

**IN THE SUPREME COURT OF THE STATE OF NEVADA**

IN RE:

DISCIPLINE OF  
BRENT HARSH, ESQ.  
STATE BAR NO. 8814

Electronically Filed  
Nov 29 2021 10:58 a.m.  
Case No. Elizabeth A. Brown  
Clerk of Supreme Court

**Volume II**

**RECORD OF DISCIPLINARY PROCEEDINGS,**  
**PLEADINGS**  
**AND TRANSCRIPT OF HEARINGS**

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1 Q And you corresponded with Mr. Harsh about  
2 that particular claim?

3 A Correct.

4 Q And do you remember who Mr. Harsh  
5 represented?

6 A He represented David and Sheela Clements.

7 Q I'm going to share my screen here. Do you  
8 see an email document on your screen?

9 A I've got to get my glasses on. Sorry.

10 Q I can try to blow it up a little bit. I'm  
11 trying to share what is already admitted Exhibit D to the  
12 disciplinary hearing. Do you see the document,  
13 Ms. Baarson?

14 A Yes, I do.

15 Q Okay. And is this an email that you sent?

16 A Well, he sent me an email and I responded.

17 Q Okay. And can you tell us the time and the  
18 date and time of your response?

19 A It says November 11th, 2020. 12:18 p.m. I'm  
20 going to gather that's my time zone not his time zone.

21 Q Okay. And to whom were you sending the  
22 email?

23 A To Mr. Harsh.

24 Q Okay. Just to get rid of some of those  
25 pronouns there. And what did you communicate to



1 Mr. Harsh in this email?

2 A Well, you have to go back a little bit, but  
3 he's telling me that Sheela's claim is not a derivative  
4 claim such as loss of consortium out of David's claim;  
5 that she has a separate claim that stands on its own for  
6 negligent infliction of emotional distress.

7 Q Okay. And then what were you communicating?

8 A I'm telling him I disagreed with him, but I  
9 will check with our legal because now I'm into a question  
10 of law and I need to go to somebody else.

11 Q And what information were you looking for  
12 when you said that you will quote, "check with legal"?

13 A I'm looking for the law of the state as to if  
14 there is a separate claim for Ms. Clements for what he  
15 and I had talked about.

16 Q Okay. And is there a common title for that  
17 type of claim?

18 A A bystander claim, pretty much. And I  
19 explained to him that I was not familiar with Nevada law  
20 and I had to consort -- I had to get some advice from  
21 legal on the -- it's a law. And I'm not an attorney, so  
22 I have to seek legal counsel for that.

23 Q Okay. Ms. Baarson, can you explain to us  
24 just roughly what a reservation of rights letter is?

25 A Well, reservation of rights letter is letting

1 -- a letter you would send it out to an insured or any  
2 other party that may have coverage under your policy  
3 outlining what is covered, what is not covered.

4 Q Okay. So that's a letter sent to an insured  
5 that analyzes the policy?

6 A Correct.

7 Q Okay. And in this particular instance of  
8 Ms. Sei with the claims that were being asserted by the  
9 Clements, did the Hartford issue a reservation of rights  
10 letter?

11 A No, we did not.

12 Q I'm going to share again what's a  
13 pre-admitted document that's been marked as Exhibit 7.  
14 And down at the bottom of this document, do you see where  
15 Mr. Harsh is communicating to Mr. Martin?

16 A To?

17 Q To read.

18 A To read. Okay.

19 Q Do you see that part of the email stream?

20 A Right.

21 Q Okay. And Mr. Harsh states: Kat called me  
22 and said you will call re the policy limits demand that  
23 expires today. Are you the Kat to whom Mr. Harsh is  
24 referring to?

25 A Correct. That's a shortened version of my

1 name.

2 Q Okay. So you spoke with Mr. Harsh by phone.

3 A Correct.

4 Q Okay. And you indicated that Mr. Werner  
5 would be communicating with him, right?

6 A Correct.

7 Q Ms. Baarson, did you ask anyone to opine on  
8 whether or not Ms. Sei was covered for the Clements'  
9 claims?

10 A No.

11 Q In this -- sorry. I stopped sharing, but I  
12 still see it on my screen. Let me go back to it. I'm  
13 showing you Exhibit 7 again. And in this email that we  
14 were just talking about where Mr. Harsh was emailing Mr.  
15 Werner, I see that you are included as a recipient of the  
16 email. Do you see that?

17 A I don't see the whole screen, but I'm going  
18 to gather I'm a current copy at the top.

19 Q At the bottom of the document, Mr. Harsh is  
20 sending the email. Do you see that?

21 A Correct. He's sending it to myself and Reed.

22 Q Okay. When you are handling claims for the  
23 Hartford's insureds, do plaintiff's counsel usually  
24 continue to include you on correspondence after the  
25 defense counsel appears?

1           A     Yes. I usually keep the door open for  
2     discussion, you know, unless there's some issue where I  
3     can't do that.

4           Q     And why? I mean, you keep the door open.  
5     Why do you do that?

6           A     Because I've been doing this for a long time,  
7     and I'm a good negotiator, so I usually leave that open  
8     so we can communicate with each other.

9           Q     Okay. Do you regard the appointed counsel as  
10    counsel for you?

11          A     No.

12          Q     Who is the appointed counsel representing?

13          A     The insured.

14                MS. FLOCCHINI: Okay. I think that those are  
15    all of the questions that I have initially for you,  
16    Ms. Baarson.

17                Mr. Moore, who is representing Mr. Harsh, may  
18    have questions for you now, and then the panel may have  
19    questions as well.

20                THE WITNESS: I would like to amend  
21    something. I started claims in 1981, so it's just 40  
22    years. Not 41. Let's clarify that.

23                MS. FLOCCHINI: Fair enough. Time flies when  
24    you're having fun.

25                THE WITNESS: Well, I want to be accurate.

1 MS. FLOCCHINI: Thank you very much.

2 THE WITNESS: Welcome.

3 CHAIR STOVALL: Go ahead, Mr. Moore.

4

5 CROSS-EXAMINATION

6 BY MR. MOORE:

7 Q Hello, Ms. Baarson. I think we can all  
8 forgive your youth and inexperience here.

9 A Yes.

10 Q And I was going to say good morning, but I'm  
11 not even sure what time zone you're in. What time zone  
12 are you in right now?

13 A I'm in the afternoon. It's 2:00 o'clock in  
14 the afternoon.

15 Q All right. I'll start with good afternoon  
16 then. You handle both coverage and liability matters  
17 generally for the Hartford; is that correct?

18 A Correct.

19 Q I'm sorry. I did not hear that.

20 A If a claim comes across my desk, I have to  
21 analyze this coverage and the liability. Yes.

22 Q And I appreciate you clarifying that. Did  
23 you ever tell Mr. Harsh that you were not involved in  
24 coverage in this matter?

25 MS. FLOCCHINI: Objection. Relevancy.

1 CHAIR STOVALL: It was asked and answered.

2 Next question.

3 Q (BY MR. MOORE:) I'm sorry. I want to make  
4 sure the record is clear. I don't remember his testimony  
5 being that she ever affirmatively told Mr. Harsh that she  
6 was not involved in coverage.

7 CHAIR STOVALL: Well, if we didn't get the  
8 answer -- I thought we did. If we didn't get the answer,  
9 then I need to rule on the objection. And I don't --  
10 I'm having a hard time understanding the relevance.

11 MR. MOORE: The relevance, Mr. Chair, is that  
12 what Mr. Harsh understood was the role of the people  
13 involved in this matter including even whether or not  
14 there was a coverage dispute, and so that is relevant to  
15 find out whether or not this witness is someone who ever  
16 communicated to Mr. Harsh that she doesn't do coverage.

17 CHAIR STOVALL: With that question, go ahead.

18 THE WITNESS: I never told him that I never  
19 did coverage. I also never told him that I had a  
20 coverage issue.

21 Q (BY MR. MOORE:) All right. So let's take a  
22 look at first as an Exhibit J that I'm going to go to.

23 Q And, Ms. Baarson, can you see the screen okay  
24 there?

25 A Yes.

1 Q And is Exhibit J a document that you recall  
2 receiving from Ms. Sei?

3 A It's a fax cover page.

4 Q And to your understanding, once Ms. Sei had  
5 received the summons and complaint that's at issue in  
6 this case, what she did is she sent it to you. Is that  
7 correct?

8 A Yes. She sent it to me.

9 Q All right. Do you recall if you ever sent  
10 them that letter to Mr. Werner?

11 A He would have had all of the file materials.

12 Q I'm sorry. I don't understand the question.

13 A All of the file materials would have been  
14 sent to him or he would have had access to them.

15 Q So do you know whether or not you  
16 affirmatively sent it or you expect that because it's  
17 part of the file he would get it?

18 A I normally send everything to them, so I  
19 would say I would have sent it or they could have had  
20 access through the file.

21 Q All right. Now when you received the summons  
22 and complaint, were you the one who then hired as the  
23 defense attorney for this case the Moore Sullivan Law  
24 Firm that includes attorney Chris Turtzo?

25 A I have to look at the timeline here. We

1 initially hired Reed as defense counsel, and then if we  
2 got that, I sent it over to Morris Sullivan's office.

3 Q Well, if Mr. Moore was hired as you're  
4 characterizing as defense counsel, why go through and  
5 then hire another law firm to defend?

6 A I have to go back and look at the file on it.  
7 I believe that there was an issue because actually, the  
8 demand was now exceeding the policy limit, so it has to  
9 go to outside panel counsel.

10 Q Isn't it true that the demand exceeded the  
11 policy limits even before there was an assignment to  
12 Mr. Werner?

13 A I have a time limit demand that came in on  
14 2-5 which was over and I sent that to -- well, I  
15 initially sent it to counsel for Reed because I had that  
16 law issue that I wasn't sure about on the claim that was  
17 being asserted, and then a suit came in and then I sent  
18 it over to the other office because it looked like we  
19 were not going to be able to resolve that issue.

20 Q And is it most accurate to identify  
21 Mr. Werner's involvement in this case by the Hartford as  
22 pre-litigation counsel? Is that a term you use?

23 A We do use that term. I'm looking to see when  
24 I sent that over.

25 Q Do you need that to refresh your



1 recollection?

2 A No. I'm trying to look at the documents.  
3 I'm looking on a very tiny screen. I apologize. I had  
4 an equipment malfunction, so I'm looking on a tiny laptop  
5 screen, and I have one monitor. I sent it to Reed as a  
6 pre-suit referral.

7 Q And that's exactly my question, is that  
8 Mr. Werner was engaged as pre-suit or pre-litigation  
9 counsel. Is that correct?

10 A Correct. On behalf of Ms. Sei.

11 Q Well, isn't the purpose of an insurance  
12 company like a Hartford engaging pre-litigation counsel  
13 to protect the claims file from disclosure rather than  
14 necessarily the opportunity to defend the insured?

15 A No. You send it for pre-suit for many  
16 reasons. You send it to get clarification on law, if  
17 needed, you also send it over there for pre-suit  
18 investigation, and that would be a preservation of items  
19 in the file.

20 Q Exactly. Now, did you ever ask Ms. Sei if  
21 she had personal counsel?

22 A I sent her an excess letter and explained to  
23 her on the excess letter that she may want to seek  
24 personal counsel and that was her discretion to do so.  
25 Because I am not an attorney, I can't tell her either

1 way.

2 Q Now, at this time when you were first  
3 negotiating with Mr. Harsh, you knew that if the Hartford  
4 decided to pay \$200,000 that that would settle the case.  
5 Was that your understanding?

6 A It's a 100/300 policy. 100 per party.  
7 That's what the policy is.

8 Q My question is a little different. Did you  
9 know that if Hartford decided to pay \$200,000 that that  
10 would settle the case when you were --

11 A That would settle the two cases.

12 MS. FLOCCHINI: Well, I'll object belatedly  
13 to the relevancy of the question.

14 THE WITNESS: Yes. Exactly.

15 CHAIR STOVALL: Okay. It's been asked and  
16 answered. Next question.

17 Q (BY MR. MOORE:) So with the understanding  
18 that the case could settle for \$200,000, do you agree  
19 that there was a question as to what amount of coverage  
20 would be extended to Ms. Sei?

21 MS. FLOCCHINI: Objection. Relevancy.

22 CHAIR STOVALL: Response?

23 MR. MOORE: We keep talking, Your Honor,  
24 about the idea that when Mr. Harsh is communicating with  
25 others how people are acting is consistent with

1 Mr. Harsh's perception that there's a coverage issue. So  
2 it should be explored to find out what the witnesses were  
3 doing and if their actions are consistent with that  
4 perception.

5 CHAIR STOVALL: I disagree. Objection  
6 sustained.

7 Q (BY MR. MOORE:) Now, let's take a look at  
8 that email stream that you discussed a little bit earlier  
9 with our counsel, and that is Exhibit 50 that I'm going  
10 to navigate to. When you say: Brent, I disagree, you're  
11 disagreeing on what he has to say about what?

12 A That there's a separate claim that stands on  
13 its own for negligent infliction of emotional distress.

14 Q And is it your understanding, Ms. Baarson,  
15 that that separate claim would, if it exists, would then  
16 have an additional policy limit of an additional \$100,000  
17 at issue?

18 A If that's what the law supports.

19 Q And can you understand how that has a  
20 coverage implication?

21 A No, because it becomes a separate bodily  
22 injury claim.

23 Q Exactly.

24 A But I don't see that as a coverage issue.

25 Q Understood.

1           A     You either have a separate claim or you don't  
2     have a separate claim.

3           Q     Precisely. And so there was that issue that  
4     you had been discussing clearly with Mr. Harsh; correct?

5           A     I was discussing whether or not what the  
6     information he was giving me was supported by Nevada law,  
7     so I had to get an opinion on that.

8           MR. MOORE: That's all the questions I have.

9           THE WITNESS: But that's not a coverage  
10    issue.

11          CHAIR STOVALL: Redirect?

12          MS. FLOCCHINI: I think the record is clear,  
13    so I don't have any further questions. Thank you.

14          CHAIR STOVALL: Can Ms. Baarson be released  
15    at this point?

16          MS. FLOCCHINI: The Bar has no further  
17    questions, so that is fine for us. Yes.

18          MR. MOORE: Respondent has no further  
19    questions.

20          CHAIR STOVALL: Ms. Baarson, thank you so  
21    much for taking time of out your day.

22          THE WITNESS: You all have a good day.

23          CHAIR STOVALL: Bye now.

24          THE WITNESS: Bye.

25          CHAIR STOVALL: Your next witness,

1 Ms. Flocchini?

2 MS. FLOCCHINI: At this time, the Bar calls  
3 Mr. Harsh to testify.

4 CHAIR STOVALL: Mr. Harsh, would you please  
5 raise your right hand to be sworn.

6

7 BRENT HARSH,  
8 having been first duly sworn, was  
9 examined and testified as follows:

10

11 CHAIR STOVALL: Go ahead, Ms. Flocchini.

12

13 DIRECT EXAMINATION

14 BY MS. FLOCCHINI:

15 Q Thank you. Mr. Harsh, when were you licensed  
16 to practice law in Nevada?

17 A '02, I think.

18 Q Okay. So almost 20 years then, right?

19 A Correct.

20 Q Okay. And you had defended insureds against  
21 personal injury claims while an attorney in Nevada,  
22 right?

23 A A long time. Yes.

24 Q And for whom did you work when you were doing  
25 that insurance defense work?

1           A     I first moved to back to Reno right around  
2     '03. My wife at the time, we moved back, and I started  
3     working at Watson Rounds, and I worked there specifically  
4     doing insurance defense work. I worked there for a few  
5     years.

6                     Then what I did is I moved to Thorndale  
7     Armstrong, again, doing solely insurance defense work  
8     and, you know, just continuing my career and education  
9     with the Balkenbushes, you know, some of the older names  
10    in insurance defense work.

11                    After that, I was given an opportunity to get  
12    hired on at Farmers as in-house counsel as their senior  
13    trial attorney dealing with the whole slew of personal  
14    injury defense cases and other insurance matters. And  
15    then I also worked on the claims side a lot what Kat was  
16    -- sorry -- Ms. Baarson was doing, but at a regional  
17    level dealing with large loss at PV exposures of brain  
18    damage and spinal cord injuries in excess of a million  
19    dollars.

20           Q     Okay. So when did you stop doing insurance  
21    defense work?

22           A     Approximately three years ago when I opened  
23    up my own personal injury firm. And then shortly  
24    thereafter, I merged with Curtis Coulter and formed  
25    Coulter Harsh Law.

1 Q Okay. So you did approximately 17 years of  
2 representing insureds, right?

3 A And insurance companies.

4 Q And insurance companies. Okay. And you  
5 worked both as panel counsel and as in-house counsel,  
6 right?

7 A That's correct. Okay. And also directing  
8 claims if they're supposed to be assigned to panel  
9 counsel or so I would also assign cases.

10 Q Okay. Based on your experience, your  
11 personal experience, do you remember a time when a claim  
12 -- where the extent of the person's injuries determined  
13 if it was covered by a particular insurance policy?

14 A I'm so sorry. Can you please rephrase that?  
15 I'm not exactly sure what you're saying.

16 Q Yeah. So in the 17 years that you were  
17 working as insurance defense counsel in some form, can  
18 you think of a claim that you handled where the extent of  
19 a person's injuries determined if it was covered by a  
20 particular policy?

21 A Yes.

22 Q Okay. And so the extent, like how injured  
23 they were, determined if it was covered?

24 A Correct.

25 Q Okay. And what's that instance?

1           A     Well, there's numerous decisions, especially  
2     when you're dealing with the financial dealings to defend  
3     a case. Sometimes you just make business decisions  
4     instead of, you know, prolonged litigation, costs of  
5     experts. Sometimes it is just easier to pay a claim than  
6     go through prolonged litigation, hire experts and then  
7     possible could lead into a bad faith lawsuit or  
8     appellate. And sometimes, you just need to make a  
9     business decision early on in a case.

10          Q     Okay. Can you think of a claim where the  
11     extent of the claimant's injuries determined if the  
12     insurance company was going to deny coverage for their  
13     insured?

14          A     Again, I'm so sorry. Can you repeat that  
15     question? I think I lost it.

16          Q     Yeah. Can you think of a time when there was  
17     a claim and the claimant -- the extent of the claimant's  
18     injuries determined if the insurance company denied  
19     coverage for the insured person?

20          A     Let me just repeat the question the way that  
21     I'm hearing it. Just please correct me if -- I'm not  
22     trying to -- pretty much what you're saying, can you  
23     remember a time where someone was hurt so bad that could  
24     deny coverage.

25          Q     Or so little where the amount of injury



1 impacted coverage for the insureds.

2 A I think your injury and coverage are separate  
3 issues.

4 Q Okay.

5 A Do you understand? I'm not trying to -- I'm  
6 really not trying to argue. I think that -- Did that  
7 answer the question?

8 Q So what I believe you're telling us is that  
9 the extent of the injury would not have impacted  
10 coverage, right? Those two things aren't in the same  
11 equation.

12 A No, unless you're dealing with a derivative  
13 claim, and then I guess you are, and that's what we're  
14 dealing with in this case because you have a loss of  
15 consortium claim, which is a derivative claim and a  
16 negligent infliction of emotional distress claim, which  
17 my whole argument with this case was are we talking about  
18 a derivative claim, which is a coverage issue, or a  
19 negative infliction of mental distress claim. And I  
20 think those are two distinct claims. So if you're  
21 dealing with a derivative claim, yeah, it deals with  
22 coverage.

23 Q So that's the type of claim impacts. That's  
24 what you're telling us? The type of claim would  
25 impact --

1 A The type of.

2 Q -- the coverage?

3 A Sometimes the type of claim is not covered.  
4 So, for example, loss of consortium. The same thing that  
5 Kat and I were talking about from the very beginning of  
6 this case and why she had to refer it off and hire legal  
7 counsel for her to get her question answered.

8 Q Okay. I hear what you're saying, but I'm  
9 trying to focus in on this particular issue. Let's just  
10 hypothetically say that the damages -- the assorted  
11 damages is \$5,000 just so that it's an easy number we can  
12 work with.

13 A And just and I'm not trying to be obtuse.  
14 Are you talking about medical specials or are you talking  
15 about general or are you talking about punitive damages?

16 Q I'm getting there.

17 A Okay.

18 Q So you described to us that there's a  
19 difference between loss of consortium, which is a  
20 derivative claim, and negligent infliction of emotional  
21 distress, which is a separate claim. Right?

22 A Correct.

23 Q Okay. Let 's say for that claim, either way  
24 that it's defined, the demand is \$5,000 for damages?

25 Okay. If the demand is \$5,000 or \$50,000, does that

1 change how the claim is defined?

2 A Yes.

3 Q How?

4 A Well, if it's a derivative claim, it has to  
5 derive from the injured party. If it's separate, it  
6 could be another party. So if you're talking about a  
7 derivative claim or a negligent infliction of emotional  
8 distress claim, you're either dealing with one claimant  
9 or two claimants, so it changes it.

10 Q Does the dollar amount change how that claim  
11 is defined?

12 A I guess -- well, yes. It will. Because you  
13 either have two dollar amounts. You can't say that you  
14 only have one \$5,000 pot if you're talking about both a  
15 derivative claim and your stand-alone claim. So if  
16 you're talking about a derivative claim, you're dealing  
17 with the injured party and the loss of consortium, so you  
18 have two pots there. Okay?

19 But the second pot has to be taken care of in  
20 the first pot. If you're dealing with a negligent  
21 infliction of emotional distress claim, you have your  
22 original injured party, which is one pot, and a separate,  
23 which is one pot. So if we're dealing with a loss of  
24 consortium claim, you're going to only be dealing with  
25 the \$5,000 pot. If you're dealing with a negligent

1 infliction of emotional distress claim, which I was  
2 trying to argue for my clients, you're dealing with two  
3 pots of \$5,000.

4 Q Okay. I'll try to circle back then.

5 A Okay.

6 Q I'm going to pull up a document here. And  
7 just foundationally, do you see the demand letter that's  
8 dated November 16th, 2020?

9 A Is this Exhibit Number 3?

10 Q It is.

11 A Just my eyesight is pretty bad, so I have the  
12 binder in front of me. So if you just refer me to it,  
13 I'll be looking directly so I'm not looking at exact. So  
14 Exhibit 3 is my delinquent demand letter that I sent out  
15 on November 16th 2020, and I sent it via U.S. Mail.

16 Q Okay. Great. And it identifies that your  
17 clients are David and Sheela Clements, right?

18 A Correct.

19 Q And they're pursuing a claim against Sandra  
20 Sei; right?

21 A That's correct.

22 Q Okay. And you understood that Ms. Sei was  
23 insured by the Hartford, right?

24 A Yes.

25 Q And so you've addressed the letter to

1 Ms. Baarson, who we just heard from, who is the claimant  
2 consultant at Hartford; correct?

3 A Correct. The claims representative. That's  
4 correct.

5 Q And you were demanding \$100,000 for  
6 Mr. Clements and for Ms. Clements. Right?

7 A That's correct.

8 Q You were making two separate claims against  
9 Ms. Sei's insurance policy. Yes?

10 A Yes.

11 Q Okay. And I'm going to stop the sharing.  
12 Ultimately, on behalf of the Clements, you rejected the  
13 offer of \$100,000 to Mr. Clements because there wasn't a  
14 corresponding offer of \$100,000 to Ms. Clements. Right?

15 A I made a global demand for \$200,000.

16 Q Okay. And the Hartford responded by saying  
17 we'll settle Mr. Clements' claims for \$100,000 and deal  
18 with Ms. Clements' claims separately. Right?

19 A Correct.

20 Q Okay. And you said no, right?

21 A Well, that's really not my choice. My client  
22 -- I need to consult with my clients. I talk to them  
23 about the pros and cons and then, you know, I'm answering  
24 on their behalf, but that's what happened.

25 Q So that offer to settle David's claims,

1 Mr. Clements' claims was rejected, right?

2 A That is correct. I think what's important to  
3 know on that is because if you look at that Exhibit  
4 Number 3, I do make a global demand of the \$200,000,  
5 specifically ask if the Hartford decides not to pay the  
6 \$200,000, can you please have Ms. Sei ask her if she  
7 wants to personally contribute up to the \$200,000 and/or  
8 have her personal counsel contact us.

9 So it's just not an offer for \$200,000. Yes,  
10 it's for \$200,000, but it's a dual offer both to the  
11 Hartford as their insured and then also to Ms. Sei  
12 because Ms. Sei also has a viable interest in that. So  
13 she might want to personally contribute if the Hartford  
14 decides to make a decision that is adverse to their  
15 insured.

16 Q Okay. And you're telling us that you asked  
17 the Hartford to convey that to her through that initial  
18 demand letter, right?

19 A Yeah. If you look on page 37, page three of  
20 it, it's under the demand. It's really the last sort of  
21 sentence. Do you want to read it?

22 Q No, I'm good. I just wanted to clarify your  
23 testimony. So I'm sharing Exhibit 8, for your reference,  
24 so you can look there at the packet that you have in  
25 front of you. And this is an email dated December 21st,

1 2020, and the time stamp is 2:14. Right?

2 A Okay. Yes.

3 Q Okay. And in this letter, you communicated  
4 to Mr. Werner that you were making a global policy limits  
5 demand of \$200,000, right?

6 A Well, it's an email to be clear, but yes.  
7 It's making a global -- yeah, I made a global policy  
8 limits demand for \$200,000. And that expires today.

9 Q Okay. So you were tying Mr. Clements, the  
10 resolution of Mr. Clements' claims and the resolution of  
11 Ms. Clements' claims together, right?

12 A Yes.

13 Q Okay. So could Mr. Werner or any other  
14 lawyer that represented Ms. Sei have contacted  
15 Mr. Clements and said your lawyer's tying your settlement  
16 to another claim settlement and that might not be in your  
17 best interest. I suggest you seek a second opinion.

18 A Do they know that they're represented?

19 Q Do they know that Mr. Clements is  
20 represented?

21 A Right. Because why we're here today is 4.2.  
22 You have to know that a person is represented. So you  
23 said -- Well, for example, it would be inappropriate if  
24 Mr. Werner contacted my client because he had my letters  
25 of rep. Then you said or another person. And I guess my

1 question is: Does that person know that the Clements are  
2 represented?

3 Q So you have indicated to the lawyers such as  
4 Mr. Werner that your clients were David and Sheela  
5 Clements, right?

6 A Correct.

7 Q Okay. And but Mr. Werner determines that --  
8 believes that there's a conflict between representing  
9 Mr. Clements and Mrs. Clements. Could he then  
10 communicate directly with Mr. Clements and say I suggest  
11 you seek a second opinion about settling your case?

12 A No. That would be inappropriate if  
13 Mr. Werner did that.

14 Q Okay. I am sharing what's been admitted as  
15 Exhibit 10, if you want to look at that in your packet  
16 or in your binder. This is the letter that you wrote to  
17 Ms. Sei dated January 2nd, 2011. Right?

18 A That is correct.

19 Q In here, you were writing -- Well, we  
20 identified you were writing to Ms. Sei. Right?

21 A Yes.

22 Q And you were writing to her as counsel for  
23 Mr. and Mrs. Clements. Right?

24 A Yes.

25 Q Okay. And that's identified in the letter,



1 your client is Mr. and Mrs. Clements.

2 A Yes.

3 Q And you attached the complaint to the letter,  
4 right?

5 A Yes.

6 Q And in the letter, you advised her to seek  
7 personal counsel because there might be a conflict with  
8 her insurance company, right?

9 A I don't think I used the term conflict. I  
10 think what I did is I -- well, the letter speaks for  
11 itself. I introduced myself. I said I tried to resolve  
12 this. My client is paralyzed. You might have interests  
13 that are adverse to your insurance carrier, and I gave a  
14 list. I also said: Do your own independent sort of just  
15 like what Kat told her that she did too in her letter and  
16 then I told her to give this information to the Hartford.

17 Q Okay. So you advised her to seek personal  
18 counsel related to the Clements' claims against her,  
19 right?

20 A I wouldn't say that I advised her of  
21 anything. I pointed out issues and sent the letter with  
22 her.

23 Q Okay. You received the letter from  
24 Mr. Werner that's dated December 18th that identified  
25 Ms. Sei as his clients, right?

1 A Yes, I received that letter.

2 Q And did you receive the mail copy?

3 A I did receive the mail company.

4 Q And you received the email copy, right?

5 A Well, I received the email copy on the 21st.

6 And at some point thereafter, I received the mail copy,

7 and I don't know what date I received that.

8 Q And, Mr. Werner, between the December 21st,  
9 we're going to assume that's probably the first time you  
10 received the letter because email goes faster than snail  
11 mail. Between December 21st and January 2nd, did  
12 Mr. Werner tell you that he wasn't representing Ms. Sei?

13 A No, he did not tell me that he was not  
14 representing Ms. Sei.

15 Q Okay. I'm pulling up Exhibit 6, and it's the  
16 email that you sent dated December 21st, 2020 at 2:32  
17 p.m.

18 A You're on Exhibit 6?

19 Q Yes.

20 A You mean 12:32 p.m.?

21 Q Yes.

22 A Okay. Sorry. I thought I heard a different.

23 Q And I may have said a different time. I  
24 appreciate that. So I'll just say again this is the  
25 email that you sent on December 21st, 2020, at 12:32 p.m.

1 Right?

2 A Yeah. I sent -- I had a lengthy conversation  
3 with Kat, and it was a lot like what her -- how she  
4 testified. She said that she hired Reed Werner and  
5 talked to him, gave me his email, and then she said hey,  
6 I've been doing this a long time and we might be close to  
7 settling it. Just keep me in the loop. So I cc'd her on  
8 it too.

9 Q Okay. And so you're anticipating my  
10 question. The email is addressed to both Ms. Baarson and  
11 Mr. Werner, right?

12 A Correct.

13 Q And we've established that Ms. Baarson is an  
14 employee of the Hartford, right?

15 A Yeah. They both are.

16 Q Okay. And you have asserted that Mr. Werner  
17 was representing the Hartford and not Ms. Sei. Am I  
18 identifying that correctly?

19 A That's just what I thought. Yes.

20 Q And so if that was the case, wouldn't  
21 Ms. Baarson be Mr. Werner's client in the dispute?

22 A No, that's not how it works with coverage  
23 counsel. They work together to answer questions so they  
24 can come up with a plan on behalf of the Hartford. So  
25 Kat had legal questions, you know. They call it routine,

1 but it's not a true retention with an attorney/client  
2 privilege. That's why you had in-house counsel to answer  
3 legal questions so you're not always sending it out to  
4 panel counsel and paying \$200 an hour that keeps on going  
5 up. So they're working together on a joint front.

6 Q Okay. So what you're saying is that even if  
7 Mr. Werner was counsel for the Hartford, Ms. Baarson is  
8 not covered by that representation so you can continue to  
9 communicate with her. That's what you're saying, right?

10 A I don't think I'm saying it exactly that way.  
11 What I can tell you is I remember this specific one  
12 because I'm actually really careful when people step in  
13 and say hey, I represent this person.

14 But when you're dealing with claims reps and  
15 you're dealing with a settlement, they want to stay  
16 involved. And you normally ask, and it's always my  
17 custom to ask, say hey, do you want me to keep you on  
18 email strings? Do you want me to keep communicating with  
19 you?

20 And Kat, like she testified to, she is very  
21 hands-on and she's said, hey. Just keep me on the email  
22 string, but this has been sent off for a legal question  
23 of dual coverage. I'm sorry. I want to clarify that. I  
24 might have just when I said I sent off to coverage, I  
25 don't have specific knowledge of that, but I think

1 because this is just a coverage issue, I don't have  
2 specific knowledge that she told me that, so I just  
3 wanted to clarify. So sorry about that.

4 Q Okay. I'm going to show you Exhibit 8 again.  
5 And ignoring the email header at the very top which is  
6 how the State Bar came to have this email string, going  
7 to that second header, are you looking at an email that  
8 you sent on December 21st, 2020, at 2:14 p.m.?

9 A Yes, I'm looking at that.

10 Q Okay. And just to make sure I've got my  
11 record, this is previously admitted Exhibit 8. To whom  
12 is your email addressed?

13 A To Mr. Werner and Ms. Baarson.

14 Q Okay. And so you're continuing to email both  
15 Mr. Werner and Ms. Baarson, right?

16 A Yes.

17 Q And you're maintaining that Mr. Werner was  
18 representing the Hartford in these negotiations, right?

19 A Yes.

20 Q Did you have a conversation with Mr. Werner  
21 that authorized you to continue communicating with  
22 someone at the Hartford?

23 A You know, I don't remember that specifically,  
24 so I can't say yes or no. But I guess based on the fact  
25 that I'm getting communications from Mr. Werner that has

1 Kat on them, so if you look at page 202 --

2 Q I'm actually going to move on.

3 A Oh, I'm sorry.

4 Q It's okay. I'm trying to look at Exhibit 11  
5 now.

6 A Okay.

7 Q Cool. So you're on Exhibit 11 in the binder?

8 A Yes.

9 Q Okay. And again, just for purposes of  
10 clarification, we're looking at an email that you sent on  
11 January 7th, 2021, at 11:26 a.m., right? That's the  
12 first page.

13 A That's what it says.

14 Q Okay. And the second page actually is time  
15 stamped the same exact date and time. Right?

16 A Okay.

17 Q Okay. So we're looking at the same pages.

18 A Yes.

19 Q Okay. And this is the email where you sent  
20 Mr. Werner and Ms. Baarson the complaint and the proof of  
21 service that you filed against Ms. Sei. Right?

22 A Yes.

23 Q Okay. And did you include that additional  
24 letter that you had sent to Ms. Sei?

25 A No.

1 MS. FLOCCHINI: Those are all of the  
2 questions that I have right now, Mr. Harsh. Thank you.  
3 I'm going to pass the witness. I'm not sure if it's the  
4 panel or Mr. Moore's preference to just cross-examine on  
5 the particular issues or to go beyond so that we have one  
6 set of testimony. I'll defer.

7 MR. MOORE: I can just ask a few questions  
8 that are within the scope of what's been asked.

9 CHAIR STOVALL: I'm going to let you make  
10 that decision, Mr. Moore, however you want to proceed is  
11 fine with me.

12 MR. MOORE: Thank you. I appreciate that.

13

14 CROSS-EXAMINATION

15 BY MR. MOORE:

16 Q I'm just going to go back to the  
17 conversation, Mr. Harsh, that you had with Bar counsel  
18 where you were asked questions about whether the extent  
19 of a claimant's injuries can determine coverage. I  
20 believe that really evolved back to the extent of the  
21 client's injuries. It's the nature or type of the  
22 claimant's injury that will determine coverage. Is that  
23 right?

24 A Well, it's the facts surrounding that deal  
25 with coverage not the injury itself. But what I can tell

1 you is depending on the severity of the injury and the  
2 cost of the event, sometimes they will allow coverage as  
3 a business decision.

4 Q So that the panel members can understand what  
5 the insurance issue was as far as what amount of money  
6 could be available to compensate your clients for their  
7 damages, is it true that the issue is how many policy  
8 limits existed in this matter where they satisfied a  
9 damage claim?

10 A That's correct.

11 Q One policy limit clearly was for  
12 Mr. Clements' injuries, and under the policy, you knew  
13 that was \$100,000; correct?

14 A That's correct.

15 Q The second policy limit was for \$100,000 if  
16 Ms. Clements had the type of injury that would be covered  
17 under that additional limit. Is that correct?

18 A That's correct. So our whole discussion  
19 dealt with is this a loss of consortium claim which is  
20 not covered or is it a negligent infliction of emotional  
21 stress claim, which is covered. And all of our  
22 discussions dealt with the differences between hey, do we  
23 have facts to support negligent infliction of emotional  
24 distress claim or are we just under a lawsuit consortium  
25 claim.



1 Q Turning to the discussion we had just a few  
2 minutes ago between you and Bar counsel on Exhibit 8,  
3 where it was pointed out that there were email  
4 communications that you addressed to both Mr. Werner and  
5 Ms. Baarson, did Mr. Werner ever object to you and say  
6 hold it. You can't be talking with Ms. Baarson?

7 A No, because how panel counsel works is  
8 there's actually -- there's law on this. There's a  
9 Trifecta relationship between how it all works. So no,  
10 he never objected, and I was just doing what Kat wanted  
11 me to.

12 MR. MOORE: That's all the questions I have  
13 at this time.

14 CHAIR STOVALL: Any redirect?

15 MS. FLOCCHINI: No, thank you.

16 CHAIR STOVALL: Okay. It's 12 minutes to  
17 noon. What's everybody's pleasure? Do we want to push  
18 through? Do we want to take a break for lunch? What do  
19 you want to do?

20 MS. FLOCCHINI: I can tell you that the Bar's  
21 case-in-chief is concluded, so I can pass on that or rest  
22 is the right word, so if that helps analyze where we want  
23 to go.

24 CHAIR STOVALL: Okay. That's helpful.

25 Mr. Moore, what's your preference at this

1 point?

2 MR. MOORE: I don't know how long.

3 CHAIR STOVALL: I don't know how long your  
4 case is going to be and I'm not trying to rush you along.  
5 Do you want to take a break? Do you want to push  
6 through? What's your pleasure?

7 MR. MOORE: I think we can push through  
8 because my estimate is that the respondent's case is  
9 around an hour. Clearly, that would go into what would  
10 ordinarily be a lunch hour, but we don't mind going  
11 through. But obviously, we'll defer to what the panel  
12 prefers.

13 CHAIR STOVALL: Let me ask the other members  
14 of the panel. Do you guys want to push through or do you  
15 want to take a break? Any preference?

16 MR. LABADIE: I'm good going straight through  
17 if everybody else is.

18 MR. FLOETTA: Same for me.

19 CHAIR STOVALL: What I'd like to do at this  
20 point is take a short break. Let's take ten minutes, and  
21 we'll come back in and finish this up and go from there.

22 (Recess.)

23 CHAIR STOVALL: We'll go ahead and -- Go  
24 ahead. I'm sorry.

25 MR. MOORE: I apologize. I was just going to

1 say our next witness that I'd like to call is Chris  
2 Turtzo, who is cooperative, but we have served with a  
3 subpoena, and he sent me a text saying he's working on  
4 logging in. I presume he has to be let in.

5 MS. PETERS: Correct. He's not in the  
6 waiting room yet.

7 MR. MOORE: In order to save time, I don't  
8 mind if we just go ahead and I can ask Mr. Harsh  
9 questions, and I don't mind if he's interrupted just so  
10 that we're being efficient and Ms. Peters can just tell  
11 us when Mr. Turtzo is on. I expect him to be on any  
12 moment, but I get it technology sometimes isn't always  
13 friendly.

14 CHAIR STOVALL: Are you okay with that, Ms.  
15 Flocchini?

16 MS. FLOCCHINI: That's fine. I just want to  
17 make sure that, you know, like Ms. Baarson was trying to  
18 use the wrong Zoom link. So I just want to -- I guess if  
19 we get all the way to the end of Mr. Harsh's testimony  
20 and Mr. Turtzo still hasn't shown up, we'll deal with it  
21 then.

22 CHAIR STOVALL: That's right. We'll just  
23 deal with it then. So go ahead.

24 Mr. Moore, proceed with your case.

25 MR. MOORE: I will. And I think that Bar

1 counsel has an excellent point. I'm just typing a  
2 message to let us know if you are to be let into the Zoom  
3 room. Thanks. You can tell how slow I am at texting  
4 here, but we can start with Mr. Harsh.

5

6 CONTINUED CROSS-EXAMINATION

7 BY MR. MOORE:

8 Q Mr. Harsh, in response to Ms. Flocchini  
9 discussed a little bit about your background as an  
10 attorney, one of the things you mentioned is you worked  
11 as an attorney.

12 MS. FLOCCHINI: I apologize for interrupting,  
13 Mr. Moore, but it just occurred to me. Did Mr. Harsh get  
14 sworn in?

15 THE WITNESS: I'm still under oath.

16 MS. FLOCCHINI: Okay.

17 CHAIR STOVALL: Yeah, he did. And I was  
18 going to remind him that he was still under oath, and  
19 I'll do that right now. You're still under oath.

20 Q (BY MR. MOORE:) All right. While you were  
21 working as an in-house attorney for Farmers, what did you  
22 learn about the possible scope of representation by an  
23 in-house attorney?

