejudgment Interest Affidavit of Jason S. Gordon, Esq.*, filed by Plaintiffs Gary Lewis, James Nalder. Replies due by 12/22/2013. (Christensen, Thomas) (Entered: 12/12/2013)
12/19/2013	119	REPLY to Response to 108 MOTION to Strike 106 MOTION for Attorney Fees , *Costs and Prejudgment Interest Affidavit of Jason S. Gordon, Esq.* filed by Defendant United Automobile Insurance Company. (Sherrod, Susan) (Entered: 12/19/2013)
12/27/2013	120	TRANSCRIPT DESIGNATION by Plaintiffs Gary Lewis, James Nalder re 112 Notice of Appeal, 70 Transcript,, 41 Motion Hearing, 101 Motion Hearing,, 69 Transcript,, 16 Order on Motion to Compel,,, Motion Hearing,,. (Christensen, Thomas) (Entered: 12/27/2013)
01/14/2014	121	TRANSCRIPT of Proceedings, 101 Motion for Summary Judgment, held on October 22, 2013, before Judge Robert C. Jones. Court Reporter: Kathy Eismann, 702-431-1919. Transcript may be viewed at the court public terminal or purchased through the Court Reporter using the court's "Transcript Order" form available on our website www.nvd.uscourts.gov before the deadline for Release of Transcript Restriction. After that date it may be obtained through the court reporter or PACER Redaction Request due 2/4/2014. Redacted Transcript Deadline set for 2/14/2014. Release of Transcript Restriction set for 4/14/2014. (KE) (Entered: 01/14/2014)
01/15/2014	122	STRICKEN & VACATED see 123 ~~MINUTE ORDER IN CHAMBERS of the Honorable Judge Robert C. Jones, on 1/15/2014 by Deputy Clerk: Ari Caytuero. IT IS ORDERED that a Motion Hearing re: 104 Defendant's Motion for Attorney Fees, 106 Plaintiff's Motion for Attorney Fees , *Costs and Prejudgment Interest* and 108 Defendant's Motion to Strike is set for 2/6/2014 10:00 AM in LV Courtroom 4B before Judge Robert C. Jones. (Copies have been distributed pursuant to the NEF - AC)~~ Modified on 1/24/2014 (BLG). (Entered: 01/15/2014)

01/24/2014	123	MINUTE ORDER IN CHAMBERS of the Honorable Judge Robert C. Jones, on 1/24/2014. IT IS HEREBY ORDERED that **Minute Order (#122) is STRICKEN and VACATED.** IT IS FURTHER ORDERED that Oral Argument RE: (#104) Defendant United Automobile Insurance Companys Motion for Attorneys Fees; (#106) Plaintiffs Motion for Costs, Attorneys Fees and Pre-Judgment Interest; and (#108) Defendant United Automobile Insurance Companys Motion to Strike Affidavit of Jason A. Gordon, Esq., in Support of Plaintiffs Motion for Costs, Attorneys Fees, and Pre-Judgment Interest Pursuant to F.R.C.P. 56(e) WILL REMAIN ON CALENDAR for 10:00 A.M., Thursday, February 13, 2014, in Las Vegas Courtroom 4B, before Judge Robert C. Jones (#115). IT IS FURTHER ORDERED that the Clerk of the Court shall strike Minute Order (#122) from the record. (Copies have been distributed pursuant to the NEF - BLG) (Entered: 01/24/2014)
02/13/2014	124	MINUTES OF PROCEEDINGS - Motion Hearing RE: 104 MOTION for Attorney Fees , 106 MOTION for Attorney Fees , *Costs and Prejudgment Interest*, 108 MOTION to Strike 106 MOTION for Attorney Fees , *Costs and Prejudgment Interest Affidavit of Jason S. Gordon, Esq.* held on 2/13/2014 before Judge Robert C. Jones. Crtrm Administrator: *Lesa Ettinger*; Court Reporter/FTR #: *Margaret Griener*; Time of Hearing: *10:02 - 10:11 a.m.*; Courtroom: *4B*; Court convenes. Appearances are noted on the record. Arguments of counsel are heard with respect to the motions at issue. The Court takes this matter under submission. Written ruling of the Court will issue. Court adjourns. **(no image attached)** (Copies have been distributed pursuant to the NEF - LE) (Entered: 02/13/2014)
03/20/2014	125	AMENDED BILL OF COSTS filed by Plaintiffs Gary Lewis, James Nalder. Tax or object to Bill of Costs by 4/7/2014. (Christensen, Thomas) (Entered: 03/20/2014)
03/20/2014	126	ERRATA to 106 MOTION for Attorney Fees, 117 Reply to Response to Motion; filed by Plaintiffs Gary Lewis, James Nalder. (Christensen, Thomas) (Entered: 03/20/2014)
03/21/2014	127	MOTION to Strike 126 Errata *To Plaintiffs Motion For Costs, Attorneys Fees And Prejudgment Interest And Plaintiffs Amended Bill Of Costs* by Defendant United Automobile Insurance Company. Responses due by 4/7/2014. (Sherrod, Susan) (Entered: 03/21/2014)
04/07/2014	128	OBJECTION to 125 Bill of Costs ; *Plaintiff's Amended Bill of Costs* filed by Defendant United Automobile Insurance Company. (Sherrod, Susan) (Entered: 04/07/2014)
04/07/2014	129	RESPONSE To Plaintiffs 126 Errata To Their 106 Motion For Costs, Attorneys Fees, And Pre-Judgment Interest filed by Defendant United Automobile Insurance Company. (Sherrod, Susan) Linked to documents. (ASB) (Entered: 04/07/2014)
04/07/2014	130	RESPONSE to 127 MOTION to Strike 126 Errata *To Plaintiffs Motion For Costs, Attorneys Fees And Prejudgment Interest And Plaintiffs Amended Bill Of Costs*, filed by Plaintiffs Gary Lewis, James Nalder. Replies due by 4/17/2014. (Christensen, Thomas) (Entered: 04/07/2014)
04/16/2014	131	REPLY to Response to 127 MOTION to Strike 126 Errata *To Plaintiffs Motion For Costs, Attorneys Fees And Prejudgment Interest And Plaintiffs Amended Bill Of Costs* filed by Defendant United Automobile Insurance Company. (Sherrod, Susan) (Entered: 04/16/2014)

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06/03/2014	132	ORDER Granting in part and Denying in part 106 Plaintiffs' Motion for Attorney Fees. Plaintiffs are hereby awarded prejudgment interest in the amount of $3,378.24, costs in the amount of $8,028.40, and attorney fees in the amount of $72,546.18. IT IS FURTHER ORDERED that 104 Defendant's Motion for Attorney Fees is DENIED. IT IS FURTHER ORDERED that 108 and 127 Defendant's Motions to Strike are DENIED as moot. Signed by Judge Robert C. Jones on 06/03/2014. (Copies have been distributed pursuant to the NEF - AC) (Entered: 06/03/2014)
06/03/2014	133	JUDGMENT on Attorney Fees and Costs are awarded in favor of Plaintiffs James Nalder and Gary Lewis and against Defendant United Automobile Insurance Company in the amount of $3,378.24 in prejudgment interest, $8,028.40 in costs, and $72,546.18 in attorney fees. Signed by Clerk of Court, Lance S. Wilson on 06/03/2014. (Copies have been distributed pursuant to the NEF - AC) (Entered: 06/03/2014)
07/01/2014	134	SATISFACTION OF JUDGMENT entered In favor of United Automobile Insurance Company Against James Nalder, In favor of James Nalder Against United Automobile Insurance Company by Defendant United Automobile Insurance Company. (Sherrod, Susan) (Entered: 07/01/2014)
03/05/2015	135	SATISFACTION OF JUDGMENT entered In favor of Gary Lewis Against United Automobile Insurance Company, In favor of United Automobile Insurance Company Against United Automobile Insurance Company *Partial Satisfaction of Judgment* by Defendant United Automobile Insurance Company. (Sherrod, Susan) (Entered: 03/05/2015)
12/27/2017	136	ORDER of USCA, Ninth Circuit, as to ECF No. 112 Notice of Appeal. The panel certified a question of law to the Nevada Supreme Court. USCA Case No. **13-17441**. (Copies have been distributed pursuant to the NEF - LH) (Entered: 01/04/2018)

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PACER Service Center

Transaction Receipt

02/21/2019 13:34:04

PACER Login:	sw4503	**Client Code:**	1074.001
Description:	Docket Report	**Search Criteria:**	2:09-cv-01348-RCJ-GWF
Billable Pages:	13	**Cost:**	1.30

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“EXHIBIT D”

Docket Report for
Case No. 11-15010

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General Docket
United States Court of Appeals for the Ninth Circuit

Court of Appeals Docket #: 11-15010 **Docketed:** 01/04/2011
Nature of Suit: 4110 Insurance **Termed:** 12/17/2012
James Nalder, et al v. United Automobile Insurance Co
Appeal From: U.S. District Court for Nevada, Las Vegas
Fee Status: Paid

Case Type Information:
1) civil
2) private
3) null

Originating Court Information:
District: 0978-2 : 2:09-cv-01348-ECR-GWF
Court Reporter: Felicia Zabin
Trial Judge: Edward C. Reed, Junior, Senior District Judge
Date Filed: 07/24/2009

Date Order/Judgment:	Date Order/Judgment EOD:	Date NOA Filed:	Date Rec'd COA:
12/20/2010	12/20/2010	01/03/2011	01/03/2011

Prior Cases:
None

Current Cases:

	Lead	Member	Start	End
Cross-Appeal	11-15010	11-15462	08/23/2011	

JAMES NALDER, Guardian Ad Litem on behalf of Cheyanne Nalder Plaintiff - Appellant,	Thomas Christensen, Esquire, Attorney Direct: 702-870-1000 [COR LD NTC Retained] Christensen Law Offices, LLC 1000 South Valley View Boulevard Las Vegas, NV 89107 Daniel Martin Ryan, Esquire Direct: 702-286-2687 [COR NTC Retained] The Cottle Firm 8635 South Eastern Avenue Las Vegas, NV 89123
GARY LEWIS, individually Plaintiff - Appellant,	Thomas Christensen, Esquire, Attorney Direct: 702-870-1000 [COR LD NTC Retained] (see above) Daniel Martin Ryan, Esquire Direct: 702-286-2687 [COR NTC Retained] (see above)
v.	
UNITED AUTOMOBILE INSURANCE COMPANY Defendant - Appellee,	Matthew J. Douglas, Attorney Direct: 702-243-7000 [COR NTC Retained] Atkin Winner & Sherrod Firm: 702-243-7000 1117 South Rancho Drive Las Vegas, NV 89102 Douglas M. Rowan, Esquire, Attorney [COR NTC Retained] Atkin Winner & Sherrod Firm: 702-243-7000

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1117 South Rancho Drive
Las Vegas, NV 89102

Thomas E. Winner, Esquire, Attorney
[COR NTC Retained]
Atkin Winner & Sherrod
Firm: 702-243-7000
1117 South Rancho Drive
Las Vegas, NV 89102

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JAMES NALDER, Guardian Ad Litem on behalf of Cheyanne Nalder; GARY LEWIS, individually,

Plaintiffs - Appellants,

v.

UNITED AUTOMOBILE INSURANCE COMPANY,

Defendant - Appellee.

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01/04/2011	☐ 1	Deleted Incorrect Entry (Duplicate Entry). [7598748] (GR) [Entered: 01/04/2011 10:18 AM]
01/04/2011	☐ 2 15 pg, 688.13 KB	DOCKETED CAUSE AND ENTERED APPEARANCES OF COUNSEL. SEND MQ: Yes. The schedule is set as follows: Mediation Questionnaire due on 01/11/2011. Transcript ordered by 02/02/2011. Transcript due 03/04/2011. Appellant Gary Lewis and Appellant James Nalder opening brief due 04/13/2011. Appellee United Automobile Insurance Company answering brief due 05/13/2011. Appellant's optional reply brief is due 14 days after service of the answering brief. [7598769] (GR) [Entered: 01/04/2011 10:22 AM]
01/10/2011	☐ 3 4 pg, 67.39 KB	Filed (ECF) Appellants Gary Lewis and James Nalder Mediation Questionnaire. Date of service: 01/10/2011. [7606575] (Sampson, David) [Entered: 01/10/2011 03:50 PM]
02/02/2011	☐ 4 5 pg, 50.19 KB	Filed order MEDIATION (EPM): The Mediation Program of the Ninth Circuit Court of Appeals facilitates settlement while appeals are pending. The court has scheduled a telephone settlement assessment conference, with counsel only, on February 22, 2011, at 2:00 p.m. PACIFIC (San Francisco) Time to discuss whether this case is appropriate for participation in the Mediation Program. [7633942] (AF) [Entered: 02/02/2011 02:38 PM]
02/23/2011	☐ 5 1 pg, 22.92 KB	Filed order MEDIATION (PWS): On or before March 9, 2011, counsel is requested to contact the Circuit Mediator to report on the status of the case. [7657064] (AF) [Entered: 02/23/2011 10:19 AM]
03/03/2011	☐ 6 1 pg, 120.13 KB	Filed (ECF) Appellee United Automobile Insurance Company Correspondence: Designation of Transcripts to be Used in Record on Appeal. Date of service: 03/03/2011 [7667460] (Douglas, Matthew) [Entered: 03/03/2011 03:28 PM]
05/12/2011	☐ 7 2 pg, 30.89 KB	Filed order MEDIATION (PWS): On or before June 6, 2011, counsel for appellant is requested to contact the Circuit Mediator by email at Peter_Sherwood@ca9.uscourts.gov to report on the status of the cases. The briefing schedule previously set by the court is vacated. [7750424] [11-15010, 11-15462] (SAM) [Entered: 05/12/2011 02:09 PM]
08/22/2011	☐ 8 2 pg, 24.84 KB	Filed order MEDIATION (PWS): The court has determined that these appeals will not be selected for inclusion in the Mediation Program. The briefing schedule previously set by the court is reset as follows: appellants shall file an opening brief on or before October 17, 2011; appellees shall file an answering brief on or before November 16, 2011; appellants may file an optional reply brief on or before November 30, 2011. Counsel are requested to contact the Circuit Mediator should circumstances develop that warrant further settlement discussions while the appeals are pending. [7866210] [11-15010, 11-15462] (AF) [Entered: 08/22/2011 02:34 PM]
08/23/2011	☐ 9 2 pg, 28 KB	Filed amended order MEDIATION (PWS): This order will supersede the order entered herein on August 22, 2011. The court has determined that these appeals will not be selected for inclusion in the Mediation Program. The briefing schedule previously set by the court is reset as follows. These appeals will be placed on a cross-appeal briefing schedule: Nalder and Lewis shall file the first cross-appeal brief on or before October 17, 2011; United Automobile Insurance Co. shall file the second cross-appeal brief on or before December 16, 2011; Nalder and Lewis shall file the third cross-appeal brief on or before February 14, 2012; United Automobile Insurance Co. may file an optional crossappeal reply brief by March 6, 2012. Counsel are requested to contact the Circuit Mediator should circumstances develop that warrant further settlement discussions while the appeals are pending. [7867365] [11-15010, 11-15462] (AF) [Entered: 08/23/2011 11:19 AM]
10/04/2011	☐ 10	14 day oral extenstion by phone to file Appellants Gary Lewis, James Nalder cross-appeal brief. First cross appeal brief due 10/31/2011. Second brief on cross appeal due 11/30/2011 Third brief on cross appeal due 12/30/2011. The optional reply cross-appeal brief is due 14 days after service of the third cross-appeal brief [7915471] (CG) [Entered: 10/04/2011 11:36 AM]
10/04/2011	☐ 11 1 pg, 44.87 KB	Filed (ECF) Appellants Gary Lewis and James Nalder in 11-15010, Appellee Gary Lewis in 11-15462 Correspondence: Correspondence Regarding Extension. Date of service: 10/04/2011 [7915804] [11-15010, 11-15462] (Sampson, David) [Entered: 10/04/2011 01:44 PM]
10/25/2011	☐ 12 53 pg, 129.81 KB	Submitted (ECF) First Brief on Cross-Appeal for review. Submitted by Appellants Gary Lewis and James Nalder. Date of service: 10/25/2011. [7941917] --[COURT UPDATE: Replaced PDF of brief (cover now includes case number 11-15462). Edited docket text to reflect the correct type of brief and spread filing to case number 11-15462. Resent NDA. 10/26/2011 by DB] (Sampson, David) [Entered: 10/25/2011 03:40 PM]
10/26/2011	☐ 13 2 pg, 26.63 KB	Filed order MEDIATION (PWS): The briefing schedule previously set by the court is reset as follows. Insurance Co. shall file the second cross-appeal brief on or before December 30, 2011; Nalder and Lewis shall file the third cross-appeal brief on or before February 28, 2012; United Automobile Insurance Co. may file an optional crossappeal reply brief by March 20, 2012. [7943376] [11-15010, 11-15462] (SAM) [Entered: 10/26/2011 01:52 PM]
10/28/2011	☐ 14 2 pg, 85.34 KB	Filed clerk order: The first brief on cross-appeal [12] submitted by Gary Lewis and James Nalder is filed. Within 7 days of the filing of this order, filer is ordered to file 7 copies of the brief in paper format, with a blue cover, accompanied by certification, attached to the end of each copy of the brief, that the brief is identical to the version submitted electronically. [7946233] [11-15010, 11-15462] (WWP) [Entered: 10/28/2011 09:40 AM]

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10/31/2011	☐ 15	Filed Appellants Gary Lewis and James Nalder excerpts of record in 8 volumes. Served on 10/25/2011. [7948048] [11-15010, 11-15462] (WWP) [Entered: 10/31/2011 11:26 AM]
10/31/2011	☐ 16	Received Appellant's excerpts on CD (records) [7949074] [11-15010, 11-15462] (WWP) [Entered: 11/01/2011 07:13 AM]
10/31/2011	☐ 17	Received 7 paper copies of First Brief on Cross-Appeal brief [12] filed by Gary Lewis and James Nalder. [7949373] [11-15010, 11-15462] (SD) [Entered: 11/01/2011 10:08 AM]
12/30/2011	☐ 18 78 pg, 346.08 KB	Submitted (ECF) Second Brief on Cross-Appeal brief for review. Submitted by Appellee United Automobile Insurance Company in 11-15010, Appellant United Automobile Insurance Company in 11-15462. Date of service: 12/30/2011. [8016209] [11-15010, 11-15462] (Douglas, Matthew) [Entered: 12/30/2011 01:57 PM]
12/30/2011	☐ 19 2 pg, 102.77 KB	Filed clerk order: The second brief on cross-appeal [18] submitted by United Automobile Insurance Company is filed. Within 7 days of the filing of this order, filer is ordered to file 7 copies of the brief in paper format, accompanied by certification, attached to the end of each copy of the brief, that the brief is identical to the version submitted electronically. Cover color: red. [8016372] [11-15010, 11-15462] (LA) [Entered: 12/30/2011 05:08 PM]
01/03/2012	☐ 20	Filed Appellee United Automobile Insurance Company supplemental excerpts of record on appeal in 2 volumes. [8017190] [11-15010, 11-15462] (WWP) [Entered: 01/03/2012 11:46 AM]
01/04/2012	☐ 21	Received 7 paper copies of Second Brief on Cross-Appeal brief [18] filed by United Automobile Insurance Company. [8019372] [11-15010, 11-15462] (SD) [Entered: 01/04/2012 02:25 PM]
02/22/2012	☐ 22 27 pg, 136.88 KB	Submitted (ECF) Third Brief on Cross-Appeal for review. Submitted by Appellants Gary Lewis and James Nalder in 11-15010, Appellee Gary Lewis in 11-15462. Date of service: 02/22/2012. [8076557] [11-15010, 11-15462]--[COURT UPDATE : Edited docket text to reflect content of filing. Resent NDA. 02/22/2012 by TW] (Sampson, David) [Entered: 02/22/2012 08:59 AM]
02/22/2012	☐ 23	COURT DELETED INCORRECT/DUPLICATE ENTRY. Notice about deletion sent to case participants registered for electronic filing. Correct Entry: [22]. Original Text: Submitted (ECF) Answering brief for review. Submitted by Appellants Gary Lewis and James Nalder in 11-15010, Appellee Gary Lewis in 11-15462. Date of service: 02/22/2012. [8076563] [11-15010, 11-15462] (Sampson, David) [Entered: 02/22/2012 09:01 AM]
02/22/2012	☐ 24 2 pg, 85.34 KB	Filed clerk order: The third brief on cross-appeal [22] submitted by Gary Lewis and James Nalder is filed. Within 7 days of the filing of this order, filer is ordered to file 7 copies of the brief in paper format, accompanied by certification, attached to the end of each copy of the brief, that the brief is identical to the version submitted electronically. Cover color: yellow. [8077499] [11-15010, 11-15462] (WWP) [Entered: 02/22/2012 01:55 PM]
02/29/2012	☐ 25	Received 7 paper copies of Third Brief on Cross-Appeal brief [22] filed by Gary Lewis and James Nalder. [8086237] [11-15010, 11-15462] (SD) [Entered: 03/01/2012 11:41 AM]
03/20/2012	☐ 26 24 pg, 285.74 KB	Submitted (ECF) Cross-Appeal Reply Brief brief for review. Submitted by Appellee United Automobile Insurance Company in 11-15010, Appellant United Automobile Insurance Company in 11-15462. Date of service: 03/20/2012. [8110570] [11-15010, 11-15462] (Douglas, Matthew) [Entered: 03/20/2012 01:45 PM]
03/20/2012	☐ 27 2 pg, 85.35 KB	Filed clerk order: The cross-appeal reply brief [26] submitted by United Automobile Insurance Company is filed. Within 7 days of the filing of this order, filer is ordered to file 7 copies of the brief in paper format, accompanied by certification, attached to the end of each copy of the brief, that the brief is identical to the version submitted electronically. Cover color: gray. The paper copies shall be printed from the PDF version of the brief created from the word processing application, not from PACER or Appellate ECF. [8110653] [11-15010, 11-15462] (WWP) [Entered: 03/20/2012 02:06 PM]
03/22/2012	☐ 28	Received 7 paper copies of Cross-Appeal Reply Brief brief [26] filed by United Automobile Insurance Company. [8113811] [11-15010, 11-15462] (DB) [Entered: 03/22/2012 12:32 PM]
10/09/2012	☐ 29 10 pg, 449.97 KB	Notice of Oral Argument on Friday, December 7, 2012 - 9:30 AM - Courtroom 3, 3rd Floor - James R. Browning US Courthouse - San Francisco, CA. Please return ACKNOWLEDGMENT OF HEARING NOTICE form to: SAN FRANCISCO Office. Please open attached documents to view details about your case. [8352571] [11-15010, 11-15462] (RB) [Entered: 10/09/2012 02:08 PM]
10/30/2012	☐ 30 1 pg, 79.02 KB	Filed (ECF) Acknowledgment of hearing notice. Location: San Francisco. Filed by Attorney Matthew John Douglas, Esquire for Appellee United Automobile Insurance Company in 11-15010, Attorney Matthew John Douglas, Esquire for Appellant United Automobile Insurance Company in 11-15462. [8382043] [11-15010, 11-15462] (Douglas, Matthew) [Entered: 10/30/2012 04:36 PM]
11/30/2012	☐ 31 3 pg, 92.06 KB	Filed (ECF) notice of appearance of Daniel, Martin, Ryan for Appellees Gary Lewis and James Nalder in 11-15462, Appellants Gary Lewis and James Nalder in 11-15010. Date of service: 11/30/2012. [8421300] [11-15462, 11-15010]--[COURT UPDATE: Attached certificate of service. Resent NDA. 12/03/2012 by RY] (Christensen, Thomas) [Entered: 11/30/2012 01:18 PM]

