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NOAS
MARK A. HUTCHISON, ESQ. (4639)
BRENOCH R. WIRTHLIN, ESQ. (10282)
TANYA M. FRASER, ESQ. (13872)
HUTCHISON & STEFFEN
10080 West Alta Drive, Suite 200
Las Vegas, Nevada 89145
Telephone: (702) 385.2500
Facsimile: (702) 385.2086
E-Mail: mhutchison@hutchlegal.com
E-Mail: bwirthlin@hutchlegal.com
Attorneys for Plaintiff

DISTRICT COURT

CLARK COUNTY, NEVADA

COMMISSIONER OF INSURANCE FOR
THE STATE OF NEVADA AS RECEIVER OF
LEWIS AND CLARK LTC RISK
RETENTION GROUP, INC.,

Plaintiff,

vs.

ROBERT CHUR, STEVE FOGG, MARK
GARBER, CAROL HARTER, ROBERT
HURLBUT, BARBARA LUMPKIN, JEFF
MARSHALL, ERIC STICKELS, UNI-TER
UNDERWRITING MANAGEMENT CORP.,
UNI-TER CLAIMS SERVICES CORP., and
U.S. RE CORPORATION; DOES 1-50,
inclusive; and ROES 51-100, inclusive;

Defendants.

Case No.: A-14-711535-C

Dept. No.: XXVII

AMENDED NOTICE OF APPEAL

Notice is hereby given that Plaintiff, Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark LTC Risk Retention Group, Inc. ("Plaintiff"), by and through her counsel of record, the law firm of Hutchison & Steffen, PLLC, hereby submits her amended notice of appeal, for the appeal to the Supreme Court of Nevada the following: (1) Order Denying Plaintiff's Motion for Leave to File Fourth Amended Complaint dated and entered August 10, 2020; (2) Findings of Fact, Conclusions of Law and Order Denying Plaintiff's Motion for Leave to File Fourth Amended Complaint dated and entered August 10, 2020; (3) Order to Strike from Record dated

1 August 13, 2020; (4) Order Granting Defendants Robert Chur, Steve Fogg, Mark Garber, Carol
2 Harter, Robert Hurlbut, Barbara Lumpkin, Jeff Marshall, and Eric Stickels' Motion for Judgment on
3 the Pleadings Pursuant to NRCP 12(c) and Judgment Thereon dated August 13, 2020 and entered
4 August 14, 2020; (5) Findings of Fact, Conclusions of Law and Order Denying the Motion for
5 Reconsideration of Motion for Leave to Amend Regarding Director Defendants dated September 9,
6 2020 and entered September 10, 2020; (6) Order Denying Plaintiff's Motion to Retax and Settle
7 Costs of Director Defendants dated July 16, 2021 and entered July 29, 2021; (7) Order Granting in
8 Part and Denying in Part Plaintiff's Motion for Declaratory Relief dated and entered August 17,
9 2021; (8) Discovery Commissioner's Report and Recommendations dated August 23, 2021; (9)
10 Order Regarding Discovery Commissioner's Report and Recommendations dated September 17,
11 2021 and filed on September 18, 2021; (10) Order Granting In Part And Denying In Part Plaintiff s
12 Motion In Limine No. 2 dated September 20, 2021; (11) Order Granting In Part And Denying In
13 Part Plaintiff s Motion For Partial Summary Judgment As To U.S. Re Corporation dated September
14 20, 2021; (12) Order Denying Plaintiff s Motion In Limine Number 5 To Limit The Scope Of Expert
15 Witness Testimony Regarding Speculation Concerning The Economy dated September 24, 2021;
16 (13) Order Denying Plaintiff's Motion In Limine Number 4: To Preclude Any Reference To
17 Reinsurance Estimates dated September 24, 2021; (14) Order Denying Plaintiff s Motion In Limine
18 Number 1 To Preclude Sam Hewitt From Providing Expert Testimony Regarding Insolvency
19 Analysis dated September 24, 2021; (15) Order Denying Plaintiff's Motion In Limine Number 6 To
20 Strike Proffered Expert Witness Alan Gray dated September 24, 2021; (16) Order Denying Plaintiff
21 s Motion For Partial Summary Judgment Regarding Uni-Ter Defendants Breach Of Their Fiduciary
22 Duties dated September 27, 2021; and (17) Order Granting Motion to Exclude Interest dated
23 December 15, 2021; (18) Order of Dismissal Without Prejudice in favor of Robert Chur, Steve Fogg,
24 Mark Garber, Carol Harter, Robert Hurlbut, Barbara Lumpkin, Jeff Marshall, and Eric Stickels dated
25 February 25, 2016 and docketed March 3, 2016; (19) Order of Dismissal dated May 4, 2016, and
26 docketed May 12, 2016; (20) Judgment in favor of Robert Chur, Steve Fogg, Mark Garber, Carol
27 Harter, Robert Hurlbut, Barbara Lumpkin, Jeff Marshall, and Eric Stickels dated August 13, 2020
28 and docketed August 14, 2020; (21) Order Denying Plaintiff's Motion to Lift Stay or Alternatively

1 Grant Plaintiff Other Relief dated and entered August 12, 2019; (22) Order Denying Motion to
2 Substitute dated February 21, 2019 and entered February 26, 2019; (23) Order Granting in Part
3 Defendants Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert Hurlbut, Barbara Limpkin,
4 Jeff Marshall, and Eric Stickels Motion to Strike dated November 6, 2018; (24) Order Granting in
5 Part Defendants Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert Hurlbut, Barbara
6 Limpkin, Jeff Marshall, and Eric Stickels Motion to Dismiss dated February 25, 2016 and entered
7 February 26, 2016; and all related orders and judgments entered herein.

8 Dated this 18th day of November, 2022.

9 By: /s/ Brenoch Wirthlin
10 MARK A. HUTCHISON, ESQ. (4639)
11 BRENOCH WIRTHLIN, ESQ. (10282)
12 Hutchison & Steffen
13 10080 West Alta Drive, Suite 200
14 Las Vegas, Nevada 89145
15 Telephone: (702) 385.2500
16 Facsimile: (702) 385.2086
17 E-Mail: bwirthlin@hutchlegal.com
18 *Attorneys for Plaintiff*
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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that on this 18th day of November, 2022, I caused the document entitled **AMENDED NOTICE OF APPEAL** to be served on the following by Electronic Service to:

ALL PARTIES ON THE E-SERVICE LIST

/s/Jon Linder
An Employee of Hutchison & Steffen

EIGHTH JUDICIAL DISTRICT COURT

CASE SUMMARY**CASE NO. A-14-711535-C**

**Commissioner of Insurance for the State of Nevada as
Receiver of Lewis and Clark, Plaintiff(s)
vs.
Robert Chur, Defendant(s)**

§
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§

Location: **Department 27**
Judicial Officer: **Allf, Nancy**
Filed on: **12/23/2014**
Cross-Reference Case **A711535**
Number:
Supreme Court No.: **84253**
84311
85668

CASE INFORMATION**Statistical Closures**

02/03/2022 Verdict Reached
12/30/2021 Verdict Reached

Case Type: **Negligence - Other Negligence**

Case
Status: **02/03/2022 Closed**




DATE**CASE ASSIGNMENT****Current Case Assignment**

Case Number A-14-711535-C
Court Department 27
Date Assigned 12/23/2014
Judicial Officer Allf, Nancy

PARTY INFORMATION












		<i>Lead Attorneys</i>
Plaintiff	Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark	Hutchings, Mark H. <i>Retained</i> 702-660-7700(W)
Defendant	Chur, Robert	Garin, Joseph P <i>Retained</i> 702-382-1500(W)
	Fogg, Steve	Garin, Joseph P <i>Retained</i> 702-382-1500(W)
	Garber, Mark	Garin, Joseph P <i>Retained</i> 702-382-1500(W)
	Harter, Carol	Garin, Joseph P <i>Retained</i> 702-382-1500(W)
	Hurlbut, Robert	Garin, Joseph P <i>Retained</i> 702-382-1500(W)
	Lumpkin, Barbara	Garin, Joseph P <i>Retained</i> 702-382-1500(W)
	Marshall, Jeff	Garin, Joseph P <i>Retained</i> 702-382-1500(W)
	Stickels, Eric	Garin, Joseph P <i>Retained</i> 702-382-1500(W)

CASE SUMMARY**CASE NO. A-14-711535-C****U S Re Corporation****Ogilvie, George F., III**
Retained
7028734100(W)**Uni-Ter Claims Services Corp****Ogilvie, George F., III**
Retained
7028734100(W)**Uni-Ter Underwriting Management Corp****Ogilvie, George F., III**
Retained
7028734100(W)**Third Party
Defendant****Dalton, Donna****Elsass, Sanford****Third Party
Plaintiff****Chur, Robert****Garin, Joseph P**
Retained
702-382-1500(W)**Fogg, Steve****Garin, Joseph P**
Retained
702-382-1500(W)**Garber, Mark****Garin, Joseph P**
Retained
702-382-1500(W)**Harter, Carol****Garin, Joseph P**
Retained
702-382-1500(W)**Hurlbut, Robert****Garin, Joseph P**
Retained
702-382-1500(W)**Lumpkin, Barbara****Garin, Joseph P**
Retained
702-382-1500(W)**Marshall, Jeff****Garin, Joseph P**
Retained
702-382-1500(W)**Stickels, Eric****Garin, Joseph P**
Retained
702-382-1500(W)

DATE	EVENTS & ORDERS OF THE COURT	INDEX
	<u>EVENTS</u>	
12/23/2014	 Complaint Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[1] Complaint</i>	
12/23/2014	 Initial Appearance Fee Disclosure Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[2] Initial Appearance Fee Disclosure (NRS Chapter 19)</i>	
12/23/2014	Case Opened	
03/31/2015	 Summons	












CASE SUMMARY

CASE NO. A-14-711535-C

	Filed by: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[3] Summons - Steve Fogg</i>
03/31/2015	 Summons Filed by: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[4] Summons - Robert Chur</i>
03/31/2015	 Summons Filed by: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[5] Summons - Uni-Ter Underwriting Management Corp</i>
03/31/2015	 Summons Filed by: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[6] Summons - Uni-Ter Claims Services Corp</i>
04/10/2015	 Affidavit of Service Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[7] Affidavit of Service - Steve Fogg</i>
04/10/2015	 Affidavit of Service Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[8] Affidavit of Service - Uni-Ter Underwriting Management Corp</i>
04/10/2015	 Affidavit of Service Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[9] Affidavit of Service - Robert Hurlbut</i>
04/10/2015	 Affidavit of Service Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[10] Affidavit of Service - U.S. RE Corporation</i>
04/10/2015	 Affidavit of Service Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[11] Affidavit of Service - Babara Lumpkin</i>
04/10/2015	 Affidavit of Service Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[12] Affidavit of Service - Uni-Ter Claims Services Corp</i>
04/10/2015	 Affidavit of Service Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[13] Affidavit of Service - Robert Chur</i>
04/14/2015	 Acceptance of Service Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis













CASE SUMMARY

CASE NO. A-14-711535-C

	and Clark <i>[15] Acceptance of Service</i>
04/14/2015	 Affidavit of Service Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[14] Affidavit of Service (Mark Garber)</i>
04/20/2015	 Three Day Notice of Intent to Default Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[16] Three Day Notice of Intent to Take Default (Uni-Ter Underwriting Management Corp.)</i>
04/20/2015	 Three Day Notice of Intent to Default Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[17] Three Day Notice of Intent to Take Default (Uni-Ter Claims Services Corp.)</i>
04/20/2015	 Three Day Notice of Intent to Default Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[18] Three Day Notice of Intent to Take Default (U.S. RE Corporation)</i>
06/29/2015	 Third Party Complaint TPP: Third Party Plaintiff Chur, Robert <i>[19] Defendants and Third-Party Plaintiffs Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert Hurlbut, Barbara Lumpkin, Jeff Marshall, and Eric Stickels' Third Party Complaint</i>
06/30/2015	 Initial Appearance Fee Disclosure Filed By: Third Party Plaintiff Chur, Robert <i>[20] Initial Appearance Fee Disclosure</i>
07/21/2015	 Affidavit Filed By: Third Party Plaintiff Chur, Robert <i>[21] Affidavit of Due Diligence</i>
08/04/2015	 Affidavit of Due Diligence Filed By: Third Party Plaintiff Chur, Robert <i>[22] Affidavit of Due Diligence</i>
08/21/2015	 Affidavit of Due Diligence Filed By: Third Party Plaintiff Chur, Robert <i>[23] Affidavit of Due Diligence</i>
12/11/2015	 Motion to Dismiss Filed By: Third Party Plaintiff Chur, Robert <i>[24] Defendants Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert Hurlbut, Barbara Lumpkin, Jeff Marshall, and Eric Stickels' Motion to Dismiss</i>
01/15/2016	 Opposition Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[25] Opposition to Defendants Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert Hurlbut, Barbara Lumpkin, Jeff Marshall, and Eric Stickels' Motion to Dismiss</i>

CASE SUMMARY

CASE NO. A-14-711535-C

01/20/2016	 Reply in Support Filed By: Third Party Plaintiff Chur, Robert <i>[26] Defendants Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robery Hurlbut, Barbara Lumpkin, Jeff Marshall, and Erick Stickels' Reply in Support of their Motion to Dismiss</i>
01/22/2016	 Motion to Dismiss Filed By: Defendant Uni-Ter Underwriting Management Corp <i>[28] Defendants Uni-Ter Underwriting Management Corp. and Uni-Ter Claims Services Corp.'s Motion to Dismiss</i>
01/22/2016	 Motion to Dismiss Filed By: Defendant U S Re Corporation <i>[30] Defendant U.S. RE Corporation's Motion to Dismiss</i>
01/22/2016	 Disclosure Statement Party: Third Party Plaintiff Chur, Robert <i>[27] Uni-Ter Underwriting Management Corp. and Uni-Ter Claims Services Corp.'s Disclosure Statement Pursuant to NRCP 7.1</i>
01/22/2016	 Disclosure Statement Party: Defendant U S Re Corporation <i>[31] U.S. RE Corporation's Disclosure Statement Pursuant to NRCP 7.1</i>
01/25/2016	 Initial Appearance Fee Disclosure Filed By: Defendant Uni-Ter Underwriting Management Corp <i>[29] Initial Appearance Fee Disclosure</i>
01/25/2016	 Initial Appearance Fee Disclosure Filed By: Defendant U S Re Corporation <i>[32] Initial Appearance Fee Disclosure</i>
01/26/2016	 Motion to Associate Counsel Filed By: Defendant U S Re Corporation <i>[33] Motion to Associate Counsel</i>
01/29/2016	 Notice of Non Opposition Filed By: Third Party Plaintiff Chur, Robert <i>[34] Defendants Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert Hurlbut, Barbara Lumpkin, Jeff Marshall, and Eric Stickels' Notice of Non-Opposition to Motion to Associate Counsel</i>
02/08/2016	 Non Opposition Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[35] Plaintiff's Non-Opposition to Defendants Uni-Ter Underwriting Management Corp., Uni-Ter Claims Services Corp., and U.S. RE Corporation's Motion to Associate Counsel</i>
02/11/2016	 Opposition Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[36] Opposition to Defendant U.S. RE Corporation's Motion to Dismiss</i>
02/11/2016	 Opposition Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis

CASE SUMMARY

CASE NO. A-14-711535-C

and Clark

[37] Opposition to Defendants Uni-Ter Underwriting Management Corp. and Uni-Ter Claims Services Corp.'s Motion to Dismiss

02/22/2016



Order Admitting to Practice

Filed By: Defendant U S Re Corporation

[38] Order Admitting to Practice

02/22/2016



Reply in Support

Filed By: Defendant Uni-Ter Underwriting Management Corp

[39] Defendants Uni-Ter Underwriting Management Corp. and Uni-Ter Claims Services Corp.'s Reply in Support of Motion to Dismiss

02/22/2016



Reply in Support

Filed By: Defendant U S Re Corporation

[40] Defendant U.S. RE Corporation's Reply in Support of Motion to Dismiss

02/23/2016



Notice of Entry of Order

Filed By: Defendant U S Re Corporation

[41] Notice of Entry of Order Admitting to Practice

02/25/2016



Order

Filed By: Third Party Plaintiff Chur, Robert

[42] Order Granting in Part and Denying in Part Defendants Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert Hurlbut, Barbara Lumpkin, Jeff Marshall, and Eric Stickerls' Motion to Dimiss

02/26/2016



Notice of Entry of Order

Filed By: Third Party Plaintiff Chur, Robert

[43] Notice of Entry of Order Granting in Part and Denying in Part Defendants Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert Hurlbut, Barbara Lumpkin, Jeff Marshall, and Eric Stickels' Motion to Dismiss

03/24/2016



Recorders Transcript of Hearing

[44] Recorder's Transcript of Proceedings: Defendants Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert Hurlbut, Barbara Lampkin, Jeff Marshall, and Eric Stickels' Motion to Dismiss - January 27, 2016

03/24/2016



Recorders Transcript of Hearing

[45] Recorder's Transcript of Proceedings: Defendant U.S. RE Corporation's Motion to Dismiss; Defendants Uni-Ter Underwriting Management Corp. and Uni-Ter Claims Services Corp.'s Motion to Dismiss - February 25, 2016

04/01/2016



Amended Complaint

Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark

[46] First Amended Complaint

04/18/2016



Motion to Dismiss

Filed By: Third Party Plaintiff Chur, Robert

[47] Defendants Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert Hurlbut, Barbara Lumpkin, Jeff Marshall, and Eric Stickels' Motion to Dismiss First Amended Complaint

05/04/2016



Decision and Order

[48] Decision and Order

CASE SUMMARY

CASE NO. A-14-711535-C

05/05/2016



Opposition

Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark

[49] Opposition to Defendants Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert Hurlbut, Barbara Lumpkin, Jeff Marshall, and Eric Stickels' Motion to Dismiss First Amended Complaint

05/06/2016



Amended Certificate of Service

Party: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark

[50] Amended Certificate of Service

05/10/2016



Notice of Entry of Decision and Order

Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark

[51] Notice of Entry of Decision and Order

05/19/2016



Reply

Filed by: Third Party Plaintiff Chur, Robert

[52] Defendant Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert Hurlbut, Barbara Lumpkin, Jeff Marshall, and Eric Stickels' Reply Brief in Support of the Motion to Dismiss First Amended Complaint

05/23/2016



Amended Certificate of Service

Party: Third Party Plaintiff Chur, Robert

[53] Amended Certificate of Service

05/25/2016



Stipulation and Order

Filed by: Third Party Plaintiff Chur, Robert

[54] Stipulation & Order to Continue Hearing on Defendants Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert Hurlbut, Barbara Lumpkin, Jeff Marshall and Eric Stickels' Motion to Dismiss First Amended Complaint

05/26/2016



Consent to Service By Electronic Means

Filed By: Defendant Uni-Ter Underwriting Management Corp

[56] Consent to Service by Electronic Means

05/26/2016



Notice of Entry of Stipulation and Order

Filed By: Third Party Plaintiff Chur, Robert

[55] Notice of Entry of Stipulation & Order to Continue Hearing on Defendants Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert Hurlbut, Barbara Lumpkin, Jeff Marshall and Eric Stickels' Motion to Dismiss First Amended Complaint

06/13/2016



Amended Complaint

Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark

[57] Second Amended Complaint

07/18/2016



Supplemental

Filed by: Third Party Plaintiff Chur, Robert

[58] Defendants Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert Hurlbut, Barbara Lumpkin, Jeff Marshall, and Eric Stickels' Supplement to the Motion to Dismiss First Amended Complaint

07/20/2016



Notice of Hearing

CASE SUMMARY

CASE NO. A-14-711535-C

Filed By: Third Party Plaintiff Chur, Robert
[59] Notice of Motion

08/05/2016



Amended Complaint

Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark
[60] Third Amended Complaint

08/11/2016



Stipulation and Order

Filed by: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark
[61] Stipulation and Order to File Third Amended Complaint to Correct Exhibit Numbers

08/12/2016



Motion to Dismiss

Filed By: Defendant Uni-Ter Underwriting Management Corp
[65] Defendant Uni-Ter Underwriting Management Corp.'s Motion to Dismiss Negligent Misrepresentation Claim of Third Party Complaint

08/12/2016



Answer to Amended Complaint

Filed By: Defendant Uni-Ter Underwriting Management Corp
[63] Defendant Uni-Ter Claims Services Corp.'s Answer to Third Amended Complaint

08/12/2016



Answer to Amended Complaint

Filed By: Defendant Uni-Ter Underwriting Management Corp
[64] Defendant U.S. RE Corporation's Answer to Third Amended Complaint

08/12/2016



Notice of Entry of Stipulation and Order

Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark
[62] Notice of Entry of Stipulation and Order to file Third Amended Complaint to Correct Exhibit Numbers

08/17/2016



Demand for Jury Trial

Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark
[66] Demand for Jury Trial

08/24/2016



Stipulation and Order

Filed by: Third Party Plaintiff Fogg, Steve
[67] Stipulation and Order to Continue Hearing on Defendant's Robert Chur, Steven Fogg, Mark Garber, Carol Harter, Robert Hurlbut, Barbara Lumpkin, Jeff Marshall, and Erick Stickels' Motion to Dismiss First Amended Complaint

08/25/2016



Notice of Entry of Order

Filed By: Third Party Plaintiff Garber, Mark
[68] Notice of Entry of Stipulation and Order to Continue Hearing on Defendants Robert Chur, Steve Fogg, Mark Garbar, Carol Harter, Robert Hurlbut, Barbara Lumpkin, Jeff Marshall, and Eric Stickels' Motion to Dismiss First Amended Complaint

08/31/2016



Opposition

Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark
[69] Opposition to Defendant Uni-Ter Underwriting Management Corp.'s Motion to Dismiss Negligent Misrepresentation Claim of Third Amended Complaint





09/02/2016



Supplement













CASE SUMMARY

CASE NO. A-14-711535-C

	<p>Filed by: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[70] Defendants Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert Hurlbut, Barbara Lumpkin, Jeff Marshall, and Eric Stickels' Second Supplement to the Motion to Dismiss First Amended Complaint</i></p>
09/08/2016	<p> Supplement Filed by: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[71] Supplement to Opposition to Individual Defendants Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert Hurlbut, Barbara Lumpkin, Jeff Marshall, and EricStickels' Motion to Dismiss Complaint</i></p>
09/09/2016	<p> Reply in Support Filed By: Defendant Uni-Ter Underwriting Management Corp <i>[72] Defendant Uni-Ter Underwriting Management Corp.'s Reply in Support of Motion to Dismiss Negligent Claim of Third Amended Complaint</i></p>
09/24/2016	<p> Request Filed by: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[73] Request for Exemption from Arbitration</i></p>
10/07/2016	<p> Order Denying Motion Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[74] Order Denying Defendant Uni-Ter Underwriting Management Corp.'s Motion to Dismiss Negligent Misrepresentation Claim of Third Amended Complaint</i></p>
10/10/2016	<p> Notice of Entry of Order Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[75] Notice of Entry of Order Denying Defendant Uni-Ter Underwriting Management Corp.'s Motion to Dismiss Negligent Misrepresentation Claim of Third Amended Complaint</i></p>
10/10/2016	<p> Order Denying Motion Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[76] Order Denying Defendants Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert Hurlbut, Barbara Lumpkin, Jeff Marshall, and Eric Stickels' Motion to Dismiss First Amended Complaint</i></p>
10/11/2016	<p> Notice of Entry of Order Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[77] Notice of Entry of Order Denying Defendants Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert Hurlbut, Barbara Lumpkin, Jeff Marshall, and Eric Stickels' Motion to Dismiss First Amended Complaint</i></p>
10/17/2016	<p> Answer Filed By: Defendant Uni-Ter Underwriting Management Corp <i>[79] Defendant Uni-Ter Underwriting Management Corp.'s Answer to Plaintiff's Third Amended Complaint</i></p>
10/18/2016	<p> Commissioners Decision on Request for Exemption - Granted <i>[78] Commissioner's Decision on Request for Exemption - Granted</i></p>
10/21/2016	

CASE SUMMARY

CASE NO. A-14-711535-C

	 Answer to Amended Complaint Filed By: Third Party Plaintiff Chur, Robert <i>[80] Defendants Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert Hurlbut, Barbara Lumpkin, Jeff Marshall, and Eric Stickels' Answer to the Third</i>
10/24/2016	 Arbitration File <i>[81] Arbitration File</i>
12/28/2016	 Joint Case Conference Report Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[82] Joint Case Conference Report</i>
02/10/2017	 Notice to Appear for Discovery Conference <i>[83] Notice to Appear for Discovery Conference</i>
03/17/2017	 Scheduling Order <i>[84] Scheduling Order</i>
04/03/2017	 Notice of Change of Firm Name Filed By: Defendant Uni-Ter Claims Services Corp <i>[85] Notice of Firm Name Change</i>
04/10/2017	 Order Setting Civil Jury Trial, Pre-Trial, and Calendar Call <i>[86] Order Setting Civil Jury Trial, Pre-Trial/Calendar Call</i>
06/29/2017	 Motion to Associate Counsel Filed By: Defendant Uni-Ter Underwriting Management Corp; Defendant Uni-Ter Claims Services Corp; Defendant U S Re Corporation <i>[87] Motion to Associate Counsel</i>
07/11/2017	 Stipulation and Order Filed by: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[88] Stipulation for HIPAA Qualified Protective Order and Confidentiality Order</i>
07/11/2017	 Notice of Entry of Stipulation and Order Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[89] Notice of Entry of Stipulation for HIPAA Qualified Protective Order and Confidentiality Order</i>
08/11/2017	 Order Admitting to Practice Filed By: Defendant Uni-Ter Underwriting Management Corp; Defendant Uni-Ter Claims Services Corp; Defendant U S Re Corporation <i>[90] Order Admitting to Practice</i>
08/11/2017	 Notice of Entry of Order Filed By: Defendant Uni-Ter Underwriting Management Corp; Defendant Uni-Ter Claims Services Corp; Defendant U S Re Corporation <i>[91] Notice of Entry of Order Admitting to Practice</i>
09/26/2017	 Stipulation and Order to Extend Discovery Deadlines Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark

CASE SUMMARY

CASE NO. A-14-711535-C

	<i>[92] Stipulation and Order to Extend Discovery Deadlines and to Continue Trial (First Request)</i>
09/26/2017	 Notice of Entry of Stipulation and Order Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[93] Notice of Entry of Stipulation and Order to Extend Discovery Deadlines (First Request)</i>
09/27/2017	 Order Setting Civil Jury Trial, Pre-Trial, and Calendar Call <i>[94] Order Re-Setting Civil Jury Trial, Pre-Trial/Calendar Call</i>
11/01/2017	 Notice Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[95] Notice of Subpoena Duces Tecum to Catlin Insurance Services, Inc.</i>
11/13/2017	 Proof of Service Filed by: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[96] Proof of Service Regarding Catlin Insurance Services, Inc.</i>
02/13/2018	 Application for Issuance of Commission to Take Deposition Party: Defendant Uni-Ter Underwriting Management Corp; Defendant Uni-Ter Claims Services Corp; Defendant U S Re Corporation <i>[97] Uni-Ter Underwriting Management Corp. Uni-Ter Claims Services Corp., and U.S. Re Corporation's Application for Issuance of Commission for Out of State Deposition Subpoena to Brown & Brown of Florida, Inc.</i>
03/07/2018	 Stipulation and Order to Extend Discovery Deadlines <i>[98] Stipulation and Order to Extend Discovery Deadlines and to Continue Trial</i>
03/09/2018	 Recorders Transcript of Hearing <i>[99] Transcript of Proceedings, Defendant Uni-Ter Underwriting Management Corp's Motion to Dismiss Negligent Misrepresentation Claim of Third Party Complaint; Defendants Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert Hurlbut, Barbara Lumpkin, Jeff Marshall, and Eric Stickels Motion to Dismiss First Amended Complaint, Heard on September 15, 2016</i>
03/12/2018	 Order Setting Civil Jury Trial, Pre-Trial, and Calendar Call <i>[100] Order Re-Setting Civil Jury Trial, Pre-Trial/ Calendar Call</i>
05/17/2018	 Stipulation and Order to Extend Discovery Deadlines Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[101] Stipulation and Order to Extend Discovery Deadlines and to Continue Trial (Third Request)</i>
05/21/2018	 Notice of Entry of Stipulation and Order <i>[102] Notice of Entry of Stipulation and Order to Extend Discovery Deadlines and to Continue Trial (Third Request)</i>
05/21/2018	 Order Setting Civil Jury Trial, Pre-Trial, and Calendar Call Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[103] Order Re-Setting Civil Jury Trial, Pre-Trial/Calendar Call</i>

CASE SUMMARY

CASE NO. A-14-711535-C

08/14/2018



Motion for Judgment

Filed By: Third Party Plaintiff Chur, Robert; Third Party Plaintiff Fogg, Steve; Third Party Plaintiff Garber, Mark; Third Party Plaintiff Harter, Carol; Third Party Plaintiff Hurlbut, Robert; Third Party Plaintiff Lumpkin, Barbara; Third Party Plaintiff Marshall, Jeff; Third Party Plaintiff Stickels, Eric

[104] Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert Hurlbut, Barbara Lumpkin, Jeff Marshall, And Eric Stickels Motion For Judgment On The Pleadings Pursuant To NRCP 12(C)

09/04/2018



Notice of Taking Deposition

Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark

[105] Notice of Taking Deposition of Person(s) Most Knowledgeable of Defendants Uni-Ter Underwriting Management Corp., Uni-Ter Claims Services Corp. and U.S. RE Corporation Pursuant to NRCP 30(b)(6)

09/11/2018



Motion to Associate Counsel

Filed By: Defendant Uni-Ter Underwriting Management Corp; Defendant Uni-Ter Claims Services Corp; Defendant U S Re Corporation

[106] Motion to Associate Counsel Erin Kolmansberger

09/19/2018



Motion for Protective Order

Filed By: Defendant Uni-Ter Underwriting Management Corp; Defendant Uni-Ter Claims Services Corp; Defendant U S Re Corporation

[107] Defendants Uni-Ter Underwriting Management Corp., Uni-Ter Claims Services Corp. and U.S. Re Corporation's Motion for Entry of a Protective Order on Order Shortening Time

09/19/2018



Opposition to Motion

Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark

[109] Plaintiff's (1) Opposition to Director Defendants' Motion for Judgment on the Pleadings and (2) Countermotion for Summary Judgment as to Liability Only

09/20/2018



Initial Appearance Fee Disclosure

Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark

[108] Initial Appearance Fee Disclosure

09/24/2018



Motion for Protective Order

Filed By: Defendant Uni-Ter Underwriting Management Corp; Defendant Uni-Ter Claims Services Corp; Defendant U S Re Corporation

[110] Defendants Uni-Ter Underwriting Management Corp., Uni-Ter Claims Services Corp. and U.S. Re Corporation's Motion for Entry of a Protective Order on Order Shortening Time

09/24/2018



Appendix

Filed By: Defendant Uni-Ter Underwriting Management Corp; Defendant Uni-Ter Claims Services Corp; Defendant U S Re Corporation

[111] Appendix of Exhibits in Support of Defendants Uni-Ter Underwriting Management Corp., Uni-Ter Claims Services Corp. and U.S. Re Corporation's Motion for Entry of a Protective Order on Order Shortening Time, Volume 1

09/24/2018



Appendix

Filed By: Defendant Uni-Ter Underwriting Management Corp; Defendant Uni-Ter Claims Services Corp; Defendant U S Re Corporation

[112] Appendix of Exhibits in Support of Defendants Uni-Ter Underwriting Management Corp., Uni-Ter Claims Services Corp. and U.S. Re Corporation's Motion for Entry of a Protective Order on Order Shortening Time, Volume 2









CASE SUMMARY

CASE NO. A-14-711535-C

09/26/2018	 Opposition to Motion For Protective Order Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[113] Plaintiff's Opposition to Defendants Uni-Ter Underwriting Management Corp., Uni-Ter Claims Services Corp. and US RE Corporation's Motion for Entry of a Protective Order on Order Shortening Time</i>
09/27/2018	 Reply in Support Filed By: Defendant Uni-Ter Underwriting Management Corp; Defendant Uni-Ter Claims Services Corp; Defendant U S Re Corporation <i>[114] Defendants Uni-Ter Underwriting Management Corp., Uni-Ter Claims Services Corp. and U.S. Re Corporation's Reply in Support of Defendants' Motion for Entry of a Protective Order on Order Shortening Time</i>
10/01/2018	 Motion to Strike Filed By: Third Party Plaintiff Chur, Robert; Third Party Plaintiff Fogg, Steve; Third Party Plaintiff Garber, Mark; Third Party Plaintiff Harter, Carol; Third Party Plaintiff Hurlbut, Robert; Third Party Plaintiff Lumpkin, Barbara; Third Party Plaintiff Marshall, Jeff; Third Party Plaintiff Stickels, Eric <i>[115] Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert Hurlbut, Barbara Lumpkin, Jeff Marshall, And Eric Stickels Motion To Strike Plaintiff's Countermotion For Summary Judgment On Order Shortening Time</i>
10/03/2018	 Application for Issuance of Commission to Take Deposition Party: Defendant Uni-Ter Underwriting Management Corp; Defendant Uni-Ter Claims Services Corp; Defendant U S Re Corporation <i>[116] Uni-Ter Underwriting Management Corp. Uni-Ter Claims Services Corp., and U.S. Re Corporation's Application for Issuance of Commission to Take Out-Of-State Videotaped Deposition of Jeff Marshall</i>
10/03/2018	 Commission Issued Filed by: Defendant Uni-Ter Underwriting Management Corp; Defendant Uni-Ter Claims Services Corp; Defendant U S Re Corporation <i>[117] Commission to Take Out-Of-State Videotaped Deposition of Jeff Marshall</i>
10/04/2018	 Reply in Support Filed By: Third Party Plaintiff Chur, Robert; Third Party Plaintiff Fogg, Steve; Third Party Plaintiff Garber, Mark; Third Party Plaintiff Harter, Carol; Third Party Plaintiff Hurlbut, Robert; Third Party Plaintiff Lumpkin, Barbara; Third Party Plaintiff Marshall, Jeff; Third Party Plaintiff Stickels, Eric <i>[118] Reply In Support Of Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert Hurlbut, Barbara Lumpkin, Jeff Marshall, And Eric Stickels Motion For Judgment On The Pleadings Pursuant To NRCP 12(C)</i>
10/08/2018	 Opposition to Motion For Summary Judgment Filed By: Third Party Plaintiff Chur, Robert; Third Party Plaintiff Fogg, Steve; Third Party Plaintiff Garber, Mark; Third Party Plaintiff Harter, Carol; Third Party Plaintiff Hurlbut, Robert; Third Party Plaintiff Lumpkin, Barbara; Third Party Plaintiff Marshall, Jeff; Third Party Plaintiff Stickels, Eric <i>[119] Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert Hurlbut, Barbara Lumpkin, Jeff Marshall, and Eric Stickels' Opposition to the Countermotion for Summary Judgment</i>
10/08/2018	 Application for Issuance of Commission to Take Deposition Party: Defendant Uni-Ter Underwriting Management Corp; Defendant Uni-Ter Claims Services Corp; Defendant U S Re Corporation <i>[120] Application for Issuance of Commission to Take Out-Of-State Videotaped Deposition of Steven Fogg</i>

CASE SUMMARY

CASE NO. A-14-711535-C

10/08/2018	 Commission Issued Filed by: Defendant Uni-Ter Underwriting Management Corp; Defendant Uni-Ter Claims Services Corp; Defendant U S Re Corporation <i>[121] Commission to Take Out-Of-State Videotaped Deposition of Steven Fogg</i>
10/09/2018	 Opposition to Motion Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[122] Opposition Director Defendants' Motion to Strike</i>
10/10/2018	 Reply in Support Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[123] Plaintiff's Reply in Support of Countermotion for Summary Judgment as to Liability Only</i>
10/11/2018	 Order Granting Motion Filed By: Defendant Uni-Ter Underwriting Management Corp; Defendant Uni-Ter Claims Services Corp; Defendant U S Re Corporation <i>[124] Order Granting Motion to Associate Counsel</i>
10/11/2018	 Notice of Entry of Order Filed By: Defendant Uni-Ter Underwriting Management Corp; Defendant Uni-Ter Claims Services Corp; Defendant U S Re Corporation <i>[125] Notice of Entry of Order Admitting to Practice</i>
10/19/2018	 Recorders Transcript of Hearing <i>[126] Transcript of Proceedings, All Pending Motions, Heard on October 11, 2018</i>
11/02/2018	 Suggestion of Death Filed by: Third Party Plaintiff Chur, Robert; Third Party Plaintiff Fogg, Steve; Third Party Plaintiff Garber, Mark; Third Party Plaintiff Harter, Carol; Third Party Plaintiff Hurlbut, Robert; Third Party Plaintiff Lumpkin, Barbara; Third Party Plaintiff Marshall, Jeff; Third Party Plaintiff Stickels, Eric <i>[127] Suggestion of Death Upon the Records Pursuant to NRCP 25(a)</i>
11/02/2018	 Order Denying Motion Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[128] Order Denying Director Defendants' Motion for Judgment on the Pleadings Pursuant to NRCP 12(c)</i>
11/06/2018	 Order Filed By: Third Party Plaintiff Chur, Robert; Third Party Plaintiff Fogg, Steve; Third Party Plaintiff Garber, Mark; Third Party Plaintiff Harter, Carol; Third Party Plaintiff Hurlbut, Robert; Third Party Plaintiff Lumpkin, Barbara; Third Party Plaintiff Marshall, Jeff; Third Party Plaintiff Stickels, Eric <i>[129] Order Granting In Part Defendants Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert Hurlbut, Barbara Lumpkin, Jeff Marshall, And Eric Stickels Motion To Strike</i>
11/06/2018	 Application for Issuance of Commission to Take Deposition Party: Defendant Uni-Ter Underwriting Management Corp; Defendant Uni-Ter Claims Services Corp; Defendant U S Re Corporation <i>[130] Uni-Ter Underwriting Management Corp., Uni-Ter Claims Services Corp., and U.S. Re Corporation's Amended Application for Issuance of Commission to Take Out-Of-State Videotaped Deposition of Jeff Marshall</i>