24 A There's really three different scopes for  
25 in-house attorneys. There is your typical defense in

1 which you would defend people that caused injury, be it  
2 individuals that cause a car accident, homeowners that  
3 cause a slip and fall, corporations that cause a fall,  
4 corporations that hire people that were negligent in some  
5 way. Another one were legal questions that were referred  
6 to you by CR's. Then there are --

7 Q When you say CR's, what does that mean?

8 A I'm sorry. Claim representatives. And then  
9 you have coverage issues that you can do, you have  
10 pre-lit cases that you can deal with. And prelit can  
11 deal with anything. Obviously, it defines itself. It's  
12 pre-litigation.

13 The whole purpose of that is to -- in a  
14 negligence arena, the claim rep files are discoverable,  
15 and then your whole goal is to protect anything from  
16 hiring that attorneys of whether they might evaluate the  
17 cases, PEBs, work product.

18 You might want to retain experts who can do  
19 an accident reconstruction or you might get hired. You  
20 might be disputing coverage or liability with an insured  
21 through an UIM, and you might have to do examinations  
22 under oath like Mr. Werner discussed, and then yeah, so a  
23 myriad of things. But really, three scopes of work.

24 Q And while you were working at Farmers  
25 assisting in-house counsel when you corresponded to a

1 client that you were hired to defend, how would you  
2 identify who you represented?

3 A First paragraph, first line.

4 Q And what would you say?

5 A Please be advised that I've been hired by  
6 Farmers to represent you. Even though I've been hired by  
7 Farmers to represent you, all of my duties as a lawyer go  
8 to you and all of my ethical obligations. It's a form  
9 letter that goes out to all of your insureds.

10 Q Slightly different question now. When you  
11 were working at Farmers and you corresponded to an  
12 opposing plaintiff attorney or claimant attorney  
13 regarding a case where you were hired to defend a  
14 Farmer's insured, how would you identify to that attorney  
15 who you represent?

16 A I mean, literally, this is what everyone  
17 learns their first year of law school. It's a letter of  
18 rep. First line, first paragraph. Please be advised  
19 that I represent the named defendant: Joe Smith. Please  
20 forward me a copy of the summons complaint proof of  
21 service, also pursuant to ethical rule -- I think it's  
22 like 3.7. I can't remember off the top of my head.  
23 Please don't default my client without talking to me  
24 first.

25 MR. MOORE: By the way, I received a text

1 message from Mr. Turtzo saying that he's in the waiting  
2 room right now. This is a logical part where we can  
3 pause if I can ask Ms. Peters if Mr. Turtzo is there.

4 MS. PETERS: Yeah, I let him in.

5 CHAIR STOVALL: Hello, Mr. Turtzo.

6 MR. TURTZO: Yes, sir.

7 CHAIR STOVALL: My name is Eric Stovall. I'm  
8 the panel chair for this disciplinary hearing. Thank you  
9 so much for attending and being a witness. Could you  
10 please raise your right hand to be sworn.

11

12 CHRIS TURTZO,  
13 having been first duly sworn, was  
14 examined and testified as follows:

15 CHAIR STOVALL: Go ahead, Mr. Moore.

16 MR. MOORE: Thank you.

17

18 DIRECT EXAMINATION

19 BY MR. MOORE:

20 Q Good afternoon, Mr. Turtzo. I'll try and get  
21 in the camera back here. You've been served with a  
22 subpoena on this matter; is that correct?

23 A Yes.

24 Q And that question does not imply you're not  
25 cooperating. Just want to make sure that it's clear that

1 you were served with a subpoena. What's the name of the  
2 Hartford claims professional to whom you report to in the  
3 case where you represent Ms. Sei?

4 A Katharine Baarson.

5 Q And I'm probably going too fast. I  
6 apologize. We've had other testimony, and I think people  
7 understand that you've been engaged to represent Ms. Sei  
8 as the defense attorney. When did you approximately  
9 start representing Ms. Sei?

10 A January of this year.

11 Q Since you started representing Ms. Sei in  
12 January of this year, to your knowledge, has Ms. Sei ever  
13 waived any privilege regarding any communication she has  
14 had with any attorney?

15 MS. FLOCCHINI: Objection. Relevancy.

16 MR. MOORE: Your Honor, it does have to do  
17 with the prior questioning that we had of Mr. Werner and  
18 the Exhibit 4.

19 MS. FLOCCHINI: And I'll objection to the  
20 relevancy of that.

21 CHAIR STOVALL: Okay. I'm going to sustain  
22 the objection. Whether Mr. Werner has violated client  
23 confidence doesn't matter. So we're going to proceed on.

24 Q (BY MR. MOORE:) To your knowledge,  
25 Mr. Turtzo, has Mr. Harsh ever tried to contact your



1 client Ms. Sei after your firm filed an answer on behalf  
2 of Ms. Sei in this matter?

3 MS. FLOCCHINI: Objection. Relevancy.

4 CHAIR STOVALL: I'll allow it.

5 THE WITNESS: The question is has Mr. Harsh  
6 attempted to communicate ex parte with Ms. Sei to my  
7 knowledge during my representation of her?

8 MR. MOORE: Correct.

9 THE WITNESS: No, to my knowledge, Mr. Harsh  
10 has not attempted to engage in any such communications  
11 since I was retained to represent Mrs. Sei in the case.

12 Q (BY MR. MOORE:) And, Mr. Turtzo, that really  
13 concludes my questioning of you. I will note that you  
14 and I have had conversations where I wanted you to be  
15 able to be here when we're asking questions of Ms. Sei  
16 just to make sure that there would be no question posed  
17 to Ms. Sei that would cause any issue or that you thought  
18 was in any way objectionable because of the underlying  
19 case. And so I'm just setting the context for you and  
20 everybody on the panel here.

21 With that understanding, I'm passing the  
22 witness.

23 MS. FLOCCHINI: Thank you for that  
24 recitation. The Bar doesn't have any objection to  
25 Mr. Turtzo remaining in the hearing in order to -- I

1 don't want to say defend Ms. Sei, but to protect that  
2 interest and the underlying litigation, and I have no  
3 questions for Mr. Turtzo in the disciplinary proceeding.

4 MR. MOORE: And since now we're at that  
5 point, Mr. Chair, what I would ask is Ms. Sei is able to  
6 call in. She doesn't have the technology ability as I  
7 understand it to actually meet by Zoom, but we have  
8 issued a subpoena to her and we have coordinated with  
9 Mr. Turtzo, so if she can call in, we can illicit  
10 testimony in that fashion.

11 CHAIR STOVALL: That's fine. Is it your  
12 intention to do that right now?

13 MR. MOORE: Yes, we'd like to do that.

14 CHAIR STOVALL: Okay. Go ahead, please.

15 MR. MOORE: And, Mr. Turtzo, I will defer to  
16 you based on your conversations with your client that I  
17 don't want to know about obviously the content, but I'm  
18 deferring to as to what would be the best method to  
19 either have her call in directly or call in through  
20 speaker phone. The questions will not be lengthy.

21 MR. TURTZO: Okay. I am texting with her. I  
22 let her know that we expected to try and reach her. The  
23 easiest thing would be for me to call her on speaker  
24 phone, and I could hold it up if you guys should be able  
25 to hear that. If she's -- for those who don't know,

1 Ms. Sei is elderly and at home taking care of her  
2 husband, so that may be the easiest rather than having  
3 her try and call into the Zoom, but I don't want to try  
4 and engage that before everyone thinks it's acceptable.

5 CHAIR STOVALL: I'm fine with that as long as  
6 the quality is sufficient. That's great.

7 MR. TURTZO: So my thought is we'll try that  
8 first. I'm going to mute you guys while I get her on the  
9 phone. Then I'll jump back on, and if for some reason  
10 there's feedback or other problems, then I'll try and  
11 have her call in on the Zoom call line and walk her  
12 through that. Sound good?

13 CHAIR STOVALL: Great. Thank you.

14 MS. GRIFFITH: Just give me one minute.

15 MS. FLOCCHINI: And I would just suggest that  
16 we keep an eye on while Mr. Turtzo is doing that, that we  
17 keep on eye on our court reporter to make sure that she's  
18 able to hear. It's hard for her to indicate to us that  
19 she can't hear, and so we should just be mindful of that.

20 MR. TURTZO: Yeah. My concern is there may  
21 be some feedback, but we'll try our best and just bear  
22 with me. I appreciate everyone's patience in working  
23 with Ms. Sei.

24 (Brief interruption.)

25 CHAIR STOVALL: Hi. My name is Eric Stovall.

1 I'm the panel chair for this proceeding. Can you hear me  
2 okay?

3 MS. SEI: I can hear you fine.

4 CHAIR STOVALL: Great. Would you please  
5 raise your right hand to take the oath of a witness.

6

7

8 SANDRA MARIE SEI,  
9 having been first duly sworn, was  
10 examined and testified as follows:

11

12 CHAIR STOVALL: Would you please state your  
13 name for the record.

14 THE WITNESS: Sandra Marie Sei.

15 CHAIR STOVALL: Thank you. Go ahead,  
16 Mr. Moore.

17 MR. MOORE: Thank you.

18

19 DIRECT EXAMINATION

20 BY MR. MOORE:

21 Q Hello, Ms. Sei. My name is Christian Moore.  
22 Do you hear me okay?

23 A I can hear you, Mr. Moore.

24 Q And you were served with a subpoena to  
25 testify here today?

1 A Correct.

2 Q And I'll represent to you we've been  
3 coordinating with your attorney, Mr. Turtzo, and is  
4 Mr. Turtzo the attorney who you understand was hired to  
5 defend you in the claims arising out of an automobile  
6 accident where the claimants are the plaintiffs.

7 A I understand.

8 Q Have you ever communicated with any other  
9 attorney regarding this case of who you understood was  
10 representing you other than Mr. Turtzo?

11 A Not that I recall.

12 MR. MOORE: That's all the questions I have.

13 THE WITNESS: That was good. I like that.

14 CHAIR STOVALL: Well, hold on a second.  
15 We're not necessarily out of the woods yet. We have the  
16 counsel for the State Bar of Nevada may have some  
17 questions for you and then the panel members may have  
18 some questions for you.

19 Go ahead, Ms. Flocchini.

20 MS. FLOCCHINI: Thank you, Chair. Good  
21 afternoon, Ms. Sei. My name is Kait Flocchini, and I  
22 represent the State Bar in these proceedings. We  
23 appreciate you taking the time and the effort to appear  
24 at the proceedings, and I'll just let you know that the  
25 Bar doesn't have any questions for you. So thank you.

1 THE WITNESS: Thank you.

2 CHAIR STOVALL: Does any of the panel members  
3 have any questions?

4 MR. LABADIE: I don't.

5 CHAIR STOVALL: Ms. Sei, I know this is a  
6 long process just to get you here, but that's it. We're  
7 done.

8 THE WITNESS: It's a learning experience for  
9 me. Thank you very much for your time.

10 CHAIR STOVALL: Thank you, ma'am. Bye-bye.

11 Ms. Turtzo, thank you very much.

12 MR. TURTZO: Thank you.

13 CHAIR STOVALL: Are we done with Mr. Turtzo?

14 MR. MOORE: We are.

15 CHAIR STOVALL: Okay. You're free to go,  
16 too. Thank you so much. I appreciate it.

17 MR. TURTZO: Good afternoon, all. Have a  
18 nice day.

19 CHAIR STOVALL: Bye now. Okay. So we'll go  
20 back with the defense's case, your questioning of  
21 Mr. Harsh.

22

23

24 CONTINUED CROSS-EXAMINATION

25 BY MR. MOORE:

1 Q Thank you, Mr. Chair. And we'll pick up  
2 here. Before we took a break to elicit testimony from  
3 Mr. Turtzo and Ms. Sei, Mr. Harsh, you had discussed the  
4 different scopes and roles based on your experience that  
5 in-house counsel may have of specifically what you had at  
6 Farmers. Do you recall that testimony?

7 A Yes, but it's just what I had at Farmers.  
8 It's also what I had at Watson Rounds and what I had at  
9 Thorndal Armstrong in which I also got assigned roles  
10 from other insurance carriers and worked with other  
11 insurance carriers during that time, too.

12 Q Are you saying that when you have worked at  
13 other law firms because of the nature of your work, you  
14 became familiar with what other in-house attorneys would  
15 do for other insurance companies?

16 A Yes, and panel counsel.

17 Q To be clear, in your experience when you were  
18 working for Farmers, were there occasions when an  
19 in-house attorney would work on a coverage matter?

20 A Yes.

21 Q Shifting gears here, do you currently  
22 represent David and Sheela Clements?

23 A I do.

24 Q When did you first start representing the  
25 Clements?

1 A The day after the accident.

2 Q And to put things in context, what's your  
3 basic understanding of the underlying facts of the case?

4 A Well, it's a lot more than just basic. It's  
5 on November 5th -- well, it actually starts before that.  
6 David Clements suffered chronic bilateral hip pain and  
7 low back pain. He's in his late 50s, early 60s. A few  
8 years before, he had bilateral hip replacement surgery.

9 He is a painter by profession, was pretty  
10 hard on his body, and then about two weeks before the  
11 crash, he had low back surgery, Dr. Lynch. Before the  
12 surgery -- and this is just chronic degenerative  
13 age-related issues from his life. He, on November 5th,  
14 he was going for his first physical therapy walk from  
15 after the surgery and for all intents and purposes, the  
16 surgery was a huge success: Zero radiculopathy, zero low  
17 back pain, and was literally looking at some of the  
18 better pain-free years of his life.

19 So he goes walking down to a store. Him and  
20 his wife at the time were living just off of York at the  
21 intersection of Pyramid and York. It's an extremely busy  
22 intersection. I believe that there's three lanes of  
23 travel heading north and south and there might be turn  
24 lanes on Pyramid. He goes a couple of blocks south on  
25 Pyramid to a local store.



1 I think he was getting -- I think he was  
2 actually getting a cigar or maybe cigarettes. I know  
3 that there's -- his wife doesn't want him smoking, so I  
4 think he was getting one cigar and a drink, it was I,  
5 think a water, and he was returning back and got  
6 sidetracked with a friend of his who was a smog  
7 technician.

8 He got a phone call from his wife, Sheela,  
9 because he'd been gone a lot longer and she started to  
10 worry because he had just low back surgery, and he said I  
11 was just a walk away. I'll head over now. Five minutes  
12 go by. Ten minutes go by. And she starts freaking out  
13 because he should have been home by now.

14 Unbeknownst to her, Ms. Sei made an improper  
15 turn from York onto Pyramid running David Clements over,  
16 severing his spinal cord at I want to say L1 and L2,  
17 permanently paralyzing him for the rest of his life. And  
18 he was splayed out in the crosswalk.

19 A little after that, but after emergency  
20 technicians were on scene, Ms. Sei -- I'm sorry. My  
21 client, Sheela, gets in her car and just is going to go  
22 try to find her husband at which point she comes across  
23 this emergency scene, sees David in the crosswalk and she  
24 thinks he's dead and zips in. There's this little  
25 shopping center. She parks. She starts running towards

1 the crosswalk.

2 The police officer stops her says hey, don't  
3 go over there. He's okay right now. You've got to let  
4 them do what they're doing. She's freaking out,  
5 obviously, and they transport David to Renown, and they  
6 perform emergency surgery to no avail, severed spinal  
7 cord.

8 Q I'll note that the traffic accident report  
9 has been admitted as Exhibit C, but that's for the panel  
10 to review if they choose to. Was there something you did  
11 to try to find a way to have your clients compensated for  
12 their damages?

13 A Well, the first thing I did is I sought to  
14 get the police report. Obviously, this is -- it takes  
15 about ten days to get police reports, but because of the  
16 severity of this accident, all I'm looking for is  
17 insurance coverage to try to get some basic information.

18 I got the insurance information from Sheela  
19 Clements with regard to their policy through American  
20 Family. I sent them a letter of rep media link, and then  
21 a few days later, I found out I got a telephone call. It  
22 might have been the next day I got a telephone call from  
23 the investigating officer from RPD.

24 I explained to her that David is paralyzed,  
25 and while I understand that the police report has not and

1 is not finished and will probably not become public for a  
2 while, especially because of the severity of this  
3 accident, I need to figure out what insurance Ms. Sei  
4 had.

5 And normally at accident scenes, the officers  
6 will do an exchange of information sheet so everybody has  
7 that information. Unfortunately, when one is going into  
8 emergency surgery and is paralyzed, some of these things  
9 get missed. But that officer -- I can't remember her  
10 name -- but she was more than happy to give me the  
11 information from the Hartford and the policy. And then I  
12 sent the Hartford a letter of rep.

13 Q When you say "letter of rep," is that a  
14 letter of representation?

15 A That's correct.

16 Q And when you do that, do you identify who  
17 your clients are?

18 A That's correct.

19 Q And how do you do that?

20 A It's always in the body of the letter. First  
21 paragraph, first line. Please be advised that this firm  
22 represents these people. Name them. And please have no  
23 further conversations with these clients. If you  
24 received any releases, this revokes any prior releases.  
25 And what I do is I provide a complete list of treating

1 providers and I then get new releases to the insurance  
2 carrier so they can go out and independently get medical  
3 documentation if they want.

4 Q Did anybody respond to a letter that you sent  
5 to the Hartford?

6 A Yeah. A few days later, I believe I got a  
7 voicemail from Ms. Baarson, and then there was a  
8 follow-up email, I believe, for Ms. Baarson. But I could  
9 be mistaken.

10 Q And by the way, I sometimes say  
11 Ms. Baarson/Bearson. I don't know which is correct, so  
12 please don't defer to my question here, but did you have  
13 multiple phone conversations with Ms. Baarson or Ms.  
14 Baarson?

15 A Are you saying from -- well, during my entire  
16 representations, I'd had multiple telephone conversations  
17 with Kat.

18 Q And let me ask then a better question. When  
19 you first conversed with Ms. Baarson, was there a  
20 discussion of what insurance was available?

21 A Yes.

22 Q And what did you understand from that  
23 discussion?

24 A Well, Ms. Sei had a 100/300 policy. So what  
25 that means is no one person could get more than \$100,000

1 and there's a \$300,000 cap period.

2 Q Was there any discussion as to whether or not  
3 what policy limit should apply?

4 A Yes.

5 Q And what was that discussion about?

6 A The whole discussion with Kat dealt with  
7 coverage. It's this loss of consortium claim or this  
8 negligent infliction of emotional distress claim. And I  
9 was trying to give Kat all of the information as it was  
10 coming in, you know.

11 Clearly there's not going to be enough money  
12 involved based off of what I had in front of me to  
13 compensate her with a paralyzed man. We have \$100,000  
14 policy and that's it. And sadly, that whole \$100,000  
15 will never be seen by David at all because it's going to  
16 go to other providers.

17 So, you know, my job was to try to secure  
18 means that actually this family could use to deal with a  
19 life-changing event such as new bathroom, new shower,  
20 ramps to the house, a new car. You know, normally, that  
21 takes hundreds of thousands of dollars to deal with in  
22 any event, and we don't have any of that for this  
23 devastating injury.

24 Q When you communicated with Ms. Baarson, was  
25 it just through phone calls or were there also written

1 correspondence?

2 A Written correspondence and emails.

3 Q All right. So let's take a look at what's  
4 Exhibit D. And looking at Exhibit D, there's already  
5 been some discussion about that. But on that Exhibit D,  
6 can you read where the first part of that email is, the  
7 first portion where you're corresponding to Kat?

8 A It all starts with my letter of rep because I  
9 know how serious this injury is. In my letter of rep, I  
10 also do a spoliation of evidence, and I request certain  
11 documents, and she responds to me via e-mail asking --  
12 sending me pictures and dealing with some property damage  
13 to her vehicle.

14 Q And to be clear, you were just referring to  
15 what's Exhibit D: State Bar Number 31 on the lower  
16 right-hand side?

17 A Yeah.

18 Q All right. So there's that. And then do you  
19 correspond to her?

20 A Well, yeah. But you've got to realize this  
21 is when they first tendered the \$100,000 to resolve  
22 David's claim and to also then pay all of her liens out  
23 of that hundred. So in short, David gets nothing out of  
24 that.

25 Q All right. And so you get offered the

1 \$100,000. What happens next through the correspondence?

2 A I respond to Kat saying no. As discussed,  
3 this is not a derivative claim like a loss of consortium.  
4 It is a separate for negligent infliction of emotional  
5 distress.

6 I believe that each plaintiff is entitled for  
7 a separate recovery of a hundred thousand for each claim.  
8 For example, one hundred to Sheela for negligent  
9 infliction of emotional distress and one hundred to David  
10 for negligence and negligence per se. Please feel free  
11 to call to discuss.

12 Q All right. So you send that email and then I  
13 take it she responds to you?

14 A Yeah. I mean, and this is -- I expected this  
15 because this is our first conversations that we had. I  
16 disagree. We'll chat with our legal. And like she  
17 testified, she then sends it to Mr. Werner.

18 Q And in the context when she says I disagree,  
19 what is your understanding as to what she is disagreeing  
20 about?

21 MS. FLOCCHINI: Speculation.

22 MR. MOORE: It is finding out what this  
23 witness's understanding is based on what we have here in  
24 front of us.

25 MS. FLOCCHINI: But you have --

1 CHAIR STOVALL: I'll allow the question.

2 MS. FLOCCHINI: I understand.

3 Q (BY MR. MOORE:) What was your understanding  
4 as to what Ms. Baarson was referring to when she says I  
5 disagree?

6 A That she disagrees with my analysis of loss  
7 of consortium and negligent infliction of emotional  
8 distress and she's sending it out.

9 Q What did you do after you were informed that  
10 Ms. Baarson would be getting an attorney to look at the  
11 issue?

12 A I just continued my investigation to try to  
13 get more facts to support David's claim, the causes of  
14 action and Sheela's cause of action. And then shortly  
15 thereafter, I believe she sends me an email saying that I  
16 need some legal authority to your position.

17 Q And that's something that was referenced  
18 early on in testimony that's Exhibit E where she asks for  
19 authority?

20 MS. FLOCCHINI: I apologize. What are we  
21 looking at?

22 MR. MOORE: E as in echo.

23 THE WITNESS: That's correct.

24 Q (BY MR. MOORE:) So as a result of getting  
25 what we identify as Exhibit E here, which is the email



1 from Ms. Baarson dated November 11th of 2020, with the  
2 time stamp of 12:32 -- and by the way, I digress a little  
3 bit. There was some time stamps. As you've looked at  
4 this matter, do the time stamps deal with local time from  
5 the center?

6 A That's what I'm assuming. I have no clue.

7 Q Just if there's any discrepancies, people  
8 might find that helpful to know that. So let's get back  
9 to you receive the email where she asks for legal  
10 authority, and what do you do as a result of that?

11 A I draft my demand letter which is Exhibit 3.

12 Q Okay. So let's go to Exhibit 3. And looking  
13 at Exhibit 3, do you identify in the letter who you  
14 represent?

15 A Yeah, just like you're supposed to do. The  
16 first paragraph: As you are aware, this office  
17 represents the interests of David and Sheela Clements in  
18 connection with injuries they sustained in a motor  
19 vehicle accident that occurred on November 5th, 2020.

20 Q And by the way, when you'd reading, you might  
21 want to slow down for our court reporter sometimes is  
22 challenged. I have the same issue when I'm reading  
23 things.

24 But when we look at Exhibit 3, and if we look  
25 at the page that is marked on the bottom right-hand

1 corner SBN 36, do you discuss why a negligent infliction  
2 of emotional distress claim is not a derivative claim?

3 A Yeah. This is what she wanted, so I gave her  
4 the case law, feeling how it's not a derivative claim and  
5 some other case law dealing with how coming on the scene  
6 creates negligent infliction of emotional distress. And  
7 I tried to be clear, and that's why I give the causes of  
8 action and I break it up to David's causes of action and  
9 Sheela's cause of action.

10 And just also to be clear, even though I  
11 would sue you for a loss of consortium for the academic  
12 exercise dealing with the Hartford, they only care about  
13 the negligent infliction of emotional distress because  
14 the loss of consortium somehow is a derivative claim out  
15 of David's claims.

16 Q And the \$100,000 for injury to David has  
17 already been really exhausted?

18 A It's gone.

19 Q Okay. So now, if we look at page three, also  
20 known as SBN 37, on that page, do you ask for the  
21 identity of Ms. Sei's personal attorney?

22 A Correct. I do.

23 Q And why did you ask for the identity of  
24 Ms. Sei's personal attorney?

25 A Well, because Ms. Sei has a different -- from

1 day one on this case, Ms. Sei has a conflict of interest  
2 with the Hartford. The Hartford, you know, their goal is  
3 to pay the contractual no matter what. Here's my  
4 100/300. I'm done. And you have catastrophic injuries.

5 I mean, just the surgery alone to put  
6 together his spine was over \$200,000. So she has  
7 possible exposure, and I actually outlined that in my  
8 demand letting saying hey, if you want to personally  
9 contribute another hundred thousand, feel free to. So  
10 from day one on this, there's a conflict of interest in  
11 the Hartford.

12 Q Did Ms. Baarson ever tell you who was  
13 representing Ms. Sei?

14 A No.

15 Q Specifically, did Ms. Baarson ever tell you  
16 that Mr. Werner would be representing Ms. Sei?

17 A No.

18 Q Did you receive a response to the demand  
19 letter we were just discussing as Exhibit 3?

20 A No. I guess sort of.

21 Q In that case --

22 A It wasn't a complete response.

23 Q I'm going to take us to Exhibit F. And  
24 Exhibit F, which by the way it's been admitted into  
25 evidence already by agreement of the parties. That's

1 something you received from Ms. Baarson?

2 A Correct.

3 Q And what is she doing there?

4 A She's actually asking for additional time to  
5 -- and these are magic words in the insurance industry --  
6 to reasonably and timely evaluate a claim. So she needs  
7 an additional three weeks, and I always give a  
8 professional courtesy and sure. Have the extra three  
9 weeks that you can answer your questions.

10 Q And as we look at what's been marked as  
11 Exhibit G, is that where you grant the request?

12 A Well, I think that there was a telephone  
13 call, but when you're dealing with time-sensitive  
14 information, you always want to follow it up with  
15 something in writing. They really want that for their  
16 files, so I also sent them an email.

17 Q And so that information would have been --  
18 I'm sorry. Strike that. So there was a three-week  
19 extension as of December 1st. Is that correct?

20 A Yes.

21 Q Okay. So than then, if I do my math right,  
22 that brings us to December 21st. Is that correct?

23 A That's correct.

24 Q All right. Did you receive any communication  
25 from Ms. Baarson by the 21st in response to the demand

1 that you had presented?

2 A I got a telephone call from her.

3 Q And what happened in that telephone call?

4 A I mean, she's extremely nice. She goes hey,  
5 I've sent this off for an opinion dealing with the  
6 negligent infliction of emotional distress. Please  
7 e-mail Reed Werner. I want to keep communication lines  
8 open for negotiations. I think we talked about her cats.  
9 And because the time when it was coming up, I sent an  
10 email to Mr. Werner and Kat.

11 Q And is that email contained in Exhibit 7?

12 A Yeah, it's at the bottom of Exhibit 7.

13 Q So what was the purpose of your contacting  
14 Mr. Werner as what we have documented in Exhibit 7?

15 A Well, I'm just reminding him that there is a  
16 policy limits demand that is pending. I tell him it  
17 expires today and then feel free to call me. And because  
18 time is of the essence, I gave her my cell phone.

19 Q And did you receive a reply from Mr. Werner  
20 on that date?

21 A I did. I got a response and then later that  
22 day, I got a telephone call.

23 Q When you received the response -- and to be  
24 clear, that's on Exhibit 7 and the page that I'm  
25 expanding right there, you see that it's from Reed

1 Werner. Have you dealt with him before?

2 A No, I think this is our first time.

3 Q And when you received the email from him, was  
4 there anything identifying what his role could be in this  
5 matter?

6 A Are you talking about in the to/from  
7 sections?

8 Q Correct.

9 A Yeah. So you have Reed Werner, who is  
10 dealing with claims solution analytics and Kat, who is a  
11 liability claims.

12 Q And so based on your experience when you saw  
13 claims solution analytics, what did that mean to you?

14 A He's analyzing claims.

15 Q And there was also a reference in an  
16 attachment? And do you see where it says LTRPC  
17 requesting additional info draft doc? Do you see that?

18 A Yeah. PC means plaintiff counsel. This is a  
19 letter to plaintiff's counsel requesting additional info,  
20 and it's a draft.

21 Q All right. And that draft, is that draft  
22 what we have discussed in your earlier testimony as  
23 Exhibit 5?

24 A That is correct. That was the draft.

25 Q And there's been a discussion that later on

1 you would have received a letter that's marked as Exhibit  
2 H, which has some differences, but obviously, they say  
3 whatever they say?

4 A Right. It's just H was the one that -- this  
5 is all -- I mean, it's been formatted. You can tell that  
6 five is not formatted. It's just one chunk of, you know,  
7 whatever he's saying.

8 Q And did you -- when you received the letter,  
9 did you see on the very top where there's a portion that  
10 has re Clements, David and Sei, Sandra, and then below it  
11 says: Our client Sandra Sei?

12 A No, I didn't even look at that.

13 Q Why not?

14 A Because I got an email from him. I knew what  
15 this was regarding, and it was in the regard section of  
16 the email. All I do was open up the letter, read it,  
17 noticed that they thought that we resolved the Clements'  
18 case, the dated section for a hundred, and then they  
19 asked for some additional information dealing with some  
20 coverage issues.

21 Q Was it accurate that it was resolved for  
22 \$100,000?

23 A It wasn't. And that's why I followed up with  
24 an email shortly after reading that part. I mean,  
25 literally, all I cared about was whoa, Reed, David hasn't

1 resolved. This is both of them not individual, and I  
2 wanted to make sure that was clear.

3 Q And did you see anywhere in the body of the  
4 letter where Mr. Werner states that Ms. Sei is his  
5 client?

6 A No, it's not in the body. I wish it was, but  
7 it's not.

8 Q Let's return to Exhibit 7. And so this is  
9 the email that accompanies what we were just talking as  
10 Exhibit 5; correct?

11 A Yes.

12 Q And it says: "I need a little more  
13 information on the claim in order to make a  
14 recommendation." What was your understanding of what  
15 recommendation Mr. Werner was referring to?

16 A Coverage.

17 MS. FLOCCHINI: Objection. Calls for  
18 speculation.

19 CHAIR STOVALL: Well, he can testify to his  
20 understanding. That doesn't mean it's accurate, but  
21 that's his understanding.

22 Q (BY MR. MOORE:) Let's take a look at another  
23 exhibit now, Mr. Harsh. We're going to navigate to  
24 Exhibit O. And this is another exhibit that's been  
25 previously discussed in today's hearing. But if you can



1 help remind us if that's an email string between you and  
2 Mr. Werner.

3 A That is correct.

4 Q And that email string, what date are we  
5 talking about here?

6 A Let's see here. It looks like it starts on  
7 December 22nd at 9:41 a.m. and concludes on the same day  
8 at 2:56 p.m.

9 Q And in the email string, what is your  
10 understanding of the purpose of that communication with  
11 Mr. Werner?

12 A Well, it's again clarifying that I'm making a  
13 \$200,000 joint demand on behalf of David and Sheela that  
14 is extended until tomorrow at 4:00 o'clock. And I also  
15 later on say, you know, he wants all of this information,  
16 so I'm telling him also hey, a client, Sheela, is going  
17 to be in my office at noon. If you want to talk to her,  
18 do you want to set up a telephone call, I'm trying to get  
19 him the information that he wants.

20 Q And so we're expanding that you say Sheela  
21 will be in my office at noon. And then does he reply to  
22 that particular part of the email?

23 A He now wants the REMSA records. EMT is the  
24 REMSA records, the ambulance. And he responds: I do  
25 have an EMT report. My insured has a different version

1 of what happened at the scene.

2 Q All right. When the phrase "my insured" is  
3 used, what is your understanding of that phrase?

4 A That is when you're doing work for the  
5 Hartford for dealing with that insured, not as Ms. Sei's  
6 client. Client and insured have -- in-house counsel have  
7 completely two separate meanings. One is you're doing  
8 work for the Hartford, you know, dealing with the  
9 insured. The other one is hey, my client.

10 Q Are there portions in this email string when  
11 you're communicating with Mr. Werner where he's using the  
12 pronoun "we"?

13 A Yes.

14 Q And what is your understanding of who the we  
15 was referring to?

16 A It's page 208 at Exhibit Number O. It means  
17 the Hartford. We have reviewed the limited records  
18 provided and we again offer \$100,000. So it is the  
19 Hartford.

20 Q And you're little ahead of me. Sorry. I'm  
21 not as quick. So you're referring to on page 208 what  
22 I've just expanded here?

23 A Yes.

24 Q Okay. Now, before he presents a Bar  
25 complaint against you, did Mr. Werner ever correct or

1 challenge your understanding that his client in this  
2 matter is only the Hartford?

3 MS. FLOCCHINI: Objection. Calls for  
4 speculation.

5 CHAIR STOVALL: Overruled.

6 THE WITNESS: No, he never did.

7 Q (BY MR. MOORE:) Did Mr. Werner, in any email  
8 exchange with you, use the word "client" to refer to  
9 Ms. Sei in any sentence?

10 A No, he did not.

11 Q During any phone conversation with  
12 Mr. Werner, did he ever identify Ms. Sei as his client?

13 A No.

14 Q By the way, do you recall -- Well, strike  
15 that. What did you do after the December 22  
16 communication?

17 A Drafted a complaint.

18 Q And why?

19 A Well, it was clear that the Hartford was  
20 going to be -- was not going to be affording coverage to  
21 their insured with regard to Sheela's claim, therefore  
22 exposing her to an excess judgment on this case.

23 Q Now, when you prepare a complaint or have a  
24 complaint prepared in your office, do you have to go  
25 through a process to get that complaint to the person

1 you're suing?

2 A Yeah. You know, how it works in my office is  
3 on what you'll see, that page is attached to one's email  
4 strings. When it was clear this settlement negotiation  
5 were falling apart, I added a page. It was an associate  
6 of my firm and asked her to draft a complaint. Once that  
7 complaint is drafted, she and myself or another attorney  
8 in our office review it, finalize it, sign it, get it to  
9 a paralegal. A summons is then issued. Those are filed,  
10 we issue, and then it is personally served.

11 Q And when you're arranging for personal  
12 service, did you arrange for a letter also to accompany  
13 that service?

14 A That's correct.

15 Q All right. And so that's of course what  
16 brings us all here. We'll take a look at Exhibit 10.  
17 And Exhibit 10 is, to be clear, just one page?

18 A Yes, it is.

19 Q And does the letter that's Exhibit 10 ask  
20 Ms. Sei to provide you with any information?

21 A No, it does not.

22 Q Does the letter that's Exhibit 10 ask Ms. Sei  
23 to contact you?

24 A No, it does not.

25 Q Instead, who if anyone did you ask Ms. Sei to

1 contact?

2 A An attorney.

3 Q Anyone else?

4 A No.

5 Q At the Hartford?

6 A Oh, yeah. I actually -- so sorry. The last  
7 paragraph says: "Hey. You've been sued. Give this to  
8 the Hartford."

9 Q Now, prior to your being informed that there  
10 was a Bar complaint, did you have any information from  
11 Ms. Baarson that she had previously communicated with  
12 Ms. Sei suggesting the same thing to her that she could  
13 consult with personal counsel?

14 A I'm so sorry. Did you say at this time did I  
15 know that that --

16 Q Yeah, prior to being involved in a Bar  
17 complaint.

18 A No, I did not.

19 Q Now, what was your intention of the subject  
20 of the letter that is Exhibit 10?

21 A Subject is dealing with personal counsel.  
22 Have your attorney call me to get coverage.

23 Q Now, you have testified earlier that you did  
24 send the summons and complaint to Mr. Werner and  
25 Ms. Baarson; correct?

1 A Correct.

2 Q And just for the record, that's summons and  
3 complaint is in the record as Exhibit A if anyone ever  
4 needed to look at that. But when you sent that to  
5 Mr. Werner and Ms. Baarson, why did you send it to them?

6 A You know, as a counselor, you have to give  
7 opinions dealing with law, economics, finances, and I  
8 already gave them three weeks of additional time. I am  
9 dealing with people with very low means, with a very high  
10 need to resolve some basic living functions.

11 I want to get this thing going, get, you  
12 know, I'm serious about this. Here's the complaint.  
13 Here's the summons. Let's get this thing moving. I  
14 mean, I'm already going to eat up 20 days after service  
15 that they have to appear, file an answer.

16 Now my clients don't have the luxury of time  
17 when literally what happens is when you're paralyzed, you  
18 go from surgery to the ICU. You're in ICU for ten days  
19 and then you're kicked out of the hospital and you are  
20 transported across the street to rehab, and you are  
21 learning how to -- you're learning about your bowel prep  
22 and your bladder prep and how to get in and out of a  
23 wheelchair and how to get in and out of a shower and a  
24 slide board.

25 And what you need to realize is the hospital

1 wants now the rehab hospital will get you out of their as  
2 soon as possible. And what the Clements now need to do  
3 is revamp a bathroom and a ramp and find transportation  
4 and get a wheelchair-accessible car. And you have a time  
5 crunch to be able to properly help your clients with a  
6 minimal amount of money. And I am faced with I'm doing  
7 the best I can for my clients.

8 Q We're getting close to finishing your direct  
9 examination here, but let's wrap up on a few topic areas.  
10 Now, after you'd sent the letter that's Exhibit 10 to  
11 Ms. Sei, to your knowledge, did anyone communicate with  
12 you because of the letter?

13 A No.

14 Q You did receive a letter of representation  
15 from Chris Turtzo; is that correct?

16 A And a telephone call.

17 Q And that was in response to the summons and  
18 complaint. Is that your understanding?

19 A Yes.

20 Q Upon being informed that Mr. Turtzo  
21 represented Ms. Sei, did you send any further  
22 communication to Ms. Sei?

23 A I didn't need to. I have the person I need  
24 to talk to.

25 Q Well, did Mr. Werner make it clear to you

1 that he was representing Ms. Sei?

2 A Yes. His letter of rep is like any other  
3 letter. Please be advised that I represent Sandra Sei.  
4 Please direct all future correspondence to me. Please  
5 send me a copy of the complaint, summons proof of  
6 service. Please reach out to me at your earliest  
7 convenience.

8 And I remember reading a letter, sending a  
9 support task to my paralegal to send the summons and  
10 complaint proof of service and I could have a telephone  
11 call put into him. I can't remember if we talked right  
12 then or if we played phone tag, but shortly thereafter  
13 after receiving the letter, we talked about the facts of  
14 the case.

15 Q Now, to your knowledge, had Mr. Werner ever  
16 done anything to defend Ms. Sei against your client's  
17 claims or the civil complaint that you filed?

18 A No.

19 Q Now how did you find out that Mr. Werner  
20 ordered a State Bar complaint against you?

21 A I got an email.

22 MS. FLOCCHINI: Objection. Relevancy.

23 CHAIR STOVALL: It is relevant.

24 Q (BY MR. MOORE:) Were you able to testify in  
25 front of a screen panel on this matter?



1 A No.

2 MS. FLOCCHINI: Objection. Relevancy.

3 CHAIR STOVALL: You've already included that  
4 in your opening. I think we know that. Let's go on.

5 Q (BY MR. MOORE:) Why didn't you just accept  
6 the letter of private reprimand?

7 MS. FLOCCHINI: Objection. Relevancy.

8 CHAIR STOVALL: I'm going to allow this one.

9 THE WITNESS: You know, I don't believe I did  
10 anything wrong in this case. I have two decades of  
11 experience. I had two months working on a case in which  
12 my client is paralyzed for the rest of his life. And  
13 even though it's a private reprimand, I take pride as a  
14 lawyer like we all do and I take serious pride in  
15 representing catastrophically-injured clients.

16 And even though it's a private reprimand,  
17 it's not a private reprimand. And at the end of the day,  
18 this grievance by Mr. Werner is, I feel, a big insurance  
19 company tactic that says oh, don't you dare. Don't you  
20 dare question us. You know, you take our \$100,000 and be  
21 happy. How dare you question us.