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11/30/2012	☐ 32 3 pg, 165.14 KB	Filed (ECF) Acknowledgment of hearing notice. Location: San Francisco. Filed by Attorney Mr. Thomas Christensen, Esquire for Appellees Gary Lewis and James Nalder in 11-15462. [8421302] [11-15462, 11-15010]--[COURT UPDATE: Attached certificate of service. Resent NDA. 12/03/2012 by RY] (Christensen, Thomas) [Entered: 11/30/2012 01:20 PM]
11/30/2012	☐ 33	Attorneys David F. Sampson substituted by Attorney Daniel Martin Ryan. [8421315] [11-15010, 11-15462] (EL) [Entered: 11/30/2012 01:24 PM]
11/30/2012	☐ 34	COURT DELETED INCORRECT ENTRY. Notice about deletion sent to case participants registered for electronic filing. Correct Entry: [31]. Original Text: Filed (ECF) notice of appearance of Daniel, Martin, Ryan for Appellees Gary Lewis and James Nalder in 11-15462, Appellants Gary Lewis and James Nalder in 11-15010. Date of service: 11/30/2012. [8421403] [11-15462, 11-15010] (Christensen, Thomas) [Entered: 11/30/2012 01:45 PM]
11/30/2012	☐ 35	COURT DELETED INCORRECT ENTRY. Notice about deletion sent to case participants registered for electronic filing. Correct Entry: [32]. Original Text: Filed (ECF) Acknowledgment of hearing notice. Location: San Francisco. Filed by Attorney Daniel Martin Ryan, Esquire for Appellees Gary Lewis and James Nalder in 11-15462. [8421409] [11-15462, 11-15010] (Christensen, Thomas) [Entered: 11/30/2012 01:46 PM]
12/07/2012	☐ 36	ARGUED AND SUBMITTED TO BARRY G. SILVERMAN, RONALD M. GOULD and MORGAN B. CHRISTEN. [11-15010, 11-15462] [8430520] (ST) [Entered: 12/07/2012 02:37 PM]
12/17/2012	☐ 37 8 pg, 391.82 KB	FILED MEMORANDUM DISPOSITION (BARRY G. SILVERMAN, RONALD M. GOULD and MORGAN B. CHRISTEN) REVERSED; REMANDED IN PART; AFFIRMED IN PART. Each party shall bear its own costs. FILED AND ENTERED JUDGMENT. [8441300] [11-15010, 11-15462] (DD) [Entered: 12/17/2012 09:37 AM]
01/11/2013	☐ 38 2 pg, 87.96 KB	MANDATE ISSUED.(BGS, RMG and MBC) [8470422] [11-15010, 11-15462] (Walker, Synitha) [Entered: 01/11/2013 09:01 AM]

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- (•) **Documents and Docket Summary**
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Transaction Receipt			
U.S. Court of Appeals for the 9th Circuit - 02/21/2019 13:45:18			
PACER Login:	sw4503	**Client Code:**	1074.001
Description:	Docket Report (filtered)	**Search Criteria:**	11-15010
Billable Pages:	4	**Cost:**	0.40

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“EXHIBIT E”

Docket Report for
Case No. 13-17441

001400

General Docket
United States Court of Appeals for the Ninth Circuit

Court of Appeals Docket #: 13-17441 **Docketed:** 11/27/2013
Nature of Suit: 4110 Insurance
James Nalder, et al v. United Automobile Insurance Co
Appeal From: U.S. District Court for Nevada, Las Vegas
Fee Status: Paid

Case Type Information:
1) civil
2) private
3) null

Originating Court Information:
District: 0978-2 : 2:09-cv-01348-RCJ-GWF
Court Reporter: Felicia Zabin
Trial Judge: Robert Clive Jones, Senior District Judge
Date Filed: 07/24/2009

Date Order/Judgment:	Date Order/Judgment EOD:	Date NOA Filed:	Date Rec'd COA:
10/30/2013	10/30/2013	11/27/2013	11/27/2013

Prior Cases:
11-15010 **Date Filed:** 01/04/2011 **Date Disposed:** 12/17/2012 **Disposition:** Reversed, Remanded - Memorandum
11-15462 **Date Filed:** 02/24/2011 **Date Disposed:** 12/17/2012 **Disposition:** Reversed, Remanded - Memorandum

Current Cases:
None

JAMES NALDER, Guardian Ad Litem on behalf of Cheyanne Nalder Plaintiff - Appellant,	Thomas Christensen, Esquire, Attorney Direct: 702-870-1000 [COR LD NTC Retained] Christensen Law Offices, LLC 1000 South Valley View Boulevard Las Vegas, NV 89107 Dennis M. Prince, Attorney Direct: 702-450-5400 [COR LD NTC Retained] Eglet Prince 400 South Seventh Street Suite 400 Las Vegas, NV 89101
GARY LEWIS, individually Plaintiff - Appellant,	Thomas Christensen, Esquire, Attorney Direct: 702-870-1000 [COR LD NTC Retained] (see above) Dennis M. Prince, Attorney Direct: 702-450-5400 [COR LD NTC Retained] (see above)
v.	
UNITED AUTOMOBILE INSURANCE COMPANY Defendant - Appellee,	Matthew J. Douglas, Attorney Direct: 702-243-7000 [COR LD NTC Retained] Atkin Winner & Sherrod Firm: 702-243-7000 1117 South Rancho Drive Las Vegas, NV 89102 Susan M. Sherrod, Esquire, Attorney Direct: 702-243-7000 [LD NTC Retained] Atkin Winner & Sherrod

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Firm: 702-243-7000
1117 South Rancho Drive
Las Vegas, NV 89102

Thomas E. Winner, Esquire, Attorney
[COR LD NTC Retained]
Atkin Winner & Sherrod
Firm: 702-243-7000
1117 South Rancho Drive
Las Vegas, NV 89102

001402

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JAMES NALDER, Guardian Ad Litem on behalf of Cheyanne Nalder; GARY LEWIS, individually,

Plaintiffs - Appellants,

v.

UNITED AUTOMOBILE INSURANCE COMPANY,

Defendant - Appellee.

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11/27/2013	☐ 1 17 pg, 627.84 KB	DOCKETED CAUSE AND ENTERED APPEARANCES OF COUNSEL. SEND MQ: Yes. The schedule is set as follows: Mediation Questionnaire due on 12/04/2013. Transcript ordered by 12/27/2013. Transcript due 01/27/2014. Appellants Gary Lewis and James Nalder opening brief due 03/07/2014. Appellee United Automobile Insurance Company answering brief due 04/07/2014. Appellant's optional reply brief is due 14 days after service of the answering brief. [8882091] (RT) [Entered: 11/27/2013 04:07 PM]
12/03/2013	☐ 2 3 pg, 1.3 MB	Filed (ECF) Appellee United Automobile Insurance Company Mediation Questionnaire. Date of service: 12/03/2013. [8886773] (Douglas, Matthew) [Entered: 12/03/2013 03:11 PM]
12/04/2013	☐ 3 4 pg, 387.16 KB	Filed (ECF) Appellants Gary Lewis and James Nalder Mediation Questionnaire. Date of service: 12/04/2013. [8889347] (Christensen, Thomas) [Entered: 12/04/2013 08:53 PM]
12/10/2013	☐ 4 5 pg, 144.13 KB	MEDIATION CONFERENCE SCHEDULED - The court has scheduled a telephone Assessment Conference, 01/14/2014, 2:00 p.m. PACIFIC Time... The Circuit Mediator will initiate the conference call by contacting each person on the attached list. Please be available for the call at least five minutes before the scheduled time. Counsel should review the attached list and inform the Mediation Assistant by email at least 72 hours in advance of the scheduled call of any corrections to the list....The briefing schedule previously set by the court remains in effect.. [COURT UPDATE - Correction to the assessment conference year. 12/12/13 by JI. Resend NDA][8895539] (VS) [Entered: 12/10/2013 10:50 AM]
12/10/2013	☐ 5	Mail returned on 12/09/2013 addressed to Susan M. Sherrod, Esquire for United Automobile Insurance Company, re: Case opening packet dated 11/27/2013. Resending to: Atkin Winner & Sherrod, 1117 South Rancho Drive Las Vegas, NV 89102'; Ph: 702-243-7000. [8895593] (AF) [Entered: 12/10/2013 11:02 AM]
01/16/2014	☐ 9 1 pg, 32.47 KB	Filed order MEDIATION (PWS): On January 14, 2014, a telephone conference was held with Circuit Mediator Peter W. Sherwood. The court has determined that this appeal will not be selected for inclusion in the Mediation Program. Counsel are requested to contact the Circuit Mediator should circumstances develop that warrant further settlement discussions while the appeal is pending. [8942166] (BJB) [Entered: 01/16/2014 03:47 PM]
03/06/2014	☐ 10 42 pg, 253.09 KB	Submitted (ECF) Opening Brief for review. Submitted by Appellants Gary Lewis and James Nalder. Date of service: 03/06/2014. [9004795] (Christensen, Thomas) [Entered: 03/06/2014 11:30 AM]
03/06/2014	☐ 11 782 pg, 27.2 MB	Submitted (ECF) excerpts of record. Submitted by Appellants Gary Lewis and James Nalder. Date of service: 03/06/2014. [9004818]--[COURT UPDATE: Attached corrected volume 4 of excerpts. Resent NDA. 03/17/2014 by RY] (Christensen, Thomas) [Entered: 03/06/2014 11:36 AM]
03/17/2014	☐ 12 2 pg, 86.65 KB	Filed clerk order: The opening brief [10] submitted by Gary Lewis and James Nalder is filed. Within 7 days of the filing of this order, filer is ordered to file 7 copies of the brief in paper format, accompanied by certification, attached to the end of each copy of the brief, that the brief is identical to the version submitted electronically. Cover color: blue. The paper copies shall be printed from the PDF version of the brief created from the word processing application, not from PACER or Appellate ECF. The Court has reviewed the excerpts of record [11] submitted by Gary Lewis and James Nalder. Within 7 days of this order, filer is ordered to file 4 copies of the excerpts in paper format, with a white cover. The paper copies must be in the format described in 9th Circuit Rule 30-1.6. [9018185] (CT) [Entered: 03/17/2014 11:37 AM]
03/21/2014	☐ 13 7 pg, 199.68 KB	Filed (ECF) Appellee United Automobile Insurance Company Motion to extend time to file a response until 05/22/2014. Date of service: 03/21/2014. [9026754] (Douglas, Matthew) [Entered: 03/21/2014 03:58 PM]
03/24/2014	☐ 14 1 pg, 39.8 KB	Filed clerk order (Deputy Clerk: AMT): Appellee's motion for an extension of time to file the answering brief is granted. The answering brief is due May 22, 2014. Appellee's counsel is reminded that all filings must be served on all parties and be accompanied by proof of service. See Fed. R. app. P. 25(b); 9th Cir. R. 25-5(f). The optional reply brief is due within 14 days after service of the answering brief. This order was issued prior to the expiration of time within which a response may be filed. See Fed. R. App. P. 27(b). [9028849] (BJB) [Entered: 03/24/2014 03:04 PM]
03/26/2014	☐ 15	Mail returned on 03/26/2014 addressed to Susan M. Sherrod, Esquire for United Automobile Insurance Company, re: Order filed 12/10/2013. Resending to: 1117 South Rancho Drive, Las Vegas, NV 89102. [9032489] (AF) [Entered: 03/26/2014 02:38 PM]
03/27/2014	☐ 16 2 pg, 194.09 KB	Received Appellants Gary Lewis and James Nalder excerpts of record [11] in 4 volumes. Deficiencies: excerpts are bound improperly. Notified counsel (See attached notice). [9033823] (CT) [Entered: 03/27/2014 11:20 AM]
03/27/2014	☐ 17	Received 7 paper copies of Opening brief [10] filed by Gary Lewis and James Nalder. [9035737] (SD) [Entered: 03/28/2014 01:27 PM]
04/02/2014	☐ 18	Received correctly bound excerpts of record from Appellants Gary Lewis and James Nalder. [9041977] (CT) [Entered: 04/02/2014 03:33 PM]
04/02/2014	☐ 19	Filed Appellants Gary Lewis and James Nalder paper copies of excerpts of record [11] in 4 volume(s). [9041988] (CT) [Entered: 04/02/2014 03:34 PM]

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05/21/2014	☐ 20 999 pg, 15.49 MB	Submitted (ECF) Answering Brief and supplemental excerpts of record for review. Submitted by Appellee United Automobile Insurance Company. Date of service: 05/21/2014. [9104883] (Douglas, Matthew) [Entered: 05/21/2014 03:50 PM]
05/21/2014	☐ 21 2 pg, 86.71 KB	Filed clerk order: The answering brief [20] submitted by United Automobile Insurance Company is filed. Within 7 days of the filing of this order, filer is ordered to file 7 copies of the brief in paper format, accompanied by certification, attached to the end of each copy of the brief, that the brief is identical to the version submitted electronically. Cover color: red. The paper copies shall be printed from the PDF version of the brief created from the word processing application, not from PACER or Appellate ECF. The Court has reviewed the supplemental excerpts of record [20] submitted by United Automobile Insurance Company. Within 7 days of this order, filer is ordered to file 4 copies of the excerpts in paper format, with a white cover. The paper copies must be in the format described in 9th Circuit Rule 30-1.6. [9105027] (CT) [Entered: 05/21/2014 04:47 PM]
05/23/2014	☐ 22	Received 7 paper copies of Answering brief [20] filed by United Automobile Insurance Company. [9107330] (SD) [Entered: 05/23/2014 01:41 PM]
05/23/2014	☐ 23	Filed Appellee United Automobile Insurance Company paper copies of supplemental excerpts of record [20] in 4 volumes. [9107860] (CT) [Entered: 05/23/2014 04:06 PM]
06/04/2014	☐ 24 16 pg, 87 KB	Submitted (ECF) Reply Brief for review. Submitted by Appellants Gary Lewis and James Nalder. Date of service: 06/04/2014. [9119780] (Christensen, Thomas) [Entered: 06/04/2014 01:06 PM]
06/04/2014	☐ 25 2 pg, 86.23 KB	Filed clerk order: The reply brief [24] submitted by Gary Lewis and James Nalder is filed. Within 7 days of the filing of this order, filer is ordered to file 7 copies of the brief in paper format, accompanied by certification, attached to the end of each copy of the brief, that the brief is identical to the version submitted electronically. Cover color: gray. The paper copies shall be printed from the PDF version of the brief created from the word processing application, not from PACER or Appellate ECF. [9119892] (CT) [Entered: 06/04/2014 01:44 PM]
06/11/2014	☐ 26	Received 7 paper copies of Reply brief [24] filed by Gary Lewis and James Nalder. [9128022] (SD) [Entered: 06/11/2014 10:47 AM]
10/06/2015	☐ 27	This case is being considered for the January 2016 oral argument calendar. The exact date of your oral argument has not been determined at this time. The following is a link to the upcoming court sessions: http://cdn.ca9.uscourts.gov/datastore/uploads/calendar/sitdates_2016.pdf. Please review these upcoming dates *immediately* to determine if you have any conflicts with them. If you do have conflicts, please inform the Court immediately by sending a letter to the Court using CM/ECF (**Type of Document**: File Correspondence to Court; **Subject**: regarding availability for oral argument). The Court discourages motions to continue after this 7-day period. The clerk's office takes conflict dates into consideration in scheduling oral arguments but cannot guarantee that every request will be honored. Your case will be assigned to a calendar approximately 10 weeks before the scheduled oral argument date. In addition, if parties are discussing settlement or would like to discuss settlement before argument, they should contact the mediation unit immediately (ca09_mediation@ca9.uscourts.gov). Once the case is calendared, it is unlikely that the court will postpone argument for settlement discussions. [9708238] (KS) [Entered: 10/06/2015 10:31 AM]
10/08/2015	☐ 28	Terminated Jason A. Gordon for James Nalder and Gary Lewis in 13-17441 (due to incorrect account info) [9711545] (JT) [Entered: 10/08/2015 10:18 AM]
10/27/2015	☐ 29	Notice of Oral Argument on Wednesday, January 6, 2016 - 09:30 A.M. - Courtroom 1 - James R Browning US Cthse, 95 7th St, San Francisco, CA. View the Oral Argument Calendar for your case **here**. When you have reviewed the calendar, download the ACKNOWLEDGMENT OF HEARING NOTICE form, complete the form, and file it via Appellate ECF or return the completed form to: SAN FRANCISCO Office. [9734139] (GEV) [Entered: 10/27/2015 11:32 AM]
11/02/2015	☐ 30 2 pg, 89.46 KB	Filed Acknowledgment of hearing notice. Location: San Francisco. Filed by Attorney Matthew John Douglas, Esquire for Appellee United Automobile Insurance Company. [9741605] (RR) [Entered: 11/02/2015 02:38 PM]
11/03/2015	☐ 31 1 pg, 19.13 KB	Filed (ECF) Acknowledgment of hearing notice. Location: San Francisco. Filed by Attorney Mr. Thomas Christensen, Esquire for Appellants Gary Lewis and James Nalder. [9743361] [13-17441] (Christensen, Thomas) [Entered: 11/03/2015 02:38 PM]
12/22/2015	☐ 32 30 pg, 5.16 MB	Filed (ECF) Appellants Gary Lewis and James Nalder citation of supplemental authorities. Date of service: 12/22/2015. [9802149] [13-17441] (Christensen, Thomas) [Entered: 12/22/2015 11:48 AM]