CASE SUMMARY

CASE NO. A-14-711535-C

11/06/2018	 Commission Issued Filed by: Defendant Uni-Ter Underwriting Management Corp; Defendant Uni-Ter Claims Services Corp; Defendant U S Re Corporation <i>[131] Amended Commission to Take Out-Of-State Videotaped Deposition of Jeff Marshall</i>
11/06/2018	 Application for Issuance of Commission to Take Deposition Party: Defendant Uni-Ter Underwriting Management Corp; Defendant Uni-Ter Claims Services Corp; Defendant U S Re Corporation <i>[132] Uni-Ter Underwriting Management Corp., Uni-Ter Claims Services Corp., and U.S. Re Corporation's Application for Issuance of Commission to Take Out-Of-State Videotaped Deposition of Eric Stickels</i>
11/06/2018	 Commission Issued Filed by: Defendant Uni-Ter Underwriting Management Corp; Defendant Uni-Ter Claims Services Corp; Defendant U S Re Corporation <i>[133] Commission to Take Out-Of-State Videotaped Deposition of Eric Stickels</i>
11/07/2018	 Notice of Entry Filed By: Third Party Plaintiff Chur, Robert; Third Party Plaintiff Fogg, Steve; Third Party Plaintiff Garber, Mark; Third Party Plaintiff Harter, Carol; Third Party Plaintiff Hurlbut, Robert; Third Party Plaintiff Lumpkin, Barbara; Third Party Plaintiff Marshall, Jeff; Third Party Plaintiff Stickels, Eric <i>[134] Notice of Entry of Order</i>
11/07/2018	 Notice of Entry of Order Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[135] Notice of Entry of Order</i>
11/16/2018	 Notice of Association of Counsel <i>[136] Notice of Association of Counsel</i>
11/21/2018	 Discovery Commissioners Report and Recommendations Filed By: Defendant Uni-Ter Underwriting Management Corp; Defendant Uni-Ter Claims Services Corp; Defendant U S Re Corporation <i>[137] Discovery Commissioner's Report and Recommendations</i>
11/29/2018	 Motion to Reconsider <i>[138] Motion For Reconsideration</i>
12/03/2018	 Request <i>[139] Request for Hearing on Defendants' Motion for Reconsideration</i>
12/12/2018	 Motion Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[140] Plaintiff's Motion for Extension of Discovery Deadlines and to Continue Trial on Order Shortening Time (Fourth Request)</i>
12/19/2018	 Motion for Substitution Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[141] Plaintiff's Motion for Substitution of Deceased Party Pursuant to NRCP 25(a)</i>
12/20/2018	 Application for Issuance of Commission to Take Deposition Party: Defendant Uni-Ter Underwriting Management Corp; Defendant Uni-Ter Claims












CASE SUMMARY

CASE NO. A-14-711535-C

	<p>Services Corp; Defendant U S Re Corporation <i>[142] Uni-Ter Underwriting Management Corp., Uni-Ter Claims Services Corp., and U.S. Re Corporation's Application for Issuance of Commission to Take Out-of-State Videotaped Deposition of Robert Chur</i></p>
12/20/2018	<p> Commission Issued Filed by: Defendant Uni-Ter Underwriting Management Corp; Defendant Uni-Ter Claims Services Corp; Defendant U S Re Corporation <i>[143] Commission to Take Out-of-State Videotaped Deposition of Robert Chur</i></p>
12/20/2018	<p> Application for Issuance of Commission to Take Deposition Party: Defendant Uni-Ter Underwriting Management Corp; Defendant Uni-Ter Claims Services Corp; Defendant U S Re Corporation <i>[144] Uni-Ter Underwriting Management Corp., Uni-Ter Claims Services Corp., and U.S. Re Corporation's Application for Issuance of Commission to Take Out-of-State Videotaped Deposition of Robert Hurlbut</i></p>
12/20/2018	<p> Commission Issued Filed by: Defendant Uni-Ter Underwriting Management Corp; Defendant Uni-Ter Claims Services Corp; Defendant U S Re Corporation <i>[145] Commission to Take Out-of-State Videotaped Deposition of Robert Hurlbut</i></p>
12/21/2018	<p> Response Filed by: Defendant Uni-Ter Underwriting Management Corp; Defendant Uni-Ter Claims Services Corp; Defendant U S Re Corporation <i>[146] Defendants Uni-Ter Underwriting Management Corp., Uni-Ter Claims Services Corp. and U.S. Re Corporation's Response to Plaintiff's Motion for Extension of Discovery Deadlines and to Continue Trial on an Order Shortening Time</i></p>
12/24/2018	<p> Response Filed by: Third Party Plaintiff Chur, Robert; Third Party Plaintiff Fogg, Steve; Third Party Plaintiff Garber, Mark; Third Party Plaintiff Harter, Carol; Third Party Plaintiff Hurlbut, Robert; Third Party Plaintiff Lumpkin, Barbara; Third Party Plaintiff Marshall, Jeff; Third Party Plaintiff Stickels, Eric <i>[147] Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert Hurlbut, Barbara Lumpkin, Jeff Marshall, and Eric Stickels' Response to Plaintiff's Motion for Extension of Discovery Deadlines and to Continue Trial on OST</i></p>
12/27/2018	<p> Stipulation and Order <i>[148] Stipulation and Order to Move Hearing Date on Motion for Reconsideration</i></p>
12/27/2018	<p> Opposition Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[150] Plaintiff's Opposition to Director Defendants' Motion for Reconsideration and Countermotion for Attorney's Fees</i></p>
12/28/2018	<p> Certificate of Service Filed by: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[149] Certificate of Service</i></p>
12/28/2018	<p> Notice of Entry of Stipulation and Order Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[151] Notice of Entry of Stipulation and Order</i></p>
01/04/2019	













CASE SUMMARY

CASE NO. A-14-711535-C

	 Reply in Support <i>[152] Reply in Support of Motion for Reconsideration and Opposition to Countermotion for Attorney's Fees</i>
01/07/2019	 Opposition to Motion Filed By: Third Party Plaintiff Chur, Robert; Third Party Plaintiff Fogg, Steve; Third Party Plaintiff Garber, Mark; Third Party Plaintiff Harter, Carol; Third Party Plaintiff Hurlbut, Robert; Third Party Plaintiff Lumpkin, Barbara; Third Party Plaintiff Marshall, Jeff; Third Party Plaintiff Stickels, Eric <i>[153] Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert Hurlbut, Barbara Lumpkin, Jeff Marshall, and Eric Stickels Opposition to Plaintiff's Motion to Substitute</i>
01/09/2019	 Affidavit of Service Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[154] Affidavit of Service (re: Plaintiff's Motion for Substitution of Deceased Party Pursuant to NRCP 25(a))</i>
01/11/2019	 Recorders Transcript of Hearing <i>[155] Transcript of Proceedings, Plaintiff's Motion for Extension of Discovery Deadlines and to Continue Trial on an Order Shortening Time, Heard on December 27, 2018</i>
01/11/2019	 Recorders Transcript of Hearing <i>[156] Transcript of Proceedings, Plaintiff's Opposition to Director Defendants' Motion for Reconsideration and Countermotion for Attorney's Fees Request for Hearing on Defendants' Motion for Reconsideration, Heard on January 9, 2019</i>
01/17/2019	 Reply to Opposition Filed by: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[157] Reply to Defendants' Opposition to Plaintiff's Motion to Substitute</i>
01/17/2019	 Order Setting Civil Jury Trial, Pre-Trial, and Calendar Call <i>[158] Order Re-Setting Civil Jury Trial, Pre-Trial/Calendar Call</i>
01/22/2019	 Application for Issuance of Commission to Take Deposition Party: Defendant Uni-Ter Underwriting Management Corp; Defendant Uni-Ter Claims Services Corp; Defendant U S Re Corporation <i>[159] Uni-Ter Underwriting Management Corp., Uni-Ter Claims Services Corp., and U.S. Re Corporation's Application for Issuance of Commission to Take Out-Of-State Videotaped Deposition of Mark Garber</i>
01/22/2019	 Commission Issued Filed by: Defendant Uni-Ter Underwriting Management Corp; Defendant Uni-Ter Claims Services Corp; Defendant U S Re Corporation <i>[160] Commission to Take Out-Of-State Videotaped Deposition of Mark Garber</i>
01/29/2019	 Order Granting Filed By: Third Party Plaintiff Chur, Robert; Third Party Plaintiff Fogg, Steve; Third Party Plaintiff Garber, Mark; Third Party Plaintiff Harter, Carol; Third Party Plaintiff Hurlbut, Robert; Third Party Plaintiff Lumpkin, Barbara; Third Party Plaintiff Marshall, Jeff; Third Party Plaintiff Stickels, Eric <i>[162] Order Granting In Part And Denying In Part Plaintiff's Motion For Extension Of Discovery Deadlines And To Continue Trial On An Order Shortening Time</i>
01/30/2019	 Notice of Entry of Order Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis

CASE SUMMARY

CASE NO. A-14-711535-C

	and Clark <i>[163] Notice of Entry of Order</i>
01/31/2019	 Notice of Entry Filed By: Third Party Plaintiff Chur, Robert; Third Party Plaintiff Fogg, Steve; Third Party Plaintiff Garber, Mark; Third Party Plaintiff Harter, Carol; Third Party Plaintiff Hurlbut, Robert; Third Party Plaintiff Lumpkin, Barbara; Third Party Plaintiff Marshall, Jeff; Third Party Plaintiff Stickels, Eric <i>[164] Notice of Entry or Order</i>
02/07/2019	 Notice of Entry of Decision and Order Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[165] Notice of Entry of Decision and Order</i>
02/11/2019	 Notice of Entry of Order <i>[166] Notice of Entry of Decision and Order</i>
02/11/2019	 Decision and Order <i>[167] Decision and Order</i>
02/20/2019	 Notice of Entry <i>[168] Notice of Entry of Order</i>
02/20/2019	 Order <i>[169] Order Striking Filing</i>
02/21/2019	 Order Denying Motion Filed By: Third Party Plaintiff Chur, Robert; Third Party Plaintiff Fogg, Steve; Third Party Plaintiff Garber, Mark; Third Party Plaintiff Harter, Carol; Third Party Plaintiff Hurlbut, Robert; Third Party Plaintiff Lumpkin, Barbara; Third Party Plaintiff Marshall, Jeff; Third Party Plaintiff Stickels, Eric <i>[170] Order Denying the Motion to Substitute</i>
02/26/2019	 Notice of Entry of Order Filed By: Third Party Plaintiff Chur, Robert; Third Party Plaintiff Fogg, Steve; Third Party Plaintiff Garber, Mark; Third Party Plaintiff Harter, Carol; Third Party Plaintiff Hurlbut, Robert; Third Party Plaintiff Lumpkin, Barbara; Third Party Plaintiff Marshall, Jeff; Third Party Plaintiff Stickels, Eric <i>[171] Notice of Entry of Order</i>
03/08/2019	 Motion to Stay <i>[172] Motion to Stay Proceedings Pending Petition for Writ of Mandamus on an Order Shortening Time</i>
03/11/2019	 Joinder Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[173] Limited Joinder to Directors' Motion to Stay Proceedings Pending Petition for Writ of Mandamus</i>
03/12/2019	 Notice <i>[174] Notice of Filing of Petition for Writ of Mandamus</i>
03/12/2019	 Opposition to Motion Filed By: Defendant Uni-Ter Underwriting Management Corp; Defendant Uni-Ter Claims

CASE SUMMARY

CASE NO. A-14-711535-C

Services Corp; Defendant U S Re Corporation

[175] Defendants Uni-Ter Underwriting Management Corp., Uni-Ter Claims Services Corp. and U.S. Re Corporation's Opposition to the Director Defendants' Motion to Stay and the Receiver's Limited Joinder Thereto

03/13/2019



Reply in Support

[176] Reply in Support of Motion to Stay Proceedings Pending Petition for Writ of Mandamus

03/25/2019



Notice

[177] Notice of Submission of Proposed Order Granting Motion to Stay Proceedings Pending Petition for Writ of Mandamus

04/04/2019



Order Granting Motion

[178] Order Granting Motion to Stay Proceedings Pending Petition for Writ of Mandamus

04/12/2019



Notice of Entry of Order

[179] Notice of Entry of Order Granting Motion to Stay Proceedings Pending Petition for Writ of Mandamus

05/10/2019



Status Report

Filed By: Third Party Plaintiff Chur, Robert

[180] Defendant Director's Status Report re Petition for Writ of Mandamus

05/16/2019



Status Report

[181] Director Defendants' Supplemental Status Report Regarding Petition for Writ of Mandamus

07/02/2019



Motion

Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark

[182] Motion to Lift Stay or Alternatively Grant Plaintiff Other Relief on Order Shortening Time

07/03/2019



Amended Certificate of Service

Party: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark

[183] Amended Certificate of Service

07/09/2019



Opposition to Motion

Filed By: Third Party Plaintiff Chur, Robert; Third Party Plaintiff Fogg, Steve; Third Party Plaintiff Garber, Mark; Third Party Plaintiff Harter, Carol; Third Party Plaintiff Hurlbut, Robert; Third Party Plaintiff Lumpkin, Barbara; Third Party Plaintiff Marshall, Jeff; Third Party Plaintiff Stickels, Eric

[184] The Director Defendants' Opposition to Plaintiff's Motion to Lift Stay or Alternatively Grant Plaintiff Other Relief

07/10/2019



Response

Filed by: Defendant Uni-Ter Underwriting Management Corp; Defendant Uni-Ter Claims Services Corp; Defendant U S Re Corporation

[185] Defendants Uni-Ter Underwriting Management Corp., Uni-Ter Claims Services Corp., and U.S. Re Corporation's Response to the Receiver's Motion to Lift Stay or Alternatively Grant Plaintiff Other Relief on Order Shortening Time

07/16/2019








Recorders Transcript of Hearing

[186] Transcript of Proceedings, Plaintiff's Motion to Lift Stay or Alternatively Grant Plaintiff Other Relief on Order Shortening Time, Heard on July 11, 2019

CASE SUMMARY

CASE NO. A-14-711535-C

08/12/2019	 Order Denying Motion Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[187] Order Denying Plaintiff's Motion to Lift Stay or Alternatively Grant Plaintiff Other Relief on Order Shortening Time</i>
08/12/2019	 Notice of Entry of Order Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[188] Notice of Entry of Order</i>
11/18/2019	 Status Report Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[189] Joint Status Report</i>
01/17/2020	 Status Report Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[190] Joint Status Report</i>
01/21/2020	 Notice of Change of Address Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[191] Notice of Change of Address</i>
02/28/2020	 Notice of Change Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[192] Notice of Change of Address/Change of Law Firm</i>
03/10/2020	 Substitution of Attorney Filed by: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[193] Substitution of Counsel</i>
03/18/2020	 Substitution of Attorney Filed by: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[194] Substitution of Counsel</i>
03/23/2020	 Status Report <i>[195] Joint Status Report</i>
03/23/2020	 Status Report <i>[196] Director Defendants' Status Report</i>
03/23/2020	 Status Report Filed By: Defendant Uni-Ter Underwriting Management Corp; Defendant Uni-Ter Claims Services Corp; Defendant U S Re Corporation <i>[197] Defendants Uni-Ter Underwriting Management Corp., Uni-Ter Claims Services Corp., and U.S. Re Corporation's Status Report</i>
04/06/2020	 Motion for Clarification

CASE SUMMARY

CASE NO. A-14-711535-C

[198] Motion for Clarification on Order Shortening Time

04/06/2020



Certificate of Service

Filed by: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark

[199] Certificate of Service

04/06/2020



Order Shortening Time

Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark

[200] Motion for Clarification on Order Shortening Time

04/08/2020



Opposition

[201] Director Defendants' Limited Opposition to Plaintiff's Motion for Clarification on an Order Shortening Time

04/09/2020



Response

Filed by: Defendant Uni-Ter Underwriting Management Corp; Defendant Uni-Ter Claims Services Corp; Defendant U S Re Corporation

[202] Defendants Uni-Ter Underwriting Management Corp., Uni-Ter Claims Services Corp., and U.S. Re Corporation's Limited Opposition to Response to Plaintiff's Motion for Clarification on Order Shortening Time

04/10/2020



Reply in Support

[203] Omnibus Reply in Support of Motion for Clarification on Order Shortening Time

04/23/2020



Recorders Transcript of Hearing

[204] Recorder's Transcript of Proceedings, RE: Plaintiff's Motion For Clarification on Order Shortening Time 4/10/20

04/27/2020



Order Granting

Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark

[205] Order Regarding Plaintiff's Motion for Clarification on Order Shortening Time

04/28/2020



Notice of Entry of Order

Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark

[206] Notice of Entry of Order

05/13/2020



Supplement

Filed by: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark

[207] Supplemental Brief to the Motion for Clarification

05/14/2020



Stipulation and Order

Filed by: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark

[208] Stipulation and Order

05/14/2020



Stipulation and Order

Filed by: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark

[209] Stipulation and Order

05/15/2020



Notice of Entry of Stipulation and Order

CASE SUMMARY

CASE NO. A-14-711535-C

	<p>Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[210] Notice of Entry of Order</i></p>
06/10/2020	<p> Supplement Filed by: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[211] Second Supplemental Brief to the Motion for Clarification</i></p>
06/17/2020	<p> Status Report <i>[212] Joint Status Report</i></p>
06/17/2020	<p> Notice of Withdrawal of Attorney Filed by: Third Party Plaintiff Chur, Robert; Third Party Plaintiff Fogg, Steve; Third Party Plaintiff Garber, Mark; Third Party Plaintiff Harter, Carol; Third Party Plaintiff Hurlbut, Robert; Third Party Plaintiff Lumpkin, Barbara; Third Party Plaintiff Marshall, Jeff; Third Party Plaintiff Stickels, Eric <i>[213] Notice of Withdrawal of Counsel</i></p>
06/22/2020	<p> Recorders Transcript of Hearing <i>[214] Transcript of Proceedings, Plaintiff's Motion for Clarification on Order Shortening Time, Heard on June 18, 2020</i></p>
06/24/2020	<p> Order Shortening Time Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[215] Plaintiff's Motion for Preferential Trial Setting And For Issuance of A New Discovery Scheduling Order or, In the Alternative, Motion to Stay All Discovery During the Pendency of Motion For Leave to File Fourth Amended Complaint; On Order Shortening Time</i></p>
06/26/2020	<p> Certificate of Service <i>[216] Certificate of Service</i></p>
06/26/2020	<p> Amended Notice Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[217] Amended Notice of Hearing</i></p>
06/29/2020	<p> Order Granting Motion <i>[218] Order Granting Plaintiff's Motion for Clarification on Order Shortening Time</i></p>
06/30/2020	<p> Notice of Entry of Order Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[219] Notice of Entry of Order</i></p>
06/30/2020	<p> Response Filed by: Third Party Plaintiff Chur, Robert; Third Party Plaintiff Fogg, Steve; Third Party Plaintiff Garber, Mark; Third Party Plaintiff Harter, Carol; Third Party Plaintiff Hurlbut, Robert; Third Party Plaintiff Lumpkin, Barbara; Third Party Plaintiff Marshall, Jeff; Third Party Plaintiff Stickels, Eric <i>[220] Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert Hurlbut, Barbara Lumpkin, Jeff Marshall, and Eric Stickel's Response to the Motion for Preferential Trial Setting and for Issuance of a New Discovery Scheduling Order or, in the Alternative, Motion to Stay All Discovery During the Pendency of Motion for Leave to File Fourth Amended Complaint, on Order Shortening Time</i></p>



CASE SUMMARY

CASE NO. A-14-711535-C

06/30/2020	 Response Filed by: Defendant Uni-Ter Underwriting Management Corp; Defendant Uni-Ter Claims Services Corp; Defendant U S Re Corporation <i>[221] Defendants Uni-Ter Underwriting Management Corp., Uni-Ter Claims Services Corp. and U.S. Re Corporation s Response in Opposition to Plaintiff s Motion for Preferential Trial Setting and for Issuance of a New Discovery Scheduling Order or, in the Alternative, Motion to Stay all Discovery During the Pendency of Motion for Leave to File Fourth Amended Complaint</i>
07/02/2020	 Motion for Leave to File <i>[222] Defendants Uni-Ter Underwriting Management Corp., Uni-Ter Claims Services Corp. and U.S. RE Corporation s Motion for Leave to File Amended Answers to Third Amended Complaint</i>
07/02/2020	 Motion to Amend Complaint Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[223] Motion for Leave to File Fourth Amended Complaint</i>
07/02/2020	 Appendix Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[224] Appendix (Volume 1) to Motion for Leave to File Fourth Amended Complaint</i>
07/02/2020	Appendix Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[225] Appendix (Volume 2) to Motion for Leave to File Fourth Amended Complaint (Part 1)</i>
07/02/2020	 Appendix Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[226] Appendix (Volume 2) to Motion for Leave to File Fourth Amended Complaint (Part 2)</i>
07/02/2020	 Appendix Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[227] Appendix (Volume 4) to Motion for Leave to File Fourth Amended Complaint</i>
07/02/2020	 Appendix Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[228] Appendix (Volume 5) to Motion for Leave to File Fourth Amended Complaint (Part 1)</i>
07/02/2020	 Appendix Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[229] Appendix (Volume 5) to Motion for Leave to File Fourth Amended Complaint (Part 2)</i>
07/02/2020	 Appendix Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[230] Appendix (Volume 3) to Motion for Leave to File Fourth Amended Complaint</i>
07/02/2020	 Redacted Version <i>[256] Redacted version of Appendix (2) to remove pages 68-91 and seal them per Order 8/3/20</i>

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07/02/2020	 Filed Under Seal <i>[257] Sealed pages 68-91 of Appendix per Order 8/3/20</i>
07/06/2020	 Notice of Hearing <i>[231] Notice of Hearing</i>
07/07/2020	 Clerk's Notice of Hearing <i>[232] Notice of Hearing</i>
07/07/2020	 Notice <i>[233] Amended Notice of Hearing</i>
07/08/2020	 Clerk's Notice of Nonconforming Document <i>[234] Clerk's Notice of Nonconforming Document</i>
07/09/2020	 Clerk's Notice of Nonconforming Document and Curative Action <i>[235] Clerk's Notice of Curative Action</i>
07/09/2020	 Errata Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[236] ERRATA TO THE PROPOSED FOURTH AMENDED COMPLAINT ATTACHED AS EXHIBIT 37 TO APPENDIX (VOLUME 3) TO MOTION FOR LEAVE TO FILE FOURTH AMENDED COMPLAINT</i>
07/10/2020	 Clerk's Notice of Hearing <i>[237] Notice of Hearing</i>
07/10/2020	 Stipulation and Order Filed by: Third Party Plaintiff Chur, Robert <i>[238] STIPULATION AND ORDER TO REGARDING THE HEARING ON THE MOTION FOR LEAVE TO FILE FOURTH AMENDED COMPLAINT</i>
07/13/2020	 Notice of Entry of Stipulation and Order Filed By: Third Party Plaintiff Chur, Robert; Third Party Plaintiff Fogg, Steve; Third Party Plaintiff Garber, Mark; Third Party Plaintiff Harter, Carol; Third Party Plaintiff Hurlbut, Robert; Third Party Plaintiff Lumpkin, Barbara; Third Party Plaintiff Marshall, Jeff; Third Party Plaintiff Stickels, Eric <i>[239] Notice of Entry of Stipulation and Order Regarding the Hearing on the Motion for Leave to File Fourth Amended Complaint</i>
07/15/2020	 Order Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[240] Order Re: Plaintiff's Motion for Preferential Trial Setting and for Issuance of A NEW Discovery Scheduling Order or in The Alternative Motion to Stay All discovery During The Pendency of Motion for Leave To File fourth Amended Complaint</i>
07/16/2020	 Notice of Entry <i>[241] Notice of Entry of Order</i>
07/17/2020	 Opposition Filed By: Third Party Plaintiff Chur, Robert; Third Party Plaintiff Fogg, Steve; Third Party Plaintiff Garber, Mark; Third Party Plaintiff Harter, Carol; Third Party Plaintiff Hurlbut,

CASE SUMMARY

CASE NO. A-14-711535-C

Robert; Third Party Plaintiff Lumpkin, Barbara; Third Party Plaintiff Marshall, Jeff; Third Party Plaintiff Stickels, Eric
[242] Defendants Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert Hurlbut, Barbara Lumpkin, Jeff Marshall, and Eric Stickels' Opposition to the Motion for Leave to File Fourth Amended Complaint

07/17/2020



Appendix

Filed By: Third Party Plaintiff Chur, Robert; Third Party Plaintiff Fogg, Steve; Third Party Plaintiff Garber, Mark; Third Party Plaintiff Harter, Carol; Third Party Plaintiff Hurlbut, Robert; Third Party Plaintiff Lumpkin, Barbara; Third Party Plaintiff Marshall, Jeff; Third Party Plaintiff Stickels, Eric
[243] Appendix of Exhibits in Support of Defendants Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert Hurlbut, Barbara Lumpkin, Jeff Marshall, and Eric Stickels' Opposition to the Motion for Leave to File Fourth Amended Complaint

07/17/2020



Response

Filed by: Defendant Uni-Ter Underwriting Management Corp; Defendant Uni-Ter Claims Services Corp; Defendant U S Re Corporation
[244] Defendants Uni-Ter Underwriting Management Corp., Uni-Ter Claims Services Corp. and U.S. Re Corporation s Response in Opposition to Plaintiff s Motion for Leave to File Fourth Amended Complaint

07/17/2020



Appendix

Filed By: Defendant Uni-Ter Underwriting Management Corp; Defendant Uni-Ter Claims Services Corp; Defendant U S Re Corporation
[245] Appendix of Exhibits to Defendants Uni-Ter Underwriting Management Corp., Uni-Ter Claims Services Corp. and U.S. Re Corporation s Response in Opposition to Plaintiff s Motion for Leave to File Fourth Amended Complaint

07/21/2020



Reply in Support

Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark
[246] Omnibus Reply in Support of Motion for Leave to File Fourth Amended Complaint

07/22/2020



Order Shortening Time

[247] Directors' Motion for Leave to File a Supplemental Brief In Support of the Opposition to the Plaintiff's Motion for Leave to File Amended Complaint, on Order Shortening Time

07/24/2020



Recorders Transcript of Hearing

[249] Transcript of Proceedings, All Pending Motions, Heard on July 23, 2020

07/28/2020



Order Granting Motion

Filed By: Defendant Uni-Ter Underwriting Management Corp
[250] Order Granting Motion For Leave To File Amended Answers To Third Amended Complaint

07/28/2020



Notice of Entry of Order

Filed By: Defendant Uni-Ter Underwriting Management Corp; Defendant Uni-Ter Claims Services Corp; Defendant U S Re Corporation
[251] Notice of Entry of Order Granting Defendants Uni-Ter Underwriting Management Corp., Uni-Ter Claims Services Corp. and U.S. Re Corporation s Motion for Leave to File Amended Answers to Third Amended Complaint

07/31/2020



Notice

Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark
[252] PLAINTIFF S NOTICE OF AVAILABILITY FOR JURY TRIAL AND PROVIDING NEW DISCOVERY AND TRIAL SCHEDULES BASED OFF OF TIME REMAINING UNDER

CASE SUMMARY

CASE NO. A-14-711535-C

OPERATIVE DISCOVERY SCHEDULING ORDER AND TRIAL AVAILABILITY

07/31/2020	 Expert Witness Disclosure [253] PLAINTIFF S INITIAL EXPERT DISCLOSURE PURSUANT TO NRCP 16.1(a)(2)
07/31/2020	 NRCP 16.1 Disclosure Statement [254] PLAINTIFF COMMISSIONER OF INSURANCE FOR THE STATE OF NEVADA, THE COURT-APPOINTED RECEIVER OF LEWIS & CLARK LTD RISK RETENTION GROUP, INC. S SIXTEENTH SUPPLEMENTAL DISCLOSURE OF DOCUMENTS AND WITNESSES PURSUANT TO NRCP 16.1
08/03/2020	 Stipulation and Order Filed by: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark [255] Stipulation and Order to Seal Appendix Vol 2 Part 1 To Plaintiff's Motion For Leave To File Fourth Amended Complaint
08/04/2020	 Certificate of Service [258]
08/06/2020	 Notice of Entry Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark [259] Notice of Entry of Order
08/07/2020	 Amended Answer Filed By: Defendant Uni-Ter Underwriting Management Corp [260] Defendant Uni-Ter Underwriting Management Corp's Amended Answer to Plaintiff's Third Amended Complaint
08/07/2020	 Amended Answer Filed By: Defendant Uni-Ter Claims Services Corp [261] Defendant Uni-Ter Claims Services Corp. s Amended Answer to Third Amended Complaint
08/07/2020	 Amended Answer Filed By: Defendant U S Re Corporation [262] Defendant U.S. Re Corporation's Amended Answer to Third Amended Complaint
08/10/2020	 Notice of Entry of Findings of Fact, Conclusions of Law Filed By: Defendant Uni-Ter Underwriting Management Corp; Defendant Uni-Ter Claims Services Corp; Defendant U S Re Corporation [264] Notice of Entry of Findings of Fact, Conclusions of Law and Order Denying Plaintiff's Motion for Leave to File Fourth Amended Complaint
08/10/2020	 Order Denying Motion Filed By: Defendant Uni-Ter Underwriting Management Corp; Defendant Uni-Ter Claims Services Corp; Defendant U S Re Corporation [265] Order Denying Plaintiff's Motion for Leave to File Fourth Amended Complaint
08/10/2020	 Notice of Entry of Order Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark [266] Notice of Entry of Order
08/13/2020	 Order

CASE SUMMARY

CASE NO. A-14-711535-C

[267] Order to Strike from Record

08/13/2020



Order Granting Motion

Filed By: Third Party Plaintiff Chur, Robert; Third Party Plaintiff Fogg, Steve; Third Party Plaintiff Garber, Mark; Third Party Plaintiff Harter, Carol; Third Party Plaintiff Hurlbut, Robert; Third Party Plaintiff Lumpkin, Barbara; Third Party Plaintiff Marshall, Jeff; Third Party Plaintiff Stickels, Eric

[268] Order Granting Defendants Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert Hurlbut, Barbara Lumpkin, Jeff Marshall, And Erick Stickels' Motion for Judgment on the Pleadings Pursuant to NRCP 12(C) And Judgment Thereon

08/14/2020



Notice of Entry

[269] Notice of Entry of Order

08/14/2020



Motion to Reconsider

Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark

[270] Motion for Partial Reconsideration of Motion for Leave to Amend Regarding Director Defendants

08/14/2020



Notice of Entry of Order

Filed By: Third Party Plaintiff Chur, Robert; Third Party Plaintiff Fogg, Steve; Third Party Plaintiff Garber, Mark; Third Party Plaintiff Harter, Carol; Third Party Plaintiff Hurlbut, Robert; Third Party Plaintiff Lumpkin, Barbara; Third Party Plaintiff Marshall, Jeff; Third Party Plaintiff Stickels, Eric

[271] Notice of Entry of Order

08/18/2020



Clerk's Notice of Hearing

[272] Notice of Hearing

08/18/2020



Ex Parte Motion

Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark

[273] Ex Parte Motion for an Order Shortening Time on Motion for Partial Reconsideration of Motion for Leave to Amend Regarding Director Defendants

08/18/2020



Notice of Entry

Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark

[274] Notice of Entry of Order

08/18/2020



Memorandum of Costs and Disbursements

Filed By: Third Party Plaintiff Chur, Robert; Third Party Plaintiff Fogg, Steve; Third Party Plaintiff Garber, Mark; Third Party Plaintiff Harter, Carol; Third Party Plaintiff Hurlbut, Robert; Third Party Plaintiff Lumpkin, Barbara; Third Party Plaintiff Marshall, Jeff; Third Party Plaintiff Stickels, Eric

[275] Defendants Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert Hurlbut, Barbara Lumpkin, Jeff Marshall, and Eric Stickels' Verified Memorandum of Costs and Disbursements

08/21/2020



Motion to Retax

Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark

[276] Motion to Retax and Settle Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert Hurlbut, Barbara Lumpkin, Jeff Marshall, and Eric Stickels Verified Memorandum of Costs and Disbursements

08/24/2020












CASE SUMMARY

CASE NO. A-14-711535-C

	 Clerk's Notice of Hearing <i>[277] Notice of Hearing</i>
08/24/2020	 Opposition Filed By: Third Party Plaintiff Chur, Robert; Third Party Plaintiff Fogg, Steve; Third Party Plaintiff Garber, Mark; Third Party Plaintiff Harter, Carol; Third Party Plaintiff Hurlbut, Robert; Third Party Plaintiff Lumpkin, Barbara; Third Party Plaintiff Marshall, Jeff; Third Party Plaintiff Stickels, Eric <i>[278] Defendants Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert Hurlbut, Barbara Lumpkin, Jeff Marshall, and Eric Stickels' Opposition to the Motion for Reconsideration Denying the Motion for Leave to File Fourth Amended Complaint</i>
08/25/2020	 Reply in Support Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[279] Reply in Support of Motion for Partial Reconsideration of Motion for Leave to Amend Regarding Director Defendants</i>
08/25/2020	 Scheduling and Trial Order <i>[280] Scheduling Order And Order Setting Firm Civil Jury Trial and Calendar Call</i>
08/26/2020	 Order Granting Motion Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[281] Order Granting Plaintiff's Motion For Preferential Trial Setting and For Issuance of a New Discovery Scheduling Order; Order Setting Firm Jury Trial, Pre-Trial/ Calendar Call and Issuing New Discovery Schedule</i>
08/26/2020	 Scheduling and Trial Order <i>[282] Scheduling Order and Order Setting Firm Civil Jury Trial and Calendar</i>
08/27/2020	 Notice of Entry <i>[283] Notice of Entry of Order</i>
08/27/2020	 Amended Scheduling Order <i>[284] AMENDED SCHEDULING ORDER AND ORDER SETTING FIRM CIVIL JURY TRIAL AND CALENDAR CALL</i>
08/28/2020	 Motion Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[285] Motion to Stay Proceedings Pending Petition for Writ of Mandamus on Order Shortening Time</i>
08/28/2020	 Notice of Entry Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[286] Notice of Entry of Order</i>
09/01/2020	 Opposition to Motion Filed By: Third Party Plaintiff Chur, Robert; Third Party Plaintiff Fogg, Steve; Third Party Plaintiff Garber, Mark; Third Party Plaintiff Harter, Carol; Third Party Plaintiff Hurlbut, Robert; Third Party Plaintiff Lumpkin, Barbara; Third Party Plaintiff Marshall, Jeff; Third Party Plaintiff Stickels, Eric <i>[287] Defendants Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert Hurlbut, Barbara Lumpkin, Jeff Marshall, and Eric Stickels' Opposition to the Motion to Stay Proceedings Pending Petition for Writ of Mandamus on Order Shortening Time</i>












CASE SUMMARY

CASE NO. A-14-711535-C

09/03/2020	 Recorders Transcript of Hearing <i>[288] Transcript of Proceedings, Motions, Heard on July 1, 2020</i>
09/03/2020	 Recorders Transcript of Hearing <i>[289] Transcript of Proceedings, Motions, Heard on August 26, 2020</i>
09/03/2020	 Motion Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[290] Motion to Certify Judgment as Final Pursuant to NRCP 54(b) on Order Shortening Time</i>
09/04/2020	 Notice of Entry <i>[291] Notice of Entry of Order</i>
09/08/2020	 Response Filed by: Third Party Plaintiff Chur, Robert; Third Party Plaintiff Fogg, Steve; Third Party Plaintiff Garber, Mark; Third Party Plaintiff Harter, Carol; Third Party Plaintiff Hurlbut, Robert; Third Party Plaintiff Lumpkin, Barbara; Third Party Plaintiff Marshall, Jeff; Third Party Plaintiff Stickels, Eric <i>[292] Defendants Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert Hurlbut, Barbara Lumpkin, Jeff Marshall, and Eric Stickels' Response to the Motion to Certify Judgment as Final Pursuant to NRCP 56(B) on Order Shortening Time</i>
09/08/2020	 Opposition to Motion Filed By: Defendant Uni-Ter Underwriting Management Corp; Defendant Uni-Ter Claims Services Corp; Defendant U S Re Corporation <i>[293] Defendants Uni-Ter Underwriting Management Corp., Uni-Ter Claims Services Corp. and U.S. Re Corporation's Opposition to Motion to Certify Judgment as Final Pursuant to NRCP 54(B)</i>
09/09/2020	 Findings of Fact, Conclusions of Law and Order Filed By: Third Party Plaintiff Chur, Robert; Third Party Plaintiff Fogg, Steve; Third Party Plaintiff Garber, Mark; Third Party Plaintiff Harter, Carol; Third Party Plaintiff Hurlbut, Robert; Third Party Plaintiff Marshall, Jeff; Third Party Plaintiff Stickels, Eric; Defendant Uni-Ter Claims Services Corp; Defendant U S Re Corporation <i>[294] Findings of Fact, Conclusions of Law and Order Denying Motion the of Motion for Partial Reconsideration of Motion for Leave to Amend Regarding Director Defendants</i>
09/10/2020	 Notice of Entry of Order Filed By: Third Party Plaintiff Chur, Robert; Third Party Plaintiff Fogg, Steve; Third Party Plaintiff Garber, Mark; Third Party Plaintiff Harter, Carol; Third Party Plaintiff Hurlbut, Robert; Third Party Plaintiff Lumpkin, Barbara; Third Party Plaintiff Marshall, Jeff; Third Party Plaintiff Stickels, Eric <i>[295] Notice of Entry of Findings of Fact, Conclusions of Law and Order Denying the Motion for Reconsideration of Motion for Leave to Amend Regarding Director Defendants</i>
09/16/2020	 Recorders Transcript of Hearing <i>[296] Transcript of Proceedings, Motions, Heard on September 3, 2020</i>
09/17/2020	 Order Granting Motion Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[297] Order Granting Plaintiff's Motion to Stay Proceedings</i>
09/17/2020	 Notice of Entry of Order Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis

CASE SUMMARY

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	and Clark <i>[298] Notice of Entry of Order</i>
09/24/2020	 Notice of Change Filed By: Defendant Uni-Ter Underwriting Management Corp; Defendant Uni-Ter Claims Services Corp; Defendant U S Re Corporation <i>[299] Notice of Change of Firm Affiliation and Address</i>
03/30/2021	 Motion Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[300] Motion to Lift Stay and for Re-Setting of Preferential Trial Setting</i>
03/31/2021	 Clerk's Notice of Hearing <i>[301] Notice of Hearing</i>
04/12/2021	 Notice of Change of Address Filed By: Defendant Uni-Ter Underwriting Management Corp; Defendant Uni-Ter Claims Services Corp; Defendant U S Re Corporation <i>[302] Notice of Change of Address</i>
04/13/2021	 Response Filed by: Defendant Uni-Ter Underwriting Management Corp; Defendant Uni-Ter Claims Services Corp; Defendant U S Re Corporation <i>[303] Defendants Uni-Ter Underwriting Management Corp., Uni-Ter Claims Services Corp. and U.S. Re Corporation s Response to the Receiver's Motion to Lift Stay and For Re-Setting of Preferential Trial Date</i>
04/28/2021	 Reply in Support <i>[304] Reply in Support of Motion to Lift Stay and for Re-Setting of Preferential Trial Date</i>
05/11/2021	 Order Granting Motion Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[305] Order Granting Plaintiff's Motion to Lift Stay and for Re-setting of Preferential Trial Date; Order Setting Firm Civil Jury Trial</i>
05/12/2021	 Notice of Entry <i>[306] Notice of Entry of Order</i>
05/12/2021	 Scheduling and Trial Order <i>[307] ORDER SETTING FIRM CIVIL JURY TRIAL AND CALENDAR CALL</i>
05/13/2021	 Opposition Filed By: Third Party Plaintiff Chur, Robert; Third Party Plaintiff Fogg, Steve; Third Party Plaintiff Garber, Mark; Third Party Plaintiff Harter, Carol; Third Party Plaintiff Hurlbut, Robert; Third Party Plaintiff Lumpkin, Barbara; Third Party Plaintiff Marshall, Jeff; Third Party Plaintiff Stickels, Eric <i>[308] Defendants Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert Hurlbut, Barbara Lumpkin, Jeff Marshall, and Eric Stickels' Opposition to the Motion to Retax and Settle Verified Memorandum of Costs and Disbursements</i>
05/13/2021	 Motion for Attorney Fees and Costs Filed By: Third Party Plaintiff Chur, Robert; Third Party Plaintiff Fogg, Steve; Third Party Plaintiff Garber, Mark; Third Party Plaintiff Harter, Carol; Third Party Plaintiff Hurlbut, Robert; Third Party Plaintiff Lumpkin, Barbara; Third Party Plaintiff Marshall, Jeff; Third













CASE SUMMARY

CASE NO. A-14-711535-C

	<p>Party Plaintiff Stickels, Eric <i>[309] Defendants Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert Hurlbut, Barbara Lumpkin, Jeff Marshall, and Eric Stickels' Motion for Attorneys' Fees and Costs Pursuant to NRCF 68 and NRS Chapter 18</i></p>
05/13/2021	<p> Clerk's Notice of Hearing <i>[310] Notice of Hearing</i></p>
05/19/2021	<p> Stipulation and Order Filed by: Defendant Uni-Ter Underwriting Management Corp; Defendant Uni-Ter Claims Services Corp; Defendant U S Re Corporation <i>[311] Stipulation and Order Regarding Pretrial Deadlines</i></p>
05/19/2021	<p> Stipulation and Order Filed by: Attorney Garin, Joseph P; Attorney Ogilvie, George F., III; Third Party Plaintiff Chur, Robert; Third Party Plaintiff Fogg, Steve; Third Party Plaintiff Garber, Mark; Third Party Plaintiff Harter, Carol; Third Party Plaintiff Hurlbut, Robert; Third Party Plaintiff Lumpkin, Barbara; Third Party Plaintiff Marshall, Jeff; Third Party Plaintiff Stickels, Eric <i>[312] Stipulation and Order to Extend the Hearing on Defendants Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert Hurlbut, Barbara Lumpkin, Jeff Marshall, and Eric Stickels' Motion for Attorneys Fees and Cost</i></p>
05/20/2021	<p> Notice of Entry of Stipulation and Order Filed By: Defendant Uni-Ter Underwriting Management Corp; Defendant Uni-Ter Claims Services Corp; Defendant U S Re Corporation <i>[313] Notice of Entry of Stipulation and Order Regarding Pretrial Deadlines</i></p>
05/20/2021	<p> Application for Issuance of Commission to Take Deposition <i>[314] Application for Commission to Take Out-of-State Deposition of Sanford Elsass</i></p>
05/20/2021	<p> Commission Issued Filed by: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[315] Commission to Take Out-of-State Deposition</i></p>
05/24/2021	<p> Response Filed by: Defendant Uni-Ter Underwriting Management Corp; Defendant Uni-Ter Claims Services Corp; Defendant U S Re Corporation <i>[316] Response to Subpoena Duces Tecum to Custodian of Records for Alan Gray LLC</i></p>
05/24/2021	<p> Response Filed by: Defendant Uni-Ter Underwriting Management Corp; Defendant Uni-Ter Claims Services Corp; Defendant U S Re Corporation <i>[317] Response to Subpoena Duces Tecum to Custodian of Records for Alan Gray LLC</i></p>
05/24/2021	<p> Response Filed by: Defendant Uni-Ter Underwriting Management Corp; Defendant Uni-Ter Claims Services Corp; Defendant U S Re Corporation <i>[318] Response to Subpoena Duces Tecum to Custodian of Records for GlassRatner Advisory & Capital Group LLC</i></p>
06/10/2021	<p> Opposition to Motion Filed By: Third Party Plaintiff Chur, Robert <i>[319] Opposition to Defendants Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert Hurlbut, Barbara Lumpkin, Jeff Marshall, and Eric Stickels Motion for Attorney's Fees And Costs Pursuant To NRCF 68 and NRS Chapter 18</i></p>

CASE SUMMARY

CASE NO. A-14-711535-C

06/18/2021	 Application for Issuance of Commission to Take Deposition Party: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark [320] <i>Application For Commission To Take Out-Of-State- Deposition</i>
06/18/2021	 Commission to Take Deposition Outside the State of Nevada Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark [321] <i>Commission To Take Out-Of-State Deposition</i>
06/20/2021	 Motion for Declaratory Relief Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark [322] <i>Motion for Declaratory Relief</i>
06/21/2021	 Clerk's Notice of Hearing [323] <i>Notice of Hearing</i>
06/22/2021	 Application for Issuance of Commission to Take Deposition Party: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark [324] <i>FILED as of 6/18/21 Application</i>
06/22/2021	 Commission Issued [325] <i>Commission to take Out of State Deposition of Sanford Elsass</i>
06/23/2021	 Notice of Rescheduling of Hearing [326] <i>Notice of Rescheduling of Hearing</i>
06/23/2021	 Notice of Rescheduling of Hearing [327] <i>Notice of Rescheduling of Hearing</i>
06/23/2021	 Notice of Deposition Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark [328] <i>NOTICE OF VIDEOTAPED DEPOSITION OF LARRY SHATOFF</i>
06/24/2021	 Reply in Support [329] <i>REPLY IN SUPPORT OF MOTION TO RETAX AND SETTLE ROBERT CHUR, STEVE FOGG, MARK GARBER, CAROL HARTER, ROBERT HURLBUT, BARBARA LUMPKIN, JEFF MARSHALL, AND ERIC STICKELS VERIFIED MEMORANDUM OF COSTS AND DISBURSEMENTS</i>
06/24/2021	 Reply in Support Filed By: Third Party Plaintiff Chur, Robert; Third Party Plaintiff Fogg, Steve; Third Party Plaintiff Garber, Mark; Third Party Plaintiff Harter, Carol; Third Party Plaintiff Hurlbut, Robert; Third Party Plaintiff Lumpkin, Barbara; Third Party Plaintiff Marshall, Jeff; Third Party Plaintiff Stickels, Eric [330] <i>Defendants Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert Hurlbut, Barbara Lumpkin, Jeff Marshall, and Eric Stickels' Reply in Support of the Motion for Attorneys' Fees and Costs Pursuant to NRCP 68 and NRS Chapter 18</i>
07/01/2021	 Notice Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark [331] <i>Plaintiff's Notice of Objection to Notice of Intent to Issuance of Subpoena Duces Tecum</i>

CASE SUMMARY

CASE NO. A-14-711535-C

for Business Records to the Nevada Department of Insurance and Agreement to produce Responsive , non-responsive non-privileged documents

07/01/2021



Notice

Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark

[332] Plaintiff's Notice of Objection to Notice of Intent to Issuance of Subpoena Duces Tecum for Business Records to the Nevada Department of Insurance and Agreement to produce Responsive , non-responsive non-privileged documents

07/02/2021



Acceptance of Service

Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark

[333] Acceptance of Service of Subpoena

07/06/2021



Recorders Transcript of Hearing

[334] Transcript of Proceedings, Plaintiff's Motion to Lift Stay and for Re-Setting of Preferential Trial Setting, Heard on May 5, 2021

07/06/2021



Response

Filed by: Defendant Uni-Ter Underwriting Management Corp; Defendant U S Re Corporation

[335] Defendants Uni-Ter Underwriting Management Corp. and U.S. Re Corporation's Response in Opposition to Plaintiff's Motion for Declaratory Relief

07/06/2021



Stipulation and Order

Filed by: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark

[336] Stipulation and Order Regarding Pretrial Deadlines (Fourth Request)

07/07/2021



Notice of Entry of Order

Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark

[337] Notice of Entry of Order

07/13/2021



Order Shortening Time

[338] Motion to Compel Discovery Pursuant to NRCP 37(a)(4) on Order Shortening Time

07/16/2021



Order

Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark

[339] Order Denying Plaintiff's Motion to Retax and Settle Costs of Director Defendants

07/19/2021



Recorders Transcript of Hearing

[340] Transcript of Proceedings, Plaintiff's Motion to Retax and Settle, Heard on July 1, 2021

07/19/2021



Certificate of Service

[341] Certificate of Service

07/19/2021



Reply in Support

Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark

[342] Plaintiff's Reply in Support of Motion for Declaratory Relief

07/21/2021



Notice of Rescheduling of Hearing

[343] Notice of Rescheduling of Hearing

CASE SUMMARY

CASE NO. A-14-711535-C

07/21/2021	 Stipulation and Order Filed by: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[344] Stipulation and Order Regarding Motion for Declaratory Relief</i>
07/21/2021	 Order Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[345] Order Denying Director Defendants' Motion for Attorney Fees and Costs</i>
07/21/2021	 Notice of Entry of Stipulation and Order Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[346] Notice Of Entry Of Stipulation And Order Regarding Motion For Declaratory Relief</i>
07/26/2021	 Notice of Entry <i>[347] Notice of Entry of Order</i>
07/27/2021	 Application Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[348] Application for Out of State Commissions for the Production of Business Records in Lieu of Appearance at a Deposition</i>
07/27/2021	 Response Filed by: Defendant Uni-Ter Underwriting Management Corp; Defendant Uni-Ter Claims Services Corp; Defendant U S Re Corporation <i>[349] Defendants Uni-Ter Underwriting Management Corp., Uni-Ter Claims Services Corp., and U.S. Re Corporations' Response in Opposition to Plaintiff's Motion to Compel Discovery Pursuant to NRCP 37(a)(4) on Order Shortening Time</i>
07/27/2021	 Subpoena Electronically Issued <i>[350] OUT OF STATE COMMISSION FOR THE PRODUCTION OF BUSINESS RECORDS IN LIEU OF APPEARANCE AT A DEPOSITION</i>
07/27/2021	 Subpoena Electronically Issued Filed by: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[351] OUT OF STATE COMMISSION FOR THE PRODUCTION OF BUSINESS RECORDS IN LIEU OF APPEARANCE AT A DEPOSITION</i>
07/28/2021	 Motion for Partial Summary Judgment <i>[352] Motion for Partial Summary Judgment Regarding the Uni-Ter Defendants Fiduciary Duties</i>
07/29/2021	 Clerk's Notice of Hearing <i>[353] Notice of Hearing</i>
07/29/2021	 Notice of Entry Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[354] Notice of Entry of Order</i>
08/04/2021	 Motion in Limine Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis

CASE SUMMARY

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	and Clark <i>[355] Plaintiff's Motion in Limine Number 1: to Preclude Sam Hewitt from Providing Expert Testimony Regarding Insolvency Analysis</i>
08/05/2021	 Clerk's Notice of Hearing <i>[356] Notice of Hearing</i>
08/11/2021	 Recorders Transcript of Hearing <i>[357] Transcript of Proceedings, Motions, Heard on August 2, 2021</i>
08/11/2021	 Opposition to Motion Filed By: Defendant Uni-Ter Underwriting Management Corp; Defendant Uni-Ter Claims Services Corp; Defendant U S Re Corporation <i>[358] Defendant Uni-Ter Underwriting Management Corporation and Defendant Uni-Ter Claims Services Corporation's Opposition to Plaintiff's Motion for Partial Summary Judgment Regarding the Uni-Ter Defendants' Fiduciary Duties</i>
08/13/2021	 Motion in Limine Filed By: Defendant Uni-Ter Underwriting Management Corp; Defendant Uni-Ter Claims Services Corp; Defendant U S Re Corporation <i>[359] Defendants Uni-Ter Underwriting Management Corp., Uni-Ter Claims Services Corp., and U.S. Re Corporations' Motion in Limine to Strike and Exclude Testimony of the Receiver's Proposed Damages Expert, Mark Kuga</i>
08/13/2021	 Motion in Limine Filed By: Defendant Uni-Ter Underwriting Management Corp; Defendant Uni-Ter Claims Services Corp; Defendant U S Re Corporation <i>[360] Defendants' Motion in Limine Number 1: to Preclude Mark D. Tharp from Providing Expert Testimony on Impermissible Legal Conclusions</i>
08/13/2021	 Motion in Limine Filed By: Defendant Uni-Ter Underwriting Management Corp; Defendant Uni-Ter Claims Services Corp; Defendant U S Re Corporation <i>[361] Defendants' Motion in Limine Number 2: to Preclude Mark D. Tharp from Providing Expert Testimony Regarding Claims Reserving and "Suppression" of Reserves</i>
08/13/2021	 Motion in Limine Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[362] Plaintiff's Motion in Limine No. 2 to Preclude Testimony by Joseph Petrelli, Richard Lord and Jim Murphy Regarding Unperformed Solvency Analysis</i>
08/13/2021	 Motion in Limine Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[363] Plaintiff's Motion in Limine Number 3 to Preclude Testimony that US RE was a Licensed Reinsurance Broker in Nevada</i>
08/13/2021	 Motion in Limine Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[364] Plaintiff's Motion in Limine Number 5 to Limit the Scope of Expert Witness Testimony Regarding Speculation Concerning the Economy</i>
08/13/2021	 Motion in Limine Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark

CASE SUMMARY

CASE NO. A-14-711535-C

[365] Plaintiff's Motion in Limine Number 4 to Preclude any Reference to Reinsurance Estimates

08/13/2021



Motion in Limine

Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark

[366] Plaintiff's Motion in Limine Number 6 to Strike Proffered Expert Witness Alan Gray

08/13/2021



Motion in Limine

Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark

[367] Plaintiff's Motion in Limine Number 7 to Preclude Introduction of Irrelevant Evidence from Receivership Action, Case No. A-12-672047-C

08/13/2021



Motion for Partial Summary Judgment

Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark

[368] Motion for Partial Summary Judgment as to U.S. RE Corporation

08/13/2021



Motion for Partial Summary Judgment

Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark

[369] Motion for Partial Summary Judgment as to Uni-ter Defendants' Breach of their Fiduciary Duties

08/14/2021



Errata

Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark

[370] Errata to Motion for Partial Summary Judgment Regarding Uni-ter Management's Breach of Its Fiduciary Duties

08/14/2021



Certificate of Service

Filed by: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark

[371] Certificate of Service

08/16/2021



Clerk's Notice of Hearing

[372] Notice of Hearing

08/16/2021



Clerk's Notice of Hearing

[373] Notice of Hearing

08/16/2021



Clerk's Notice of Hearing

[374] Notice of Hearing

08/17/2021



Order

Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark

[375] Order Granting in Part and Denying in Part Plaintiff's Motion for Declaratory Relief

08/17/2021



Notice of Entry

[376] Notice of Entry of Order

08/18/2021










Opposition to Motion in Limine

Filed By: Defendant Uni-Ter Underwriting Management Corp; Defendant Uni-Ter Claims Services Corp; Defendant U S Re Corporation

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	<i>[377] Defendants' Response in Opposition to Plaintiff's Motion in Limine Number 1: To Preclude Sam Hewitt from Providing Expert Testimony Regarding Insolvency Analysis</i>
08/23/2021	 Notice of Change of Hearing <i>[378] Notice of Change of Hearing - vacated</i>
08/23/2021	 Discovery Commissioners Report and Recommendations Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[379] Discovery Commissioner s Report and Recommendations</i>
08/23/2021	 Pre-Trial Disclosure Party: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[380] Plaintiff's Pre-Trial Disclosure Statement Pursuant to NRCP 16.1(a)(3)</i>
08/25/2021	 Reply in Support Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[381] Plaintiff's Reply in Support of Motion for Partial Summary Judgment Regarding the Uni-Ter Defendants' Fiduciary Duties</i>
08/25/2021	 Order Shortening Time Filed By: Defendant Uni-Ter Underwriting Management Corp <i>[382] Defendants Uni-Ter Underwriting Management Corp., Uni-Ter Claims Services Corp., and U.S. Re Corporations Objection to the Discovery Commissioner s Report and Recommendations on Order Shortening Time, 08.25.21</i>
08/25/2021	 Appendix Filed By: Defendant Uni-Ter Underwriting Management Corp; Defendant Uni-Ter Claims Services Corp; Defendant U S Re Corporation <i>[383] Appendix of Exhibits to Defendants Uni-Ter Underwriting Management Corp., Uni-Ter Claims Services Corp., and U.S. Re Corporation's Objection to the Discovery Commissioner's Report and Recommendations on Order Shortening Time</i>
08/25/2021	 Notice of Entry of Order Filed By: Defendant Uni-Ter Underwriting Management Corp; Defendant Uni-Ter Claims Services Corp; Defendant U S Re Corporation <i>[384] Notice of Entry of Order Shortening Time Regarding Defendants Uni-Ter Underwriting Management Corp., Uni-Ter Claims Services Corp, and U.S. Re Corporations' Objection to the Discovery Commissioner's Report and Recommendations</i>
08/27/2021	 Order <i>[385] Order Setting Agenda</i>
08/27/2021	 Opposition to Motion in Limine Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[386] Plaintiff's Opposition to Motion in Limine to Strike and Exclude Testimony of Damages Expert Dr. Mark Kuga, PhD</i>
08/27/2021	 Opposition to Motion in Limine Filed By: Defendant Uni-Ter Underwriting Management Corp; Defendant Uni-Ter Claims Services Corp; Defendant U S Re Corporation <i>[387] Defendants' Response in Opposition to Plaintiff's Motion in Limine Number 2: To Preclude Testimony by Joseph Petrelli, Richard Lord and Jim Murphy Regarding Unperformed Solvency Analysis</i>












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08/27/2021	 Opposition to Motion in Limine Filed By: Defendant Uni-Ter Underwriting Management Corp; Defendant Uni-Ter Claims Services Corp; Defendant U S Re Corporation <i>[388] Defendants' Response in Opposition to Plaintiff's Motion in Limine Number 3: To Preclude Testimony that U.S. Re was a Licensed Reinsurance Broker in Nevada</i>
08/27/2021	 Opposition to Motion in Limine Filed By: Defendant Uni-Ter Underwriting Management Corp <i>[389] Defendants Uni-Ter Underwriting Management Corp., Uni-Ter Claims Services Corp., and U.S. Re Corporations' Response in Opposition to Plaintiff's Motion in Limine Number 4: To Preclude any Reference to Reinsurance Estimates</i>
08/27/2021	 Opposition to Motion in Limine Filed By: Defendant Uni-Ter Underwriting Management Corp <i>[390] Defendants' Response in Opposition to Plaintiff's Motion in Limine Number 5: To Limit the Scope of Expert Witness Testimony Regarding Speculation Concerning the Economy</i>
08/27/2021	 Appendix Filed By: Defendant Uni-Ter Underwriting Management Corp; Defendant Uni-Ter Claims Services Corp; Defendant U S Re Corporation <i>[391] Appendix of Exhibits to Defendants' Response in Opposition to Plaintiff's Motion in Limine Number 5: To Limit the Scope of Expert Witness Testimony Regarding Speculation Concerning the Economy</i>
08/27/2021	 Opposition to Motion in Limine Filed By: Defendant Uni-Ter Underwriting Management Corp; Defendant Uni-Ter Claims Services Corp; Defendant U S Re Corporation <i>[392] Defendants' Response in Opposition to Plaintiff's Motion in Limine Number 6 to Strike Proffered Expert Witness Alan Gray</i>
08/27/2021	 Appendix Filed By: Defendant Uni-Ter Underwriting Management Corp; Defendant Uni-Ter Claims Services Corp; Defendant U S Re Corporation <i>[393] Appendix of Exhibits to Defendants' Response in Opposition to Plaintiff's Motion in Limine Number 6 to Strike Proffered Expert Witness Alan Gray</i>
08/27/2021	 Opposition to Motion For Summary Judgment Filed By: Defendant Uni-Ter Underwriting Management Corp; Defendant Uni-Ter Claims Services Corp; Defendant U S Re Corporation <i>[394] Defendants Uni-Ter Underwriting Management Corporation and Uni-Ter Claims Services Corporation's Opposition to Plaintiff's Motion for Partial Summary Judgment Regarding Uni-Ter Defendants' Breach of Their Fiduciary Duties</i>
08/27/2021	 Opposition to Motion For Summary Judgment Filed By: Defendant Uni-Ter Underwriting Management Corp; Defendant Uni-Ter Claims Services Corp; Defendant U S Re Corporation <i>[395] Defendant's Opposition to Plaintiff's Motion for Partial Summary Judgment as to U.S. Re Corporation</i>
08/27/2021	 Opposition to Motion in Limine Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[396] Plaintiff's Response to Defendants' Motion in Limine No. 1: To Preclude Mark D. Tharp from Providing Expert Testimony on Impermissible Legal Conclusions</i>
08/28/2021	 Non-Opposition to Request for Exemption

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	<p>Filed by: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[397] Plaintiff's opposition to motion in limine number 2</i></p>
08/28/2021	<p> Errata Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[398] Errata to Plaintiff's Opposition to Defendants' Motion in Limine No. 2</i></p>
08/28/2021	<p> Opposition to Motion in Limine Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[399] Plaintiff's Opposition to Defendants' Motion in Limine No. 2 To Preclude Mark D. Tharp from Providing Expert Testimony Regarding Claims Reserving and "Suppression" of Reserves</i></p>
08/30/2021	<p> Stipulation and Order Filed by: Defendant Uni-Ter Underwriting Management Corp; Defendant Uni-Ter Claims Services Corp; Defendant U S Re Corporation <i>[400] Stipulation and Order to Extend Deadline Referenced in Discovery Commissioner s August 23, 2021 Report and Recommendations</i></p>
08/30/2021	<p> Notice of Entry of Stipulation and Order Filed By: Defendant Uni-Ter Underwriting Management Corp; Defendant Uni-Ter Claims Services Corp; Defendant U S Re Corporation <i>[401] Notice of Entry of Stipulation and Order to Extend Deadline Reference in Discovery Commissioner's August 23, 2021 Report and Recommendations</i></p>
08/31/2021	<p> Reply in Support <i>[402] Plaintiffs Reply In Support of Motion In Limine No. 2 To Preclude Testimony By Joseph Petrelli, Richard Lord and Jim Murphy Regarding Unperformed Solvency Analysis</i></p>
08/31/2021	<p> Acceptance of Service <i>[403] Acceptance of Service of Subpoena - Volk</i></p>
08/31/2021	<p> Reply in Support <i>[404] PLAINTIFF S REPLY IN SUPPORT OF MOTION IN LIMINE NUMBER 6 TO STRIKE PROFFERED EXPERT WITNESS ALAN GRAY</i></p>
08/31/2021	<p> Reply Filed by: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[405] Plaintiff's Reply in Support of Motion for Partial Summary Judgment as to US RE</i></p>
08/31/2021	<p> Reply Filed by: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[406] Plaintiff's Reply in Support of Motion for Partial Summary Judgment Regarding Uni-ter Management's Breach of Its Fiduciary Duties</i></p>
08/31/2021	<p> Reply Filed by: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[407] Plaintiff's Reply in Support of Plaintiff's MIL No. 3 Regarding Licensure</i></p>
08/31/2021	<p> Reply</p>

CASE SUMMARY



CASE NO. A-14-711535-C

	<p>Filed by: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[408] Plaintiff's Reply in Support of Motion in Limine No. 5 to Limit Speculation about the Economy</i></p>
08/31/2021	<p> Reply Filed by: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[409] Plaintiff's Reply in Support of Motion in Limine No. 4 to Preclude any References to Reinsurance Estimates</i></p>
08/31/2021	<p> Reply Filed by: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[410] Plaintiff's Reply in Support of Motion in Limine No. 1 to Preclude Sam Hewitt from Providing Insolvency Analysis</i></p>
08/31/2021	<p> Opposition Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[411] Plaintiff's Opposition to Defendants' Objection to the Discovery Commissioner's Report and Recommendation on OST</i></p>
09/01/2021	<p> Stipulation Filed by: Defendant Uni-Ter Underwriting Management Corp; Defendant Uni-Ter Claims Services Corp; Defendant U S Re Corporation <i>[412] Stipulated and Agreed Agenda the Septemeber 2, 2021 Hearing on Pending Motions</i></p>
09/01/2021	<p> Reply Filed by: Defendant Uni-Ter Underwriting Management Corp; Defendant Uni-Ter Claims Services Corp; Defendant U S Re Corporation <i>[413] Reply in Support of Defendants' Objection to the Discovery Commissioner's Report and Recommendations on Order Shortening Time</i></p>
09/01/2021	<p> Reply in Support Filed By: Defendant Uni-Ter Underwriting Management Corp; Defendant Uni-Ter Claims Services Corp; Defendant U S Re Corporation <i>[414] Defendants' Reply in Support of Motion in Limine Number 1: To Preclude Mark D. Tharp from Providing Expert Testimony on Impermissible Legal Conclusions</i></p>
09/01/2021	<p> Reply in Support Filed By: Defendant Uni-Ter Underwriting Management Corp; Defendant Uni-Ter Claims Services Corp; Defendant U S Re Corporation <i>[415] Defendants' Reply in Support of Motion in Limine Number 2: To Preclude Mark D. Tharp from Providing Expert Testimony Regarding Claims Reserving and "Suppression" of Reserves</i></p>
09/01/2021	<p> Reply in Support Filed By: Defendant Uni-Ter Underwriting Management Corp; Defendant Uni-Ter Claims Services Corp; Defendant U S Re Corporation <i>[416] Defendants Uni-Ter Underwriting Management Corp., Uni-Ter Claims Services Corp., and U.S. Re Corporations' Reply in Support of Their Motion in Limine to Strike and Exclude Testimony of the Receiver's Proposed Damages Expert, Mark Kuga</i></p>
09/02/2021	<p> Miscellaneous Filing Filed by: Defendant Uni-Ter Underwriting Management Corp; Defendant Uni-Ter Claims Services Corp; Defendant U S Re Corporation <i>[417] Defendants Uni-Ter Underwriting Management Corp., Uni-Ter Claims Services Corp.,</i></p>

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and U.S. Re Corporations' Deposition Transcript Designations

09/07/2021	 Objection Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[418] Objections to Defendants' Pre-Trial Disclosures</i>
09/08/2021	 Acceptance of Service Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[419] Acceptance of Service of Subpoena</i>
09/11/2021	 Miscellaneous Filing Filed by: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[420] Plaintiff's Deposition Transcript Designations</i>
09/14/2021	 Pre-trial Memorandum Filed by: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[421] Pretrial Memorandum</i>
09/14/2021	 Pre-trial Memorandum Filed by: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[422] Pretrial Memorandum - Part 2 of Exhibits</i>
09/14/2021	 Miscellaneous Filing Filed by: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[423] Plaintiff's Supplement to Deposition Transcript Designations</i>
09/16/2021	 Errata Filed By: Defendant Uni-Ter Underwriting Management Corp; Defendant Uni-Ter Claims Services Corp; Defendant U S Re Corporation <i>[425] Defendant Uni-Ter Underwriting Management Corporation, Defendant Uni-Ter Claims Services Corporation, and Defendant U.S. Re Corporation's Errata to Pretrial Memorandum</i>
09/17/2021	 Recorders Transcript of Hearing <i>[426] Transcript of Proceedings, Pending Motions, Heard on September 2, 2021</i>
09/17/2021	 Notice Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[427] Notice of Submission of Plaintiff's Proposed Voir Dire Questions</i>
09/17/2021	 Request for Judicial Notice Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[428] Request for Judicial Notice</i>
09/18/2021	 Order <i>[429] Discovery Commissioner's Report and Recommendations</i>
09/18/2021	 Order

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[430] Order to Strike

09/20/2021



Notice of Entry of Order

Filed By: Defendant Uni-Ter Underwriting Management Corp; Defendant Uni-Ter Claims Services Corp; Defendant U S Re Corporation

[431] Notice of Entry of Order Re: Discovery Commissioner's Report and Recommendations

09/20/2021



Notice of Entry of Order

Filed By: Defendant Uni-Ter Underwriting Management Corp; Defendant Uni-Ter Claims Services Corp; Defendant U S Re Corporation

[432] Notice of Entry of Order to Strike

09/20/2021



Order Granting Motion

Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark

[433] Order Granting Plaintiff's Motion In Limine No. 3

09/20/2021



Order Granting Motion

Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark

[434] Order Granting Plaintiff's Motion In Limine No. 7 To Preclude Introduction Of Irrelevant Evidence From Receivership Action Case No A-12-672047-C

09/20/2021



Order Denying Motion

Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark

[435] Order Denying Defendants Motion In Limine Number 2: To Preclude Mark D. Tharp From Providing Expert Testimony Regarding Claims Reserving And Suppression Of Reserves

09/20/2021



Order

Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark

[436] Order Granting In Part And Denying In Part Defendants Objection To The Discovery Commissioner's Report And Recommendations On Order Shortening Time

09/20/2021



Order

Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark

[437] Order Granting In Part And Denying In Part Plaintiff's Motion In Limine No. 2

09/20/2021



Order

Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark

[438] Order Granting In Part And Denying In Part Plaintiff's Motion For Partial Summary Judgment As To U.S. Re Corporation

09/20/2021



Order Denying Motion

Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark

[439] Order Denying Defendants Motion In Limine To Strike And Exclude Testimony Of Damages Expert Dr. Mark Kuga, Phd

09/20/2021



Jury List

[490] Jury List











09/21/2021



Notice of Entry

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	<p>Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[440] Notice of Entry of Order</i></p>
09/21/2021	<p> Notice of Entry Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[441] Notice of Entry of Order</i></p>
09/21/2021	<p> Notice of Entry Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[442] Notice of Entry of Order</i></p>
09/21/2021	<p> Notice of Entry Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[443] Notice of Entry of Order</i></p>
09/21/2021	<p> Notice of Entry Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[444] Notice of Entry of Order</i></p>
09/21/2021	<p> Notice of Entry Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[445] Notice of Entry of Order</i></p>
09/21/2021	<p> Notice of Entry Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[446] Notice of Entry of Order</i></p>
09/23/2021	<p> Miscellaneous Filing <i>[447] Plaintiff's Second Supplemental Deposition Transcript Designations</i></p>
09/24/2021	<p> Order Denying Motion <i>[448] Order Denying Plaintiff's Motion In Limine Number 5 To Limit The Scope Of Expert Witness Testimony Regarding Speculation Concerning The Economy</i></p>
09/24/2021	<p> Order Denying Motion Filed By: Attorney Garin, Joseph P; Attorney Ogilvie, George F., III; Third Party Plaintiff Chur, Robert; Third Party Plaintiff Fogg, Steve; Third Party Plaintiff Garber, Mark; Third Party Plaintiff Harter, Carol; Third Party Plaintiff Hurlbut, Robert; Third Party Plaintiff Lumpkin, Barbara; Third Party Plaintiff Marshall, Jeff; Third Party Plaintiff Stickels, Eric; Defendant Uni-Ter Underwriting Management Corp; Defendant Uni-Ter Claims Services Corp; Defendant U S Re Corporation <i>[449] Order Denying Plaintiff's Motion In Limine Number 4: To Preclude Any Reference To Reinsurance Estimates</i></p>
09/24/2021	<p> Order Denying Motion Filed By: Attorney Garin, Joseph P; Attorney Ogilvie, George F., III; Third Party Plaintiff Chur, Robert; Third Party Plaintiff Fogg, Steve; Third Party Plaintiff Garber, Mark; Third Party Plaintiff Harter, Carol; Third Party Plaintiff Hurlbut, Robert; Third Party Plaintiff Lumpkin, Barbara; Third Party Plaintiff Marshall, Jeff; Third Party Plaintiff Stickels, Eric; Defendant Uni-Ter Underwriting Management Corp; Defendant Uni-Ter Claims</p>

CASE SUMMARY

CASE NO. A-14-711535-C

Services Corp; Defendant U S Re Corporation

[450] Order Denying Plaintiff's Motion In Limine Number 1 To Preclude Sam Hewitt From Providing Expert Testimony Regarding Insolvency Analysis

09/24/2021



Order Denying Motion

Filed By: Attorney Garin, Joseph P; Attorney Ogilvie, George F., III; Third Party Plaintiff Chur, Robert; Third Party Plaintiff Fogg, Steve; Third Party Plaintiff Garber, Mark; Third Party Plaintiff Harter, Carol; Third Party Plaintiff Hurlbut, Robert; Third Party Plaintiff Lumpkin, Barbara; Third Party Plaintiff Marshall, Jeff; Third Party Plaintiff Stickels, Eric; Defendant Uni-Ter Underwriting Management Corp; Defendant Uni-Ter Claims Services Corp; Defendant U S Re Corporation

[451] Order Denying Plaintiff's Motion In Limine Number 6 To Strike Proffered Expert Witness Alan Gray

09/25/2021



Miscellaneous Filing

Filed by: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark

[452] Plaintiff's Third Supplemental Deposition Transcript Designations

09/26/2021



Request

Filed by: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark

[453] Request for Ruling Regarding Objections to Plaintiff's Designations of Deposition Testimony

09/27/2021



Order Denying Motion

Filed By: Defendant Uni-Ter Underwriting Management Corp; Defendant Uni-Ter Claims Services Corp; Defendant U S Re Corporation

[454] Order Denying Plaintiff's Motion For Partial Summary Judgment Regarding Uni-Ter Defendants Breach Of Their Fiduciary Duties

09/27/2021



Request

Filed by: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark

[455] Request for Ruling Regarding Objections to Plaintiff's Designations of Deposition Testimony

09/29/2021



Request

Filed by: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark

[456] Request for Judicial Notice

09/30/2021



Supplemental

Filed by: Defendant Uni-Ter Underwriting Management Corp; Defendant Uni-Ter Claims Services Corp; Defendant U S Re Corporation

[457] Defendants Uni-Ter Underwriting Management Corp., Uni-Ter Claims Services Corp., and U.S. Re Corporations' Supplement to Deposition Transcript Designations

09/30/2021



Notice of Entry of Order

Filed By: Defendant Uni-Ter Underwriting Management Corp; Defendant Uni-Ter Claims Services Corp; Defendant U S Re Corporation

[458] Notice of Entry of Order Denying Plaintiff's Motion in Limine No. 1: To Preclude Sam Hewitt from Providing Expert Testimony Regarding Insolvency Analysis

09/30/2021



Notice of Entry of Order













Filed By: Defendant Uni-Ter Underwriting Management Corp; Defendant Uni-Ter Claims Services Corp; Defendant U S Re Corporation

[459] Notice of Entry of Order Denying Plaintiff's Motion in Limine No. 4: To Preclude any

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Reference to Reinsurance Estimates