22 And at some point in our careers, we cannot  
23 let a big insurance company dictate when there's a  
24 serious injury. And there are serious questions. And  
25 there is a serious victim who is paralyzed for the rest

1 of their life. So yeah, I'm not going to.

2 Q Well, let me ask you this question. If you  
3 could have a re-do in this matter, what would you be  
4 doing?

5 A Oh, you know, it's always hindsight is great,  
6 you know. I didn't sleep all last night. You think  
7 about what you should have done or what you could have  
8 done. Why am I wasting everyone's time here today?  
9 Yeah, I mean, it's hard when you're dealing with two  
10 months of information and you have a person going oh, but  
11 oh, you didn't see this regards thing. You didn't see  
12 this one thing in this regards.

13 And please ignore 20 years of legal  
14 experience and ignore two months of conversations and  
15 ignore that he's referred to as -- Mr. Werner refers to  
16 Ms. Sei as the insured and ignore that in his first  
17 letter. He refers to them as, you know, an insured. And  
18 nowhere in that it talks about a letter of representation  
19 or the name of the letter that he sends me isn't called  
20 LOR.

21 You know, I am so sorry that we are here  
22 today. You know, if I could do it all over again and  
23 given the hindsight here, yeah, back on what is it?  
24 December 22nd where communications fell through with  
25 Mr. Werner and things were getting heated, yeah, it would

1 have been very easy to have just sent an email that says:  
2 Hey. Please confirm your coverage. I should have done  
3 it.

4 In hindsight, I should have done that. And  
5 let me just tell you going on in the future, that's what  
6 I'm going to be doing every time going on in the future.  
7 It could solve a lot of problems depending on how  
8 Mr. Werner responds to that. If he responds oh, no, I am  
9 Ms. Sei's attorney, you know, then I can do other things.  
10 I can go: Hey. I can ask for a cover letter from Bar  
11 counsel. I can hire an attorney to give me a quick pay  
12 based off all of this, you know, this is a person doing a  
13 covered opinion. He has a direct conflict. Should I  
14 send this letter or shouldn't I send this letter? You  
15 know. But hindsight is always 20/20. That's what I  
16 would have done different.

17 MR. MOORE: That's all the questions I have.

18 CHAIR STOVALL: Thank you. Ms. Flocchini?

19

20 REDIRECT EXAMINATION

21 BY MS. FLOCCHINI:

22 Q Thank you. I'm going to try to be efficient.  
23 And as I do that, I may jump around a bit. I will try  
24 not to lose anybody as I go. Is it fair to say,  
25 Mr. Harsh, that you were looking to maximize the recovery

1 for the Clements on their claims?

2 A That is correct.

3 Q And am I summarizing some prior testimony  
4 that you gave that one of the ways that one can maximize  
5 recovery is to put pressure on the insurance company to  
6 get them to settle?

7 A It's really not what I do. I use the term  
8 risk. You might be using pressure, but maybe it's a  
9 nuance without a difference, but being in the insurance  
10 industry for so long, all we deal with the insurance is  
11 how to minimize risk and risk and risk. So what I do is  
12 I try to outline the risks associated to the insurance  
13 company.

14 Q Okay. And if you can, you try to emphasize  
15 or increase that risk or that risk evaluation, right?

16 A Correct.

17 Q Okay. And that's what you were doing with  
18 the letter that you sent to Ms. Sei, right?

19 A No.

20 Q You weren't trying to emphasize or create  
21 more risk for the insurance company when you sent Ms. Sei  
22 that separate letter?

23 A No.

24 Q You detailed for us just now how you knew to  
25 email Mr. Werner on December 21st. And we looked at that

1 initial email string, and I'm going to try to pull it up.  
2 This is Exhibit 7 that's been previously admitted and  
3 we've talked about it a lot. And you have a copy of that  
4 in front of you, right?

5 A Yes.

6 Q Okay. And we talked about the fact that  
7 there was an attachment or you have testified that you  
8 saw an attachment to this letter or to this email, right?

9 A That is correct.

10 Q Okay. Did you open the attachment?

11 A Yes.

12 Q Is it your usual habit to not read an entire  
13 attachment when it comes in an email?

14 A Yes. It is my habit not to read the entire  
15 attachment depending on what the attachment is.

16 Q Okay. You also testified that you received a  
17 letter that was substantially the same. In substance, it  
18 is the same as the letter you received attached to the  
19 email, right?

20 A Yes.

21 Q So you got that by mail. And you've  
22 testified that you didn't read it in its entirety, right?

23 A I already got the first attachment. And by  
24 that time, we were already in the decision to litigate  
25 was done so. It didn't matter.

1 Q Okay. So just so that the record is clear,  
2 you did not read the letter that you got from Mr. Werner  
3 by U.S. Mail in its entirety, right?

4 A That is correct.

5 Q Okay. And is it your habit to not read the  
6 entire letter that you receive from someone by U.S. Mail?

7 A I guess I wouldn't call it my habit. I did  
8 it in this case because I already read the attachment  
9 before back on the 21st. So when it came through to my  
10 system, I looked at it, I read the first paragraph --  
11 oh, I've seen this already. I don't need to spend the  
12 next minute dissecting it and reading, you know, the  
13 addresses and the facts and that it was sent to Kat and  
14 not his client and analyzing that whole thing. So it  
15 just it's -- I already reviewed it.

16 Q Okay. So you remember looking at the cc line  
17 on that particular letter and you remember reading the  
18 substance in the middle of the letter, right?

19 A No, that's not what I testified to. I was  
20 saying that I didn't look at all of that information when  
21 I've already looked at the letter.

22 Q Okay. You testified that you had an  
23 assumption about what Mr. Werner's role was in the  
24 underlying matter, right?

25 A Yes, I made assumptions based off of my

1 experience.

2 Q Okay. And your assumptions contrasted to  
3 what Mr. Werner's letter said to you, right?

4 A No. I mean are you talking about the regards  
5 sign, right?

6 Q Mr. Werner's letter identified that Ms. Sei  
7 was his client, right?

8 A Yeah, in the regards. That is correct.

9 Q Okay. And your assumptions were different  
10 than what Mr. Werner's letter said. Right?

11 A Well, yes.

12 Q Okay. Did you at any point in your  
13 communications with Mr. Werner ask him who he  
14 represented?

15 A No. It was pretty clear through the two  
16 months.

17 Q Okay. So you felt that the totality of the  
18 information you had, Mr. Werner's letter and your email  
19 correspondence, that you did not need to clarify who  
20 Mr. Werner's client was, right?

21 A At the time.

22 Q Okay. And so you didn't try to clarify with  
23 Mr. Werner who his client was, right?

24 A Correct.

25 Q Okay. I am showing Exhibit 10, which is the

1 letter that you sent directly to Ms. Sei. We're looking  
2 at the same thing, right?

3 A Yes.

4 Q Okay. But for the suit that you had filed on  
5 behalf of the Clements, you wouldn't have sent this  
6 letter to Ms. Sei, right?

7 A No. I could have sent this letter prior to  
8 filing a lawsuit and wait for legal counsel to get ahold  
9 of me, but I wanted to speed the whole process up, so I  
10 sent it all together.

11 Q Okay. But for your representation of the  
12 Clements in their claims, you wouldn't have sent this  
13 letter to Ms. Sei, right?

14 A Well, of course not because I would have no  
15 reason to talk to Ms. Sei but for being involved with the  
16 clients.

17 Q Okay. Can we agree that -- I'm going to read  
18 you something, and I promise to do it slowly, Ms. Court  
19 Reporter. I'm going to read Rule of Professional Conduct  
20 1.8 E. It states:

21 "A lawyer shall not provide financial  
22 assistance to a client in connection with pending or  
23 contemplated litigation except that one, a lawyer may  
24 advance court costs and expenses of litigation and the  
25 repayment of which may be contingent on the outcome of



1 the matter; and two: A lawyer representing an indigent  
2 client may pay court costs and expenses of litigation on  
3 behalf of the client."

4 Do you understand that rule, Mr. Harsh?

5 MR. MOORE: Objection. Relevance.

6 MS. FLOCCHINI: If I may, I'll get there.

7 CHAIR STOVALL: Well, I'd like to know why.

8 MS. FLOCCHINI: Sure. So this is a  
9 foundational question to get to the next question as to  
10 whether or not there are exceptions to that rule.

11 CHAIR STOVALL: Well, I think as lawyers,  
12 we're all obliged to know the Rule of Professional  
13 Conduct. So whether he knows it or not off the top of  
14 his head is neither here nor there. The rule exists. So  
15 let's just go onto your next question.

16 Q (BY MS. FLOCCHINI:) Okay. So acknowledging  
17 that rule, Mr. Harsh, does the extent of a client's  
18 injury affect whether or not you can loan them money as  
19 their lawyer?

20 A No, you can't as a lawyer.

21 Q We all know Rule of Professional Conduct 3.3  
22 that talks about candor towards the tribunal, right? And  
23 in that, it excludes ex parte communications with the  
24 Court. Does the extent of a client's injury affect  
25 whether or not you can have ex parte communications with

1 the Court?

2 MR. MOORE: Objection. Relevance.

3 CHAIR STOVALL: What's your relevance?

4 MS. FLOCCHINI: So it goes to Mr. Harsh's or  
5 the argument that has been made on behalf of Mr. Harsh is  
6 that there are -- that his clients were so heinously  
7 injured that he had to move quickly and he had do these  
8 extreme things in order to protect their interests and  
9 get them recovery. And the question goes to whether or  
10 not that circumstance would apply to other rules of  
11 professional conduct.

12 CHAIR STOVALL: The objection is sustained.  
13 Next question.

14 MS. FLOCCHINI: I understand the ruling.  
15 Those are all of my questions. Thank you.

16 CHAIR STOVALL: Any redirect?

17 MR. MOORE: No, thank you.

18 CHAIR STOVALL: Do the panelists have any  
19 questions for Ms. Harsh? I've got a couple.

20

21 EXAMINATION

22 BY CHIEF STOVALL:

23 Q The five lawyers I think you referred to in  
24 your letter to Ms. Sei, those are all attorneys that do  
25 insurance bad faith; isn't that correct?

1 A No.

2 Q They don't?

3 A No. David Zaniel is a defense litigator.

4 Laura Renhower is a plaintiff's litigator. Matt Sharp  
5 specializes in insurance bad faith, and Pat Liberty also  
6 does possible insurance bad faith.

7 Q So at least four of those people do bad  
8 faith?

9 A Two. There's four people and out of that.

10 Q I thought you said we did. I'm sorry. I was  
11 counting. You said five. I meant four. My apologies.

12 A Okay.

13 Q You sent the letter to Ms. Sei why?

14 A To figure out coverage and personal counsel.

15 Q Well, she's not going to decide a coverage  
16 issue.

17 A No, but her personal counsel will.

18 Q Isn't the reason that personal injury  
19 attorneys send this type of letter to an unrepresented  
20 person, hopefully, is so that they will obtain private  
21 counsel so the private counsel will put pressure on the  
22 insurance company to get the insurance company to settle  
23 the case quickly?

24 A That's definitely one reason to send the  
25 letter.

1 Q There's no correspondence, no emails or  
2 anything where Mr. Werner said I'm coverage counsel for  
3 the Hartford expressly?

4 A No.

5 Q Is that correct?

6 A No.

7 Q Why didn't you send the Hartford or  
8 Mr. Werner a copy of Sei's letter, your letter to  
9 Ms. Sei?

10 A I assumed it would all go to the Hartford  
11 like I told them to. And it doesn't deal with the  
12 private attorney that I'm looking to talk to.

13 Q You sent them a copy of the complaint. Why  
14 didn't you send them a copy of the letter that you sent  
15 the Hartford's insured?

16 A Because I'm trying to start the process of  
17 filing an answer to the complaint.

18 Q Did you ask Ms. Sei if she was represented by  
19 an attorney before sending her the letter, perhaps  
20 through a paralegal or something like that?

21 A No. That would be doing the same thing.  
22 That would be -- I mean, I didn't know that she was  
23 represented by an attorney.

24 Q Could she have been represented by an  
25 attorney and you didn't know about it?

1 A Say that again.

2 Q Sure. Could she have been represented by  
3 counsel and you not know?

4 A She could have. And that's not a violation  
5 of the rule what brings me here today.

6 CHAIR STOVALL: Mr. Moore, do you have any  
7 questions on my questions?

8 MR. MOORE: No. Thank you for asking, but I  
9 don't.

10 CHAIR STOVALL: Ms. Flocchini, same question.

11 MS. FLOCCHINI: No. Thank you.

12 CHAIR STOVALL: Okay. Next witness?

13 MR. MOORE: Respondent rests.

14 CHAIR STOVALL: Any rebuttal witnesses?

15 MS. FLOCCHINI: No. Thank you.

16 CHAIR STOVALL: Okay. I promised Mr. Moore  
17 that I would give you a better response or at least a  
18 response to your offers of proof which we expect with  
19 respect to your two proposed expert witnesses, and I was  
20 looking at the order, and I only saw one of it mentioned.  
21 Maybe I overlooked it.

22 But with respect to the two proposed expert  
23 witnesses, I'm going to rule them as they would not --  
24 their testimony would not have been relevant in this  
25 matter, and I could go into it further, but I don't see

1 any reason to. It's enough that their testimony would be  
2 irrelevant or would be cumulative as far as what they  
3 might have known, they would have only heard from  
4 Mr. Harsh, so they're really not offering us anything new  
5 in this case.

6 With respect to the mention of in my decision  
7 regarding summary judgment, you had an issue with the  
8 case that I relied upon. I appreciated that. I'm not  
9 sure if there was -- if I agreed with your rationale  
10 there, but I recognize that and I thank you for it for  
11 pointing that out to me. But my ruling on that is that  
12 it would have stood as well. Is there anything else for  
13 us to consider?

14 MR. MOORE: I appreciate how careful the  
15 Chair is on preserving the record. I'm just confirming  
16 that the declarations that are the subject of the ruling  
17 just will be part of the record.

18 CHAIR STOVALL: Okay. Anything else from  
19 you, Ms. Flocchini?

20 MS. FLOCCHINI: I have nothing further.  
21 Thank you.

22 CHAIR STOVALL: Okay. We've been going for a  
23 while, but if you guys wanted to do a close, go ahead.

24 Ms. Flocchini?

25 MS. FLOCCHINI: Sure. Thank you. And if

1 you'll hear me when I'm talking, it's just easier when  
2 I'm standing. I know I'm a younger lawyer.

3 CHAIR STOVALL: You can stand, sit, whatever  
4 you want. That's not a problem.

5 MS. FLOCCHINI: Thank you. I'm going to try  
6 to be concise here, but I want to make sure that I get  
7 the panel all of the information that you need to make a  
8 decision in this case.

9 You know, there's probably not a lawyer in  
10 this room that at some point in his career didn't believe  
11 that an opposing counsel was failing to tell their client  
12 something important. And everyone in this situation  
13 wishes that they could talk directly to the opposing  
14 party. And everyone in this situation or everyone that  
15 finds themselves in a situation similar to what Mr. Harsh  
16 has described wishes that they could do more on behalf of  
17 their clients. But what Mr. Harsh did violates the rules  
18 that we've agreed to in the legal system. And that's why  
19 we have rules about it: Because of advocacy skills and  
20 our zealous efforts on behalf of our clients sometimes  
21 cloud what is appropriate.

22 And so we have Rule of Professional Conduct  
23 47.2. And in this instance, that rule -- I'm going to  
24 read it -- states:

25 "In representing a client, a lawyer shall not

1 communicate about the subject of the representation with  
2 a person the lawyer knows to be represented by another  
3 lawyer in the matter unless the lawyer has the consent of  
4 the other lawyer or is authorized to do so by law or  
5 court order."

6 The facts have been established during the  
7 hearing through the exhibits and the testimony.  
8 Mr. Harsh represented David and Sheela Clements in a  
9 claim against Sandra Sei. There was a dispute. It  
10 wasn't just a claim. There was going to be a -- they  
11 were in disagreement about the resolution of that claim.  
12 It resulted in a complaint being filed.

13 Mr. Werner represented Ms. Sei prior to the  
14 complaint being filed in that dispute. Mr. Werner  
15 communicated that representation to Mr. Harsh by the  
16 attachment to his letter or to his email and by the U.S.  
17 Mail letter that was sent. The testimony that you've  
18 heard is that Mr. Harsh paid careful attention to other  
19 words that were communicated by Mr. Werner but not all of  
20 the words that are in that letter.

21 And I will say that so what I'm going to  
22 refer you to is a comment to the ABA Standard 4.2 which  
23 is the model upon which our Rule of Professional Conduct  
24 was based. It's a verbatim recitation of the model rule.  
25 And so these comments are highly persuasive in



1 interpreting how to apply Rule of Professional Conduct  
2 4.2 in Nevada and comment 8 to the ABA standard or to the  
3 ABA model rules states that a lawyer cannot evade the  
4 requirement of obtaining the consent of counsel by  
5 closing eyes to the obvious.

6           The obvious in this case is that letter that  
7 Mr. Werner sent identifying Ms. Sei as his client that he  
8 was working on the defense of Ms. Sei when communicating  
9 with Mr. Harsh, and therefore Ms. Sei was represented in  
10 the dispute. And I'm going to -- you know, we've had a  
11 lot of the testimony about Mr. Harsh's experience level,  
12 his experience as defense counsel, his experience as  
13 in-house counsel for an insurance company.

14           And he's had experience litigating on behalf  
15 of the insureds, again, he's been in-house. He's been  
16 plaintiff's counsel for I think the testimony was close  
17 to three years at this point. And so, Mr. Harsh, I  
18 think, has reasonable experience and a reasonable basis  
19 to understand that when an attorney identifies in the  
20 body of a letter anywhere in the letter that someone is  
21 their client, that means they believe they are  
22 representing that client and that we need to end that.  
23 Thereafter, Rule of Professional Conduct 4.2 needs to be  
24 followed when communicating about that particular  
25 dispute.

1                   You heard testimony from Mr. Harsh that he  
2   never sought clarification of Mr. Werner's role in  
3   representing Ms. Sei or in the dispute at all. And I  
4   emphasize that because again, going back to the model  
5   Rule 4.2, comment 6 talks about a lawyer being uncertain  
6   about whether communication with the represented person  
7   is permissible and that they should be seeking  
8   clarification of whether or not the person was  
9   represented. So again, Mr. Werner made the  
10   communication. It appears that Mr. Harsh is arguing to  
11   this panel that he was confused as to Mr. Werner's rule  
12   and that he did not seek any further clarification.

13                  You had testimony that Mr. Werner never  
14   repudiated his status at counsel, so between December  
15   22nd when they were communicating by email and January  
16   2nd when Ms. Sei or when the letter was written to  
17   Ms. Sei on January 2nd, Mr. Werner had not announced that  
18   his status as counsel had changed. And then we all --  
19   it's not in dispute.

20                 Mr. Harsh communicated directly with Ms. Sei  
21   without the consent or other authority, the consent of  
22   her counsel or other authority that authorized that  
23   communication after Mr. Werner identified he was her  
24   lawyer. Those facts establish a violation of Rule of  
25   Professional Conduct 4.2.

1 I submit that the coverage discussion is a  
2 red herring here. Ms. Baarson testified and I believe  
3 that Mr. Werner and Mr. Harsh's testimony was consistent  
4 with Ms. Baarson's testimony that coverage is analyzing  
5 the insured's policy. And that's separate from analyzing  
6 whether or not there's liability which is an analysis of  
7 the facts of the claim.

8 Is there liability under the policy that  
9 requires -- that exposes the insured to damages? That's  
10 different from coverage. There's no occasion -- well,  
11 I'll just leave that. Mr. Werner testified that the  
12 questions he posed to Mr. Harsh were looking to establish  
13 liability exposure.

14 They were, I submit, equivalent to facts that  
15 you would use in a motion to dismiss or a motion for  
16 summary judgment in defense of a party. It was looking  
17 to establish what was the risk of a finding of liability  
18 and a ruling of damages against Ms. Sei that her  
19 insurance policy would need to cover.

20 So I understand I think we've heard  
21 Mr. Harsh's position that he believed they were coverage  
22 oriented, but Mr. Werner and Ms. Baarson both testified  
23 consistently that they were looking for facts that would  
24 establish the liability issue and whether or not there  
25 was potential for damages on behalf of Ms. Clements.

1                   So here's where I'm going to give you some  
2 information about analyzing this particular matter. The  
3 ABA standards for imposing lawyer sanctions provides us  
4 with the four factors that the panel is supposed to  
5 consider and the Supreme Court has told us are important  
6 in deciding a disciplinary -- if there's a disciplinary  
7 sanction to be issued.

8                   Those four factors are the duty of the  
9 attorney, the mental state of the attorney, the injury or  
10 potential injury caused by the violation of the duty, and  
11 then you take those three factors, you arrive at a  
12 baseline sanction. Then from the baseline sanction, you  
13 consider any aggravating or mitigating factors that would  
14 warrant deviating upward or downward from that baseline.  
15 And from there, you arrive at what the appropriate  
16 sanction is in response to particular misconduct.

17                  We presented in both the hearing brief and in  
18 the opening statement that the appropriate standard to be  
19 applying here is Standard 6.3 and 6.3, particularly as a  
20 section deals with improper communications with  
21 individuals in the legal system.

22                  So skipping 6.31, which addresses  
23 intentionally tampering with witnesses and such that  
24 would warrant disbarment and going to Standard 6.32, that  
25 standard states that suspension is generally appropriate

1 when a lawyer engages in communication with an individual  
2 in the legal system when the lawyer knows that such  
3 communication is improper and causes injury or potential  
4 injury to a party or causes interference or potential  
5 interference with the outcome of the legal proceeding.

6 And I submit that the evidence that this  
7 panel has heard today is that Mr. Harsh's communication  
8 with Ms. Sei was improper and that he knew that such  
9 communication -- he had the knowledge of the facts that  
10 establish this communication was improper and that such  
11 communication had the potential to cause injury or  
12 interference with the outcome of the legal proceeding.

13 And I want to emphasize that injury, actual  
14 injury and potential injury are treated the same under  
15 the standards for imposing sanctions. I always think of  
16 it as but for the grace of God nothing bad happens and  
17 that we shouldn't discount application of the standards  
18 just because crisis was averted in a particular  
19 circumstance. So injury and potential injury, I think,  
20 are equal considerations when deciding which standard to  
21 apply.

22 I'm going to read you Rule of Professional  
23 Conduct 6.33, and that one states that reprimand is  
24 generally appropriate when a lawyer is negligent in  
25 determining whether it's proper to engage in

1 communication with an individual in the legal system and  
2 causes injury or potential injury to a party or  
3 interference or potential interference with the outcome  
4 of the legal proceeding. And I slow myself down so that  
5 I don't make our court reporter crazy.

6 So the difference between in this case the  
7 standard recommendation for suspension and the  
8 recommendation for a reprimand is a mental state issue.  
9 I'm going to read to you the definition in the standards  
10 for negligence and negligent mental state. That is that  
11 an attorney lacks awareness of a substantial risk that  
12 circumstances exist or that a result will follow which is  
13 a deviation from the standard of care exercised by  
14 reasonable lawyers.

15 I'm going to submit to you that the facts  
16 that you have before you do not support a finding of a  
17 negligent mental state. Mr. Harsh has been practicing  
18 for 20 years, primarily in the area of insurance defense  
19 and thereafter as a plaintiff's attorney dealing with  
20 insurance defenses. He's represented parties in  
21 litigation.

22 And all of those circumstances come together  
23 to show that Mr. Harsh is aware of what it means to have  
24 someone representing a party. So then we've applied both  
25 of these. I've given you both the standards I think

1 could be appropriate in this circumstance.

2 Mr. Moore referenced in the opening  
3 statements that there is Standard 6.34, and in that case,  
4 Standard 6.34 states that admonition is generally  
5 appropriate when a lawyer engages in an isolated instance  
6 of negligence in improperly communicating with an  
7 individual in the legal system and causes little or no  
8 actual or potential injury to a party or causes little or  
9 no actual or potential interference with the outcome of  
10 the legal proceedings.

11 And while I don't think that this standard  
12 applies, I want to give some information about how the  
13 term admonition translates in Nevada.

14 An admonition, under the ABA standards, is  
15 regarded as the lowest form of discipline available, and  
16 it is intended to be private under the ABA standards. In  
17 Nevada, we used to have a private letter of reprimand.  
18 The Supreme Court intentionally did away with that status  
19 and makes letters of reprimand public. Letters of  
20 reprimand are the lowest form of discipline available in  
21 Nevada, and there is no way to make them private because  
22 that's what the Supreme Court has directed about a letter  
23 of reprimand.

24 Mr. Moore referenced a letter of caution.  
25 And a letter of caution pursuant to Supreme Court Rule

1 102 is actually regarded as a dismissal. It is not  
2 issued by a panel, and it is just instructing an attorney  
3 that they should do better in the future. So it is  
4 officially a dismissal and not a sanction to the  
5 attorney.

6 So under the Nevada standards, I submit that  
7 a letter of reprimand does not qualify as an admonition.  
8 I apologize. A letter of caution does not qualify as an  
9 admonition and only a letter of reprimand qualifies as an  
10 admonition.

11 Then, you know, if we wanted to apply 6.33,  
12 which describes a reprimand being an appropriate  
13 sanction, that better correlates to a public reprimand  
14 under the Nevada system, but of course a letter of  
15 reprimand has the word "reprimand" in it as well, and so  
16 sometimes 6.33 is interpreted to mean letter of reprimand  
17 or public reprimand.

18 So with all of that background information  
19 about the way that the sanctions are applied, you know,  
20 once this panel has found the baseline standard that they  
21 want to apply to the facts of this situation, I submit  
22 that there aren't really mitigating factors for this  
23 panel to consider in trying to downwardly deviate from  
24 whatever the standard is that you find to be appropriate.

25 I recognize that there is the aggravating



1 factor of substantial experience in the practice of law  
2 that I think would be appropriate in this circumstance.  
3 Mr. Harsh is a 20-year attorney and testified that he's  
4 practiced in this area for the majority of that time.

5           There's the flip side of that coin which is  
6 that we acknowledge Mr. Harsh has had no prior  
7 discipline. Exhibit 2, which is admitted, references  
8 that Mr. Harsh has received no discipline from any other  
9 panel or the Supreme Court. And I referenced there  
10 they're kind of two sides to one coin. They sort of  
11 balance each other out. And so when you balance both of  
12 those, I submit that there is no reason to upward or  
13 downward deviate from the standard that the panel finds  
14 appropriate in this situation.

15           All of the other factors that are identified  
16 in SCR 102.5, I believe, are primarily neutral or don't  
17 apply in this situation. I would submit that the panel  
18 may find that the selfish motive may apply in this  
19 situation as an aggravating factor because, you know,  
20 there's been testimony that or yes, that a letter such as  
21 this may be used to put pressure on the insurance  
22 company. And that while also -- while benefitting the  
23 client also benefits the attorney by resolving the matter  
24 quickly. And so with that, I submit that may be an  
25 aggravating factor that the panel wants to consider in

1 its deliberations.

2 So in conclusion, the Bar asks that the panel  
3 carefully and diligently consider all of the facts  
4 between the testimony and the admitted exhibits that are  
5 available to you for your consideration, that you apply  
6 the factors that are illustrated in the ABA standards for  
7 imposing lawyer sanctions, and that you issue either a  
8 short or stayed suspension in this case pursuant to  
9 Standards 6.32 or a reprimand consistent with standard  
10 6.33, and of course that the panel issue corresponding  
11 costs pursuant to Supreme Court Rule 120. Thank you.

12 CHAIR STOVALL: What are the costs?

13 MS. FLOCCHINI: Sure. Supreme Court Rule 120  
14 provides that in all circumstances, it's appropriate to  
15 award the costs of the proceeding. So that would mean  
16 the cost of the transcript and some mailing costs that  
17 are involved. And then if it's a suspension, Supreme  
18 Court Rule 120 states that the costs -- there's a flat  
19 administrative cost in addition that is \$2,500, and if a  
20 reprimand is issued, that flat cost is \$1,500.

21 CHAIR STOVALL: Thank you. Mr. Moore?

22 MR. MOORE: Thank you. Listening to the  
23 State Bar's presentation, one would think that violation  
24 of 4.2 is a strict liability crime, in other words, that  
25 as soon as an attorney sends a letter to someone who is

1 represented by counsel, that's it. That's the end of the  
2 inquiry.

3 And clearly, that's not it because as I think  
4 the panel is very well aware, 4.2 does require that the  
5 attorney have actual knowledge. The Bar contends that  
6 well, by referring to the ADA comment number eight that  
7 well, we have a situation where one cannot turn a blind  
8 eye. A blind eye is an intentional act. That's  
9 different than if a single line in a series of  
10 communications is missed and not seen.

11 Those are different. And that's why it's  
12 important to understand the context of what was happening  
13 in the communication that occurred between Mr. Werner and  
14 Mr. Harsh, and indeed, the communication with Ms. Baarson  
15 because it's Ms. Baarson who sets the stage for Mr. Harsh  
16 to believe that there was a continuation of what is in  
17 fact a coverage dispute and issue.

18 The evidence demonstrates ultimately that  
19 Mr. Harsh did not have actual knowledge, and that's the  
20 criteria that the letter that he sent that's Exhibit 10  
21 was being sent to Ms. Sei, who is represented on the  
22 subject matter of what the letter was about. The letter  
23 was clearly about seeking Ms. Sei to have coverage or  
24 have a lawyer take a look at the coverage issues involved  
25 in the case.

1 The testimony of Mr. Harsh is something that  
2 of course the panel's job is to weigh the credibility and  
3 in fact weigh the credibility of all of the witnesses.  
4 Even if you think that Mr. Harsh somehow misunderstood  
5 Mr. Werner's role in this matter, it does not prevent  
6 Mr. Harsh from still having had a good-faith belief that  
7 Mr. Werner was not representing Ms. Sei.

8 And again, the panel has an opportunity here,  
9 unlike prior proceeding, to look at the witness to look  
10 at Mr. Harsh and to ask the question is Mr. Harsh being  
11 honest? Is he being honest in saying look. I did not  
12 know.

13 I want to be careful that we don't set up  
14 what would be called the straw man, the straw man being  
15 that somehow Mr. Harsh has to prove that in fact,  
16 Mr. Werner did not represent Ms. Sei. That's not the  
17 standard. The standard is whether or not Mr. Harsh  
18 communicated to Ms. Sei knowing that Mr. Werner  
19 represented Ms. Sei.

20 When we look at the testimony of Mr. Werner,  
21 it's interesting that he is acting as what the testimony  
22 comes out as pre-litigation counsel. There's no act that  
23 he's actually done as pre-litigation counsel to defend  
24 Ms. Sei. Nothing. He is doing an evaluation, but he's  
25 not going through to actually provide the defense.

1 And the reason we were discussing Exhibit 4,  
2 which was the letter, is if you look at the letter, it is  
3 not clear from the letter that Mr. Werner is in fact  
4 representing Ms. Sei. Now I want to be careful. I don't  
5 want to go for the straw man saying that we have to show  
6 that Mr. Werner was in fact not representing Ms. Sei.  
7 But this certainly provides valuable context of how there  
8 is at -- I'll say at best, best to give Mr. Werner the  
9 benefit of the doubt, there's confusion that occurs.

10 Mr. Werner certainly is not someone who is  
11 very precise in his use of words because not only do we  
12 have Exhibit 4, but we also have the fact that in Exhibit  
13 O that as has been discussed, he refers to Ms. Sei as "my  
14 insured." That certainly reinforces Mr. Harsh's  
15 perception that Ms. Sei is not represented by Mr. Werner  
16 because Mr. Werner doesn't say "my client." He says "my  
17 insured" which has a different meaning to be sure.

18 Context is what's important, and it's almost  
19 as if Mr. Harsh's experience is betraying him in the  
20 sense that he knows from his own experience that an  
21 in-house attorney can have different roles. And when we  
22 put into context the testimony of Kat Baarson, we can see  
23 how she sets up that expectation for Mr. Harsh which is a  
24 reasonable expectation for him to believe okay. This is  
25 continuation of a coverage issue.

1 If you look at Exhibit 7, and you see where  
2 Ms. Baarson says quote, "I disagree," closed quote, that  
3 certainly is in the context of the coverage issue that is  
4 being discussed by Mr. Harsh in the immediately preceding  
5 email where Mr. Harsh is talking about the idea that a  
6 loss of consortium claim is derivative, but he's  
7 presenting on behalf his client a different claim that is  
8 not derivative, which of course is the negligent  
9 infliction of emotional distress claim.

10 And it's important again to acknowledge that  
11 Ms. Baarson refers to Mr. Werner herself in the context  
12 of pre-litigation. Again, not defending Ms. Sei.

13 You have the testimony of Chris Turtzo which  
14 was pretty direct. He says well, of course I have no  
15 information that Mr. Harsh would have tried or did after  
16 Mr. Turtzo said he was representing Ms. Sei to contact  
17 Ms. Sei directly.

18 Significantly, we have the testimony of  
19 Ms. Sei herself who says I never had any communication  
20 from Mr. Werner. That's amazing. That's truly amazing.  
21 If the nub of this case is that somehow Mr. Harsh should  
22 have known and did know and -- pardon me. I misstated it  
23 right here. It's not whether or not he should have known  
24 because that's not the standard.

25 The standard of whether or not he had actual

1 knowledge that Ms. Sei was being represented by  
2 Mr. Werner if indeed she was. How ironic it is that  
3 Ms. Sei herself has testified she never had  
4 communication. And if she never had a communication, one  
5 has to wonder out loud well, then, what about the various  
6 policy limit demands and the demand that Mr. Harsh had  
7 communicated?

8 Now, I get this. And please don't  
9 misunderstand. When we're talking about the conduct of  
10 Mr. Werner, he's not the one who is on trial. He's not  
11 the one who the Bar has decided to investigate. We  
12 understand that. We get that. But when we get to the  
13 phase of to the extent whether or not there should be any  
14 discipline in this matter, it's important to put in the  
15 context that the grievant is someone who there's been a  
16 blind eye turned to. And fairness dictates that when  
17 then put in context, what's going on with Mr. Harsh.

18 When we look at the totality of the  
19 circumstances, it's clear that Mr. Harsh is doing his job  
20 to properly communicate based on his own actual  
21 knowledge. It is not the standard of a negligence  
22 standard. It's not the standard where one said well, he  
23 should have and he could have. The standard is what did  
24 he actually know. And that's one thing.

25 When we look at Rule 4.2 -- and that's the

1 only rule that's at issue here is whether or not it's  
2 been violated as part of this proceeding. It's about the  
3 subject of the representation with a person or lawyer who  
4 knows to be represented by another lawyer. And to be  
5 clear, Ms. Harsh's letter that's Exhibit 10, he's not  
6 communicating on the defense. He's communicating on a  
7 coverage issue which we know by definition cannot be  
8 something that Mr. Harsh or Mr. Werner could be at the  
9 same time representing Ms. Sei and at the same time,  
10 opining on coverage. By definition, that doesn't work.

11 And so if you realize that the subject matter  
12 of the letter is not on the scope of representation  
13 purportedly by Mr. Werner, we can see how Rule 4.2 has  
14 not been violated independent of regardless of what the  
15 actual knowledge was. But when we get to the actual  
16 knowledge, of course there is an understandable reason  
17 why Mr. Harsh did not in fact have that actual knowledge.

18 And we have to also be mindful of what the  
19 evidentiary standard is that the Bar has as its burden of  
20 proof. It must prove by clear and convincing evidence  
21 that Mr. Harsh actually knew that he was corresponding to  
22 Ms. Sei, who is represented by an attorney, Mr. Werner.  
23 That of course is not satisfied as an evidentiary burden  
24 in this case.

25 The other thing we have to be careful to do



1 is to recognize that when we look at the legal authority  
2 provided by the Bar, the case In Re Smith which is a case  
3 where there's a reprimand and probation is very different  
4 from the case here because in the Smith case involved an  
5 attorney telling his client's wife while she was  
6 represented by counsel that she should sign a power of  
7 attorney and falsely characterizing the document. In  
8 sharp contrast, Mr. Harsh never asked Ms. Sei to sign a  
9 single document, and there's no evidence that Ms. Sei was  
10 in any way harmed by the communication; that we now know  
11 Ms. Baarson actually had received from Ms. Sei.

12 It's also when you look at the case authority  
13 respondent has provided, the Harbor case, in the Harbor  
14 case, like this case, it involved a communication by an  
15 attorney to an insured where the Court refused to  
16 re-write Rule 4.2 to abrogate the requirement for a  
17 lawyer's knowledge of reputation must be actual. And we  
18 obviously emphasize that because that's sidestepped. And  
19 that's the concern that we have is that there can be some  
20 conflation or some confusion as to whether or not Rule  
21 4.2 has been violated because one has to first get to the  
22 threshold issue of whether or not it's been violated.

23 And to be clear, although there is authority  
24 the State Bar has provided where the Bar characterized  
25 the authority as saying well, there's a best practice

1 standard when attorney must ask first if a party is  
2 represented by counsel, if there's facts giving rise to  
3 that standard, that's not the actual standard.

4 We have to remember that's in Rule 1.0  
5 subpart F which of course was part of the same body of  
6 rules that 4.2 comes from, the Nevada Rules of  
7 Professional Conduct that says knowingly knows or knows  
8 actual knowledge of the fact in question. That is a  
9 standard that should not be ignored.

10 The fact that the Bar references the  
11 disciplinary criteria should not be confused. The  
12 disciplinary criteria as to the mental state does not  
13 have to do necessarily with the culpability. It has to  
14 do with the degree of any potential discipline.

15 One of the things that is important to  
16 realize is that there's no evidence not only of any  
17 injury to Ms. Sei, there's also no evidence of even any  
18 potential injury to Ms. Sei. There's no evidence even of  
19 a problem arising out of the letter that Mr. Harsh sent.

20 And when one considers that, then that takes  
21 out of a potential discipline the lower numbers the way  
22 it works at the bottom of Section 6.3. At most, Section  
23 6.34 would apply as an admonition. There's already been  
24 discussion because the Bar has conceded that that has a  
25 different standard, and we would simply refer to what the

1 plain language is of Rule 102 subpart 8 which of course a  
2 panel can refer to and the panel can determine that it  
3 can have a dismissal along with if it wishes to point out  
4 that there should be a better practice.

5 When we examine the conduct of Mr. Harsh and  
6 we ask ourselves is something necessary somehow to  
7 protect from a potential harm -- we all know there's no  
8 harm or potential harm shown in this case -- we recall  
9 the testimony of Mr. Harsh who said yeah, I would not do  
10 this in the same way because understanding the context  
11 and understanding how there could be a misunderstanding  
12 and miscommunication, I'll do my practice and do that  
13 differently.

14 And that does have bearing again on the  
15 experience because we all become after a while a sum of  
16 our experiences. And by going through our experiences,  
17 we have an opportunity hopefully to do a better job. And  
18 at the end of the day, that is the opportunity we have,  
19 keeping in mind that all rules have a purpose.

20 Rule 4.2 certainly has a purpose, but it's  
21 not a strict liability rule and it's not one which  
22 requires perfection by an attorney. It's one where if an  
23 attorney who does not have actual knowledge and sends a  
24 letter has not violated the rule. And we submit that  
25 those are the facts and therefore, the decision should be

1 a dismissal. Thank you.

2 CHAIR STOVALL: Thank you, Mr. Moore.

3 Ms. Flocchini?

4 MS. FLOCCHINI: I'll be brief. I do not envy  
5 the panel's decision. There are a lot of pushes and  
6 pulls being presented to the panel, and for lack of a  
7 better analogy, I understand we see that the panel is  
8 going to be working diligently to thread the needle on  
9 this particular issue.

10 And to that end, I just want to emphasize or  
11 I want to draw attention to the Bar's request that the  
12 panel resist completing Ms. Sei's understanding of  
13 Mr. Werner's representation with Mr. Harsh's  
14 understanding.

15 Rule of Professional Conduct 4.2 has to do  
16 with the attorney's understanding of whether or not the  
17 opposing party is represented not whether or not that  
18 party had the same understanding. It is focused on the  
19 attorney's understanding.