12/23/2015	☐ 33 2 pg, 35.64 KB	Filed clerk order (Deputy Clerk: PA): 60 Minutes/CBS News applied to video/audio record for later broadcast, the cases captioned above, scheduled to be heard at The James R. Browning, U.S. Courthouse in San Francisco, California, on Wednesday, January 6, 2016. C-Span's request to video/audio record for later broadcast is GRANTED. (PANEL) [9803695] [13-16909, 13-70156, 14-15684, 13-17441, 13-60113] (PA) [Entered: 12/23/2015 11:22 AM]
12/29/2015	☐ 34	revised Notice of Oral Argument on Wednesday, January 6, 2016 - 09:00 A.M. - Courtroom 1 - San Francisco CA. ** note change in time allotment ** View the Oral Argument Calendar for your case **here**. When you have reviewed the calendar, download the ACKNOWLEDGMENT OF HEARING NOTICE form, complete the form, and file it via Appellate ECF or return the completed form to: SAN FRANCISCO Office. [9809205] (AW) [Entered: 12/29/2015 04:28 PM]
12/30/2015	☐ 35 23 pg, 2.36 MB	Filed (ECF) Appellee United Automobile Insurance Company citation of supplemental authorities. Date of service: 12/30/2015. [9810301] [13-17441]--[COURT UPDATE: Edited docket text to reflect correct filing type. 12/30/2015 by RY] --[COURT UPDATE: Exhibit B stricken per order [38]. 01/12/2016 by TYL] (Douglas, Matthew) [Entered: 12/30/2015 02:05 PM]
12/31/2015	☐ 36 1 pg, 41.18 KB	Filed (ECF) Acknowledgment of hearing notice. Location: San Francisco. Filed by Attorney Mr. Thomas Christensen, Esquire for Appellants Gary Lewis and James Nalder. [9811651] [13-17441] (Christensen, Thomas) [Entered: 12/31/2015 10:55 AM]
01/06/2016	☐ 37	ARGUED AND SUBMITTED TO ALEX KOZINSKI, JOHN T. NOONAN and DIARMUID F. O'SCANNLAIN. [9817040] (Buccinio, Gabriela) [Entered: 01/06/2016 11:41 AM]
01/11/2016	☐ 38 1 pg, 45.85 KB	Filed order (ALEX KOZINSKI, JOHN T. NOONAN and DIARMUID F. O'SCANNLAIN) The Clerk is ordered to strike Exhibit B of Appellee's 28(j) letter filed on December 30, 2015. Rule 28(j) only permits the citation of "pertinent and significant authorities." See Fed. R. App. P. 28(j) (emphasis added). [9822097] (WL) [Entered: 01/11/2016 10:06 AM]
06/01/2016	☐ 39 10 pg, 85.32 KB	Filed Order for PUBLICATION (ALEX KOZINSKI, JOHN T. NOONAN and DIARMUID F. O'SCANNLAIN) Pursuant to Rule 5 of the Nevada Rules of Appellate Procedure, we certify to the Nevada Supreme Court the question of law set forth in Part II of this order. The answer to this question may be determinative of the cause pending before this court, and there is no controlling precedent in the decisions of the Nevada Supreme Court or the Nevada Court of Appeals. Further proceedings in this court are stayed pending receipt of an answer to the certified question. Submission is withdrawn pending further order. The parties shall notify the Clerk of this court within one week after the Nevada Supreme Court accepts or rejects the certified question, and again within one week after the Nevada Supreme Court renders its opinion. (SEE ORDER FOR FULL TEXT) The clerk of this court shall forward a copy of this order, under official seal, to the Nevada Supreme Court, along with copies of all briefs and excerpts of record that have been filed with this court. IT IS SO ORDERED. [9997579] (RMM) [Entered: 06/01/2016 08:32 AM]
06/01/2016	☐ 40 1 pg, 12.01 KB	Transmitted to the Nevada State Supreme Court: an original certification order; 3 copies of the order, a copy of the certified docket report; all briefs and excerpts of record. Tracking Information: UPS 1Z 950 159 03 4693 9224. [9998992] (RMM) [Entered: 06/01/2016 04:23 PM]
08/09/2016	☐ 41 2 pg, 271.64 KB	Filed (ECF) notice of appearance of Dennis M. Prince for Appellants James Nalder and Gary Lewis. Date of service: 08/09/2016. [10080409] [13-17441] (Prince, Dennis) [Entered: 08/09/2016 10:27 AM]
08/09/2016	☐ 42	Added attorney Dennis M. Prince for Gary Lewis James Nalder, in case 13-17441. [10080497] (RR) [Entered: 08/09/2016 10:50 AM]
12/12/2016	☐ 43 1 pg, 278.92 KB	Filed clerk order (Deputy Clerk: WL): Pursuant to G.O. 3.2(h), Judge W. Fletcher has been drawn to replace Judge Noonan. The panel will now consists of Circuit Judges KOZINSKI, O'SCANNLAIN and W. FLETCHER. [10229240] (WL) [Entered: 12/12/2016 02:10 PM]
03/14/2017	☐ 44 23 pg, 1.52 MB	Filed (ECF) Appellee United Automobile Insurance Company Motion to dismiss the case. Date of service: 03/14/2017. [10355364] [13-17441] --[COURT UPDATE: Attached searchable version of motion. 3/13/2017 by TYL] (Douglas, Matthew) [Entered: 03/14/2017 11:07 AM]
03/27/2017	☐ 45 14 pg, 163.75 KB	Filed (ECF) Appellants James Nalder and Gary Lewis response to motion ([44] Motion (ECF Filing), [44] Motion (ECF Filing) motion to dismiss the case). Date of service: 03/27/2017. [10373107] [13-17441] (Prince, Dennis) [Entered: 03/27/2017 03:29 PM]
04/06/2017	☐ 46 12 pg, 381.36 KB	Filed (ECF) Appellee United Automobile Insurance Company reply to response (). Date of service: 04/06/2017. [10385981] [13-17441] (Douglas, Matthew) [Entered: 04/06/2017 10:02 AM]
06/15/2017	☐ 47 3 pg, 24.64 KB	Received Supreme Court of the State of Nevada notice re: we are staying our consideration of the certified question until after the Ninth Circuit grants or denies the motion to dismiss. [10475749] (RR) [Entered: 06/15/2017 04:20 PM]

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12/27/2017	☐ 48 10 pg, 88.41 KB	Filed Order for PUBLICATION (DIARMUID F. O'SCANNLAIN and WILLIAM A. FLETCHER) The panel certified the following question of law to the Nevada Supreme Court: Under Nevada law, if a plaintiff has filed suit against an insurer seeking damages based on a separate judgment against its insured, does the insurer's liability expire when the statute of limitations on the judgment runs, notwithstanding that the suit was filed within the six-year life of the judgment? (SEE ORDER FOR FULL TEXT) [10704142] (MM) [Entered: 12/27/2017 08:48 AM]
12/27/2017	☐ 49 1 pg, 32.52 KB	Filed clerk order (Deputy Clerk: WL): Pursuant to G.O. § 3.2.h, Judge Paez has been drawn as the replacement for Judge Kozinski. The panel for this case will now consist of Judges O'Scannlain, W Fletcher, Paez. [10704805] (WL) [Entered: 12/27/2017 01:16 PM]
12/27/2017	☐ 50 1 pg, 37.43 KB	Transmitted to the Nevada State Supreme Court: an original certification order; a copy of the certified docket report; briefsand excerpts of record previously sent with earlier order certifying. See docket [40]. State Supreme Court Case Number: 70504. Tracking Information: FedEx 410518218174. [10704899] (MM) [Entered: 12/27/2017 01:49 PM]
01/10/2018	☐ 51 1 pg, 42.32 KB	Transmitted to the Nevada State Supreme Court: an original signed certification order. State Supreme Court Case Number: 70504. Tracking Information: FedEx 410518218428. [10720417] (MM) [Entered: 01/10/2018 03:05 PM]
01/29/2019	☐ 52 34 pg, 3.19 MB	Filed (ECF) Appellants James Nalder and Gary Lewis citation of supplemental authorities. Date of service: 01/29/2019. [11171327] [13-17441] (Christensen, Thomas) [Entered: 01/29/2019 01:25 PM]
02/01/2019	☐ 53 21 pg, 1.57 MB	Filed (ECF) Appellants Gary Lewis, James Nalder and Appellee United Automobile Insurance Company citation of supplemental authorities. Date of service: 02/01/2019. [11175820] [13-17441] (Douglas, Matthew) [Entered: 02/01/2019 11:14 AM]
02/15/2019	☐ 54 13 pg, 1.81 MB	Filed (ECF) Appellee United Automobile Insurance Company citation of supplemental authorities. Date of service: 02/15/2019. [11192063] [13-17441] (Douglas, Matthew) [Entered: 02/15/2019 12:02 PM]

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Clear All

- (•) Documents and Docket Summary
- ( ) Documents Only

☑ Include Page Numbers

Selected Pages: 0 **Selected Size:** 0 KB

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Transaction Receipt			
U.S. Court of Appeals for the 9th Circuit - 02/21/2019 13:46:37			
PACER Login:	sw4503	**Client Code:**	1074.001
Description:	Docket Report (filtered)	**Search Criteria:**	13-17441
Billable Pages:	5	**Cost:**	0.50

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“EXHIBIT F”

Docket Report for
Case No. A-18-772220-C

001409

Register of Actions
Case No. A-18-772220-C

Cheyenne Nalder, Plaintiff(s) vs. Gary Lewis, Defendant(s)

Case Type: **Negligence - Auto**
Date Filed: **04/03/2018**
Location: **Department 20**
Cross-Reference Case Number: **A772220**

Related Case Information

Related Cases
07A549111 (Consolidated)

Party Information

Defendant	**Lewis, Gary**	**Lead Attorneys** ~~**E. Breen Arntz**~~ ~~*Retained*~~ ~~702-384-8000(W)~~
Intervenor	**United Automobile Insurance Company**	**Matthew J Douglas** *Retained* 702-243-7000(W)
Plaintiff	**Nalder, Cheyenne**	**David Allen Stephens** *Retained* 702-656-2355(W)

001410

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Events & Orders of the Court

DISPOSITIONS

09/13/2018 **Judgment Plus Legal Interest** (Judicial Officer: Jones, David M)
Debtors: Gary Lewis (Defendant)
Creditors: Cheyenne Nalder (Plaintiff)
Judgment: 09/13/2018, Docketed: 09/13/2018
Total Judgment: 5,696,820.41

02/14/2019 **Order of Dismissal** (Judicial Officer: Johnson, Eric)
Debtors: Cheyenne Nalder (Plaintiff), Gary Lewis (Defendant)
Creditors: United Automobile Insurance Company (Intervenor)
Judgment: 02/14/2019, Docketed: 02/15/2019
Comment: Certain Claims. Doc filed in 07A549111

02/14/2019 **Amended Judgment Plus Legal Interest** (Judicial Officer: Johnson, Eric) Reason: Vacated
Debtors: Gary Lewis (Defendant)
Creditors: Cheyenne Nalder (Plaintiff)
Judgment: 02/14/2019, Docketed: 01/29/2019
Total Judgment: 5,696,810.41
Comment: 2/14/19 Per Order, Judgment Withdrawn, Filed in A549111

01/29/2019 **Judgment Plus Legal Interest** (Judicial Officer: Johnson, Eric)
Debtors: Gary Lewis (Defendant)
Creditors: Cheyenne Nalder (Plaintiff)
Judgment: 01/29/2019, Docketed: 01/29/2019
Total Judgment: 5,696,810.41
Comment: Filed in A549111

OTHER EVENTS AND HEARINGS

04/03/2018 **Initial Appearance Fee Disclosure**
Initial Appearance Fee Disclosure
04/03/2018 **Complaint**
Complaint
05/10/2018 **Summons Electronically Issued - Service Pending**

Summons

07/18/2018 **Summons**
Summons

07/18/2018 **Three Day Notice**
Three Day Notice to Plead

08/16/2018 **Motion to Intervene**
UAIC Motion to Intervene

09/13/2018 **Stipulation**
Stipulation to Enter Judgment

09/17/2018 **Opposition**
Planitff's Opposition to Motion to Intervene

09/18/2018 **Reply in Support**
UAIC'S Reply in Support of its Motion to Intervene

09/18/2018 **Reply in Support**
UAIC's Reply to Lewis' Opposition in Support of its Motion to Intervene

09/19/2018 **Motion to Intervene** (3:00 AM) (Judicial Officer Jones, David M)
UAIC's Motion to Intervene

Minutes

Result: Granted

09/21/2018 **Opposition to Motion**
Defendant's Opposition to Motion to Intervene and Joinder to Plaintiff's Opposition to Motion to Intervene

09/26/2018 **Initial Appearance Fee Disclosure**
Initial Appearance Fee Disclosure (NRS Chapter 19)

10/05/2018 **Notice of Hearing**
Amended Notice of Hearing

10/08/2018 **Opposition to Motion to Dismiss**
Plaintiff's Opposition to Defendant's Motion to Dismiss

10/11/2018 **Opposition**
Plaintiff's Opposition to Defendant's Motion to Set Aside Judgment

10/17/2018 **Motion to Strike**
(2/14/19 Withdrawn) Defendant's Motion to Strike Both Defendant's Motion for Relief from Judgment and Defendant's Motion to Dismiss

10/19/2018 **Order Granting**
Order Granting UAIC's Motion to Intervene

10/19/2018 **Initial Appearance Fee Disclosure**
Initial Appearance Fee Disclosure

10/19/2018 **Notice of Entry of Order**
Notice of Entry of Order on Intervenor United Automobile Insurance Company's Motion to Intervene

10/19/2018 **Motion**
UAIC s Motion To Dismiss Plaintiff s Complaint & Motion For Court To Deny Stipulation to Enter Judgment Between Plaintiff and Lewis and/or, In The Alternative To Stay Same Pending Hearing On Motion To Dismiss

10/24/2018 **Hearing** (9:00 AM) (Judicial Officer Jones, David M)

Parties Present

Minutes

Result: Recused

10/24/2018 **Third Party Complaint**
Third Party Complaint

10/24/2018 **Answer**
Answer to Complaint

10/29/2018 **Notice of Department Reassignment**
Notice of Department Reassignment

10/29/2018 **Opposition to Motion to Dismiss**
Cross-Claimant's Opposition to UAIC's Motion to Dismiss Plaintiff's Complaint & Opposition to Motion for Court to Deny Stipulation to Enter Judgment Between Plaintiff and Lewis And/Or in the Alternative to Stay Same Pending Hearing on Motion to Dismiss

10/29/2018 **Opposition**
Plainitff's Opposition to UAIC's Motion to Dismiss, to Deny Stipulation for Judgment and for a Stay of the Proceedings

10/30/2018 **Summons Electronically Issued - Service Pending**
Summons

10/30/2018 **Summons Electronically Issued - Service Pending**
Summons

10/30/2018 **Summons Electronically Issued - Service Pending**
Summons

10/30/2018 **Peremptory Challenge**
Intervenor United Automobile Insurance Company's Peremptory Challenge of Judge

10/31/2018 **Notice of Department Reassignment**
Notice of Department Reassignment

11/01/2018 **Opposition**
Opposition to Gary Lewis' Motion to Strike Motion to Set Aside Judgment

11/06/2018 **Affidavit of Service**
Affidavit Of Service

11/06/2018 **Affidavit of Service**
Affidavit Of Service

11/06/2018 **Affidavit of Service**
Affidavit Of Service

11/08/2018 **Motion for Relief** (3:00 AM) (Judicial Officer Kephart, William D.)
Defendant's Motion for Relief form Judgment Pursuant to NRCP 60

Minutes

10/31/2018 Reset by Court to 11/08/2018

11/08/2018 Reset by Court to 11/08/2018

Result: Matter Continued

11/08/2018 **Motion for Sanctions**
NRCP 11 Motion for Sanctions

11/08/2018	**Notice of Hearing** *Notice of Hearing*
11/13/2018	**Request for Exemption From Arbitration**
11/15/2018	**Motion to Dismiss** *UAIC'S Motion to Dismiss Third Party Plaintiff Lewis's Third Party Complaint*
11/26/2018	**Motion to Consolidate** *Intervenor's Motion to Consolidate on Order Shortening Time*
11/27/2018	**Opposition** *Opposition to UAIC's Motion to Dismiss and Countermotion for Summary Judgment*
11/27/2018	**Opposition** *Opposition to UAIC's Motion to Consolidate and Countermotion to Set aside Void Order and to Strike all Filings by Intervenor, or, in the Alternative, for Summary Judgment*
11/28/2018	*CANCELED* **Motion to Consolidate** (10:30 AM) (Judicial Officer Johnson, Eric) *Vacated - per Law Clerk* *Intervenor's Motion to Consolidate on Order Shortening Time*
11/28/2018	**Initial Appearance Fee Disclosure** *Initial Appearance Fee Disclosure*
11/28/2018	**Motion for Summary Judgment** *Plaintiff's Motion for Summary Judgment*
11/30/2018	**Minute Order** (11:30 AM) (Judicial Officer Johnson, Eric) Minutes Result: Minute Order - No Hearing Held
12/03/2018	**Commissioners Decision on Request for Exemption - Granted** *COMMISSIONER'S DECISION ON REQUEST FOR EXEMPTION - GRANTED*
12/04/2018	**Notice of Early Case Conference** *Notice of Early Case Conference*
12/11/2018	*CANCELED* **Motion to Dismiss** (9:00 AM) (Judicial Officer Kephart, William D.) *Vacated* *Defendant's Motion to Dismiss* *10/31/2018 Reset by Court to 11/13/2018* *11/13/2018 Reset by Court to 12/11/2018*
12/11/2018	*CANCELED* **Motion to Dismiss** (9:00 AM) (Judicial Officer Kephart, William D.) *Vacated* *UAIC s Motion To Dismiss Plaintiff s Complaint & Motion For Court To Deny Stipulation to Enter Judgment Between Plaintiff and Lewis and/or, In The Alternative To Stay Same Pending Hearing On Motion To Dismiss* *12/12/2018 Reset by Court to 12/11/2018* *12/12/2018 Reset by Court to 12/12/2018*
12/13/2018	*CANCELED* **Motion to Strike** (3:00 AM) (Judicial Officer Kephart, William D.) *Vacated* *Defendant's Motion to Strike Both Defendant's Motion for Relief from Judgment and Defendant's Motion to Dismiss* *12/12/2018 Reset by Court to 12/13/2018* *12/13/2018 Reset by Court to 12/13/2018*
12/13/2018	*CANCELED* **Motion for Sanctions** (3:00 AM) (Judicial Officer Kephart, William D.) *Vacated* *NRCP 11 Motion for Sanctions*
01/15/2019	*CANCELED* **Motion to Dismiss** (9:00 AM) (Judicial Officer Kephart, William D.) *Vacated* *UAIC'S Motion to Dismiss Third Party Plaintiff Lewis's Third Party Complaint*
01/15/2019	*CANCELED* **Opposition and Countermotion** (9:00 AM) (Judicial Officer Kephart, William D.) *Vacated* *Opposition to UAIC's Motion to Dismiss and Countermotion for Summary Judgment*
01/15/2019	*CANCELED* **Motion for Summary Judgment** (9:00 AM) (Judicial Officer Kephart, William D.) *Vacated* *Plaintiff's Motion for Summary Judgment and Relief From Order Pursuant to NRCP 60(b)*

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Financial Information

	Defendant Lewis, Gary			
	Total Financial Assessment			558.00
	Total Payments and Credits			558.00
	Balance Due as of 02/21/2019			**0.00**
09/27/2018	Transaction Assessment			223.00
09/27/2018	Efile Payment	Receipt # 2018-64487-CCCLK	Lewis, Gary	(223.00)
10/24/2018	Transaction Assessment			135.00
10/24/2018	Efile Payment	Receipt # 2018-70959-CCCLK	Lewis, Gary	(135.00)
11/28/2018	Transaction Assessment			200.00
11/28/2018	Efile Payment	Receipt # 2018-78576-CCCLK	Lewis, Gary	(200.00)

	Intervenor United Automobile Insurance Company			
	Total Financial Assessment			673.00
	Total Payments and Credits			673.00
	Balance Due as of 02/21/2019			**0.00**
10/19/2018	Transaction Assessment			223.00
10/19/2018	Efile Payment	Receipt # 2018-70057-CCCLK	United Automobile Insurance Company	(223.00)

Case 2:18-cv-02269-JAD-PAL Document 5-7 Filed 02/22/19 Page 5 of 5

10/31/2018	Transaction Assessment			450.00
10/31/2018	Efile Payment	Receipt # 2018-72510-CCCLK	United Automobile Insurance Company	(450.00)

Plaintiff Nalder, Cheyenne

	Total Financial Assessment			470.00
	Total Payments and Credits			470.00
	Balance Due as of 02/21/2019			**0.00**
04/04/2018	Transaction Assessment			270.00
04/04/2018	Efile Payment	Receipt # 2018-23353-CCCLK	Nalder, Cheyenne	(270.00)
11/29/2018	Transaction Assessment			200.00
11/29/2018	Efile Payment	Receipt # 2018-78718-CCCLK	Nalder, Cheyenne	(200.00)

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“EXHIBIT G”

Docket Report for
Case No. KS021378

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CASE INFORMATION

Case Information | Register Of Actions | FUTURE HEARINGS | PARTY INFORMATION | Documents Filed | Proceedings Held

Case Number: KS021378
CHEYENNE NALDER ET AL VS GARY LEWIS

Filing Courthouse: Pomona Courthouse South

Filing Date: 06/28/2018
Case Type: Sister State Judgment (General Jurisdiction)
Status: Legacy Judgment 07/24/2018

Click here to access document images for this case
If this link fails, you may go to the Case Document Images site and search using the case number displayed on this page

FUTURE HEARINGS

Case Information | Register Of Actions | FUTURE HEARINGS | PARTY INFORMATION | Documents Filed | Proceedings Held

None

PARTY INFORMATION

Case Information | Register Of Actions | FUTURE HEARINGS | PARTY INFORMATION | Documents Filed | Proceedings Held

DEITZ JOSHUA M. - Attorney for Plaintiff

INAMINE BRIAN S. ESQ - Intervenor

INAMINE BRIAN SEISHIN - Attorney for Plaintiff in Intervention

LEWIS GARY - Defendant

NALDER CHEYENNE - Plaintiff

NALDER JAMES - Plaintiff

UNITED AUTO INSURANCE COMPANY - Plaintiff in Intervention

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DOCUMENTS FILED

Case Information | Register Of Actions | FUTURE HEARINGS | PARTY INFORMATION | Documents Filed | Proceedings Held

Documents Filed (Filing dates listed in descending order)

01/17/2019 Notice (name extension) (Withdrawal of its Motion to Set Aside the Sister State Judgment)
Filed by United Auto Insurance Company (Plaintiff in Intervention)

01/14/2019 Minute Order ((United Automobile Insurance Company's Ex-Parte Motion To Exte...))
Filed by Clerk

01/14/2019 Opposition (name extension) (To United Insurance Company's Ex Parte Motion For a Stay)
Filed by CHEYENNE NALDER (Plaintiff); JAMES NALDER (Plaintiff)

01/14/2019 Declaration (name extension) (of Samantha L. Barron In Support of United Auto Insurance Company's Ex Parte Motion to Extend Stay)
Filed by United Auto Insurance Company (Plaintiff in Intervention)

01/14/2019 Ex Parte Application (name extension) (To Extend Stay of Proceedings and Enforcement of Sister State Judgment per CCP Section 1710.50)
Filed by United Auto Insurance Company (Plaintiff in Intervention)