09/30/2021	 Notice of Entry of Order Filed By: Defendant Uni-Ter Underwriting Management Corp; Defendant Uni-Ter Claims Services Corp; Defendant U S Re Corporation <i>[460] Notice of Entry of Order Denying Plaintiff's Motion in Limine No 5: To Limit the Scope of Expert Witness Testimony Regarding Speculation Concerning the Economy</i>
09/30/2021	 Notice of Entry of Order Filed By: Defendant Uni-Ter Underwriting Management Corp; Defendant Uni-Ter Claims Services Corp; Defendant U S Re Corporation <i>[461] Notice of Entry of Order Denying Plaintiff's Motion in Limine Number 6 to Strike Proffered Expert Witness Alan Gray</i>
09/30/2021	 Notice of Entry of Order Filed By: Defendant Uni-Ter Underwriting Management Corp; Defendant Uni-Ter Claims Services Corp; Defendant U S Re Corporation <i>[462] Notice of Entry of Order Denying Plaintiff's Motion for Partial Summary Judgment Regarding Uni-Ter Defendants' Breach of Their Fiduciary Duties</i>
10/01/2021	 Recorders Transcript of Hearing <i>[463] Partial Transcript of Proceedings, Jury Trial Testimony of Mark D. Tharp, Heard on September 28, 2021</i>
10/04/2021	 Recorders Transcript of Hearing <i>[464] Partial Transcript of Proceedings, Jury Trial - Opening Statements, Heard on September, 21, 2021</i>
10/04/2021	 Recorders Transcript of Hearing <i>[465] Transcript of Proceedings, Jury Trial - Day 9, Heard on October 1, 2021</i>
10/04/2021	 Miscellaneous Filing Filed by: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[466] Plaintiff's Fourth Supplemental Deposition Transcript Designations</i>
10/05/2021	 Supplemental Filed by: Defendant Uni-Ter Underwriting Management Corp; Defendant Uni-Ter Claims Services Corp; Defendant U S Re Corporation <i>[467] Defendants Uni-Ter Underwriting Management Corp., Uni-Ter Claims Services Corp., and U.S. Re Corporations' Second Supplement to Deposition Transcript Designations</i>
10/06/2021	 Recorders Transcript of Hearing <i>[468] Transcript of Proceedings, Jury Trial - Day 10, Heard on October 5, 2021</i>
10/07/2021	 Jury List <i>[469] Amended Jury List</i>
10/07/2021	 Supplemental Filed by: Defendant Uni-Ter Underwriting Management Corp; Defendant Uni-Ter Claims Services Corp; Defendant U S Re Corporation <i>[470] Defendants Uni-Ter Underwriting Management Corp., Uni-Ter Claims Services Corp., and U.S. Re Corporations' Third Supplement to Deposition Transcript Designations</i>
10/07/2021	 Recorders Transcript of Hearing <i>[471] Partial Transcript of Proceedings, Jury Trial - Direct Examination of Christine Sterling,</i>

CASE SUMMARY















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Heard on September 22, 2021

10/07/2021	 Recorders Transcript of Hearing <i>[472] Partial Transcript of Proceedings, Jury Trial - Cross-Examination of Christine Sterling, Heard on September 23, 2021</i>
10/07/2021	 Recorders Transcript of Hearing <i>[473] Partial Transcript of Proceedings, Jury Trial - Testimony of Brian Stiefel, Heard on September 24, 2021</i>
10/07/2021	 Recorders Transcript of Hearing <i>[474] Partial Transcript of Proceedings, Jury Trial - Testimony of Debra Kay Volk and Jonna Miller, Heard on September 27, 2021</i>
10/08/2021	 Supplement Filed by: Defendant Uni-Ter Underwriting Management Corp; Defendant Uni-Ter Claims Services Corp; Defendant U S Re Corporation <i>[475] Defendants Uni-Ter Underwriting Management Corp., Uni-Ter Claims Services Corp., and U.S. Re Corporations' Fourth Supplement to Deposition Transcript Designations</i>
10/12/2021	 Recorders Transcript of Hearing <i>[476] Partial Transcript of Proceedings, Jury Trial - Examination of Mark Kuga, Heard on October 6, 2021</i>
10/12/2021	 Recorders Transcript of Hearing <i>[477] Partial Transcript of Proceedings, Jury Trial - Testimony of Jonna Miller, Heard on October 8, 2021</i>
10/12/2021	 Miscellaneous Filing Filed by: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[478] Plaintiff's Fifth Supplement to Deposition Transcript Designations</i>
10/13/2021	 Supplement Filed by: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[479] Plaintiff's Fifth Supplemental Deposition Transcript Designations</i>
10/13/2021	 Order Granting Motion Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[480] Order Granting Plaintiff's Requests for Judicial Notice</i>
10/14/2021	 Jury Instructions Party: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[481] Plaintiff's Proposed Jury Instructions</i>
10/14/2021	 Jury Instructions <i>[482] PLAINTIFF S PROPOSED JURY INSTRUCTIONS WITH CITATIONS</i>
10/14/2021	 Recorders Transcript of Hearing <i>[483] Partial Transcript of Proceedings, Jury Trial - Day 6 Partial Cross-Examination and Redirect of Robert Greer, Heard on September 27, 2021</i>


CASE SUMMARY

CASE NO. A-14-711535-C

10/14/2021	 Jury Instructions Party: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[484] Plaintiff's Proposed Jury Instructions with Citations</i>
10/14/2021	 Jury Instructions Party: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[485] Plaintiff's Proposed Jury Instructions with Citations</i>
10/14/2021	 Jury Instructions <i>[486] Plaintiff's Proposed Jury Instructions</i>
10/14/2021	 Jury Instructions <i>[487] PLAINTIFF S FINAL PROPOSED JURY INSTRUCTIONS WITH CITATIONS</i>
10/14/2021	 Amended Jury List <i>[489] 2nd Amended Jury List</i>
10/14/2021	 Verdict <i>[491] Verdict Form</i>
10/14/2021	 Jury Instructions <i>[492] Jury Instructions</i>
10/15/2021	 Notice of Entry Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[488] Notice of Entry of Order</i>
10/28/2021	 Stipulation and Order <i>[493] Stipulation and Order to Extend Deadline to Submit Draft Judgment</i>
11/01/2021	 Order Shortening Time Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[494] Motion For Order Extending Time For Plaintiff To File Memorandum Of Costs On Order Shortening Time</i>
11/02/2021	 Notice of Hearing <i>[495] Notice of Hearing</i>
11/03/2021	 Notice of Entry Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[496] Notice of Entry of Order</i>
11/08/2021	 Stipulation and Order Filed by: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[497] Stipulation and Order to Extend Deadline to Submit Draft Judgment Memorandum of Costs and Motion to Retax</i>
11/10/2021	 Order Shortening Time














CASE SUMMARY

CASE NO. A-14-711535-C

	<p>Filed By: Defendant Uni-Ter Underwriting Management Corp; Defendant Uni-Ter Claims Services Corp; Defendant U S Re Corporation <i>[498] Defendants Uni-Ter Underwriting Management Corp., Uni-Ter Claims Services Corp., and U.S. Re Corporations' Motion for Order Excluding Interest Accrued During Stay Periods</i></p>
11/12/2021	<p> Notice of Hearing <i>[499] Notice of Hearing</i></p>
11/18/2021	<p> Notice of Entry <i>[500] Notice of Entry of Order</i></p>
11/23/2021	<p> Opposition to Motion <p>Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[501] Plaintiff's Opposition to Defendants' Motion for Order to Exclude Interest Accrued During Stay Periods</i></p> </p>
12/15/2021	<p> Order Granting Motion <i>[502] Order Granting Motion to Exclude Interest, 12.15.21</i></p>
12/16/2021	<p> Notice of Entry of Order <p>Filed By: Defendant Uni-Ter Underwriting Management Corp; Defendant Uni-Ter Claims Services Corp; Defendant U S Re Corporation <i>[503] Notice of Entry of Order Granting Defendants Uni-Ter Underwriting Management Corp., Uni-Ter Claims Services Corp., and U.S. Re Corporation s Motion for Order Excluding Interest Accrued During Stay Periods</i></p> </p>
12/30/2021	<p> Judgment on Jury Verdict <i>[504] Judgment on Jury Verdict</i></p>
01/06/2022	<p> Notice of Withdrawal of Attorney <p>Filed by: Defendant Uni-Ter Underwriting Management Corp; Defendant Uni-Ter Claims Services Corp; Defendant U S Re Corporation <i>[505] Notice of Withdrawal of Counsel</i></p> </p>
01/10/2022	<p> Recorders Transcript of Hearing <i>[506] Partial Transcript of Proceedings, Jury Trial - Day 2, Heard on September 21, 2021</i></p>
01/10/2022	<p> Recorders Transcript of Hearing <i>[507] Partial Transcript of Proceedings, Jury Trial - Day 3, Heard on September 22, 2021</i></p>
01/10/2022	<p> Recorders Transcript of Hearing <i>[508] Partial Transcript of Proceedings, Jury Trial - Day 4, Heard on September 23, 2021</i></p>
01/10/2022	<p> Recorders Transcript of Hearing <i>[509] Partial Transcript of Proceedings, Jury Trial - Day 5, Heard on September 24, 2021</i></p>
01/10/2022	<p> Recorders Transcript of Hearing <i>[510] Partial Transcript of Proceedings, Jury Trial - Day 6, Heard on September 27, 2021</i></p>
01/13/2022	<p> Notice of Entry of Order <p>Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[511] Notice of Entry of Order</i></p> </p>

CASE SUMMARY

CASE NO. A-14-711535-C

01/24/2022	 Application for Examination of Judgment Debtor Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[512] Ex Parte Applicatin for Judgment Debtor Examination</i>
02/03/2022	 Order for Judgment Debtor Examination <i>[513] Order for Judgment Debtor Examination</i>
02/03/2022	 Motion for Attorney Fees and Costs Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[514] Motion for Attorney Fees and Costs</i>
02/04/2022	 Clerk's Notice of Hearing <i>[515] Notice of Hearing</i>
02/07/2022	 Notice of Entry <i>[516] Notice of Entry of Order</i>
02/09/2022	 Notice of Change of Address Filed By: Defendant Uni-Ter Underwriting Management Corp; Defendant Uni-Ter Claims Services Corp; Defendant U S Re Corporation <i>[517] Notice of Change of Address</i>
02/10/2022	 Motion to Amend Judgment Filed By: Defendant Uni-Ter Underwriting Management Corp; Defendant Uni-Ter Claims Services Corp; Defendant U S Re Corporation <i>[518] Defendant U.S. Re Corporation's Motion to Alter or Amend Judgment Pursuant to Rule 59(e), for Relief from Judgment and Pursuant to Rule 60(b), and for Stay of Execution Pursuant to 62(b)(3) and (4)</i>
02/10/2022	 Motion to Amend Judgment Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[519] Plaintiff's Motion to Alter or Amend Judgment Pursuant to NRCP 59</i>
02/11/2022	 Clerk's Notice of Hearing <i>[520] Notice of Hearing</i>
02/11/2022	 Clerk's Notice of Hearing <i>[521] Notice of Hearing</i>
02/12/2022	 Memorandum of Costs and Disbursements Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[522] Plaintiff's Verified Memorandum of Costs</i>
02/12/2022	 Exhibits Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[523] Part II of Exhibits to Plaintiff's Verified Memorandum of Costs</i>
02/14/2022	 Notice of Withdrawal of Attorney Filed by: Defendant Uni-Ter Underwriting Management Corp; Defendant Uni-Ter Claims Services Corp; Defendant U S Re Corporation

CASE SUMMARY

CASE NO. A-14-711535-C

[524] Notice of Withdrawal of Counsel for Defendants Uni-Ter Underwriting Management Corp. and Uni-Ter Claims Services Corp.

02/14/2022



Notice of Withdrawal of Attorney

Filed by: Defendant Uni-Ter Underwriting Management Corp; Defendant Uni-Ter Claims Services Corp; Defendant U S Re Corporation

[525] Notice of Withdrawal of Counsel for Defendants Uni-Ter Underwriting Management Corp. and Uni-Ter Claims Services Corp.

02/14/2022



Errata

Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark

[526] Errata to Plaintiff's Verified Memorandum of Costs

02/14/2022



Exhibits

Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark

[527] Part IV of Exhibits Errata to Plaintiff's Verified Memorandum of Costs

02/14/2022



Exhibits

Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark

[528] Part V of Exhibits Errata to Plaintiff's Verified Memorandum of Costs

02/14/2022



Notice of Appeal

Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark

[529] Notice of Appeal

02/15/2022



Exhibits

Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark

[530] Exhibits to Plaintiff's Verified Memorandum of Costs (Part 3-A)

02/15/2022



Exhibits

Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark

[531] Exhibits to Plaintiff's Verified Memorandum of Costs (Part 3-B)

02/15/2022



Exhibits

Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark

[532] Exhibits to Plaintiff's Verified Memorandum of Costs (Part 3-C)

02/15/2022



Exhibits

Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark

[533] Exhibits to Plaintiff's Verified Memorandum of Costs (Part 3-D)

02/17/2022



Stipulation and Order

[534] Stipulation and Order to Extend Response Deadline and Continue Hearing, 2.17.22

02/17/2022



Notice of Entry of Stipulation and Order

Filed By: Defendant U S Re Corporation

[535] Notice of Entry of Stipulation and Order to Extend Response Deadline and Continue Hearing

CASE SUMMARY

CASE NO. A-14-711535-C

02/24/2022



Stipulation and Order

Filed by: Defendant U S Re Corporation

[536] Stipulation and Order to Extend Response Deadlines and Continue Hearing

02/25/2022



Notice of Appeal

Filed By: Third Party Plaintiff Chur, Robert; Third Party Plaintiff Fogg, Steve; Third Party Plaintiff Garber, Mark; Third Party Plaintiff Harter, Carol; Third Party Plaintiff Hurlbut, Robert; Third Party Plaintiff Lumpkin, Barbara; Third Party Plaintiff Marshall, Jeff; Third Party Plaintiff Stickels, Eric

[537] Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert Hurlbut, Barbara Lumpkin, Jeff Marshall, and Eric Stickels' Notice of Appeal

02/25/2022



Case Appeal Statement

Filed By: Third Party Plaintiff Chur, Robert; Third Party Plaintiff Fogg, Steve; Third Party Plaintiff Garber, Mark; Third Party Plaintiff Harter, Carol; Third Party Plaintiff Hurlbut, Robert; Third Party Plaintiff Lumpkin, Barbara; Third Party Plaintiff Marshall, Jeff; Third Party Plaintiff Stickels, Eric

[538] Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert Hurlbut, Barbara Lumpkin, Jeff Marshall, and Eric Stickels' Case Appeal Statement

02/28/2022



Notice of Entry of Stipulation and Order

Filed By: Defendant U S Re Corporation

[539] Notice of Entry of Stipulation and Order to Extend Response Deadlines and Continue Hearing

03/03/2022



Notice

Filed By: Defendant U S Re Corporation

[540] Notice of Change of Address

03/03/2022



Stipulation and Order

Filed by: Defendant U S Re Corporation

[541] Stipulation and Order to Extend Response Deadline and Continue Hearing (Second Request) 030322

03/03/2022



Notice of Entry of Stipulation and Order

Filed By: Defendant U S Re Corporation

[542] Notice of Entry of Stipulation and Order to Extend Response Deadlines and Continue Hearing

03/07/2022



Stipulation and Order

Filed by: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark

[543] Stipulation And Order To Move Judgment Debtor Examination

03/10/2022



Notice of Filing Cost Bond

Filed By: Third Party Plaintiff Chur, Robert; Third Party Plaintiff Fogg, Steve; Third Party Plaintiff Garber, Mark; Third Party Plaintiff Harter, Carol; Third Party Plaintiff Hurlbut, Robert; Third Party Plaintiff Lumpkin, Barbara; Third Party Plaintiff Marshall, Jeff; Third Party Plaintiff Stickels, Eric

[544] Notice of Filing Cost Bond on Appeal

03/10/2022

















Case Appeal Statement

Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark

[545] Case Appeal Statement















CASE SUMMARY

CASE NO. A-14-711535-C

03/15/2022	 Notice of Entry <i>[546] Notice of Entry of Order</i>
03/15/2022	 Recorders Transcript of Hearing <i>[547] Partial Transcript of Proceedings, Jury Trial - Testimony of Sanford Elsass, Heard on September 27, 2021</i>
03/15/2022	 Recorders Transcript of Hearing <i>[548] Partial Transcript of Proceedings, Jury Trial - Testimony of Richard Decoux, Heard on October 11, 2021</i>
03/15/2022	 Recorders Transcript of Hearing <i>[549] Partial Transcript of Proceedings, Jury Trial - Testimony of Samuel Jackson Hewitt, Heard on October 11, 2021</i>
03/15/2022	 Recorders Transcript of Hearing <i>[550] Partial Transcript of Proceedings, Jury Trial - Testimony of Mark Tharp, Heard on October 12, 2021</i>
03/15/2022	 Recorders Transcript of Hearing <i>[551] Partial Transcript of Proceedings, Jury Trial - Testimony of Dr. Mark Kuga, Heard on October 13, 2021</i>
03/15/2022	 Recorders Transcript of Hearing <i>[552] Partial Transcript of Proceedings, Jury Trial - Verdict, Heard on October 14, 2021</i>
03/16/2022	 Motion to Retax Filed By: Defendant U S Re Corporation <i>[553] Motion to Retax Memorandum of Costs</i>
03/17/2022	 Clerk's Notice of Hearing <i>[554] Notice of Hearing</i>
03/17/2022	 Stipulation and Order <i>[555] Stipulation and Order to Extend Response Deadline and Continue Hearing (Third Request) 031722</i>
03/28/2022	 Stipulation and Order <i>[556] Stipulation And Order Regarding Pending Deadlines And Hearings</i>
03/29/2022	 Notice of Entry <i>[557] Notice of Entry of Order</i>
03/31/2022	 Motion to Amend Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[558] Plaintiff's Motion to Amend Pleadings to Conform them to the Evidence</i>
04/01/2022	 Clerk's Notice of Hearing Party: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[559] Notice of Hearing</i>
05/18/2022	

CASE SUMMARY














CASE NO. A-14-711535-C

	 Order Granting Motion Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[560] Order Granting Motion To Amend Pleadings To Conform Them To The Evidence</i>
05/19/2022	 Stipulation and Order Filed by: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[561] Stipulation and Order Regarding Pending Deadlines and Hearings</i>
05/20/2022	 Notice of Entry <i>[562] Notice of Entry of Order</i>
05/20/2022	 Notice of Entry <i>[563] Notice of Entry of Order</i>
06/08/2022	 NV Supreme Court Clerks Certificate/Judgment - Dismissed <i>[564] Nevada Supreme Court Clerk's Certificate/Remittitur Judgment - Dismissed</i>
07/05/2022	 NV Supreme Court Clerks Certificate/Judgment - Dismissed <i>[565] Nevada Supreme Court Clerk's Certificate/Remittitur Judgment - Dismissed</i>
08/24/2022	 Opposition to Motion Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[566] Plaintiff's Opposition to US Re's Motion to Alter or Amend the Judgment and for a Stay of Execution</i>
08/25/2022	 Certificate of Service <i>[567] Certificate of Service</i>
08/26/2022	 Opposition to Motion Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[568] Plaintiff's Opposition to Motion to Retax Memorandum of Costs</i>
08/30/2022	 Court Recorders Invoice for Transcript <i>[569]</i>
09/09/2022	 Court Recorders Invoice for Transcript <i>[570]</i>
09/09/2022	 Recorders Transcript of Hearing <i>[571] Transcript of Proceedings, All Pending Motions, Heard on September 7, 2022</i>
10/07/2022	 Supplement Filed by: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[572] Supplement to Errata to Plaintiff's Verified Memorandum of Costs</i>
10/07/2022	 Motion to Seal/Redact Records Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[573] Plaintiff's Motion to File Appendix to Supplement to Motion for Attorneys' Fees and</i>

CASE SUMMARY








CASE NO. A-14-711535-C

Costs Under Seal

10/07/2022	 Temporary Seal Pending Court Approval Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[574] Appendix of Exhibits to Supplement to Motion for Attorneys' Fees and Costs</i>
10/07/2022	 Supplement Filed by: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[575] Supplement to Motion for Attorney Fees and Costs</i>
10/18/2022	 Order Granting Motion Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[576] Order Granting Plaintiff's Motion to Alter or Amend Judgment</i>
10/18/2022	 Order Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[577] Order Regarding Attorney Fees and Costs</i>
10/19/2022	 Notice of Entry <i>[578] Notice of Entry of Order</i>
10/19/2022	 Notice of Entry <i>[579] Notice of Entry of Order</i>
10/21/2022	 Order Shortening Time <i>[580] Motion to Dismiss and Enforce Settlement Agreement on OST, 10.18.22</i>
10/31/2022	 Notice of Entry of Order Filed By: Defendant U S Re Corporation <i>[581] Notice of Entry of Order Shortening Time Re: Motion to Dismiss and Enforce Settlement Agreement</i>
11/03/2022	 Clerk's Notice of Nonconforming Document <i>[582] Clerk's Notice of Nonconforming Document</i>
11/04/2022	 Opposition <i>[583] OPPOSITION TO U.S. RES MOTION TO DISMISS AND ENFORCE SETTLEMENT AGREEMENT</i>
11/07/2022	 Clerk's Notice of Nonconforming Document and Curative Action <i>[584] Clerk's Notice of Curative Action</i>
11/08/2022	 Clerk's Notice of Hearing Party: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[585] Notice of Hearing</i>
11/09/2022	 Reply in Support Filed By: Defendant U S Re Corporation <i>[586] Reply in Support of Motion to Dismiss and Enforce Settlement Agreement</i>

CASE SUMMARY

CASE NO. A-14-711535-C



11/09/2022	 Notice of Appeal Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[587] Notice of Appeal</i>
11/10/2022	 Audiovisual Transmission Equipment Appearance Request <i>[588] NOTICE OF INTENT OF AUDIOVISUAL TRANSMISSION EQUIPMENT APPEARANCE</i>
11/18/2022	 Notice of Appeal Filed By: Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark <i>[589] Amended Notice of Appeal</i>
11/21/2022	 Court Recorders Invoice for Transcript <i>[590] Plaintiff</i>
11/21/2022	 Court Recorders Invoice for Transcript <i>[591] Defendant</i>
11/21/2022	 Notice of Appeal Filed By: Third Party Plaintiff Chur, Robert; Third Party Plaintiff Fogg, Steve; Third Party Plaintiff Garber, Mark; Third Party Plaintiff Harter, Carol; Third Party Plaintiff Hurlbut, Robert; Third Party Plaintiff Lumpkin, Barbara; Third Party Plaintiff Marshall, Jeff; Third Party Plaintiff Stickels, Eric <i>[592] Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert Hurlbut, Barbara Lumpkin, Jeff Marshall, and Eric Stickels' Notice of Appeal</i>
11/21/2022	 Case Appeal Statement <i>[593]</i>
	<u>DISPOSITIONS</u>
02/25/2016	Order of Dismissal Without Prejudice (Judicial Officer: Allf, Nancy) Debtors: Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark (Plaintiff) Creditors: Robert Chur (Defendant), Steve Fogg (Defendant), Mark Garber (Defendant), Carol Harter (Defendant), Robert Hurlbut (Defendant), Barbara Lumpkin (Defendant), Jeff Marshall (Defendant), Eric Stickels (Defendant) Judgment: 02/25/2016, Docketed: 03/03/2016 Comment: Certain Claims
05/04/2016	Order of Dismissal (Judicial Officer: Allf, Nancy) Debtors: U S Re Corporation (Defendant) Creditors: Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark (Plaintiff) Judgment: 05/04/2016, Docketed: 05/12/2016 Comment: Certain Claim
08/13/2020	Judgment (Judicial Officer: Allf, Nancy) Debtors: Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark (Plaintiff) Creditors: Robert Chur (Defendant), Steve Fogg (Defendant), Mark Garber (Defendant), Carol Harter (Defendant), Robert Hurlbut (Defendant), Barbara Lumpkin (Defendant), Jeff Marshall (Defendant), Eric Stickels (Defendant) Judgment: 08/13/2020, Docketed: 08/14/2020
09/20/2021	Partial Summary Judgment (Judicial Officer: Allf, Nancy)

CASE SUMMARY

CASE NO. A-14-711535-C

	<p>Debtors: U S Re Corporation (Defendant) Creditors: Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark (Plaintiff) Judgment: 09/20/2021, Docketed: 09/21/2021</p>
10/14/2021	<p>Verdict (Judicial Officer: Allf, Nancy) Debtors: Uni-Ter Underwriting Management Corp (Defendant), Uni-Ter Claims Services Corp (Defendant), U S Re Corporation (Defendant) Creditors: Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark (Plaintiff) Judgment: 10/14/2021, Docketed: 10/20/2021 Total Judgment: 15,222,853.00</p>
12/30/2021	<p>Judgment Upon the Verdict (Judicial Officer: Allf, Nancy) Debtors: U S Re Corporation (Defendant) Creditors: Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark (Plaintiff) Judgment: 12/30/2021, Docketed: 01/20/2022 Total Judgment: 10,482,456.58</p> <p>Debtors: Uni-Ter Underwriting Management Corp (Defendant) Creditors: Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark (Plaintiff) Judgment: 12/30/2021, Docketed: 01/20/2022 Total Judgment: 4,765,300.35</p> <p>Debtors: Uni-Ter Claims Services Corp (Defendant) Creditors: Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark (Plaintiff) Judgment: 12/30/2021, Docketed: 01/20/2022 Total Judgment: 3,812,240.31</p>
06/08/2022	<p>Clerk's Certificate (Judicial Officer: Allf, Nancy) Debtors: Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark (Plaintiff) Creditors: Robert Chur (Defendant), Steve Fogg (Defendant), Mark Garber (Defendant), Carol Harter (Defendant), Robert Hurlbut (Defendant), Barbara Lumpkin (Defendant), Jeff Marshall (Defendant), Eric Stickels (Defendant), Uni-Ter Underwriting Management Corp (Defendant), Uni-Ter Claims Services Corp (Defendant), U S Re Corporation (Defendant) Judgment: 06/08/2022, Docketed: 06/19/2022 Comment: Supreme Court No. 84253 Appeal Dismissed</p>
07/05/2022	<p>Clerk's Certificate (Judicial Officer: Allf, Nancy) Debtors: Robert Chur (Defendant), Steve Fogg (Defendant), Mark Garber (Defendant), Carol Harter (Defendant), Robert Hurlbut (Defendant), Barbara Lumpkin (Defendant), Jeff Marshall (Defendant), Eric Stickels (Defendant) Creditors: Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark (Plaintiff) Judgment: 07/05/2022, Docketed: 07/05/2022 Comment: Supreme Court No. 84311 Appeal Dismissed</p>

HEARINGS

01/27/2016	<p> Motion to Dismiss (10:00 AM) (Judicial Officer: Allf, Nancy) Events: 12/11/2015 Motion to Dismiss <i>Defendants Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert Hurlbut, Barbara Lumpkin, Jeff Marshall, and Eric Stickels' Motion to Dismiss</i></p> <p>MINUTES</p> <p> Motion to Dismiss Filed By: Third Party Plaintiff Chur, Robert <i>[24] Defendants Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert Hurlbut, Barbara Lumpkin, Jeff Marshall, and Eric Stickels' Motion to Dismiss</i></p> <p>Granted in Part; Defendants Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert</p>
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CASE SUMMARY

CASE NO. A-14-711535-C

Hurlbut, Barbara Lumpkin, Jeff Marshall, and Eric Stickels' Motion to Dismiss

Journal Entry Details:

Arguments by Ms. Ochoa and Mr. Wirthlin regarding the merits of and opposition to the motion. Mr. Ogilvie stated he had nothing to add. Court stated its findings and ORDERED, Defendants Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert Hurlbut, Barbara Lumpkin, Jeff Marshall and Erick Stickels' Motion to Dismiss GRANTED IN PART/DENIED IN PART, as to the first cause of action GRANTED, with 30 days, from entry of the order, leave to amend; as to the second cause of action, if Plaintiffs choose to amend the first cause of action, the second cause of action will proceed. Ms. Ochoa to prepare the order and submit it to counsel for approval.;

02/19/2016



Minute Order (3:00 AM) (Judicial Officer: Allf, Nancy)

Minute Order: Motino to Associate Counsel set 3/1/2016 GRANTED and VACATED

Minute Order - No Hearing Held; Minute Order: Motino to Associate Counsel set 3/1/2016 GRANTED and VACATED

Journal Entry Details:

COURT FINDS after review that Defendants U.S. RE Corporation, Uni-Ter Underwriting Corp., and Uni-Ter Claims Services Corp. filed a Motion to Associate Counsel, Jon M. Wilson, Esq. on January 26, 2016, with a hearing set for Chambers Calendar on March 1, 2016. COURT FURTHER FINDS after review the Motion is in compliance with SCR 42 and all parties have filed Non-Oppositions. COURT ORDERS after review, for good cause appearing and pursuant to EDCR 2.20 (e), failure to file an opposition may be construed as an admission that the motion is meritorious and consent to granting the same, that Defendants U.S. RE Corporation, Uni-Ter Underwriting Corp., and Uni-Ter Claims Services Corp. s Motion to Associate Counsel is GRANTED; Hearing on CHAMBERS CALENDAR on March 1, 2016 is VACATED. An Order has already been provided to the Court. CLERK'S NOTE: A copy of this minute order was faxed to: James L. Wadhams, Esq. (702-692-8099), Joseph P. Garin, Esq. (702-382-1512), and George F. Ogilvie III, Esq. (702-873-9966).;

02/25/2016

Motion to Dismiss (10:30 AM) (Judicial Officer: Allf, Nancy)

Events: 01/22/2016 Motion to Dismiss

Defendants Uni-Ter Underwriting Management Corp. and Uni-Ter Claims Services Corp.'s Motion to Dismiss

Continued for Chambers Decision;

02/25/2016

Motion to Dismiss (10:30 AM) (Judicial Officer: Allf, Nancy)

Events: 01/22/2016 Motion to Dismiss

Defendant U.S. RE Corporation's Motion to Dismiss

Continued for Chambers Decision;

02/25/2016



All Pending Motions (10:30 AM) (Judicial Officer: Allf, Nancy)

Matter Heard;

Journal Entry Details:

DEFENDANTS UNI-TER UNDERWRITING MANAGEMENT CORP. AND UNI-TER CLAIMS SERVICES CORP.'S MOTION TO DISMISS...DEFENDANT U.S. RE CORPORATION'S MOTION TO DISMISS John Wilson, Pro Hac Vice, also present. Arguments by counsel regarding the merits of and oppositions to the pending motions. COURT ORDERED, Defendants Uni-Ter Underwriting Management Corp. and Uni-Ter Claims Services Corp's Motion to Dismiss...Defendant U.S. RE Corporation's Motion to Dismiss CONTINUED TO CHAMBERS for Court to review additional case law and provide a written decision, if decision is not ready by continuance then Court will issue a minute order letting counsel know. 3/15/2016 (CHAMBERS) DECISION: DEFENDANTS UNI-TER UNDERWRITING MANAGEMENT CORP. AND UNI-TER CLAIMS SERVICES CORP.'S MOTION TO DISMISS, DEFENDANT U.S. RE CORPORATION'S MOTION TO DISMISS;

03/01/2016

CANCELED Motion to Associate Counsel (3:00 AM) (Judicial Officer: Allf, Nancy)

Vacated - Previously Decided

Motion to Associate Counsel

03/15/2016



Decision (3:00 AM) (Judicial Officer: Allf, Nancy)

03/15/2016, 04/05/2016, 04/19/2016

Decision: Defendants Uni-Ter Underwriting Management Corp. and Uni-Ter Claims Services

CASE SUMMARY

CASE NO. A-14-711535-C

Corp.'s Motion to Dismiss

Matter Continued;

Matter Continued;

Matter Continued;

Journal Entry Details:

COURT FINDS after review two Motions were taken under submission on February 25, 2016:

1) Defendants Uni-Ter Underwriting Management Corp. and Uni-Ter Claims Services Corp. s Motion to Dismiss; and 2) Defendant U.S. RE Corporation s Motion to Dismiss. COURT FURTHER FINDS after review a Status Check on Written Decision was set for Chambers Calendar on March 15, 2016 then Continued to April 5, 2016, and then April 19, 2016.

COURT ORDERS for good cause appearing and after review, the Hearing on the Status Check on the Decision and Order set for CHAMBERS CALENDAR on April 19, 2016 CONTINUED to CHAMBERS CALENDAR on May 17, 2016. CONTINUED TO.....5/17/2016

(CHAMBERS) CLERK'S NOTE: A copy of this minute order was faxed to: James L. Wadhams, Esq. (702-692-8099), Joseph P. Garin, Esq. (702-382-1512), and George F. Ogilvie III, Esq. (702-873-9966).;

Matter Continued;

Matter Continued;

Matter Continued;

Journal Entry Details:

COURT FINDS after review two Motions were taken under submission on February 25, 2016:

1) Defendants Uni-Ter Underwriting Management Corp. and Uni-Ter Claims Services Corp. s Motion to Dismiss; and 2) Defendant U.S. RE Corporation s Motion to Dismiss. COURT FURTHER FINDS after review a Status Check on Written Decision was set for Chambers Calendar on March 15, 2016 then Continued to April 5, 2016. COURT ORDERS for good

cause appearing and after review, the Hearing on the Status Check on the Decision and Order set for CHAMBERS CALENDAR on April 5, 2016 CONTINUED to CHAMBERS CALENDAR on April 19, 2016. CONTINUED TO.....4/19/2016 (CONTINUED) CLERK'S NOTE:

A copy of this minute order was faxed to: James L. Wadhams, Esq. (702-692-8099), Joseph P. Garin, Esq. (702-382-1512), and George F. Ogilvie III, Esq. (702-873-9966). ;

Matter Continued;

Matter Continued;

Matter Continued;

Journal Entry Details:

COURT FINDS after review two Motions were taken under submission on February 25, 2016:

1) Defendants Uni-Ter Underwriting Management Corp. and Uni-Ter Claims Services Corp. s Motion to Dismiss; and 2) Defendant U.S. RE Corporation s Motion to Dismiss. COURT FURTHER FINDS after review a Status Check on Written Decision was set for Chambers Calendar on March 15, 2016. COURT ORDERS for good cause appearing and after review,

the Hearing on the Status Check on the Decision and Order set for CHAMBERS CALENDAR on March 15, 2016 CONTINUED to CHAMBERS CALENDAR on April 5, 2016. CONTINUED TO.....4/5/2016 (CHAMBERS) CLERK'S NOTE: A copy of this

minute order was faxed to: James L. Wadhams, Esq. (702-692-8099), Joseph P. Garin, Esq. (702-382-1512), and George F. Ogilvie III, Esq. (702-873-9966). ;

06/14/2016



Minute Order (3:00 AM) (Judicial Officer: Allf, Nancy)

Minute Order - No Hearing Held;

Journal Entry Details:

COURT FINDS after review that on April 1, 2016, Plaintiff filed its First Amended Complaint.

COURT FURTHER FINDS after review that on April 18, 2016 Defendants Chur, et al. filed a Motion to Dismiss the First Amended Complaint and the Hearing was set for Motions Calendar on June 16, 2016 at 10:30 a.m. COURT FURTHER FINDS after review that on May

4, 2016 the Court issued a Decision and Order on Defendants Uni-Ter Underwriting Management Corp., et al. s Motion to Dismiss the Original Complaint that it had taken under advisement on February 25, 2016. COURT FURTHER FINDS after review that in the May 4,

2016 Decision and Order the Court gave Plaintiff 30 days from Notice of Entry of Order, which was filed on May 10, 2016, to file a Second Amended Complaint. COURT FURTHER FINDS after review that Plaintiff filed the Second Amended Complaint on June 13, 2016.