20 I also want to encourage the panel to resist  
21 the narrow interpretation of the subject matter of  
22 Mr. Harsh's letter that the defense had set forth for  
23 you. The letter was about the litigation, and generally,  
24 that's what the communication was trying to reach, and  
25 that's what Mr. Werner was involved in on behalf of

1 Ms. Sei.

2 So the issue before you today is protecting  
3 the legal system. And Rule of Professional Conduct 4.2  
4 is specifically written to protect the legal system that  
5 all lawyers have agreed to follow via their membership  
6 with the State Bar. We agree to the way the system is  
7 supposed to work, and that's what 4.2 is meant to hold us  
8 to.

9 And based on that, the State Bar is asking  
10 this panel to find that Mr. Harsh's conduct violated Rule  
11 of Professional Conduct 4.2 with the potential to injure  
12 the proceedings or a party and that that conduct warrants  
13 a sanction. And so we submit. Thank you.

14 CHAIR STOVALL: Thank you, Counsel. I know  
15 all of us on the panel appreciate the diligence and your  
16 advocacy in presenting this today. I know if we were  
17 meeting personally, what we would do now is just the  
18 three panelists would meet alone and discuss this and  
19 come up with a verdict and then call everybody back and  
20 announce that.

21 Is that still what we have in mind only via  
22 Zoom? Is that correct, Ms. Flocchini?

23 MS. FLOCCHINI: Yes. So Zoom enables us to  
24 do a breakout room. And if the panel would like to  
25 deliberate now, which, you know, the Bar always supports,

1 you can go into the breakout room. You go in there and  
2 then when you're done, you come back and we'll see you  
3 pop back on the screen, and you can issue the decision  
4 similar to what we out do if we were in person. And you  
5 can write your own order or recommendation or you can  
6 direct the parties to do that. Whatever is your pleasure  
7 once the decision has been made.

8 CHAIR STOVALL: All right. Let's go ahead  
9 and put the three of us in a breakout room. And I take  
10 it from what you've said, there's an easy, clearcut way  
11 for us to pop back.

12 MS. FLOCCHINI: Yes. Just say leave the  
13 room. If you accidentally leave the whole thing, then  
14 just ask to come back in and Laura will let you back in.

15 CHAIR STOVALL: All right. Thank you.

16 MS. PETERS: You should get invitations on  
17 your screen.

18 CHAIR STOVALL: Not yet.

19 MS. PETERS: Okay.

20 (WHEREUPON, an off-the-record discussion ensued.)

21 CHAIR STOVALL: The disciplinary panel has  
22 discussed the evidence that was presented at this hearing  
23 today, and we have found that Mr. Harsh has indeed  
24 violated Rule 4.2, that that violation was intentional,  
25 that you cannot omit the full reading of correspondence

1 as a defense to not knowing that party was represented.

2           However, even though we have found an  
3 intentional violation, we do not believe that the  
4 totality of Mr. Harsh's conduct warrants a suspension by  
5 any means. We recognize that while there was some  
6 mercenary motives perhaps in since he would be getting a  
7 fee for representing his client and would receive that  
8 fee quicker if the case was settled quicker, we do not  
9 view that as the motivation for Mr. Harsh but rather a  
10 desire to assist his clients in this case.

11           At the same time, Ms. Sei is exactly the type  
12 of person: Elderly, who would need a rigid enforcement  
13 of Rule 4.2 just so that a problem would not occur  
14 through an attorney contacting her or someone like her  
15 while she's being represented by counsel.

16           There's also the fact that it would have been  
17 very easy for Mr. Harsh to contact either the claims  
18 representative or Mr. Werner to confirm his actions as  
19 either being coverage counsel or defense counsel. It  
20 would have been very easy for him to do that, and he did  
21 not do that. And in the totality of the circumstances,  
22 we believe that that would have been the appropriate  
23 thing for him to do.

24           As far as aggravations, aggravators to this,  
25 the fact that Mr. Harsh is a very established attorney

1 and understands the rules of the defense counsel and  
2 plaintiff's counsel in this case, that that is an  
3 aggravator. He knows better, in other words, but at the  
4 same time, we also recognize he has been an attorney for  
5 a long time without any discipline and we view that as a  
6 mitigating factor in his defense.

7 We believe that with this public reprimand  
8 that he should pay costs of the proceeding in the amount  
9 of \$1,500. Is there anything else you need for your  
10 determination?

11 MS. FLOCCHINI: So based on the Chair's  
12 statement that a public reprimand was being issued, am I  
13 to assume that you applied Standard 6.33?

14 CHAIR STOVALL: That's correct. And while we  
15 recognize that -- and I think this should be reflected in  
16 the opinion. While we recognize that that is an  
17 intentional finding that might warrant suspension, we do  
18 not view Mr. Harsh as a threat to the public or in need  
19 of suspension on these facts.

20 MS. FLOCCHINI: Okay.

21 MR. MOORE: Just a follow-up, Mr. Chairman.  
22 Usually, we'll poll and just find out -- I have noted  
23 your use of the word "we" -- on finding out whether or  
24 not this is.

25 CHAIR STOVALL: Sure. It is a unanimous



1 decision, but I would like each panel member to please  
2 state on the record.

3 MR. LABADIE: Yes, that's my recommendation.

4 MR. FLOETTA: Yes, I agree with the decision  
5 as well.

6 MS. FLOCCHINI: And assuming based on the  
7 fact that we're applying Standard 6.33, the Chair  
8 referenced the violation of the rule and mental state,  
9 the totality of the circumstances. I just want to make  
10 sure that we understand that the Chair is recognizing  
11 there was potential injury.

12 CHAIR STOVALL: There was potential for  
13 injury. We don't view any injury occurred.

14 MS. FLOCCHINI: And did the panel consider  
15 the vulnerability of Ms. Sei as an aggravating factor?

16 CHAIR STOVALL: Yes.

17 MS. FLOCCHINI: Okay. Thank you. I think  
18 those are all of the questions that I had. I appreciate  
19 it.

20 CHAIR STOVALL: I take that back. We did not  
21 view that as an aggravator. We viewed that we -- it was  
22 a consideration, but we did not discuss that as an  
23 aggravating circumstance.

24 MS. FLOCCHINI: Is that something that the  
25 panel considered in deciding the potential for injury?

1 Is that how that fits in?

2 CHAIR STOVALL: I think it was recognized  
3 that she was an elderly person.

4 MS. FLOCCHINI: Okay. I appreciate that. I  
5 assume that you would like us to prepare a --

6 CHAIR STOVALL: Please do.

7 MS. FLOCCHINI: -- recommendation. And I  
8 will include Mr. Moore in circulating that  
9 recommendation. I like to give it to both the Chair and  
10 opposing counsel at the same time, allow opposing counsel  
11 the time to consider it and then give any revisions or  
12 proposed revisions to the Chair. I just want to make  
13 clear that's what end intend to do is to email at the  
14 same time with the intent --

15 CHAIR STOVALL: You know what? I'd as soon  
16 you not do that and send it only to Mr. Moore and let him  
17 pass on it and submit it on to me. But I do want to  
18 compliment both counsel throughout this case on their  
19 professionalism and their advocacy and their  
20 collegiality. It's been appreciated.

21 MS. FLOCCHINI: Thank you. Thank you very  
22 much and thank you for your dedication of this day to the  
23 matter. Thank you, everyone.

24 -o0o-

25

1 STATE OF NEVADA, )  
2 WASHOE COUNTY )

3

4 I, NICOLE J. HANSEN, Official Court Reporter for the  
5 State of Nevada, do hereby certify:

6

7 That on the 29th day of September, 2021, I was  
8 present at said remote meeting for the purpose of  
9 reporting in verbatim stenotype notes the within-entitled  
10 meeting;

11 That the foregoing transcript, consisting of pages 1  
12 through 179, inclusive, includes a full, true and correct  
13 transcription of my stenotype notes of said  
14 meeting.

15

16 Dated at Reno, Nevada, this 5th day of  
17 October, 2021.

18

19

Nicole J. Hansen

20

NICOLE J. HANSEN, NV CCR #446  
RPR, CRR, RMR

21

22

23

24

25

1 HEALTH INFORMATION PRIVACY & SECURITY: CAUTIONARY NOTICE

2 Litigation Services is committed to compliance with applicable federal

3 and state laws and regulations ("Privacy Laws") governing the

4 protection and security of patient health information. Notice is

5 hereby given to all parties that transcripts of depositions and legal

6 proceedings, and transcript exhibits, may contain patient health

7 information that is protected from unauthorized access, use and

8 disclosure by Privacy Laws. Litigation Services requires that access,

9 maintenance, use, and disclosure (including but not limited to

10 electronic database maintenance and access, storage, distribution/

11 dissemination and communication) of transcripts/exhibits containing

12 patient information be performed in compliance with Privacy Laws.

13 No transcript or exhibit containing protected patient health

14 information may be further disclosed except as permitted by Privacy

15 Laws. Litigation Services expects that all parties, parties'

16 attorneys, and their HIPAA Business Associates and Subcontractors will

17 make every reasonable effort to protect and secure patient health

18 information, and to comply with applicable Privacy Law mandates,

19 including but not limited to restrictions on access, storage, use, and

20 disclosure (sharing) of transcripts and transcript exhibits, and

21 applying "minimum necessary" standards where appropriate. It is

22 recommended that your office review its policies regarding sharing of

23 transcripts and exhibits - including access, storage, use, and

24 disclosure - for compliance with Privacy Laws.

25 © All Rights Reserved. Litigation Services (rev. 6/1/2019)

STATE BAR OF NEVADA  
NORTHERN NEVADA DISCIPLINARY BOARD  
**BRENT HARSH, ESQ.**  
FORMAL HEARING

OBC21-0067

Wednesday, September 29, 2021, beginning at 9:00 a.m.

INDEX OF DOCUMENTS

Zoom Meeting Link: <https://nvbar.zoom.us/j/85020672451>

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PANEL

Eric Stovall, Esq., Chair  
Lucas Foletta, Esq.  
Mike LaBadie, Layperson

R. Kait Flocchini  
Assistant Bar Counsel  
State Bar of Nevada

Christian L. Moore, Esq.  
Attorney for Respondent



FILED

JUN 25 2021

STATE BAR OF NEVADA  
BY [Signature]  
OFFICE OF BAR COUNSEL

Case No: OBC21-0067

STATE BAR OF NEVADA

NORTHERN NEVADA DISCIPLINARY BOARD

STATE BAR OF NEVADA, )  
 )  
Complainant, )  
vs. )  
BRENT HARSH, ESQ., )  
BAR NO. 8814 )  
Respondent. )

COMPLAINT

TO: Brent Harsh, Esq.  
c/o Christian Moore, Esq.  
Lemons, Grundy & Eisenberg  
6005 Plumas Street, Third Floor  
Reno, Nevada 89519

PLEASE TAKE NOTICE that pursuant to Supreme Court Rule ("SCR") 105(2) a VERIFIED RESPONSE OR ANSWER to this Complaint must be filed with the Office of Bar Counsel, State Bar of Nevada, 9456 Double R Boulevard, Ste. B, Reno, Nevada, 89521, within twenty (20) days of service of this Complaint. Procedure regarding service is addressed in SCR 109.

Complainant, State Bar of Nevada (“State Bar”), by and through its Assistant Bar Counsel, R. Kait Flocchini, is informed and believes as follows:

1. Attorney Brent Harsh, Esq. (“Respondent”), Bar No. 8814, is currently an active member of the State Bar of Nevada and at all times pertinent to this complaint had his principal place of business for the practice of law located in Washoe County, Nevada.

2. Respondent was retained to represent David and Sheela Clements (the “Clements”) to pursue their claims related to a November 5, 2020, vehicle-pedestrian accident.

3. Sandra L. Sei (“Sei”) was the driver in the accident and David was the pedestrian.

4. Sei was insured by The Hartford.

5. Reed Werner is a Senior Staff Attorney with the Law Offices of Eric R. Larsen, Employees of a Subsidiary of The Hartford Financial Services Group.

6. Werner was retained by The Hartford to represent Sei against the Clements’ claims.

7. On November 16, 2020, Respondent sent a demand letter to one of The Hartford’s Claim Consultants, Katherine Baarson, seeking additional coverage for Sheela Clements’ claimed injuries related to the accident. Respondent’s letter also requested that Baarson identify Sei’s personal counsel.

8. Baarson did not respond to Respondent’s November 16 letter, and instead, forwarded it to Werner for consideration.

9. Werner sent a letter to Respondent on December 18, 2020, identifying Sei as his client and requesting additional information and time to analyze the demand.

10. Werner sent a letter to Sei identifying that his office had been retained to represent her in the dispute with the Clements.

11. On January 5, 2021, Respondent filed a Complaint in the Second Judicial District Court on behalf of the Clements and against Sei.

12. Rule 4.2 of the Nevada Rules of Civil Procedure (“NRCP”) provides that a Summons and Complaint be personally served on a defendant or a defendant’s authorized agent, such as counsel.

13. Respondent served the Summons and Complaint personally on Sei.

14. With the Summons and Complaint Respondent included a letter addressed directly to Sei communicating that he would be seeking a judgment that was more than her insurance policy limits and recommending that she seek personal counsel. Respondent provided the names of four lawyers in Reno who specialize in protecting parties whose interests might be adverse to their insurance carriers.

15. Werner did not give Respondent consent to communicate directly with Sei. Nor was Respondent authorized to do so by law or a court order.

16. Respondent did not provide Werner, or The Hartford, with a copy of the Complaint, Summons, or letter to Sei, but he did ask Sei to contact The Hartford and forward them a copy of the Summons and Complaint.

**COUNT ONE- RPC 4.2 (Communication with Person Represented by Counsel)**

17. RPC 4.2 states

In representing a client, a lawyer shall not communicate about the subject of the representation with a person the lawyer knows to be represented by another lawyer in the matter, unless the lawyer has the consent of the other lawyer or is authorized to do so by law or a court order.

///

///



18. In light of the foregoing, including without limitation paragraphs 2 through 16, Respondent has violated RPC 4.2 (Communication with Person Represented by Counsel).

WHEREFORE, Complainant prays as follows:

1. That a hearing be held pursuant to Nevada Supreme Court Rule 105;
2. That Respondent be assessed the costs of the disciplinary proceeding pursuant to SCR 120; and
3. That pursuant to SCR 102, such disciplinary action be taken by the Northern Nevada Disciplinary Board against Respondent as may be deemed appropriate under the circumstances.

Dated this 25th day of June, 2021.

STATE BAR OF NEVADA  
DANIEL M. HOOGE, Bar Counsel



By: \_\_\_\_\_

R. Kait Flocchini, Assistant Bar Counsel  
Nevada Bar No. 9861  
9456 Double R Boulevard  
Reno, Nevada 89521  
(775) 329-4100



FILED

JUN 25 2021

STATE BAR OF NEVADA  
BY [Signature]  
OFFICE OF BAR COUNSEL

Case No.: OBC21-0067

STATE BAR OF NEVADA  
NORTHERN NEVADA DISCIPLINARY BOARD

STATE BAR OF NEVADA, )  
)  
Complainant, )  
vs. )  
)  
BRENT H. HARSH, ESQ., )  
NEVADA BAR No. 8814 )  
)  
Respondent. )

DESIGNATION OF  
HEARING PANEL MEMBERS

TO: Brent H. Harsh, Esq.  
c/o Christian L. Moore, Esq.  
Lemons, Grundy & Eisenberg  
6005 Plumas Street, Third Floor  
Reno, NV 89519

The following are members of the Disciplinary Board for the Northern District of Nevada. Pursuant to Nevada Supreme Court Rule (SCR) 105, you may issue peremptory challenge to five (5) such individuals by delivering the same in writing to the Office of Bar Counsel within twenty (20) days of service of the complaint.

The Chair of the Southern Nevada Disciplinary Board will thereafter designate a hearing panel of three (3) members of the Disciplinary Board, including at least one member who is not an attorney, to hear the above-captioned matter.

1. Eric Stovall, Esq., Chair
2. Kendra Bertschy, Esq., Vice-Chair
3. Barth Aaron, Esq.
4. Nathan Aman, Esq.

- 1 5. Adam Cate, Esq.
- 2 6. Marilee Cate, Esq.
- 3 7. Travis Clark, Esq.
- 4 8. Lucas Foletta, Esq.
- 5 9. Scott Hoffman, Esq
- 6 10. Alison Kertis, Esq.
- 7 11. Asher Killian, Esq.
- 8 12. Katherine Lyon, Esq.
- 9 13. Nicholas C. Pereos., Esq.
- 10 14. Judy Prutzman, Esq.
- 11 15. Amos Stege,, Esq.
- 12 16. Michael Sullivan, Esq.
- 13 17. Richard Williamson, Esq.
- 14 18. Jan T. Barker, Laymember
- 15 19. Steve Boucher, Laymember
- 16 20. Brian Duffrin, Laymember
- 17 21. Deveron Feher, Laymember
- 18 22. Lynda Goldman, Laymember
- 19 23. Michelle Hritz, Laymember
- 20 24. Michael LaBadie, Laymember
- 21 25. Timothy Meade, Laymember
- 22 26. Sadiq Patankar, Laymember
- 23 27. Richard Teichner, Laymember

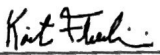
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25 ///

1                                28.    Brook M. Westlake, Laymember

2                                DATED this 25<sup>th</sup> day of June, 2021.

3                                **STATE BAR OF NEVADA**  
4                                Daniel M. Hooge, Bar Counsel

5                                By:   
6                                Kait Flocchini (Jun 25, 2021 12:12 PDT)  
7                                R. Kait Flocchini, Assistant Bar Counsel  
8                                9456 Double R Blvd., Ste. B  
9                                Reno, NV 89521  
10                                Phone: (775) 329-4100






# 6-25-21.1st designation

Final Audit Report

2021-06-25

Created:	2021-06-25
By:	Laura Peters (laurap@nvbar.org)
Status:	Signed
Transaction ID:	CBJCHBCAABAAeINGhDy8LqraoSD98VkfWidj5lomlpks

## "6-25-21.1st designation" History

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-  Document emailed to Kait Flocchini (kaitf@nvbar.org) for signature  
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-  Email viewed by Kait Flocchini (kaitf@nvbar.org)  
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Signature Date: 2021-06-25 - 7:12:11 PM GMT - Time Source: server- IP address: 71.83.120.174
-  Agreement completed.  
2021-06-25 - 7:12:11 PM GMT



FILED

JUL 15 2021

STATE BAR OF NEVADA  
BY [Signature]  
OFFICE OF BAR COUNSEL

Christian L. Moore, Esq., NSB #3777  
Lemons, Grundy & Eisenberg  
6005 Plumas Street, Third Floor  
Reno, NV 89519  
Telephone: (775) 786-6868  
Fax: (775) 786-9716  
clm@lge.net; dal@lge.net  
*Attorneys for Defendants*

STATE BAR OF NEVADA  
NORTHERN NEVADA DISCIPLINARY BOARD

STATE BAR OF NEVADA

Complainant,

CASE NO.: OBC21-0067

vs.

VERIFIED ANSWER TO COMPLAINT

BRENT HARSH, ESQ.,  
BAR NO. 8814,

Respondent.

Respondent, BRENT HARSH, ESQ., by and through his undersigned counsel in this matter, admits, denies, and alleges as follows:

1. Admitted that Respondent, State Bar of Nevada Bar Number 8814, is an active member of the State Bar of Nevada; and has his principal place of business for the practice of law located in Washoe County, Nevada.

2. Admitted that Respondent has been retained to represent David and Sheela Clements to pursue their claims related to a November 5, 2020, vehicle-pedestrian accident.

3. Admitted that Sandra L. Sei was the driver in the accident and David was the pedestrian.

4. Admitted that Ms. Sei is insured by The Hartford.

///

///

1           5.       Admitted, based on information and belief, that Reed Werner is a Senior Staff  
2 Attorney with the Law Offices of Eric R. Larsen, Employees of a Subsidiary of The Hartford  
3 Financial Services Group.

4           6.       Denied that attorney Werner was retained by The Hartford to represent Sei against  
5 the Clements' claims. Instead, attorney Werner received an assignment from The Hartford claims  
6 professional Katherine Baarson to provide a coverage opinion to determine if a separate policy  
7 limit under The Hartford's insurance policy applied to Mrs. Clements' claim against Ms. Sei. As  
8 such, attorney Werner in fact represented The Hartford.

9           7.       Admitted that Respondent sent a November 16, 2020 demand letter to The  
10 Hartford claims professional Baarson seeking additional coverage for Mrs. Clements' claimed  
11 injuries related to the accident, and also requesting the identity of Ms. Sei's personal counsel.

12           8.       Admitted, based on information and belief, that Ms. Baarson did not immediately  
13 respond to Respondent's November 16 letter, and instead forwarded it to attorney Werner.

14           9.       Admitted that attorney Wenrer sent a letter to Respondent on December 18, 2020  
15 that included in the reference section the words "Our Client : Sandra Sei" that nevertheless  
16 discussed the Negligent Infliction of Emotional Distress claim by Ms. Clements that presented  
17 the coverage issue with The Hartford.

18           10.      Denied, based on lack of information and belief, that attorney Werner sent a letter  
19 to Ms. Sei identifying that his office had been retained to represent her in the dispute with Mr.  
20 and Mrs. Clements. In fact, attorney Werner was ethically prohibited from representing Ms. Sei  
21 because he was representing The Hartford and providing coverage advice adverse to Ms. Sei's  
22 interests. Further, as discovered during the May 20, 2021 deposition testimony of Ms. Sei in the  
23 underlying case number CV20-02081, where Ms. Sei is represented by attorney Christopher  
24 Turtzo, Esq. of the law firm of Morris, Sullivan & Lemkul, LLP (not attorney Werner or anybody  
25 affiliated with "The Law Offices of Eric R. Larsen – Employees of a Subsidiary of The Hartford  
26 Financial Services Group, Inc."), it is readily apparent that in fact attorney Werner never  
27 represented Ms. Sei when one reviews the following excerpt of transcript:

1 20 Q Did you ever talk to Reed Warner?  
2 21 MR. TURTZO: Just for the purposes of the  
3 22 record, it's a yes or no question.  
4 23 BY MR. HARSH:  
5 24 Q It's a yes or no. I'm not asking about any  
6 25 details, I'm asking have you ever had a conversation  
7 with Reed Warner? Page 33  
8 2 MR. TURTZO: That's okay. Go ahead and answer  
9 3 if you know.  
10 4 THE WITNESS: I don't remember the name, no.  
11 5 BY MR. HARSH:  
12 6 Q Have you ever been contacted -- besides your  
13 7 attorney that's sitting here, have you ever had a  
14 8 conversation with any attorneys with The Hartford? I'm  
15 9 not talking about the attorney sitting next to you.  
16 10 A No.  
17 11 Q Any other communications with The Hartford from  
18 12 your third conversation with Kat, and then I'm assuming  
19 13 your attorney that's sitting here now, and I want to be  
20 14 very clear. I don't want to know any conversations  
21 15 you've had with your attorney. I'm just trying to see  
22 16 who else from The Hartford you talked to.  
23 17 A Nobody.

18 11. Admitted that on January 5, 2021, Respondent filed a Complaint in underlying  
19 case number CV20-02081 in the Second Judicial District Court on behalf of Mr. and Mrs.  
20 Clements against Ms. Sei.

21 12. Admitted that Rule 4.2(a) of the Nevada Rules of Civil Procedure ("NRCPP")  
22 provides that a Summons and Complaint be personally served on a defendant or a defendant's  
23 authorized agent, such as counsel if the attorney in fact represents the defendant and has authority  
24 from the defendant to accept service.

25 13. Admitted that Respondent, as permitted by Rule 4.2(a) of the Nevada Rules of  
26 Civil Procedure ("NRCPP"), arranged for service of the Summons and Complaint in underlying  
27 case number CV20-02081 on Ms. Sei.

28 ///



1           14.     Admitted that the Summons and Complaint served on Ms. Sei included  
2 Respondent's letter addressed directly to Ms. Sei communicating that a judgment was being  
3 sought that was more than what her insurance company contended was her insurance policy  
4 limits and recommending that she seek the advice of personal counsel. This recommendation  
5 included the names of four lawyers in Reno who specialize in protecting parties whose interests  
6 might be adverse to their insurance carriers.

7           15.     Admitted that attorney Werner did not give Respondent consent to communicate  
8 directly with Ms. Sei. Such consent was not required as attorney Werner, having been engaged  
9 by The Hartford to provide coverage opinions, could not, as specified in RPC 1.7 (Conflict of  
10 Interest: Current Clients) ethically represent Ms. Sei in the defense of the claims presented  
11 against Ms. Sei in case number CV20-02081. This conflict existed because attorney Werner's  
12 representing The Hartford to contend there was no additional insurance policy limit was in direct  
13 conflict with the interest of Ms. Sei since Ms. Sei would be insulated from any personal exposure  
14 if The Hartford were to concede that the insurance policy it sold to Ms. Sei provided additional  
15 insurance coverage. The Nevada Supreme Court has clearly stated that "Where the clients'  
16 interests conflict, the rules of professional conduct prevent the same lawyer from representing  
17 both clients" when one client is an insurer and the other client is the insured. *State Farm v.*  
18 *Hansen*, 131 Nev. 743, 748, 357 P.3d 338, 341 (2015). In *Hansen*, the Nevada Supreme Court  
19 analyzed certified questions sent by the United States District Court for the District of Nevada  
20 as to when an insurer must provide independent counsel for its insured. In its discourse on the  
21 topic, the *Hansen* opinion examined several Nevada Rules of Professional Conduct and observed  
22 "counsel may not represent both the insurer and the insured when their interests conflict and no  
23 special exception applies. RPC 1.7." *Id.* at 747, 341.

24           Further, even if attorney Werner ignores the above discussed ethical prohibition, Mr.  
25 Harsh's letter to Ms. Sei discussed a matter that could not have been the subject of attorney  
26 Werner's representation of Ms. Sei. The subject of Respondent's letter to Ms. Sei focused on the  
27 insurance coverage available to Ms. Sei, which, as already established, could not have been the  
28 subject of attorney Werner's purported representation of Ms. Sei. Indeed, in interpreting Rule

1 4.2, the Nevada Supreme Court has demonstrated that it will carefully examine the circumstances  
2 surrounding the purported improper contact by an attorney of a supposedly represented person.  
3 *Palmer v. Pioneer Inn Associates, Ltd.*, 338 F.3d 981 (9th Circuit 2003). In *Palmer*, the United  
4 States Court of Appeal for the Ninth Circuit certified a question to the Nevada Supreme Court  
5 to discuss the application of Supreme Court Rule 182 which was repealed by Order of the Nevada  
6 Supreme Court on February 6, 2006 and in turn replaced by the Nevada Rules of Professional  
7 Conduct, based upon the Bar Association Model Rules of Professional Conduct to include RPC  
8 4.2. While the interpretation in *Palmer* of Rule 4.2 focusses on an issue distinct from the  
9 grievance discussed in this letter, a touchstone of the Nevada Supreme Court's analysis is that  
10 the primary purpose of, now RPC 4.2, is "to protect the attorney-client relationship from  
11 intrusion by opposing counsel." *Id.* at 987. Mr. Werner clearly did not have an attorney-client  
12 relationship with Ms. Sei to defend her in any litigation as is demonstrated by (1) the fact that  
13 attorney Christopher Turtzo of the law firm of Morris, Sullivan & Lemkul filed an answer within  
14 20 days after Ms. Sei was served with the letter from Mr. Harsh, and (2) Ms. Sei's above quoted  
15 May 20, 2021 deposition testimony wherein she testified she had no communications with  
16 attorney Werner.

17 16. Respondent admits that he did not provide attorney Werner or The Hartford with  
18 a copy of the documents served on Ms. Sei; but did ask Ms. Sei contact The Hartford and provide  
19 a copy of the Summons and Complaint.

20 17. Admitted that RPC 4.2 states (Communication with Person Represented by  
21 Counsel) states "In representing a client, a lawyer shall not communicate about the subject of  
22 the representation with a person the lawyer knows to be represented by another lawyer in the  
23 matter, unless the lawyer has the consent of the other lawyer or is authorized to do so by law or  
24 a court order."

25 18. Respondent denies that he has violated RPC 4.2.

26 ///

27 ///

28 ///

1 WHEREFORE, Respondent prays as follows:

- 2 1. That a hearing be held pursuant to Nevada Supreme Court Rule 105;
- 3 2. That Complainant is not granted the remaining prayer stated in the Complaint;
- 4 and
- 5 3. That the Complaint be dismissed.

6

7 DATED this 14<sup>th</sup> day of July 2021.

8 LEMONS, GRUNDY & EISENBERG

9

10 By: 

11 CHRISTIAN L. MOORE, ESQ. (SBN3777)

12 6005 Plumas St., Third Floor

13 Reno, Nevada 89519

14 *Attorneys for Respondent*

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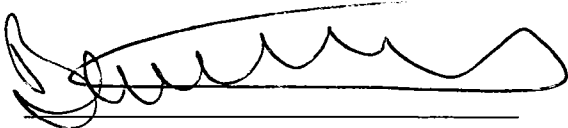
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VERIFICATION PURSUANT TO NRS 15.010

STATE OF NEVADA       )  
                                  ) ss.  
COUNTY OF WASHOE    )

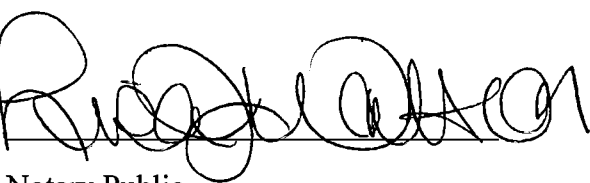
Under penalties of perjury, the undersigned declares that he is the Respondent named in the foregoing Answer and knows the contents thereof; that the pleading is true of his own knowledge, except as to those matters stated on information and belief, and that as to such matters he believes it to be true.

DATED this 7 day of July 2021.

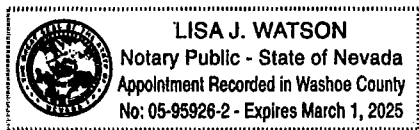


BRENT HARSH, ESQ.

SUBSCRIBED and SWORN to before me  
on this 7th day of July 2021.



Notary Public

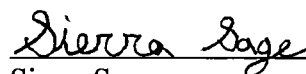


**CERTIFICATE OF SERVICE**

I certify that I am an employee of LEMONS, GRUNDY & EISENBERG, 6005 Plumas Street, Third Floor, Reno, Nevada 89519; over the age of 18 years, and not a party to the within action; that on July 14<sup>th</sup>, 2021, I served a copy of the foregoing **VERIFIED ANSWER TO COMPLAINT**, via Hand Delivery and Electronic Filing to the following recipients:

laurap@nvbar.org

R. Kait Flocchini, Assistant Bar Counsel  
Nevada Bar No. 9861  
9456 Double R Boulevard  
Reno, Nevada 89521  
kaitf@nvbar.org

  
Sierra Sage



FILED

JUL 15 2021

STATE BAR OF NEVADA  
BY [Signature]  
OFFICE OF BAR COUNSEL

Case Number: OBC21-0067

STATE BAR OF NEVADA

NORTHERN NEVADA DISCIPLINARY BOARD

STATE BAR OF NEVADA, )  
 )  
Complainant, )  
 )  
vs. )  
 )  
BRENT HARSH, ESQ. )  
NV BAR No. 8814 )  
Respondent. )  
 )  
 )

**ORDER APPOINTING**  
**HEARING PANEL CHAIR**

**IT IS HEREBY ORDERED** that the following member of the Northern Nevada  
Disciplinary Board has been designated and as the Hearing Panel Chair.

1. Eric Stovall, Esq., Chair

DATED this 15 day of July, 2021.

STATE BAR OF NEVADA

By: [Signature]  
Eric Stovall, Esq., Chair  
Northern Nevada Disciplinary Board

# North Hearing Chair Ord\_Harsh

Final Audit Report

2021-07-15

Created:	2021-07-15
By:	Cathi Britz (cathib@nvbar.org)
Status:	Signed
Transaction ID:	CBJCHBCAABAAv7f_v-MmNULYy58bcXrOO3xX1NILsCrC

## "North Hearing Chair Ord\_Harsh" History

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-  Document emailed to Eric A. Stovall (eric@ericstovalllaw.com) for signature  
2021-07-15 - 9:08:17 PM GMT
-  Email viewed by Eric A. Stovall (eric@ericstovalllaw.com)  
2021-07-15 - 9:19:24 PM GMT- IP address: 76.209.6.196
-  Document e-signed by Eric A. Stovall (eric@ericstovalllaw.com)  
Signature Date: 2021-07-15 - 9:20:04 PM GMT - Time Source: server- IP address: 76.209.6.196
-  Agreement completed.  
2021-07-15 - 9:20:04 PM GMT

**CERTIFICATE OF SERVICE BY MAIL**

The undersigned hereby certifies that a true and correct copy of the foregoing **Order**

**Appointing Hearing Panel Chair** was served electronically upon:

Eric Stovall, Esq. - eric@ericstovalllaw.com

Christian L. Moore, Esq. - clm@lge.net

Kait Flocchini – kaitf@nvbar.org

Dated this 15<sup>th</sup> day of July 2021.

*Laura Peters*

---

Laura Peters, an employee of  
the State Bar of Nevada



Case Number: OBC21-0067



FILED

AUG 05 2021

STATE BAR OF NEVADA  
BY [Signature]  
OFFICE OF BAR COUNSEL

STATE BAR OF NEVADA  
NORTHERN NEVADA DISCIPLINARY BOARD

STATE BAR OF NEVADA,

Complainant,

vs.

BRENT HARSH, ESQ.,  
BAR NO. 8814

Respondent.

**SCHEDULING ORDER**

Pursuant to Rule 17 of the Disciplinary Rules of Procedure, the Hearing Chair Eric Stovall, Esq., met telephonically with R. Kait Flocchini, Esq., Assistant Bar Counsel, on behalf of the State Bar of Nevada, and Christian L. Moore, Esq., on behalf of Respondent Brent Harsh, Esq., on July 22, 2021 at 9:00 a.m. to conduct the initial conference in this matter. Initial disclosures, discovery issues, the potential for resolution of this matter prior to the hearing, and the hearing date were discussed during the Initial Conference.

During the Initial Conference, the parties agreed to the following:

1. All documents may be served electronically, unless otherwise required by the Nevada Supreme Court Rules.

1           2.       State Bar of Nevada's initial disclosures shall be served on or before July 29,  
2 2021.

3           3.       Respondent will provide initial disclosures which shall be served on or before  
4 August 6, 2021. Such disclosures shall identify and provide all documents reasonably  
5 calculated to lead to the discovery of admissible evidence and identify, with contact  
6 information, all witnesses Respondent intends to call to testify at the hearing.

7           4.       The parties shall file and serve any substantive Motions on or before August  
8 9, 2021.

9           5.       At or before September 7, 2021 at 9:00 a.m., the parties shall exchange a list  
10 of final hearing exhibits, identified numerically by the State Bar and alphabetically by  
11 Respondent, and a list of all witnesses the party intends to call to testify at the Formal  
12 Hearing. At or before 12:00 p.m. on September 8, 2021, the parties shall exchange  
13 objections to final hearing exhibits and intended hearing witnesses.

14          6.       The parties shall meet with Chair Stovall on September 9, 2021 at 9:00 a.m.  
15 via simultaneous audio/visual transmission (i.e. Zoom) hosted by the State Bar for the Pre-  
16 hearing Conference. Pursuant to Rule 23 of the Disciplinary Rules of Procedure, at the Pre-  
17 hearing conference (i) the parties shall discuss all matters needing attention prior to the  
18 hearing date, (ii) the Chair may rule on any motions or disputes including motions to  
19 exclude evidence, witnesses, or other pretrial evidentiary matter, and (iii) the parties shall  
20 discuss and determine stipulated exhibits proffered by either bar counsel or respondent as  
21 well as stipulated statement of facts, if any. The State Bar shall provide the meeting  
22 information no less than 48 hours before the meeting time.

23          7.       The parties shall file and serve any Hearing Brief no later than 5:00 p.m. on  
24 September 15, 2021.  
25

8. The hearing for this matter shall be set for one day, to wit September 29, 2021, starting at 9:00 a.m. and shall take place via simultaneous audio/visual transmission (i.e. Zoom) hosted by the State Bar. The State Bar shall provide the meeting information no less than 48 hours before the hearing time.

9. The Findings of Fact, Conclusion of Law, and Recommendation or Order in this matter shall be due October 29, 2021.

10. The parties stipulate to waive SCR 105(2)(d) so that the remaining hearing panel members may be appointed more than 45 days prior to the scheduled hearing.

Based on the parties' verbal agreement to the foregoing during the telephonic Initial Conference and good cause appearing, IT IS SO ORDERED.

Dated this 5<sup>th</sup> day of August, 2021.

NORTHERN NEVADA DISCIPLINARY BOARD

*Eric J. Stroh*

Eric Stovall, Esq.  
HEARING CHAIR

# 8-5-21.Scheduling Order

Final Audit Report

2021-08-05

Created:	2021-08-05
By:	Laura Peters (laurap@nvbar.org)
Status:	Signed
Transaction ID:	CBJCHBCAABAAM3TrWKrLy9sTrZfn6iTI2WQQSgm2rVjj

## "8-5-21.Scheduling Order" History

-  Document created by Laura Peters (laurap@nvbar.org)  
2021-08-05 - 11:12:04 PM GMT- IP address: 71.94.199.108
-  Document emailed to Eric A. Stovall (eric@ericstovalllaw.com) for signature  
2021-08-05 - 11:13:28 PM GMT
-  Email viewed by Eric A. Stovall (eric@ericstovalllaw.com)  
2021-08-05 - 11:15:47 PM GMT- IP address: 76.209.6.196
-  Document e-signed by Eric A. Stovall (eric@ericstovalllaw.com)  
Signature Date: 2021-08-05 - 11:17:01 PM GMT - Time Source: server- IP address: 76.209.6.196
-  Agreement completed.  
2021-08-05 - 11:17:01 PM GMT



FILED

AUG 09 2021

STATE BAR OF NEVADA  
BY [Signature]  
OFFICE OF BAR COUNSEL

STATE BAR OF NEVADA  
NORTHERN NEVADA DISCIPLINARY BOARD

STATE BAR OF NEVADA,

Complainant,

vs.

BRENT HARSH, ESQ.  
NV BAR No. 8814  
Respondent.

ORDER APPOINTING  
FORMAL HEARING PANEL

IT IS HEREBY ORDERED that the following members of the Northern Nevada Disciplinary Board have been designated as members of the formal hearing panel in the above-entitled action. The hearing will be convened on the 29<sup>th</sup> day of September, 2021 starting at 9:00 a.m. via Zoom video conferencing.

1. Eric Stovall, Esq., Chair;
2. Lucas Foletta, Esq.
3. Mike LaBadie, Laymember

DATED this 9<sup>th</sup> day of August, 2021.

STATE BAR OF NEVADA

By: [Signature]  
Eric A. Stovall, Esq., Chair  
Northern Nevada Disciplinary Board




# North Hearing Pnl Ord\_Harsh

Final Audit Report

2021-08-09

Created:	2021-08-09
By:	Cathi Britz (cathib@nvbar.org)
Status:	Signed
Transaction ID:	CBJCHBCAABAALFOgQptcan0iRO3LVQaxjoWW_46okR5x

## "North Hearing Pnl Ord\_Harsh" History

-  Document created by Cathi Britz (cathib@nvbar.org)  
2021-08-09 - 10:38:47 PM GMT- IP address: 98.180.225.67
-  Document emailed to Eric A. Stovall (eric@ericstovalllaw.com) for signature  
2021-08-09 - 10:39:28 PM GMT
-  Email viewed by Eric A. Stovall (eric@ericstovalllaw.com)  
2021-08-09 - 10:42:01 PM GMT- IP address: 76.209.6.196
-  Document e-signed by Eric A. Stovall (eric@ericstovalllaw.com)  
Signature Date: 2021-08-09 - 10:43:43 PM GMT - Time Source: server- IP address: 76.209.6.196
-  Agreement completed.  
2021-08-09 - 10:43:43 PM GMT

**CERTIFICATE OF SERVICE BY MAIL**

The undersigned hereby certifies that a true and correct copy of the foregoing **Order**

**Appointing Formal Hearing Panel** was served electronically upon:

Christian L. Moore, Esq. - [clm@lge.net](mailto:clm@lge.net)

Kait Flocchini – [kaitf@nvbar.org](mailto:kaitf@nvbar.org)

Eric Stovall, Esq. - [eric@ericstovalllaw.com](mailto:eric@ericstovalllaw.com)

Lucas Folletta, Esq - [lfoletta@mcdonaldcarano.com](mailto:lfoletta@mcdonaldcarano.com)

Mike LaBadie - [Mlab12770@gmail.com](mailto:Mlab12770@gmail.com)

Dated this 9<sup>th</sup> day of August 2021.