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12/14/2018 Order (name extension) (Granting Second Request for Judicial Notice)
Filed by United Auto Insurance Company (Plaintiff in Intervention)

12/14/2018 Request for Judicial Notice (Second Notice)
Filed by United Auto Insurance Company (Plaintiff in Intervention)

12/14/2018 Minute Order ((Hearing on Motion for Leave to Intervene;))
Filed by Clerk

12/14/2018 Notice of Lodging (name extension) (Joint Stipulation to Continue Stay of Enforcement of Sister State Judgment)
Filed by United Auto Insurance Company (Plaintiff in Intervention)

12/14/2018 Stipulation (name extension) - No Order (Joint Stipulation to Continue Stay of Enforcement of Sister State Judgment)
Filed by United Auto Insurance Company (Plaintiff in Intervention)

12/14/2018 Order Appointing Court Approved Reporter as Official Reporter Pro Tempore
Filed by Clerk

12/14/2018 Order (name extension) (Ruling on the Court's Tentative Ruling)
Filed by Clerk

12/03/2018 Notice of Lodging (name extension) (re proposed sister state judgment)
Filed by United Auto Insurance Company (Plaintiff in Intervention)

12/03/2018 Motion to Vacate (name extension) (United Automobile Insurance Company's (Proposed) notice and motion to vacate or set aside Judgment and Points and Authorities in support thereof)
Filed by United Auto Insurance Company (Plaintiff in Intervention)

11/26/2018 Notice of Continuance
Filed by United Auto Insurance Company (Plaintiff in Intervention)

11/21/2018 Stipulation and Order (name extension) (to allow United Auto Insurance Company's to file a supplemental reply in support of its Motion to Intervene)
Filed by CHEYENNE NALDER (Plaintiff); JAMES NALDER (Plaintiff)

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11/20/2018 Order Appointing Court Approved Reporter as Official Reporter Pro Tempore

11/20/2018 Minute Order ((Intervener, United Automobile Insurance Company's Motion for ...))
Filed by Clerk

11/13/2018 Reply (name extension) (rsv 180823342638)

11/07/2018 Notice of Continuance
Filed by United Auto Insurance Company (Plaintiff in Intervention)

10/31/2018 Reply (name extension) (in support of Its Motion to Intervene)
Filed by United Auto Insurance Company (Plaintiff in Intervention)

10/31/2018 Declaration (name extension) (OF Matthew J. Douglas rsv 180823342638)
Filed by United Auto Insurance Company (Plaintiff in Intervention)

10/31/2018 Declaration (name extension) (of Brandon Carroll RSV 180823342638)
Filed by United Auto Insurance Company (Plaintiff in Intervention)

10/31/2018 Proof of Service (not Summons and Complaint) (proof)

10/31/2018 Declaration (name extension) (OF Samantha L. Barron)
Filed by United Auto Insurance Company (Plaintiff in Intervention)

10/31/2018 Reply (name extension) (to pltffs opposition to to motion to intervene RSV 180823342638)
Filed by United Auto Insurance Company (Plaintiff in Intervention)

10/31/2018 Reply (name extension) (in support of its motion to intervene RSV 180823342638)
Filed by United Auto Insurance Company (Plaintiff in Intervention)

10/25/2018 Opposition (name extension) (to united auto insurance co motion to intervene rsv 180823342638)
Filed by JAMES NALDER (Plaintiff)

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10/25/2018 Other - (name extension) (APPENDIX OF OUT OF STATE AUTHORITEIS REFERENCED WITHIN PLAINTIFFS OPPOSITION TO UNTIED AUTOMOBILE INSURANCE CO. MOTIONH FOR LEAVE TO INTERVENE)
Filed by GARY LEWIS (Defendant)

10/25/2018 Other - (name extension) (Appendix of Exhibits in Support of Opposition)
Filed by GARY LEWIS (Defendant)

10/25/2018 Opposition (name extension) (To Motion for Leave)
Filed by GARY LEWIS (Defendant)

10/25/2018 Declaration (name extension) (Of Arthur I. Willner)
Filed by GARY LEWIS (Defendant)

10/11/2018 Request for Judicial Notice
Filed by United Auto Insurance Company (Plaintiff in Intervention)

10/11/2018 Proof of Service (not Summons and Complaint) (Re: Motion for Leave)
Filed by Brian S. Inamine, Esq (Legacy Party); United Auto Insurance Company (Plaintiff in Intervention)

10/11/2018 Declaration (name extension) (Of Brandon Carroll in Support OF Motion for Leave)

10/11/2018 Notice of Lodging (name extension) (Of (Proposed) Orders)
Filed by Brian S. Inamine, Esq (Legacy Party)

10/11/2018 Motion for Leave (name extension) (To Intervene and Points and Authorities in support Thereof)
Filed by Brian S. Inamine, Esq (Legacy Party)

08/24/2018 Proof of Service (not Summons and Complaint)

08/24/2018 Proof of Service (not Summons and Complaint)
Filed by Intervenor

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08/23/2018 Declaration
Filed by Intervenor

001417

08/23/2018 Ex-Parte Application
Filed by Intervenor

08/23/2018 Ex-Parte Application
Filed by Intervenor

08/23/2018 Minute Order
Filed by Clerk

08/23/2018 Request for Judicial Notice
Filed by Intervenor

08/23/2018 Notice of Lodging

08/23/2018 Ex Parte Application

08/23/2018 Declaration

08/23/2018 Declaration

08/23/2018 Notice of Lodging

08/23/2018 Request for Judicial Notice

08/23/2018 Declaration

08/23/2018 Order Appointing Court Approved Reporter as Official Reporter Pro Tempore

08/23/2018 Notice of Lodging

08/23/2018 Declaration

08/23/2018 Ex Parte Application

08/23/2018 Declaration

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08/23/2018 Order Appointing Court Approved Reporter as Official Reporter Pro Tempore
Filed by Court

08/23/2018 Opposition
Filed by CHEYENNE NALDER (Plaintiff); JAMES NALDER (Plaintiff)

08/23/2018 Opposition
Filed by GARY LEWIS (Defendant)

08/23/2018 Declaration
Filed by Intervenor

08/23/2018 Notice of Lodging
Filed by Intervenor

08/23/2018 Notice of Lodging
Filed by Intervenor

08/23/2018 Request for Judicial Notice
Filed by Intervenor

08/23/2018 Notice of Lodging
Filed by Intervenor

08/03/2018 Proof of Service (not Summons and Complaint)
Filed by CHEYENNE NALDER (Plaintiff); JAMES NALDER (Plaintiff)

08/03/2018 Proof of Service (not Summons and Complaint)

07/24/2018 Notice
Filed by CHEYENNE NALDER (Plaintiff); JAMES NALDER (Plaintiff)

07/24/2018 Sister State Judgment
Filed by CHEYENNE NALDER (Plaintiff); JAMES NALDER (Plaintiff)

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07/24/2018 Judgment

07/24/2018 Notice of Entry of Judgment on Sister-State Judgment

07/17/2018 Application for Entry of Judgment on Sister-State Judgment AMENDED

07/17/2018 Application for Entry of Judgment on Sister-State Judgment (Amended: 2018-07-17)
Filed by CHEYENNE NALDER (Plaintiff); JAMES NALDER (Plaintiff)

06/28/2018 Civil Case Cover Sheet
Filed by CHEYENNE NALDER (Plaintiff); JAMES NALDER (Plaintiff)

06/28/2018 Application for Entry of Judgment on Sister-State Judgment
Filed by CHEYENNE NALDER (Plaintiff); JAMES NALDER (Plaintiff)

PROCEEDINGS HELD

Case Information | Register Of Actions | FUTURE HEARINGS | PARTY INFORMATION | Documents Filed | Proceedings Held

Proceedings Held (Proceeding dates listed in descending order)

02/11/2019 at 08:30 AM in Department O, Peter A. Hernandez, Presiding
Hearing on Motion to Set Aside/Vacate Default and Default Judgment (CCP 473.5) - **Not Held - Vacated by Court**

02/05/2019 at 08:30 AM in Department O, Peter A. Hernandez, Presiding
Hearing on Motion to Set Aside/Vacate Default and Default Judgment (CCP 473.5) - **Not Held - Rescheduled by Party**

01/30/2019 at 08:31 AM in Department O, Peter A. Hernandez, Presiding
(Motion to Set Aside) - **Not Held - Rescheduled by Party**

01/14/2019 at 09:00 AM in Department O, Peter A. Hernandez, Presiding
Ex-Parte Proceedings

001418

12/14/2018 at 08:30 AM in Department O, Peter A. Hernandez, Presiding
Hearing on Motion for Leave to Intervene - **Held - Motion Denied**

12/10/2018 at 08:31 AM in Department O, Peter A. Hernandez, Presiding
Hearing on Motion - Other (name extension) (Set Aside) - **Not Held - Continued - Party's Motion**

11/20/2018 at 08:30 AM in Department O, Peter A. Hernandez, Presiding
Hearing on Motion for Leave to Intervene - **Held - Continued**

11/07/2018 at 08:31 AM in Department O, Peter A. Hernandez, Presiding
Hearing on Motion for Leave (name extension) - **Not Held - Continued - Court's Motion**

08/23/2018 at 09:00 AM in Department O
Ex-Parte Proceedings (Exparte proceeding; Motion Denied) -

REGISTER OF ACTIONS

Case Information | Register Of Actions | FUTURE HEARINGS | PARTY INFORMATION | Documents Filed | Proceedings Held

Register of Actions (Listed in descending order)

Click on any of the below link(s) to see Register of Action Items on or before the date indicated:
07/17/2018

02/11/2019 at 08:30 AM in Department O, Peter A. Hernandez, Presiding
Hearing on Motion to Set Aside/Vacate Default and Default Judgment (CCP 473.5) - **Not Held - Vacated by Court**

02/05/2019 at 08:30 AM in Department O, Peter A. Hernandez, Presiding
Hearing on Motion to Set Aside/Vacate Default and Default Judgment (CCP 473.5) - **Not Held - Rescheduled by Party**

001419

01/30/2019 at 08:31 AM in Department O, Peter A. Hernandez, Presiding
(Motion to Set Aside) - **Not Held - Rescheduled by Party**

001419

01/17/2019 Notice (name extension) (Withdrawal of its Motion to Set Aside the Sister State Judgment)
Filed by United Auto Insurance Company (Plaintiff in Intervention)

01/14/2019 at 09:00 AM in Department O, Peter A. Hernandez, Presiding
Ex-Parte Proceedings

01/14/2019 Opposition (name extension) (To United Insurance Company's Ex Parte Motion For a Stay)
Filed by CHEYENNE NALDER (Plaintiff); JAMES NALDER (Plaintiff)

01/14/2019 Minute Order ((United Automobile Insurance Company's Ex-Parte Motion To Exte...))
Filed by Clerk

01/14/2019 Ex Parte Application (name extension) (To Extend Stay of Proceedings and Enforcement of Sister State Judgment per CCP Section 1710.50)
Filed by United Auto Insurance Company (Plaintiff in Intervention)

01/14/2019 Declaration (name extension) (of Samantha L. Barron In Support of United Auto Insurance Company's Ex Parte Motion to Extend Stay)
Filed by United Auto Insurance Company (Plaintiff in Intervention)

12/14/2018 at 08:30 AM in Department O, Peter A. Hernandez, Presiding
Hearing on Motion for Leave to Intervene - **Held - Motion Denied**

12/14/2018 Order (name extension) (Granting Second Request for Judicial Notice)
Filed by United Auto Insurance Company (Plaintiff in Intervention)

12/14/2018 Request for Judicial Notice (Second Notice)
Filed by United Auto Insurance Company (Plaintiff in Intervention)

12/14/2018 Minute Order ((Hearing on Motion for Leave to Intervene;))
Filed by Clerk

001419

12/14/2018 Order (name extension) (Ruling on the Court's Tentative Ruling)
Filed by Clerk

12/14/2018 Order Appointing Court Approved Reporter as Official Reporter Pro Tempore
Filed by Clerk

12/14/2018 Notice of Lodging (name extension) (Joint Stipulation to Continue Stay of Enforcement of Sister State Judgment)
Filed by United Auto Insurance Company (Plaintiff in Intervention)

12/14/2018 Stipulation (name extension) - No Order (Joint Stipulation to Continue Stay of Enforcement of Sister State Judgment)
Filed by United Auto Insurance Company (Plaintiff in Intervention)

12/10/2018 at 08:31 AM in Department O, Peter A. Hernandez, Presiding
Hearing on Motion - Other (name extension) (Set Aside) - **Not Held - Continued - Party's Motion**

12/03/2018 Notice of Lodging (name extension) (re proposed sister state judgment)
Filed by United Auto Insurance Company (Plaintiff in Intervention)

12/03/2018 Motion to Vacate (name extension) (United Automobile Insurance Company's (Proposed) notice and motion to vacate or set aside Judgment and Points and Authorities in support thereof)
Filed by United Auto Insurance Company (Plaintiff in Intervention)

11/26/2018 Notice of Continuance
Filed by United Auto Insurance Company (Plaintiff in Intervention)

11/21/2018 Stipulation and Order (name extension) (to allow United Auto Insurance Company's to file a supplemental reply in support of its Motion to Intervene)
Filed by CHEYENNE NALDER (Plaintiff); JAMES NALDER (Plaintiff)

11/20/2018 at 08:30 AM in Department O, Peter A. Hernandez, Presiding
Hearing on Motion for Leave to Intervene - **Held - Continued**

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11/20/2018 Order Appointing Court Approved Reporter as Official Reporter Pro Tempore

11/20/2018 Minute Order ((Intervener, United Automobile Insurance Company's Motion for ...))
Filed by Clerk

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11/13/2018 Reply (name extension) (rsv 180823342638)

11/07/2018 at 08:31 AM in Department O, Peter A. Hernandez, Presiding
Hearing on Motion for Leave (name extension) - **Not Held - Continued - Court's Motion**

11/07/2018 Notice of Continuance
Filed by United Auto Insurance Company (Plaintiff in Intervention)

10/31/2018 Reply (name extension) (in support of its motion to intervene RSV 180823342638)
Filed by United Auto Insurance Company (Plaintiff in Intervention)

10/31/2018 Reply (name extension) (to pltffs opposition to to motion to intervene RSV 180823342638)
Filed by United Auto Insurance Company (Plaintiff in Intervention)

10/31/2018 Declaration (name extension) (OF Samantha L. Barron)
Filed by United Auto Insurance Company (Plaintiff in Intervention)

10/31/2018 Proof of Service (not Summons and Complaint) (proof)

10/31/2018 Declaration (name extension) (of Brandon Carroll RSV 180823342638)
Filed by United Auto Insurance Company (Plaintiff in Intervention)

10/31/2018 Declaration (name extension) (OF Matthew J. Douglas rsv 180823342638)
Filed by United Auto Insurance Company (Plaintiff in Intervention)

10/31/2018 Reply (name extension) (in support of Its Motion to Intervene)
Filed by United Auto Insurance Company (Plaintiff in Intervention)

10/25/2018 Declaration (name extension) (Of Arthur I. Willner)
Filed by GARY LEWIS (Defendant)

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10/25/2018 Other - (name extension) (Appendix of Exhibits in Support of Opposition)
Filed by GARY LEWIS (Defendant)

10/25/2018 Opposition (name extension) (to united auto insurance co motion to intervene rsv 180823342638)
Filed by JAMES NALDER (Plaintiff)

10/25/2018 Other - (name extension) (APPENDIX OF OUT OF STATE AUTHORITEIS REFERENCED WITHIN PLAINTIFFS OPPOSITION TO UNTIED AUTOMOBILE INSURANCE CO. MOTIONH FOR LEAVE TO INTERVENE)
Filed by GARY LEWIS (Defendant)

10/25/2018 Opposition (name extension) (To Motion for Leave)
Filed by GARY LEWIS (Defendant)

10/11/2018 Motion for Leave (name extension) (To Intervene and Points and Authorities in support Thereof)
Filed by Brian S. Inamine, Esq (Legacy Party)

10/11/2018 Notice of Lodging (name extension) (Of (Proposed) Orders)
Filed by Brian S. Inamine, Esq (Legacy Party)

10/11/2018 Declaration (name extension) (Of Brandon Carroll in Support OF Motion for Leave)

10/11/2018 Proof of Service (not Summons and Complaint) (Re: Motion for Leave)
Filed by Brian S. Inamine, Esq (Legacy Party); United Auto Insurance Company (Plaintiff in Intervention)

10/11/2018 Request for Judicial Notice
Filed by United Auto Insurance Company (Plaintiff in Intervention)

08/24/2018 Proof of Service (not Summons and Complaint)

08/24/2018 Proof of Service (not Summons and Complaint)
Filed by Intervenor

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08/23/2018 at 09:00 AM in Department O
Ex-Parte Proceedings (Exparte proceeding; Motion Denied) -

001421

08/23/2018 Declaration

08/23/2018 Ex Parte Application

08/23/2018 Notice of Lodging

08/23/2018 Declaration

08/23/2018 Notice of Lodging

08/23/2018 Request for Judicial Notice

08/23/2018 Declaration

08/23/2018 Order Appointing Court Approved Reporter as Official Reporter Pro Tempore

08/23/2018 Notice of Lodging

08/23/2018 Declaration

08/23/2018 Ex Parte Application

08/23/2018 Declaration

08/23/2018 Order Appointing Court Approved Reporter as Official Reporter Pro Tempore
Filed by Court

08/23/2018 Opposition
Filed by CHEYENNE NALDER (Plaintiff); JAMES NALDER (Plaintiff)

08/23/2018 Opposition
Filed by GARY LEWIS (Defendant)

08/23/2018 Notice of Lodging
Filed by Intervenor

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08/23/2018 Declaration
Filed by Intervenor

08/23/2018 Notice of Lodging
Filed by Intervenor

08/23/2018 Request for Judicial Notice
Filed by Intervenor

08/23/2018 Notice of Lodging
Filed by Intervenor

08/23/2018 Declaration
Filed by Intervenor

08/23/2018 Ex-Parte Application
Filed by Intervenor

08/23/2018 Ex-Parte Application
Filed by Intervenor

08/23/2018 Request for Judicial Notice
Filed by Intervenor

08/23/2018 Minute Order
Filed by Clerk

08/03/2018 Proof of Service (not Summons and Complaint)

08/03/2018 Proof of Service (not Summons and Complaint)
Filed by CHEYENNE NALDER (Plaintiff); JAMES NALDER (Plaintiff)

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07/24/2018 Sister State Judgment
Filed by CHEYENNE NALDER (Plaintiff); JAMES NALDER (Plaintiff)

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07/24/2018 Notice
Filed by CHEYENNE NALDER (Plaintiff); JAMES NALDER (Plaintiff)

07/24/2018 Judgment

07/24/2018 Notice of Entry of Judgment on Sister-State Judgment

Click on any of the below link(s) to see Register of Action Items on or before the date indicated:
TOP 07/17/2018

07/17/2018 Application for Entry of Judgment on Sister-State Judgment (Amended: 2018-07-17)
Filed by CHEYENNE NALDER (Plaintiff); JAMES NALDER (Plaintiff)

07/17/2018 Application for Entry of Judgment on Sister-State Judgment AMENDED

06/28/2018 Application for Entry of Judgment on Sister-State Judgment
Filed by CHEYENNE NALDER (Plaintiff); JAMES NALDER (Plaintiff)

06/28/2018 Civil Case Cover Sheet
Filed by CHEYENNE NALDER (Plaintiff); JAMES NALDER (Plaintiff)

Click on any of the below link(s) to see Register of Action Items on or before the date indicated:
TOP 07/17/2018

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EXHIBIT 2

Electronically Filed
2/14/2019 3:20 PM
Steven D. Grierson
CLERK OF THE COURT

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DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

JAMES NALDER, et al, Plaintiffs, vs. GARY LEWIS, et al, Defendants. AND ALL RELATED PARTIES	)	CASE NO. 07A549111 A-18-772220-C DEPT NO. XX **Transcript of Proceedings**

BEFORE THE HONORABLE ERIC JOHNSON, DISTRICT COURT JUDGE

DEFENSE'S MOTION TO WITHDRAW ON ORDER SHORTENING TIME DEFENDANT'S MOTIONS TO DISMISS AND MOTIONS FOR RELIEF DEFENDANT'S MOTIONS TO STRIKE MOTIONS TO DISMISS AND FOR RELIEF UAIC'S MOTION FOR RELIEF, MOTION TO DISMISS PLAINTIFFS' COMPLAINT, MOTION FOR COURT TO DENY STIPULATION TO ENTER JUDGMENT BETWEEN PLAINTIFF AND LEWIS, AND OPPOSITION TO THIRD PARTY PLAINTIFF LEWIS'S MOTION FOR RELIEF FROM ORDER AND JOINDER IN MOTIONS FOR RELIEF FROM ORDERS ON ORDER SHORTENING TIME

WEDNESDAY, JANUARY 9, 2019

APPEARANCES:

FOR THE PLAINTIFFS:	DAVID ALLEN STEPHENS, ESQ.
FOR THE THIRD PARTY PLAINTIFF GARY LEWIS:	THOMAS F. CHRISTENSEN, ESQ.
FOR THE DEFENDANT GARY LEWIS:	BREEN E. ARNTZ, ESQ.
FOR THIRD PARTY DEFENDANTS:	DAN R. WAITE, ESQ. MATTHEW J. DOUGLAS, ESQ. THOMAS E. WINNER, ESQ.

RECORDED BY: ANGIE CALVILLO, COURT RECORDER
TRANSCRIBED BY: JULIE POTTER, TRANSCRIBER

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LAS VEGAS, NEVADA, WEDNESDAY, JANUARY 9, 2019, 8:50 A.M.