COURT FURTHER FINDS after review that none of the parties have addressed the fact that the First Amended Complaint is no longer the operative Complaint and as such is no longer subject to dismissal during the June 16, 2016 Hearing. COURT ORDERS for good cause appearing and after review, the Court will be convening a Telephonic Conference between all parties to discuss how the motions to dismiss will be handled; the Court will be in contact with all parties to determine a mutually convenient time to set the Telephonic Conference. COURT FURTHER ORDERS for good cause appearing and after review, the Hearing set for

CASE SUMMARY

CASE NO. A-14-711535-C

MOTIONS CALENDAR on June 16, 2016 is VACATED subject to being re-set pending the outcome of the discussion during the Telephonic Conference between all parties. CLERK S NOTE: Counsel is to ensure a copy of the forgoing minute order is distributed to all interested parties; additionally, a copy of the foregoing minute order was distributed to the following Service Recipients via Wiznet E-Service: Attorney General's Office Joanna Grigoriev jgrigoriev@ag.nv.gov Nevada Attorney General wiznetfilings@ag.nv.gov Broad and Cassel Jon M. Wilson jwilson@broadandcassel.com Fennemore Craig, P.C. Adrina Harris aharris@fclaw.com Brenoch Wirthlin bwirthli@fclaw.com Cheryl Landis clandis@fclaw.com Karl L. Nielson, Esq. knielson@fclaw.com Lipson, Neilson, Cole, Seltzer & Garin, P.C. Angela T. Nakamura Ochoa aochoa@lipsonneilson.com Joseph P. Garin, Esq. jgarin@lipsonneilson.com Lisa Noltie lnoltie@lipsonneilson.com Renee Rittenhouse rrittenhouse@lipsonneilson.com Susana Nutt snutt@lipsonneilson.com McDonald Carano Wilson LLP CaraMia Gerard cgerard@mcdonaldcarano.com George F. Ogilvie III gogilvie@mcdonaldcarano.com James W. Bradshaw jbradshaw@mcdonaldcarano.com Jeff Riesenmy jriesenmy@mcdonaldcarano.com Kathy Barrett kbarrett@mcdonaldcarano.com Nancy Hoy nhoy@mcdonaldcarano.com Nevada Attorney General Marilyn Millam mmillam@ag.nv.gov Nevada Division of Insurance Terri Verbrugghen verbrug@doi.nv.gov;

06/16/2016	<p>CANCELED Motion to Dismiss (10:30 AM) (Judicial Officer: Allf, Nancy)</p> <p><i>Vacated</i></p> <p><i>Defendants Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert Hurlbut, Barbara Lumpkin, Jeff Marshall, and Eric Stickels' Motion to Dismiss First Amended Complaint</i></p>
06/23/2016	<p> Status Check (2:30 PM) (Judicial Officer: Allf, Nancy)</p> <p><i>Status Check: Handling of Motions to Dismiss</i></p> <p>Matter Heard;</p> <p>Journal Entry Details:</p> <p><i>All counsel present telephonically. Mr. Wirthlin stated he has filed the second amended complaint and the complaint was intended to address the allegation as to U S Re Corporation. Ms. Ochoa stated she has requested to see a redline copy which would help her determine whether to amend her motion to dismiss or refile it. Mr. Wilson stated he is also getting a redline version of the complaint for the same reason. Upon inquiry by the Court whether there would be any objection to vacating the current motion to dismiss for Defendants to review the redline version of the complaint to determine how to proceed, counsel stated they had no objection. COURT ORDERED, motion to dismiss VACATED. Mr. Ogilvie requested an extension of time to respond to the second complaint. Ms. Ochoa requested the same extension. Mr. Wirthling stipulated to the extensions until July 15, 2016. COURT ORDERED, response will be due on or by July 15, 2016. ;</i></p>
09/15/2016	<p>Motion to Dismiss (10:30 AM) (Judicial Officer: Allf, Nancy)</p> <p><i>Defendant's Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert Hurlbut, Barbara Lumpkin, Jeff Marshall, and Eric Stickels Motion to Dismiss First Amended Complaint</i></p> <p>Denied;</p>
09/15/2016	<p>Motion to Dismiss (10:30 AM) (Judicial Officer: Allf, Nancy)</p> <p><i>Defendant Uni-Ter Underwriting Management Corp.'s Motion to Dismiss Negligent Misrepresentation Claim of Third Party Complaint</i></p> <p>Denied;</p>
09/15/2016	<p> All Pending Motions (10:30 AM) (Judicial Officer: Allf, Nancy)</p> <p>Matter Heard;</p> <p>Journal Entry Details:</p> <p><i>Arguments by counsel regarding the merits of and opposition to the pending motions. Court stated its findings and ORDERED, Defendant's Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert Hurlbut, Barbara Lumpkin, Jeff Marshall, and Eric Stickels Motion to Dismiss First Amended Complaint DENIED, Defendant Uni-Ter Underwriting Management Corp.'s Motion to Dismiss Negligent Misrepresentation Claim of Third Party Complaint DENIED. Mr. Wirthlin to prepare the orders and submit them to opposing counsel for approval as to form.;</i></p>
02/28/2017	<p> Discovery Conference (9:30 AM) (Judicial Officer: Bulla, Bonnie)</p> <p><i>COURT CALL - Discovery Conference</i></p> <p>Scheduling Order Will Issue;</p>

CASE SUMMARY

CASE NO. A-14-711535-C

Journal Entry Details:

Mr. Ogilvie stated co-counsel on Court Call had a medical issue and could not be present. Colloquy re: dates. Counsel anticipate four weeks for trial re: Breach of fiduciary duty; no Settlement Conference requested. COMMISSIONER RECOMMENDED, discovery cutoff is 1/31/18; adding parties, amended pleadings, and initial expert disclosures DUE 9/29/17; Defts' initial expert disclosures DUE 10/30/17; rebuttal expert disclosures DUE 11/30/17; FILE dispositive motions by 3/1/18. Scheduling Order will issue.;

08/01/2017



Motion to Associate Counsel (3:00 AM) (Judicial Officer: Allf, Nancy)

Deft's Motion to Associate Counsel

Granted;

Journal Entry Details:

COURT FINDS after review that Defendants U.S. RE Corporation, Uni-Ter Underwriting management Corp., and Uni-Ter Claims Services Corp. filed a Motion to Associate Counsel (Kimberly J. Freedman) (Motion) on June 29, 2017 and the matter was set for Chambers Calendar on August 1, 2017. COURT FURTHER FINDS after review the Motion seeks to associate Kimberly J. Freedman, Esq. of the law firm of Broad and Cassel LLP; the Motion is in compliance with SCR 42 and no opposition has been filed. COURT ORDERS for good cause appearing and after review Defendants U.S. RE Corporation, Uni-Ter Underwriting management Corp., and Uni-Ter Claims Services Corp. s Motion to Associate Counsel (Kimberly J. Freedman) is GRANTED; the Court has reviewed the Motion, which provides for cause for the Granting of this Motion; Hearing on MOTIONS CALENDAR on August 1, 2017 is VACATED; Movant to submit the Order. CLERK'S NOTE: A copy of this minute order was faxed to: McDonald Carano LLP (702-873-9966), Lipson, Neilson, Cole, Seltzer & Garin, P.C. (702-382-1512), and Fennemore Craig, P.C. (702-692-8099);

05/10/2018

CANCELED Pretrial/Calendar Call (10:30 AM) (Judicial Officer: Allf, Nancy)

Vacated - per Stipulation and Order

05/14/2018

CANCELED Jury Trial (10:30 AM) (Judicial Officer: Allf, Nancy)

Vacated - per Stipulation and Order

09/28/2018



Motion for Protective Order (10:00 AM) (Judicial Officer: Bulla, Bonnie)

Defts Uni-Ter Underwriting Management Corp, Uni-Ter Claims Services Corp. and US Re Corporation's Motion for Entry of a Protective Order on OST

Granted; Defts Uni-Ter Underwriting Management Corp, Uni-Ter Claims Services Corp. and US Re Corporation's Motion for Entry of a Protective Order on OST

Journal Entry Details:

Erin Kolmansberger, Esquire, for U.S. Re Corporation and Uni-Ter Defts (Pro Hac Vice application pending); Jonathan Wong, Esquire, for Director Defts. Commissioner questioned why this matter isn't before Judge Gonzalez. Mr. Wirthlin stated the Receiver stepped in when Uni-Ter went under (Managers and Brokers for Lewis and Clark); Claimants and policy holders had their policies canceled / denied because Lewis and Clark became insolvent. The action in front of Judge Gonzalez is the precursor action to the instant action. Upon Commissioner's inquiry, Mr. Wirthlin state this case involves claims the Receiver has on behalf of Lewis and Clark against Uni-Ter, the Management Company, for breach of fiduciary duty, U.S. Re, the Broker for Re Insurance, and the Director Defts. Mr. Wirthlin confirmed the case involves wasting of assets as well. If there is a problem with documentation productions related to Receivership and the Orders Judge Gonzalez implemented, Commissioner stated it must go back to Judge Gonzalez. Colloquy re: questions to the 30(b)(6) Deponent. Counsel must decide the purpose of the deposition. Mr. Wirthlin requested from 2006, but he would be ok with 2008 processes and document retention and servers going forward. COMMISSIONER RECOMMENDED, Amend the 30(b)(6) deposition notice; 1 and 2 are PROTECTED, for problems, go back to the Court handling the Receivership; 3 - before the Receivership was filed; 4 - if you have missing information you want, go back to Judge Gonzalez; counsel can ask about a specific document you found out about later. Mr. Wirthlin addressed two document dumps. Ask where emails were stored. COMMISSIONER RECOMMENDED, no problem with 5; 6 - if you want to modify for prior to the Receivership action; 7 - Commissioner is ok with modifications (make relevant to the current case). Contact Commissioner by conference call during the deposition if necessary. COMMISSIONER RECOMMENDED, 7 and 8 were modified; 9 is PROTECTED; how they complied with the Receivership Orders must be eliminated. COMMISSIONER RECOMMENDED, motion is GRANTED within parameters; Mr. Ogilvie has 30 days from the date they received the amended 30(b)(6) notice to prepare and produce someone for deposition. Commissioner

CASE SUMMARY



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suggested the end of October. Mr. Wirthlin will coordinate with the Attorney General's Office and notice a deposition in the other case; take concurrent depositions if Judge Gonzalez and Judge Alf agree (two separate deposition on the same day). COMMISSIONER RECOMMENDED, the 30(b)(6) depositions must be taken, but limited as set forth by Commissioner. Commissioner Is Not Waiving the 15 days notice and three days for mailing or e-service unless counsel agree. Commissioner will stand by counsels' agreement. Mr. Ogilvie to prepare the Report and Recommendations, and Mr. Wirthlin to approve as to form and content. A proper report must be timely submitted within 10 days of the hearing. Otherwise, counsel will pay a contribution. Commissioner advised counsel to read the Proposed Rules on the Supreme Court website, and let the Supreme Court know if there are problems.;

- 10/03/2018 **CANCELED Motion** (9:00 AM) (Judicial Officer: Alf, Nancy)
Vacated - Duplicate Entry
Defendant Uni-Ter Underwriting Management Corp., Uni-Ter Claims Services Corp. and U.S. Re Corporation's Motion for Entry of a Protective Order on Order Shortening Time
- 10/03/2018 **CANCELED Motion** (9:00 AM) (Judicial Officer: Alf, Nancy)
Vacated - Set in Error
Defendants Uni-Ter Underwriting Management Corp., Uni-Ter Claims Services Corp. and U.S. Re Corporation's Motion for Entry of a Protective Order on Order Shortening Time
- 10/04/2018 **CANCELED Pretrial/Calendar Call** (10:31 AM) (Judicial Officer: Alf, Nancy)
Vacated - per Stipulation and Order
- 10/08/2018 **CANCELED Jury Trial** (10:30 AM) (Judicial Officer: Alf, Nancy)
Vacated - per Stipulation and Order
- 10/11/2018 **Motion for Judgment** (9:30 AM) (Judicial Officer: Alf, Nancy)
Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert Hurlbut, Barbara Lumpkin, Jeff Marshall, And Eric Stickels Motion For Judgment On The Pleadings Pursuant To NRCP 12 (C)
 Denied;
- 10/11/2018 **Opposition and Countermotion** (9:30 AM) (Judicial Officer: Alf, Nancy)
Plaintiff's (1) Opposition to Director Defendants' Motion for Judgment on the Pleadings and (2) Countermotion for Summary Judgment as to Liability Only
 Stricken;
- 10/11/2018 **Motion to Strike** (9:30 AM) (Judicial Officer: Alf, Nancy)
Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert Hurlbut, Barbara Lumpkin, Jeff Marshall, and Eric Stickels' Motion to Strike Plaintiff's Countermotion for Summary Judgment on Order Shortening Time
 Granted;
- 10/11/2018  **All Pending Motions** (9:30 AM) (Judicial Officer: Alf, Nancy)
 Matter Heard;
 Journal Entry Details:
ROBERT CHUR, STEVE FOGG, MARK GARBER, CAROL HARTER, ROBERT HURLBUT, BARBARA LUMPKIN, JEFF MARSHALL, AND ERIC STICKELS' MOTION TO STRIKE PLAINTIFF'S COUNTERMOTION FOR SUMMARY JUDGMENT ON ORDER SHORTENING TIME PLAINTIFF'S (1) OPPOSITION TO DIRECTOR DEFENDANTS' MOTION FOR JUDGMENT ON THE PLEADINGS AND (2) COUNTERMOTION FOR SUMMARY JUDGMENT AS TO LIABILITY ONLY ROBERT CHUR, STEVE FOGG, MARK GARBER, CAROL HARTER, ROBERT HURLBUT, BARBARA LUMPKIN, JEFF MARSHALL, AND ERIC STICKELS MOTION FOR JUDGMENT ON THE PLEADINGS PURSUANT TO NRCP 12(C) Arguments by Ms. Nakamura and Mr. Cereghino regarding the merits of and opposition to the motion to strike. Court stated its findings and ORDERED, Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert Hurlbut, Barbara Lumpkin, Jeff Marshall, and Eric Stickels' Motion to Strike Plaintiff's Countermotion for Summary Judgment on Order Shortening Time GRANTED. Ms. Nakamura to prepare the order and submit it to opposing counsel for approval. COURT FURTHER ORDERED, Plaintiff's (1) Opposition to Director Defendants' Motion for Judgment on the Pleadings and (2) Countermotion for Summary Judgment as to Liability Only STRICKEN and OFF CALENDAR. Arguments by Ms. Nakamura





CASE SUMMARY

CASE NO. A-14-711535-C

	<p>and Mr. Wirthlin regarding the merits of and opposition to the motion for judgment. Court stated its findings and ORDERED, Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert Hurlbut, Barbara Lumpkin, Jeff Marshall, And Eric Stickels Motion For Judgment On The Pleadings Pursuant To NRCP 12(C) DENIED. Plaintiff's counsel to prepare the order and submit it to opposing counsel. Upon inquiry of Court regarding if a settlement conference would help parties, Mr. Wirthlin stated he is open to whatever Defendant wants to address and they have done mediation in which they were not able to resolve the matter. Upon further inquiry of Court regarding if there is any opposition to the Motion to Associate Counsel set on October 16, 2018, Mr. Wirthlin and Ms. Nakamura stated they did not oppose it. COURT ORDERED, Motion to Association Counsel Erin Kolmansberger GRANTED and VACATED from the October 16, 2018 chambers calendar.;</p>
10/16/2018	<p>CANCELED Motion to Associate Counsel (3:00 AM) (Judicial Officer: Allf, Nancy) <i>Vacated</i> <i>Motion to Associate Counsel Erin Kolmansberger</i></p>
11/29/2018	<p>CANCELED Status Check: Compliance (3:00 AM) (Judicial Officer: Bulla, Bonnie) <i>Vacated - per Commissioner</i></p>
12/27/2018	<p> Motion (9:30 AM) (Judicial Officer: Allf, Nancy) <i>Plaintiff's Motion for Extension of Discovery Deadlines and to Continue Trial on an Order Shortening Time</i> <i>Granted in Part;</i> <i>Journal Entry Details:</i> <i>Arguments by Mr. Wirthlin and Ms. Ochoa regarding the merits of and opposition of the motion. Colloquy regarding the five year rule. Mr. Wirthlin requested a firm setting in November 2019. Court stated it would give an additional sixty days on t discovery and set a firm trial day, however, there will be no more extensions. Upon inquiry of the Court regarding time need for trial, Mr. Wirthlin stated it should be two to three weeks. Ms. Ochoa stated three weeks would be fine. Court directed counsel to provide their availability in October, November, and December for three weeks of trial to Court's Judicial Executive Assistant by January 9, 2019. COURT ORDERED, Plaintiff's Motion for Extension of Discovery Deadlines and to Continue Trial on an Order Shortening Time GRANTED IN PART, DENIED IN PART; extension of discovery will be for sixty days and a firm trial will be set. Court directed counsel to provide their availability in October, November, and December for three weeks of trial to Court's Judicial Executive Assistant by January 9, 2019. Mr. Wirthlin to prepare the order and submit it to opposing counsel for approval.;</i></p>
12/27/2018	<p>CANCELED Motion to Extend Discovery (9:30 AM) (Judicial Officer: Allf, Nancy) <i>Vacated - Duplicate Entry</i> <i>Plaintiff's Motion for Extension of Discovery Deadlines and to Continue Trial on Order Shortening Time (Fourth Request)</i></p>
01/04/2019	<p> Minute Order (3:00 AM) (Judicial Officer: Allf, Nancy) <i>Minute Order: Request for Hearing on Defendant's Motion for Reconsideration and Plaintiff's Opposition to Director Defendants' Motion for Reconsideration and Countermotion for Attorney's Fees set 1/10/2019 CONTINUED to 1/9/2019</i> <i>Minute Order - No Hearing Held; Minute Order: Request for Hearing on Defendant's Motion for Reconsideration and Plaintiff's Opposition to Director Defendants' Motion for Reconsideration and Countermotion for Attorney's Fees set 1/10/2019 CONTINUED to 1/9/2019</i> <i>Journal Entry Details:</i> <i>On December 3, 2019, Request for Hearing on Defendant's Motion for Reconsideration was filed and set for January 3, 2019. On December 17, 2019 a request was made to continue the hearing to January 10, 2019 and matter was continued. On December 27, 2018 Plaintiff's Opposition to Director Defendants' Motion for Reconsideration and Countermotion for Attorney's Fees was filed and set for January 10, 2019. As Court is unavailable on January 10, 2019, COURT ORDERED, motion and countermotion CONTINUED to January 9, 2019 at 9:00 a.m. CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 1/4/2019 ;</i></p>
01/08/2019	<p>CANCELED Motion For Reconsideration (3:00 AM) (Judicial Officer: Allf, Nancy) <i>Vacated - Duplicate Entry</i></p>






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CASE NO. A-14-711535-C

01/09/2019	<p>Motion For Reconsideration (9:00 AM) (Judicial Officer: Allf, Nancy) <i>Request for Hearing on Defendant's Motion for Reconsideration</i> Denied;</p>
01/09/2019	<p>Opposition and Countermotion (9:00 AM) (Judicial Officer: Allf, Nancy) <i>Plaintiff's Opposition to Director Defendants' Motion for Reconsideration and Countermotion for Attorney's Fees</i> Denied;</p>
01/09/2019	<p> All Pending Motions (9:00 AM) (Judicial Officer: Allf, Nancy)</p> <p>MINUTES Matter Heard; Journal Entry Details: <i>PLAINTIFF'S OPPOSITION TO DIRECTOR DEFENDANTS' MOTION FOR RECONSIDERATION AND COUNTERMOTION FOR ATTORNEY'S FEES...REQUEST FOR HEARING ON DEFENDANT'S MOTION FOR RECONSIDERATION</i> Arguments by Mr. Peek and Mr. Wirthlin regarding the merits of and opposition to the pending motions. COURT ORDERED, <i>Request for Hearing on Defendant's Motion for Reconsideration and Plaintiff's Opposition to Director Defendants' Motion for Reconsideration and Countermotion for Attorney's Fees</i> TAKEN UNDER ADVISEMENT, court will consider the merits and write a decision. COURT ORDERED, status check for decision SET on chambers calendar 1/29/2019 CHAMBERS DECISION: PLAINTIFF'S OPPOSITION TO DIRECTOR DEFENDANTS' MOTION FOR RECONSIDERATION AND COUNTERMOTION FOR ATTORNEY'S FEES; REQUEST FOR HEARING ON DEFENDANT'S MOTION FOR RECONSIDERATION;</p> <p>SCHEDULED HEARINGS  Decision (01/29/2019 at 3:00 AM) (Judicial Officer: Allf, Nancy) <i>Decision: Request for Hearing on Defendant's Motion for Reconsideration; Plaintiff's Opposition to Director Defendants' Motion for Reconsideration and Countermotion for Attorney's Fees</i></p>
01/24/2019	<p> Motion (9:30 AM) (Judicial Officer: Allf, Nancy) <i>Plaintiffs Motion for Substitution of Deceased Party Pursuant to NRCP 25(a)</i> Denied; Journal Entry Details: <i>Mr. Wirthlin noted that the death certificate of Ms. Lumpkin did not have a redacted social security number. Court directed counsel to submit an ex-parte application and order to redact or seal, submit it to all parties, and court will enter the order. Arguments by Mr. Wirthlin and Ms. Ochoa regarding the merits and opposition to the motion. Court stated its findings and ORDERED, Plaintiffs Motion for Substitution of Deceased Party Pursuant to NRCP 25(a) DENIED. Ms. Ochoa to prepare the order and submit it to opposing counsel for approval.;</i></p>
01/29/2019	<p> Decision (3:00 AM) (Judicial Officer: Allf, Nancy) <i>Decision: Request for Hearing on Defendant's Motion for Reconsideration; Plaintiff's Opposition to Director Defendants' Motion for Reconsideration and Countermotion for Attorney's Fees</i> Matter Continued; Journal Entry Details: <i>COURT FINDS after review that on November 29, 2018 Plaintiff's Motion for Reconsideration (Motion) was filed with the Court and the matter was set for hearing before the Court on January 9, 2019. COURT FURTHER FINDS after review that the Court heard oral arguments on the Motion on January 9, 2019. The Court took the matter under submission and set a Status Check for January 29, 2019 on Chambers Calendar for the Court to issue its decision. COURT ORDERS for good cause appearing and after review the date set for the Court to issue a Decision on the Motion is hereby CONTINUED to February 5, 2019; the Court will either release a Decision by February 5, 2019 at 5:00 p.m., or provide a prospective future date to expect it. CONTINUED TO: 2/5/2019 (CHAMBERS) CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 1/30/2019;</i></p>

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03/07/2019	CANCELED Pretrial/Calendar Call (10:31 AM) (Judicial Officer: Allf, Nancy) <i>Vacated - per Stipulation and Order</i>
03/08/2019	 Telephonic Conference (3:15 PM) (Judicial Officer: Allf, Nancy) Matter Heard; Journal Entry Details: <i>Colloquy regarding a stay of discovery deadlines. COURT ORDERED, request by letter for stay DENIED, however, Court will set it for hearing and Court will not stay the deposition next week. Colloquy regarding hearing date. Court stated the Motion to Stay proceedings will remain on the March 14, 2019 calendar at 10:00 a.m. and the request for extension of all deadlines will be heard at that time. Court directed counsel that they may provide additional briefings, oppositions will be due by 5:00 p.m. on March 12, 2019 and replies will be due by 5:00 p.m. March 13, 2019.;</i>
03/11/2019	CANCELED Jury Trial (10:30 AM) (Judicial Officer: Allf, Nancy) <i>Vacated - per Stipulation and Order</i>
03/14/2019	 Motion to Stay (10:00 AM) (Judicial Officer: Allf, Nancy) <i>Defendants' Motion to Stay Proceedings Pending Petition for Writ of Mandamus on an Order Shortening Time</i> MINUTES Granted; Defendants' Motion to Stay Proceedings Pending Petition for Writ of Mandamus on an Order Shortening Time Journal Entry Details: <i>Erin Kolmansberger present telephonically. Mr. Peek submitted on the pleadings. Arguments by Mr. Ogilvie and Mr. Cereghino. COURT ORDERED, Defendants' Motion to Stay Proceedings Pending Petition for Writ of Mandamus on an Order Shortening Time GRANTED, matter SET for status check, and parties to provide an update no later than May 10, 2019. Mr. Peek to prepare the order and submit to opposing counsel for approval as to form. 5/14/2019 (CHAMBERS) STATUS CHECK ;</i> SCHEDULED HEARINGS  Status Check (09/17/2019 at 3:00 AM) (Judicial Officer: Allf, Nancy) 09/17/2019, 11/19/2019, 01/21/2020, 03/24/2020, 06/18/2020 <i>Status Check:</i>
05/15/2019	 Minute Order (2:30 PM) (Judicial Officer: Allf, Nancy) Minute Order - No Hearing Held; Journal Entry Details: <i>A711535; Commissioner v. Chur; Status Check re Stay; 5/14/19 COURT FINDS after review that on April 4, 2019, the Order Granting Motion to Stay Proceedings Pending Petition for Writ of Mandamus was filed with the Court wherein the Court ordered all proceedings in the matter stayed. The Court set a Status Check for May 14, 2019 on Chambers Calendar regarding the status of the Petition for Writ of Mandamus. COURT FURTHER FINDS after review that on May 8, 2019 the Director Defendants Status Report Regarding Petition for Writ of Mandamus was filed with the Court indicating that the Director Defendants filed their Petition with the Nevada Supreme Court on March 13, 2019 and have received no notice of any update as to the status of the Petition or the Nevada Supreme Court s consideration of the Petition. COURT ORDERS for good cause appearing and after review that the Status Check set for May 14, 2019 on Chambers Calendar is hereby CONTINUED to June 25, 2019 on Chambers Calendar. The Director Defendants are directed to file a Status Report regarding the status of the Petition on or before June 21, 2019. CLERK'S NOTE: This Minute Order was electronically served by Court Clerk, P. Irby, to all registered parties for Odyssey File & Serve./pi (5-16-19);</i>
06/13/2019	 Status Check (9:30 AM) (Judicial Officer: Cherry, Michael A.) Set Status Check; Journal Entry Details: <i>Mr. Wirthlin stated previous status checks had been removed and he did not have anything to add. Regarding the matter in the Supreme Court, Mr. Wirthlin stated they have filed their responsive brief and the opposition has two weeks to file their reply. COURT ORDERED,</i>

CASE SUMMARY

CASE NO. A-14-711535-C

matter SET for status check in sixty days, status reports to be filed prior to hearing. 8/15/2019 9:30 AM STATUS CHECK;

07/11/2019



Motion (9:30 AM) (Judicial Officer: Allf, Nancy)

Plaintiff's Motion to Lift Stay or Alternatively Grant Plaintiff Other Relief on Order Shortening Time

Denied;

Journal Entry Details:

Arguments by counsel regarding the merits of and opposition to the motion. COURT ORDERED, Plaintiff's Motion to Lift Stay or Alternatively Grant Plaintiff Other Relief on Order Shortening Time DENIED, the order will be enforced, and Court will enforce the Jacobs case. Mr. Wirthlin to prepare the order and submit it to opposing counsel for approval as to form. ;

08/15/2019



Status Check (9:30 AM) (Judicial Officer: Allf, Nancy)

Matter Heard;

Journal Entry Details:

Mr. Wirthlin stated the briefing has been submitted and they are just waiting for either a decision or request for oral argument from supreme court. Court noted there is another status check set on the chambers calendar on September 17, 2019 and directed Mr. Wirthlin if there is any update to do so before that status check.;

09/17/2019



Status Check (3:00 AM) (Judicial Officer: Allf, Nancy)

09/17/2019, 11/19/2019, 01/21/2020, 03/24/2020, 06/18/2020

Status Check:

Matter Continued;

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Matter Heard;

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Matter Heard;

Journal Entry Details:

COURT FINDS after review that on April 4, 2019, the Order Granting Motion to Stay Proceedings Pending Petition for Writ of Mandamus was filed with the Court wherein the Court ordered all proceedings in the matter stayed. The Court set a Status Check for May 14, 2019 on Chambers Calendar regarding the status of the Petition for Writ of Mandamus. COURT FURTHER FINDS after review that on May 8, 2019 the Director Defendants Status Report Regarding Petition for Writ of Mandamus was filed with the Court indicating that the Director Defendants filed their Petition with the Nevada Supreme Court on March 13, 2019 and have received no notice of any update as to the status of the Petition or the Nevada Supreme Court's consideration of the Petition. The Status Check set for May 14, 2019 was CONTINUED to June 13, 2019. COURT FURTHER FINDS after review that June 13, 2019, Mr. Wirthlin appeared before the Court and indicated that responsive briefs and oppositions were pending before the Supreme Court, so the matter was set for Status Check on August 15, 2019. COURT FURTHER FINDS after review that on August 15, 2019, Mr. Wirthlin appeared before the Court and indicated that the parties are waiting for either a decision or request for oral argument from the Supreme Court, so the matter was CONTINUED for September 17, 2019 on Chambers Calendar. COURT FURTHER FINDS after review that a decision from the Supreme Court of Nevada was still pending at the time of the Status Check on September 17, 2019, so the matter was CONTINUED for November 19, 2019 on Chambers Calendar. COURT FURTHER FINDS after review that on November 18, 2019, a Joint Status Report was filed indicating that the Supreme Court entered an Order Submitting for Decision Without Oral Argument, and that the Directors Writ of Mandamus remains pending before the Supreme Court of Nevada, so the matter was CONTINUED for January 21, 2020 on Chambers Calendar. COURT FURTHER FINDS after review that on January 17, 2020, a Joint Status Report was filed indicating that no further orders have been entered by the Supreme Court of Nevada and that the case is submitted for decision according to the Supreme Court of Nevada's website. The Status Check was continued to March 24, 2020 on Chambers Calendar. COURT

CASE SUMMARY

CASE NO. A-14-711535-C

FURTHER FINDS after review that on March 23, 2020, the parties submitted three separate Status Reports indicating, inter alia, that on February 27, 2020, the Supreme Court of Nevada entered an opinion granting the Directors Petition for Writ of Mandamus. The Status Reports also indicated that on March 2, 2020, the Supreme Court of Nevada filed an order granting Plaintiff's request for an extension to March 30, 2020, to file a petition for rehearing of the Directors Petition for Writ of Mandamus. The parties expressed differences on whether or not the Stay will remain in place following the Supreme Court's entry of a notice in lieu of remittitur, in the event the petition for rehearing is denied. **THEREFORE, COURT ORDERS** for good cause appearing and after review that the Status Check set for March 24, 2020 on Chambers Calendar is hereby **CONTINUED** to May 26, 2020 on Chambers Calendar. The Stay shall remain in place pending the Supreme Court of Nevada's review of Plaintiff's petition for rehearing. Once the Supreme Court resolves such petition, the parties shall advise the Court and a status hearing will be set shortly thereafter. In the event the petition is not resolved by the May 26, 2020 Status Check, the parties shall file a Joint Status Report indicating the same in advance of the May 26, 2020 Status Check. **CONTINUED TO 5/26/2020 (CHAMBERS) CLERK'S NOTE:** This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 3/24/2020;

Matter Continued;

Matter Continued;

Matter Continued;

Matter Continued;

Matter Heard;

Journal Entry Details:

COURT FINDS after review that on April 4, 2019, the Order Granting Motion to Stay Proceedings Pending Petition for Writ of Mandamus was filed with the Court wherein the Court ordered all proceedings in the matter stayed. The Court set a Status Check for May 14, 2019 on Chambers Calendar regarding the status of the Petition for Writ of Mandamus. *COURT FURTHER FINDS* after review that on May 8, 2019 the Director Defendants Status Report Regarding Petition for Writ of Mandamus was filed with the Court indicating that the Director Defendants filed their Petition with the Nevada Supreme Court on March 13, 2019 and have received no notice of any update as to the status of the Petition or the Nevada Supreme Court's consideration of the Petition. The Status Check set for May 14, 2019 was **CONTINUED** to June 13, 2019. *COURT FURTHER FINDS* after review that June 13, 2019, Mr. Wirthlin appeared before the Court and indicated that responsive briefs and oppositions were pending before the Supreme Court, so the matter was set for Status Check on August 15, 2019. *COURT FURTHER FINDS* after review that on August 15, 2019, Mr. Wirthlin appeared before the Court and indicated that the parties are waiting for either a decision or request for oral argument from the Supreme Court, so the matter was **CONTINUED** for September 17, 2019 on Chambers Calendar. *COURT FURTHER FINDS* after review that a decision from the Supreme Court of Nevada was still pending at the time of the Status Check on September 17, 2019, so the matter was **CONTINUED** for November 19, 2019 on Chambers Calendar. *COURT FURTHER FINDS* after review that on November 18, 2019, a Joint Status Report was filed indicating that the Supreme Court entered an Order Submitting for Decision Without Oral Argument, and that the Directors Writ of Mandamus remains pending before the Supreme Court of Nevada, so the matter was **CONTINUED** for January 21, 2020 on Chambers Calendar. *COURT FURTHER FINDS* after review that on January 17, 2020, a Joint Status Report was filed indicating that no further orders have been entered by the Supreme Court of Nevada and that the case is submitted for decision according to the Supreme Court of Nevada's website. **THEREFORE, COURT ORDERS** for good cause appearing and after review that the Status Check set for January 21, 2020 on Chambers Calendar is **CONTINUED** for March 24, 2020 on Chambers Calendar. The parties shall file a Joint Status Report in advance of the March 24, 2020 Status Check. **CONTINUED TO: 3/24/2020 (CHAMBERS) CLERK'S NOTE:** This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 1/21/2020;

Matter Continued;

Matter Continued;

Matter Continued;

Matter Continued;

Matter Heard;

Journal Entry Details:

COURT FINDS after review that on April 4, 2019, the Order Granting Motion to Stay Proceedings Pending Petition for Writ of Mandamus was filed with the Court wherein the Court ordered all proceedings in the matter stayed. The Court set a Status Check for May 14, 2019 on Chambers Calendar regarding the status of the Petition for Writ of Mandamus.

CASE SUMMARY**CASE NO. A-14-711535-C**

COURT FURTHER FINDS after review that on May 8, 2019 the Director Defendants Status Report Regarding Petition for Writ of Mandamus was filed with the Court indicating that the Director Defendants filed their Petition with the Nevada Supreme Court on March 13, 2019 and have received no notice of any update as to the status of the Petition or the Nevada Supreme Court's consideration of the Petition. The Status Check set for May 14, 2019 was CONTINUED to June 13, 2019. *COURT FURTHER FINDS* after review that June 13, 2019, Mr. Wirthlin appeared before the Court and indicated that responsive briefs and oppositions were pending before the Supreme Court, so the matter was set for Status Check on August 15, 2019. *COURT FURTHER FINDS* after review that on August 15, 2019, Mr. Wirthlin appeared before the Court and indicated that the parties are waiting for either a decision or request for oral argument from the Supreme Court, so the matter was CONTINUED for September 17, 2019 on Chambers Calendar. *COURT FURTHER FINDS* after review that a decision from the Supreme Court of Nevada was still pending at the time of the Status Check on September 17, 2019, so the matter was CONTINUED for November 19, 2019 on Chambers Calendar. *COURT FURTHER FINDS* after review that on November 18, 2019, a Joint Status Report was filed indicating that the Supreme Court entered an Order Submitting for Decision Without Oral Argument, and that the Directors Writ of Mandamus remains pending before the Supreme Court of Nevada. THEREFORE, *COURT ORDERS* for good cause appearing and after review that the Status Check set for November 19, 2019 on Chambers Calendar is CONTINUED for January 21, 2020 on Chambers Calendar. The parties shall file a Joint Status Report in advance of the January 21, 2020 Status Check. CONTINUED TO: 1/21/2020 (CHAMBERS) CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm;

Matter Continued;

Matter Continued;

Matter Continued;

Matter Continued;


Matter Heard;

Journal Entry Details:

COURT FINDS after review that on April 4, 2019, the Order Granting Motion to Stay Proceedings Pending Petition for Writ of Mandamus was filed with the Court wherein the Court ordered all proceedings in the matter stayed. The Court set a Status Check for May 14, 2019 on Chambers Calendar regarding the status of the Petition for Writ of Mandamus. *COURT FURTHER FINDS* after review that on May 8, 2019 the Director Defendants Status Report Regarding Petition for Writ of Mandamus was filed with the Court indicating that the Director Defendants filed their Petition with the Nevada Supreme Court on March 13, 2019 and have received no notice of any update as to the status of the Petition or the Nevada Supreme Court's consideration of the Petition. The Status Check set for May 14, 2019 was CONTINUED to June 13, 2019. *COURT FURTHER FINDS* after review that June 13, 2019, Mr. Wirthlin appeared before the Court and indicated that responsive briefs and oppositions were pending before the Supreme Court, so the matter was set for Status Check on August 15, 2019. *COURT FURTHER FINDS* after review that on August 15, 2019, Mr. Wirthlin appeared before the Court and indicated that the parties are waiting for either a decision or request for oral argument from the Supreme Court, so the matter was CONTINUED for September 17, 2019 on Chambers Calendar. *COURT FURTHER FINDS* after review that a decision from the Supreme Court of Nevada is still pending. *COURT ORDERS* for good cause appearing and after review that the Status Check set for September 17, 2019 on Chambers Calendar is CONTINUED for November 19, 2019 on Chambers Calendar. The parties shall file Status Reports in advance of the November 19, 2019 Status Check. *COURT FURTHER ORDERS* for good cause appearing and after review that the Firm Jury Trial set for October 21, 2019 is hereby VACATED. CONTINUED TO: 11/19/2019 (CHAMBERS) CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm;

10/17/2019 **CANCELED Pretrial/Calendar Call (10:31 AM)** (Judicial Officer: Allf, Nancy)
Vacated

10/21/2019 **CANCELED Jury Trial - FIRM (10:30 AM)** (Judicial Officer: Allf, Nancy)
Vacated

04/10/2020  **Motion for Clarification (2:00 PM)** (Judicial Officer: Allf, Nancy)
04/10/2020, 06/18/2020
Plaintiff's Motion for Clarification on Order Shortening Time
Matter Continued;

CASE SUMMARY

CASE NO. A-14-711535-C

Granted;

Matter Continued;

Granted;

Journal Entry Details:

All appearances made via BlueJeans video conferencing. Court noted how cases and proceedings are being handled during the Covid-19 pandemic. Arguments by Mr. Wirthlin, Mr. Peek and Mr. Ogilvie regarding the merits of and opposition to the pending the motion. COURT ORDERED, Plaintiff's Motion for Clarification on Order Shortening Time CONTINUED, if there is decision from the Supreme Court on the Petition for Rehearing, matter can be stipulated to be moved out, or it may be stipulated to be moved if there is decision and parties want to hear it sooner. Mr. Wirthlin to prepare the order and submit it to opposing counsel. CONTINUED to 5/15/2020 1:30 PM;

06/16/2020



Minute Order (3:00 AM) (Judicial Officer: Allf, Nancy)

Minute Order: Telephonic Appearance

Minute Order - No Hearing Held; Minute Order: Telephonic Appearance

Journal Entry Details:

Department 27 Formal Request to Appear Telephonically Re: Plaintiff's Motion for Clarification on Order Shortening Time and Status Check Set: June 18, 2020 at 9:30 a.m. Please be advised that due to the COVID-19 pandemic, Department 27 will continue to conduct Court hearings REMOTELY using the Blue Jeans Video Conferencing system. You have the choice to appear either by phone or computer/video. Dial the following number: 1-408-419-1715 Meeting ID: 241 897 186 Meeting URL: <https://bluejeans.com/241897186> To connect by phone dial the number provided and enter the meeting ID followed by # To connect by computer if you do NOT have the app, copy the URL link into a web browser. Google Chrome is preferred but not required. Once you are on the BlueJeans website click on Join with Browser which is located on the bottom of the page. Follow the instructions and prompts given by BlueJeans. You may also download the Blue Jeans app and join the meeting by entering the meeting ID PLEASE NOTE the following protocol each participant will be required to follow: Place your phone on MUTE while waiting for your matter to be called. Do NOT place the call on hold since some phones may play wait/hold music. Please do NOT use speaker phone as it causes a loud echo/ringing noise. Please state your name each time you speak so that the court recorder can capture a clear record. Please be mindful of rustling papers, background noise, and coughing or loud breathing. Please be mindful of where your camera is pointing. We encourage you to visit the Bluejeans.com website to get familiar with the Blue Jeans phone/videoconferencing system before your hearing. If your hearing gets continued to a different date after you have already received this minute order please note a new minute order will issue with a different meeting ID since the ID number changes with each meeting/hearing. Please be patient if you call in and we are in the middle of oral argument from a previous case. Your case should be called shortly. Again, please keep your phone or computer mic on MUTE until your case is called. CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 6/16/2020;

06/18/2020



All Pending Motions (9:30 AM) (Judicial Officer: Allf, Nancy)

Matter Heard;

Journal Entry Details:

STATUS CHECK...PLAINTIFF'S MOTION FOR CLARIFICATION ON ORDER SHORTENING TIME Appearances made via the BlueJeans videoconferencing application. Colloquy regarding lifting the stay. Court stated its findings and ORDERED, Plaintiff's Motion for Clarification on Order Shortening Time GRANTED, stay will be lifted as of July 1, 2020. Mr. Wirthlin to prepare the order and submit it to opposing counsel approval as to form.;

06/30/2020



Minute Order (3:00 AM) (Judicial Officer: Allf, Nancy)

Minute Order: BlueJeans Appearances

Minute Order - No Hearing Held; Minute Order: BlueJeans Appearances

Journal Entry Details:

Department 27 Formal Request to Appear Telephonically Re: Plaintiff's Motion for Preferential Trial Setting And For Issuance of A New Discovery Scheduling Order or, In the Alternative, Motion to Stay All Discovery During the Pendency of Motion For Leave to File Fourth Amended Complaint; On Order Shortening Time Set: July 1, 2020 at 10:00 a.m. Please be advised that due to the COVID-19 pandemic, Department 27 will continue to conduct Court

CASE SUMMARY

CASE NO. A-14-711535-C

hearings REMOTELY using the Blue Jeans Video Conferencing system. You have the choice to appear either by phone or computer/video. Dial the following number: 1-408-419-1715 Meeting ID: 356 362 567 Meeting URL: <https://bluejeans.com/356362567> To connect by phone dial the number provided and enter the meeting ID followed by # To connect by computer if you do NOT have the app, copy the URL link into a web browser. Google Chrome is preferred but not required. Once you are on the BlueJeans website click on Join with Browser which is located on the bottom of the page. Follow the instructions and prompts given by BlueJeans. You may also download the Blue Jeans app and join the meeting by entering the meeting ID PLEASE NOTE the following protocol each participant will be required to follow: Place your phone on MUTE while waiting for your matter to be called. Do NOT place the call on hold since some phones may play wait/hold music. Please do NOT use speaker phone as it causes a loud echo/ringing noise. Please state your name each time you speak so that the court recorder can capture a clear record. Please be mindful of rustling papers, background noise, and coughing or loud breathing. Please be mindful of where your camera is pointing. We encourage you to visit the Bluejeans.com website to get familiar with the Blue Jeans phone/videoconferencing system before your hearing. If your hearing gets continued to a different date after you have already received this minute order please note a new minute order will issue with a different meeting ID since the ID number changes with each meeting/hearing. Please be patient if you call in and we are in the middle of oral argument from a previous case. Your case should be called shortly. Again, please keep your phone or computer mic on MUTE until your case is called. CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 6/30/2020 CLERK'S NOTE: Minute order AMENDED to correct Meeting ID number and Meeting URL. This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 6/30/2020;

07/01/2020



Motion for Preferential Trial Setting (10:00 AM) (Judicial Officer: Allf, Nancy)

07/01/2020, 07/23/2020

Plaintiff's Motion for Preferential Trial Setting And For Issuance of A New Discovery Scheduling Order or, In the Alternative, Motion to Stay All Discovery During the Pendency of Motion For Leave to File Fourth Amended Complaint; On Order Shortening Time

Matter Continued;

Granted;

Matter Continued;

Granted;

Journal Entry Details:

All counsel present via the BlueJeans Videoconferencing Application. Upon inquiry of Court if parties are prepared to go forward today as matter was set on shortened time, Ms. Ochoa and Mr. Ogilvie stated they were. Mr. Wirthlin advised they are filing a motion for leave to amend on July 2, 2020. Arguments by Mr. Wirthlin, Ms. Ochoa, and Mr. Ogilvie as to the merits of and opposition of the motion. Ms. Ochoa stated the motion should be heard after the motion for leave. COURT ORDERED, Plaintiff's Motion for Preferential Trial Setting And For Issuance of A New Discovery Scheduling Order or, In the Alternative, Motion to Stay All Discovery During the Pendency of Motion For Leave to File Fourth Amended Complaint; On Order Shortening Time CONTINUED to be heard with the motion to amend, deadline extended until the motion to amend is heard, opposition due July 13, 2020, reply due July 14, 2020. ;

07/21/2020



Minute Order (3:00 AM) (Judicial Officer: Allf, Nancy)

Minute Order: BlueJeans Appearance

Minute Order - No Hearing Held; Minute Order: BlueJeans Appearance

Journal Entry Details:

Department 27 Formal Request to Appear Telephonically Re: Matter set on July 23, 2020 at 10:00 a.m. Please be advised that due to the COVID-19 pandemic, Department 27 will continue to conduct Court hearings REMOTELY using the Blue Jeans Video Conferencing system. You have the choice to appear either by phone or computer/video. Dial the following number: 1-408-419-1715 Meeting ID: 897 138 369 Meeting URL: <https://bluejeans.com/897138369> To connect by phone dial the number provided and enter the meeting ID followed by # To connect by computer if you do NOT have the app, copy the URL link into a web browser. Google Chrome is preferred but not required. Once you are on the BlueJeans website click on Join with Browser which is located on the bottom of the page. Follow the instructions and prompts given by BlueJeans. You may also download the Blue Jeans app and join the meeting by entering the meeting ID PLEASE NOTE the following

CASE SUMMARY

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protocol each participant will be required to follow: Place your phone on MUTE while waiting for your matter to be called. Do NOT place the call on hold since some phones may play wait/hold music. Please do NOT use speaker phone as it causes a loud echo/ringing noise. Please state your name each time you speak so that the court recorder can capture a clear record. Please be mindful of rustling papers, background noise, and coughing or loud breathing. Please be mindful of where your camera is pointing. We encourage you to visit the Bluejeans.com website to get familiar with the Blue Jeans phone/videoconferencing system before your hearing. If your hearing gets continued to a different date after you have already received this minute order please note a new minute order will issue with a different meeting ID since the ID number changes with each meeting/hearing. Please be patient if you call in and we are in the middle of oral argument from a previous case. Your case should be called shortly. Again, please keep your phone or computer mic on MUTE until your case is called. CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 7/21/2020.;


07/23/2020

Motion for Leave (10:00 AM) (Judicial Officer: Allf, Nancy)
Plaintiff Motion for Leave to File Fourth Amended Complaint
Denied;


07/23/2020

Motion for Leave (10:00 AM) (Judicial Officer: Allf, Nancy)
Defendants Uni-Ter Underwriting Management Corp., Uni-Ter Claims Services Corp. and U.S. RE Corporation s Motion for Leave to File Amended Answers to Third Amended Complaint
Granted;

07/23/2020

 **All Pending Motions** (10:00 AM) (Judicial Officer: Allf, Nancy)
Matter Heard;
Journal Entry Details:
All appearances made via the BlueJeans Videoconferencing Application DEFENDANTS UNI-TER UNDERWRITING MANAGEMENT CORP., UNI-TER CLAIMS SERVICES CORP. AND U.S. RE CORPORATION S MOTION OR LEAVE TO FILE AMENDED ANSWERS TO THIRD AMENDED COMPLAINT There being no opposition, COURT ORDERED, Defendants Uni-Ter Underwriting Management Corp., Uni-Ter Claims Services Corp. and U.S. RE Corporation's Motion for Leave to File Amended Answers to Third Amended Complaint GRANTED. PLAINTIFF MOTION FOR LEAVE TO FILE FOURTH AMENDED COMPLAINT Arguments by Mr. Wirthlin, Ms. Ochoa, and Mr. Ogilvie regarding the merits of and opposition to the motion. Mr. Wirthlin requested until July 31, 2020 to disclose experts. Court stated its findings and ORDERED, Plaintiff Motion for Leave to File Fourth Amended Complaint DENIED. Mr. Ochoa or Mr. Ogilvie to prepare the order and submit it to opposing counsel for approval as to form. PLAINTIFF'S MOTION FOR PREFERENTIAL TRIAL SETTING AND FOR ISSUANCE OF A NEW DISCOVERY SCHEDULING ORDER OR, IN THE ALTERNATIVE, MOTION TO STAY ALL DISCOVERY DURING THE PENDENCY OF MOTION FOR LEAVE TO FILE FOURTH AMENDED COMPLAINT; ON ORDER SHORTENING TIME Colloquy regarding preferential trial setting. COURT ORDERED, Plaintiff's Motion for Preferential Trial Setting And For Issuance of A New Discovery Scheduling Order or, In the Alternative, Motion to Stay All Discovery During the Pendency of Motion For Leave to File Fourth Amended Complaint; On Order Shortening Time GRANTED, all parties to give all availability to start trial in February 2021 or March 2021 and Court will set trial based on the availability of counsel, most likely in February. Defense to prepare the order from the hearing and parties should collaborate on the order. Colloquy regarding expert disclosures and deadline. COURT FURTHER ORDERED, expert disclosures will be extended until July 31, 2020.;

07/30/2020

 **Minute Order** (3:00 AM) (Judicial Officer: Allf, Nancy)
Minute Order: Transcript filed 7/24/2020 STRICKEN
Minute Order - No Hearing Held; Minute Order: Transcript filed 7/24/2020 STRICKEN
Journal Entry Details:
COURT FINDS after review a Transcript of Proceedings was inadvertently filed on July 24, 2020 related to the June 18, 2020 hearing. THEREFORE, COURT ORDERS for good cause appearing and after review the Transcript of Proceedings related to the June 18, 2020 hearing filed on July 24, 2020 is hereby STRICKEN from the record. CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 7/30/2020;

CASE SUMMARY

CASE NO. A-14-711535-C

08/07/2020



Minute Order (3:00 AM) (Judicial Officer: Allf, Nancy)

Minute Order: BlueJeans Appearance

Minute Order - No Hearing Held; Minute Order: BlueJeans Appearance

Journal Entry Details:

Department 27 Formal Request to Appear Telephonically Re: Matter set on August 13, 2020 at 9:30 a.m. Please be advised that due to the COVID-19 pandemic, Department 27 will continue to conduct Court hearings REMOTELY using the Blue Jeans Video Conferencing system. You have the choice to appear either by phone or computer/video. Dial the following number: 1-408-419-1715 Meeting ID: 897 138 369 Meeting URL: <https://bluejeans.com/897138369> To connect by phone dial the number provided and enter the meeting ID followed by # To connect by computer if you do NOT have the app, copy the URL link into a web browser. Google Chrome is preferred but not required. Once you are on the BlueJeans website click on Join with Browser which is located on the bottom of the page. Follow the instructions and prompts given by BlueJeans. You may also download the Blue Jeans app and join the meeting by entering the meeting ID PLEASE NOTE the following protocol each participant will be required to follow: Place your phone on MUTE while waiting for your matter to be called. Do NOT place the call on hold since some phones may play wait/hold music. Please do NOT use speaker phone as it causes a loud echo/ringing noise. Please state your name each time you speak so that the court recorder can capture a clear record. Please be mindful of rustling papers, background noise, and coughing or loud breathing. Please be mindful of where your camera is pointing. We encourage you to visit the Bluejeans.com website to get familiar with the Blue Jeans phone/videoconferencing system before your hearing. If your hearing gets continued to a different date after you have already received this minute order please note a new minute order will issue with a different meeting ID since the ID number changes with each meeting/hearing. Please be patient if you call in and we are in the middle of oral argument from a previous case. Your case should be called shortly. Again, please keep your phone or computer mic on MUTE until your case is called. CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 8/7/2020. ;

08/13/2020



Telephonic Conference (9:30 AM) (Judicial Officer: Allf, Nancy)

Telephonic Conference: Trial Scheduling Issues

Matter Heard;

Journal Entry Details:

Appearances made via BlueJeans Videoconferencing Application. Court NOTED the matter had been set to set the trial start date. Colloquy regarding starting the trial the last week of February and the first week of March. Arguments by counsel as to the tolling of the five year rule. Further arguments by counsel as to striking the Order regarding the receiver. Court STATED it would ISSUE A DECISION. After the Court hearing Court indicated the trial date would be set the last week of February 2021, starting on Monday, February 22, 2021. 2/22/21 10:00 AM JURY TRIAL;

08/25/2020



Minute Order (3:00 AM) (Judicial Officer: Allf, Nancy)

Minute Order: BlueJeans Appearance

Minute Order - No Hearing Held; Minute Order: BlueJeans Appearance

Journal Entry Details:

Department 27 Formal Request to Appear Telephonically Re: Matter set on August 26, 2020 at 9:00 a.m. Please be advised that due to the COVID-19 pandemic, Department 27 will continue to conduct Court hearings REMOTELY using the Blue Jeans Video Conferencing system. You have the choice to appear either by phone or computer/video. Dial the following number: 1-408-419-1715 Meeting ID: 897 138 369 Meeting URL: <https://bluejeans.com/897138369> To connect by phone dial the number provided and enter the meeting ID followed by # To connect by computer if you do NOT have the app, copy the URL link into a web browser. Google Chrome is preferred but not required. Once you are on the BlueJeans website click on Join with Browser which is located on the bottom of the page. Follow the instructions and prompts given by BlueJeans. You may also download the Blue Jeans app and join the meeting by entering the meeting ID PLEASE NOTE the following protocol each participant will be required to follow: Place your phone on MUTE while waiting for your matter to be called. Do NOT place the call on hold since some phones may play wait/hold music. Please do NOT use speaker phone as it causes a loud echo/ringing noise. Please state your name each time you speak so that the court recorder can capture a clear record. Please be mindful of rustling papers, background noise, and coughing or loud breathing. Please be mindful of where your camera is pointing. We encourage you to visit the Bluejeans.com website to get familiar with the Blue Jeans phone/videoconferencing system before your hearing. If your hearing gets

CASE SUMMARY

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continued to a different date after you have already received this minute order please note a new minute order will issue with a different meeting ID since the ID number changes with each meeting/hearing. Please be patient if you call in and we are in the middle of oral argument from a previous case. Your case should be called shortly. Again, please keep your phone or computer mic on MUTE until your case is called. CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 8/25/2020. ;

08/26/2020



Motion For Reconsideration (9:00 AM) (Judicial Officer: Allf, Nancy)

Motion for Partial Reconsideration of Plaintiff's Motion for Leave to Amend Regarding Director Defendants

Denied;

Journal Entry Details:

Upon inquiry of Court if Plaintiff would like to go forward today, or wait until Court has reviewed the reply that was filed yesterday afternoon, Mr. Hutchinson stated he would like to go forward. No opposition to proceeding from remaining counsel. Arguments by Mr. Hutchinson, Mr. Wirthlin, and Ms. Ochoa regarding the merits of and opposition to the motion. Court stated its findings and ORDERED, Motion for Partial Reconsideration of Plaintiff's Motion for Leave to Amend Regarding Director Defendants DENIED. Ms. Ochoa to prepare the order and submit it to Plaintiff's counsel for approval. Additional arguments by Mr. Wirthlin including a request that Judge review the reply. Court stated it did review the reply during the hearing and it would consider granting a stay if the matter was taken up on a writ. Mr. Ogilvie stated a scheduling order had issued with a discovery cut-off date of October 19, 2020 and parties would like to propose a discovery cut-off date of December 17, 2020. Court stated if parties can stipulate to the new date then Court would adjust the scheduling order accordingly.;

09/02/2020



Minute Order (3:00 AM) (Judicial Officer: Allf, Nancy)

Minute Order: BlueJeans Appearance

Minute Order - No Hearing Held; Minute Order: BlueJeans Appearance

Journal Entry Details:

Department 27 Formal Request to Appear Telephonically Re: Matter set on September 3, 2020 at 11:00 a.m. Please be advised that due to the COVID-19 pandemic, Department 27 will continue to conduct Court hearings REMOTELY using the Blue Jeans Video Conferencing system. You have the choice to appear either by phone or computer/video. Dial the following number: 1-408-419-1715 Meeting ID: 897 138 369 Meeting URL: <https://bluejeans.com/897138369> To connect by phone dial the number provided and enter the meeting ID followed by # To connect by computer if you do NOT have the app, copy the URL link into a web browser. Google Chrome is preferred but not required. Once you are on the BlueJeans website click on Join with Browser which is located on the bottom of the page. Follow the instructions and prompts given by BlueJeans. You may also download the Blue Jeans app and join the meeting by entering the meeting ID PLEASE NOTE the following protocol each participant will be required to follow: Place your phone on MUTE while waiting for your matter to be called. Do NOT place the call on hold since some phones may play wait/hold music. Please do NOT use speaker phone as it causes a loud echo/ringing noise. Please state your name each time you speak so that the court recorder can capture a clear record. Please be mindful of rustling papers, background noise, and coughing or loud breathing. Please be mindful of where your camera is pointing. We encourage you to visit the Bluejeans.com website to get familiar with the Blue Jeans phone/videoconferencing system before your hearing. If your hearing gets continued to a different date after you have already received this minute order please note a new minute order will issue with a different meeting ID since the ID number changes with each meeting/hearing. Please be patient if you call in and we are in the middle of oral argument from a previous case. Your case should be called shortly. Again, please keep your phone or computer mic on MUTE until your case is called. CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 9/2/2020. ;

09/03/2020



Motion to Stay (11:00 AM) (Judicial Officer: Allf, Nancy)

Motion to Stay Proceedings Pending Petition for Writ of Mandamus on Order Shortening Time

Granted;

Journal Entry Details:

All appearances made via the BlueJeans Videoconferencing Application. Mr. Wall stated he spoke with other counsel and he is requesting the order from the last hearing be certified as

CASE SUMMARY

CASE NO. A-14-711535-C

final pursuant to NRCP 54(B) so parties can appeal instead of filing a petition for a writ. Ms. Ochoa stated the Plaintiff did contact her and it is her opinion that the court needs to be apprised through a motion so Court can make the findings it needs to make. Ms. Ochoa further stated she offered to try to do a stipulation or joint motion. Mr. Ogilvie stated the matter should be briefed or brought to their attention before it is raised as a housekeeping matter. Further colloquy as to the request for certification. COURT ORDERED, oral request for 54(B) certification DENIED and Court would entertain an order shortening time. Court directed counsel the motion could be set September 10, 2020 at 11:00 a.m. and counsel should add that setting date to the motion. Arguments by counsel regarding the merits of and opposition to the motion. Colloquy regarding Court's jurisdiction or discretion on the matter. Court stated its findings and ORDERED, Motion to Stay Proceedings Pending Petition for Writ of Mandamus on Order Shortening Time GRANTED, stay will be effective on all matters except the motion to certify. Plaintiff's counsel to prepare the order and submit it to opposing counsel for approval as to form.;

09/04/2020



Minute Order (3:00 AM) (Judicial Officer: Allf, Nancy)

Minute Order: BlueJeans Appearance

Minute Order - No Hearing Held; Minute Order: BlueJeans Appearance

Journal Entry Details:

Department 27 Formal Request to Appear Telephonically Re: Matter set on September 10, 2020 at 11:00 a.m. Please be advised that due to the COVID-19 pandemic, Department 27 will continue to conduct Court hearings REMOTELY using the Blue Jeans Video Conferencing system. You have the choice to appear either by phone or computer/video. Dial the following number: 1-408-419-1715 Meeting ID: 897 138 369 Meeting URL: <https://bluejeans.com/897138369> To connect by phone dial the number provided and enter the meeting ID followed by # To connect by computer if you do NOT have the app, copy the URL link into a web browser. Google Chrome is preferred but not required. Once you are on the BlueJeans website click on Join with Browser which is located on the bottom of the page. Follow the instructions and prompts given by BlueJeans. You may also download the Blue Jeans app and join the meeting by entering the meeting ID PLEASE NOTE the following protocol each participant will be required to follow: Place your phone on MUTE while waiting for your matter to be called. Do NOT place the call on hold since some phones may play wait/hold music. Please do NOT use speaker phone as it causes a loud echo/ringing noise. Please state your name each time you speak so that the court recorder can capture a clear record. Please be mindful of rustling papers, background noise, and coughing or loud breathing. Please be mindful of where your camera is pointing. We encourage you to visit the Bluejeans.com website to get familiar with the Blue Jeans phone/videoconferencing system before your hearing. If your hearing gets continued to a different date after you have already received this minute order please note a new minute order will issue with a different meeting ID since the ID number changes with each meeting/hearing. Please be patient if you call in and we are in the middle of oral argument from a previous case. Your case should be called shortly. Again, please keep your phone or computer mic on MUTE until your case is called. CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 9/4/2020;

09/10/2020



Motion (11:00 AM) (Judicial Officer: Allf, Nancy)

Motion to Certify Judgment as Final Pursuant to NRCP 54(b) on Order Shortening Time Denied;

Journal Entry Details:

All appearances made via the BlueJeans Videoconferencing Application Arguments by counsel regarding the merits of and opposition to the motion. Court stated its findings and ORDERED, Motion to Certify Judgment as Final Pursuant to NRCP 54(b) on Order Shortening Time DENIED. Mr. Ogilvie to prepare the order and submit to other counsel for approval.;

09/18/2020



Minute Order (3:00 AM) (Judicial Officer: Allf, Nancy)

Minute Order: Blue Jeans Appearance

Minute Order - No Hearing Held; Minute Order: Blue Jeans Appearance

Journal Entry Details:

Department 27 Formal Request to Appear Telephonically Re: Matter set on September 24, 2020 at 9:30 a.m. Please be advised that due to the COVID-19 pandemic, Department 27 will continue to conduct Court hearings REMOTELY using the Blue Jeans Video Conferencing system. You have the choice to appear either by phone or computer/video. Dial the following number: 1-408-419-1715 Meeting ID: 897 138 369 Meeting URL: <https://bluejeans.com/897138369> To connect by phone dial the number provided and enter the

CASE SUMMARY

CASE NO. A-14-711535-C

meeting ID followed by # To connect by computer if you do NOT have the app, copy the URL link into a web browser. Google Chrome is preferred but not required. Once you are on the BlueJeans website click on Join with Browser which is located on the bottom of the page. Follow the instructions and prompts given by BlueJeans. You may also download the Blue Jeans app and join the meeting by entering the meeting ID PLEASE NOTE the following protocol each participant will be required to follow: Place your phone on MUTE while waiting for your matter to be called. Do NOT place the call on hold since some phones may play wait/hold music. Please do NOT use speaker phone as it causes a loud echo/ringing noise. Please state your name each time you speak so that the court recorder can capture a clear record. Please be mindful of rustling papers, background noise, and coughing or loud breathing. Please be mindful of where your camera is pointing. We encourage you to visit the Bluejeans.com website to get familiar with the Blue Jeans phone/videoconferencing system before your hearing. If your hearing gets continued to a different date after you have already received this minute order please note a new minute order will issue with a different meeting ID since the ID number changes with each meeting/hearing. Please be patient if you call in and we are in the middle of oral argument from a previous case. Your case should be called shortly. Again, please keep your phone or computer mic on MUTE until your case is called. CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 9/18/2020. ;

09/24/2020



Motion to Retax (9:30 AM) (Judicial Officer: Allf, Nancy)

Plaintiff Motion to Retax and Settle Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert Hurlbut, Barbara Lumpkin, Jeff Marshall, and Eric Stickels Verified Memorandum of Costs and Disbursements

Off Calendar;

Journal Entry Details:

All appearances made via the BlueJeans Videoconferencing Application. At request of counsel, COURT ORDERED, Plaintiff Motion to Retax and Settle Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert Hurlbut, Barbara Lumpkin, Jeff Marshall, and Eric Stickels Verified Memorandum of Costs and Disbursements OFF CALENDAR.;

02/11/2021

CANCELED Calendar Call (10:30 AM) (Judicial Officer: Allf, Nancy)

Vacated

02/22/2021

CANCELED Jury Trial - FIRM (10:30 AM) (Judicial Officer: Allf, Nancy)

Vacated

05/04/2021



Minute Order (3:00 AM) (Judicial Officer: Allf, Nancy)

Minute Order: BlueJeans Appearance

Minute Order - No Hearing Held; Minute Order: BlueJeans Appearance

Journal Entry Details:

Department 27 Information to Appear Telephonically Re: Matter set on May 5, 2021, 9:00 a.m. Please be advised that due to the COVID-19 pandemic, Department 27 will continue to conduct Court hearings REMOTELY using the Blue Jeans Video Conferencing system. Counsel have the choice to appear either by phone or computer/video, however, if appearing remotely via BlueJeans, please appear by audio AND video. Also, in person hearings are now being held in Department 27, at the option of counsel. Mask wearing protocols will be strictly enforced. As of May 1, 2021, the Governor has relaxed the capacity to 80%, so that the courtroom can now accommodate up to 32 people. Dial the following number: 1-408-419-1715 Meeting ID: 897 138 369 Meeting URL: <https://bluejeans.com/897138369> To connect by phone dial the number provided and enter the meeting ID followed by # To connect by computer if you do NOT have the app, copy the URL link into a web browser. Google Chrome is preferred but not required. Once you are on the BlueJeans website click on Join with Browser which is located on the bottom of the page. Follow the instructions and prompts given by BlueJeans. You may also download the Blue Jeans app and join the meeting by entering the meeting ID PLEASE NOTE the following protocol each participant will be required to follow: Place your phone on MUTE while waiting for your matter to be called. Do NOT place the call on hold since some phones may play wait/hold music. Please do NOT use speaker phone as it causes a loud echo/ringing noise. Please state your name each time you speak so that the court recorder can capture a clear record. Please be mindful of rustling papers, background noise, and coughing or loud breathing. Please be mindful of where your camera is pointing. We encourage you to visit the Bluejeans.com website to get familiar with the Blue Jeans phone/videoconferencing system before your hearing. If your hearing gets continued to a different date after you have already received this minute order please note a new minute order

CASE SUMMARY

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will issue with a different meeting ID since the ID number changes with each meeting/hearing. Please be patient if you call in and we are in the middle of oral argument from a previous case. Your case should be called shortly. Again, please keep your phone or computer mic on MUTE until your case is called. CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 5/4/2021. ;

05/05/2021



Motion for Preferential Trial Setting (9:00 AM) (Judicial Officer: Allf, Nancy)

Plaintiff's Motion to Lift Stay and for Re-Setting of Preferential Trial Setting

Granted; Plaintiff's Motion to Lift Stay and for Re-Setting of Preferential Trial Setting

Journal Entry Details:

All appearances made via the BlueJeans Videoconferencing Application. Arguments by Mr. Wirthlin and Mr. Ogilvie regarding the merits of and opposition to the motion. COURT ORDERED, Plaintiff's Motion to Lift Stay and for Re-Setting of Preferential Trial Setting GRANTED, STAY LIFTED on the date the notice of entry is filed, and request for additional depositions should be taken up with the Discovery Commissioner unless all parties stipulate for Court to take over discovery. Colloquy regarding setting a firm trial date. COURT ORDERED, trial SET for firm date on September 20, 2021. 9/20/2021 10:30 AM JURY TRIAL ;

06/30/2021



Minute Order (3:00 AM) (Judicial Officer: Allf, Nancy)

Minute Order: BlueJeans Appearance

Minute Order - No Hearing Held; Minute Order: BlueJeans Appearance

Journal Entry Details:

Department 27 Information to Appear Telephonically Re: Matter set on July 1, 2021, 11:00 a.m. Please be advised that due to the COVID-19 pandemic, Department 27 will continue to conduct Court hearings REMOTELY using the Blue Jeans Video Conferencing system. Counsel have the choice to appear either by phone or computer/video, however, if appearing remotely via BlueJeans, please appear by audio AND video. Also, in person hearings are now being held in Department 27, at the option of counsel. Mask wearing protocols will be strictly enforced. As of May 1, 2021, the Governor has relaxed the capacity to 80%, so that the courtroom can now accommodate up to 32 people. Dial the following number: 1-408-419-1715 Meeting ID: 897 138 369 Meeting URL: <https://bluejeans.com/897138369> To connect by phone dial the number provided and enter the meeting ID followed by # To connect by computer if you do NOT have the app, copy the URL link into a web browser. Google Chrome is preferred but not required. Once you are on the BlueJeans website click on Join with Browser which is located on the bottom of the page. Follow the instructions and prompts given by BlueJeans. You may also download the Blue Jeans app and join the meeting by entering the meeting ID PLEASE NOTE the following protocol each participant will be required to follow: Place your phone on MUTE while waiting for your matter to be called. Do NOT place the call on hold since some phones may play wait/hold music. Please do NOT use speaker phone as it causes a loud echo/ringing noise. Please state your name each time you speak so that the court recorder can capture a clear record. Please be mindful of rustling papers, background noise, and coughing or loud breathing. Please be mindful of where your camera is pointing. We encourage you to visit the Bluejeans.com website to get familiar with the Blue Jeans phone/videoconferencing system before your hearing. If your hearing gets continued to a different date after you have already received this minute order please note a new minute order will issue with a different meeting ID since the ID number changes with each meeting/hearing. Please be patient if you call in and we are in the middle of oral argument from a previous case. Your case should be called shortly. Again, please keep your phone or computer mic on MUTE until your case is called. CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 6/30/2021. ;

07/01/2021

CANCELED Motion for Attorney Fees and Costs (9:30 AM) (Judicial Officer: Allf, Nancy)

Vacated

Defendants Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert Hurlbut, Barbara Lumpkin, Jeff Marshall, and Eric Stickels' Motion for Attorneys' Fees and Costs Pursuant to NRCP 68 and NRS Chapter 18

07/01/2021

CANCELED Motion to Retax (9:30 AM) (Judicial Officer: Allf, Nancy)

Vacated

Plaintiff Motion to Retax and Settle Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert Hurlbut, Barbara Lumpkin, Jeff Marshall, and Eric Stickels Verified Memorandum of

CASE SUMMARY

CASE NO. A-14-711535-C

Costs and Disbursements

07/01/2021

Motion to Retax (11:00 AM) (Judicial Officer: Allf, Nancy)

Plaintiff's Motion to Retax and Settle Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert Hurlbut
Denied;

07/01/2021

Motion for Attorney Fees (11:00 AM) (Judicial Officer: Allf, Nancy)

Defendants Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert Hurlbut, Barbara Lumpkin, Jeff Marshall, And Eric Stickels Motion For Attorneys Fees And Costs Pursuant To Nrcp 68 And Nrs Chapter 18
Denied;

07/01/2021



All Pending Motions (11:00 AM) (Judicial Officer: Allf, Nancy)

Matter Heard;

Journal Entry Details:

DEFENDANTS ROBERT CHUR, STEVE FOGG, MARK GARBER, CAROL HARTER, ROBERT HURLBUT, BARBARA LUMPKIN, JEFF MARSHALL, AND ERIC STICKELS MOTION FOR ATTORNEYS FEES AND COSTS PURSUANT TO NRCP 68 AND NRS CHAPTER 18...PLAINTIFF'S MOTION TO RETAX AND SETTLE ROBERT CHUR, STEVE FOGG, MARK GARBER, CAROL HARTER, ROBERT HURLBUT, BARBARA LUMPKIN, JEFF MARSHALL, AND ERIC STICKELS' VERIFIED MEMORANDUM OF COSTS AND DISBURSEMENTS Present in Courtroom: Brenoch Wirthlin, Esq., Christian M. Orme, Esq. Present via the BlueJeans Video conferencing Application: Angela T. Nakamura Ochoa, Esq., George F. Ogilvie, III, Esq. Arguments by Ms. Ochoa and Mr. Wirthlin regarding the merits of and opposition to the motion. Court stated its findings and ORDERED, Defendants Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert Hurlbut, Barbara Lumpkin, Jeff Marshall, And Eric Stickels Motion For Attorneys Fees And Costs Pursuant To Nrcp 68 And Nrs Chapter 18 DENIED WITHOUT PREJUDICE. COURT FURTHER ORDERED, Plaintiff's Motion to Retax and Settle Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert Hurlbut, Barbara Lumpkin, Jeff Marshall, and Eric Stickels' Verified Memorandum of Costs and Disbursements DENIED. Mr. Wirthlin to prepare the order and provide it to opposing counsel for approval.;

07/06/2021



Minute Order (3:00 AM) (Judicial Officer: Allf, Nancy)

Minute Order: Plaintiff's Motion to Retax and Settle Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert Hurlbut (Motion to Retax) DENIED

Minute Order - No Hearing Held; Minute Order: Plaintiff's Motion to Retax and Settle Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert Hurlbut (Motion to Retax) DENIED

Journal Entry Details:

COURT FINDS after review that on August 21, 2020 Plaintiff's Motion to Retax and Settle Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert Hurlbut (Motion to Retax) was filed. COURT FURTHER FINDS after review that a Motion to Retax was scheduled on July 1, 2021 on Motions calendar. COURT FURTHER FINDS after review that NRS 696B.565 (3) provides: The Commissioner, all present and former deputy receivers, special deputy receivers and their employees, and the other officers, agents, employees and attorneys of the Division must be indemnified for all expenses, attorney s fees, judgments, settlements decrees, or amounts due or paid in satisfaction of, or incurred in the defense of, such a legal action, unless it is determined upon a final adjudication on the merits of the case that the alleged acts, error or omission of the officer, agent, employee or attorney of the division did not arise out of or by reason of his or her duties or employment and was caused by actual malice. THEREFORE COURT ORDERS for good cause appearing and after review that the Motion to Retax is hereby DENIED and the matter scheduled on July 1, 2021 on Motions calendar is hereby VACATED. Movant to prepare the Order in compliance with EDCR 7.21 and email it in pdf format to DC27Inbox@ClarkCountyCourts.us. CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 7/6/2021. ;

07/28/2021



Minute Order (3:00 AM) (Judicial Officer: Allf, Nancy)

Minute Order: BlueJeans Appearance

Minute Order - No Hearing Held; Minute Order: BlueJeans Appearance

Journal Entry Details:

Department 27 Information to Appear Telephonically Re: Matter set on July 29, 2021, 9:30

CASE SUMMARY

CASE NO. A-14-711535-C

a.m. Please be advised that due to the COVID-19 pandemic, Department 27 will continue to conduct Court hearings REMOTELY using the Blue Jeans Video Conferencing system. Counsel have the choice to appear either by phone or computer/video, however, if appearing remotely via BlueJeans, please appear by audio AND video. Also, in person hearings are now being held in Department 27, at the option of counsel. Mask wearing protocols will be strictly enforced. As of May 1, 2021, the Governor has relaxed the capacity to 80%, so that the courtroom can now accommodate up to 32 people. Dial the following number: 1-408-419-1715 Meeting ID: 897 138 369 Meeting URL: <https://bluejeans.com/897138369> To connect by phone dial the number provided and enter the meeting ID followed by # To connect by computer if you do NOT have the app, copy the URL link into a web browser. Google Chrome is preferred but not required. Once you are on the BlueJeans website click on Join with Browser which is located on the bottom of the page. Follow the instructions and prompts given by BlueJeans. You may also download the Blue Jeans app and join the meeting by entering the meeting ID PLEASE NOTE the following protocol each participant will be required to follow: Place your phone on MUTE while waiting for your matter to be called. Do NOT place the call on hold since some phones may play wait/hold music. Please do NOT use speaker phone as it causes a loud echo/ringing noise. Please state your name each time you speak so that the court recorder can capture a clear record. Please be mindful of rustling papers, background noise, and coughing or loud breathing. Please be mindful of where your camera is pointing. We encourage you to visit the Bluejeans.com website to get familiar with the Blue Jeans phone/videoconferencing system before your hearing. If your hearing gets continued to a different date after you have already received this minute order please note a new minute order will issue with a different meeting ID since the ID number changes with each meeting/hearing. Please be patient if you call in and we are in the middle of oral argument from a previous case. Your case should be called shortly. Again, please keep your phone or computer mic on MUTE until your case is called. CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 7/28/2021. ;

07/29/2021



Motion for Declaratory Relief (9:30 AM) (Judicial Officer: Allf, Nancy)

07/29/2021, 08/02/2021

Plaintiff's Motion for Declaratory Relief

Denied in Part;

Matter Continued;

Journal Entry Details:

Present in Courtroom: Brenoch Wirthlin, Esq. All other counsel present via the BlueJeans Videoconferencing Application. Due to time restraints, COURT ORDERED, Plaintiff's Motion for Declaratory Relief CONTINUED. CONTINUED TO: 8/2/2021 10:00 AM;

Denied in Part;

Matter Continued;

Journal Entry Details:

Parties present via Bluejeans Videoconferencing Application. Upon Courts inquiry Mr. Wirthlin stated this motion is strictly based on admission by corporation. Mr. Wirthlin further added the defendant opposition asserts declaratory relief will not have an impact on this case, however Mr. Wirthlin believes it will narrow issues for the case. Mr. Wirthlin continued by stating declaratory relief will narrow the facts and evidence down substantially to allow trial to be more substantive. Mr. Ogilvie responded, declaratory relief is not appropriate as it has nothing to do with insolvency. Mr. Ogilvie added, the plaintiff can not seek relief because declaratory relief was not pleaded and pursuant to Rule 56, by law it can not be allowed. After hearing arguments, COURT ORDERED, Plaintiffs Motion for Declaratory Relief against the Corporate Defendants Uni-Ter Underwriting, Uni-ter Claims and US Re, relating to the Third, Fourth, and Fifth Causes of Action for Negligence, Misrepresentation, and Fiduciary Duty, DENIED, because there was not a request made in the third amended complaint for declaratory relief. However, it will be GRANTED to the extent that admissions of the defendant of undisputed facts, and will be deemed admitted for the purpose of the case. COURT FURTHER ORDERED, Mr. Wirthlin to prepare the order and provide a copy to Mr. Ogilvie for review.;

07/29/2021



Motion to Compel (9:30 AM) (Judicial Officer: Truman, Erin)

Motion to Compel Discovery Pursuant to NRCP 37(a)(4) on Order Shortening Time

Denied Without Prejudice; Motion to Compel Discovery Pursuant to NRCP 37(a)(4) on Order Shortening Time

Journal Entry Details:

MATTER TRAILED to 10:30 a.m. MATTER RECALLED. Commissioner Truman DISCLOSED

CASE SUMMARY**CASE NO. A-14-711535-C**

as a private attorney, she was Of Counsel at the Law Firm of Hutchison & Steffen from approximately 2010 through May 2017. Commissioner offered to recuse herself at request of counsel. Colloquy regarding Mr. Young previously worked for McDonald Carano in the 1990's. No objection by Mr. Ogilvie to Commissioner Truman deciding this Motion. Upon Commissioner's inquiry, Mr. Wirthlin stated Hutchison & Steffen were retained in February 2020. Commissioner stated the Trial is set September 21, 2021, discovery closes in one week, and 1.7 million documents were referenced. Commissioner will not extend discovery as it is not within her purview. Mr. Orme does not have all the documents that were promised, and counsel found out through the depositions. Mr. Orme requested Deft provide the password to the data base of documents. Colloquy regarding the timeframe of the search. Commissioner inquired what search terms were used, and what other search terms would Plaintiff have proposed to be used. Arguments by counsel. Commissioner stated there is not enough time to get the discovery before the close of discovery. If there were more time, Commissioner may allow the discovery. Given the posture of the case, and the timeliness, **COMMISSIONER RECOMMENDED**, motion is **DENIED WITHOUT PREJUDICE**; if discovery is extended, the Motion can be re-Noticed. Mr. Wirthlin can submit the search terms today. Arguments by counsel. If discovery is extended by the Judge, Commissioner advised counsel to bring the issue back for the Commissioner to consider. **COMMISSIONER RECOMMENDED**, Deft is required to respond with bates numbers or bates ranges, and supplement within 30 days. Arguments by counsel regarding the format of document production. Mr. Ogilvie to prepare the Report and Recommendations, and counsel to approve as to form and content. Comply with Administrative Order 20-10, and submit the DCRR to DiscoveryInbox@clarkcountycourts.us. A proper report must be timely submitted within 14 days of the hearing. Otherwise, counsel will pay a contribution. **COMMISSIONER RECOMMENDED**, Status Check SET; if the DCRR is submitted, contact the Discovery office to vacate the Status Check. 8-26-2021 9:00 a.m. Status Check: Compliance / 7-29-2021 DCRR;

08/25/2021

**Minute Order (3:00 AM)** (Judicial Officer: Alf, Nancy)

Minute Order: BlueJeans Appearance

Minute Order - No Hearing Held; Minute Order: BlueJeans Appearance

Journal Entry Details:

Department 27 Information to Appear Telephonically Re: Matter set on August 26, 2021, 10:30 a.m. Please be advised that due to the COVID-19 pandemic, Department 27 will continue to conduct Court hearings REMOTELY using the Blue Jeans Video Conferencing system. Counsel have the choice to appear either by phone or computer/video, however, if appearing remotely via BlueJeans, please appear by audio AND video. Also, in person hearings are now being held in Department 27, at the option of counsel. Mask wearing protocols will be strictly enforced. As of May 1, 2021, the Governor has relaxed the capacity to 80%, so that the courtroom can now accommodate up to 32 people. Dial the following number: 1-408-419-1715 Meeting ID: 897 138 369 Meeting URL: <https://bluejeans.com/897138369> To connect by phone dial the number provided and enter the meeting ID followed by # To connect by computer if you do NOT have the app, copy the URL link into a web browser. Google Chrome is preferred but not required. Once you are on the BlueJeans website click on Join with Browser which is located on the bottom of the page. Follow the instructions and prompts given by BlueJeans. You may also download the Blue Jeans app and join the meeting by entering the meeting ID PLEASE NOTE the following protocol each participant will be required to follow: Place your phone on MUTE while waiting for your matter to be called. Do NOT place the call on hold since some phones may play wait/hold music. Please do NOT use speaker phone as it causes a loud echo/ringing noise. Please state your name each time you speak so that the court recorder can capture a clear record. Please be mindful of rustling papers, background noise, and coughing or loud breathing. Please be mindful of where your camera is pointing. We encourage you to visit the bluejeans.com website to get familiar with the Blue Jeans phone/videoconferencing system before your hearing. If your hearing gets continued to a different date after you have already received this minute order please note a new minute order will issue with a different meeting ID since the ID number changes with each meeting/hearing. Please be patient if you call in and we are in the middle of oral argument from a previous case. Your case should be called shortly. Again, please keep your phone or computer mic on MUTE until your case is called. CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 8/25/2021. ;

08/26/2021

CANCELED Status Check: Compliance (8:59 AM) (Judicial Officer: Truman, Erin)

Vacated

Status Check: Compliance / 7-29-2021 DCRR

CASE SUMMARY

CASE NO. A-14-711535-C

08/26/2021



Calendar Call (10:30 AM) (Judicial Officer: Allf, Nancy)

Matter Heard;

Journal Entry Details:

Present in the Courtroom: George F. Ogilvie, III, Esq. All other parties present via the BlueJeans Videoconferencing Application. Upon inquiry of Court regarding trial, counsel stated they were ready for trial. Colloquy regarding time needed for trial and moving the Motions in Limine to a special setting. Matter concluded.;

08/31/2021



Minute Order (3:00 AM) (Judicial Officer: Allf, Nancy)

Minute Order: BlueJeans Appearance

Minute Order - No Hearing Held; Minute Order: BlueJeans Appearance

Journal Entry Details:

Department 27 Information to Appear Telephonically Re: Matter set on September 2, 2021, 10:00 a.m. Please be advised that due to the COVID-19 pandemic, Department 27 will continue to conduct Court hearings REMOTELY using the Blue Jeans Video Conferencing system. Counsel have the choice to appear either by phone or computer/video, however, if appearing remotely via BlueJeans, please appear by audio AND video. Also, in person hearings are now being held in Department 27, at the option of counsel. Mask wearing protocols will be strictly enforced. As of May 1, 2021, the Governor has relaxed the capacity to 80%, so that the courtroom can now accommodate up to 32 people. Dial the following number: 1-408-419-1715 Meeting ID: 897 138 369 Meeting URL: <https://bluejeans.com/897138369> To connect by phone dial the number provided and enter the meeting ID followed by # To connect by computer if you do NOT have the app, copy the URL link into a web browser. Google Chrome is preferred but not required. Once you are on the BlueJeans website click on Join with Browser which is located on the bottom of the page. Follow the instructions and prompts given by BlueJeans. You may also download the Blue Jeans app and join the meeting by entering the meeting ID PLEASE NOTE the following protocol each participant will be required to follow: Place your phone on MUTE while waiting for your matter to be called. Do NOT place the call on hold since some phones may play wait/hold music. Please do NOT use speaker phone as it causes a loud echo/ringing noise. Please state your name each time you speak so that the court recorder can capture a clear record. Please be mindful of rustling papers, background noise, and coughing or loud breathing. Please be mindful of where your camera is pointing. We encourage you to visit the Bluejeans.com website to get familiar with the Blue Jeans phone/videoconferencing system before your hearing. If your hearing gets continued to a different date after you have already received this minute order please note a new minute order will issue with a different meeting ID since the ID number changes with each meeting/hearing. Please be patient if you call in and we are in the middle of oral argument from a previous case. Your case should be called shortly. Again, please keep your phone or computer mic on MUTE until your case is called. CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 8/31/2021. ;

09/02/2021

Motion for Partial Summary Judgment (10:00 AM) (Judicial Officer: Allf, Nancy)

Motion for Partial Summary Judgment Regarding the Uni-Ter Defendants Fiduciary Duties
Denied;

09/02/2021

Motion in Limine (10:00 AM) (Judicial Officer: Allf, Nancy)

Events: 08/04/2021 Motion in Limine

Plaintiff's Motion in Limine Number 1: to Preclude Sam Hewitt from Providing Expert Testimony Regarding Insolvency Analysis

Denied;

09/02/2021

Motion in Limine (10:00 AM) (Judicial Officer: Allf, Nancy)

Defendants Uni-Ter Underwriting Management Corp., Uni-Ter Claims Services Corp., and U.S. Re Corporations' Motion in Limine to Strike and Exclude Testimony of the Receiver's Proposed Damages Expert, Mark Kuga

Denied;

09/02/2021

Motion in Limine (10:00 AM) (Judicial Officer: Allf, Nancy)

Defendants' Motion in Limine Number 1: to Preclude Mark D. Tharp from Providing Expert Testimony on Impermissible Legal Conclusions

Granted;

CASE SUMMARY

CASE NO. A-14-711535-C

09/02/2021	<p>Motion in Limine (10:00 AM) (Judicial Officer: Allf, Nancy) <i>Defendants' Motion in Limine Number 2: to Preclude Mark D. Tharp from Providing Expert Testimony Regarding Claims Reserving and "Suppression" of Reserves</i> Denied;</p>
09/02/2021	<p>Motion in Limine (10:00 AM) (Judicial Officer: Allf, Nancy) <i>Plaintiff's Motion in Limine No. 2 to Preclude Testimony by Joseph Petrelli, Richard Lord and Jim Murphy Regarding Unperformed Solvency Analysis</i> Granted in Part;</p>
09/02/2021	<p>Motion in Limine (10:00 AM) (Judicial Officer: Allf, Nancy) <i>Plaintiff's Motion in Limine Number 3 to Preclude Testimony that US RE was a Licensed Reinsurance Broker in Nevada</i> Granted;</p>
09/02/2021	<p>Motion in Limine (10:00 AM) (Judicial Officer: Allf, Nancy) <i>Plaintiff's Motion in Limine Number 5 to Limit the Scope of Expert Witness Testimony Regarding Speculation Concerning the Economy</i> Denied;</p>
09/02/2021	<p>Motion in Limine (10:00 AM) (Judicial Officer: Allf, Nancy) <i>Plaintiff's Motion in Limine Number 4 to Preclude any Reference to Reinsurance Estimates</i> Denied;</p>
09/02/2021	<p>Motion in Limine (10:00 AM) (Judicial Officer: Allf, Nancy) <i>Plaintiff's Motion in Limine Number 6 to Strike Proffered Expert Witness Alan Gray</i> Denied;</p>
09/02/2021	<p>Motion in Limine (10:00 AM) (Judicial Officer: Allf, Nancy) <i>Plaintiff's Motion in Limine Number 7 to Preclude Introduction of Irrelevant Evidence from Receivership Action, Case No. A-12-672047-C</i> Granted;</p>
09/02/2021	<p>Motion for Partial Summary Judgment (10:00 AM) (Judicial Officer: Allf, Nancy) <i>Plaintiff's Motion for Partial Summary Judgment as to U.S. RE Corporation</i> Granted in Part;</p>
09/02/2021	<p>Motion for Partial Summary Judgment (10:00 AM) (Judicial Officer: Allf, Nancy) <i>Plaintiff's Motion for Partial Summary Judgment as to Uni-ter Defendants' Breach of their Fiduciary Duties</i> Denied;</p>
09/02/2021	<p>Objection to Discovery Commissioner's Report (10:00 AM) (Judicial Officer: Allf, Nancy) <i>Uni-Ter Underwriting Management Corp., Uni-Ter Claims Services Corp., And U.S. Re Corporations Objection To The Discovery Commissioner S Report And Recommendations On Order</i> Granted in Part;</p>
09/02/2021	<p> All Pending Motions (10:00 AM) (Judicial Officer: Allf, Nancy) Matter Heard; Journal Entry Details: <p><i>PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT AS TO UNI-TER DEFENDANTS' BREACH OF THEIR FIDUCIARY DUTIES</i> Arguments by Mr. Wirthlin and Mr. Ogilvie regarding the merits of and opposition to the motion. Court stated its findings and ORDERED, Plaintiff's Motion for Partial Summary Judgment as to Uni-ter Defendants' Breach of their Fiduciary Duties DENIED, it will come in with regard to the contract. MOTION FOR PARTIAL SUMMARY JUDGMENT REGARDING THE UNI-TER DEFENDANTS FIDUCIARY DUTIES Arguments by Mr. Wirthlin and Mr. Ogilvie regarding the merits of and opposition to the motion. Court stated its findings and ORDERED, Motion for Partial Summary Judgment Regarding the Uni-Ter Defendants Fiduciary Duties DENIED.</p> </p>

CASE SUMMARY

CASE No. A-14-711535-C

PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT AS TO U.S. RE CORPORATION Arguments by Mr. Wirthlin and Mr. Ogilvie regarding the merits of and opposition to the motion. Court stated its findings and ORDERED, Plaintiff's Motion for Partial Summary Judgment as to U.S. RE Corporation GRANTED IN PART based on the admissions that they did broker the reinsurance and never became licensed, the affect of that to be determined by the jury; DENIED IN PART as to remainder of the motion.

DEFENDANTS' MOTION IN LIMINE NUMBER 1: TO PRECLUDE MARK D. THARP FROM PROVIDING EXPERT TESTIMONY ON IMPERMISSIBLE LEGAL CONCLUSIONS Arguments by Mr. Wilson and Mr. Wirthlin regarding the merits of and opposition to the motion. COURT ORDERED, Defendants' Motion in Limine Number 1: to Preclude Mark D. Tharp from Providing Expert Testimony on Impermissible Legal Conclusions GRANTED reciprocally. DEFENDANTS' MOTION IN LIMINE NUMBER 2: TO PRECLUDE MARK D. THARP FROM PROVIDING EXPERT TESTIMONY REGARDING CLAIMS RESERVING AND "SUPPRESSION" OF RESERVES Arguments by Mr. Wilson and Mr. Wirthlin regarding the merits of and opposition to the motion. Court stated its findings and ORDERED, Defendants' Motion in Limine Number 2: to Preclude Mark D. Tharp from Providing Expert Testimony Regarding Claims Reserving and "Suppression" of Reserves DENIED.

DEFENDANTS UNI-TER UNDERWRITING MANAGEMENT CORP., UNI-TER CLAIMS SERVICES CORP., AND U.S. RE CORPORATIONS' MOTION IN LIMINE TO STRIKE AND EXCLUDE TESTIMONY OF THE RECEIVER'S PROPOSED DAMAGES EXPERT, MARK KUGA Arguments by Mr. Wilson and Mr. Wirthlin regarding the merits of and opposition to the motion. Court stated its findings and ORDERED, Defendants Uni-Ter Underwriting Management Corp., Uni-Ter Claims Services Corp., and U.S. Re Corporations' Motion in Limine to Strike and Exclude Testimony of the Receiver's Proposed Damages Expert, Mark Kuga DENIED. PLAINTIFF'S MOTION IN LIMINE NUMBER 6 TO STRIKE PROFFERED EXPERT WITNESS ALAN GRAY Arguments by Mr. Wirthlin and Mr. Ogilvie regarding the merits of and opposition to the motion. Court stated its findings and ORDERED, Plaintiff's Motion in Limine Number 6 to Strike Proffered Expert Witness Alan Gray DENIED.

PLAINTIFF'S MOTION IN LIMINE NUMBER 1: TO PRECLUDE SAM HEWITT FROM PROVIDING EXPERT TESTIMONY REGARDING INSOLVENCY ANALYSIS Arguments by Mr. Orme and Mr. Ogilvie regarding the merits of and opposition to the motion. Court stated its findings and ORDERED, Plaintiff's Motion in Limine Number 1: to Preclude Sam Hewitt from Providing Expert Testimony Regarding Insolvency Analysis DENIED PLAINTIFF'S MOTION IN LIMINE NO. 2 TO PRECLUDE TESTIMONY BY JOSEPH PETRELLI, RICHARD LORD AND JIM MURPHY REGARDING UNPERFORMED SOLVENCY ANALYSIS Arguments by Mr. Wirthlin and Mr. Wilson regarding the merits of and opposition to the motion. COURT ORDERED, Plaintiff's Motion in Limine No. 2 to Preclude Testimony by Joseph Petrelli, Richard Lord and Jim Murphy Regarding Unperformed Solvency Analysis GRANTED IN PART, DENIED IN PART; Court will preclude any testimony with regard to insolvency however, Mr. Petrelli, Mr. Lord, and Mr. Murphy can talk about how they rated, what they did as an actuary, and what they did as an auditor. PLAINTIFF'S MOTION IN LIMINE NUMBER 3 TO PRECLUDE TESTIMONY THAT US RE WAS A LICENSED REINSURANCE BROKER IN NEVADA Arguments by Mr. Wirthlin and Mr. Wilson regarding the merits of and opposition to the motion. Court stated its findings and ORDERED, Plaintiff's Motion in Limine Number 3 to Preclude Testimony that US RE was a Licensed Reinsurance Broker in Nevada GRANTED. PLAINTIFF'S MOTION IN LIMINE NUMBER 4 TO PRECLUDE ANY REFERENCE TO REINSURANCE ESTIMATES Arguments by Mr. Orme and Mr. Wilson regarding the merits of and opposition to the motion. Court stated its findings and ORDERED, Plaintiff's Motion in Limine Number 4 to Preclude any Reference to Reinsurance Estimates DENIED. PLAINTIFF'S MOTION IN LIMINE NUMBER 5 TO LIMIT THE SCOPE OF EXPERT WITNESS TESTIMONY REGARDING SPECULATION CONCERNING THE ECONOMY Arguments by Mr. Wirthlin and Mr. Ogilvie regarding the merits of and opposition to the motion. Court stated its findings and ORDERED, Plaintiff's Motion in Limine Number 5 to Limit the Scope of Expert Witness Testimony Regarding Speculation Concerning the Economy DENIED, Court will not allow cumulative evidence.

PLAINTIFF'S MOTION IN LIMINE NUMBER 7 TO PRECLUDE INTRODUCTION OF IRRELEVANT EVIDENCE FROM RECEIVERSHIP ACTION, CASE NO. A-12-672047-C There being no opposition, COURT ORDERED, Plaintiff's Motion in Limine Number 7 to Preclude Introduction of Irrelevant Evidence from Receivership Action, Case No. A-12-672047-C GRANTED. UNI-TER UNDERWRITING MANAGEMENT CORP., UNI-TER CLAIMS SERVICES CORP., AND U.S. RE CORPORATIONS OBJECTION TO THE DISCOVERY COMMISSIONER'S REPORT AND RECOMMENDATIONS ON ORDER SHORTENING TIME Arguments by Mr. Ogilvie and Mr. Orme regarding the merits of and opposition to the motion. COURT ORDERED, Uni-Ter Underwriting Management Corp., Uni-Ter Claims Services Corp., And U.S. Re Corporations Objection To The Discovery Commissioner's Report And Recommendations On Order Shortening Time GRANTED IN PART, OVERRULED IN PART, Plaintiff can prioritize twenty requests for production of

CASE NO. A-14-711535-C

Trial Continues;
Trial Continues;
Trial Continues;

CASE SUMMARY
CASE No. A-14-711535-C

Journal Entry Details:

CASE SUMMARY

CASE No. A-14-711535-C

Robert Greer, representative for Plaintiff also present. JURY PRESENT Testimony and exhibits presented (see worksheets). Plaintiff rests. Testimony and exhibits presented (see worksheets). OUTSIDE THE PRESENCE OF THE JURY Counsel waived the formality of publishing the depositions read to the jury. JURY PRESENT Testimony and exhibits presented (see worksheets). COURT ORDERED, trial CONTINUED. OUTSIDE THE PRESENCE OF THE JURY Colloquy regarding jury instructions and trial schedule. Court recessed for the evening. CONTINUED TO: 10/11/2021 9:30 AM;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

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Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Verdict;

Journal Entry Details:

Robert Greer, Receiver, also present. OUTSIDE THE PRESENCE OF THE JURY Colloquy regarding jury instructions. JURY PRESENT Testimony and exhibits presented (see worksheets). Court admonished Jurors for lunch. OUTSIDE THE PRESENCE OF THE JURY Colloquy regarding stipulation to rebuttals. Upon Court's inquiry, parties agreed and confirmed to be able to discuss jury instructions on the continued date. JURY PRESENT Testimony and exhibits presented (see worksheets). Court admonished Jurors for break. OUTSIDE THE PRESENCE OF THE JURY Colloquy regarding trial schedule. JURY PRESENT Testimony and exhibits presented (see worksheets). Court admonished Jurors to go home and informed Jurors of trial schedule. COURT ORDERED, trial CONTINUED. CONTINUED TO: 10/8/2021 9:30 AM;

Trial Continues;

Trial Continues;

Trial Continues;

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Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Verdict;

Journal Entry Details:

INSIDE THE PRESENCE ON THE JURY Testimony and exhibits presented. (See worksheets) OUTSIDE THE PRESENCE ON THE JURY Court questioned juror #6 about her ability to continued serving. The Juror stated that she would not be able to serve. COURT ORDERED, JUROR NUMBER SIX, DISMISSED. TRIAL CONTINUES: 10/7/21 11:00 AM;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

CASE SUMMARY

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Trial Continues;
Trial Continues;
Trial Continues;
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Trial Continues;
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Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Verdict;

Journal Entry Details:

Called To Order. Jury Present. Testimony and exhibits presented. (See worksheets), Jury excused for the evening with the instruction to 1:00pm. Outside the Presence of the Jury. Statements by counsel regarding demonstrative exhibits and witness testimony. Trial Adjourned. ;

Trial Continues;
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Trial Continues;
Trial Continues;
Verdict;

Journal Entry Details:

Robert Greer, Receiver, also present. JURY PRESENT Testimony and exhibits presented (see worksheets). OUTSIDE THE PRESENCE OF THE JURY Colloquy regarding trial schedule and availability of jurors. JURY PRESENT Testimony and exhibits presented (see worksheets). COURT ORDERED, trial CONTINUED. OUTSIDE THE PRESENCE OF THE JURY Colloquy with Juror #6, outside the present of the other jurors, regarding trial schedule and juror's conflict on October 11, 2021. Court recessed for the evening. CONTINUED TO: 10/5/2021 8:30 AM;

Trial Continues;
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Trial Continues;
Trial Continues;
Verdict;

Journal Entry Details:

Robert Greer, Representative for Plaintiff, also present. OUTSIDE THE PRESENCE OF THE JURY Colloquy regarding Mr. Wilson's health and trial schedule going forward. JURY PRESENT COURT ORDERED, trial CONTINUED. CONTINUED TO: 10/1/2021 1:00 PM;
Trial Continues;

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CASE SUMMARY

CASE NO. A-14-711535-C

Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Verdict;

Journal Entry Details:

Also present: Robert Greer, Receiver. OUTSIDE THE PRESENCE OF THE JURY Colloquy regarding note from juror and trial schedule JURY PRESENT Testimony and exhibits presented (see worksheets). OUTSIDE THE PRESENCE OF THE JURY Colloquy regarding note from juror with scheduling conflict. JURY PRESENT Testimony and exhibits presented (see worksheets). OUTSIDE THE PRESENCE OF THE JURY Mr. Wirthlin advised that several exhibits that were stipulated to on September 21, 2021 were skipped in the exhibit binders and no actually exhibits exist for those stipulated exhibits. Mr. Wirthlin further advised that those exhibits need to be un-admitted as well as two other exhibits to depositions that were not provided but admitted. COURT ORDERED, exhibits 204, 210, 216, 220, 228, 233, 239, 240, 242, 252, 343, and 351 STRICKEN as to admittance. Colloquy regarding objections to exhibits Plaintiffs intend to admit with the witness. Court stated a foundation could be laid with the witnesses at the time of testimony to admit the exhibits and no cumulative testimony is to be provided. JURY PRESENT Testimony and exhibits presented (see worksheets). OUTSIDE THE PRESENCE OF THE JURY COURT ORDERED, trial CONTINUED. OUTSIDE THE PRESENCE OF THE JURY Trial recessed for the evening. CONTINUED TO: 9/27/2021 9:30 AM;

Trial Continues;
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Trial Continues;
Trial Continues;
Verdict;

Journal Entry Details:

Also present: Robert Greer, Receiver. OUTSIDE THE PRESENCE OF THE JURY Mr. Withlin stated opposing counsel may be using claims files today and there are privacy issues as to those files. Mr. Wilson stated if he talks about the files he will use first names only and not last names. Mr. Wirthlin stated that would be fine JURY PRESENT Testimony and exhibits presented (see worksheets). COURT ORDERED, trial CONTINUED. OUTSIDE THE PRESENCE OF THE JURY Objections made at side bar placed on the record. Trial recessed for the evening. CONTINUED TO: 9/24/2021 9:30 AM;

Trial Continues;
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Trial Continues;

CASE SUMMARY

CASE NO. A-14-711535-C

Trial Continues;

Trial Continues;

Verdict;

Journal Entry Details:

Also present: Robert Greer, Receiver. OUTSIDE THE PRESENCE OF THE JURY Colloquy regarding scope of the next witness. Mr. Wirthlin requested to publish admitted exhibits by providing binders to jurors of admitted exhibits. Mr. Wilson stated he had no objection as long as they were admitted exhibits. Court stated it would allow the binders to be provided to the jurors. JURY PRESENT Testimony and exhibits presented (see worksheets). COURT ORDERED, trial CONTINUED. OUTSIDE THE PRESENCE OF THE JURY Colloquy regarding scheduling of witnesses. Trial recessed for the evening. CONTINUED TO: 9/23/2021 1:00 PM -- ;

Trial Continues;

Trial Continues;

Trial Continues;

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Trial Continues;

Trial Continues;

Trial Continues;

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Trial Continues;

Trial Continues;

Trial Continues;

Verdict;

Journal Entry Details:

Also present: Robert Greer, Receiver. OUTSIDE THE PRESENCE OF THE JURY Colloquy regarding issues with jury selection and preemptory challenges placed on record. Mr. Ogilve requested proposed jury list and preemptory challenges be made part of the record. Court Clerk stated it would mark those documents as Court's exhibits. Colloquy regarding scheduling issues and depositions of adverse witnesses. Court directed counsel to exchange the depositions and Court will make rulings as to the objections in them. Colloquy regarding stipulated exhibits and objection to jury instruction. JURY PRESENT Exclusionary rule is invoked. Opening statements by Mr. Wirthlin. OUTSIDE THE PRESENCE OF THE JURY Mr. Wilson placed objections on the record regarding opening statements made by Mr. Wirthlin. JURY PRESENT Opening statements by Mr. Wilson. Testimony and exhibits presented (see worksheets). Deposition of Eric E. Stickels was PUBLISHED and FILED IN OPEN COURT. Deposition of Mark Garber (volumes 1 and 2) were PUBLISHED and FILED IN OPEN COURT. Deposition of Mark Garber was PUBLISHED and FILED IN OPEN COURT. Deposition of Steven Charles Fogg was PUBLISHED and FILED IN OPEN COURT. Deposition of Robert W. Hurlbut was PUBLISHED and FILED IN OPEN COURT. COURT ORDERED, trial CONTINUED. OUTSIDE THE PRESENCE OF THE JURY Court recessed for the evening. CONTINUED TO: 9/22/2021 1:00 PM;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

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Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;



Trial Continues;

Trial Continues;

Verdict;

CASE SUMMARY

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	<p>Journal Entry Details:</p> <p><i>Also present: Robert Greer, Receiver. OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURORS Colloquy regarding jury selection, resolution of disputed voir dire questions, adverse witnesses, and request to take judicial notice. There being no objection, COURT ORDERED, request to take judicial notice GRANTED. Upon inquiry of Court regarding seating additional alternate jurors, both sides agreed to do so. PROSPECTIVE JURORS PRESENT Prospective jury panel present. Jury and alternate juror selected and sworn. COURT ORDERED, trial CONTINUED. OUTSIDE THE PRESENCE OF THE JURY Court noted there was a issue with the jury selection and the matter could be taken up at the start of trial on September 21, 2021. Trial recessed for the evening. CONTINUED TO: 9/21/2021 9:30 AM ;</i></p>
11/10/2021	<p>CANCELED Motion for Order Extending Time (10:00 AM) (Judicial Officer: Bell, Linda Marie)</p> <p><i>Vacated - per Stipulation</i></p> <p><i>Plaintiff's Motion For Order Extending Time For Plaintiff To File Memorandum Of Costs On Order Shortening Time</i></p>
11/24/2021	<p> Motion for Order (10:00 AM) (Judicial Officer: Allf, Nancy)</p> <p><i>Defendants Uni-Ter Underwriting Management Corp., Uni-Ter Claims Services Corp., and U.S. Re Corporations' Motion for Order Excluding Interest Accrued During Stay Periods on OST</i></p> <p><i>Granted;</i></p> <p>Journal Entry Details:</p> <p><i>Present in Courtroom: George F. Ogilvie, III Present via BlueJeans Videoconferencing Application: Brenoch Wirthlin, Esq. Arguments by counsel regarding the merits of and opposition to the motion. Court stated its findings and ORDERED, Defendants Uni-Ter Underwriting Management Corp., Uni-Ter Claims Services Corp., and U.S. Re Corporations' Motion for Order Excluding Interest Accrued During Stay Periods on OST GRANTED. Mr. Ogilvie to prepare the order and submit it to opposing counsel for approval as to form.;</i></p>
03/17/2022	<p>Motion for Attorney Fees and Costs (9:30 AM) (Judicial Officer: Allf, Nancy)</p> <p>03/17/2022, 09/07/2022</p> <p><i>Motion for Attorney Fees and Costs</i></p> <p><i>03/30/2022 Continued to 04/13/2022 - At the Request of Counsel - Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark; Uni-Ter Underwriting Management Corp; Uni-Ter Claims Services Corp; U S Re Corporation</i></p> <p><i>3/17/22</i></p> <p><i>SAO 3/25/22</i></p> <p><i>Granted in Part;</i></p>
05/02/2022	<p> Motion to Amend (3:00 AM) (Judicial Officer: Allf, Nancy)</p> <p><i>Plaintiff's Motion to Amend Pleadings to Conform them to the Evidence</i></p> <p><i>Granted;</i></p> <p>Journal Entry Details:</p> <p><i>COURT FINDS after review that on March 31, 2022, Plaintiffs Motion to Amend Pleadings to Conform Them to the Evidence (Motion to Amend) was filed. A Motion to Amend is scheduled for May 11, 2022, at 9 am on Motion Calendar. COURT FURTHER FINDS after review EDCR 2.20(e) provides in relevant part: [f]ailure of the opposing party to serve and file written opposition may be construed as an admission that the motion and/or joinder is meritorious and a consent to granting the same. COURT FURTHER FINDS after review that no opposition to the Motion to Amend was filed. THEREFORE COURT ORDERS for good cause appearing and after review the Motion to Amend is hereby GRANTED and the matter scheduled for May 11, 2022, at 9 am on Motion Calendar is hereby VACATED. Movant to prepare the Order in compliance with EDCR 7.21 and email it in pdf format to DC27Inbox@ClarkCountyCourts.us CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 5/2/2022;</i></p>
09/07/2022	<p>Motion (10:30 AM) (Judicial Officer: Allf, Nancy)</p> <p><i>Defendant U.S. Re Corporation's Motion to Alter or Amend Judgment Pursuant to Rule 59(e), for Relief from Judgment and Pursuant to Rule 60(b), and for Stay of Execution Pursuant to 62 (b)(3) and (4)</i></p>

CASE SUMMARY

CASE NO. A-14-711535-C

	SAO 3/25/22 SAO 5/19/22 Off Calendar;
09/07/2022	Motion to Amend (10:30 AM) (Judicial Officer: Allf, Nancy) Events: 02/10/2022 Motion to Amend Judgment <i>Plaintiff's Motion to Alter or Amend Judgment Pursuant to NRCP 59</i> SAO 3/25/22 Granted;
09/07/2022	Motion to Retax (10:30 AM) (Judicial Officer: Allf, Nancy) <i>Defendant's Motion to Retax Memorandum of Costs</i> SAO 3/25/22 Granted in Part;
09/07/2022	 All Pending Motions (10:30 AM) (Judicial Officer: Allf, Nancy) Matter Heard; Journal Entry Details: <i>Appearances made via the BlueJeans Video Conferencing Application. Court noted impressions and thoughts it had formed regarding the pending motions. MOTION FOR ATTORNEY FEES AND COSTS Arguments by counsel regarding the merits of and opposition to the motion. Court stated its findings and ORDERED, Motion for Attorney Fees and Costs GRANTED with the amount to be determined at a later date; counsel may file unredacted billing records on a sealed basis, so long as they are served to opposing counsel; the records may be redacted as to attorney/client privilege, and not for lock billing. COURT FURTHER ORDERED, fees and costs are to be related to this case, and no costs are to be related to the administration in any way. COURT FURTHER ORDERED miscellaneous costs DISALLOWED unless there is more documentation provided with regard to them; any miscellaneous costs that relate to attorney fees DISALLOWED. COURT FURTHER ORDERED, the apportionment will be JOINT AND SEVERAL as to Uni-Ter and U S Re Corporation; there is no ruling against the directors at this time. COURT FURTHER ORDERED, any costs that were unrelated to the corporate defendants, except for computer related costs, will be DISALLOWED; the receiver is required to re-calculate pre-judgment interest on any costs. COURT FURTHER ORDERED, supplemental information with regard to Greer and Anderson costs, Betty Cordial, travel time, bank fees, off-site storage in West Virginia, and moving storage to be provided and this is TAKEN UNDER SUBMISSION. DEFENDANT U.S. RE CORPORATION'S MOTION TO ALTER OR AMEND JUDGMENT PURSUANT TO RULE 59(E), FOR RELIEF FROM JUDGMENT AND PURSUANT TO RULE 60(B), AND FOR STAY OF EXECUTION PURSUANT TO 62(B)(3) AND (4) Upon inquiry of Court if matter should be taken off calendar, Mr. Ogilvie stated it could. COURT ORDERED, Defendant U.S. Re Corporation's Motion to Alter or Amend Judgment Pursuant to Rule 59(e), for Relief from Judgment and Pursuant to Rule 60(b), and for Stay of Execution Pursuant to 62(b)(3) and (4) OFF CALENDAR. DEFENDANT'S MOTION TO RETAX MEMORANDUM OF COSTS Counsel submitted on their pleadings. Court noted this motion had been addressed in Court s prior ruling as to Plaintiff's Motion for Fees and Costs. Mr. Ogilvie submitted on the pleadings. COURT ORDERED, Defendant's Motion to Retax Memorandum of Costs GRANTED IN PART, DENIED IN PART consistent to the ruling as to the Motion for Fees and Costs. PLAINTIFF'S MOTION TO ALTER OR AMEND JUDGMENT PURSUANT TO NRCP 59 Arguments by Mr. Wirthlin in support of his motion. Mr. Ogilvie submitted on the pleadings. COURT ORDERED, Plaintiff's Motion to Alter or Amend Judgment Pursuant to NRCP 59 GRANTED. Court directed counsel to submit any supplemental pleadings within THIRTY (30) DAYS as to fees and costs. COURT ORDERED, status check SET on a chambers calendar in SIXTY (60) DAYS for Court to rule on the outstanding issues. Mr. Wirthlin stated he would prepare the orders and submit them to opposing counsel. 11/8/2022 (CHAMBERS) STATUS CHECK: RULINGS ON OUTSTANDING ISSUES ;</i>
11/08/2022	 Status Check (3:00 AM) (Judicial Officer: Allf, Nancy) <i>Status Check: Rulings on Outstanding Issues</i> Minute Order - No Hearing Held; Journal Entry Details: <i>COURT FINDS after review that on September 7, 2022, all pending motions were heard on Motion Calendar. The Court directed counsel to submit any supplemental pleadings within</i>

CASE SUMMARY**CASE NO. A-14-711535-C**

	<p><i>Thirty (30) Days as to fees and costs. COURT ORDERED, status check set on a chambers calendar in sixty (60) days for Court to rule on the outstanding issues. COURT FINDS after review that on October 7, 2022, a Supplement to Errata to Plaintiff's Verified Memorandum of Costs (Supplement) was filed by Plaintiff. COURT FURTHER FINDS after review EDCR 2.20(e) provides in relevant part: [f]ailure of the opposing party to serve and file written opposition may be construed as an admission that the motion and/or joinder is meritorious and a consent to granting the same. COURT FURTHER FINDS after review no opposition to the Supplement has been filed. THEREFORE COURT ORDERS for good cause appearing and after review the Supplement is hereby GRANTED and the matter scheduled for November 8, 2022, on Chamber Calendar is hereby VACATED. Movant to prepare the Order in compliance with EDCR 7.21 and email it in pdf format to DC27Inbox@ClarkCountyCourts.us CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 11/8/2022;</i></p>
11/10/2022	<p> Motion to Dismiss (10:00 AM) (Judicial Officer: Allf, Nancy)</p> <p><i>Motion to Dismiss and Enforce Settlement Agreement on OST</i></p> <p>Off Calendar; Motion to Dismiss and Enforce Settlement Agreement on OST</p> <p>Journal Entry Details:</p> <p><i>Appearances made via the BlueJeans Videoconferencing Application. Arguments by Mr. Wirthlin and Ms. Armstrong regarding the merits of and opposition to the motion. Court stated that due to the filing of the appeal on November 9, 2022, Court is divested of jurisdiction and ORDERED, Motion to Dismiss and Enforce Settlement Agreement on OST OFF CALENDAR. Court noted its advisory opinion as to the motion. Mr. Ogilvie stated he does not believe the Court is divested of jurisdiction due to the appeal and he would brief that in a motion for reconsideration. Plaintiff to prepare the order and submit it to opposing counsel for approval as to form.;</i></p>
12/13/2022	<p>Motion to Seal/Redact Records (3:00 AM) (Judicial Officer: Allf, Nancy)</p> <p><i>Plaintiff's Motion to File Appendix to Supplement to Motion for Attorneys' Fees and Costs Under Seal</i></p>

DATE**FINANCIAL INFORMATION**

Third Party Plaintiff Chur, Robert	
Total Charges	486.00
Total Payments and Credits	486.00
Balance Due as of 11/22/2022	0.00
Third Party Plaintiff Fogg, Steve	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 11/22/2022	0.00
Third Party Plaintiff Garber, Mark	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 11/22/2022	0.00
Third Party Plaintiff Harter, Carol	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 11/22/2022	0.00
Third Party Plaintiff Hurlbut, Robert	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 11/22/2022	0.00
Third Party Plaintiff Lumpkin, Barbara	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 11/22/2022	0.00
Third Party Plaintiff Marshall, Jeff	
Total Charges	30.00

CASE SUMMARY**CASE NO. A-14-711535-C**

Total Payments and Credits	30.00
Balance Due as of 11/22/2022	0.00
Third Party Plaintiff Stickels, Eric	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 11/22/2022	0.00
Defendant U S Re Corporation	
Total Charges	1,783.00
Total Payments and Credits	1,783.00
Balance Due as of 11/22/2022	0.00
Defendant Uni-Ter Claims Services Corp	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 11/22/2022	0.00
Defendant Uni-Ter Underwriting Management Corp	
Total Charges	243.00
Total Payments and Credits	223.00
Balance Due as of 11/22/2022	20.00
Other Public Copy Request	
Total Charges	8.00
Total Payments and Credits	8.00
Balance Due as of 11/22/2022	0.00
Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark	
Total Charges	1,392.50
Total Payments and Credits	1,412.50
Balance Due as of 11/22/2022	(20.00)
Third Party Plaintiff Chur, Robert	
Appeal Bond Balance as of 11/22/2022	500.00
Plaintiff Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark	
Appeal Bond Balance as of 11/22/2022	500.00

CIVIL COVER SHEET

Clark County, Nevada

Case No. _____

(Assigned by Clerk's Office)

XXVI I

I. Party Information

Plaintiff:

Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark LTC Risk Retention Group, Inc.