*Laura Peters*

---

Laura Peters, an employee of  
the State Bar of Nevada



FILED

AUG 31 2021

STATE BAR OF NEVADA  
BY [Signature]  
OFFICE OF BAR COUNSEL

Case No: OBC21-0067

STATE BAR OF NEVADA

NORTHERN NEVADA DISCIPLINARY BOARD

STATE BAR OF NEVADA, )  
)  
Complainant, )  
vs. )  
)  
BRENT HARSH, ESQ., )  
BAR NO. 8814 )  
)  
Respondent. )

NOTICE OF HEARING

TO: Brent Harsh, Esq.  
c/o Christian Moore, Esq.  
Lemons, Grundy & Eisenberg  
6005 Plumas Street, Third Floor  
Reno, Nevada 89519

PLEASE TAKE NOTICE that the formal hearing in the above-entitled action is scheduled for **Wednesday, September 29, 2021, beginning at the hour of 9:00 a.m.** The hearing will be conducted via Zoom (meeting # 85020672451). You are entitled to be represented by counsel, to cross-examine witnesses, and to present evidence.

DATED this 31st day of August 2021.

STATE BAR OF NEVADA  
DANIEL M. HOOGE, Bar Counsel

By: [Signature]  
R. Kait Flocchini, Assistant Bar Counsel  
Nevada Bar No. 9861  
9456 Double R Boulevard  
Reno, Nevada 89521  
(775) 329-4100



Case No: OBC21-0067



**FILED**

**AUG 31 2021**

STATE BAR OF NEVADA  
BY [Signature]  
OFFICE OF BAR COUNSEL

**STATE BAR OF NEVADA  
NORTHERN NEVADA DISCIPLINARY BOARD**

STATE BAR OF NEVADA, )  
)  
Complainant, )  
vs. )  
)  
BRENT HARSH, ESQ., )  
BAR NO. 8814 )  
)  
Respondent. )

**STATE BAR OF NEVADA'S  
FINAL DISCLOSURES**

PLEASE TAKE NOTICE that the following is a list of witnesses and a summary of evidence which may be offered against Respondent at the time of the Formal Hearing, in the above-entitled complaint.

**A. Documentary Evidence**

1. Any and all documentation contained in the State Bar of Nevada's Initial Disclosure of Documents and Witnesses and filed July 27, 2021, and the State Bar of Nevada's First Supplemental Disclosure of Documents filed on August 23, 2021, as well as Respondent's Disclosures served August 6, 2021.

///

**B. Witnesses and Brief Statement of Facts**

1. Respondent Brent Harsh, Esq. may offer testimony regarding his representation of David and Sheela Clements and communication with attorney Reed Werner and Werner's client Sandra Sei related thereto.

2. Grievant Reed Werner, Esq., may offer testimony about his representation of Sandra Sei, and/or her insurance provider The Hartford, related to the David and Sheela Clements matter. Mr. Werner's contact information is:

The Law Office of Eric R. Larsen  
9275 W. Russell Road, Suite 205  
Las Vegas, NV 89148  
(702) 387-8080  
Reed.Werner@thehartford.com

3. Christopher Turtzo, Esq., may offer testimony about his representation of Sandra Sei, and/or her insurance provider The Hartford, related to the David and Sheela Clements matter. Mr. Turtzo's contact information is:

Morris, Sullivan and Lemkul, LLP.  
3960 Howard Hughes Parkway, Suite 420  
Las Vegas, NV 89169  
(702) 405-8100  
turtzo@morrisullivanlaw.com

4. Katherine Baarson may offer testimony regarding her communications with Mr. Harsh, Mr. Werner and Ms. Sei. Ms. Baarson's contact information is:

The Hartford Insurance Group  
P.O. Box 14265  
Lexington, KY 40512-4264  
(460) 629-9051  
katherine.Baarson@thehartford.com

///

///

///

5. A custodian of records from the Office of Bar Counsel may be called to testify about Respondent's licensure and discipline history with the State Bar of Nevada.

Dated this 31st day of August 2021.

STATE BAR OF NEVADA  
DANIEL M. HOOGE, BAR COUNSEL


By:   
R. Kait Flocchini, Assistant Bar Counsel  
Nevada Bar No. 9861  
9456 Double R Blvd., Ste. B  
Reno, NV 89521  
(775) 329-4100

**CERTIFICATE OF SERVICE BY MAIL**

The undersigned hereby certifies that a true and correct copy of the foregoing **Notice of Hearing; State Bar of Nevada's Final Disclosures** was served by regular and certified first-class mail upon:

Brent D. Harsh, Esq.  
c/o Christian Moore, Esq.  
Lemons Grundy & Eisenberg  
6005 Plumas Street, Third Floor  
Reno, NV 89519

Dated this 31 day of August 2021.

  
\_\_\_\_\_  
Laura Peters, an employee of  
the State Bar of Nevada



FILED

SEP 07 2021

STATE BAR OF NEVADA  
BY Xunle  
OFFICE OF BAR COUNSEL

ERIC A. STOVALL, LTD.  
Eric A. Stovall, Esq.  
Nevada Bar #3167  
200 Ridge Street, Suite 222  
Reno, Nevada 89501  
Telephone: (775) 337-1444  
Arbitrator

STATE BAR OF NEVADA

NORTHERN NEVADA DISCIPLINARY BOARD

\*\*\*

STATE BAR OF NEVADA

CASE NO.: OBC21-0067

Complainant,

vs.

BRENT HARSH, ESQ.,  
BAR NO. 8814

Respondent.

ORDER DENYING MOTION FOR SUMMARY JUDGEMENT

The Motion for Summary Judgment and Reply filed by the Respondent, Brent Harsh, along with the Opposition filed by the State Bar of Nevada have come on regularly to the Chair of the Northern Nevada Disciplinary Board for decision.

The *gravamen* of the complaint brought against Respondent is his alleged violation of Nevada Rules of Professional Conduct when he directly contacted an adverse party who was represented by counsel. NRPC 4.2 provides:

**Rule 4.2 Communication With Person Represented by Counsel.** In representing a client, a lawyer shall not communicate about the subject of the representation with a person the lawyer knows to be represented by another lawyer in the matter, unless the lawyer has the consent of the other lawyer or is authorized to do so by law or a court order.

ERIC A. STOVALL, LTD  
--Attorney at Law--  
200 Ridge Street, Ste. 222  
Reno, Nevada 89501  
(775) 337-1444  
Fax (775) 337-1442

1 Respondent maintains that the State Bar of Nevada must prove  
2 by clear and convincing evidence that he had actual knowledge that  
3 the party he contacted was indeed represented by counsel in order  
4 find him in violation of NRPC 4.2. Despite having received a  
5 letter from the attorney of the represented person indicating said  
6 representation, Respondent claims that he overlooked that part of  
7 the letter. Therefore, since he did not read it, Harsh insists  
8 that he did not have actual knowledge of the representation which  
9 requires the granting of Summary Judgment in his favor.

10 Selective reading of a letter from an attorney, especially  
11 the part that states who that attorney is representing, does not  
12 create a shield which allows the other attorney to freely contact  
13 the represented party. Indeed, notations on NRPC 4.2 provide that  
14 "an attorney who innocently, mistakenly or negligently conducts ex  
15 parte communications with a party represented by counsel will  
16 still violate the former S.C.R. 182 (cf. RPC 4.2). Breach of the  
17 rule does not have to be intentional to be the subject of  
18 disciplinary action. Neither negligence nor ignorance of the  
19 former S.C.R. 182 (cf. RPC 4.2) justifies communication with the  
20 adverse party represented by counsel. (N.B., case decided before  
21 the provisions of the former S.C.R. 150 to 203.5, inclusive, were  
22 repealed and reorganized effective May 1, 2006, as RPC 1.0 to 8.5,  
23 inclusive.) *Faison v. Thornton*, 863 F. Supp. 1204 (D. Nev. 1993)."

24 ///

25 ///

26 ///

27 ///

28

ERIC A. STOVALL, LTD  
--Attorney at Law--

200 Ridge Street, Ste. 222  
Reno, Nevada 89501  
(775) 337-1444

Fax (775) 337-1442

Accordingly, Respondent's Motion for Summary Judgment is denied.

DATED this 7<sup>th</sup> day of September, 2021

By   
Eric A. Stovall, Esq.

1 **CERTIFICATE OF SERVICE**

2 Pursuant to NRCP 5(b), I certify that I am an employee of  
3 ERIC A. STOVALL, LTD., and that on the 7<sup>th</sup> September, 2021, I am  
4 serving the foregoing document(s) on the party(s) set forth  
5 below by Electronic Filing addressed as follows:

6 R. Kait Flocchini, Assistant Bar Counsel  
7 9456 Double R Boulevard  
8 Reno, NV 89521  
[kaitf@nvbar.org](mailto:kaitf@nvbar.org)

9 Brent Harsh, Esq.  
10 C/o Christian L. Moore, Esq.  
11 6005 Plumas Street, Third Floor  
12 Reno, NV 89519  
[clm@lge.net](mailto:clm@lge.net)

13 **Affirmation-Pursuant to NRS 239B.030**

14 The undersigned does hereby affirm that the preceding  
15 document **does not** contain the social security number of any  
16 person.

17 /s/Diane Davis

18 Diane Davis

19  
20  
21  
22  
23  
24  
25 ERIC A. STOVALL, LTD  
--Attorney at Law--

26 200 Ridge Street, Ste. 222  
27 Reno, Nevada 89501  
28 (775) 337-1444  
Fax (775) 337-1442



FILED

SEP 15 2021

STATE BAR OF NEVADA  
BY: [Signature]  
OFFICE OF BAR COUNSEL

Case Nos.: OBC21-0067

STATE BAR OF NEVADA

NORTHERN NEVADA DISCIPLINARY BOARD

STATE BAR OF NEVADA, )  
)  
Complainant, )  
vs. )  
)  
BRENT HARSH, ESQ., )  
BAR NO. 8814 )  
)  
Respondent. )  
\_\_\_\_\_ )

**ORDER AFTER  
PRE-HEARING CONFERENCE**

Pursuant to Rule 23 of the Disciplinary Rules of Procedure, the Hearing Panel Chair Eric Stovall, Esq., met via simultaneous audio/visual transmission (Zoom) with Kait Flocchini, Esq., Assistant Bar Counsel, on behalf of the State Bar of Nevada, and Christian Moore, Esq. of Lemons Grundy and Eisenberg, on behalf of Respondent Brent Harsh, Esq. ("Respondent"), on September 9, 2021 at 9:00 a.m. and to conduct the Pre-hearing Conference in this matter. Exhibits, potential witnesses, and issuance of trial subpoenas were addressed.

DETAILS OF PRE-HEARING CONFERENCE

Based on oral representations and arguments made during the Pre-hearing conference, the following was decided:

1. By stipulation, the State Bar's exhibits 1-3 and 5-11 are admitted and may be distributed to the Panel prior to the hearing.



2. Respondent's objections of relevancy and foundation to State Bar exhibit 4 is  
OVERRULED. State Bar exhibit 4 is admitted and may be distributed to the Panel prior to the hearing.

3. By stipulation, Respondent's exhibits B, D-J, L-M, and O are admitted and may be  
distributed to the Panel prior to the hearing. Respondent reserved exhibits L and M from distribution.

4. The State Bar's objections of relevancy to Respondent's exhibits A, C, and K are  
OVERRULED. Respondent's exhibits A, C, and K are admitted and may be distributed to the Panel  
prior to the hearing.

5. The State Bar's objection of hearsay without any exception to Respondent's exhibit N  
(the transcript of Ms. Sei's May 20, 2021 deposition testimony) is SUSTAINED without prejudice.  
Respondent may seek admission of Exhibit N during the hearing if Ms. Sei is unavailable to testify or  
for impeachment purposes.

6. The parties stipulate that the Nevada Supreme Court's holdings in *Hansen* mean that,  
outside of issuance of a reservation of rights letter, an attorney retained by an insurer to opine on  
whether an insurer is obligated to provide insurance coverage for its insured on a particular claim is  
ethically prohibited from also representing the insured for a related matter due to a conflict of interest  
that would exist between the attorney's clients if there was such dual representation.

7. Based on the parties' above stipulation, the State Bar's request to exclude Scott  
Glogovac, Esq. from testifying in the Formal Hearing as an expert is GRANTED. Respondent is  
permitted to make a proffer of proof to the Panel Chair prior to the hearing in order to preserve the  
record.

8. The State Bar requested to exclude Karl Smith, Esq. from testifying in the Formal  
Hearing (i) as an expert because it would not be relevant to the proceeding based on the finite nature  
of the alleged misconduct and (ii) as a percipient witness because such testimony would be cumulative  
to testimony offered by Respondent. The State Bar's request is GRANTED. Respondent is permitted  
to make a proffer of proof to the Panel Chair prior to the hearing in order to preserve the record.

9. Respondent notified the Panel Chair and the State Bar of the recent receipt of redacted documents from The Hartford pertaining to the underlying matter, in which the circumstances surrounding grievant attorney Reed Werner's reported engagement to represent Ms. Sei may be discussed. The Panel Chair instructed Respondent to follow up with serving document subpoenas on The Hartford representatives.

10. The State Bar objected to Respondent's subpoena duces tecum to Christopher Turtzo, Esq. requesting unredacted copies of documents identified as SS000091-SS000092 in the underlying matter as unduly burdensome. Respondent argued that the redacted information is likely related to which attorney was retained by The Hartford and the purpose for the retainer, and therefore, is relevant to this matter. The State Bar's objection is **OVERRULED**.

11. The Panel Chair and State Bar agree that Respondent can proceed with serving subpoenas for disclosed witnesses to testify at the hearing in this matter.

Good cause appearing, IT IS SO ORDERED.

Dated this 14 day of September, 2021.

## NORTHERN NEVADA DISCIPLINARY BOARD


By:  \_\_\_\_\_  
Eric Stovall, Esq.  
Hearing Panel Chair

**CERTIFICATE OF SERVICE BY E-MAIL**

The undersigned hereby certifies that a true and correct copy of the foregoing **ORDER**  
**AFTER PRE-HEARING CONFERENCE** was served electronically upon:

1. Christian L. Moore, Esq. - [clm@lge.net](mailto:clm@lge.net)
2. Kait Flocchini, Esq. - [kaitf@nvbar.org](mailto:kaitf@nvbar.org)
3. Eric Stovall, Esq. - [eric@ericstovalllaw.com](mailto:eric@ericstovalllaw.com); [diane@ericstovalllaw.com](mailto:diane@ericstovalllaw.com):

Dated this 15th day of September 2021.

By:   
Tiffany Bradley, an employee of  
the State Bar of Nevada

**DECLARATION OF LAURA PETERS**  
**CUSTODIAN OF RECORDS**

LAURA PETERS, under penalty of perjury, being first duly sworn, deposes and says as follows:

That Declarant is employed as a paralegal for the discipline department of the State Bar of Nevada and in such capacity is the custodian of records for the State Bar of Nevada;

That Declarant has reviewed the State Bar of Nevada membership records regarding Respondent Brent Harsh, Esq., Nevada Bar No. 8814, and has verified that he was admitted to practice law in the State of Nevada on October 4, 2001. Respondent has no incidents of prior public discipline.

Dated this 7<sup>th</sup> day of September 2021.

*Laura Peters*

---

Laura Peters, Paralegal  
Office of Bar Counsel

CURTIS B. COULTER  
BRENT H. HARSH

PAIGE F. TAYLOR  
KARL H. SMITH



403 Hill Street  
Reno, Nevada 89501  
[www.coulterharshlaw.com](http://www.coulterharshlaw.com)

Tel: 775-324-3380  
Fax: 775-324-3381

Monday, November 16, 2020

**VIA US MAIL and EMAIL**

Katherine L. Baarson  
THE HARTFORD INSURANCE GROUP  
PO Box 14265  
Lexington, KY 40512-4264  
Email: [Katherine.Baarson@thehartford.com](mailto:Katherine.Baarson@thehartford.com)

RE:	Our Client:	David & Sheela Clements
	Your Driver:	Sei, Sandra L.
	Your Insured:	Sei, Sandra L.
	Claim No.:	PA0018907997
	Date of Loss:	November 5, 2020

**DEMAND**  
**(RESPONSE DUE BY December 1, 2020 11 AM, Pacific Time)**

Dear Ms. Baarson:

As you are aware, this office represents the interest of David & Sheela Clements in connection to the injuries they sustained in a motor vehicle crash which occurred on November 5, 2020 in Sparks, Washoe County, State of Nevada.

**I.**

**FACTS OF THE CASE**

**A. Insurance**

Sei, Sandra L. has a policy with THE HARTFORD at the time of the collision with liability limits of \$100,000/\$300,000.

**B. Liability**

On November 11, 2020, THE HARTFORD tendered \$100,000 to both David and Sheela Clements. See Exhibit 1. The Release specifically states "David Clements and Sheela Clements, individually and as husband and wife...from any and all actions, causes of action..." Id.

David Clements was lawfully crossing Pyramid Way, in a marked cross walk, when your insured, SANDRA SEI, made an improper right turn and failed to yield the right of way to a pedestrian. See Exhibit 2. You can actually see David and Sheela's home on the map. Id. There is nothing obstructing your insured's view. See Exhibit 3. Sheela came onto the scene and saw her husband still in the cross-walk after he was run over. See Exhibit 4. Your insured's vehicle was damaged and need \$2,378.31 worth of repair. See Exhibit 5. It is interesting to note how a human's body can do so much damage to a vehicle.

Sadly, David Clements suffered a significant spinal cord injury because of your insured's negligence.

## II.

### DISCUSSION

#### A. Causes of Action

There are many causes of action in the above case:

- 1) Negligence-David
- 2) Negligence Per Se-David
- 3) Negligent IED-Sheela
- 4) Loss of Consortium-Sheela

Based on the fact that THE HARTFORD has tendered only \$100,000, it is safe to assume that THE HARTFORD is taking the position that Negligent Infliction of Emotion Distress is a derivative claim, I disagree.

The State of Nevada has long recognized Negligent Infliction of Emotion Distress (NIED). See State v. Eaton, 101 Nev. 705, 710 P.2d 1370 (1985)(Overruled by State ex rel. Dep't of Transp. V. Hill, 114 Nev. 810, 963 P.2d (1998). A bystander who witnesses an accident may recover for emotional distress in certain limited situations. See Grotts v. Zahner, 115 Nev. 339, 341(1999). To recover for NIED, a plaintiff must establish that 1) she was located near the scene; 2) she was emotionally injured by the contemporaneous sensory observance of the accident; and 3) she was closely related to the victim. Id. It must also be pointed out that immediate family members, such as a wife, can bring NIED, as a matter of law. Id.

The cornerstone of NIED is foreseeability. See Shelkosohn v. Yun Szu Yeh. 281 P.3d 1218 (Nev. 2009) citing, Crippens v. Sav On Drug Stores, 114 Nev., 760, 763, 961 P.2d 761, 763 (1998). However, it is not the precise position of the plaintiff or what plaintiff saw that must be examined but the overall circumstances must be examined to determine whether the harm to the plaintiff was reasonably foreseeable. Id. The Court, based on foreseeability, created a three part test: 1) be closely related to the victim of an accident, 2) be located near the scene of the accident, and 3) suffer a shock resulting from direct emotional impact stemming from the sensory and contemporaneous observance of the accident. Id.

To that end, it is completely foreseeable that a wife coming across their paralyzed husband in a crosswalk can create shock and direct emotional suffering.

In the instant case, Sheela is a complete wreck and the stress created about the needs and caring for a

paraplegic. It must also be pointed out that Sheela is going through her own cancer treatment and also needs to support her husband that has had a traumatic injury.

As an aside, the Nevada Court determined that if plaintiffs prove causes of action for personal injuries and create separate damages for medical expense and emotion harms, each claim can be separately maintained and was subject to its own statutory cap. See State v. Eaton, 101 Nev. 705, 710 P.2d 1370 (1985)(overruled on other grounds).

### III.

#### DAMAGES

David Clements has incurred the following medical specials to date:

REMSA	Pending
RENOWN RHC (ER)	Pending
Northern NV Emerg. Phys.	Pending
Reno Radiological Assoc. CHTD.	Pending
Spine Nevada (11/6/20)	\$225,038.00
Renown Health	Pending
Renown Rehab	Pending
Spine Nevada (follow-up)	Pending
<u>Life Care Plan</u>	<u>Pending</u>
TOTAL	>\$225,038.00

### IV.

#### DEMAND

David Clements has suffered tremendously because of his injuries. Sheela Clements is emotionally devastated. In order to resolve their claims without the necessity of litigation, I have been authorized to settle their claims for the sum of \$200,000 (\$100,000 for David and \$100,000 to Sheela), which is the available policy limits. If THE HARTFORD still believes that the NIED is a derivate claim, can you please see if your insured is willing to personally contribute an additional \$100,000.00 and an assignment of her benefits against THE HARTFORD. To that end, can you please inform me who your insured's personal counsel is, so I can discuss further.

This offer is extended for negotiation purposes only and shall expire on December 1, 2020 at 11:00 AM, Pacific Time

Sincerely,

  
Brent Harsh

Enc: As stated  
BHH/

# Law Offices of Eric R. Larsen

Employees of a Subsidiary of The Hartford Financial Services Group, Inc.

## MAILING ADDRESS:

*Reed J. Werner Esq.*

Admitted in Nevada and California

## STREET ADDRESS:

9275 W. Russell Rd., Ste. 205  
Las Vegas, NV 89148

Direct Dial: (702) 387-8070

Email: Reed.Werner@thehartford.com

Office Telephone: (702) 387-8070

Office Facsimile: (877) 369-5819

December 1, 2020

Sandra Sei  
85 Devere Way  
Sparks, NV 89431-2307

Re: Clements, David v. Sei, Sandra  
Claim No.: Y51AL19182  
Policy No.: 55PHB326169  
Injury Date: 11/5/2020  
Insured: Sandra Sei

Dear Ms. Sei:

The above-captioned matter has been referred to this office for investigation of the above-referenced incident, which occurred on 11/5/2020. No lawsuit has been filed in court at this time; however, we anticipate that a Complaint may be filed sometime in the near future. Our pre-suit investigation may include reviewing documents, retaining experts and conducting an on-site inspection. We are a staff legal office and employees of a Subsidiary of The Hartford Fire Insurance Company, an affiliate of your insurance company, Hartford Insurance Company of the Midwest ("The Hartford"). It is our goal to defend you against any Complaint, if one is filed, and a pre-suit investigation is critical to our ability to be able to do so.

It is important that you contact me immediately if you are served with a Complaint so that I can determine whether appropriate service has been effectuated against your company. Additionally, upon receipt of a Complaint, you will need to immediately forward the papers to this office. If private counsel currently represents your company, please have him/her contact me immediately. I will be happy to cooperate with you or your company's attorney in this regard.

Your company's cooperation is essential for conducting a timely investigation in to the cause and origin of the incident as well as the anticipated defense of this matter. You or your witnesses may be called upon to assist in preparing for a potential trial and to testify at depositions. As such, we need the proper contact information for yourself as well as the contact information for any of the persons who may have knowledge of this incident giving rise to this claim and any potential lawsuit. At this time, I ask that you fill out, sign, and immediately return to my attention the attached document to provide me with necessary information.

Also, should you have any information or documents concerning this incident, such as correspondence, statements, computer data, reports, photographs, videotape or witness



information, please forward that information to me at your earliest convenience.

In the event that your company relocates or you are no longer the authorized representative of your company, please advise me in writing of this change. Please also indicate on the enclosed form whether you would like me to communicate with you via email as we will be informing you of significant developments in the ongoing investigation of this claim, and sending you copies of correspondence and pleadings that my office would prepare or receive concerning a potential lawsuit. As you review the documents, please call me if you have any questions. It is also important that you understand that documents are generally maintained by my office in electronic format. It is our policy that any documents you sign or provide to us will be maintained in their original form through any appeal period applicable to any lawsuit at a minimum or returned to you. If you require a copy of any document(s) related to this matter from us, please notify my office.

Please be assured that you will be kept advised of the progress of the pre-suit investigation. To enhance our line of communication, my e-mail address, telephone number and regular mailing address are on page 1. To preserve all attorney-client communications, I ask that you do two things. First, ensure that any e-mail address you provide is secure from access by others. Second, do not copy, forward, or show to any other individual any hard copy or electronic materials you receive from this office without first checking with me. If anyone contacts you or your company to discuss the facts of this claim or any future Lawsuit, please refer them to me.

We look forward to receiving the completed form back at your first opportunity and working with you toward a successful resolution of this claim.

Very truly yours,

*/s/ Reed J. Werner*

Reed J. Werner

RW/dmw

cc: Katherine Baarson, Y51AL19182-001

**CLAIMANT:** David Clements  
**INSURED:** Sandra Sei  
**CLAIM NO.:** Y51AL19182  
**DATE OF LOSS:** 11/5/2020

**Information Form**

**I. Other Insurance Coverage**

Please identify any other insurance policy that your Company has, which may provide coverage for the claim that is the subject of the Lawsuit:

Name of insurer \_\_\_\_\_ Policy Number \_\_\_\_\_

**II. Correspondence by Email**

With your consent indicated below, we will correspond with you by email. We must advise you, however, that email communication may be read by others who may have access to your computer, or email communications could potentially be intercepted by others during transmission. **By agreeing to communication via email, you acknowledge on behalf of your Company the risk of interception of the email and the risk that an email may be read by others.**

\_\_\_\_\_ **I do want** correspondence via email

\_\_\_\_\_ **I do not want** correspondence via email

**III. Witnesses**

\_\_\_\_\_  
Name/Address Telephone

\_\_\_\_\_  
Name/Address Telephone

**IV. Your Contact Information**

Work \_\_\_\_\_ Other (cell phone, etc.) \_\_\_\_\_

Fax \_\_\_\_\_ Email \_\_\_\_\_

Secondary Contact \_\_\_\_\_

Mailing Address (if address changed) \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Date

# Law Offices of Eric R. Larsen

Employees of a Subsidiary of The Hartford Financial Services Group, Inc.

9275 W. Russell Rd., Ste. 205  
Las Vegas, NV 89148

OFFICE:  
Telephone (702) 387-8070  
Facsimile (877) 369-5819

Debra M. Watson, Legal Assistant  
Telephone (702) 387-8092

*Reed J. Werner, Esq.*  
Admitted in Nevada and California

DIRECT DIAL:  
Telephone (702) 387-8080  
Reed.Werner@thehartford.com

Debra.Watson@thehartford.com

December 18, 2020

Brent Harsh, Esq.  
COULTER HARSH  
403 Hill St  
Reno, NV 89501

RE: Clements, David v. Sei, Sandra  
Our Client : Sandra Sei  
Plaintiffs : David Clements and Sheela Clements  
Date of Loss : 11/5/2020

Dear Mr. Harsh:

I am in receipt of your demand letter wherein you confirm that David Clements claims are resolved for the \$100,000 policy offer but then you make the assertion that Sheela Clements is making her own claim for Negligent Infliction of Emotional Distress. The information provided on behalf of Sheela Clements is quite sparse. Can you please provide additional information? When your client arrived on scene who else was present? Had emergency personnel already arrived? What was the condition of Mr. Clements at the time she arrived? Has Mrs. Clements received any treatment herself? You state that the husband is paralyzed by the medical records provided do not support that claim. Can you provide additional records so that an appropriate analysis can be completed?

Very truly yours,

Law Offices of ERIC R. LARSEN

/s/ Reed J. Werner  
Reed J. Werner, Esq.

cc: Katherine Baarson, The Hartford (Y51AL19182)

## **Brent Harsh**

---

**From:** Brent Harsh  
**Sent:** Monday, December 21, 2020 12:32 PM  
**To:** katherine.baarson@thehartford.com; reed.werner@thehartford.com  
**Subject:** PA0018907997 Regarding: Clements, David/Sheela

Reed,

Kat called me and said you will call re: the policy limits demand that expires today.

Feel free to call me on my cell 775-846-6900

**Brent H. Harsh**  
Trial Attorney  
**COULTER HARSH LAW**  
403 Hill Street  
Reno, Nevada 89501  
Tel: 775-324-3380  
Fax: 775-324-3381



## Brent Harsh

---

**From:** Werner, Reed J (Claims Solutions and Analytics) <Reed.Werner@thehartford.com>  
**Sent:** Monday, December 21, 2020 12:35 PM  
**To:** Brent Harsh; Baarson, Kat (Liability Claims)  
**Subject:** RE: Clements, David v. Sei, Sandra ( Y51AL19182 ): PA0018907997 Regarding: Clements, David/Sheela [HIGHLY RESTRICTED] (Encrypted Delivery)  
**Attachments:** LTR PC requesting additional info -DRAFT.docx

Brent,

Here is the letter I sent you on Friday. I need a little more information on the claim in order to make a recommendation. Please provide the information requested. I am about to go into an arbitration but you can call me later if you have questions. My direct line is 702-387-8080.

**REED J. WERNER, ESQ**  
Senior Staff Attorney  
The Law Offices of Eric R. Larsen

Employees of a Subsidiary of The Hartford Financial Services Group, Inc.  
9275 W. Russell Rd. Ste. 205  
Las Vegas, Nevada 89148  
W: 702-387-8080  
F: 877-369-5819  
[Reed.Werner@thehartford.com](mailto:Reed.Werner@thehartford.com)

**From:** Brent Harsh [mailto:brent@coulterharshlaw.com]  
**Sent:** Monday, December 21, 2020 12:32 PM  
**To:** Baarson, Kat (Liability Claims) <Katherine.Baarson@thehartford.com>; Werner, Reed J (Claims Solutions and Analytics) <Reed.Werner@thehartford.com>  
**Subject:** PA0018907997 Regarding: Clements, David/Sheela

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Feel free to call me on my cell 775-846-6900

**Brent H. Harsh**  
Trial Attorney  
**COULTER HARSH LAW**  
403 Hill Street  
Reno, Nevada 89501  
Tel: 775-324-3380  
Fax: 775-324-3381



**From:** [Werner, Reed J \(Claims Solutions and Analytics\)](#)  
**To:** [Kait Flocchini](#)  
**Subject:** FW: Clements, David v. Sei, Sandra ( Y51AL19182 ): PA0018907997 Regarding: Clements, David/Sheela [CONFIDENTIAL] (Encrypted Delivery)  
**Date:** Tuesday, July 27, 2021 10:27:57 AM  
**Attachments:** [image001.png](#)

---

---

**From:** Brent Harsh <brent@coulterharshlaw.com>  
**Sent:** Monday, December 21, 2020 2:14 PM  
**To:** Werner, Reed J (Claims Solutions and Analytics) <Reed.Werner@thehartford.com>; Baarson, Kat (Liability Claims) <Katherine.Baarson@thehartford.com>  
**Cc:** Paige Taylor <paige@coulterharshlaw.com>  
**Subject:** RE: Clements, David v. Sei, Sandra ( Y51AL19182 ): PA0018907997 Regarding: Clements, David/Sheela [HIGHLY RESTRICTED]

Reed,

The claim re: David is not resolved. I made a global policy limits of \$200,000 and that expired today.

As way of background, on November 16, 2020, a policy limits demand was made, which expired on December 1, 2020. On November 30, 2020, THE HARTFORD requested 3 weeks. On December 1, 2020, three weeks were granted based on the time frame THE HARTFORD created so they can reasonably and timely evaluate the claim. Even with the pending policy limits demand and the catastrophic injury, THE HARTFORD sends a letter.

The op note discusses the procedure. There is a complete severance. He is wheel chair bound. Sheela has had to spend everyday at the house dealing with contractor to build a new bathroom and ramp for her husband.

If you want to talk, great, please feel free to call (775-846-6900). I'm drafting the complaint and filing tomorrow.

Paige,  
Please draft a complaint.

---

**From:** Werner, Reed J (Claims Solutions and Analytics) <[Reed.Werner@thehartford.com](mailto:Reed.Werner@thehartford.com)>  
**Sent:** Monday, December 21, 2020 12:35 PM  
**To:** Brent Harsh <[brent@coulterharshlaw.com](mailto:brent@coulterharshlaw.com)>; Baarson, Kat (Liability Claims) <[Katherine.Baarson@thehartford.com](mailto:Katherine.Baarson@thehartford.com)>  
**Subject:** RE: Clements, David v. Sei, Sandra ( Y51AL19182 ): PA0018907997 Regarding: Clements, David/Sheela [HIGHLY RESTRICTED] (Encrypted Delivery)

Brent,

Here is the letter I sent you on Friday. I need a little more information on the claim in order to make a recommendation. Please provide the information requested. I am about to go into an arbitration but you can call me later if you have questions. My direct line is 702-387-8080.

**REED J. WERNER, ESQ**  
Senior Staff Attorney  
The Law Offices of Eric R. Larsen

Employees of a Subsidiary of The Hartford Financial Services Group, Inc.  
9275 W. Russell Rd. Ste. 205  
Las Vegas, Nevada 89148  
W: 702-387-8080  
F: 877-369-5819  
[Reed.Werner@thehartford.com](mailto:Reed.Werner@thehartford.com)

---

**From:** Brent Harsh [<mailto:brent@coulterharshlaw.com>]  
**Sent:** Monday, December 21, 2020 12:32 PM  
**To:** Baarson, Kat (Liability Claims) <[Katherine.Baarson@thehartford.com](mailto:Katherine.Baarson@thehartford.com)>; Werner, Reed J (Claims Solutions and Analytics)

<Reed.Werner@thehartford.com>

**Subject:** PA0018907997 Regarding: Clements, David/Sheela

Reed,

Kat called me and said you will call re: the policy limits demand that expires today.

Feel free to call me on my cell 775-846-6900

**Brent H. Harsh**  
Trial Attorney  
COULTER HARSH LAW  
403 Hill Street  
Reno, Nevada 89501  
Tel: 775-324-3380  
Fax: 775-324-3381



\*\*\*\*\*

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\*\*\*\*\*

## **Brent Harsh**

---

**From:** Brent Harsh  
**Sent:** Tuesday, December 22, 2020 2:56 PM  
**To:** Werner, Reed J (Claims Solutions and Analytics)  
**Cc:** Baarson, Kat (Liability Claims)  
**Subject:** RE: Clements, David v. Sei, Sandra ( Y51AL19182 ) [CONFIDENTIAL] (Encrypted Delivery)

Reed,

Thank you for your correspondence. I disagree. I believe there is ample opportunity to have reasonably and timely evaluated the above claim based on the information provided. Please be advised that THE HARTFORD is actually the one who decided on the timing of what they needed.

Nonetheless, I will file the complaint.

Thank you for your prompt response.

**Brent H. Harsh**  
Trial Attorney  
COULTER HARSH LAW  
403 Hill Street  
Reno, Nevada 89501  
Tel: 775-324-3380  
Fax: 775-324-3381



**From:** Werner, Reed J (Claims Solutions and Analytics) <Reed.Werner@thehartford.com>  
**Sent:** Tuesday, December 22, 2020 2:53 PM  
**To:** Brent Harsh <brent@coulterharshlaw.com>  
**Cc:** Baarson, Kat (Liability Claims) <Katherine.Baarson@thehartford.com>  
**Subject:** Clements, David v. Sei, Sandra ( Y51AL19182 ) [CONFIDENTIAL] (Encrypted Delivery)

Brent,

We have reviewed the limited records provided and we again offer the \$100,000 policy limits to resolve David Clements' claim and all derivative claims including loss of consortium. We do not have enough information at this time regarding Sheela's claim for negligent infliction of emotional distress. There is not sufficient information regarding the claim for negligent infliction of emotional distress at the present. Please provide the documentation to support her claim once it is obtained including treatment records. We need to get her testimony about what she saw or didn't see at the time she arrived at the scene. We can arrange an examination under oath, but you indicated that you instead plan to file suit tomorrow. If your client decides to accept the \$100,000 offer let me know and I will send over a release.



REED J. WERNER, ESQ  
Senior Staff Attorney  
The Law Offices of Eric R. Larsen

Employees of a Subsidiary of The Hartford Financial Services Group, Inc.  
9275 W. Russell Rd. Ste. 205  
Las Vegas, Nevada 89148  
W: 702-387-8080  
F: 877-369-5819  
[Reed.Werner@thehartford.com](mailto:Reed.Werner@thehartford.com)

\*\*\*\*\*

\*\*\*\*

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\*\*\*\*\*

\*\*\*\*

CURTIS B. COULTER  
BRENT H. HARSH



PAIGE F. TAYLOR  
KARL H. SMITH

403 Hill Street  
Reno, Nevada 89501  
[www.coulterharshlaw.com](http://www.coulterharshlaw.com)

Tel: 775-324-3380  
Fax: 775-324-3381

Saturday, January 2, 2021

Sent VIA Hand Delivery

Ms. Sandra L. Sei  
85 Devere Way  
Sparks, NV 89431

RE: Clements, et.al v. Sei  
My Client: David and Sheela Clements  
DOL: November 5, 2020

Dear Ms. Sei:

I represent David and Sheela Clements. David is the person who was struck in the cross walk on November 5, 2020 and Sheela is his wife. I have tried on several attempts to resolve this case within your policy limits with your insurance carrier, THE HARTFORD. Unfortunately, THE HARTFORD has decided not to tender \$200,000 to both David and Sheela, which has forced me to file the attached *Complaint*. Please be advised that David is now paralyzed, and I will be seeking a judgment more than your insurance coverage. I would recommend that you seek personal counsel, and below is a list of attorneys that specialize in protecting parties whose interests might be averse to their insurance carriers:

1. David Zaniel—775-786-4441
2. Leah Ronhaar—775-335-9999
3. Matthew Sharp—775-324-1500
4. Patrick Leverty—775-322-6636

Please also feel free to do some research on your own. Lastly, please contact THE HARTFORD immediately and forward them a copy of the enclosed *Complaint and Summons*. Please reference the Claim Number PA0018907997.

I look forward to discussing this matter with your own personal counsel to try to resolve this case quickly.

Sincerely,

Brent Harsh

Enc: Complaint and Summons  
BHH/

**From:** [Werner, Reed J \(Claims Solutions and Analytics\)](#)  
**To:** [Kait Flocchini](#)  
**Subject:** FW: PA0018907997 Clements v. SEI [CONFIDENTIAL] (Encrypted Delivery)  
**Date:** Tuesday, July 27, 2021 10:20:02 AM  
**Attachments:** [Proof of Service \(1\)-4956.pdf](#)  
[Exhibit 1 -4956-9918.pdf](#)  
[image001.png](#)

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**From:** Brent Harsh <brent@coulterharshlaw.com>  
**Sent:** Thursday, January 7, 2021 11:26 AM  
**To:** Baarson, Kat (Liability Claims) <Katherine.Baarson@thehartford.com>; Werner, Reed J (Claims Solutions and Analytics) <Reed.Werner@thehartford.com>  
**Subject:** PA0018907997 Clements v. SEI

Kat and Reed,

Here is the proof of service. I'll send the Complaint in another email.

Please have your insured's personal counsel contact me.