(Court was called to order)

THE COURT: James Nalder versus Gary Lewis, Case No. A549111. I guess I should say because it's the As, 07A549111. Counsel, please note your appearances for the record.

MR. STEPHENS: David Stephens for plaintiff, Cheyenne Nalder, Your Honor.

MR. CHRISTENSEN: Tom Christiansen for third party plaintiff Gary Lewis, Your Honor.

THE COURT: Okay.

MR. ARNTZ: Breen Arntz appearing for defendant Gary Lewis.

MR. WAITE: Dan Wait, Your Honor, for third party defendant attorney Randall Tindall and his law firm, Resnick Louis.

MR. WINNER: Tom Winner for UAIC.

MR. DOUGLAS: And Matthew Douglas for UAIC, Your Honor.

THE COURT: Okay. Well, we've got a bunch of things here. The thing that caught my eye was Mr. Tindall's motion to -- to withdraw.

MR. WAITE: Could we hear that first.

THE COURT: Is that where we should be -- huh?

MR. WAITE: Can we hear that one first, Your Honor?

THE COURT: I was going to say, that seems to me maybe

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something we should deal with initially. So we've got that on order shortening time. Does anyone have an issue with us going forward and dealing with it today, or does somebody want to file paperwork or something else in regard to this?

MR. WAITE: I've spoken with some of the counsel, Your Honor, and I don't believe anyone has any objection to it.

THE COURT: Okay. All right. Let's -- let me hear what you have. You seem to be moving toward the podium, so let me hear what you have to say.

MR. WAITE: Your Honor, I don't know that since it's unopposed, I don't know that I have anything more to add other than the unique circumstances of this case has created a conflict of interest for Mr. Tindall and his firm to -- to proceed. And so we filed the motion and, unfortunately, it was on very shortened time. We appreciate your considering and granting the order shortening time to today.

But given the circumstances that present themselves, it just puts Mr. Tindall and his firm in a position where they're damned if they do, damned if they don't. They really can't take a position given the relationship they have to both Mr. Lewis, the insured, the client, and then the insurance company, UAIC, that hired them. He's just -- he can't -- he can't act, so he needs to get out.

THE COURT: What does that, from your perspective, then, as to the motions Mr. Tindall has filed on behalf of Mr.

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Lewis?

MR. WAITE: Well, those -- those motions that were filed were filed in good faith.

THE COURT: I'm not suggesting they weren't. I'm just asking where does that leave us with those motions? Are they being withdrawn or --

MR. WAITE: Well, you have the unique situation where you have UAIC who hired Mr. Tindall to represent Mr. Lewis's interest, and you have Mr. Lewis who hired Mr. Arntz to represent his interest. And so we have Mr. Tindall who has filed some motions, and then Mr. Arntz filing the withdrawal of those motions.

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THE COURT: Right.

MR. WAITE: Which took us by surprise. We did not -- we were not aware of that. But as we -- as put in the moving papers, we have conflicting instructions from our client Mr. Lewis, who their side had previously indicated withdraw the motions, UAIC saying go forward with the motions. We don't -- we don't take a position, if you will, Your Honor, other than motions were filed initially in good faith, and Mr. Lewis has decided, through Mr. Arntz, to withdraw the motions.

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THE COURT: Okay. Let me ask you. I assume that's your position, Mr. Arntz?

MR. ARNTZ: Yes, Your Honor.

THE COURT: Okay. All right. Now, let me just ask

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what's UAIC's position. I mean, it sounds -- we no longer have any other attorney, assuming I grant the motion to withdraw, we no longer have any other attorney than Mr. Arntz representing Mr. Lewis.

MR. CHRISTENSEN: As -- as the plaintiff.

THE COURT: Yeah, and he's wanting to withdraw this motion. So what's your take on that?

MR. DOUGLAS: Thank you, Your Honor. Matthew Douglas for UAIC. Your Honor, UAIC, given that this has all come up in the past week and they only learned that Mr. Tindall was going to be withdrawing, I believe, last Thursday the 4th, they would ask this Court to continue the issue as to the motions filed by Mr. Tindall, and the motions to -- whatever their status is, to leave them time to get new counsel to come in.

I have an affidavit, actually, from the adjuster explaining they have not been able to get new counsel since learning of Mr. Tindall's withdrawal. I can -- I can provide that to the Court if that's okay.

THE COURT: Sure. I mean, has -- a copy has been provided to everybody else?

MR. DOUGLAS: I think so.

THE COURT: I mean --

MR. DOUGLAS: I have copies for everyone else.

THE COURT: Well, let me just -- I mean, Mr. Lewis doesn't want your company to hire anybody to represent him. I

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mean, I guess it's not clear for me as I know you have a contractual obligation to provide a defense to Mr. Lewis, but if he declines that, what in your contract says that he can't decline that and that he has to -- I mean, is there something in there you want to argue that the -- his contract requires him to have you hire somebody to represent him?

MR. CHRISTENSEN: Just --

THE COURT: I'll let you talk in a second.

MR. CHRISTENSEN: I just want to --

THE COURT: Hold on. I'm asking -- I'm asking him.

MR. CHRISTENSEN: Okay.

THE COURT: I'll let you talk. Don't worry.

MR. CHRISTENSEN: Okay.

THE COURT: I'm pretty good with that.

MR. CHRISTENSEN: Before you decide. Okay.

THE COURT: I'm sorry. What?

MR. CHRISTENSEN: Before you decide.

THE COURT: Well, no, don't -- don't -- no. I think I'm sort of going through everyone here and --

MR. CHRISTENSEN: Okay.

THE COURT: -- trying to get positions. So, I mean -- so what -- I mean, like I said, I've seen the paperwork.

MR. DOUGLAS: Sure.

THE COURT: You talk about how you've got an obligation to defend him, that's why you hired Mr. Tindall.

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MR. DOUGLAS: Yeah.

THE COURT: I mean, he's now saying I don't want --

MR. DOUGLAS: Yes.

THE COURT: -- you to hire anybody, I like Mr. Arntz. And, I mean, is there something in your contract you're contending requires him to accept your -- your attorney?

MR. DOUGLAS: Well, you put it that way, Your Honor, this is obviously a very strange situation. I think we can all agree. But clearly, yes, in short answer, the contract, as most liability insurance policies, the insurer has the ability to control the defense. In fact, the leading case in the bad faith arena, the Allstate versus Miller case specifically notes it, and that's why, in fact, the insurer was held liable in not providing notice of settlement demands.

So it's clear the contract provides the duty, the control of the defense, to the insurer. If they're going to be liable, unless plaintiff wants to stipulate or Mr. Lewis wants to stipulate that UAIC will have no liability from either of these two actions proceeding, I think they have a right to have somebody control the defense for Mr. Lewis. Otherwise, it's a farce. So that's why we've asked for the continuance.

And I think it's also important to note kind of a hypothetical here, and it's something I presented in some of the moving papers. You can have a situation, obviously, under Nevada law, single vehicle accident, let's say a husband and

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wife. Husband is negligent, causes the accident. Wife, in order to recover, would have to sue her husband tortfeasor dry. We can all agree on that.

Under their position, what would stop the husband from saying, no, I don't want a defense? Maybe the wife's injuries are illegitimate. Does the insurance company not still have a right to appoint counsel to defend those claims just because the insurance says no, because maybe the insured has a self-interest against the insurer. That's a conflict, too.

THE COURT: All right. Mr. Christensen, Mr. Arntz. One of you want to --

MR. ARNTZ: Two points.

MR. CHRISTENSEN: Let me say real quick, and then he can --

THE COURT: I don't -- I mean, however you want to do it. I mean, you both have a fish in the fight, so --

MR. ARNTZ: The problem we have here, and with all due respect to Mr. Tindall who I -- I have no problem with and I get along fine with, the issue is that UAIC is creating a farce by hiring a lawyer to come in and represent Mr. Lewis in a way that he doesn't want to be represented. Because what they're doing is they're hiring that lawyer to represent UAIC. They're not hiring that lawyer to represent my client.

And so that's the farce. That's the ruse is that they're using this contract, this supposed contract, which they

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breached a long time ago. They breached it when they didn't give him a defense. So now they want to say, no, we want to accept this contract and hire a lawyer to represent Mr. Lewis, when in reality all they're doing is hiring that lawyer to represent UAIC, and that's the conflict.

THE COURT: Well, I think that's exactly what he said. I don't think that there is a farce or a misrepresentation. I think their position is that if they're potentially going to be liable on this, they have a right to come in under their contract and provide -- provide a defense. So I don't think anybody is misrepresenting or misleading anybody. The issue is does the contract require that.

MR. ARNTZ: Well, it -- it --

THE COURT: You know, the contract -- the client has at this stage after, I know you raised the breach and, I mean, there's arguments once you breach it then, you know, all the little applications of the contract principles potentially come into play as to whether they're still binding. But, I mean, that's -- I mean, I think that's -- no one is -- there's no misleading here.

The issue I see is, you know, that now that we're stepping down this road is does your client have an obligation under either contract or -- I don't know the case law to -- to let them hire somebody on his behalf to represent, to effectively represent their interest. So that's what I --

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MR. ARNTZ: Well --

THE COURT: I'll let -- I know you're there.

MR. ARNTZ: -- last -- last -- last comment. Mr. Lewis is being represented. That's the point. And so any effort by UAIC to come in and impose some other lawyer on Mr. Lewis is not for his benefit. It's for UAIC's benefit. That's the ruse I'm talking about. And I'm not talking about, you know, some dastardly kind of scheme that counsel is creating. That's not the issue, obviously.

The issue is what is UAIC doing here when hiring another lawyer who is -- who is then doing things that Mr. Lewis doesn't even want them to do? And so Mr. Lewis is represented by me. But any effort by UAIC to impose some other lawyer on him would be for UAIC's protection only, not for Mr. Lewis.

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THE COURT: Okay. Mr. Christensen.

MR. CHRISTENSEN: And the one thing that I wanted to correct earlier is the misapprehension that has been created by UAIC that Mr. Lewis has said we don't want you to defend us. That has not ever been said by Mr. Lewis.

In fact, what -- what has been said by me representing Mr. Lewis in the claims against UAIC that are on appeal to the Ninth Circuit and tangentially relate to these actions here is that if you hire somebody to represent Mr. Lewis, please have them talk to me, not to Mr. Lewis directly, because Mr. Lewis has a conflict with UAIC, his insurance company. And that

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conflict is he has sued his insurance company.

His insurance company didn't defend him back in 2008, 2007 when this thing went down, and that's when they had their duty to defend and they breached it. And now they can't come in 10 years down the road and say we have to get -- fix that judgment, we have to get rid of that judgment for you. That's what they're saying they're doing. They don't have -- and they don't have that ability because they breached the duty to defend back in 2007 and 2008 to get into this lawsuit right here.

They still had the duty to defend as of 2013 when the Ninth Circuit reversed the trial court and sent back down and the trial court then determined that UAIC had breached their duty to defend, then they had a duty to defend going on from there. But that duty to defend is that they should be paying this judgment. Paying this judgment, not messing with this judgment, not filing false pleadings on behalf of Mr. Lewis that he doesn't want filed on his behalf.

So instead of saying -- Mr. Lewis saying, no, I don't want you to defend me, he has said what is it that you're intending to file? What is the basis for your motion for relief from the judgment, for example. And because -- because as I read the -- the Nevada case law, the Mandelbaum case in particular, that judgment is solid gold, you know. It -- it -- in the Mandelbaum case a judgment --

THE COURT: Listen, I don't -- I don't read the

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paperwork as them challenging the 2008 judgment. I see them as -- I'm essentially reading the paperwork, you're trying to get a renewal of the judgment, and they're essentially saying that judgment has died because it wasn't properly renewed.

And so, you know, I -- you know, no one -- I don't -- and I may be wrong, but I don't read it saying that the initial -- that they're trying to go back and relitigate the initial judgment in that there was a judgment for the three and a half million dollars. I see all the paperwork here as saying this judgment expired and --

MR. CHRISTENSEN: Right.

THE COURT: -- we're coming in and defending, you know, his interest and, admittedly, their interest in -- in a claim that they no longer -- that they contend no longer exists. And so it's a little bit --

MR. CHRISTENSEN: May I approach the bench --

THE COURT: -- different from --

MR. CHRISTENSEN: -- Your Honor?

THE COURT: -- the Mandelbaum case, in my opinion.

MR. CHRISTENSEN: Well, may I approach the bench?

THE COURT: Sure. Well, I mean, if you're going to give me something --

MR. CHRISTENSEN: I'm going to give you Mandelbaum.

THE COURT: -- give them --

MR. CHRISTENSEN: Do you have Mandelbaum --

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THE COURT: -- give them a copy of it.
MR. CHRISTENSEN: -- or you want another copy?
MR. DOUGLAS: I'm okay.
MR. WINNER: 1897 case? We've seen it.
THE COURT: Okay. Go ahead. I think I've got this, but I'll take it --
MR. CHRISTENSEN: I have it highlighted --
THE COURT: -- so we have it for the record.
MR. CHRISTENSEN: -- on the second page there.
THE COURT: And let me just not for the record that you did give a copy of Mandelbaum versus Gregovich, 50 P. 849.
MR. CHRISTENSEN: And that counsel for UAIC didn't want one.
THE COURT: Okay.
MR. CHRISTENSEN: But so the second page, the first highlighted paragraph says the averments of the complaint and the undisputed facts are that at the time of the rendition and entry of the judgment in 1882, the appellant was out of the state and continuously remained absent therefrom until March 1897, thereby preserving the judgment and all rights of action of the judgment creditor under the same. Notwithstanding, nearly 15 years had elapsed since the entry of the judgment, yet for purposes of the action, the judgment was not barred. For that purpose the judgment was valid.
That's the same judgment that we have in this case

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that UAIC is trying to say is invalid, and that is clearly against the law in Nevada. That's -- that's -- this has -- this has been the law in Nevada for over 100 years, Your Honor. And it goes on because it was the law in Nevada, it comes from the common law. This is a common law cause of action, and it's discussed in the -- in the Mandelbaum case.

So when they come in and say, oh, there's all these crazy things going on and Mr. Christensen isn't allowing us to represent our insured, they're being disingenuous, Your Honor, because my -- I wrote the letters and they never said that. What I said is, hey, my reading of the Mandelbaum case tells me you're going to lose your defense of Mr. Lewis, and who is going to pay for that when it's lost? So never has Mr. Lewis said don't defend me. He's only said defend me properly.

THE COURT: Okay.

MR. CHRISTENSEN: If there's -- if there's a real defense, I'm -- I'm more than interested in it, tell me what it is. And Mr. Rogers couldn't give me one, Mr. Tindall didn't give me one, and California counsel said -- couldn't give me one, and he opposed UAIC's motion to intervene in California.

And the California court denied their motion to intervene appropriately because there are also case law that says when you breach the duty to defend, you no longer have a right to direct the defense. So that's one reason. And we use California law all the time on -- especially on claims handling

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issues or bad faith cases like we have here. So that -- that -- and that's cited in my briefs and stuff.

But that's not all in this case. When Mr. Rogers was first -- we were first having discussions with Mr. Rogers, it became apparent that Mr. Lewis would need independent counsel under the Hansen case, a Nevada case that adopted the Kumis (phonetic) case, a California case, that allows for independent counsel, Breen Arntz, who doesn't have the tripartite relationship with UAIC where UAIC is kind of directing the defense, but it's not in Mr. Lewis's best interest.

So that's why Mr. Breen Arntz is here. And they owe. UAIC is supposed to be paying Breen Arntz's fees, and they have resisted that to this point. But they certainly don't need to hire another attorney who can carry their water instead of actually filing things that are in the best interest of Mr. Lewis. Thank you.

THE COURT: Okay. I mean -- I mean --

MR. DOUGLAS: Your Honor, can -- can I just briefly?

THE COURT: We have -- we have more time --

MR. DOUGLAS: Okay.

THE COURT: -- so don't worry. All right. I lost my train of thought that I was going to ask Mr. Christensen.

MR. WINNER: I need to -- I'm sorry to interrupt. I need to be downstairs at another hearing if the Court wouldn't mind leaving Mr. Douglas in charge of UAIC's position in the

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case.

THE COURT: I'm sorry. Say that again? What are you asking?

MR. WINNER: I need to be downstairs for another hearing.

THE COURT: Okay.

MR. WINNER: I'd like to say a couple of things before I go downstairs if the Court would permit me to exempt myself.

THE COURT: All right. I'll let you. Go ahead.

THE RECORDER: Mr. Winner, if you could move closer to the microphone.

MR. WINNER: All due respect to everyone here, the same law firm represents the plaintiff and the defendant in this case. The same law firm represents the judgment creditor and the judgment debtor. Nobody has explained to me or explained to the Court how is it in Mr. Lewis's best interest to have a $5 million judgment standing against him when it benefits the lawyer who is representing the plaintiff in the case who is -- there is a finding by the federal district judge in this case that there was no bad faith. There was no bad faith.

The issue being decided by the Supreme Court is whether UAIC would have to pay the judgment in the absence of bad faith as a consequence for the breach. That's the question. A motion to dismiss that appeal was filed because the judgment had expired. It expired. All UAIC wanted to do was hire a

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lawyer to file papers to decide on the merits whether that judgment had, in fact, expired.

Mr. Christensen will not allow anybody to speak with his client, Mr. Lewis, or file papers on Mr. Lewis's behalf. He is representing both sides of the same lawsuit and accusing everyone else of having a conflict. That's why we're here.

THE COURT: I think everyone has a tremendous conflict in this. The issue, of course, is clients can waive conflicts if they're properly discussed with the client. We can --

MR. WINNER: Yeah, some conflicts.

THE COURT: -- get into that but --

MR. WINNER: Yes.

THE COURT: -- but it's -- it's a messy scenario at this point in time.

MR. WINNER: That said, with the Court's permission, I need to absent myself. Thank you.

THE COURT: Well, you've got someone else still here, I mean, who --

MR. WINNER: He's smarter than I am anyway.

THE COURT: I'll let you absent yourself. Thank you for your comments.

MR. WINNER: Thank you.

THE COURT: All right. Let's see. All right. I understand your position and I understand the issue in terms of conflict. I can see how you can argue that there is a conflict

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in view of the fact that they didn't represent him back in 2008, and now they're coming back now and so there's a reason I think you can suggest of mistrust which could exist between Mr. Lewis and UAIC.

But let's look, though, at what I'm hearing from UAIC, though, which is that -- and maybe this is probably more proper to Mr. Arntz rather than to you, but, I mean, you know, UAIC is asserting that under their agreement with Mr. Lewis, they have certain right to protect their -- their interest in the -- in this.

And while they're not challenging the 2007 judgment, they're entitled to come in and assert a defense on Mr. Lewis's behalf to the renewal or the extension of the judgment. I mean, what's your -- I'm not talking about whether that's correct legally at this point, but what's your thoughts in terms of do they have the ability to do that under their agreement.

MR. WAITE: Breen, can I just ask one thing?

MR. ARNTZ: Sure.

MR. WAITE: Your Honor, I'm not sure if we're still on Mr. Tindall's and Resnick and Louis's motion to withdraw. If we're on to other matters, I would ask that the motion be granted so that my silence and sitting here isn't construed as some --

THE COURT: All right. I will. At this point I think it is appropriate. I will go ahead and grant Mr. Tindall's

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motion to withdraw.

MR. WAITE: Thank you.

THE COURT: He's already gone. That's good.

MR. WAITE: He had to go to the discovery commissioner, Your Honor.

THE COURT: Okay. And I'll -- I'll no longer hold you here.

MR. WAITE: Well, I still -- I am still here as a third party defendant, but I was representing him on his firm's motion --

THE COURT: Okay.

MR. WAITE: -- to dismiss. So I'll stay here, but I --

THE COURT: Another representation between parties.

MR. WAITE: Yeah. I'll prepare an order on the motion to withdraw --

THE COURT: Okay.

MR. WAITE: -- Your Honor. Thank you.

THE COURT: That's fine. All right. So I just want -- because I'm dealing here now -- I mean, UAIC is asking for essentially a continuance on the issue of whether -- on the issue of the motions that they filed. And so, I mean, that's the way essentially I read it is they're saying give us a chance to hire new counsel to represent whether or not we can continue on with these motions. So I'm just asking you, I mean, is there

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-- you know, what's your argument that there's no basis and I should just pop those motions out today?

MR. ARNTZ: Okay. So I'm a pretty simple-minded person, so my simple way of looking at this is that -- is the following. First, UAIC breached its contract with my client years ago by -- by failing to provide a defense. As a result of that breach, a judgment was entered, and that's the only reason the judgment was entered was because they breached their duty to defend him. So they breached their contract, a judgment was entered against him.

I think it's -- it's telling that the person arguing most forcefully for allowing another attorney to come in and represent my client is UAIC. What that reflects is that UAIC is the person -- is the -- is the party in interest as it relates to this judgment. It's not my client. And in fact, in point of fact, my client was harmed, which is the substance of Mr. Christensen's presence here.

My client was harmed as a result of UAIC's failure to defend him along the lines of the Campbell case in Utah where a party was exposed and made to consider bankruptcy and they -- they incurred their damages as a result of that insurance company's failure to defend them properly and failure to indemnify them. So Mr. Lewis is in a similar situation now where he's been harmed as a result of this judgment being entered. He has a right to pursue those damages.