Brent H. Harsh  
Trial Attorney  
COULTER HARSH LAW  
403 Hill Street  
Reno, Nevada 89501  
Tel: 775-324-3380  
Fax: 775-324-3381



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\*\*\*\*\*

**From:** [Werner, Reed J \(Claims Solutions and Analytics\)](#)  
**To:** [Kait Flocchini](#)  
**Subject:** FW: PA0018907997 Re: Clements, David/Sheela [CONFIDENTIAL] (Encrypted Delivery)  
**Date:** Tuesday, July 27, 2021 10:19:38 AM  
**Attachments:** [image001.png](#)  
[PLT.COMPLAINT-4891.pdf](#)

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**From:** Brent Harsh <brent@coulterharshlaw.com>  
**Sent:** Thursday, January 7, 2021 11:26 AM  
**To:** Baarson, Kat (Liability Claims) <Katherine.Baarson@thehartford.com>; Werner, Reed J (Claims Solutions and Analytics) <Reed.Werner@thehartford.com>  
**Subject:** PA0018907997 Re: Clements, David/Sheela

For your records

Brent H. Harsh  
Trial Attorney  
COULTER HARSH LAW  
403 Hill Street  
Reno, Nevada 89501  
Tel: 775-324-3380  
Fax: 775-324-3381



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\*\*\*\*\*

\*\*\*\*\*

Code: 4085

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

David Clements Sheila Clements  
Plaintiff / Petitioner / Joint Petitioner,Case No. CV20-03081

vs.

Dept. No. 1Sandra L. Sei  
Defendant / Respondent / Joint Petitioner.SUMMONS

TO THE DEFENDANT: YOU HAVE BEEN SUED. THE COURT MAY DECIDE AGAINST YOU WITHOUT YOUR BEING HEARD UNLESS YOU RESPOND IN WRITING WITHIN 21 DAYS. READ THE INFORMATION BELOW VERY CAREFULLY.

A civil complaint or petition has been filed by the plaintiff(s) against you for the relief as set forth in that document (see complaint or petition). When service is by publication, add a brief statement of the object of the action.

The object of this action is: motor vehicle negligence

1. If you intend to defend this lawsuit, you must do the following within 21 days after service of this summons, exclusive of the day of service:
  - a. File with the Clerk of the Court, whose address is shown below, a formal written answer to the complaint or petition, along with the appropriate filing fees, in accordance with the rules of the Court, and;
  - b. Serve a copy of your answer upon the attorney or plaintiff(s) whose name and address is shown below.
2. Unless you respond, a default will be entered upon application of the plaintiff(s) and this Court may enter a judgment against you for the relief demanded in the complaint or petition.

Dated this 22nd day of DECEMBER, 20 20

Issued on behalf of Plaintiff(s):

JACQUELINE BRYANT  
CLERK OF THE COURTName: Brent H. Harsh, Esq.By: /s/ CHERYL SULEZICHAddress: Cowder Harsh Law

Deputy Clerk

403 Hill Street, Reno, NV 89501

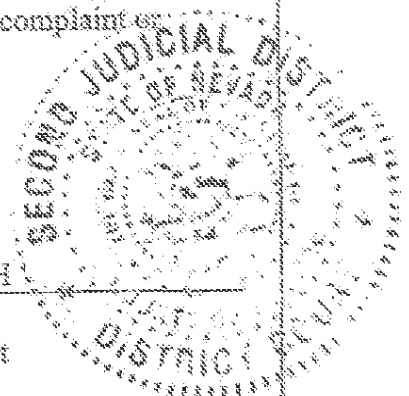
Second Judicial District Court

Phone Number: 775-224-3380

75 Court Street

Email: brent@cowherharshlaw.com

Reno, Nevada 89501



Respondent's Hearing Exhibit A

Harsh ROA 414

FILED  
Electronically  
CV20-02081  
2020-12-22 03:54:13 PM  
Jacqueline Bryant  
Clerk of the Court  
Transaction # B216587 : yvlfona

1425  
BRENT HARSH, ESQ.  
Coulter Harsh Law  
State Bar No. 8814  
403 Hill Street  
Reno, NV 89501  
(775)324-3380  
Attorney for Plaintiff

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR THE COUNTY OF WASHOE

\*\*\*\*\*

DAVID CLEMENTS, SHEELA  
CLEMENTS,

CASE NO. CV20-02081

DEPT. NO. 1

Plaintiffs,

VS.

SANDRA L. SEI and  
DOES 1-10, Inclusive,

Defendants.

COMPLAINT

COME NOW, Plaintiffs, DAVID CLEMENTS and SHEELA CLEMENTS, by and through their attorneys at COULTER HARSH LAW, and for their cause of action against the Defendants above named, hereby complain and allege as follows:

1. Plaintiff DAVID CLEMENTS is and was at all times mentioned herein a resident of the City of Sparks, County of Washoe, State of Nevada.
2. Plaintiff SHEELA CLEMENTS is and was at all times herein mentioned, a resident of the City of Sparks, County of Washoe, State of Nevada.
3. Defendant SANDRA L. SEI is and was at all times herein mentioned, a resident of the County of Washoe, State of Nevada.
4. That the true names and capacities of Defendants named herein as DOES 1-10, inclusive, are unknown to Plaintiffs who, therefore, sue these Defendants

Coulter Harsh Law  
403 Hill Street  
Reno, Nevada 89501  
(775) 324-3380  
FAX (775) 324-3381



1 by such fictitious names. Plaintiffs are informed and believe, and therefore allege,  
2 that each of the Defendants designated as DOES are responsible in some manner for  
3 the offense and happenings referred to in this action and proximately caused  
4 damages to Plaintiffs as herein alleged. The legal responsibility of said DOES 1-10  
5 arises out of, but is not limited to, their status as owners and their maintenance  
6 and/or entrustment of the vehicle which Defendant SANDRA L. SEI was operating at  
7 the time of the accident referred to in this Complaint, and/or their agency,  
8 master/servant or joint venture relationship with Defendant SANDRA L. SEI.  
9 Plaintiffs request leave of this Court to amend the Complaint to insert the true names  
10 and capacities of said Defendants, when the same have been ascertained to join  
11 such Defendants in this action and assert the appropriate charging allegations.  
12

13 **FIRST CLAIM OF ACTION**  
14 **(Negligence)**

15 5. Plaintiffs hereby incorporates paragraphs 1-4 of this Complaint as fully  
16 set forth herein.

17 6. That on or about November 5, 2020, Defendants SANDRA L. SEI and  
18 DOES 1-10, owned and operated a certain 2008 White Toyota Highlander, with a  
19 Nevada license plate, in a manner wherein they failed to exercise due care thereby  
20 resulting in an impact with Plaintiff DAVID CLEMENTS.

21 7. That on or about November 5, 2020, Defendant SANDRA L. SEI,  
22 operated the above-referenced vehicle in an unsafe and careless manner, when she  
23 failed to yield the right of way to the Plaintiff, DAVID CLEMENTS, who was lawfully  
24 crossing Pyramid Way in Sparks, Nevada, in a marked crosswalk.

25 Coulter Harsh Law  
26 403 Hill Street  
Reno, Nevada 89501  
(775) 324-3380  
FAX (775) 324-3381  
27

1           8.     The Defendant, SANDRA L. SEI, struck the Plaintiff DAVID CLEMENTS  
2 with her vehicle while he was walking in a marked crosswalk, knocking him to the  
3 ground and causing him serious physical injury.

4           9.     The Defendant SANDRA L. SEI was driving the above-mentioned  
5 vehicle with the permission, express or implied, or at the direction of the DOE  
6 Defendants.

7           10.    The above said vehicle is governed by the laws and regulations of the  
8 State of Nevada.

9           11.    The Defendant SANDRA L. SEI had a duty to follow the laws and  
10 regulations of the State of Nevada, and failed to properly follow those laws and  
11 regulations.

12           12.    Defendants were negligent in causing the collision.

13           13.    Defendants were negligent and were the proximate cause of the  
14 collision referred above.

15           14.    As a direct and proximate result of Defendants' negligence, Plaintiff  
16 DAVID CLEMENTS was injured.

17           15.    That as a further proximate result of the aforementioned negligence,  
18 Plaintiff DAVID CLEMENTS has been required to obtain the services of an attorney,  
19 incurred costs and is entitled to recover interest.

20           16.    As a further and direct result of Defendants' wrongful and negligent  
21 conduct, Plaintiff DAVID CLEMENTS has past and future special damages; past and  
22 future general damages; suffered mental and emotional distress, aggravation and  
23 worry, all to his substantial and additional damages in excess of \$15,000.00.  
24

25 Coulter Harsh Law  
26 403 Hill Street  
Reno, Nevada 89501  
(775) 324-3380  
FAX (775) 324-3381



**SECOND CLAIM OF ACTION  
(Negligence Per Se)**

17. Plaintiffs hereby incorporate paragraphs 1-16 of this Complaint as fully set forth herein.

18. Plaintiff DAVID CLEMENTS is informed and believes, and based thereon, alleges that the Defendants, and each of them, owed Plaintiff DAVID CLEMENTS the duties of care, as set forth above.

19. Plaintiff DAVID CLEMENTS is informed and believes, and based thereon, alleges that Defendants were subject to laws and regulations pertaining to vehicle safety, including yielding to a pedestrian in a crosswalk, and further, that such laws and regulations were intended to preserve life and prevent bodily injury to persons traveling on public Nevada roadways by ensuring the laws and regulations are adhered to while traveling on those public Nevada roadways.

20. Plaintiff DAVID CLEMENTS is informed and believes and, based thereon, alleges that he is a member of a class for whose benefit those laws and safety regulations were passed.

21. Plaintiff DAVID CLEMENTS is informed and believes and, based thereon, alleges that Defendants violated one or more laws and regulations, including but not limited to NRS 484B.283 and NRS 484B.653, and breached their duties of care that were owed to the Plaintiff DAVID CLEMENTS, as set forth above.

22. Plaintiff DAVID CLEMENTS is informed and believes and, based thereon, alleges that the Plaintiff DAVID CLEMENTS suffered the same type of harm that the laws and regulations were intended to prevent, resulting in, without limitation, physical, emotional, and financial harm, as set forth above, from the conduct of Defendants, which was a substantial factor in causing that harm.

1 23. Defendants' wrongful conduct as alleged herein, was malicious,  
2 oppressive and fraudulent justifying an award of punitive damages against  
3 Defendants.

4 24. That as a further proximate result of the aforementioned negligence,  
5 Plaintiff DAVID CLEMENTS has been required to obtain the services of an attorney,  
6 incurred costs and is entitled to recover interest.

7 25. As a further and direct result of Defendants' intentional, wrongful and  
8 negligent conduct, Plaintiff DAVID CLEMENTS has past and future special damages;  
9 past and future general damages; suffered mental and emotional distress,  
10 aggravation and worry, all to his substantial and additional damages in excess of  
11 \$15,000.00.  
12

13 **THIRD CLAIM OF ACTION**  
14 **(Intentional Infliction of Emotional Distress)**

15 26. Plaintiffs hereby incorporate paragraphs 1-25 of this Complaint as fully  
16 set forth herein.

17 27. Plaintiffs are informed and believe and, based thereon, allege that  
18 Defendants, and each of them, acted with oppression, malice and/or conscious  
19 disregard for the safety and well-being of the class of person the statutes and/or  
20 regulations were designed to protect, including Plaintiff DAVID CLEMENTS.

21 28. Plaintiffs are informed and believe and, based thereon, allege that  
22 Defendants, and each of them, acted with conscious disregard for the laws and  
23 regulations of the State of Nevada which govern vehicles and driving, and the failure  
24 to properly adhere to the laws and regulations outlined above, caused the injuries  
25 associated with the Plaintiff DAVID CLEMENTS and SHEELA CLEMENTS.  
26  
27

1       29. That as a further proximate result of the aforementioned conduct,  
2 Plaintiffs have been required to obtain the services of an attorney, incurred costs and  
3 is entitled to recover interest.

4       30. Defendants' wrongful and negligent conduct as alleged herein, was  
5 malicious, oppressive and fraudulent justifying an award of punitive damages against  
6 Defendants.

7       31. As a further and direct result of Defendants' intentional and wrongful  
8 conduct, Plaintiff DAVID CLEMENTS has past and future special damages; past and  
9 future general damages; suffered mental and emotional distress, aggravation and  
10 worry, all to his substantial and additional damages in excess of \$15,000.00.

11  
12                   **FOURTH CLAIM OF ACTION**  
                  **(Gross Negligence)**

13       32. Plaintiffs hereby incorporates paragraphs 1-31 of this Complaint as fully  
14 set forth herein.

15       33. Defendant SANDRA L. SEI owed Plaintiffs and all others, the duty to use  
16 reasonable care under the circumstances to avoid injury to Plaintiffs and all others.

17       34. Defendant SANDRA L. SEI breached her duty of care to the Plaintiffs when  
18 she failed to exercise even the slightest degree of care in operating her motor vehicle on  
19 or about November 5, 2020, causing the accident and causing injury to Plaintiffs, DAVID  
20 CLEMENTS and SHEELA CLEMENTS.

21       35. Defendant SANDRA L. SEI'S wanton and willful conduct as alleged  
22 herein, was malicious, oppressive and fraudulent justifying an award of punitive  
23 damages against Defendants.

24       36. Defendant SANDRA L. SEI was grossly negligent in causing the accident  
25 and was the proximate cause of the accident referred to above.  
26  
27

1 37. As a direct and proximate result of Defendant SANDRA L. SEI'S gross  
2 negligence, Plaintiffs were injured.

3 38. That as a further proximate result of the aforementioned impact,  
4 Plaintiffs have each been required to obtain the services of an attorney, incurred  
5 costs and are entitled to recover interest.

6 39. As a further and direct result of Defendant's intentional and wrongful  
7 conduct, Plaintiffs have past and future special damages; past and future general  
8 damages; suffered mental and emotional distress, aggravation and worry, all to their  
9 substantial and additional damage in excess of \$15,000.00.

10  
11 **FIFTH CLAIM OF ACTION**  
**(Negligent Infliction of Emotional Distress)**

12 40. Plaintiffs hereby incorporate paragraphs 1-39 of this Complaint as fully  
13 set forth herein.

14 41. Defendants' negligence as alleged herein caused Plaintiffs DAVID  
15 CLEMENTS and SHEELA CLEMENTS, each, to suffer emotional distress.

16 42. Plaintiff SHEELA CLEMENTS is the wife of Plaintiff DAVID CLEMENTS.

17 43. Plaintiff SHEELA CLEMENTS saw her husband, Plaintiff DAVID  
18 CLEMENTS, in the crosswalk, sprawled on the ground, unable to move.

19 44. As a result of seeing her husband, Plaintiff DAVID CLEMENTS, sprawled  
20 on the ground, unable to move, Plaintiff SHEELA CLEMENTS, suffered a shock and a  
21 direct emotional impact, causing her to sustain emotional injury.

22 45. As a direct and proximate result of the Defendants' conduct Plaintiff  
23 DAVID CLEMENTS and Plaintiff SHEELA CLEMENTS have each sustained emotional  
24 injury and have been damaged in an amount to be proved at trial.



**SIXTH CLAIM FOR RELIEF  
(Loss of Consortium)**

46. Plaintiffs hereby incorporate paragraphs 1-45 of this Complaint herein as though fully set forth herein.

47. At all times herein mentioned Plaintiff DAVID CLEMENTS was and is the spouse of Plaintiff SHEELA CLEMENTS.

48. Before being struck by the Defendant on 11/05/20, Plaintiff, DAVID CLEMENTS was able to and did perform all the duties of a spouse, including assisting in maintaining the home, providing love, companionship, affection, society, moral support, conjugal relations and solace to Plaintiff, SHEELA CLEMENTS.

49. As a direct and proximate result of the negligence and/or conscious disregard for the right and safety of others by Defendant, SANDRA L. SEI, Plaintiff DAVID CLEMENTS' ability to perform the duties of a spouse described above have been impaired and Plaintiff SHEELA CLEMENTS has been damaged and is entitled to past and future compensatory damages for such damages.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs DAVID CLEMENTS and SHEELA CLEMENTS, while expressly reserving their right to amend this Complaint at the time of trial of this action herein to include all items of damage not yet ascertained, requests judgment against Defendants, and each of them, as follows:

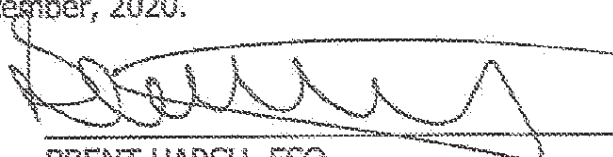
1. For past and future general damages in a just and reasonable amount in excess of \$15,000, each;
2. For past and future special damages, each, according to proof;
3. For attorney's fees, prejudgment interest, court and other costs and disbursements incurred, and to be incurred in connection with this action;

1           4.     For punitive damages;  
2           5.     For such other and further relief as this Court may deem just and  
3 proper.

4                                   **AFFIRMATION**  
5                                   **Pursuant to NRS 239B.030**

6           The undersigned does hereby affirm that the preceding document, filed in the  
7 above case number, **DOES NOT** contain the social security number of any person.

8           DATED this 22 day of December, 2020.



BRENT HARSH, ESQ.  
Coulter Harsh Law  
403 Hill Street  
Reno, Nevada 89509  
(775) 324-3380  
Attorney for Plaintiff

25           Coulter Harsh Law  
26           403 Hill Street  
27           Reno, Nevada 89501  
             (775) 324-3380  
             FAX (775) 324-3381

February 23, 2021

**VIA CERTIFIED MAIL AND E-MAIL AND HAND DELIVERY**

*Attorneys at Law*

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Third Floor

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Paralegal/Investigator

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9456 Double R Blvd., Suite B

Reno, NV 89521

laurap@nvbar.org

**RE: SBN Grievance File:  
LGE File No.:**

**OBC21-0067/Reed Werner, Esq.  
90.9276**

Dear Ms. Peters:

I and my law firm have been engaged to represent Brent H. Harsh, Esq. to whom you sent a notice of filed grievance letter on January 22, 2021 with a follow up letter sent to Mr. Harsh on February 16, 2021. Mr. Harsh did not receive the original January 22, 2021 missive but did receive your February 16, 2021 letter. Both Mr. Harsh and I thank you for your follow up as we take any grievance filed with the State Bar of Nevada, regardless of its merits, seriously. This letter constitutes Mr. Harsh's response to the grievance posted by Reed Werner, Esq.

**1. Pertinent Facts.**

Mr. Harsh represents David and Sheela Clements. On November 5, 2020, David Clements was struck in the crosswalk by Sandra Sei. See accompanying Police Report attached as **Exhibit 1**. While Mr. Clements was lying injured in the crosswalk, his wife Sheela Clements arrived at the scene and suffered emotional distress as she witnessed her husband's condition. As a result of Ms. Sei's actions, Mr. Clements is now paralyzed.

Ms. Sei is insured with The Hartford. In early November 2020, Mr. Harsh discussed with the claim professional for the Hartford, Katherine Baarson, the claims asserted on behalf of his clients Mr. and Mrs. Clements. The Hartford tendered their policy limit to settle Mr. Clements' claim, but was reluctant to pay the claim of Sheela Clements. Katherine Baarson disagreed that Ms. Clements' claim was a separate claim that would expose additional insurance coverage under the Hartford insurance policy issued to Ms. Sei. See accompanying November 11, 2020 email string between Mr. Harsh and Ms. Baarson attached as **Exhibit 2**.

**LGE**

Ms. Baarson informed Mr. Harsh she was sending the issue to “legal” for a coverage opinion to determine if a separate policy limit under the Hartford insurance policy applied to Mrs. Clement’s claim against Ms. Sei. Ms. Baarson also requested that Mr. Harsh send case law supporting Mrs. Clements’ claim. See accompanying November 11, 2020 email from Ms. Baarson to Mr. Harsh attached as **Exhibit 3**.

On November 16, 2020, Mr. Harsh sent a settlement demand for \$200,000 explaining why the available policy limits for the Hartford insurance policy is \$200,000 rather than only \$100,000. See accompanying November 16, 2020 demand letter attached as **Exhibit 4**. In his November 16, 2020 letter, Mr. Harsh specifically asked that Ms. Baarson “please inform me who your insured’s *personal counsel* is, so I can discuss further.” (**Exhibit 4** at page 3, emphasis added.) Ms. Baarson ignored Mr. Harsh’s request to identify any personal counsel representing Ms. Sei.

On November 30, 2020, Ms. Baarson asked for an additional 3 weeks to respond to the emotional distress claim of Mrs. Clements. See accompanying November 30, 2020 email from Ms. Baarson to Mr. Harsh attached as **Exhibit 5**. On Tuesday, December 1, 2020, Mr. Harsh conversed by telephone with Ms. Baarson who reiterated she needed more time to get a coverage opinion from The Hartford’s legal office. Mr. Harsh therefore granted the requested extension. See accompanying December 1, 2020 email from Mr. Harsh to Ms. Baarson attached as **Exhibit 6**.

On December 21, 2020, Mr. Harsh spoke by phone with Katherine Baarson about the policy limit demand, which was expiring, and was told that Hartford attorney Reed Werner was addressing the coverage issue for The Hartford. Mr. Harsh in turn corresponded to Mr. Werner inviting Mr. Werner to call. See accompanying December 21, 2020 email from Mr. Harsh to Mr. Werner attached as **Exhibit 7**. Mr. Werner replied on December 21, 2020 via an email accompanied by a letter dated December 18, 2020 requesting additional information, with another letter also dated December 18, 2020 eventually being received by mail that is formatted differently but essentially requests the same information. See Mr. Werner’s accompanying December 21, 2020 email including different versions of the December 18, 2020 letter attached collectively as **Exhibit 8**. Significantly, Mr. Werner’s email signature and letterhead both identify him as being affiliated with “The Law Offices of Eric R. Larsen – Employees of a Subsidiary of The Hartford Financial Services Group, Inc.”

On December 22, 2020, Mr. Werner corresponded to Mr. Harsh stating that The Hartford did not have enough information regarding Ms. Sei’s claim, which in turn prompted a reply email from Mr. Harsh that he would file a civil complaint. See December 22, 2020 email exchange between Mr. Harsh and Mr. Werner attached as **Exhibit 9**. In the December 22 correspondence, Mr. Werner recognized that a lawsuit would be filed. A Complaint naming Sandra Sei as a Defendant was filed by Mr. Harsh’s office in the Second Judicial District Court of the State of Nevada, Washoe County, on December 22, 2020. See accompanying Complaint attached as **Exhibit 10**.



On January 4, 2020, a summons with the Complaint and a letter dated January 2, 2021 from Mr. Harsh to Defendant Sei was served on Ms. Sei. See accompanying proof of service with letter attached as **Exhibit 11**. In his letter to Ms. Sei, Mr. Harsh recommended that Ms. Sei seek personal counsel who could assist with analyzing insurance coverage as well as contact The Hartford immediately and forward to them a copy of the Complaint and Summons.

Unknown at the time to Mr. Harsh, a complaint with the State Bar of Nevada was posted by Mr. Werner on January 14, 2021 accusing Mr. Harsh of violating RPC 8.4. (See accompanying post attached as **Exhibit 12**.) In his complaint, Mr. Werner contends that Ms. Sei was his client and that Mr. Harsh “was aware that the client, Sandra Sei, was represented by counsel.” (Exhibit 12 at page 1, second paragraph.)

Mr. Werner’s statement to the State Bar of Nevada that he represents Ms. Sei is, however, belied by the fact that on January 26, 2021 Christopher Turtzo, Esq. of the law firm of Morris, Sullivan & Lemkul, LLP (not Mr. Werner or anybody affiliated with “The Law Offices of Eric R. Larsen – Employees of a Subsidiary of The Hartford Financial Services Group, Inc.”) filed an answer on behalf of Ms. Sei. (See accompanying Answer attached as **Exhibit 13**.) As will now be discussed in greater detail, Mr. Werner was ethically prohibited from representing Ms. Sei in the defense of the Civil Complaint served on Ms. Sei.

## **2. Under Nevada law, an Attorney Hired by an Insurance Company to Provide Coverage Advice is Ethically Prohibited from Representing the Insured.**

The Nevada Supreme Court has clearly stated that “Where the clients’ interests conflict, the rules of professional conduct prevent the same lawyer from representing both clients” when one client is an insurer and the other client is the insured. *State Farm v. Hansen*, 131 Nev. 743, 748, 357 P.3d 338, 341 (2015). In *Hansen*, the Nevada Supreme Court analyzed certified questions sent by the United States District Court for the District of Nevada as to when an insurer must provide independent counsel for its insured. In its discourse on the topic, the *Hansen* opinion examines several Nevada Rules of Professional Conduct and observes “counsel may not represent both the insurer and the insured when their interests conflict and no special exception applies. RPC 1.7.” *Id.* at 747, 341.

The facts pertinent to the grievance at hand demonstrate that there is a clear conflict between Ms. Sei and her insurer The Hartford since Ms. Sei would be insulated from any personal exposure if The Hartford were to concede that the insurance policy it sold to Ms. Sei provides coverage for Ms. Clements’ separate claim that Mr. Harsh has presented. Further, Mr. Harsh was specifically told by The Hartford’s Ms. Baarson that she was sending the dispute over whether Ms. Clements’ claim exposed another \$100,000 in policy limits to a coverage attorney. Indeed, Ms. Baarson informed Mr. Harsh during their December 21, 2020 phone conversation that Mr. Werner was addressing the coverage issue for The Hartford. This made sense, as Mr. Werner is an employee of “a Subsidiary of The Hartford Financial Services Group, Inc.” No reasonably educated Nevada lawyer would have thought that Mr. Werner was Ms. Sei’s personal counsel.

### 3. Discussion of Nevada Rule of Professional Conduct 4.2.

Although the grievance accuses Mr. Harsh of general misconduct under RPC 8.4 without providing further specificity, it is apparent that Mr. Werner's accusation implicates RPC 4.2 which states:

**Rule 4.2. Communication With Person Represented by Counsel.** In representing a client, a lawyer shall not communicate about the subject of the representation with a person the lawyer knows to be represented by another lawyer in the matter, unless the lawyer has the consent of the other lawyer or is authorized to do so by law or a court order.

As discussed above, Mr. Werner either was not, or should not have been, representing Ms. Sei when Mr. Harsh sent his January 2, 2021 letter to Ms. Sei. Under either instance, given Mr. Werner's conflict of interest resulting from his advising The Hartford on coverage (while at the very same time Sandra Sei would want to maximize her coverage with The Hartford), Mr. Harsh did not know that Mr. Werner was purportedly representing Ms. Sei. Instead, the only client that Mr. Harsh knew Mr. Werner was representing was The Hartford.

Significantly, even if Mr. Werner insists that he allegedly represented Ms. Sei, Mr. Harsh's letter to Ms. Sei discussed a matter that could not have been the subject of Mr. Werner's representation of Ms. Sei. The subject of Mr. Harsh's letter to Mr. Werner focused on the insurance coverage available to Ms. Sei, which, as already established, could not have been the subject of Mr. Werner's purported representation of Ms. Sei. Indeed, in interpreting Rule 4.2, the Nevada Supreme Court has demonstrated that it will carefully examine the circumstances surrounding the purported improper contact by an attorney of a supposedly represented person. *Palmer v. Pioneer Inn Associates, Ltd.*, 338 F.3d 981 (9<sup>th</sup> Circuit 2003). In *Palmer*, the United States Court of Appeal for the Ninth Circuit certified a question to the Nevada Supreme Court to discuss the application of Supreme Court Rule 182 which was repealed by Order of the Nevada Supreme Court on February 6, 2006 and in turn replaced by the Nevada Rules of Professional Conduct, based upon the Bar Association Model Rules of Professional Conduct to include RPC 4.2. While the interpretation in *Palmer* of Rule 4.2 focusses on an issue distinct from the grievance discussed in this letter, a touchstone of the Nevada Supreme Court's analysis is that the primary purpose of, now RPC 4.2, is "to protect the attorney-client relationship from intrusion by opposing counsel." *Id.* at 987.

Mr. Werner clearly did not have an attorney-client relationship with Ms. Sei to defend her in any litigation as is demonstrated by the fact that attorney Turtzo of the law firm of Morris, Sullivan & Lemkul filed an answer within 20 days after Ms. Sei was served with the letter from Mr. Harsh. To this date, The Hartford still has not identified Ms. Sei's independent counsel. However, Mr. Harsh, upon being informed of Mr. Turtzo's involvement defending Ms. Sei, has not initiated any further direct communication to Ms. Sei. Mr. Harsh presumes that Mr. Turtzo is well acquainted with the guidance the Nevada Supreme Court has provided in *Hansen* and, unlike Mr. Werner, is not providing any advice on coverage matters. Mr. Turtzo has also presumably recommended that Ms. Sei seek the advice of independent personal counsel.

Laura Peters  
Paralegal/Investigator  
OFFICE OF BAR COUNSEL - NEVADA  
February 23, 2021  
Page 5

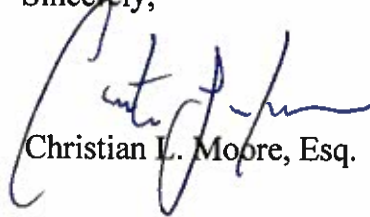
#### 4. Conclusion.

Simply stated, Mr. Harsh violated neither RPC 8.4 nor RPC 4.2 for the independent reasons that: (1) Mr. Harsh did not know Mr. Werner was representing Ms. Sei, and (2) Mr. Werner was not representing Ms. Sei on the subject matter of Mr. Harsh's communication to Ms. Sei.

If Mr. Werner incorrectly perceives that he may have the dual role of providing coverage advice to The Hartford while at the same time representing Ms. Sei, we trust that the State Bar of Nevada is able to independently investigate the propriety of such a perception.

I encourage you to contact me directly if I or Mr. Harsh can provide any additional information to assist in your review and investigation of this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Christian L. Moore".

Christian L. Moore, Esq.

CLM:td  
cc: Client  
Enclosures as stated.

**\* SUPPLEMENT \***

Event Number: 55		Sparks Police Department - STATION NEVADA				DO NOT DUPLICATE		Scene Information			
Code Revision: 11/2017		TRAFFIC CRASH REPORT SCENE INFORMATION SHEET Revised 12/2018				SPPD20-8351		<input type="checkbox"/> 1) Property <input checked="" type="checkbox"/> 2) Injury <input type="checkbox"/> 3) Fatal			
<input checked="" type="checkbox"/> 1) Urban <input type="checkbox"/> 1) Emergency Use <input type="checkbox"/> 1) Preliminary Report <input type="checkbox"/> 3) Resubmission <input type="checkbox"/> 1) Hit and Run <input type="checkbox"/> 2) Rural <input type="checkbox"/> 2) Office Report <input type="checkbox"/> 2) Initial Report <input checked="" type="checkbox"/> 4) Supplement Report <input type="checkbox"/> 2) Private Property		Agency Name: <b>Sparks PD</b>									
Crash Date <b>11/05/2020</b>		Time <b>1505</b>		Day <b>Thu</b>		Seat / Sector <b>1</b>		<input type="checkbox"/> 1) County <input checked="" type="checkbox"/> 2) City <b>SPARKS</b>			
Is this a Secondary Collision: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		Roadway Clearance Time:				Incident Clearance Time:					
Mile Marker		# Vehicles <b>1</b>		# Non Motorists <b>1</b>		# Occupants <b>1</b>		# Fatalities <b>0</b>			
								# Injured <b>1</b>			
								# Restrained <b>1</b>			
Occurred On: (Highway # or Street Name) <input type="checkbox"/> 1) Parking Lot <input type="checkbox"/> 2) Active School Zone <b>PYRAMID WY</b>											
<input checked="" type="checkbox"/> 1) At Intersection With: <b>YORK WY</b> <input type="checkbox"/> 2) Or <input checked="" type="checkbox"/> 3) Feet <input type="checkbox"/> 4) Miles <input type="checkbox"/> 5) Approximate    Of (Cross Street)											
<b>Roadway Character</b> <input type="checkbox"/> 1) Curve & Grade <input type="checkbox"/> 2) Curve & Hillcrest <input type="checkbox"/> 3) Curve & Level <input type="checkbox"/> 4) Straight & Grade <input type="checkbox"/> 5) Straight & Hillcrest <input checked="" type="checkbox"/> 6) Straight & Level <input type="checkbox"/> 7) Unknown <input type="checkbox"/> 8) Other		<b>Roadway Conditions</b> <input checked="" type="checkbox"/> 1) Dry <input type="checkbox"/> 7) Slush <input type="checkbox"/> 2) Icy <input type="checkbox"/> 8) Standing Water <input type="checkbox"/> 3) Wet <input type="checkbox"/> 9) Moving Water <input type="checkbox"/> 4) Snow <input type="checkbox"/> 10) Unknown <input type="checkbox"/> 5) Sand / Mud / Dirt / Gravel <input type="checkbox"/> 6) Other <input type="checkbox"/> 11) Oil		<b>Surface</b> <input checked="" type="checkbox"/> 1) Asphalt <input type="checkbox"/> 2) Concrete <input type="checkbox"/> 3) Gravel <input type="checkbox"/> 4) Dirt <input type="checkbox"/> 5) Other		<b>Intersection</b> <input checked="" type="checkbox"/> 1) Four Way <input type="checkbox"/> 4) Y <input type="checkbox"/> 2) > Four Way <input type="checkbox"/> 5) Roundabout <input type="checkbox"/> 3) T <input type="checkbox"/> 7) L		<b>Total Thru Lanes</b> Main Road <input type="checkbox"/> 1) One <input type="checkbox"/> 2) Two <input type="checkbox"/> 3) Three <input type="checkbox"/> 4) Four <input type="checkbox"/> 5) Five <input type="checkbox"/> 6) > 5 Total All Lanes:		<b>Access Control</b> <input checked="" type="checkbox"/> 1) None <input type="checkbox"/> 2) Full <input type="checkbox"/> 3) Partial	
<b>Pavement Markings</b> <input type="checkbox"/> 1) Centerline, Broken Yellow <input type="checkbox"/> 2) Centerline, Solid Yellow <input type="checkbox"/> 3) Centerline, Double Yellow <input type="checkbox"/> 4) Lane Line, Broken White <input type="checkbox"/> 5) Lane Line, Solid White <input type="checkbox"/> 6) No Passing, Either Direction <input type="checkbox"/> 7) Turn Arrow Symbols <input type="checkbox"/> 8) Center Turn Lane Line <input type="checkbox"/> 9) Edge Line, Left White <input type="checkbox"/> 10) Edge Line, Right White <input type="checkbox"/> 11) Other <input type="checkbox"/> 12) None <input type="checkbox"/> 13) Unknown				<b>Roadway Description</b> <input checked="" type="checkbox"/> 1) Two-Way, Not Divided <input type="checkbox"/> 2) Two-Way, Divided, Unpro, Median <input type="checkbox"/> 3) Two-Way, Divided, Median Barrier <input type="checkbox"/> 4) One-Way, Not Divided <input type="checkbox"/> 5) Unknown <input type="checkbox"/> 6) Off Road		<b>Weather Conditions</b> <input checked="" type="checkbox"/> 1) Clear <input type="checkbox"/> 7) Fog, Smog, Smoke, Ash <input type="checkbox"/> 2) Cloudy <input type="checkbox"/> 8) Severe Crosswinds <input type="checkbox"/> 3) Snow <input type="checkbox"/> 9) Sleet / Hail <input type="checkbox"/> 4) Rain <input type="checkbox"/> 10) Unknown <input type="checkbox"/> 5) Blowing Sand, Dirt, Soil <input type="checkbox"/> 6) Other <input type="checkbox"/> 11) Blowing Snow					
<b>Light Conditions</b> <input type="checkbox"/> 1) Dusk <input type="checkbox"/> 6) Dark—No Roadway Lighting <input type="checkbox"/> 2) Dawns <input type="checkbox"/> 7) Dark—Spot Roadway Lighting <input checked="" type="checkbox"/> 3) Daylight <input type="checkbox"/> 8) Dark—Continuous Roadway Lighting <input type="checkbox"/> 4) Unknown <input type="checkbox"/> 9) Dark—Unknown Roadway Lighting <input type="checkbox"/> 5) Other		<b>Vehicle Collision Type</b> <input type="checkbox"/> 1) Head On <input type="checkbox"/> 6) Sideswipe - Meeting <input type="checkbox"/> 2) Rear End <input type="checkbox"/> 7) Sideswipe - Overtaking <input type="checkbox"/> 3) Backing <input checked="" type="checkbox"/> 8) Non Collision <input type="checkbox"/> 4) Angle <input type="checkbox"/> 9) Unknown <input type="checkbox"/> 5) Rear to Rear <input type="checkbox"/> 10) Rear to Side		<b>Location of First Event</b> <input type="checkbox"/> 1) Travel Lane <input type="checkbox"/> 6) Outside Shoulder <input type="checkbox"/> 11) Ramp <input type="checkbox"/> 2) Turn Lane <input checked="" type="checkbox"/> 7) Intersection <input type="checkbox"/> 12) Unknown <input type="checkbox"/> 3) Gore <input type="checkbox"/> 8) Private Property <input type="checkbox"/> 13) Separator <input type="checkbox"/> 4) Median <input type="checkbox"/> 9) Roadside <input type="checkbox"/> 14) Parking Lane/Zone <input type="checkbox"/> 5) Inside Shoulder <input type="checkbox"/> 10) Other							
<b>Roadway / Environment Factors</b> <input checked="" type="checkbox"/> 1) None <input type="checkbox"/> 10) Wet, icy, snow, slush <input type="checkbox"/> 19) Backup Regular Congestion <input type="checkbox"/> 2) Weather <input type="checkbox"/> 11) Ruts, Holes, Bumps <input type="checkbox"/> 20) Work Zone <input type="checkbox"/> 3) Debris <input type="checkbox"/> 14) Animal in Roadway <input type="checkbox"/> 21) Non Highway Work <input type="checkbox"/> 4) Stare <input type="checkbox"/> 15) Unknown <input type="checkbox"/> 22) Railway Grade Crossing # <input type="checkbox"/> 5) Other Roadway <input type="checkbox"/> 16) Visual Obstruction <input type="checkbox"/> 23) Shared User Path/Trail <input type="checkbox"/> 6) Other Environmental <input type="checkbox"/> 17) Backup Prior Crash <input type="checkbox"/> 7) Shoulders <input type="checkbox"/> 18) Backup Non Recurring Incident <input type="checkbox"/> 8) Road Obstruction <input type="checkbox"/> 9) Worn Traffic Surface				<b>Type of Work Zone</b> <input type="checkbox"/> 1) Lane Closure <input type="checkbox"/> 2) Lane Shift/Crossover <input type="checkbox"/> 3) Work on Shoulder or Median <input type="checkbox"/> 4) Intermittent/Moving Work <input type="checkbox"/> 5) Other		<b>Work Area Zone</b> <input type="checkbox"/> 1) Advanced Warning Area <input type="checkbox"/> 2) Transition Area <input type="checkbox"/> 3) Activity Area <input type="checkbox"/> 4) Termination Area					
<b>Workers Present</b> <input type="checkbox"/> 1) Yes <input type="checkbox"/> 2) No				<b>Law Enforcement Present</b> <input type="checkbox"/> 1) No <input type="checkbox"/> 2) Officer Present <input type="checkbox"/> 3) LE Vehicle Only Present							
<b>Property Damage To Other Than Vehicle</b> Describe Property Damage: _____ Owner's Name: _____ <input type="checkbox"/> 1) Owner Notified Owner's Address: (Street Address City, State Zip) _____											
First Harmful Event		Code # <b>214</b>		Description: <b>MOTOR VEHICLE IN TRANSPORT</b>							
Investigation Complete <input checked="" type="checkbox"/> 1) Yes <input type="checkbox"/> 2) No		Photos Taken <input checked="" type="checkbox"/> 1) Yes <input type="checkbox"/> 2) No		Scene Diagram <input type="checkbox"/> 1) Yes <input checked="" type="checkbox"/> 2) No		Statements <input checked="" type="checkbox"/> 1) Yes <input type="checkbox"/> 2) No # 3		Date Notified <b>11/05/2020</b>			
						Time Notified <b>1506</b>		Arrival Date <b>11/05/2020</b>			
								Arrival Time <b>1508</b>			
Investigator(s) <b>rusty scovel</b>		ID Number <b>412</b>		Date <b>11/05/2020</b>		Reviewed By <b>erick chavez</b>		Date Reviewed <b>12/17/202</b> Page <b>1</b> of <b>7</b>			

Event Number: 55	Sparks Police Department: CONTROLLED NEVADA - DO NOT DUPLICATE!	Scene Information
Code Revision: 11/2017	<b>STATE OF NEVADA</b> <b>TRAFFIC CRASH REPORT</b> <b>SCENE INFORMATION SHEET</b> Revised 12/2018	Agency Name: Sparks PD

**Description of Crash / Narrative**

VI WAS TRAVELING W/B YORK WY ATTEMPTING TO MAKE A LEFT HAND TURN ONTO S/B PYRAMID ON A FLASHING YELLOW LIGHT. NM1 WAS ATTEMPTING TO CROSS PYRAMID STARTING FROM THE SOUTH WEST SIDE WALKING E/B. V1 STRUCK NM1 IN THE CROSS WALK CAUSING MULTIPLE INJURIES.

NM1 HAD LACERATIONS ON HIS FACE, AND EXTREMITIES. NM1 HAD JUST HAD SURGERY 5 OR 6 DAYS BEFORE THE ACCIDENT OCCURED. DURING THIS ACCIDENT HE REOPENED SUTURES FROM THE SURGERY. SPEAKING WITH NM1 FAMILY IT APPEARS THAT HE IS NOW PARALIZED FROM THE WASTE DOWN.

WITNESSES ON SCENE STATED W/B AND E/B TRAFFIC ON YORK WY HAD A GREEN LIGHT INDICATING THAT V1 HAD A FLASHING YELLOW LIGHT.

I WILL ATTEMPT TO CONTACT HIM AT A LATER DATE TO SEE WHAT INJURIES HE SUSTAINED IN THE ACCIDENT.

12/14/2020 AT APPROXIMATELY 11:00AM I CONDUCTED FOLLOW UP WITH THIS CASE TO IDENTIFY ANY INJURIES NM1 SUSTAINED.

I WAS UNABLE TO MEET WITH NM1 IN PERSON DUE TO CURRENT COVID19 RESTRICTION BUT WAS ABLE TO SPEAK WITH NM1 OVER THE PHONE.

NM1 STATED THAT HE IS NOW PARALIZED FROM THE WAIST DOWN, T7,T8,T9 VERTIBRAE HAVE BEEN FUSED DUE TO THIS ACCIDENT. NM1 ALSO SUFFERED 2 BROKEN RIBS AND HIS RIGHT HIP WAS DISLOCATED.

I ASKED NM1 IF I COULD GET A COPY OF HIS MEDICAL RECORDS FOR THIS ACCIDENT SO I MAY ADD IT TO THE CASE AND HE SAID HE WILL CALL ME WHEN IT IS AVAILABLE.

AS OF NOW I DO NOT HAVE ANY FURTHER INFORMATION FOR THIS CASE.



Indicate North

A.I.C: \_\_\_\_\_

2 Page 7  
of



Event Number: 55		Sparks Police Department: Controlled Document - DO NOT DUPLICATE!				Vehicle Information	
Vehicle # 1		# Occupants 1		<input checked="" type="checkbox"/> 1) At Fault <input type="checkbox"/> 2) Non Contact Vehicle		State of Nevada <b>TRAFFIC CRASH REPORT</b> VEHICLE INFORMATION SHEET Revised 12/2018	
Direction of Travel:		<input type="checkbox"/> 1) North <input type="checkbox"/> 2) South <input type="checkbox"/> 3) East <input checked="" type="checkbox"/> 4) West <input type="checkbox"/> 5) Unknown		Roadway / Street Name: YORK WY			Agency Name: Sparks PD
Vehicle Action:		<input type="checkbox"/> 1) Straight <input type="checkbox"/> 2) Backing <input checked="" type="checkbox"/> 3) Left Turn <input type="checkbox"/> 4) Right Turn <input type="checkbox"/> 5) U-Turn <input type="checkbox"/> 6) Parked		<input type="checkbox"/> 7) Wrong Way <input type="checkbox"/> 8) Stopped <input type="checkbox"/> 9) Passing <input type="checkbox"/> 10) Racing <input type="checkbox"/> 11) Leaving Parked <input type="checkbox"/> 12) Entering Lane <input type="checkbox"/> 13) Leaving Lane <input type="checkbox"/> 14) Enter Parked <input type="checkbox"/> 15) Lane Change <input type="checkbox"/> 16) Driverless Vehicle <input type="checkbox"/> 17) Negotiating a Curve		Travel Lane #: L1	
Driver: (Last Name, First Name, Middle Name Suffix) SEI, SANDRA L				Transported By: <input type="checkbox"/> 1) Not Transported <input type="checkbox"/> 2) EMS <input type="checkbox"/> 3) Police <input type="checkbox"/> 4) Unknown <input type="checkbox"/> 5) Other			
Street Address: 85 DEVERE WAY				Transported To:			
City: SPARKS		State / Country NV		Zip Code: 89431		Person Type: 1	
<input type="checkbox"/> 1) Male <input checked="" type="checkbox"/> 2) Female		DOB: 01/16/1946		Phone Number: 7752334800		Seating Position: 1	
<input type="checkbox"/> 3) Unknown <input type="checkbox"/> 4) Drugs <input type="checkbox"/> 5) Marijuana		<input type="checkbox"/> 6) Driver Admission <input type="checkbox"/> 7) Preliminary Breath Test		<input type="checkbox"/> 8) Stopped <input type="checkbox"/> 9) Passing <input type="checkbox"/> 10) Racing <input type="checkbox"/> 11) Leaving Parked <input type="checkbox"/> 12) Entering Lane <input type="checkbox"/> 13) Leaving Lane <input type="checkbox"/> 14) Enter Parked <input type="checkbox"/> 15) Lane Change <input type="checkbox"/> 16) Driverless Vehicle <input type="checkbox"/> 17) Negotiating a Curve		Occupant Restraints: 7	
Compliance:		Endorsements		Restrictions		Airbags: 2	
<input type="checkbox"/> 1) Restrict <input type="checkbox"/> 2) Endorse				0		Switch: 4	
<input type="checkbox"/> 1) Alcohol / Drug Involvement <input checked="" type="checkbox"/> 2) Not Involved <input type="checkbox"/> 3) Suspected Impairment <input type="checkbox"/> 4) Alcohol <input type="checkbox"/> 5) Unknown		Method of Determination (check up to 2) <input type="checkbox"/> 1) Field Sobriety Test <input type="checkbox"/> 2) Evidentiary Breath <input type="checkbox"/> 3) Urine Test <input type="checkbox"/> 4) Blood Test <input type="checkbox"/> 5) Preliminary Breath Test		Test Results: <input type="checkbox"/> 6) Driver Ill / Injured <input type="checkbox"/> 7) Other Improper Driving <input type="checkbox"/> 8) Driver Inattention / Distracted <input type="checkbox"/> 9) Physical Impairment <input type="checkbox"/> 10) Unknown		Ejected: 0	
Vehicle Year: 2008		Vehicle Make: TOYOTA		Vehicle Model: HIGHLANDER		Vehicle Type: SUV/CARRY-	
Plate / Permit No.: 909JCJ		State NV		Expiration Date: 06/06/2021		Vehicle Color: WHITE	
Vehicle Identification Number: JTEES42A682091140							
Registered Owner Name: SEI, SANDRA L							
<input checked="" type="checkbox"/> 1) Same As Driver							
Registered Owner Address: 85 DEVERE WAY SPARKS NV 89431							
Insurance Company Name: AARP							
<input checked="" type="checkbox"/> 1) Insured							
Policy number: 55PHB326169		Effective: 06/30/2020		To: 06/30/2021			
Insurance Company Address or Phone Number:							
<input type="checkbox"/> 1) Vehicle Towed <input type="checkbox"/> 2) Towed Due to Disabling Damage		Towed By:		Removed To:			
<input type="checkbox"/> 1) NRS <input type="checkbox"/> 2) CFR <input type="checkbox"/> 3) CC/MC <input type="checkbox"/> 4) Pending		Violation		NOC		Chadon Number	
(1)							
<input type="checkbox"/> 1) NRS <input type="checkbox"/> 2) CFR <input type="checkbox"/> 3) CC/MC		Violation		NOC		Chadon Number	
(2)							
Investigator(s): rusty scovel		ID Number: 412		Date: 11/05/2020		Reviewed By: erick chavez	
				Date Reviewed: 12/17/2020		Page 3 of 7	

Event Number: <b>55</b>		<b>Sparks Police Department: Controlled Release - DO NOT DUPLICATE!</b> <b>STATE OF NEVADA</b> <b>TRAFFIC CRASH REPORT</b> <b>VEHICLE INFORMATION SHEET</b> Revised 12/2018		Date/Time: <b>SPPD20-8351</b> Agency Name: <b>Sparks PD</b>		Vehicle Information	
Name: (Last Name, First Name, Middle Name Suffix)				Transported By: <input type="checkbox"/> 1) Not Transported <input type="checkbox"/> 2) EMS <input type="checkbox"/> 3) Police <input type="checkbox"/> 4) Unknown <input type="checkbox"/> 5) Other			
Street Address:				Transported To:			
City:		State / Country <input type="checkbox"/> 1) NV		Zip Code:		Person Type:	
<input type="checkbox"/> 1) Male <input type="checkbox"/> 3) Unknown <input type="checkbox"/> 2) Female		DOB:		Phone Number:		Seating Position:	
						Occupant Restraints:	
				Injury Severity:		Injury Location:	
				Airbags:		Airbag Switch:	
				Ejected:		Trapped:	
Name: (Last Name, First Name, Middle Name Suffix)				Transported By: <input type="checkbox"/> 1) Not Transported <input type="checkbox"/> 2) EMS <input type="checkbox"/> 3) Police <input type="checkbox"/> 4) Unknown <input type="checkbox"/> 5) Other			
Street Address:				Transported To:			
City:		State / Country <input type="checkbox"/> 1) NV		Zip Code:		Person Type:	
<input type="checkbox"/> 1) Male <input type="checkbox"/> 3) Unknown <input type="checkbox"/> 2) Female		DOB:		Phone Number:		Seating Position:	
						Occupant Restraints:	
				Injury Severity:		Injury Location:	
				Airbags:		Airbag Switch:	
				Ejected:		Trapped:	
Name: (Last Name, First Name, Middle Name Suffix)				Transported By: <input type="checkbox"/> 1) Not Transported <input type="checkbox"/> 2) EMS <input type="checkbox"/> 3) Police <input type="checkbox"/> 4) Unknown <input type="checkbox"/> 5) Other			
Street Address:				Transported To:			
City:		State / Country <input type="checkbox"/> 1) NV		Zip Code:		Person Type:	
<input type="checkbox"/> 1) Male <input type="checkbox"/> 3) Unknown <input type="checkbox"/> 2) Female		DOB:		Phone Number:		Seating Position:	
						Occupant Restraints:	
				Injury Severity:		Injury Location:	
				Airbags:		Airbag Switch:	
				Ejected:		Trapped:	
<input type="checkbox"/> 1) Trailing Unit 1 VIN :				Plate: State: <input type="checkbox"/> 1) NV Type:			
<input type="checkbox"/> 1) Trailing Unit 1 VIN :				Plate: State: <input type="checkbox"/> 1) NV Type:			
<input type="checkbox"/> 1) Trailing Unit 1 VIN :				Plate: State: <input type="checkbox"/> 1) NV Type:			
<b>Commercial Vehicle Configuration</b>							
<input type="checkbox"/> 1) Bus, 9 - 15 Occupants <input type="checkbox"/> 2) Bus, > 15 Occupants <input type="checkbox"/> 3) Single 2 Axle and 6 Tire <input type="checkbox"/> 4) Single > 3 Axle <input type="checkbox"/> 5) Any 4 Tire Vehicle				<input type="checkbox"/> 1) Commercial Vehicle <input type="checkbox"/> 2) Bus <b>Source</b> <input type="checkbox"/> 1) Driver <input type="checkbox"/> 2) Log Book <input type="checkbox"/> 3) Shipping Papers / Trip Manifest <input type="checkbox"/> 4) State Reg. <input type="checkbox"/> 5) Side Of Vehicle <input type="checkbox"/> 6) Other			
<input type="checkbox"/> 6) Tractor Only <input type="checkbox"/> 7) Tractor / Trailer <input type="checkbox"/> 8) Tractor / Doubles <input type="checkbox"/> 9) Tractor / Triples <input type="checkbox"/> 10) Truck with Trailer				<input type="checkbox"/> 11) Tractor / Semi Trailer <input type="checkbox"/> 12) Passenger Vehicle, (Haz-Mat) <input type="checkbox"/> 13) Light Truck, (Haz-Mat) <input type="checkbox"/> 14) Other Heavy Vehicle			
Carrier Name:				<b>Hazmat</b> <input type="checkbox"/> 1) Hazmat Placard Displayed <input type="checkbox"/> 2) Hazmat Released <input type="checkbox"/> 3) Was release > 25 gal. or 3 cubic yds.? Location of Hazmat Release, Regardless of Amount: <input type="checkbox"/> 1) Tractor Only <input type="checkbox"/> 3) Combination Tractor & Cargo <input type="checkbox"/> 2) Cargo Only			
Carrier Street Address:				Power Unit GCWR/GVWR <input type="checkbox"/> 1) < 10,000 Lbs. <input type="checkbox"/> 2) 10,001 - 26,000 Lbs. <input type="checkbox"/> 3) > 26,001 Lbs.			
City:				State <input type="checkbox"/> 1) NV		Zip Code:	
<b>Cargo Body Type</b> <input type="checkbox"/> 1) Pole <input type="checkbox"/> 6) Van / Box <input type="checkbox"/> 11) Grain, Gravel Chlps <input type="checkbox"/> 2) Tank <input type="checkbox"/> 7) Concrete Mixer <input type="checkbox"/> 12) Bus, 9-15 Occupants <input type="checkbox"/> 3) Flatbed <input type="checkbox"/> 8) Auto Carrier <input type="checkbox"/> 13) Bus, > 15 Occupants <input type="checkbox"/> 4) Dump <input type="checkbox"/> 9) Garbage / Refuse <input type="checkbox"/> 14) Other <input type="checkbox"/> 5) Unknown <input type="checkbox"/> 10) Not Applicable				Haz-Mat ID #:		Type of Carrier <input type="checkbox"/> 1) Single State <input type="checkbox"/> 2) USDOT <input type="checkbox"/> 3) Canada <input type="checkbox"/> 4) Mexico <input type="checkbox"/> 5) None	
Hazard Classification #:				NAS Safety Report #:			
				Carrier Number:			
				Page 4 of 7			

Event Number: 55		Sparks Police Department: STATE OF NEVADA TRAFFIC CRASH REPORT NON-MOTORIST INFORMATION SHEET REVISED 12/2018				Form Number: SPFD20-8351 DO NOT DUPLICATE!		Non-Motorist			
Non-Motorist # 1		<input type="checkbox"/> 1) At Fault <input checked="" type="checkbox"/> 2) Non-Contact (person)		Agency Name: Sparks PD							
Non-Motorist Type <input checked="" type="checkbox"/> 1) Pedestrian <input type="checkbox"/> 3) Wheel Chair <input type="checkbox"/> 2) Pedal Cyclist <input type="checkbox"/> 6) Unknown <input type="checkbox"/> 3) Skater <input type="checkbox"/> 4) Other _____				Direction of Travel <input type="checkbox"/> 1) North <input type="checkbox"/> 2) South <input checked="" type="checkbox"/> 3) East <input type="checkbox"/> 4) West <input type="checkbox"/> 5) Unknown							
				Highway / Street Name: YORK WY							
Non-Motorist: (Last Name, First Name, Middle Name, Suffix) CLEMENTS, DAVID				Transported By: <input type="checkbox"/> 1) Not Transported <input checked="" type="checkbox"/> 2) EMS <input type="checkbox"/> 3) Police <input type="checkbox"/> 4) Unknown <input type="checkbox"/> 5) Other _____ 310230-20							
Street Address: 2480 STINE WY				Transported To: RENOWN REG. MEDICAL CENTER							
City: SPARKS		State/Country: <input type="checkbox"/> 1) NV NV		Zip Code: 89431		Person Type: 4		Seating Position:		Occupant Restraints:	
<input checked="" type="checkbox"/> 1) Male <input type="checkbox"/> 3) Unknown <input type="checkbox"/> 2) Female		DOB: 02/08/1959		Phone Number: 7754436782		Injury Severity: A		Injury Location: 2		5 7	
OLN / ID Card:				State: <input type="checkbox"/> 1) NV NV		Airbags:		Airbag Switch:		Ejected: Trapped: 0	
Non-Motorist Condition											
<input checked="" type="checkbox"/> 1) Apparently Normal <input type="checkbox"/> 3) Under Influence: Medication / Drugs / Alcohol <input type="checkbox"/> 5) Emotional <input type="checkbox"/> 7) Unknown <input type="checkbox"/> 2) Physical Impairment <input type="checkbox"/> 4) Fatigued / Asleep / Fainted <input type="checkbox"/> 6) Illness <input type="checkbox"/> 8) Other _____											
Alcohol / Drug Involvement						Method of Determination (Check up to 2)    Test Results					
<input checked="" type="checkbox"/> 1) Not Involved <input type="checkbox"/> 3) Alcohol <input type="checkbox"/> 5) Unknown <input type="checkbox"/> 2) Suspected Impairment <input type="checkbox"/> 4) Drugs <input type="checkbox"/> 6) Marijuana						<input type="checkbox"/> 1) Field Sobriety Test <input type="checkbox"/> 3) Blood Test <input type="checkbox"/> 5) Urine Test <input type="checkbox"/> 2) Preliminary Breath Test <input type="checkbox"/> 4) Evidentiary Breath Test					
Non-Motorist Action						Non-Motorist Factors					
<input checked="" type="checkbox"/> 1) Entering or Crossing at Location <input type="checkbox"/> 8) Standing <input type="checkbox"/> 2) Walking, Running, Playing, Cycling <input type="checkbox"/> 9) Unknown <input type="checkbox"/> 3) Approaching or Leaving Vehicle <input type="checkbox"/> 10) Going to/from K-12 <input type="checkbox"/> 4) Playing or Working on Vehicle <input type="checkbox"/> 11) Waiting to Cross Roadway <input type="checkbox"/> 6) Pushing Vehicle <input type="checkbox"/> 12) Approaching / Leaving School Bus <input type="checkbox"/> 7) Working in Roadway <input type="checkbox"/> 5) Other _____						<input type="checkbox"/> 1) Improper Crossing <input type="checkbox"/> 6) Wrong Side of Road <input type="checkbox"/> 2) Lying / Illegally in Roadway <input type="checkbox"/> 7) Not Visible <input type="checkbox"/> 3) Fail to Yield Right of Way <input type="checkbox"/> 8) Darting into Roadway <input type="checkbox"/> 4) Fail to Obey Traffic Signs, Signals, or Officer <input type="checkbox"/> 9) Inattentive <input type="checkbox"/> 5) Other _____ <input type="checkbox"/> 10) Unknown					
Location Prior to Impact						Safety Equipment					
<input type="checkbox"/> 1) Marked Crosswalk at Intersection <input type="checkbox"/> 9) On Highway, More than 10' from Travel Lanes <input type="checkbox"/> 2) At Intersection, No Crosswalk <input type="checkbox"/> 10) In Roadway <input type="checkbox"/> 3) Non-Intersection Crosswalk <input type="checkbox"/> 11) Traffic Island <input type="checkbox"/> 4) Driveway Access Crosswalk <input type="checkbox"/> 12) Shoulder <input checked="" type="checkbox"/> 5) Sidewalk <input type="checkbox"/> 13) Unknown <input type="checkbox"/> 6) Median <input type="checkbox"/> 14) Other _____ <input type="checkbox"/> 7) Outside Highway <input type="checkbox"/> 16) Bike Lane <input type="checkbox"/> 8) Shared Use Path or Trail <input type="checkbox"/> 17) Ped Safety Zone						<input checked="" type="checkbox"/> 1) None <input type="checkbox"/> 2) Helmet <input type="checkbox"/> 3) Protective Pads <input type="checkbox"/> 4) Reflective Clothing <input type="checkbox"/> 5) Lighting <input type="checkbox"/> 6) Unknown <input type="checkbox"/> 7) Other _____					
Bike Lane / Path						Vehicle Number(s) Striking Non-Motorist					
<input type="checkbox"/> 1) No Bike Lane Path <input type="checkbox"/> 5) Striped Bicycle Lane - Both Sides <input type="checkbox"/> 2) Bicycle Route (Signed) <input type="checkbox"/> 6) Separate Bicycle Path / Trail <input type="checkbox"/> 3) Striped Bicycle Lane - Right Side Only <input type="checkbox"/> 7) Unknown <input type="checkbox"/> 4) Striped Bicycle Lane - Left Side Only <input type="checkbox"/> 8) Other _____						#: 1    #:    #:					
<input type="checkbox"/> 1) NRS <input type="checkbox"/> 2) CFR <input type="checkbox"/> 3) CC/MC <input type="checkbox"/> 4) Pending						Non-Motorist Speed Estimate					
						From: To: Limit:					
<input type="checkbox"/> 1) NRS <input type="checkbox"/> 2) CFR <input type="checkbox"/> 3) CC/MC						Violation    NOC    Citation Number					
<input type="checkbox"/> 1) NRS <input type="checkbox"/> 2) CFR <input type="checkbox"/> 3) CC/MC						Violation    NOC    Citation Number					
Investigator(s): rusty scovel						ID Number: 412		Date: 11/05/2020		Reviewed By: erick chavez	
						Date Reviewed: 12/17/2020		Page: 5		of 7	



Event Number: 55		<b>Sparks Police Department: Controlled Document - DO NOT DUPLICATE!</b> STATE OF NEVADA TRAFFIC CRASH REPORT NON-MOTORIST INFORMATION SHEET REVISED 11/2018		With Police SPPD20-8351 Non-Motorist	
Non-Motorist: (Last Name, First Name, Middle Name Suffix)			Transported By: <input type="checkbox"/> 1) Not Transported <input type="checkbox"/> 2) EMS <input type="checkbox"/> 3) Police <input type="checkbox"/> 4) Unknown <input type="checkbox"/> 5) Other		
Street Address:			Transported To:		
City:		State/Country <input type="checkbox"/> 1) NV	Zip Code:		Person Type:
<input type="checkbox"/> 1) Male <input type="checkbox"/> 2) Female	<input type="checkbox"/> 3) Unknown	DOB: / /	Phone Number:		Seating Position:
OLN / ID Card:		State: <input type="checkbox"/> 1) NV	Airbag Switch:		Occupant Restraints:
Non-Motorist: (Last Name, First Name, Middle Name Suffix)			Transported By: <input type="checkbox"/> 1) Not Transported <input type="checkbox"/> 2) EMS <input type="checkbox"/> 3) Police <input type="checkbox"/> 4) Unknown <input type="checkbox"/> 5) Other		
Street Address:			Transported To:		
City:		State/Country <input type="checkbox"/> 1) NV	Zip Code:		Person Type:
<input type="checkbox"/> 1) Male <input type="checkbox"/> 2) Female	<input type="checkbox"/> 3) Unknown	DOB: / /	Phone Number:		Seating Position:
OLN / ID Card:		State: <input type="checkbox"/> 1) NV	Airbag Switch:		Occupant Restraints:
Non-Motor Vehicle Description			Injury Severity:		
Make / Manufacturer:			Injury Location:		
Model:			Airbags:		
Type:			Switch:		
Color:			Ejected:		
Identification / Serial Number:			Trapped:		
Owner Name: <input type="checkbox"/> 1) Same as Non-Motorist			Non-Motor Vehicle Removed By:		
Street Address:			Non-Motor Vehicle Removed To:		
City:		State: <input type="checkbox"/> 1) NV	Zip Code:		
1st Contact Area			Damage to Non-Motor Vehicle		
Pedal Cyclist / Non-Motor Vehicle 			<input type="checkbox"/> 1) Minor <input type="checkbox"/> 2) Moderate <input type="checkbox"/> 3) Major <input type="checkbox"/> 4) Total <input type="checkbox"/> 5) None <input type="checkbox"/> 6) Unknown		
Pedestrian <input type="checkbox"/> 1) Right Side <input checked="" type="checkbox"/> 2) Left Side <input type="checkbox"/> 3) Head / Feet <input type="checkbox"/> 4) Front <input type="checkbox"/> 5) Back			Non-Motor Vehicle Damaged Area <input type="checkbox"/> 1) Front <input type="checkbox"/> 9) Top <input type="checkbox"/> 2) Rear <input type="checkbox"/> 10) Bottom <input type="checkbox"/> 3) Right Side <input type="checkbox"/> 11) Unknown <input type="checkbox"/> 4) Left Side <input type="checkbox"/> 12) Other <input type="checkbox"/> 5) Right Front <u>310230-20</u> <input type="checkbox"/> 6) Right Rear <input type="checkbox"/> 7) Left Front <input type="checkbox"/> 8) Left Rear		
Sequence Of Events					
Code #	Description	Collision With Fixed Object	Most Harmful Event	Non-Motor Vehicle Action	
1st	214 MOTOR VEHICLE IN TRANSPORT	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/> 1) Straight <input type="checkbox"/> 7) Passing <input type="checkbox"/> 2) Stopped <input type="checkbox"/> 8) Entering Lane <input type="checkbox"/> 3) Left Turn <input type="checkbox"/> 9) Leaving Lane <input type="checkbox"/> 4) Right Turn <input type="checkbox"/> 10) Lane Change <input type="checkbox"/> 5) U-Turn <input type="checkbox"/> 11) Unknown <input type="checkbox"/> 6) Other	
2nd		<input type="checkbox"/>	<input type="checkbox"/>		
3rd		<input type="checkbox"/>	<input type="checkbox"/>		
4th		<input type="checkbox"/>	<input type="checkbox"/>		
5th		<input type="checkbox"/>	<input type="checkbox"/>		

Event Number 55		Sparks Police Department: <b>STATE OF NEVADA</b> - <b>DO NOT DUPLICATE!</b>				Part Number SPPD20-8351		Occupant / Witness Supplement	
<b>TRAFFIC CRASH REPORT</b> Occupant / Witness Supplement Revised 12/2018						Agency Name: Sparks PD			

V#		Name: (Last Name, First Name, Middle Name Suffix) THORESON, TRYSTEN MAY				Transported By: <input type="checkbox"/> 1) Not Transported <input type="checkbox"/> 2) EMS <input type="checkbox"/> 3) Police <input type="checkbox"/> 4) Unknown <input type="checkbox"/> 5) Other							
Street Address:		2225 LOGAN WAY				Transported To:							
City:		State / Country		<input checked="" type="checkbox"/> 1) NV	Zip Code:		Person Type:		Seating Position:		Occupant Restraints:		
SPARKS		NV			89431		3						
<input type="checkbox"/> 1) Male <input type="checkbox"/> 3) Unknown		DOB:		Phone Number:		Injury Severity:		Injury Location:					
<input checked="" type="checkbox"/> 2) Female		05/06/1988		7752473192									
						Airbags:		Airbag Switch:		Ejected:		Trapped:	
V#		Name: (Last Name, First Name, Middle Name Suffix) MCAVAY, EILEDON RAEANNA				Transported By: <input type="checkbox"/> 1) Not Transported <input type="checkbox"/> 2) EMS <input type="checkbox"/> 3) Police <input type="checkbox"/> 4) Unknown <input type="checkbox"/> 5) Other							
Street Address:		49 VISTA RAFAEL PKWY				Transported To:							
City:		State / Country		<input checked="" type="checkbox"/> 1) NV	Zip Code:		Person Type:		Seating Position:		Occupant Restraints:		
RENO		NV			89503		3						
<input type="checkbox"/> 1) Male <input type="checkbox"/> 3) Unknown		DOB:		Phone Number:		Injury Severity:		Injury Location:					
<input checked="" type="checkbox"/> 2) Female		10/03/1996		7755014201									
						Airbags:		Airbag Switch:		Ejected:		Trapped:	
V#		Name: (Last Name, First Name, Middle Name Suffix)				Transported By: <input type="checkbox"/> 1) Not Transported <input type="checkbox"/> 2) EMS <input type="checkbox"/> 3) Police <input type="checkbox"/> 4) Unknown <input type="checkbox"/> 5) Other							
Street Address:						Transported To:							
City:		State / Country		<input type="checkbox"/> 1) NV	Zip Code:		Person Type:		Seating Position:		Occupant Restraints:		
<input type="checkbox"/> 1) Male <input type="checkbox"/> 3) Unknown		DOB:		Phone Number:		Injury Severity:		Injury Location:					
<input type="checkbox"/> 2) Female													
						Airbags:		Airbag Switch:		Ejected:		Trapped:	
V#		Name: (Last Name, First Name, Middle Name Suffix)				Transported By: <input type="checkbox"/> 1) Not Transported <input type="checkbox"/> 2) EMS <input type="checkbox"/> 3) Police <input type="checkbox"/> 4) Unknown <input type="checkbox"/> 5) Other							
Street Address:						Transported To:							
City:		State / Country		<input type="checkbox"/> 1) NV	Zip Code:		Person Type:		Seating Position:		Occupant Restraints:		
<input type="checkbox"/> 1) Male <input type="checkbox"/> 3) Unknown		DOB:		Phone Number:		Injury Severity:		Injury Location:					
<input type="checkbox"/> 2) Female													
						Airbags:		Airbag Switch:		Ejected:		Trapped:	
V#		Name: (Last Name, First Name, Middle Name Suffix)				Transported By: <input type="checkbox"/> 1) Not Transported <input type="checkbox"/> 2) EMS <input type="checkbox"/> 3) Police <input type="checkbox"/> 4) Unknown <input type="checkbox"/> 5) Other							
Street Address:						Transported To:							
City:		State / Country		<input type="checkbox"/> 1) NV	Zip Code:		Person Type:		Seating Position:		Occupant Restraints:		
<input type="checkbox"/> 1) Male <input type="checkbox"/> 3) Unknown		DOB:		Phone Number:		Injury Severity:		Injury Location:					
<input type="checkbox"/> 2) Female													
						Airbags:		Airbag Switch:		Ejected:		Trapped:	

Investigator(s)		ID Number	Date	Reviewed By		Date Reviewed	Page
rusty scovel		412	11/05/2020	erick chavez		12/17/2020	7 of 7

## **Brent Harsh**

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**From:** Baarson, Kat (Liability Claims) <Katherine.Baarson@thehartford.com>  
**Sent:** Wednesday, November 11, 2020 12:18 PM  
**To:** Brent Harsh  
**Subject:** RE: Y51 AL 19182 David Clements, et al v. Sandra Sei

Brent  
I disagree but will check with our legal.

Katherine L. Baarson  
Claim Consultant

Direct Dial: (480) 629-9051  
Toll free: 877-625-2652 Ext. 2303226  
Fax: 866-809-1955

The Hartford Insurance Group  
P.O. Box 14265  
Lexington, KY 40512-4264

**From:** Brent Harsh [mailto:brent@coulterharshlaw.com]  
**Sent:** Wednesday, November 11, 2020 3:17 PM  
**To:** Baarson, Kat (Liability Claims) <Katherine.Baarson@thehartford.com>  
**Subject:** RE: Y51 AL 19182 David Clements, et al v. Sandra Sei

Kat,

Sheela's claim is not a derivative claim such as loss of consortium. It is a separate claim for Negligent Infliction of Emotion Distress.

I believe that each plaintiff is entitled for a separate recovery of \$100,000 for each claim. For Example, \$100,000 to Sheela for Negligent Infliction of Emotion Distress and \$100,000 to David for Negligence and Negligence per se.

Please feel free to call to discuss.

Thanks,

**Brent H. Harsh**  
Trial Attorney  
**COULTER HARSH LAW**  
403 Hill Street  
Reno, Nevada 89501  
Tel: 775-324-3380  
Fax: 775-324-3381



From: Baarson, Kat (Liability Claims) <[Katherine.Baarson@thehartford.com](mailto:Katherine.Baarson@thehartford.com)>  
Sent: Wednesday, November 11, 2020 11:57 AM  
To: Brent Harsh <[brent@coulterharshlaw.com](mailto:brent@coulterharshlaw.com)>  
Subject: Y51 AL 19182 David Clements, et al v. Sandra Sei

Brent

Here is a copy of estimate and the photos.  
Do you need more photos?

You have also provided me with enough to offer the limits of \$100,000 to resolve.  
I will need either escrow letter or one on your letterhead stating you will hold monies in trust to pay for any and all liens including Medicare.  
I will send you the propos

Katherine L. Baarson  
Claim Consultant

Direct Dial: (480) 629-9051  
Toll free: 877-625-2652 Ext. 2303226  
Fax: 866-809-1955

Writing Company Name: Hartford Insurance Company of the Midwest

The Hartford Insurance Group  
P.O. Box 14265  
Lexington, KY 40512-4264

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**Brent Harsh**

---

**From:** Baarson, Kat (Liability Claims) <Katherine.Baarson@thehartford.com>  
**Sent:** Wednesday, November 11, 2020 12:32 PM  
**To:** Brent Harsh  
**Subject:** y51 AL 19182 David Clements

Brent

I am going to need some case law to support your position for separate claim for Sheela. She was not at the accident scene.

Katherine L. Baarson  
Claim Consultant

Direct Dial: (480) 629-9051  
Toll free: 877-625-2652 Ext. 2303226  
Fax: 866-809-1955

Writing Company Name: Hartford Insurance Company of the Midwest

The Hartford Insurance Group  
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\*\*\*\*\*  
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**Brent Harsh**

---

**From:** Baarson, Kat (Liability Claims) <Katherine.Baarson@thehartford.com>  
**Sent:** Monday, November 30, 2020 1:47 PM  
**To:** Brent Harsh  
**Subject:** Y51 AL 19182 David Clements  
  
**Importance:** High

Brent

I need additional time to respond to the emotional distress claim you are presenting. I need additional research done.

May I have another 3 weeks? I hope it won't take that long but need to ask for that extension.

Katherine L. Baarson  
Claim Consultant

Direct Dial: (480) 629-9051  
Toll free: 877-625-2652 Ext. 2303226  
Fax: 866-809-1955

Writing Company Name: Hartford Insurance Company of the Midwest

The Hartford Insurance Group  
P.O. Box 14265  
Lexington, KY 40512-4264

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## **Brent Harsh**

---

**From:** Brent Harsh  
**Sent:** Tuesday, December 1, 2020 8:33 AM  
**To:** katherine.baarson@thehartford.com  
**Cc:** Lisa Watson  
**Subject:** PA0018907997 Regarding: Clements, David/Sheela

Great talking to you.

As requested, the policy limits demand is extended until 12/21/20 for both Sheela and David Clements

**Brent H. Harsh**  
Trial Attorney  
**COULTER HARSH LAW**  
403 Hill Street  
Reno, Nevada 89501  
Tel: 775-324-3380  
Fax: 775-324-3381



# Law Offices of Eric R. Larsen

Employees of a Subsidiary of The Hartford Financial Services Group, Inc.

9275 W. Russell Rd., Ste. 205  
Las Vegas, NV 89148

OFFICE:  
Telephone (702) 387-8070  
Facsimile (877) 369-5819

Debra M. Watson, Legal Assistant  
Telephone (702) 387-8092

*Reed J. Werner, Esq.*  
Admitted in Nevada and California

DIRECT DIAL:  
Telephone (702) 387-8080  
Reed.Werner@thehartford.com

Debra.Watson@thehartford.com

December 18, 2020

Brent Harsh, Esq.  
COULTER HARSH  
403 Hill St  
Reno, NV 89501

RE: Clements, David v. Sei, Sandra  
Our Client : Sandra Sei  
Plaintiffs : David Clements and Sheela Clements  
Date of Loss : 11/5/2020

Dear Mr. Harsh:

I am in receipt of your demand letter wherein you confirm that David Clements claims are resolved for the \$100,000 policy offer but then you make the assertion that Sheela Clements is making her own claim for Negligent Infliction of Emotional Distress.

The information provided on behalf of Sheela Clements is quite sparse. Can you please provide additional information? When your client arrived on scene who else was present? Had emergency personnel already arrived? What was the condition of Mr. Clements at the time she arrived? Has Mrs. Clements received any treatment herself? You state that the husband is paralyzed, but the medical records provided do not support that claim. Can you provide additional records so that an appropriate analysis can be completed?

Thank you for your time and attention to this correspondence. I look forward to your response.

Very truly yours,

Law Offices of ERIC R. LARSEN

/s/ *Reed J. Werner*  
Reed J. Werner, Esq.

cc: Katherine Baarson, The Hartford (Y51AL19182)



**From:** [Werner, Reed J \(Claims Solutions and Analytics\)](#)  
**To:** [complaints](#)  
**Subject:** Clements, David v. Sei, Sandra ( Y51AL19182 ) [CONFIDENTIAL] (Encrypted Delivery)  
**Date:** Thursday, January 14, 2021 2:52:43 PM  
**Attachments:** [Summons and Complaint.pdf](#)

---

In December 2020 I was discussing and negotiating a pre-litigation case with Brent Harsh. His client, David Clements, was struck in a crosswalk as a pedestrian and he was trying his best to get the largest recovery possible for his client. Negotiations broke down and Attorney Harsh informed me that he would be filing suit. I told him he had every right to do so. He filed suit and served my client with the summons and complaint. I received from my client the summons and complaint and with it attached to the summons and complaint was a letter from Attorney Harsh to my client informing her that he recommended she retain personal counsel and potentially bring suit against her insurance company. I have never in my years of practicing in this state seen an attorney contact my client directly. I discussed the issue with my boss Eric Larsen. I also asked an assistant bar counsel who reminded me that RPC 8.3 requires me to report violations of which I become aware.

I feel compelled under RPC 8.3 to report Attorney Brent Harsh for violation of RPC 8.4. Brent Harsh was in contact with me to discuss this case prior to filing suit in December 2020. He was aware that the client, Sandra Sei, was represented by counsel. In January 2021 he included a letter to my client Sandra Sei despite knowing she was represented by counsel (See attached). In the letter he recommends that she hire personal counsel and potentially pursue a claim against her insurer. His actions are not permitted under my understanding of the rules of professional conduct.

Please let me know if you require additional documentation.

**REED J. WERNER, ESQ**  
Senior Staff Attorney  
The Law Offices of Eric R. Larsen

Employees of a Subsidiary of The Hartford Financial Services Group, Inc.  
9275 W. Russell Rd. Ste. 205  
Las Vegas, Nevada 89148  
W: 702-387-8080  
F: 877-369-5819  
[Reed.Werner@thehartford.com](mailto:Reed.Werner@thehartford.com)

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**TIME RECEIVED**  
January 5, 2021 1:29:47 AM EST

**REMOTE CSID**  
+17753319428

**DELTION**  
530

**PAGES**  
13

**STATUS**  
Received

2021-01-05 00:22 CST Sandi Sei

+17753319428

PAGE 1/13

# Fax Cover Page



**Recipient:** +1 (866) 809-1955  
Katherine Baarson



**Date Sent:** 01/05/2021



**Number of Pages:** 13 (including cover page)



**Sender:** Sandi Sei -



**Reply-to Email:** devere85@yahoo.cm



**Reply-to Phone:** +1 (775) 331-9428



**Reply-to Fax:**



**Subject:** My Summons



**Message:** Please let me know what you think and advise. Thanks for your help.



Sent with Mobile Fax

Respondent's Hearing Exhibit J

Harsh ROA 443



CURTIS B. COULTER  
BRENT H. HARSH



PAIGE F. TAYLOR  
KARL H. SMITH

403 Hill Street  
Reno, Nevada 89501  
[www.coulterharshlaw.com](http://www.coulterharshlaw.com)

Tel: 775-324-3380  
Fax: 775-324-3381

Saturday, January 2, 2021

Sent VIA Hand Delivery

Ms. Sandra L. Sei  
85 Devere Way  
Sparks, NV 89431

RE: Clements, et.al v. Sei  
My Client: David and Sheela Clements  
DOL: November 5, 2020

Dear Ms. Sei:

I represent David and Sheela Clements. David is the person who was struck in the cross walk on November 5, 2020 and Sheela is his wife. I have tried on several attempts to resolve this case within your policy limits with your insurance carrier, THE HARTFORD. Unfortunately, THE HARTFORD has decided not to tender \$200,000 to both David and Sheela, which has forced me to file the attached *Complaint*. Please be advised that David is now paralyzed, and I will be seeking a judgment more than your insurance coverage. I would recommend that you seek personal counsel, and below is a list of attorneys that specialize in protecting parties whose interests might be averse to their insurance carriers:

1. David Zaniel—775-786-4441
2. Leah Ronhaar—775-335-9999
3. Matthew Sharp—775-324-1500
4. Patrick Leverty—775-322-6636

Please also feel free to do some research on your own. Lastly, please contact THE HARTFORD immediately and forward them a copy of the enclosed *Complaint* and *Summons*. Please reference the Claim Number PA0018907997.