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The only party that benefits by UAIC's presence here through the ruse, as I call it, of a separate attorney representing Mr. Lewis is UAIC. UAIC is the only party that benefits by having that judgment dismissed because Mr. -- Mr. Lewis was harmed by that judgment and he has a cause of action, he has a right to pursue for damages resulting from that judgment. So that's all UAIC wants to do here is represent its interest, not Mr. Lewis's interest.

THE COURT: Okay. Let me just ask UAIC, I mean, Mr. Lewis doesn't want to be represented. To the degree you have a contractual or case law basis to come in at this point and assert anything, can't you do that, you know, by yourself rather than through Mr. Lewis?

MR. DOUGLAS: Well, it's funny you mention that, Your Honor, because I think also up this morning is a motion to void our intervention. So Mr. Christensen would like no one to oppose this -- this attempt to fix the expired judgment that they're trying to perpetrate. And that's really the key issue. I mean, I think Mr. Arntz kind of admitted that.

I mean, yeah, UAIC is protesting what every other attorney here -- I mean, sorry, I'm excluding counsel for the other third party defendants. But essentially all the other counsel here are aligned in plaintiffs' interest, you know. And this is no -- this is no -- not trying to blame Mr. Arntz for his position, but the fact of the matter is, he's aligned with

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plaintiff. He tried to enter a stipulated judgment which gives plaintiff everything they want.

And -- and so is there -- is there -- is no party allowed to contest what Mr. Christensen is doing? That's what they would have you think. So I understand Your Honor's question, but when you're moving to strike our intervention, we have no choice. The only way we --

THE COURT: Well, if I -- if I don't strike the intervention, if don't grant that motion, is there anything that precludes you from continuing on as to this issue and me essentially saying Mr. Arntz is Mr. Lewis's attorney in this matter?

MR. DOUGLAS: Your Honor, all I would say to that is this. Even if you were to not strike our interventions in both actions, Mr. Christensen has made clear he will be appealing. And --

THE COURT: Well, I mean, that's -- that's what --

MR. DOUGLAS: Which is -- which is -- which is his -- that's not -- but the fact is, then, if you go ahead, then, and dismiss or, you know, extinguish the motions filed by Mr. Tindall, they may be forever lost to UAIC. The fact is, it's not just our contractual right. I've cited case law. I mean, Nevada law is clear. There's a tripartite relationship for counsel. There's nothing scandalous about UAIC wanting to argue their interest also on behalf of their insured through counsel

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for the insured. This is not any kind of sinister plot. I mean --

THE COURT: And I'm not suggesting it.

MR. DOUGLAS: Yeah. But what I mean is --

THE COURT: Let -- let me just -- I'm not -- I'm not going to get into the allegations of sinisterness among all the parties here. I know each side is alleging sinister -- I'm only interested in the legal, you know, if your -- your motive -- I mean, I don't think anybody has particularly got super clean hands in --

MR. DOUGLAS: Okay.

THE COURT: -- in this whole mess. Everyone has probably got a little issue here or a little issue there. I don't want to get in -- the issue is, you know, legally where we -- where we're here. And so, I mean, Mr. Christensen, if I don't grant the motion to intervene, I mean, he has appeal issue. If I say that Mr. Arntz is the sole representative for Mr. Lewis, I assume you got -- and I'm wrong on that, you've got -- you've got an appeal issue.

So, I mean, you know, I'm here to make a decision and I get appealed all the time. It's one of the perks of the job. And so I under -- you know, we've got to make some decisions and move forward as best we can.

MR. DOUGLAS: Your Honor, I'll keep it -- I'll keep it short. What I meant, and pointing out that potentiality, the

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only thing I wanted to bring the Court's attention is if Mr. Tindall's motions are extinguished, looking down the road, and our intervention is appealed and perhaps Mr. Christensen is successful in overturning it, Rule 60 has a six-month window to contest that amended -- potentially to contest that amended judgment. Mr. Tindall's motions are vacated.

That may be lost forever to my client, that route of contesting what has gone on here. And so for that reason I think that -- that situation should live on. Because I think UAIC has a right to at least argue that issue on behalf -- with counsel appointed for Mr. Lewis. So that's -- that's my only drawback.

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THE COURT: All right. All right. Let me ponder this for a second. Let's move to what probably is the next optimal issue, which is your motion to strike the intervention. So, I mean, I'll let you give me your thoughts on that if you want to add anything to your briefing.

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MR. CHRISTENSEN: Well, and -- and it actually is a good segue into that, this discussion of the tripartite relationship. Because they don't have the right to direct the defense if there's a conflict between their interest and the insured's interest, and that's already been established.

And the way Nevada deals with that, it's case law, Hansen case, which is cited in the briefs, that adopts Cumis counsel, and that's what Breen Arntz is. That's how Nevada law

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handles that conflict between the insurance carrier and the insured is they appoint Cumis counsel.

And, again, I go back to -- because -- because you, again, have said in the arguments back and forth and the discussions, you again said, well, what's to prevent counsel -- I mean, Lewis from just telling you I don't want you to defend me. And, again, that is not the situation. That's what UAIC tries to say. That's not what has occurred here.

We have welcomed the defense, but we want an ethical defense and a proper defense that actually takes his interest into account. Okay. So -- and that's why we get to the Mandelbaum case because this all started because of an affidavit that said this -- this judgment has expired. That affidavit isn't the law. It's not true. That -- that hasn't happened, even under the renewal statutes because they reflect back to the statute of limitations statutes. So I just want to make that clear.

And one other thing to be clear about is, yes, my office represented James Nalder in the original 2007/2008 action against Gary Lewis. My office. It was Dave Sampson, actually, in my office, who was the attorney, you know, in contact with the client at that time.

THE COURT: Right.

MR. CHRISTENSEN: Judgment was entered. Then Dave Sampson in my office represented the Nalders, James Nalder, and

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Gary Lewis against UAIC --

THE COURT: Right. In the federal case.

MR. CHRISTENSEN: -- in the action filed in state court, removed to federal court. It decided wrong once, appealed, decided wrongly a second time, appealed, and it's up on appeal right now. And that is the bad faith issue is on appeal right now. Yes, the trial court said you breached the duty to defend, but I don't think it was bad faith. But that's still on appeal. That's still a valid, ongoing issue that may be decided against UAIC yet, right, on that -- in that case.

THE COURT: Well, I mean, that's -- and that's something that's of interest to the Court because I looked and apparently, you know, there's a certified question to the Nevada Supreme Court, which is essentially on point with a lot of what UAIC is raising in terms of its support for the expiration of the -- of the judgment as far as this litigation.

MR. CHRISTENSEN: Right. But it's not the same thing. Well, and let's -- let's talk about that for a second.

THE COURT: They look pretty close.

MR. CHRISTENSEN: Well, not really because -- now, let me just explain how that works. Even if it was exactly the same issue, I had another case here in -- and I think I talked about it in one of the briefs, but here in Las Vegas where we filed because of strategic reasons or whatever on behalf of the injured party. His name was Louis Vinola (phonetic) against the

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defendant Gillman (phonetic) in state court.

We already had one case against the insurance carriers and Ann Gillman that had been removed to federal court, and then we filed an additional case in state court. And Judge Bare dismissed that at the behest of Gillman, dismissed that case, and we had to appeal it. And, finally, the Supreme Court reversed it saying you can have concurrent things, litigations going along in different courts. There is nothing wrong with that. That's improper to stay one action to let this other action go along. That's not -- there is no case law for that.

And so to argue that, oh, we have to have some way to come in here and -- and mess with this judgment by UAIC is -- is not true. They had their opportunity to defend Mr. Lewis. It was in 2007/2008. Now they don't get to come in, and that gets us to the motion to intervene because that's what all the case law says. And let me get to that.

But so there's no equity reason that they should be able to come in here and -- and do this. They had that opportunity in 2007/2008. That's why they're responsible for the judgment. And this is just a minor demonstration that the judgment is still valid. That's all it is. It's just to demonstrate that fact.

THE COURT: You mean this litigation is for that purpose?

MR. CHRISTENSEN: Correct.

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THE COURT: Okay. Now I'm -- but, I mean, that's -- that's obviously -- I mean, you refer to it as a minor demonstration that the judgment is still valid, but if the judgment isn't still valid in view of the underlying three and a half million dollars, I mean, that UAIC may be liable for, it obviously is -- I don't -- you know, whether or not that judgment is still valid is not what I would consider a minor -- minor question.

MR. CHRISTENSEN: Well, it actually -- and I apologize for calling it a minor question. It's -- with regard to the one aspect, that's not even the question in the first case. In the -- in the amendment of the judgment to Cheyenne Nalder, that is just an amendment of the judgment. That does nothing.

THE COURT: Well, I mean, if it's -- I would agree. I mean, if it had expired, I mean, it doesn't --

MR. CHRISTENSEN: It's an amendment of the expired judgment.

THE COURT: -- it doesn't --

MR. CHRISTENSEN: If it's --

THE COURT: It's an amendment of an expired judgment.

MR. CHRISTENSEN: If it's still valid, it's an amendment of a valid judgment.

THE COURT: Okay. Yeah.

MR. CHRISTENSEN: And we, of course, say it's an amendment of a valid judgment. But so to set aside that order

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is -- is meaningless. It shouldn't even be -- that's -- that's the minor part.

THE COURT: Okay.

MR. CHRISTENSEN: Then the other case, the subsequent case, is just to demonstrate that, yes, that judgment is still valid because I can sue on that judgment and that judgment does have to have that -- that Mandelbaum analysis. You're going to have to make that Mandelbaum analysis and say, yeah, the judgment is ten years old, but it's been stayed for eight of those ten years, and so it still has another four years provided he returns to the state, right.

So but -- but on this intervention question, the plain language of NRS 12.130 does not permit intervention subsequent to the entry of the final judgment. And -- and this is from the Dangberg Holdings versus Douglas County case.

THE COURT: And I know what you're -- you're going down. I guess -- and that concerns me in terms of the Court's ruling on the intervention. But I guess what -- I mean, what none of those cases really seem to deal with is what we sort of have here which is, you know, I mean, if this was 2013, I would completely agree with you that an insurance company can't come in and intervene. I mean, we've got a judgment, the statute certainly hasn't run on it, it's a final judgment, it's done.

But, you know, now essentially you've initiated additional litigation to declare that judgment a valid or

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continuing, renewed or whatever, judgment. And the insurance company, obviously, has an interest in that if you're going to be alleging that, you know, their bad faith makes them liable for the whole three and a half million or whatever with interest and everything it's worth -- it's worth now. And that seems to change to some degree the -- at least the facts in terms of the application of the prior decisions.

So, I mean, that's -- I'm -- I'm going to agree with you completely, if we were looking at this in 2013, the case law says we've got a final judgment, you can't come in, but we obviously have a little bit of a different scenario here where now it's we want to, you know, revalidate or continue to validate this judgment. And there is an argument that it's no longer valid, and it seems to me the insurance company has an interest at that point in time that justifies them jumping into the -- into the litigation. That's -- if you -- you know, so I'm on board with you in terms of the general -- what I need you to do is focus on that issue that I'm looking at.

MR. CHRISTENSEN: Well, first of all, and just to -- just to keep us clean here because I -- it's very important, Dave Stephens represents Cheyenne Nalder.

THE COURT: Right.

MR. CHRISTENSEN: He is the one that brought both, did the amendment and also brought the subsequent action. So let's not confuse that. I didn't bring those.

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THE COURT: But, I mean --
MR. CHRISTENSEN: Dave Stephens --
THE COURT: -- I'm not suggesting --
MR. CHRISTENSEN: -- brought those --
THE COURT: -- saying who brought them.
MR. CHRISTENSEN: -- on behalf of Cheyenne.
THE COURT: I'm saying we now have it, so --
MR. CHRISTENSEN: Right. And this is -- so -- so the fact is that your statement that it would have been good if it was 2013 actually argues against the process in my view, right. The -- the fact that more time has gone by makes it more improper for them to be coming in here. This isn't something that just came out of the clear blue sky, but -- but they are kind of the interrelated things.

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I agree with you that -- that there's this interrelated thing. But assume for a second that the law is crystal clear, black letter law says that that judgment is still valid. Then does the insurance company have a right to come in? Well, of course not. Well, I submit that is what the black letter law is. But so let's -- let's talk a little bit more about how shortly that fuse is and why it's improper.

So it's the -- it's the fact that the plain language of NRS 12.130 does not permit intervention after final judgment. What it says is you can intervene before trial. That's what the statutory authorization is. And there's numerous cases from

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Nevada. I only cited two, but there's numerous cases from Nevada that say that's what it means.

So if there's a judgment in the case, you can't intervene period. I don't care what defense you want to put in there. You can't intervene. There's a judgment. It's improper. And the Dangberg versus Douglas Holdings case goes on to say a voluntary agreement of the parties stands in the place of the verdict. And as between the parties to the record as fully and finally determines the controversy as a verdict could do, and intervention is denied if there's an agreement settling the thing.

So that -- that has to do with the second case that was filed because an agreement had been entered into between the parties that -- that resolved the case. And so the intervention at that point in time was improper as the case had been resolved. In the -- well, so that's enough on that issue.

The one other thing I wanted to talk about here is this analogy that Matt Douglas has brought up because that's -- because I'd like to extend it to how this case really is. So if in our hypothetical situation the husband sued the wife and got a judgment, and then the wife and husband sued the insurance company because they didn't intervene, they didn't defend the wife in the case, and then the insurance company -- so they sued the insurance company. Then the insurance company came and tried to intervene in the case to present some defense.

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Let's say that they were going to present the defense that the wife had a preexisting condition, and the wife and the husband both know there was no preexisting condition but the insurance company wants to present that defense. Number one, they wouldn't be able to intervene anyway because it's against the law. Oh, that's the other case I wanted to -- I'm sorry, Your Honor.

THE COURT: That's all right.

MR. CHRISTENSEN: Because this one is an important one and I forgot that that's the reason I wanted to talk about it. And that's Gralnick, Gralnick, G-R-A-L-N-I-C-K, versus Eighth Judicial District Court. That's a writ petition that was granted because the District Court allowed intervention, and then granted setting aside of the judgment and the Supreme Court directed it back down and said NRS 12.130 does not permit intervention subsequent to the entry of a final judgment and directed the District Court to send them out and -- and reinstate the judgment.

And that's exactly where we are right now. And so there is no right to intervene. There's no interest to protect other than preserving the false affidavit that said this judgment has been expired. Maybe I should deal with that just a little bit because you -- you did talk about that.

In the Ninth Circuit, that issue was brought to the fore, what, two years ago, by a motion to dismiss the appeal for

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lack of standing. This is after two appeals, two decisions by the trial court, now there is suddenly a lack of standing. I can't tell you how the Ninth Circuit makes their decisions, but that -- that seems a lot to me.

THE COURT: When I was on the criminal side, I couldn't figure that out, either.

MR. CHRISTENSEN: Well, there you go. And so -- but -- but when we got that motion, we had, I don't know, what, 10, 20 days, whatever the time frame is for responding to those motions. It was supported by an affidavit of counsel that just said I've checked the registry and I don't see any renewals, and so this judgment is expired because it's got a six-year statute of limitations on it, right.

But he didn't talk about tolling. There's no mention of tolling things. But so that's how that issue came about. And we, of course, opposed the motion, but our main opposition, Your Honor, is the fact that after the judgment was entered, the defendant and the plaintiff, in order to bring the action against UAIC, entered into an assignment agreement.

It was a partial assignment agreement where the judgment amounts that might be recovered from UAIC on behalf of the insured, Gary Lewis, the judgment amounts would go to the Nalders, and anything above that would go to Gary Lewis. So that was the assignment agreement. And it didn't have anything in there about we won't continue to chase after you or execute

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on you, but that was kind of the understanding, you know, that we're going to cooperate together and obtain this compensation from UAIC.

And so -- so in the briefing with the Ninth Circuit, it wasn't said because we were mainly just saying it doesn't matter. The judgment could be expired, it could be valid, it doesn't matter. When we assign these rights and the fact that he's been living with the judgment for x number of years and the fact that the decision disregarding the judgment was made in 2013.

I mean, it would be the same thing as the federal district court making a decision on a -- on a plaintiff's personal injury case where -- and awarded or didn't award $400,000 of medical bills and then it was up on appeal for three years, and then the -- the insurance carrier files a motion to dismiss the appeal because now they don't have standing because the $400,000 of medical bills, the hospital never sued on them, and the time for them to sue on them has passed. It would be the same thing. And that's -- it doesn't make sense to me, anyway.

Anyway, so the motion to intervene -- oh, let's talk about that, too, with regard to the motion to intervene because that's part of the motion is that it was improperly granted under the law, but it was also procedurally totally and completely improper. And that's not a minor thing because the

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-- it -- one of them wasn't -- the affidavit of service didn't have anybody checked. Nobody. So it was an affidavit of nonservice.

The other affidavit of service checked served by the automatic filing system, the -- I mean, the, you know, electronic serving system on Dave Stephens, but at that time, and we've printed those out and they're attached to our motion, at that time Dave Stephens wasn't even on the service list. So that's a false affidavit on its face, right, because they -- they checked that he was served that way, but they knew that he wasn't.

Because when you go in and do that filing, which I have never done myself, but I'm told that when you go in and do that filing, you have to check. And if they're not on the service list, you can't check them. And so you -- it could not have been a mistake that -- that they didn't know, they thought they did serve it, right.

But then when Dave Stephens finds out about it just because he's checking the -- the court records and stuff like that and he calls up defense counsel and says, hey, you know, you didn't serve this on me, could you give me more time, they wouldn't give him more time. So then he quickly filed an opposition, you know, not with -- not all that time, and got it to the court, and then the court disregarded it.

And the minute order was no opposition having been

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filed, and it was an in-chambers hearing. It wasn't even a hearing, you know, where people got to be heard. And -- and so then when the order came out, again, that order the judge crossed out the no opposition having been filed in the order, but they -- he didn't deal with any of the issues. And all of this information was put forward in that opposition. So --

THE COURT: All right.

MR. CHRISTENSEN: So the only thing to do now is to void those orders and -- and then that resolves all the other issues in this case.

THE COURT: All right.

MR. CHRISTENSEN: And that's the way it should be. UAIC can still claim that, oh, this was a big fraud and there -- there were this thing and that thing and that shouldn't have been done, but they would be doing it in the proper place, not -- not by intervening in this action where they don't have any business being.

THE COURT: All right. I have another proceeding starting around 10:00, so I'll give you -- Mr. Christensen had a wide swap. I'll give you something close to that, but --

MR. DOUGLAS: Thank you, Your Honor.

THE COURT: -- don't feel you need to --

MR. DOUGLAS: I'll try to keep it --

THE COURT: -- need to --

MR. DOUGLAS: -- as straightforward as I can and try

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to stick to the issues. I think just because he ended with it, let's talk about the notice issue very quickly. Your Honor, we've, in the opposition, we've supplied the affidavit of my paralegal. There was an inadvertence, apparently, in the certificates of service. That said, she attested she mailed both motions to Mr. Stephens, the interventions in both cases. So I think that this notice issue is moot for that reason.

Any suggestion that I didn't grant Mr. Stephens an extension or I was somehow violating rules of professional conduct, that is absurd. I checked with my office after Mr. Stephens raised the issue. They said they were properly served. I mean, my understanding, my paralegal talked to the clerk of the court, everyone is required to sign up for e-service. Mr. Stephens filed this case. I don't know why he wouldn't be on the service list.

Mr. Christensen is wrong. I don't think you check the boxes anymore. You just file it and everyone that's on -- has assigned themselves to e-service gets a copy. So there's no way to notice whether or not until -- until after it's already in that there's no one that has signed up. So either way, they were mailed.

And I think when you get down to it, it's moot, the notice issue, for two reasons. One, these -- both motions were opposed. In fact, Mr. Arntz even opposed them. So they were fully briefed. And here's the main issue. All these issues are

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before us now. So even if there was an issue as to notice initially, they're getting a full and fair hearing as to all their problems and objections to this -- to these interventions now, so I think the notice issue is really moot.

And -- and because we're -- we can just have them as -- as argued today. Clearly, everyone got a full chance to respond. I had to do it under fairly quick circumstances. These were filed on OST right before the holidays, but we still responded. So and you'll see my email trail, I have my affidavit there, my email trail with Mr. Stephens. We were in contact. And I asked Mr. Stephens if you -- you know, we were dealing with an issue where timing was -- was, we believe, of the essence because of the Rule 60 timelines.

And so we felt this was a stalling tactic. We couldn't tell. UAIC, understandably, was suspicious of perhaps some of the motives given the interference that had gone on by Mr. Christensen and the retained defense counsel, which, of course, necessitated our whole reason to intervene. And so I was emailing with Mr. Stephens and I was asking him explain to me your objections to these motions so that I can see, you know, are you just stalling or do you have a real legal objection, and Mr. Stephens never responded.

The first response I got was his filed opposition. So I assume the issue of his request for extension was moot by then. So that being said, if the Judge wants any other

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questions on the notice issue, I'm happy to talk about it, but I really think that issue is moot.

So now we can talk about the motion to void the 2018 intervention. I think this can be dispensed with fairly simply, as well. Clearly, there's no judgment been entered in this case, so plaintiffs' arguments concerning the statute 12.130 really had absolutely no bearing here. The only argument I heard counsel make was in relation to the Dangberg decision which where there's a settlement that should count the same as a trial judgment.

And I'm not disputing the Dangberg holding, but what I would point out is that it is distinguishable here if you note the timing of this alleged settlement, which has never been consummated by the Court, this alleged settlement was filed in the form of a stipulation entered judgment signed between Mr. Arntz and Mr. Stephens. It was filed after our motion to intervene.

So if anything, it was a clear attempt to try and create an issue. Oh, they're trying to intervene, let's -- let's enter this, what we think is a sham, Judge. I don't know any other way to put it. Certainly, there's nothing Mr. Lewis seems to gain from it. I've still yet to hear what he gains from it. So that's a red herring.

The fact is we filed our intervention, it was pending, and they rush to court and try to -- without notice, by the way.

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My office didn't receive notice of that filed stipulation, Your Honor, and we were on the e-service list once we filed our appearance with our motion. I'd point that out. So -- so basically, in terms of the 2018 case, I don't really think there is anything that they can do to stop our intervention.

And, in fact, after the order was entered, Mr. Stephens, in response to my sending him a copy of the proposed order, admitted he didn't think there was anything they could do to stop my client's intervention in that case. And, obviously, we met all the qualifications for NRCP 24. We clearly have an interest that's not being protected here given -- especially given our previous argument where our counsel, appointed retained defense counsel for Mr. Lewis, has been forced to withdraw and those issues are up in the air.

So, you know, it kind of dovetails with their argument. So -- so unless, again, in terms of the 2018 case intervention, unless the Judge has specific questions, I'm happy to -- to respond to them. The other -- the only other point I'd make is that their argument that we breached the duty to defend in '07, obviously, again, kind of a different distinguishing factual scenario here because we didn't get a duty to defend until the District Court implied the contract of law because of a renewal --

THE COURT: Well, you still had a duty to defend. I mean, the fact that the District Court found and implied, that

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means that you still had -- you had a duty.

MR. DOUGLAS: No, no, I agree. I agree. What I meant to say by that is it wasn't found until 2013. And so these -- this new filing, the 2018 filing triggered that duty to defend that was found in 2013. There was no new action filed since 2013.

So my point is, in terms of the 2018 intervention, I think we've met all the factors. I think the notice issue are moot. I think we have a right to intervene. There's been no judgment. There's been no settlement before our intervention. And so I think -- I think that that's what I would have to say on that.

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I would also just point out, too, in response to this motion to strike our interventions, we also filed a countermotion to stay pending the appellate ruling. I think those issues, as the Court pointed out, I think they're more than tangentially related. I think they are very much related.

Specifically, the Court -- the question the Nevada Supreme Court rephrased on a certification, specifically it deals with whether or not that judgment is expired. I mean, their ruling could be the judgment is not expired. Their ruling could be that the judgment is expired. But so that is directly on point to many of the substantive issues that are being raised here.

And so I would point out that there is precedent.

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It's an appellate procedure 8(a)(1)(A) which does ask that you move a district court for a stay prior to moving the appellate court. So there is a -- there is a rule of civil procedure that would give Your Honor -- and it's within Your Honor's discretion to -- to stay. So I'd note that we filed it as a countermotion.

Now, in regard to the old motions to void our intervention, but also switching to the '07 case with the, quote, unquote, amended judgment, I would first point out to the Court that I don't even think these motions have met the standard for NRCP 60(b) which is the rule that they have moved to void these interventions under. It's a pretty simple four-prong standard.

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It should be -- these motions should be prompt, there should be an absence of intent to delay, you can also consider lack of knowledge of a party procedurally if they're unrepresented and so on, and there must be a showing of good faith. Your Honor, I propose they can't meet any of these factors, and for this reason alone you can deny these motions.

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These were not prompt, all right. The minute orders were entered in late September. The orders were entered with notice of entry in, I think, around October 19th or so. Our motions after the intervention to vacate and -- and to dismiss have been pending for some time, and they file this motion on December 10th or 12th, all right. So I don't -- I don't think this was prompt. They don't even address the absence of any

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intent to delay any of their motions.

And I think that as this Court can see, at least from UAIC's perspective, we see plenty of intent to delay because we have wanted hearings on whether or not that amendment of the judgment was valid, hearings on whether or not this new action is valid. For some time these motions have been filed and it's been obfuscation and delay, so I don't think they meet that factor.

They admit -- Mr. Stephens admits in his brief there's not a lack of knowledge issue. They're all represented. And then good faith? Where do I begin? There's no good faith here. This has been an orchestrated attempt from the very beginning by plaintiff and counsel that plaintiffs' counsel got for Mr. Lewis, Mr. Arntz, to avoid these issues getting any kind of hearing. They wanted to run into court between themselves, enter a judgment to try and fix their problem on appeal with their expired judgment. I think that's clear.

I've gone through the factors exhaustively in many of our briefs, Your Honor. It's why we've asked for a countermotion for an evidentiary hearing. I think there was an attempt to perpetrate a fraud on the Court. I've never made that allegation in my career in 20 years. This is the first time I think there are facts that show that that may have occurred here. So I don't think there's any good faith.

THE COURT: All right.

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MR. DOUGLAS: And then just real simply, Your Honor, Your Honor touched on it, the owing judgment, we're not looking to attack it. That's why our intervention in the '07 case is distinguishable from the statute and case law cited. We're not looking to attack the underlying judgment. We're not looking to relitigate. We're not looking to argue there's a preexisting condition. We're arguing the amendment was void. It's pretty clear from our motion, our Rule 60 motion, that's exactly what we're arguing.

THE COURT: Well, what about the amendment -- I mean, this is how -- Mr. Christensen, I mean, I don't know if he -- the way I understood what he said, and this is sort of how I see it, the amendment just moved it into the plaintiffs', the now majority, major majority plaintiffs' name.

If it was a judgment -- I mean, not amendment. The judgment was expired, then we now have an expired judgment in the amended -- in the now adult plaintiff's name. If the amendment -- if the judgment hasn't expired, now we have a non-expired judgment in the now adult plaintiff's name. That's how I see it.

And if I was to deny your motion on that, that would be my order, which is I'm not making any ruling by -- by amending the judgment into the name of the now adult plaintiff as to whether or not it's expired or not. I don't see it -- I don't see what was done as being a decision on the merits

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whether or not the judgment continued. I definitely would agree you would have had to -- you know, that there had to be more done in that regard. So if I -- if that's the way I look at it, I mean, how is that handicapping you in some way?

MR. DOUGLAS: Well, Your Honor, I understand your point and clearly, you know, something to consider. The problem is, you know, I don't know eventually what an appellate court might say, and to us this looked like an attempt to an end around the jurisdiction of the Supreme Court and -- and somehow sanctify what was an expired judgment without going through the renewal process that [indiscernible] requires --

THE COURT: Let me -- let me tell you how I'm leaning on terms of your -- well, let me deal with -- with the issue relating to intervention. I don't see any issue with the intervention in the 2018 case. I have serious concerns in reference to the 2007 case, but I do think that there are distinctions factually between those cases that say once you've got a final judgment you can't come hopping into it.

And what's happening here, which is, you know, does that judgment continue to exist. And, essentially, we have new litigation on that, which I think -- so I am going to be denying the motion to strike the intervention. I'm leaning -- I mean, my inclination at this point is to deny your motion to -- for relief from judgment pursuant to NRCP 60. But I want to make it clear in any -- in my order that, you know, I just see that as

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moving the case from the name of the father to the name of the now adult plaintiff.

And, you know, I would ask, you know, whoever ends up drafting the -- the order in that regard to -- to make that point clear. I don't see -- you know, I see that as just being a ministerial thing that was requested by plaintiffs' counsel to -- to get it into her name at this point since dad really doesn't have any authority over her anymore.

At this point I am going to grant and withdraw, you know, Defendant Lewis's motion for relief from judgment pursuant to NRCP 60, defendant's motion to dismiss, and Defendant Lewis's motion to strike defendant's motion for relief from judgment -- well, no, not that one. I mean, that's the one, essentially, I'm granting. I'm going to -- the ones that Mr. Tindall filed, I'm going to pull those. I'm going to grant Mr. Arntz, whoever filed it, I can't -- everybody is representing everybody here, the motion to -- to pull those.

I don't see -- you know, the issue here is whether you've got anything under the contract or under case law that gives you a right to -- to assert anything. And so if Mr. Lewis wants to use Mr. Arntz as his attorney in this one, and Mr. Christensen on the other one, I mean, that, I think, is his choice. And to the degree that there's any legal implications from that, that's the case.

As far as your motion for an evidentiary hearing for a

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fraud upon the Court, I'm going to deny that at this point in time. I'm not balled up in whether there is a sinister plan here. I will say that this is unusual. I've -- this has caught my eye as something, you know, not logical in every sense, but I can't say I've seen anything here which, you know, and, I mean, making some -- I'm making the assumption that counsel in terms of Mr. Lewis, to the degree that there is potential conflicts here, and there obviously are some potential conflicts, have explained those to Mr. Lewis, and that he has made appropriate waiver of those conflicts.

So I assume, you know, you've discussed this issue with Mr. Arntz?

MR. ARNTZ: That's right, Your Honor.

THE COURT: Okay. And you're now independent, but for Mr. Christensen, who obviously does have some arguable conflicts in view of the case, I assume you've -- you've discussed that with Mr. Christensen?

MR. CHRISTENSEN: Yes, and there are appropriate conflict waivers.

THE COURT: Okay. That's --

MR. CHRISTENSEN: And there's also an appropriate conflict non-waiver that's -- that was filed with Mr. Tindall's things.

THE COURT: Okay. All right.

MR. CHRISTENSEN: So the conflicts that he has with

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UAIC are clearly there and he does not waive them.

THE COURT: That's fine. I mean, and I'm not -- I'm talking in terms of his counsel now, so I just want to make -- you know, I may -- absent me seeing something of more than I see now, I'm not going to make an assumption that there's been an ethical violation. So I am going to deny the motion for an evidentiary hearing on the fraud.

I've granted Mr. Tindall's motion to withdraw as counsel, and -- and now the UAIC's motion to dismiss plaintiffs' complaint and motion for Court to deny stipulation to enter judgment. At this point in time, and I'll let everybody have two minutes to give me any final thought on this one, but at this point my general inclination is to dismiss Claim No. 1 because I don't see that as being a cause of action here under Nevada looking at the Mendina case.

I'm leaning toward dismissing Claim No. 3 based on claim preclusion, but I am looking at staying the ruling on Claim No. 2 pending a decision from the Nevada Supreme Court as to whether the judgment has expired because I looked at the filings in, I think, September and November, and the issues relating to Claim No. 2 appear dead on point with what the Supreme Court is being asked. And it seems to me in terms of judicial economy, it makes sense for me to stay a ruling as to that.

So that's where I'm leaning as to all of these

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motions. So I'll give everybody, if you want to add anything, Mr. Christensen, Mr. Arntz, Mr. Stephens, counsel, I'll give you no more than two minutes to give me any final thoughts, but that's where I'm leaning on everything at this point in time. So --

MR. STEPHENS: Let me start, Your Honor.

THE COURT: Okay.

MR. STEPHENS: One housekeeping matter. My motion to strike Mr. -- or UAIC's intervene -- motion to intervene is set for January 23rd. In view of your ruling today, I don't think it would change your mind on January 23rd. It may be easier to just simply deny that today and take it off your calendar.

THE COURT: That's fine. You're probably right on that.

MR. STEPHENS: Right. So, yeah, okay, so as to this motion. I have no problem as to Claim 3 because I think it is claim preclusion. I think I can see that in my points and authorities. Claim is my claim to enforce the judgment and I was -- I filed a suit to enforce the judgment. If you dismiss that, I no longer have the ability to enforce my judgment against Mr. Lewis. And so I don't think you can dismiss Claim 1. You can stay it pending the appeal. I prefer you don't, obviously, but that's your call, not mine.

But if you dismiss my complaint and enforce judgment, which is my Mandelbaum claim, saying I have this judgment, I'm

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now suing to enforce it, then I lose my ability to enforce the judgment which Mandelbaum specifically allows. And as to declaratory relief, if you think the issues are the same as the Supreme Court, then it ought to be stayed pending the decision of the Supreme Court.

THE COURT: Okay.

MR. STEPHENS: I think they're distinct, but you've had that argument from counsel. I'm not going to reargue that with my two minutes.

THE COURT: Okay.

MR. STEPHENS: Thank you, Judge.

THE COURT: Thanks.

Do you want to add anything, Mr. Christensen?

MR. CHRISTENSEN: Just a few --

THE COURT: I know it's going to be hard in two minutes, but --

MR. CHRISTENSEN: Actually, impossible. But I just want to correct a couple things.

THE COURT: Sure.

MR. CHRISTENSEN: Mr. Tindall was not forced to withdraw. He withdrew because there is a conflict between UAIC and -- and Mr. Lewis, and that's why he withdrew. He wasn't forced to withdraw. And that's what counsel for UAIC said, that he was forced to withdraw. That's not true. And -- and as to the prompt issue, this case, the judge granted it on a non -- on

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a non-hearing, granted the intervention without a hearing.

And then the first hearing that we had, which wasn't even a hearing on a motion, shortly after that granting of the motion but before an order had been issued, he recused himself. Oh, no, no. But after the order had been issued, then he recused himself, but didn't void the order. Then the case was in limbo land getting reassigned. It got reassigned, and then the UAIC did a peremptory challenge of one of the judges.

And that, of course, then put it into limbo land again, and so we couldn't file any motions during that period of time. Who would we file them with? And then it got reassigned, and then UAIC filed a motion to consolidate. And in our opposition to the motion to consolidate was our countermotion to strike the intervention. So it was definitely timely.

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And the only other thing I'd like to know is since you are denying our motions to strike the intervention, I would like to know the reasons for that because I think it's clearly not the law that you can do that.

THE COURT: All right. Well, I think, you know, the 2018 litigation is -- there's been no judgment entered in terms of the complaint filed in the 2018 litigation and I think that they meet the requirements for intervention, at least as it relates to that complaint that's filed.

As far as the 2007, I understand your point with that, and, I mean, there's case law that talks in terms of once that

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final judgment has been entered, you know, you can't be hopping into -- into the case. But I do see, you know, a distinction between that case, those cases, and what we have here, which is you now have essentially the prospect of new litigation, which is that 2018 case, on -- to enforce that 2007 judgment.

And that new litigation creates new issues, which is whether that judgment has expired or was -- or has been renewed. And I think definitely UAIC has -- has an interest in that and meets the elements necessary to intervene.

MR. CHRISTENSEN: So how are you dealing with the voluntary agreement between the parties that was entered into prior to any intervention? And I'm not talking about an improperly noticed motion to intervene, because that's not intervention, okay. You're not in the case until you actually get to intervene. So how do you deal with that agreement that was entered into?

THE COURT: Well, I mean, that agreement was never signed off on by the Court. And so, you know, I don't think we have a judgment that has been entered into that are approved by the Court in reference to that stipulation.

MR. CHRISTENSEN: So you don't think that the settlement agreement entered into between the two parties to the litigation is effective in preventing intervention by some third party?

THE COURT: At this point in time, since it was never

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signed off on by the Court, I mean, that agreement has been sitting out there for quite some time prior with the prior court, if I remember correctly.

MR. CHRISTENSEN: Correct.

THE COURT: But it was never signed off on, and I think that you don't have that -- I mean, technically, again, looking at things from a legal perspective, I don't think we have -- you have a judgment, that final judgment at that point until the Court has signed off on it.

MR. CHRISTENSEN: Okay. The Dangberg case says just the opposite, Your Honor.

THE COURT: Okay.

MR. CHRISTENSEN: It says that if there is an agreement entered into, that is the same as a judgment. It doesn't have to be signed off on by the Court. It's just the agreement. If the case is settled by agreement, it's done, over with, there can be no intervention. So that would not be a proper reason to allow intervention int his situation.

THE COURT: All right. Well, I'll take one more look at it, but that's where I'm going to -- I am going to be ending up at this point in time. But I will take one more look at that case that you're -- you're giving me, and take -- do you have a final thought?

MR. DOUGLAS: Just in brief response to that, Your Honor. Again, as I pointed out when I was up there, we have the

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only proof of the settlement was the filing of that proposed stipulation which was done after we intervened. And so --

THE COURT: Now, you said it was filed before they intervened.

MR. CHRISTENSEN: Yeah, before they intervened, after -- after they filed their improperly noticed motion to intervene.

THE COURT: Okay.

MR. CHRISTENSEN: But before their order allowing them to intervene, yes.

THE COURT: Okay.

MR. CHRISTENSEN: Before the decision on their motion to intervene, it was filed before that.

THE COURT: Okay. I'll -- I'll look at the timeline.

MR. CHRISTENSEN: And I would ask one other question, too, then. And that is why -- so right now my understanding is, right, that you have the stipulation, the filed stipulation, and the judgment with a request to execute it; right? And so I would also ask why -- what are the reasons in law or factually or whatever that you are not signing that particular order, that particular judgment that's been stipulated to by the parties. What is the reason?

THE COURT: I think at this point, I mean, you've got UAIC coming in. They filed a motion to dismiss the complaint. And, you know, there are a lot of -- I'll be frank, there are

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questionable parts to this. And so at this point in time I'm not going to be signing off on it.

We're going to see what happens with the Supreme Court. If it says that the judgment continues, I think that resolves a lot of things here in this case and we'll move forward on that basis. If they say it doesn't, I think that there are a lot of open issues here. The fact that it's up there in the Supreme Court and been certified, I think judicial economy it makes sense for us to take -- let them say what it is.

I have no issue -- I mean, I have no issue if they say there's an extended judgment. I think the plaintiff is entitled to everything that she's entitled. If they say there is an extended judgment, I think that their -- UAIC has got a valid concern, so that's how I'm going to proceed.

MR. CHRISTENSEN: Okay. And then I have one other question.

THE COURT: Okay.

MR. CHRISTENSEN: And I apologize, Your Honor, but this is an extremely important situation.

THE COURT: No, that's why I let it go for another -- for a little bit longer.

MR. CHRISTENSEN: I apologize. But -- and I can't remember, maybe you can help me out, but if this was on appeal to the Nevada Supreme Court, this case, and -- and you were not

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wanting to rule because it's on appeal, there is that case -- anybody know what I'm talking about? Where you say to the Supreme Court I would rule this way but for it being on appeal. So if you want to send it back so I can change my rulings to correct some --

Do you know what --

MR. WAITE: Honeycutt.

MR. CHRISTENSEN: Honeycutt. Yeah. A Honeycutt order. Sorry. Thank you.

We would request that a Honeycutt order, that where you resolve these issues based on what you think and say to the Supreme Court I didn't -- I didn't want to mess with you, but if you were done with this thing and -- and it was down here with me, I would rule this way on these issues. That's -- that's what I would propose doing. And it's kind of a weird situation because it's not really a Honeycutt situation because, like I said, this is not on appeal.

THE COURT: It's not on appeal.

MR. CHRISTENSEN: It's not on appeal.

THE COURT: I mean, no, it's not on appeal. I think -- I do have the -- I would have the ability to make a ruling. I don't have any issue on that. I'm making -- using my discretion and saying, at least my reading, the exact issues as to the question of extension renewal are -- have now special questions on the Ninth Circuit appeal before the Nevada Supreme

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Court, and so I'm using my discretion to let -- you know, for judicial economy, it's what they say. Because I can -- what they do there, I think, will quickly resolve the issues that we have here.

MR. CHRISTENSEN: Well, just to -- so one -- one fact on that, and that is the issue on appeal is not Mr. Lewis's -- the judgment against Mr. Lewis being valid or not. That's not the issue on appeal. The issue on appeal is whether Mr. Lewis and Nalder can maintain an action against UAIC. That's the issue that's on appeal. And --

THE COURT: But -- but the question --

MR. CHRISTENSEN: -- and it's assumed --

THE COURT: -- that has been certified to the Nevada Supreme Court encompasses --

MR. CHRISTENSEN: Yeah.

THE COURT: -- the issue that --

MR. CHRISTENSEN: But not to -- not to decide is the -- is the judgment valid. It's like assumed that the judgment is not valid, then do you still -- are you still able to bring the action against UAIC. That's the issue on appeal. They're not -- the Supreme Court isn't going, well, is it this or is it that, or, you know, is the judgment still valid against Mr. Lewis? That's not -- it's assuming the judgment isn't valid against Mr. Lewis, can he still bring the claim against UAIC. And I think that answer is, yes, he can --

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THE COURT: Okay.

MR. CHRISTENSEN: -- for the other reasons that I talked about. But those are the issues on appeal. This down here is -- this is the proper court to decide is this judgment valid. And by not doing that, you are not doing your responsibility --

THE COURT: Okay.

MR. CHRISTENSEN: -- to these parties, to these two parties, and it's going to affect -- could affect their appeal with the Ninth Circuit. But we'll -- we'll take --

THE COURT: Well, we'll see what --

MR. CHRISTENSEN: -- whatever action we have to take.

THE COURT: -- how long -- hopefully, the Supreme -- of course, we're talking the Nevada Supreme Court, but hopefully the Supreme Court will take some action. I don't have a problem, you know, if they don't take action, file a motion asking for the Court to reconsider its stay on that issue, and we'll -- we'll take a look at it at that point.

MR. CHRISTENSEN: Okay.

THE COURT: All right.

MR. DOUGLAS: Your Honor, I just -- a couple housekeeping because I know you want to get done. I just, because I know you granted the withdrawals of Mr. Tindall's motions, we did make an oral motion to continue to get new counsel. I'm assuming we'll deny -- you're going to deny that

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for --

THE COURT: I mean, I'm not -- you can get new counsel and see.

MR. DOUGLAS: Okay.

THE COURT: I mean, I'm not telling you what you can't and can do.

MR. DOUGLAS: Okay.

THE COURT: If you think you've got a basis to get new counsel, get new counsel. I'm not making any ruling on that.

MR. DOUGLAS: Okay.