I look forward to discussing this matter with your own personal counsel to try to resolve this case quickly.

Sincerely,

Brent Harsh

Enc: Complaint and Summons  
BHH/

Code: 4085

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

David Clements Sheeh Clements

Plaintiff / Petitioner / Joint Petitioner,

Case No. CV20-02081

vs.

Dept. No. 1Sandra L. Sei

Defendant / Respondent / Joint Petitioner.

SUMMONS

TO THE DEFENDANT: YOU HAVE BEEN SUED. THE COURT MAY DECIDE AGAINST YOU WITHOUT YOUR BEING HEARD UNLESS YOU RESPOND IN WRITING WITHIN 21 DAYS. READ THE INFORMATION BELOW VERY CAREFULLY.

A civil complaint or petition has been filed by the plaintiff(s) against you for the relief as set forth in that document (see complaint or petition). When service is by publication, add a brief statement of the object of the action.

The object of this action is: Motor vehicle negligence

1. If you intend to defend this lawsuit, you must do the following within 21 days after service of this summons, exclusive of the day of service:
  - a. File with the Clerk of the Court, whose address is shown below, a formal written answer to the complaint or petition, along with the appropriate filing fees, in accordance with the rules of the Court, and;
  - b. Serve a copy of your answer upon the attorney or plaintiff(s) whose name and address is shown below.
2. Unless you respond, a default will be entered upon application of the plaintiff(s) and this Court may enter a judgment against you for the relief demanded in the complaint or petition.

Dated this 22nd day of DECEMBER, 20 20

Issued on behalf of Plaintiff(s):

JACQUELINE BRYANT  
CLERK OF THE COURTBy: /s/ CHERYL SULEZICH

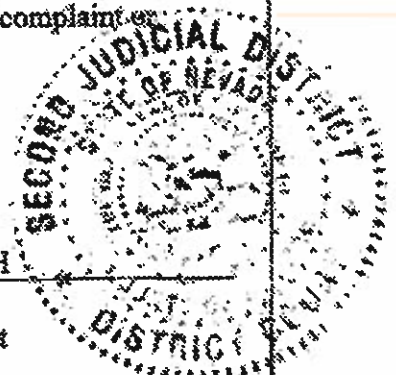
Deputy Clerk

Name: Brent H. Harsh, Esq.Address: Cow Her Harsh Law  
403 Hill Street, Reno, NV 89501Phone Number: 775-224-3380Email: brent@cowherharshlaw.com

Second Judicial District Court

75 Court Street

Reno, Nevada 89501



FILED  
Electronically  
CV20-02081  
2020-12-22 03:54:13 PM  
Jacqueline Bryant  
Clerk of the Court

Transaction # B216587 : yvlionia

1 **1425**  
2 **BRENT HARSH, ESQ.**  
3 **Coulter Harsh Law**  
4 **State Bar No. 8814**  
5 **403 Hill Street**  
6 **Reno, NV 89501**  
7 **(775)324-3380**  
8 **Attorney for Plaintiff**

9 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**

10 **IN AND FOR THE COUNTY OF WASHOE**

11 **\*\*\*\*\***

12 **DAVID CLEMENTS, SHEELA**  
13 **CLEMENTS,**

14 **CASE NO. CV20-02081**

15 **DEPT. NO. 1**

16 **Plaintiffs,**

17 **VS.**

18 **SANDRA L. SEI and**  
19 **DOES 1-10, Inclusive,**

20 **Defendants.**

21 **COMPLAINT**

22 **COME NOW, Plaintiffs, DAVID CLEMENTS and SHEELA CLEMENTS, by and**  
23 **through their attorneys at COULTER HARSH LAW, and for their cause of action**  
24 **against the Defendants above named, hereby complain and allege as follows:**

25 **1. Plaintiff DAVID CLEMENTS is and was at all times mentioned herein a**  
26 **resident of the City of Sparks, County of Washoe, State of Nevada.**

27 **2. Plaintiff SHEELA CLEMENTS is and was at all times herein mentioned, a**  
28 **resident of the City of Sparks, County of Washoe, State of Nevada.**

29 **3. Defendant SANDRA L. SEI is and was at all times herein mentioned, a**  
30 **resident of the County of Washoe, State of Nevada.**

31 **4. That the true names and capacities of Defendants named herein as**  
32 **DOES 1-10, inclusive, are unknown to Plaintiffs who, therefore, sue these Defendants**

Coulter Harsh Law  
403 Hill Street  
Reno, Nevada 89501  
(775) 324-3380  
FAX (775) 324-3381



1 by such fictitious names. Plaintiffs are informed and believe, and therefore allege,  
2 that each of the Defendants designated as DOES are responsible in some manner for  
3 the offense and happenings referred to in this action and proximately caused  
4 damages to Plaintiffs as herein alleged. The legal responsibility of said DOES 1-10  
5 arises out of, but is not limited to, their status as owners and their maintenance  
6 and/or entrustment of the vehicle which Defendant SANDRA L. SEI was operating at  
7 the time of the accident referred to in this Complaint, and/or their agency,  
8 master/servant or joint venture relationship with Defendant SANDRA L. SEI.  
9 Plaintiffs request leave of this Court to amend the Complaint to insert the true names  
10 and capacities of said Defendants, when the same have been ascertained to join  
11 such Defendants in this action and assert the appropriate charging allegations.  
12

13 **FIRST CLAIM OF ACTION**  
14 **(Negligence)**

15 5. Plaintiffs hereby incorporates paragraphs 1-4 of this Complaint as fully  
16 set forth herein.

17 6. That on or about November 5, 2020, Defendants SANDRA L. SEI and  
18 DOES 1-10, owned and operated a certain 2008 White Toyota Highlander, with a  
19 Nevada license plate, in a manner wherein they failed to exercise due care thereby  
20 resulting in an impact with Plaintiff DAVID CLEMENTS.

21 7. That on or about November 5, 2020, Defendant SANDRA L. SEI,  
22 operated the above-referenced vehicle in an unsafe and careless manner, when she  
23 failed to yield the right of way to the Plaintiff, DAVID CLEMENTS, who was lawfully  
24 crossing Pyramid Way in Sparks, Nevada, in a marked crosswalk.

1           8.     The Defendant, SANDRA L. SEI, struck the Plaintiff DAVID CLEMENTS  
2 with her vehicle while he was walking in a marked crosswalk, knocking him to the  
3 ground and causing him serious physical injury.

4           9.     The Defendant SANDRA L. SEI was driving the above-mentioned  
5 vehicle with the permission, express or implied, or at the direction of the DOE  
6 Defendants.

7           10.    The above said vehicle is governed by the laws and regulations of the  
8 State of Nevada.

9           11.    The Defendant SANDRA L. SEI had a duty to follow the laws and  
10 regulations of the State of Nevada, and failed to properly follow those laws and  
11 regulations.

12           12.    Defendants were negligent in causing the collision.

13           13.    Defendants were negligent and were the proximate cause of the  
14 collision referred above.

15           14.    As a direct and proximate result of Defendants' negligence, Plaintiff  
16 DAVID CLEMENTS was injured.

17           15.    That as a further proximate result of the aforementioned negligence,  
18 Plaintiff DAVID CLEMENTS has been required to obtain the services of an attorney,  
19 incurred costs and is entitled to recover interest.

20           16.    As a further and direct result of Defendants' wrongful and negligent  
21 conduct, Plaintiff DAVID CLEMENTS has past and future special damages; past and  
22 future general damages; suffered mental and emotional distress, aggravation and  
23 worry, all to his substantial and additional damages in excess of \$15,000.00.  
24

25     Coulter Harsh Law  
26     483 Hill Street  
27     Reno, Nevada 89501  
   (775) 324-3380  
   FAX (775) 324-3381



**SECOND CLAIM OF ACTION  
(Negligence Per Se)**

17. Plaintiffs hereby incorporate paragraphs 1-16 of this Complaint as fully set forth herein.

18. Plaintiff DAVID CLEMENTS is informed and believes, and based thereon, alleges that the Defendants, and each of them, owed Plaintiff DAVID CLEMENTS the duties of care, as set forth above.

19. Plaintiff DAVID CLEMENTS is informed and believes, and based thereon, alleges that Defendants were subject to laws and regulations pertaining to vehicle safety, including yielding to a pedestrian in a crosswalk, and further, that such laws and regulations were intended to preserve life and prevent bodily injury to persons traveling on public Nevada roadways by ensuring the laws and regulations are adhered to while traveling on those public Nevada roadways.

20. Plaintiff DAVID CLEMENTS is informed and believes and, based thereon, alleges that he is a member of a class for whose benefit those laws and safety regulations were passed.

21. Plaintiff DAVID CLEMENTS is informed and believes and, based thereon, alleges that Defendants violated one or more laws and regulations, including but not limited to NRS 484B.283 and NRS 484B.653, and breached their duties of care that were owed to the Plaintiff DAVID CLEMENTS, as set forth above.

22. Plaintiff DAVID CLEMENTS is informed and believes and, based thereon, alleges that the Plaintiff DAVID CLEMENTS suffered the same type of harm that the laws and regulations were intended to prevent, resulting in, without limitation, physical, emotional, and financial harm, as set forth above, from the conduct of Defendants, which was a substantial factor in causing that harm.

1 23. Defendants' wrongful conduct as alleged herein, was malicious,  
2 oppressive and fraudulent justifying an award of punitive damages against  
3 Defendants.

4 24. That as a further proximate result of the aforementioned negligence,  
5 Plaintiff DAVID CLEMENTS has been required to obtain the services of an attorney,  
6 incurred costs and is entitled to recover interest.

7 25. As a further and direct result of Defendants' intentional, wrongful and  
8 negligent conduct, Plaintiff DAVID CLEMENTS has past and future special damages;  
9 past and future general damages; suffered mental and emotional distress,  
10 aggravation and worry, all to his substantial and additional damages in excess of  
11 \$15,000.00.  
12

13 **THIRD CLAIM OF ACTION**  
14 **(Intentional Infliction of Emotional Distress)**

15 26. Plaintiffs hereby incorporate paragraphs 1-25 of this Complaint as fully  
16 set forth herein.

17 27. Plaintiffs are informed and believe and, based thereon, allege that  
18 Defendants, and each of them, acted with oppression, malice and/or conscious  
19 disregard for the safety and well-being of the class of person the statutes and/or  
20 regulations were designed to protect, including Plaintiff DAVID CLEMENTS.

21 28. Plaintiffs are informed and believe and, based thereon, allege that  
22 Defendants, and each of them, acted with conscious disregard for the laws and  
23 regulations of the State of Nevada which govern vehicles and driving, and the failure  
24 to properly adhere to the laws and regulations outlined above, caused the injuries  
25 associated with the Plaintiff DAVID CLEMENTS and SHEELA CLEMENTS.  
26  
27

Coulter Harsh Law  
403 Hill Street  
Reno, Nevada 89501  
(775) 324-1380  
FAX (775) 324-3381

1 29. That as a further proximate result of the aforementioned conduct,  
2 Plaintiffs have been required to obtain the services of an attorney, incurred costs and  
3 is entitled to recover interest.

4 30. Defendants' wrongful and negligent conduct as alleged herein, was  
5 malicious, oppressive and fraudulent justifying an award of punitive damages against  
6 Defendants.

7 31. As a further and direct result of Defendants' intentional and wrongful  
8 conduct, Plaintiff DAVID CLEMENTS has past and future special damages; past and  
9 future general damages; suffered mental and emotional distress, aggravation and  
10 worry, all to his substantial and additional damages in excess of \$15,000.00.

11  
12 **FOURTH CLAIM OF ACTION**  
13 **(Gross Negligence)**

14 32. Plaintiffs hereby incorporates paragraphs 1-31 of this Complaint as fully  
15 set forth herein.

16 33. Defendant SANDRA L. SEI owed Plaintiffs and all others, the duty to use  
17 reasonable care under the circumstances to avoid injury to Plaintiffs and all others.

18 34. Defendant SANDRA L. SEI breached her duty of care to the Plaintiffs when  
19 she failed to exercise even the slightest degree of care in operating her motor vehicle on  
20 or about November 5, 2020, causing the accident and causing injury to Plaintiffs, DAVID  
21 CLEMENTS and SHEELA CLEMENTS.

22 35. Defendant SANDRA L. SEI'S wanton and willful conduct as alleged  
23 herein, was malicious, oppressive and fraudulent justifying an award of punitive  
24 damages against Defendants.

25 36. Defendant SANDRA L. SEI was grossly negligent in causing the accident  
26 and was the proximate cause of the accident referred to above.

27  
Coelter Harsh Law  
403 Hill Street  
Reno, Nevada 89501  
(775) 324-3380  
FAX (775) 324-3381

1 37. As a direct and proximate result of Defendant SANDRA L. SEI'S gross  
2 negligence, Plaintiffs were injured.

3 38. That as a further proximate result of the aforementioned impact,  
4 Plaintiffs have each been required to obtain the services of an attorney, incurred  
5 costs and are entitled to recover interest.

6 39. As a further and direct result of Defendant's intentional and wrongful  
7 conduct, Plaintiffs have past and future special damages; past and future general  
8 damages; suffered mental and emotional distress, aggravation and worry, all to their  
9 substantial and additional damage in excess of \$15,000.00.

10  
11 **FIFTH CLAIM OF ACTION**  
**(Negligent Infliction of Emotional Distress)**

12 40. Plaintiffs hereby incorporate paragraphs 1-39 of this Complaint as fully  
13 set forth herein.

14 41. Defendants' negligence as alleged herein caused Plaintiffs DAVID  
15 CLEMENTS and SHEELA CLEMENTS, each, to suffer emotional distress.

16 42. Plaintiff SHEELA CLEMENTS is the wife of Plaintiff DAVID CLEMENTS.

17 43. Plaintiff SHEELA CLEMENTS saw her husband, Plaintiff DAVID  
18 CLEMENTS, in the crosswalk, sprawled on the ground, unable to move.

19 44. As a result of seeing her husband, Plaintiff DAVID CLEMENTS, sprawled  
20 on the ground, unable to move, Plaintiff SHEELA CLEMENTS, suffered a shock and a  
21 direct emotional impact, causing her to sustain emotional injury.

22 45. As a direct and proximate result of the Defendants' conduct Plaintiff  
23 DAVID CLEMENTS and Plaintiff SHEELA CLEMENTS have each sustained emotional  
24 injury and have been damaged in an amount to be proved at trial.

25  
26  
27  
Coulter Harsh Law  
403 Hill Street  
Reno, Nevada 89501  
(775) 324-3380  
FAX (775) 324-3381



**SIXTH CLAIM FOR RELIEF  
(Loss of Consortium)**

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46. Plaintiffs hereby incorporate paragraphs 1-45 of this Complaint herein as though fully set forth herein.

47. At all times herein mentioned Plaintiff DAVID CLEMENTS was and is the spouse of Plaintiff SHEELA CLEMENTS.

48. Before being struck by the Defendant on 11/05/20, Plaintiff, DAVID CLEMENTS was able to and did perform all the duties of a spouse, including assisting in maintaining the home, providing love, companionship, affection, society, moral support, conjugal relations and solace to Plaintiff, SHEELA CLEMENTS.

49. As a direct and proximate result of the negligence and/or conscious disregard for the right and safety of others by Defendant, SANDRA L. SEI, Plaintiff DAVID CLEMENTS' ability to perform the duties of a spouse described above have been impaired and Plaintiff SHEELA CLEMENTS has been damaged and is entitled to past and future compensatory damages for such damages.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs DAVID CLEMENTS and SHEELA CLEMENTS, while expressly reserving their right to amend this Complaint at the time of trial of this action herein to include all items of damage not yet ascertained, requests judgment against Defendants, and each of them, as follows:

- 1. For past and future general damages in a just and reasonable amount in excess of \$15,000, each;
- 2. For past and future special damages, each, according to proof;
- 3. For attorney's fees, prejudgment interest, court and other costs and disbursements incurred, and to be incurred in connection with this action;

Coulter Harsh Law  
403 Hill Street  
Reno, Nevada 89501  
(775) 324-3380  
FAX (775) 324-3381

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- 4. For punitive damages;
- 5. For such other and further relief as this Court may deem just and proper.

**AFFIRMATION**  
**Pursuant to NRS 239B.030**

The undersigned does hereby affirm that the preceding document, filed in the above case number, **DOES NOT** contain the social security number of any person.

DATED this 22 day of December, 2020.



BRENT HARSH, ESQ.  
Coulter Harsh Law  
403 Hill Street  
Reno, Nevada 89509  
(775) 324-3380  
Attorney for Plaintiff

Coulter Harsh Law  
403 Hill Street  
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1130  
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*Attorneys for Defendant,  
Sandra L. Sei*

**SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**  
**IN AND FOR THE COUNTY OF WASHOE**

DAVID CLEMENTS and SHEELA  
CLEMENTS.

Plaintiffs,

vs.

SANDRA L. SEI and DOES 1-10, inclusive,  
Defendants.

Case No.: CV20-02081

Dept. No.: 1

**SANDRA L. SEI'S ANSWER TO  
PLAINTIFF'S COMPLAINT**

COMES NOW Defendant, SANDRA L. SEI. (hereinafter "SEI"), by and through her attorneys of record at the law firm of Morris, Sullivan & Lemkul LLP, and hereby files its Answer to Plaintiffs' Complaint as follows:

**GENERAL ALLEGATIONS**

1. Sei lacks sufficient information to form a belief as to the truth, or falsity, of the allegations contained in paragraph 1 of the Complaint and on that basis denies them.

2. Sei lacks sufficient information to form a belief as to the truth, or falsity, of the allegations contained in paragraph 2 of the Complaint and on that basis denies them.

3. Sei admits the allegation contained in paragraph 3 of the complaint.

4. Paragraph 4 of the Complaint states a legal conclusion to which no response is required. To the extent that paragraph 4 is determined to contain facts that pertain to Sei, Sei lacks sufficient information to form a belief as to the truth, or falsity, of the allegations contained in paragraph 4 and on that basis denies them.

1 **FIRST CLAIM OF ACTION**

2 **(Negligence)**

3 5. Answering Paragraph 5 of Plaintiffs Complaint, SEI incorporates herein by reference its  
4 responses to all preceding paragraphs, as though fully set forth herein.

5 6. Paragraph 6 of the complaint states a legal conclusions to which no response is required.  
6 To the extent that paragraph 6 is determined to contain factual allegations that pertain to Sei, deny.

7 7. Paragraph 7 of the complaint states a legal conclusions to which no response is required.  
8 To the extent that paragraph 7 is determined to contain factual allegations that pertain to Sei, deny.

9 8. Paragraph 8 of the complaint states a legal conclusions to which no response is required.  
10 To the extent that paragraph 8 is determined to contain factual allegations that pertain to Sei, deny.

11 9. Paragraph 9 of the complaint states a legal conclusion to which no response is required. To  
12 the extent that paragraph 9 is determined to contained facts that pertain to Sei, Sei lacks sufficient  
13 information to form a belief as to the truth, or falsity, of the allegations contained in paragraph 9  
14 and on that basis denies them.

15 10. Paragraph 10 of the complaint states a legal conclusions to which no response is required.  
16 To the extent that paragraph 10 is determined to contain factual allegations that pertain to Sei,  
17 deny.

18 11. Paragraph 11 of the complaint states a legal conclusions to which no response is required.  
19 To the extent that paragraph 11 is determined to contain factual allegations that pertain to Sei,  
20 deny.

21 12. Paragraph 12 of the complaint states a legal conclusions to which no response is required.  
22 To the extent that paragraph 12 is determined to contain factual allegations that pertain to Sei,  
23 deny.

24 13. Paragraph 13 of the complaint states a legal conclusions to which no response is required.  
25 To the extent that paragraph 13 is determined to contain factual allegations that pertain to Sei,  
26 deny.

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1 14. Paragraph 14 of the complaint states a legal conclusions to which no response is required.  
2 To the extent that paragraph 14 is determined to contain factual allegations that pertain to Sei,  
3 deny.

4 15. Paragraph 15 of the complaint states a legal conclusions to which no response is required.  
5 To the extent that paragraph 15 is determined to contain factual allegations that pertain to Sei,  
6 deny.

7 16. Paragraph 16 of the complaint states a legal conclusions to which no response is required.  
8 To the extent that paragraph 16 is determined to contain factual allegations that pertain to Sei,  
9 deny.

10 **SECOND CLAIM OF ACTION**

11 **(Negligence Per Se)**

12 17. Answering Paragraph 17 of Plaintiffs Complaint, SEI incorporates herein by reference its  
13 responses to all preceding paragraphs, as though fully set forth herein.

14 18. Paragraph 18 of the complaint states a legal conclusions to which no response is required.  
15 To the extent that paragraph 18 is determined to contain factual allegations that pertain to Sei,  
16 deny.

17 19. Paragraph 19 of the complaint states a legal conclusions to which no response is required.  
18 To the extent that paragraph 19 is determined to contain factual allegations that pertain to Sei,  
19 deny.

20 20. Paragraph 20 of the complaint states a legal conclusions to which no response is required.  
21 To the extent that paragraph 20 is determined to contain factual allegations that pertain to Sei,  
22 deny.

23 21. Paragraph 21 of the complaint states a legal conclusions to which no response is required.  
24 To the extent that paragraph 21 is determined to contain factual allegations that pertain to Sei,  
25 deny.

26 22. Paragraph 22 of the complaint states a legal conclusions to which no response is required.  
27 To the extent that paragraph 22 is determined to contain factual allegations that pertain to Sei,  
28 deny.

1 23. Paragraph 23 of the complaint states a legal conclusions to which no response is required.  
2 To the extent that paragraph 23 is determined to contain factual allegations that pertain to Sei,  
3 deny.

4 24. Paragraph 24 of the complaint states a legal conclusions to which no response is required.  
5 To the extent that paragraph 24 is determined to contain factual allegations that pertain to Sei,  
6 deny.

7 25. Paragraph 25 of the complaint states a legal conclusions to which no response is required.  
8 To the extent that paragraph 25 is determined to contain factual allegations that pertain to Sei,  
9 deny.

### 10 **THIRD CLAIM OF ACTION**

#### 11 **(Intentional Infliction of Emotional Distress)**

12 26. Answering Paragraph 26 of Plaintiffs Complaint, SEI incorporates herein by reference its  
13 responses to all preceding paragraphs, as though fully set forth herein.

14 27. Paragraph 27 of the complaint states a legal conclusions to which no response is required.  
15 To the extent that paragraph 27 is determined to contain factual allegations that pertain to Sei,  
16 deny.

17 28. Paragraph 28 of the complaint states a legal conclusions to which no response is required.  
18 To the extent that paragraph 28 is determined to contain factual allegations that pertain to Sei,  
19 deny.

20 29. Paragraph 29 of the complaint states a legal conclusions to which no response is required.  
21 To the extent that paragraph 29 is determined to contain factual allegations that pertain to Sei,  
22 deny.

23 30. Paragraph 30 of the complaint states a legal conclusions to which no response is required.  
24 To the extent that paragraph 30 is determined to contain factual allegations that pertain to Sei,  
25 deny.

26 31. Paragraph 31 of the complaint states a legal conclusions to which no response is required.  
27 To the extent that paragraph 31 is determined to contain factual allegations that pertain to Sei,  
28 deny.

1 **FOURTH CLAIM OF ACTION**

2 **(Gross Negligence)**

3 32. Answering Paragraph 32 of Plaintiffs Complaint, SEI incorporates herein by reference its  
4 responses to all preceding paragraphs, as though fully set forth herein.

5 33. Paragraph 33 of the complaint states a legal conclusions to which no response is required.  
6 To the extent that paragraph 33 is determined to contain factual allegations that pertain to Sei,  
7 deny.

8 34. Paragraph 34 of the complaint states a legal conclusions to which no response is required.  
9 To the extent that paragraph 34 is determined to contain factual allegations that pertain to Sei,  
10 deny.

11 35. Paragraph 35 of the complaint states a legal conclusions to which no response is required.  
12 To the extent that paragraph 35 is determined to contain factual allegations that pertain to Sei,  
13 deny.

14 36. Paragraph 36 of the complaint states a legal conclusions to which no response is required.  
15 To the extent that paragraph 36 is determined to contain factual allegations that pertain to Sei,  
16 deny.

17 37. Paragraph 37 of the complaint states a legal conclusions to which no response is required.  
18 To the extent that paragraph 37 is determined to contain factual allegations that pertain to Sei,  
19 deny.

20 38. Paragraph 38 of the complaint states a legal conclusions to which no response is required.  
21 To the extent that paragraph 38 is determined to contain factual allegations that pertain to Sei,  
22 deny.

23 39. Paragraph 39 of the complaint states a legal conclusions to which no response is required.  
24 To the extent that paragraph 39 is determined to contain factual allegations that pertain to Sei,  
25 deny.

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1 **FIFTH CLAIM OF ACTION**

2 **(Negligent Infliction of Emotional Distress)**

3 40. Answering Paragraph 41 of Plaintiffs Complaint, SEI incorporates herein by reference its  
4 responses to all preceding paragraphs, as though fully set forth herein.

5 41. Paragraph 41 of the complaint states a legal conclusions to which no response is required.  
6 To the extent that paragraph 41 is determined to contain factual allegations that pertain to Sei,  
7 deny.

8 42. Sei lacks sufficient information to form a belief as to the truth, or falsity, of the allegations  
9 contained in paragraph 42 of the complaint and on that basis denies them.

10 43. Sei lacks sufficient information to form a belief as to the truth, or falsity, of the allegations  
11 contained in paragraph 43 of the complaint and on that basis denies them.

12 44. Sei lacks sufficient information to form a belief as to the truth, or falsity, of the allegations  
13 contained in paragraph 44 of the complaint and on that basis denies them.

14 45. Sei lacks sufficient information to form a belief as to the truth, or falsity, of the allegations  
15 contained in paragraph 45 of the complaint and on that basis denies them.

16 **SIXTH CLAIM FOR RELIEF**

17 **(Loss of Consortium)**

18 46. Answering Paragraph 46 of Plaintiffs Complaint, SEI incorporates herein by reference its  
19 responses to all preceding paragraphs, as though fully set forth herein.

20 47. Sei lacks sufficient information to form a belief as to the truth, or falsity, of the allegations  
21 contained in paragraph 47 of the complaint and on that basis denies them.

22 48. Sei lacks sufficient information to form a belief as to the truth, or falsity, of the allegations  
23 contained in paragraph 48 of the complaint and on that basis denies them.

24 49. Paragraph 49 of the complaint states a legal conclusions to which no response is required.  
25 To the extent that paragraph 49 is determined to contain factual allegations that pertain to Sei,  
26 deny.

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**AFFIRMATIVE DEFENSES**

*In addition to the foregoing denial, Sei states the following affirmative defenses to Plaintiff's Complaint:*

**AFFIRMATIVE DEFENSES**

**FIRST AFFIRMATIVE DEFENSE  
(FAILURE TO STATE A CAUSE OF ACTION)**

The Complaint fails to state any cause of action upon which relief may be granted as against Sei.

**SECOND AFFIRMATIVE DEFENSE  
(COMPARATIVE FAULT)**

The Complaint, and each purported cause of action alleged therein, are barred on the ground that or to the extent that Plaintiffs and their agents and representatives, and third parties were at fault in the matters alleged.

**THIRD AFFIRMATIVE DEFENSE  
(STATUTE OF LIMITATIONS)**

Plaintiffs' claims are barred by the applicable statutes of limitations, including but not limited to the limitations period provided in NRS section 11.190(4)(c).

**FOURTH AFFIRMATIVE DEFENSE  
(ESTOPPEL)**

Plaintiffs' claims are barred in whole or in part by the doctrine of estoppel, including without limitation equitable estoppel, promissory estoppel, and judicial estoppel.

**FIFTH AFFIRMATIVE DEFENSE  
(WAIVER)**

Plaintiffs' claims are barred in whole or in part by the doctrine of waiver.

**SIXTH AFFIRMATIVE DEFENSE  
(LACHES)**

Plaintiffs' claims are barred in whole or in part by the doctrine of laches.

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**SEVENTH AFFIRMATIVE DEFENSE**  
**(FAILURE TO MITIGATE)**

Plaintiffs' claims are barred in whole or in part by their failure to take reasonable steps to mitigate their alleged losses, injuries or damage.

**SEVENTH AFFIRMATIVE DEFENSE**  
**(WRONGFUL CONDUCT)**

The Complaint, and each purported cause of action alleged therein, are barred by Plaintiffs' wrongful or negligent conduct and actions or omissions.

**EIGHTH AFFIRMATIVE DEFENSE**  
**(ACTS AND OMISSIONS OF OTHERS)**

Any loss, injury or damage suffered or incurred by Plaintiffs were legally caused, in whole or in part, by the intentional conduct, willful misconduct, fault and/or negligence of persons or entities other than Sei.

**NINTH AFFIRMATIVE DEFENSE**  
**(SEI EXERCISED REASONABLE CARE)**

At all times alleged in the Complaint, Sei exercised reasonable care.

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1 WHEREFORE, Defendant Sandra L. Sei prays for relief as follows:

- 2 1. Plaintiffs takes nothing by way of their Complaint;
- 3 2. Dismissal of Plaintiffs' Complaint with prejudice;
- 4 3. An award of reasonable attorney's fees and costs to Sandra L. Sei for the defense
- 5 of this matter; and
- 6 4. For such other relief as the Court deems reasonable and proper.

7 **AFFIRMATION**

8 *The undersigned hereby does affirm that the preceding document does not contain the*

9 *social security number of any person pursuant to NRS 239B.030.*

10 Dated this 25<sup>th</sup> day of January, 2021.

11

12 **MORRIS, SULLIVAN & LEMKUL, LLP**

13

14 BY: /s/ Christopher Turtzo

15 Will Lemkul, NV Bar No. 6715

16 Christopher A. Turtzo, NV Bar No. 10253

17 3960 Howard Hughes Parkway, Suite 420

18 Las Vegas, NV 89169

19 Phone: (702) 405-8100

20 Fax: (702) 405-8101

21 *Attorneys for Defendant,*

22 *Sandra L. Sei*

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*Attorney for Plaintiffs*

Harsh ROA 465



**From:** [Werner, Reed J \(Claims Solutions and Analytics\)](#)  
**To:** [Kait Flocchini](#)  
**Subject:** FW: Clements, David v. Sei, Sandra ( Y51AL19182 ) [CONFIDENTIAL] (Encrypted Delivery)  
**Date:** Tuesday, July 27, 2021 10:28:01 AM  
**Attachments:** [image001.png](#)

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**From:** Brent Harsh <brent@coulterharshlaw.com>  
**Sent:** Tuesday, December 22, 2020 2:56 PM  
**To:** Werner, Reed J (Claims Solutions and Analytics) <Reed.Werner@thehartford.com>  
**Cc:** Baarson, Kat (Liability Claims) <Katherine.Baarson@thehartford.com>  
**Subject:** RE: Clements, David v. Sei, Sandra ( Y51AL19182 ) [CONFIDENTIAL]

Reed,

Thank you for your correspondence. I disagree. I believe there is ample opportunity to have reasonably and timely evaluated the above claim based on the information provided. Please be advised that THE HARTFORD is actually the one who decided on the timing of what they needed.

Nonetheless, I will file the complaint.

Thank you for your prompt response.

Brent H. Harsh  
Trial Attorney  
COULTER HARSH LAW  
403 Hill Street  
Reno, Nevada 89501  
Tel: 775-324-3380  
Fax: 775-324-3381



---

**From:** Werner, Reed J (Claims Solutions and Analytics) <[Reed.Werner@thehartford.com](mailto:Reed.Werner@thehartford.com)>  
**Sent:** Tuesday, December 22, 2020 2:53 PM  
**To:** Brent Harsh <[brent@coulterharshlaw.com](mailto:brent@coulterharshlaw.com)>  
**Cc:** Baarson, Kat (Liability Claims) <[Katherine.Baarson@thehartford.com](mailto:Katherine.Baarson@thehartford.com)>  
**Subject:** Clements, David v. Sei, Sandra ( Y51AL19182 ) [CONFIDENTIAL] (Encrypted Delivery)

Brent,

We have reviewed the limited records provided and we again offer the \$100,000 policy limits to resolve David Clements' claim and all derivative claims including loss of consortium. We do not have enough information at this time regarding Sheela's claim for negligent infliction of emotional distress. There is not sufficient information regarding the claim for negligent infliction of emotional distress at the present. Please provide the documentation to support her claim once it is obtained including treatment records. We need to get her testimony about what she saw or didn't see at the time she arrived at the scene. We can arrange an examination under oath, but you indicated that you instead plan to file suit tomorrow. If your client decides to accept the \$100,000 offer let me know and I will send over a release.

**REED J. WERNER, ESQ**  
Senior Staff Attorney  
The Law Offices of Eric R. Larsen

Employees of a Subsidiary of The Hartford Financial Services Group, Inc.  
9275 W. Russell Rd. Ste. 205  
Las Vegas, Nevada 89148  
W: 702-387-8080  
F: 877-369-5819  
[Reed.Werner@thehartford.com](mailto:Reed.Werner@thehartford.com)

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**From:** [Werner, Reed J \(Claims Solutions and Analytics\)](#)  
**To:** [Kait Flocchini](#)  
**Subject:** FW: PA0018907997 FW: Clements, David [CONFIDENTIAL] (Encrypted Delivery)  
**Date:** Tuesday, July 27, 2021 10:25:56 AM  
**Attachments:** [image001.png](#)

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**From:** Brent Harsh <brent@coulterharshlaw.com>  
**Sent:** Tuesday, December 22, 2020 12:08 PM  
**To:** Werner, Reed J (Claims Solutions and Analytics) <Reed.Werner@thehartford.com>; Baarson, Kat (Liability Claims) <Katherine.Baarson@thehartford.com>  
**Subject:** RE: PA0018907997 FW: Clements, David [CONFIDENTIAL]

I guess I'm confused. Yes, I have seen the Remsa Report. Give me a call  
775-846-6900

---

**From:** Werner, Reed J (Claims Solutions and Analytics) <[Reed.Werner@thehartford.com](mailto:Reed.Werner@thehartford.com)>  
**Sent:** Tuesday, December 22, 2020 12:04 PM  
**To:** Brent Harsh <[brent@coulterharshlaw.com](mailto:brent@coulterharshlaw.com)>; Baarson, Kat (Liability Claims) <[Katherine.Baarson@thehartford.com](mailto:Katherine.Baarson@thehartford.com)>  
**Subject:** RE: PA0018907997 FW: Clements, David [CONFIDENTIAL] (Encrypted Delivery)

Brent,

Do you have the EMT report? My insured has a different version of what happened at the scene.

---

**From:** Brent Harsh [<mailto:brent@coulterharshlaw.com>]  
**Sent:** Tuesday, December 22, 2020 11:42 AM  
**To:** Werner, Reed J (Claims Solutions and Analytics) <[Reed.Werner@thehartford.com](mailto:Reed.Werner@thehartford.com)>; Baarson, Kat (Liability Claims) <[Katherine.Baarson@thehartford.com](mailto:Katherine.Baarson@thehartford.com)>  
**Subject:** RE: PA0018907997 FW: Clements, David [CONFIDENTIAL]

Reed and Kat,  
Sheela will be in my office at noon, if either of you wanted to talk about the emotional trauma she has suffered from coming upon the scene and thinking her husband died.

Feel free to call me on my cell 775-846-6900

---

**From:** Brent Harsh  
**Sent:** Tuesday, December 22, 2020 10:00 AM  
**To:** 'Werner, Reed J (Claims Solutions and Analytics)' <[Reed.Werner@thehartford.com](mailto:Reed.Werner@thehartford.com)>; Baarson, Kat (Liability Claims) <[Katherine.Baarson@thehartford.com](mailto:Katherine.Baarson@thehartford.com)>  
**Subject:** RE: PA0018907997 FW: Clements, David [CONFIDENTIAL] (Encrypted Delivery)

It is both. But dealing with the trauma after the care is more a loss of consortium, which is likely a derivative.

She is getting into JoAnn Lippert, Ph.D. to deal with PTSD. As an example, she can no longer drive by the accident site because she will go into a panic attack. As you might know, she only lives a few blocks from the crash area, and now she just goes out over her way to never go by it.

During the recorded conversation with her UIM carrier, she broke down and couldn't stop crying and shaking.

Her main trauma is the PTSD stemming from seeing her paralyzed husband in the crosswalk and thinking he was dead. Also, the police office would not let her go next to her husband, and she thought that was because he was dead.

If you want me to make her available for an unrecorded telephone call, I'm happy to make her available.

---

**From:** Werner, Reed J (Claims Solutions and Analytics) <[Reed.Werner@thehartford.com](mailto:Reed.Werner@thehartford.com)>  
**Sent:** Tuesday, December 22, 2020 9:50 AM

**To:** Brent Harsh <[brent@coulterharshlaw.com](mailto:brent@coulterharshlaw.com)>; Baarson, Kat (Liability Claims) <[Katherine.Baarson@thehartford.com](mailto:Katherine.Baarson@thehartford.com)>  
**Subject:** RE: PA0018907997 FW: Clements, David [CONFIDENTIAL] (Encrypted Delivery)

Brent,

Sorry I was not able to call you last night. My arbitration did not get over until nearly 6 pm. Do you have anything that shows that Sheela received treatment after the injury to her husband, or is the claim that she was traumatized and now has to deal with caring for her husband?

**REED J. WERNER, ESQ**  
Senior Staff Attorney  
The Law Offices of Eric R. Larsen

Employees of a Subsidiary of The Hartford Financial Services Group, Inc.  
9275 W. Russell Rd. Ste. 205  
Las Vegas, Nevada 89148  
W: 702-387-8080  
F: 877-369-5819  
[Reed.Werner@thehartford.com](mailto:Reed.Werner@thehartford.com)

---

**From:** Brent Harsh [<mailto:brent@coulterharshlaw.com>]  
**Sent:** Tuesday, December 22, 2020 9:41 AM  
**To:** Baarson, Kat (Liability Claims) <[Katherine.Baarson@thehartford.com](mailto:Katherine.Baarson@thehartford.com)>; Werner, Reed J (Claims Solutions and Analytics) <[Reed.Werner@thehartford.com](mailto:Reed.Werner@thehartford.com)>  
**Subject:** PA0018907997 FW: Clements, David

Kat and Reed,

As requested, please see the report re: the spinal cord injury.

Demand is again hereby made to tender the \$200,000 with regards to David and Sheela.

This is extended until 12/23/20 at 4:00 PM (PST).

Looking forward to hearing from you.

**Brent H. Harsh**  
Trial Attorney  
COULTER HARSH LAW  
403 Hill Street  
Reno, Nevada 89501  
Tel: 775-324-3380  
Fax: 775-324-3381



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and destroy all copies.

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**From:** [Werner, Reed J \(Claims Solutions and Analytics\)](#)  
**To:** [Kait Flocchini](#)  
**Subject:** FW: PA0018907997 Re: Clements, David/Sheela [CONFIDENTIAL] (Encrypted Delivery)  
**Date:** Tuesday, July 27, 2021 10:20:23 AM  
**Attachments:** [image001.png](#)  
[Police Report-5613.pdf](#)

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**From:** Brent Harsh <brent@coulterharshlaw.com>  
**Sent:** Monday, December 28, 2020 11:54 AM  
**To:** Baarson, Kat (Liability Claims) <Katherine.Baarson@thehartford.com>; Werner, Reed J (Claims Solutions and Analytics) <Reed.Werner@thehartford.com>  
**Subject:** PA0018907997 Re: Clements, David/Sheela

I just received this today

**Brent H. Harsh**  
Trial Attorney  
COULTER HARSH LAW  
403 Hill Street  
Reno, Nevada 89501  
Tel: 775-324-3380  
Fax: 775-324-3381



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I hereby certify that I electronically served a copy of the RECORD ON APPEAL, Volumes 1 & 2, upon Brent Harsh, Esq. in care of his counsel Christian Moore, Esq. – clm@lge.net

Laura Peters

Docket 83834 Harsh ROA 472  
Document 2021-33910