THE COURT: I'm just saying at this point in time, Mr. Lewis has -- Mr. Tindall has withdrawn, Mr. Lewis's current attorneys say we want those withdrawn, I'm granting the motion to essentially withdraw those motions filed by Mr. Tindall. If you think you've got a basis to force Mr. Lewis to take -- take counsel you hire, you know, go for it. We'll deal with it at that point.

MR. DOUGLAS: Two other quick things, Your Honor. I understand just in regard to what was said about the Dangberg case. Again, there was some back and forth, but I think at least as far as the court docket is concerned, we filed our motion to intervene prior to that stipulation alleging the settlement having been filed. And I think that's why it's distinguishable from Dangberg.

Once they -- if they had looked at the court docket,

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which as good counsel I'm sure they did, they knew we were trying to come in. That's why -- that's why that settlement can be stated. I would also ask, the one thing we didn't deal with in my motion to dismiss the 2018 case, we talked about the three causes of action, dismissal of one, stay of the other. We also had a countermotion to stay that affidavit. I don't know what Your Honor wants to do with that motion.

THE COURT: Stay.

MR. DOUGLAS: Stay -- stay -- to do anything with the affidavit, that was filed. Because that affidavit, as you mentioned, which kind of goes to this Dangberg issue was just float -- it's floating out there. It was filed. It's never been signed. I don't know if Your Honor feels the need to do anything with that. We did file our countermotion to stay. Stay -- stay -- again, we could stay that or grant that.

THE COURT: It's on calendar for next week.

MR. DOUGLAS: Oh, it's on calendar next week. Okay. Is that the 23rd?

THE CLERK: Yes.

MR. DOUGLAS: Okay. Sorry. We'll deal with it them.

THE COURT: Well, I'll look at it and --

MR. DOUGLAS: We'll deal with it then.

THE COURT: But all right.

MR. DOUGLAS: I'm not going to take up any more of your time, Your Honor.

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THE COURT: All right. Mr. Arntz, do you have anything?

MR. ARNTZ: No, Your Honor.

THE COURT: Okay. Thanks a lot, everybody.

MR. DOUGLAS: Thank you.

MR. STEPHENS: I wasn't clear if you were still going to dismiss my first claim for relief.

THE COURT: You know --

MR. STEPHENS: That's the only thing for purposes of the order.

THE COURT: -- I'll take -- I think since I'm going to stay on No. 2, I'll go ahead and acquiesce to your point there --

MR. STEPHENS: Thank you.

THE COURT: -- and I will stay on No. 1.

MR. STEPHENS: I just wanted to make sure it's clear for the order. Thank you.

THE COURT: Okay. All right.

MR. DOUGLAS: Thank you, Your Honor.

THE COURT: Thank you all.

MR. CHRISTENSEN: Thank you, Your Honor.

(Proceedings concluded at 10:22 a.m.)

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CERTIFICATION

I CERTIFY THAT THE FOREGOING IS A CORRECT TRANSCRIPT FROM THE AUDIO-VISUAL RECORDING OF THE PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.

AFFIRMATION

I AFFIRM THAT THIS TRANSCRIPT DOES NOT CONTAIN THE SOCIAL SECURITY OR TAX IDENTIFICATION NUMBER OF ANY PERSON OR ENTITY.

Julie Potter
Kingman, AZ 86402
(702) 635-0301



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Thomas Christensen, Esq.
Nevada Bar No. 2326
1000 S. Valley View Blvd.
Las Vegas, Nevada 89107
T: (702) 870-1000
F: (702) 870-6152
courtnotices@injuryhelpnow.com
Attorney for Third Party Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

JAMES NALDER, Plaintiff, vs. GARY LEWIS and DOES I through V, inclusive Defendants,	CASE NO: 07A549111 DEPT. NO: XX (consolidated with 18-772220)
UNITED AUTOMOBILE INSURANCE COMPANY, Intervenor.	**MOTION FOR RECONSIDERATION OF ORDERS SIGNED 2/11/19, MOTION FOR HEARING, AND MOTION FOR RELIEF FROM ORDERS**
GARY LEWIS, Third Party Plaintiff, vs. UNITED AUTOMOBILE INSURANCE COMPANY, And DOES I through V, Third Party Defendants.	

Third party Plaintiff, Gary Lewis, by and through his counsel, Thomas Christensen, Esq., hereby presents his Motion for Reconsideration, Motion for Hearing and Motion for Relief from Orders. UAIC continues to confuse issues and misstate the facts and the law to gain advantage over its insured, Gary Lewis. UAIC has led Judge Johnson to deny the parties due process and

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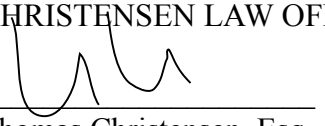
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make improper, over reaching orders not supported by the transcript or law that must be corrected. If the Court continues to ignore black letter law and go out of its way to rule in favor of UAIC, the Court is demonstrating bias and prejudice in favor of UAIC. This is not proper. This Motion is made and based upon the papers and pleadings on file herein, the Points and Authorities attached hereto and any oral argument that may be permitted by the Court.

Dated this 4th day of March, 2019 .

CHRISTENSEN LAW OFFICES



Thomas Christensen, Esq.
Nevada Bar No. 2326
1000 S. Valley View Blvd.
Las Vegas, Nevada 89107
T: (702) 870-1000
courtnotices@injuryhelpnow.com
Attorney for Third Party Plaintiff

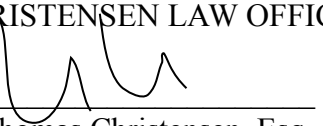
NOTICE OF MOTION

TO: ALL INTERESTED PARTIES AND THEIR COUNSEL

PLEASE TAKE NOTICE that the foregoing MOTION FOR RECONSIDERATION, MOTION FOR HEARING AND MOTION FOR RELIEF FROM ORDERS will come on for hearing before the above-entitled Court on the _____ day of _____, 2019 at _____ a.m. in Department 20 of the Eighth Judicial District Court in Clark County, Nevada.

Dated this 4th day of March, 2019.

CHRISTENSEN LAW OFFICES



Thomas Christensen, Esq.
Nevada Bar No. 2326
1000 S. Valley View Blvd.
Las Vegas, Nevada 89107
T: (702) 870-1000
courtnotices@injuryhelpnow.com
Attorney for Third Party Plaintiff

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POINTS AND AUTHORITIES

I. INTRODUCTION

This court recently issued two orders which are inconsistent with the record, are totally unsupported by the law, and are causing great prejudice to the parties. These orders must be reconsidered and amended to bring them into conformity with the law and rulings of the Court. From the beginning, this court has refused to follow black letter law and now apparently signs orders proffered to the Court by UAIC, regardless of any basis in law or fact and in spite of the transcript of proceedings. This type of procedure is appalling. If the court refuses to amend these orders, it will be clear evidence of bias and prejudice on the part of the Court.

II. FACTS

The Court is well aware of the factual posture of this case. Attached to this motion, as Exhibit 1, is a Motion to Dismiss the SLAPP lawsuit that was recently filed by UAIC. The attached pleading contains a complete recitation of the facts regarding this litigation. The Nevada Supreme Court is **NOT deciding if the judgment is expired**. Rather, it is deciding a very narrow question of law:

> In an action against an insurer for breach of the duty to defend its insured, can the plaintiff continue to seek consequential damages in the amount of a default judgment obtained against the insured when the judgment against the insured was not renewed and the time for doing so expired while the action against the insurer was pending?

This is the way the question is phrased.

By definition, a certified question, asks the Nevada Supreme Court to answer **only** the narrow question of law as set forth in the above question, as phrased by the certifying court, which is the Ninth Circuit Court of Appeals. It is obvious that the Nevada Supreme Court ***is not***

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ruling on whether or not the time for renewal has passed; instead, that is assumed in the question. It is also obvious that the question does not even address the timing of an action on the judgment. And, certainly the certified question does not say anything about an expired judgment or void judgment. The factual assumption in the question is that the time for filing a renewal has passed. That is the factual assumption the Ninth Circuit made in phrasing the question. The Ninth Circuit, or more likely a trial court, where issues of fact are necessarily decided, like the Federal District Court on remand, or this court, which has jurisdiction over the parties to the judgment, will ultimately have to determine the factual basis of this question.

The question presented *in this case* is whether a party can bring an action on a judgment if there are applicable tolling statutes that toll the statute of limitations. This is not a renewal of the judgment. An action on a judgment results in a new judgment, not a renewed judgment. The issue in this case is not being dealt with in the certified question.

Also, attached to this motion as Exhibit 2 is the transcript from the January 9, 2019 hearing. This was the only hearing that has been held in this case. The transcript clearly demonstrates that this court ***did not completely stay*** this action even orally, on the 9th of January, 2019. The Court specifically says, regarding issues surrounding the settlement agreement of Nalder and Lewis, that the Court will deal with that at the January 23, 2019 hearing. The order from the January 9, 2019 hearing was signed on February 11, 2019 and served on the parties on February 15, 2019. The Offer of Judgment was made on January 11, 2019. It was accepted, filed and judgment entered on January 22, 2019. The Court then issued a minute order to stay the cases and vacate the January 23, 2019 hearing. This Order was not reduced to a written, enforceable **order until February 11, 2019.** It was not served on the parties until February 15, 2019.

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III. ISSUE PRESENTED

Can this Court ignore the transcript and make rulings in the case contrary to the facts of the case and black letter law at the ex-parte request and over the objection of the opposing parties?

IV. ARGUMENT

The Court signed two orders, on February 11, 2019 that were prepared by UAIC and objected to by the parties. (See Exhibits 3 and 4). These orders were served on February 15, 2019. Both orders were not accurate reflections of the Court's rulings. Both were inaccurate factually and unsupported by law and/or contrary to black letter law. These orders also contained errors in the factual findings and legal conclusions. For example, the court denied UAIC' motion to set aside the amended judgment at the January 9th hearing, but this is not reflected in the order. Another example is that the Court stated at the hearing that the Court would take another look at intervention because of the *Dangberg* case, which holds that intervention is improper if there is a signed settlement agreement between the parties. (*Dangberg Holdings. v. Douglas Co.*, 115 Nev. 129, 139 (Nev. 1999)). The court made no findings regarding how or why the Court is disregarding clear black letter law and allowing improper intervention by a disgruntled insurer. Another example of error is the Court's finding that the issues in the certified question are the same as in this litigation. That is a clear error by the Court. This type of error allows for relief pursuant to NRCP 60. Contrary to NRPC 3.5a, UAIC has taken advantage of opposing counsel in encouraging the Court to enter improper unsupported orders. The failure to allow for opposition or hear oral argument makes the Court's errors even more egregious.

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V. CONCLUSION

The Court is requested to reconsider its orders and make factual findings and conclusions of law consistent with the record and the law in Nevada.

DATED this 4th day of March, 2019.



THOMAS F. CHRISTENSEN, ESQ.
Nevada Bar 2326
CHRISTENSEN LAW OFFICES
1000 S. Valley View Blvd.
Las Vegas, NV 89107
T: 702-870-1000
courtnotices@injuryhelpnow.com
Attorney for third party plaintiff Gary Lewis

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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of CHRISTENSEN LAW OFFICES, LLC and that on this 4th day of March, 2019, I served a copy of the foregoing **MOTION FOR RECONSIDERATION OF ORDERS SIGNED 2/11/19, MOTION FOR HEARING AND MOTION FOR RELIEF FROM ORDERS** as follows:

□ U.S. Mail—By depositing a true copy thereof in the U.S. mail, first class postage prepaid and addressed as listed below; and/or

XX E-Served through the Court's e-service system.

E. BREEN ARNTZ, ESQ.
Nevada Bar No. 3853
5545 Mountain Vista Ste. E
Las Vegas, Nevada 89120
T: (702) 384-8000
F: (702) 446-8164
breen@breen.com

David A. Stephens, Esq.
Stephens, Gourley & Bywater
3636 North Rancho Drive
Las Vegas, NV 89130
dstephens@sgblawfirm.com

Matthew Douglas, Esq.
Atkin Winner & Sherrod
1117 South Rancho Drive
Las Vegas, NV 89102
mdouglas@awslawyers.com

An employee of CHRISTENSEN LAW OFFICES, LLC.

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EXHIBIT 1

JAMES E. WHITMIRE, ESQ.
Nevada Bar No. 6533
jwhitmire@santoronevada.com
SANTORO WHITMIRE
10100 W. Charleston Blvd., Suite 250
Las Vegas, Nevada 89135
Telephone: 702/948-8771
Facsimile: 702/948-8773
Attorney for Defendant Thomas Christensen

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

UNITED AUTOMOBILE INSURANCE COMPANY, Plaintiff, vs. THOMAS CHRISTENSEN, an individual; E. BREEN ARNTZ, an individual; GARY LEWIS, an individual, Defendants.	Case No.: 2:18-cv-02269-JAD-PAL **DEFENDANT THOMAS CHRISTENSEN'S SPECIAL MOTION TO DISMISS PURSUANT TO NRS 41.660** **(Oral Argument Requested)**

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THOMAS CHRISTENSEN ("Defendant" or "Christensen"), by and through his counsel of record, James E. Whitmire, Esq. of the law firm Santoro Whitmire, Ltd., hereby files Defendant Thomas Christensen's Motion to Dismiss Pursuant to NRS 41.660. This Motion is made and based on the Points and Authorities set forth below, together with the pleadings and papers on file herein, and any oral argument that may be permitted by the Court.

Dated this 22nd day of February, 2019.

SANTORO WHITMIRE

/s/ James E. Whitmire
JAMES E. WHITMIRE, ESQ.
Nevada Bar No. 6533
SANTORO WHITMIRE
10100 W. Charleston Blvd., Suite 250
Las Vegas, Nevada 89135
Attorney for Defendant Thomas Christensen

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MEMORANDUM OF POINTS & AUTHORITIES

INTRODUCTION

This is a textbook Strategic Lawsuit Against Public Participation ("SLAPP") filed by a disgruntled insurer (Plaintiff UAIC) against its insured (Defendant Gary Lewis) and his two lawyers (Defendants Breen Arntz, Esq. and Thomas Christensen, Esq.).[1] In this case, UAIC has filed an improper Complaint, which asserts a medieval barratry claim against Defendant Christensen. UAIC, which has already been found to have breached its duty to defend by the Ninth Circuit Court of Appeals, is continuing its pattern of bad faith by lashing out at defendants and trying to punish them for advocating certain arguments in the United States' adversarial judicial system.[2] Simply put, UAIC, which has repeatedly lost certain arguments in this matter, is retaliating against its insured and seeking to impose personal liability on the insured's attorneys simply because they are advocating certain positions (as is their duty) on behalf of their client (UAIC's insured). Put another way, UAIC is attempting to chill and muzzle defendants in violation of the law.

UAIC's barratry claim is subject to immediate dismissal pursuant to Nevada's anti-SLAPP statute (NRS 41.660), which protects persons from civil liability arising out of good faith communication in furtherance of the right to petition a judicial body. Here, Christensen's Special Motion to Dismiss should be granted because Christensen satisfies the two-pronged test for dismissal. First, Christensen will make a threshold showing, by a preponderance of the

[1] A "SLAPP" lawsuit is "a meritless suit filed primarily to chill the defendant's exercise of First Amendment rights." Dickens v. Provident Life and Acc. Ins. Co., 11 Cal. Rptr. 3d 877, 882 (2004).

[2] United Automobile Insurance Company ("Plaintiff" or "UAIC") chose not to defend Mr. Lewis in a catastrophic personal injury lawsuit. As a result, a substantial default judgment was entered against its insureds in a state court action. Since then, UAIC has been unsuccessful in its never-ending efforts, at whatever cost, to evade responsibility for the judgment.

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evidence, that UAIC's claim is based on the defendant's free speech, petitioning or other protected activity. Second, UAIC cannot meet its burden to show a probability of prevailing on its claim. Not only does the First Amendment protect Christensen, so does the absolute litigation privilege given that Christensen and the co-defendants were at all times acting on behalf of their respective clients in furtherance of the litigation process. If allowed to proceed, the claims brought by UAIC would effectively chill Christensen and other attorneys from vigorously advocating for injured clients by forcing attorneys to defend themselves against claims for personal liability for purely strategic litigation decisions. Moreover, UAIC's claim is not even ripe for adjudication given ongoing proceedings involving this case.[3] Furthermore, UAIC cannot otherwise establish a barratry claim as the litigation brought about by Cheyanne Nalder brought by David A. Stephens, Esq. was a direct result of UAIC's arguments to the Ninth Circuit.

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I.

STATEMENT OF FACTS[4]

The following facts are based, in part, on express statements contained in Nalder v. United Auto Ins. Co., 824 F.3d 854 (9th Cir. 2016). The Nalder case directly involves Defendants Gary Lewis and Christensen. As discussed herein, the Nalder case has a complex procedural history, and the case has two underlying final judgments and is still ongoing in

[3] UAIC has been litigating the issues raised in its Complaint for several years now, and there are ongoing proceedings involving this case that are pending before the Nevada State District Court, the Nevada Supreme Court and the Ninth Circuit Court of Appeals. If anyone is guilty of multiplying the proceedings, it is UAIC.

[4] Given that anti-SLAPP motions to dismiss are to be treated like summary judgment motions, Christensen sets forth his statement of facts in numerical format consistent with LR 56-1.

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multiple different courts. Other statements of fact set forth herein are based on issues being litigated in other courts.[5]

The Underlying Collision

1. On July 8, 2007, Gary Lewis ("Lewis") ran over Cheyanne Nalder.[6]

2. At the time of the collision, Cheyanne (born April 4, 1998) was a nine-year-old girl.

3. This incident, which occurred on private property, caused catastrophic injuries.

Gary Lewis Was Insured by UAIC at the Time of the Collision

4. Lewis had taken out an automobile insurance policy with UAIC, which was renewable on a monthly basis.[7]

5. Before the accident, Lewis had received a statement instructing him that his renewal payment was due by June 30, 2007. The statement also specified that "[t]o avoid lapse in coverage, payment must be received prior to expiration of your policy." The statement listed June 30, 2007, as the policy's effective date and July 31, 2007, as its expiration date.[8]

6. Lewis paid to renew his policy on July 10, 2007, two days after the accident, but before the expiration of the policy.[9]

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[5] Consistent with this Court's Local Rules, Defendant is not attaching reams of documents filed in other courts and/or various court rulings. Defendant is attaching various docket sheets as exhibits to demonstrate to the Court various matters relevant to this Motion. To the extent the Court believes additional documents are necessary or helpful, Defendant will certainly provide whatever is deemed necessary to the Court. Leave to supplement is also sought if the Court believes a particular matter needs to be further supported.

[6] Nalder v. United Auto Ins. Co., 824 F.3d at 855.

[7] Id.

[8] Id.

[9] Id.

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UAIC Rejected a $15,000 Policy Limits Offer to Settle Without Informing Lewis, Denied the Claim, and Refused to Defend Lewis

7. James Nalder ("Nalder"), Cheyanne's father, made an offer to UAIC to settle her claim for $15,000, the insurance policy limit.

8. UAIC rejected the offer, arguing Lewis was not covered at the time of the accident because he did not renew the policy by June 30, 2007.

9. UAIC never informed Lewis that Nalder was willing to settle.[10]

The First Lawsuit – State Court Litigation/Underlying Case and Resulting Default Judgment

10. After UAIC rejected Nalder's offer, Nalder sued Lewis in Nevada state court (Case No. A-07-549111). See, Docket Sheet attached hereto as Ex. A.

11. UAIC was notified of the lawsuit but declined to defend Lewis or file a declaratory relief action regarding coverage.

12. Lewis failed to appear and answer the complaint.

13. As a result, Nalder obtained a default judgment against Lewis for $3,500,000. Notice of entry of judgment was filed on August 26, 2008.

Voluntary Assignment By Lewis Instead of Judicial Execution and Assignment

14. After the default judgment was entered, Lewis moved to California. Then Lewis and Nalder entered into a settlement agreement regarding collection of the default judgment from UAIC.

15. As part of the settlement, Lewis assigned to Nalder his rights to collect from UAIC all funds necessary to satisfy the Judgment plus interest.

[10] Id. at 856.

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The Second Lawsuit --
Federal Court Coverage Action, Whereby the Ninth Circuit
Court of Appeals Ultimately Found that UAIC Breached Its Duty to Defend

16. After the default judgment was entered, Nalder and Lewis then filed suit against UAIC in state court (State Court Case No. A-09-590967-C).[11] See, Docket Sheet attached hereto as Ex. B.

17. The case was then removed by UAIC to Federal Court. (Case No. 2:09-cv-01348-ECR-GWF). See, Docket Sheet attached hereto as Ex. C.

18. Nalder and Lewis alleged an action on the judgment, breach of contract, breach of the implied covenant of good faith and fair dealing, bad faith, fraud, and breach of section 686A.310 of the Nevada Revised Statutes.

19. UAIC moved for summary judgment on the basis that Lewis had no insurance coverage on the date of the accident. Nalder and Lewis opposed the motion arguing that Lewis was covered on the date of the accident because the renewal notice was ambiguous as to when payment had to be received to avoid a lapse in coverage, and that this ambiguity had to be construed in favor of the insured.[12]

20. The district court found that the contract could not be reasonably interpreted in favor of Nalder and Lewis' argument and granted summary judgment in favor of UAIC.[13]

21. An appeal thereafter occurred to the Ninth Circuit Court of Appeals (Case No. 11-15010) (Federal Court Appeal No. 1). See, Docket Sheet attached hereto as Ex. D.

22. On December 17, 2012, the Ninth Circuit reversed the District Court holding "that summary judgment 'with respect to whether there was coverage' was improper because the

[11] Id.

[12] Id.

[13] Id. at 856.

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