Attorney (name/address/phone):

Anthony R. Ager, Esq. (NV Bar #7969)

Fennemore Craig Jones Vargas

300 S. Fourth Street, Suite 1400

Las Vegas, Nevada 89101, Tel. (702) 692-8000

Defendant(s) (name/address/phone):

Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert Hurlbut, Barbara Lumpkin, Jeff Marshall, Eric Stickels, Uni-Ter Underwriting Management Corp., Uni-Ter Claims Services Corp., and U.S. Re Corporation

Attorney (name/address/phone):

Civil Cases

Real Property	Negligence	Torts
<input type="checkbox"/> Landlord/Tenant <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Title to Property <input type="checkbox"/> Foreclosure <input type="checkbox"/> Liens <input type="checkbox"/> Quiet Title <input type="checkbox"/> Specific Performance <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property <input type="checkbox"/> Partition <input type="checkbox"/> Planning/Zoning	<input type="checkbox"/> Negligence – Auto <input type="checkbox"/> Negligence – Medical/Dental <input type="checkbox"/> Negligence – Premises Liability (Slip/Fall) <input checked="" type="checkbox"/> Negligence – Other	<input type="checkbox"/> Product Liability <input type="checkbox"/> Product Liability <input type="checkbox"/> Other Torts/Product Liability <input type="checkbox"/> Intentional Misconduct <input type="checkbox"/> Torts/Defamation (Libel/Slander) <input type="checkbox"/> Interfere with Contract Rights <input type="checkbox"/> Employment Torts (Wrongful termination) <input type="checkbox"/> Other Torts <input type="checkbox"/> Anti-trust <input type="checkbox"/> Fraud/Misrepresentation <input type="checkbox"/> Insurance <input type="checkbox"/> Legal Tort <input type="checkbox"/> Unfair Competition
Probate	Other Civil Filing Types	
<input type="checkbox"/> Summary Administration <input type="checkbox"/> General Administration <input type="checkbox"/> Special Administration <input type="checkbox"/> Summary Administration <input type="checkbox"/> Set Aside Estates <input type="checkbox"/> Probate Trust/Conservatorships <input type="checkbox"/> Other Probate	<input type="checkbox"/> Construction Defect <input type="checkbox"/> Breach of Contract <input type="checkbox"/> Building & Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input type="checkbox"/> Other Contracts/Act/Judgment <input type="checkbox"/> Collection of Actions <input type="checkbox"/> Employment Contract <input type="checkbox"/> Guarantee <input type="checkbox"/> Sale Contract <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> Civil Petition for Judicial Review <input type="checkbox"/> Other Administrative Law <input type="checkbox"/> Department of Motor Vehicles <input type="checkbox"/> Employer's Insurance of Nevada	
	<input type="checkbox"/> Appeal from Lower Court (also check applicable civil case box) <input type="checkbox"/> Transfer from Justice Court <input type="checkbox"/> Justice Court Civil Appeal <input type="checkbox"/> Civil Writ <input type="checkbox"/> Other Special Proceeding <input type="checkbox"/> Other Civil Filing <input type="checkbox"/> Compromise of Minor's Claim <input type="checkbox"/> Conversion of Property <input type="checkbox"/> Damage to Property <input type="checkbox"/> Employment Security <input type="checkbox"/> Enforcement of Judgment <input type="checkbox"/> Foreign Judgment – Civil <input type="checkbox"/> Other Personal Property <input type="checkbox"/> Recovery of Property <input type="checkbox"/> Stockholder Suit <input type="checkbox"/> Other Civil Matters	

III. Business Court Requested (Please check applicable category; for Clark or Washoe Counties only.)

- | | | |
|---|--|---|
| <input type="checkbox"/> NRS Chapter 78-88 | <input type="checkbox"/> Investments (NRS 104B) | <input type="checkbox"/> Enhanced Case Mgmt/Business |
| <input type="checkbox"/> Commodities (NRS 90) | <input type="checkbox"/> Deceptive Trade Practices (NRS 598) | <input type="checkbox"/> Other Business Court Matters |
| <input type="checkbox"/> Securities (NRS 90) | <input type="checkbox"/> Trademarks (NRS 600A) | |

December 23, 2014

Date

/s/ Karl L. Nielson

Signature of initiating party or representative

ODM

George F. Ogilvie III, Esq.
Nevada Bar No. 3552
MCDONALD CARANO LLP
2300 West Sahara Avenue, Suite 1200
Las Vegas, NV 89102
Telephone: (702) 873-4100
Facsimile: (702) 873-9966
gogilvie@mcdonaldcarano.com

Jon M. Wilson, Esq. (Appearing *Pro Hac Vice*)
Kimberly Freedman, Esq. (Appearing *Pro Hac Vice*)
Erin Kolmansberger, Esq. (Appearing *Pro Hac Vice*)
NELSON MULLINS BROAD AND CASSEL
2 S. Biscayne Boulevard, 21st Floor
Miami, Florida 33131
Telephone: (305) 373-9400
Facsimile: (305) 373-9443
Jon.Wilson@nelsonmullins.com
Kimberly.Freedman@nelsonmullins.com
Erin.Kolmansberger@nelsonmullins.com

*Attorneys for Defendants Uni-Ter Underwriting
Management Corp., Uni-Ter Claims Services
Corp., and U.S. RE Corporation*

**DISTRICT COURT
CLARK COUNTY, NEVADA**

COMMISSIONER OF INSURANCE FOR THE
STATE OF NEVADA AS RECEIVER OF
LEWIS AND CLARK LTC RISK RETENTION
GROUP, INC.,

Plaintiffs,

v.

ROBERT CHUR, STEVE FOGG, MARK
GARBER, CAROL HARTER, ROBERT
HURLBUT, BARBARA LUMPKIN, JEFF
MARSHALL, ERIC STICKELS, UNI-TER
UNDERWRITING MANAGEMENT CORP.
UNI-TER CLAIMS SERVICES CORP., and
U.S. RE CORPORATION, DOES 1-50,
inclusive; and ROES 51-100, inclusive,

Defendants.

Case No. A-14-711535-C

Dept. No.: XXVII

**ORDER DENYING PLAINTIFF'S
MOTION FOR LEAVE TO FILE
FOURTH AMENDED COMPLAINT**

1 This matter came before the Court for hearing on July 23, 2020 on Plaintiff's Motion for
2 Leave to File Fourth Amended Complaint ("Motion"). Brenoch R. Wirthlin, Esq. appeared on
3 behalf of Plaintiff Commissioner of Insurance for the State of Nevada ("Plaintiff"); George F.
4 Ogilvie III, Esq., Jon N. Wilson, Esq. and Erin Kolmansberger, Esq. appeared on behalf of
5 Defendants Uni-Ter Underwriting Management Corp., Uni-Ter Claims Services Corp., and U.S.
6 RE Corporation; and Angela T. Nakamura Ochoa, Esq. appeared on behalf of Defendants Robert
7 Chur, Steve Fogg, Mark Garber, Carol Harter, Robert Hurlbut, Barbara Lumpkin, Jeff Marshall
8 and Eric Stickels.

9 Having considered the record and the briefs submitted in support of and in opposition to
10 the Motion, and having entertained the arguments of counsel, the Court finds that the Motion is
11 untimely; that Plaintiff unduly delayed the assertion of the new allegations and claims for relief
12 set forth in the proposed Fourth Amended Complaint; that granting Plaintiff leave to file the Fourth
13 Amended Complaint would unduly prejudice defendants; that the new defendant sought to be
14 added was known to Plaintiff at the time of the filing of the original Complaint; and that the
15 proposed new claims for relief do not relate back to the filing of the original Complaint and are,
16 therefore, time-barred. Based on these findings and good cause appearing therefor,

17 **IT IS HEREBY ORDERED** that Plaintiff's Motion for Leave to File Fourth Amended
18 Complaint is **DENIED**.

19 DATED this ____ day of July, 2020.

Dated this 10th day of August, 2020



NANCY L. ALLF
District Court Judge
B19 B66 6A18 37FC
Nancy Allf
District Court Judge

1 Approved as to Form and Content:

2 HUTCHISON & STEFFEN

3
4 By: /s/ Brenoch Wirthlin, Esq.
5 10080 West Alta Drive, Suite 200
6 Las Vegas, Nevada 89145

7 *Attorneys for Plaintiff Commissioner*
8 *of Insurance for the State of Nevada*

9 LIPSON NEILSON, P.C.

10 By: /s/ Angela T. Nakamura Ochoa, Esq.
11 9900 Covington Cross Drive, Ste. 120
12 Las Vegas, Nevada 89144

13 *Attorneys for Robert Chur, et al.,*

14
15 Submitted By:

16 McDONALD CARANO LLP

17
18 By: /s/ George F. Ogilvie III
19 George F. Ogilvie III, Esq. (#3552)
20 2300 West Sahara Avenue, Suite 1200
21 Las Vegas, NV 89102

22 Jon M. Wilson, Esq. (Admitted *Pro Hac Vice*)
23 Kimberly Freedman, Esq. (Appearing *Pro Hac Vice*)
24 Erin Kolmansberger, Esq. (Appearing *Pro Hac Vice*)
25 NELSON MULLINS BROAD AND CASSEL
26 2 S. Biscayne Boulevard, 21st Floor
27 Miami, Florida 33131

28 *Attorneys for Defendants Uni-Ter Underwriting*
Management Corp., Uni-Ter Claims Services Corp.,
and U.S. RE Corporation

1 **CSERV**

2
3 **DISTRICT COURT**
4 **CLARK COUNTY, NEVADA**

5
6 Commissioner of Insurance for
7 the State of Nevada as Receiver
8 of Lewis and Clark, Plaintiff(s)

CASE NO: A-14-711535-C

DEPT. NO. Department 27

9 vs.

10 Robert Chur, Defendant(s)

11 **AUTOMATED CERTIFICATE OF SERVICE**

12
13 This automated certificate of service was generated by the Eighth Judicial District
14 Court. The foregoing Order was served via the court's electronic eFile system to all
recipients registered for e-Service on the above entitled case as listed below:

15 Service Date: 8/10/2020

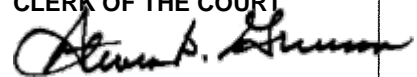
16 Adrina Harris .	aharris@fclaw.com
17 Angela T. Nakamura Ochoa .	aochoa@lipsonneilson.com
18 Ashley Scott-Johnson .	ascott-johnson@lipsonneilson.com
19 Brenoch Wirthlin .	bwirthli@fclaw.com
20 CaraMia Gerard .	cgerard@mcdonaldcarano.com
21 George F. Ogilvie III .	gogilvie@mcdonaldcarano.com
22 Jessica Ayala .	jayala@fclaw.com
23 Joanna Grigoriev .	jgrigoriev@ag.nv.gov
24 Jon M. Wilson .	jwilson@broadandcassel.com
25 Kathy Barrett .	kbarrett@mcdonaldcarano.com

26
27
28

1	Marilyn Millam .	mmillam@ag.nv.gov
2	Nevada Attorney General .	wiznetfilings@ag.nv.gov
3	Paul Garcia .	pgarcia@fclaw.com
4	Renee Rittenhouse .	rrittenhouse@lipsonneilson.com
5	Rory Kay .	rkay@mcdonaldcarano.com
6	Susana Nutt .	snutt@lipsonneilson.com
7	Yusimy Bordes .	ybordes@broadandcassel.com
8	Jelena Jovanovic .	jjovanovic@mcdonaldcarano.com
9	Christian Orme	corne@hutchlegal.com
10	Patricia Lee	plee@hutchlegal.com
11	Kimberly Freedman	kfreedman@broadandcassel.com
12	Danielle Kelley	dkelley@hutchlegal.com
13	Karen Surowiec	ksurowiec@mcdonaldcarano.com
14	Jonathan Wong	jwong@lipsonneilson.com
15	Erin Kolmansberger	erin.kolmansberger@nelsonmullins.com
16	Melissa Gomberg	melissa.gomberg@nelsonmullins.com
17	Betsy Gould	bgould@doi.nv.gov
18	Juan Cerezo	jcerezo@lipsonneilson.com
19	Stuart Taylor	staylor@hutchlegal.com
20	Heather Bennett	hshepherd@hutchlegal.com
21	Brenoch Wirthlin	bwirthlin@klnevada.com
22	Jon Linder	jlinder@klnevada.com
23	S. Dianne Pomonis	dpomonis@klnevada.com
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28

Daniel Maul	dmaul@hutchlegal.com
Brenoch Wirthlin	bwirthlin@hutchlegal.com
Jon Linder	jlinder@hutchlegal.com



1 **NEO**
2 BRENOCH R. WIRTHLIN, ESQ.
3 Nevada Bar No. 10282
4 CHRIS ORME, ESQ.
5 Nevada Bar No. 10175
6 STUART J. TAYLOR, ESQ.
7 Nevada Bar No. 14285
8 **HUTCHISON & STEFFEN**
9 10080 West Alta Drive, Suite 200
10 Las Vegas, Nevada 89145
11 Telephone: (702) 385.2500
12 Facsimile: (702) 385.2086
13 E-Mail: bwirthlin@hutchlegal.com
14 E-mail: corne@hutchlegal.com
15 E-Mail: staylor@hutchlegal.com
16 *Attorneys for Plaintiff*

11 **DISTRICT COURT**

12 **CLARK COUNTY, NEVADA**

13 COMMISSIONER OF INSURANCE FOR
14 THE STATE OF NEVADA AS RECEIVER
15 OF LEWIS AND CLARK LTC RISK
16 RETENTION GROUP, INC.,

16 Plaintiff,

17 vs.

18 ROBERT CHUR, STEVE FOGG, MARK
19 GARBER, CAROL HARTER, ROBERT
20 HURLBUT, BARBARA LUMPKIN, JEFF
21 MARSHALL, ERIC STICKELS, UNI-TER
22 UNDERWRITING MANAGEMENT CORP.,
23 UNI-TER CLAIMS SERVICES CORP., and
24 U.S. RE CORPORATION,; DOES 1-50,
25 inclusive; and ROES 51-100, inclusive;

23 Defendants.

Case No.: A-14-711535-C

Dept. No.: XXVII

NOTICE OF ENTRY OF ORDER

25 Please take notice that an Order Denying Plaintiff's Motion for Leave to File Fourth
26 Amended Complaint was entered on the 8th day of August, 2020, a copy of which is attached

27 ///

28 ///

1 hereto.

2 DATED this 8th day of August, 2020.

3 HUTCHISON & STEFFEN

4
5 By /s/Brenoch Wirthlin
6 BRENOCH R. WIRTHLIN, ESQ.
7 Nevada Bar No. 10282
8 CHRIS ORME, ESQ.
9 Nevada Bar No. 10175
10 STUART J. TAYLOR, ESQ.
11 Nevada Bar No. 14285
12 10080 West Alta Drive, Suite 200
13 Las Vegas, Nevada 89145
14 *Attorneys for Plaintiff*
15
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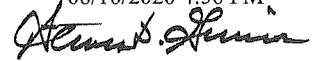
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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that on this 8th day of August, 2020, I caused the document entitled **NOTICE OF ENTRY OF ORDER** to be served on the following by Electronic Service to:

ALL PARTIES ON THE E-SERVICE LIST

/s/Danielle Kelley
An Employee of Hutchison & Steffen, PLLC



CLERK OF THE COURT

ODM

George F. Ogilvie III, Esq.
Nevada Bar No. 3552
MCDONALD CARANO LLP
2300 West Sahara Avenue, Suite 1200
Las Vegas, NV 89102
Telephone: (702) 873-4100
Facsimile: (702) 873-9966
gogilvie@mcdonaldcarano.com

Jon M. Wilson, Esq. (*Appearing Pro Hac Vice*)
Kimberly Freedman, Esq. (*Appearing Pro Hac Vice*)
Erin Kolmansberger, Esq. (*Appearing Pro Hac Vice*)
NELSON MULLINS BROAD AND CASSEL
2 S. Biscayne Boulevard, 21st Floor
Miami, Florida 33131
Telephone: (305) 373-9400
Facsimile: (305) 373-9443
Jon.Wilson@nelsonmullins.com
Kimberly.Freedman@nelsonmullins.com
Erin.Kolmansberger@nelsonmullins.com

*Attorneys for Defendants Uni-Ter Underwriting
Management Corp., Uni-Ter Claims Services
Corp., and U.S. RE Corporation*

DISTRICT COURT**CLARK COUNTY, NEVADA**

COMMISSIONER OF INSURANCE FOR THE
STATE OF NEVADA AS RECEIVER OF
LEWIS AND CLARK LTC RISK RETENTION
GROUP, INC.,

Plaintiffs,

v.

ROBERT CHUR, STEVE FOGG, MARK
GARBER, CAROL HARTER, ROBERT
HURLBUT, BARBARA LUMPKIN, JEFF
MARSHALL, ERIC STICKELS, UNI-TER
UNDERWRITING MANAGEMENT CORP.
UNI-TER CLAIMS SERVICES CORP., and
U.S. RE CORPORATION, DOES 1-50,
inclusive; and ROES 51-100, inclusive,

Defendants.

Case No. A-14-711535-C

Dept. No.: XXVII

**ORDER DENYING PLAINTIFF'S
MOTION FOR LEAVE TO FILE
FOURTH AMENDED COMPLAINT**

This matter came before the Court for hearing on July 23, 2020 on Plaintiff's Motion for Leave to File Fourth Amended Complaint ("Motion"). Brenoch R. Wirthlin, Esq. appeared on behalf of Plaintiff Commissioner of Insurance for the State of Nevada ("Plaintiff"); George F. Ogilvie III, Esq., Jon N. Wilson, Esq. and Erin Kolmansberger, Esq. appeared on behalf of Defendants Uni-Ter Underwriting Management Corp., Uni-Ter Claims Services Corp., and U.S. RE Corporation; and Angela T. Nakamura Ochoa, Esq. appeared on behalf of Defendants Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert Hurlbut, Barbara Lumpkin, Jeff Marshall and Eric Stickels.

Having considered the record and the briefs submitted in support of and in opposition to the Motion, and having entertained the arguments of counsel, the Court finds that the Motion is untimely; that Plaintiff unduly delayed the assertion of the new allegations and claims for relief set forth in the proposed Fourth Amended Complaint; that granting Plaintiff leave to file the Fourth Amended Complaint would unduly prejudice defendants; that the new defendant sought to be added was known to Plaintiff at the time of the filing of the original Complaint; and that the proposed new claims for relief do not relate back to the filing of the original Complaint and are, therefore, time-barred. Based on these findings and good cause appearing therefor,

IT IS HEREBY ORDERED that Plaintiff's Motion for Leave to File Fourth Amended Complaint is **DENIED**.

DATED this ____ day of July, 2020.

Dated this 10th day of August, 2020

Nancy L. Allf

NANCY L. ALLF
District Court Judge
B19 B66 6A18 37FC
Nancy Allf
District Court Judge

1 Approved as to Form and Content:

2 HUTCHISON & STEFFEN

3 By: /s/

4 Brenoch Wirthlin, Esq.
5 10080 West Alta Drive, Suite 200
6 Las Vegas, Nevada 89145

7 *Attorneys for Plaintiff Commissioner*
8 *of Insurance for the State of Nevada*

9 LIPSON NEILSON, P.C.

10 By: /s/

11 Angela T. Nakamura Ochoa, Esq.
12 9900 Covington Cross Drive, Ste. 120
13 Las Vegas, Nevada 89144

14 *Attorneys for Robert Chur, et al.,*

15 Submitted By:

16 McDONALD CARANO LLP

17 By: /s/ George F. Ogilvie III

18 George F. Ogilvie III, Esq. (#3552)
19 2300 West Sahara Avenue, Suite 1200
20 Las Vegas, NV 89102

21 Jon M. Wilson, Esq. (Admitted *Pro Hac Vice*)
22 Kimberly Freedman, Esq. (Appearing *Pro Hac Vice*)
23 Erin Kolmansberger, Esq. (Appearing *Pro Hac Vice*)
24 NELSON MULLINS BROAD AND CASSEL
25 2 S. Biscayne Boulevard, 21st Floor
26 Miami, Florida 33131

27 *Attorneys for Defendants Uni-Ter Underwriting*
28 *Management Corp., Uni-Ter Claims Services Corp.,*
and U.S. RE Corporation

1 CSERV

2 DISTRICT COURT
3 CLARK COUNTY, NEVADA
4

5
6 Commissioner of Insurance for
7 the State of Nevada as Receiver
8 of Lewis and Clark, Plaintiff(s)

CASE NO: A-14-711535-C

DEPT. NO. Department 27

9 vs.

10 Robert Chur, Defendant(s)

11 **AUTOMATED CERTIFICATE OF SERVICE**
12

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26
27
28

1	Marilyn Millam .	mmillam@ag.nv.gov
2	Nevada Attorney General .	wiznetfilings@ag.nv.gov
3	Paul Garcia .	pgarcia@fclaw.com
4	Renee Rittenhouse .	rrittenhouse@lipsonneilson.com
5	Rory Kay .	rkay@mcdonaldcarano.com
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Daniel Maul

dmaul@hutchlegal.com

Brenoch Wirthlin

bwirthlin@hutchlegal.com

Jon Linder

jlinder@hutchlegal.com

THE SEALED DOCUMENT(S)
IN THIS CASE
WILL FOLLOW VIA
U.S. MAIL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

* * * *

COMMISSIONER OF INSURANCE FOR
THE STATE OF NEVADA AS RECEIVER
OF LEWIS AND CLARK

CASE NO.: A-18-711535-C

Plaintiff(s),

DEPARTMENT 27

v.

ROBERT CHUR

Defendant(s).

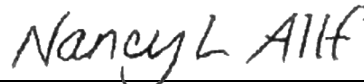
ORDER TO STRIKE FROM RECORD

COURT FINDS after review the Findings of Fact/ Conclusions of Law and Order Denying Plaintiff's Motion for Leave to File Fourth Amended Complaint was signed erroneously on August 10, 2020.

THEREFORE, COURT ORDERS for good cause appearing and after review that the Findings of Fact/Conclusions of Law and Order Denying Plaintiff's Motion for Leave to File Fourth Amended Complaint be stricken from the record.

Dated: August 13, 2020

Dated this 13th day of August, 2020



NANCY ALLF
DISTRICT COURT JUDGE
338 DD8 771A 099D
Nancy Allf
District Court Judge

1 **CSERV**

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3 DISTRICT COURT
CLARK COUNTY, NEVADA

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6 Commissioner of Insurance for
7 the State of Nevada as Receiver
of Lewis and Clark, Plaintiff(s)

CASE NO: A-14-711535-C

DEPT. NO. Department 27

8 vs.

9 Robert Chur, Defendant(s)
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13	Karen Surowiec	ksurowiec@mcdonaldcarano.com
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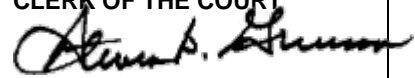
2 Brenoch Wirthlin bwirthlin@hutchlegal.com

3 Jon Linder jlinder@hutchlegal.com

4
5 If indicated below, a copy of the above mentioned filings were also served by mail
6 via United States Postal Service, postage prepaid, to the parties listed below at their last
7 known addresses on 8/14/2020

8 George Ogilvie McDonald Carano Wilson LLP
9 Attn: George F. Ogilvie, III
10 2300 West Sahara Avenue - Suite 1200
11 Las Vegas, NV, 89102

12 Joseph Garin Lipson Neilson P.C.
13 Attn: Joseph P. Garin
14 9900 Covington Cross Drive, Suite 120
15 Las Vegas, NV, 89144
16
17
18
19
20
21
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24
25
26
27
28



NEO
BRENOCH R. WIRTHLIN, ESQ.
Nevada Bar No. 10282
CHRIS ORME, ESQ.
Nevada Bar No. 10175
HUTCHISON & STEFFEN
10080 West Alta Drive, Suite 200
Las Vegas, Nevada 89145
Telephone: (702) 385.2500
Facsimile: (702) 385.2086
E-Mail: bwirthlin@hutchlegal.com
E-mail: corne@hutchlegal.com
Attorneys for Plaintiff

DISTRICT COURT

CLARK COUNTY, NEVADA

COMMISSIONER OF INSURANCE FOR
THE STATE OF NEVADA AS RECEIVER
OF LEWIS AND CLARK LTC RISK
RETENTION GROUP, INC.,

Plaintiff,

vs.

ROBERT CHUR, STEVE FOGG, MARK
GARBER, CAROL HARTER, ROBERT
HURLBUT, BARBARA LUMPKIN, JEFF
MARSHALL, ERIC STICKELS, UNI-TER
UNDERWRITING MANAGEMENT CORP.,
UNI-TER CLAIMS SERVICES CORP., and
U.S. RE CORPORATION,; DOES 1-50,
inclusive; and ROES 51-100, inclusive;

Defendants.

Case No.: A-14-711535-C

Dept. No.: XXVII

NOTICE OF ENTRY OF ORDER

Please take notice that an Order to Strike from Record was entered on the 13th day of
August, 2020,

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1 a copy of which is attached hereto.

2 DATED this 14th day of August, 2020.

3 HUTCHISON & STEFFEN

4

5 By /s/Brenoch Wirthlin
6 BRENOCH R. WIRTHLIN, ESQ.
7 Nevada Bar No. 10282
8 CHRIS ORME, ESQ.
9 Nevada Bar No. 10175
10 10080 West Alta Drive, Suite 200
11 Las Vegas, Nevada 89145
12 *Attorneys for Plaintiff*

13

14

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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that on this 14th day of August, 2020, I caused the document entitled **NOTICE OF ENTRY OF ORDER** to be served on the following by Electronic Service to:

ALL PARTIES ON THE E-SERVICE LIST

/s/Danielle Kelley
An Employee of Hutchison & Steffen, PLLC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

* * * *

COMMISSIONER OF INSURANCE FOR
THE STATE OF NEVADA AS RECEIVER
OF LEWIS AND CLARK

CASE NO.: A-18-711535-C

Plaintiff(s),

DEPARTMENT 27

v.

ROBERT CHUR

Defendant(s).

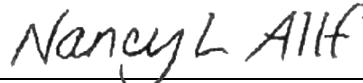
ORDER TO STRIKE FROM RECORD

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Dated: August 13, 2020

Dated this 13th day of August, 2020



NANCY ALLF
DISTRICT COURT JUDGE
338 DD8 771A 099D
Nancy Allf
District Court Judge

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CLARK COUNTY, NEVADA

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6 Commissioner of Insurance for
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of Lewis and Clark, Plaintiff(s)

CASE NO: A-14-711535-C

DEPT. NO. Department 27

8 vs.

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16
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Heather S. Lumin

CLERK OF THE COURT

ORDG
LIPSON NEILSON P.C.
JOSEPH P. GARIN, ESQ.
Nevada Bar No. 6653
ANGELA T. NAKAMURA OCHOA, ESQ.
Nevada Bar No. 10164
9900 Covington Cross Drive, Suite 120
Las Vegas, Nevada 89144
(702) 382-1500 - Telephone
(702) 382-1512 - Facsimile
jgarin@lipsonneilson.com
aocchoa@lipsonneilson.com
Attorneys for Defendants
Robert Chur, Steve Fogg,
Mark Garber, Carol Harter,
Robert Hurlbut, Barbara Lumpkin,
Jeff Marshall, and Eric Stickels

DISTRICT COURT
CLARK COUNTY, NEVADA

COMMISSIONER OF INSURANCE FOR
THE STATE OF NEVADA AS RECEIVER
OF LEWIS AND CLARK LTC RISK
RETENTION GROUP, INC.,

Plaintiff,

vs.

ROBERT CHUR, STEVE FOGG, MARK
GARBER, CAROL HARTER, ROBERT
HURLBUT, BARBARA LUMPKIN, JEFF
MARSHALL, ERIC STICKELS, UNI-TER
UNDERWRITING MANAGEMENT
CORP., UNI-TER CLAIMS SERVICES
CORP., and U.S. RE CORPORATION,
DOES 1-50, inclusive; and ROES 51-100,
inclusive,

Defendants.

CASE NO.: A-14-711535-C

DEPT. NO.: 27

**ORDER GRANTING DEFENDANTS
ROBERT CHUR, STEVE FOGG, MARK
GARBER, CAROL HARTER, ROBERT
HURLBUT, BARBARA LUMPKIN, JEFF
MARSHALL, AND ERIC STICKELS'
MOTION FOR JUDGMENT ON THE
PLEADINGS PURSUANT TO NRCP
12(C)**

AND

JUDGMENT THEREON

Pursuant to the Nevada Supreme Court's Order Granting the Petition for Writ of
Mandamus and Notice in Lieu of Remittitur,

THE COURT HEREBY ORDERS that its November 2, 2018 Order Denying
Director Defendants' Motion for Judgment on the Pleadings Pursuant to NRCP 12(c) is
hereby VACATED.

THE COURT FURTHER ORDERS that Defendants Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert Hurlbut, Barbara Lumpkin, Jeff Marshall and Eric Stickels' Motion for Judgment on the Pleadings Pursuant to NRCP 12(c) is GRANTED.

With Plaintiff's Motion for Leave to file an Amended Complaint having been denied by this Court on August 10, 2020, Judgment is hereby entered in favor of Defendants Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert Hurlbut, Barbara Lumpkin, Jeff Marshall.

DATED this 1 day of August, 2020.

Dated this 13th day of August, 2020

Nancy L Allf

JUDGE NANCY ALLF

1FA 835 11BE 21AF
Nancy Allf
District Court Judge

NB

Submitted by:
LIPSON NEILSON P.C.

/s/ Angela Nakamura Ochoa

Joseph P. Garin, Esq. (NV Bar No. 6653)

Angela Ochoa, Esq. (NV Bar No. 10164)

9900 Covington Cross Dr., Suite 120

Las Vegas, NV 89144

*Attorneys for Defendants Robert Chur,
Steve Fogg, Mark Garber, Carol Harter,
Robert Hurlbut, Barbara Lumpkin, Jeff
Marshall & Eric Stickels*

1 **CSERV**

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3 DISTRICT COURT
CLARK COUNTY, NEVADA

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DEPT. NO. Department 27

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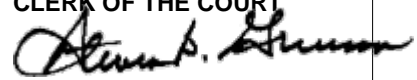
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Daniel Maul	dmaul@hutchlegal.com
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Lipson Neilson P.C.
9900 Covington Cross Drive, Suite 120
Las Vegas, Nevada 89144
(702) 382-1500 FAX: (702) 382-1512



LIPSON NEILSON P.C.
JOSEPH P. GARIN, ESQ.
Nevada Bar No. 6653
ANGELA T. NAKAMURA OCHOA, ESQ.
Nevada Bar No. 10164
JONATHAN K. WONG, ESQ.
Nevada Bar No. 13621
9900 Covington Cross Drive, Suite 120
Las Vegas, Nevada 89144
(702) 382-1500 - Telephone
(702) 382-1512 - Facsimile
jgarin@lipsonneilson.com
aochoa@lipsonneilson.com
jwong@lipsonneilson.com

*Attorneys for Defendants/Third-Party
Plaintiffs Robert Chur, Steve Fogg,
Mark Garber, Carol Harter,
Robert Hurlbut, Barbara Lumpkin,
Jeff Marshall, and Eric Stickels*

DISTRICT COURT

CLARK COUNTY, NEVADA

COMMISSIONER OF INSURANCE FOR
THE STATE OF NEVADA AS RECEIVER
OF LEWIS AND CLARK LTC RISK
RETENTION GROUP, INC.,

Plaintiff,

vs.

ROBERT CHUR, STEVE FOGG, MARK
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MARSHALL, ERIC STICKELS, UNI-TER
UNDERWRITING MANAGEMENT
CORP., UNI-TER CLAIMS SERVICES
CORP., and U.S. RE CORPORATION;
DOES 1-50, inclusive; and ROES 51-100,
inclusive,

Defendants.

CASE NO.: A-14-711535-C

DEPT. NO.: 27

NOTICE OF ENTRY OF ORDER

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NOTICE OF ENTRY OF ORDER

Please take notice that the Order Granting Defendants Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert Hurlbut, Barbara Lumpkin, Jeff Marshall and Eric Stickels' Motion for Judgment on the Pleadings Pursuant to NRCP 12(c) and Judgment Theron was filed with this court on the 13th day of August, 2020, a copy of which is attached hereto, as **Exhibit A**.

Dated this 14th day of August, 2020.

LIPSON NEILSON P.C.

/s/ Angela Ochoa

By: _____
Joseph P. Garin, Esq. (6653)
Angela T. Nakamura Ochoa, Esq. (10164)
Jonathan K. Wong, Esq. (13621)
9900 Covington Cross Dr., Suite 120
Las Vegas, NV 89144
jgarin@lipsonneilson.com
aochoa@lipsonneilson.com
jwong@lipsonneilson.com

*Attorneys for Defendants/Third-Party
Plaintiffs Robert Chur, Steve Fogg,
Mark Garber, Carol Harter,
Robert Hurlbut, Barbara Lumpkin,
Jeff Marshall, and Eric Stickels*

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b) and Administrative Order 14-2, I certify that on the 14th day of August, 2020, I electronically transmitted the foregoing **NOTICE OF ENTRY OF ORDER** to the Clerk's Office using the Odyssey E-File & Serve System for filing and transmittal to the following Odyssey E-File & Serve registrants:

E-Service Master List For Case

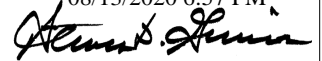
Attorney General's Office	
Contact	Email
Joanna Griqoriev	jgriqoriev@ag.nv.gov
Nevada Attorney General	wiznetfilings@ag.nv.gov
Nelson Mullins	
Contact	Email
Jon M. Wilson	jon.wilson@nelsonmullins.com
Kimberly Freedman	kimberly.freedman@nelsonmullins.com
Hutchison & Steffen	
Contact	Email
Christian M. Orme	corme@hutchlegal.com
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Brenoch Wirthlin	bwirthlin@hutchlegal.com
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Contact	Email
CaraMia Gerard	cgerard@mcdonaldcarano.com
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Nancy Hoy	nhoy@mcdonaldcarano.com
Rory Kay	rkay@mcdonaldcarano.com
Nevada Attorney General	
Contact	Email
Marilyn Millam	mmillam@ag.nv.gov
Nevada Division of Insurance	
Contact	Email
Terri Verbrughen	verbrug@doi.nv.gov

/s/ Sydney Ochoa

An employee of LIPSON NEILSON P.C.

EXHIBIT “A”

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CLERK OF THE COURT

ORDG
LIPSON NEILSON P.C.
JOSEPH P. GARIN, ESQ.
Nevada Bar No. 6653
ANGELA T. NAKAMURA OCHOA, ESQ.
Nevada Bar No. 10164
9900 Covington Cross Drive, Suite 120
Las Vegas, Nevada 89144
(702) 382-1500 - Telephone
(702) 382-1512 - Facsimile
jgarin@lipsonneilson.com
aocchoa@lipsonneilson.com
Attorneys for Defendants
Robert Chur, Steve Fogg,
Mark Garber, Carol Harter,
Robert Hurlbut, Barbara Lumpkin,
Jeff Marshall, and Eric Stickels

DISTRICT COURT
CLARK COUNTY, NEVADA

COMMISSIONER OF INSURANCE FOR
THE STATE OF NEVADA AS RECEIVER
OF LEWIS AND CLARK LTC RISK
RETENTION GROUP, INC.,

Plaintiff,

vs.

ROBERT CHUR, STEVE FOGG, MARK
GARBER, CAROL HARTER, ROBERT
HURLBUT, BARBARA LUMPKIN, JEFF
MARSHALL, ERIC STICKELS, UNI-TER
UNDERWRITING MANAGEMENT
CORP., UNI-TER CLAIMS SERVICES
CORP., and U.S. RE CORPORATION,
DOES 1-50, inclusive; and ROES 51-100,
inclusive,

Defendants.

CASE NO.: A-14-711535-C

DEPT. NO.: 27

**ORDER GRANTING DEFENDANTS
ROBERT CHUR, STEVE FOGG, MARK
GARBER, CAROL HARTER, ROBERT
HURLBUT, BARBARA LUMPKIN, JEFF
MARSHALL, AND ERIC STICKELS'
MOTION FOR JUDGMENT ON THE
PLEADINGS PURSUANT TO NRCP
12(C)**

AND

JUDGMENT THEREON

Pursuant to the Nevada Supreme Court's Order Granting the Petition for Writ of
Mandamus and Notice in Lieu of Remittitur,

THE COURT HEREBY ORDERS that its November 2, 2018 Order Denying
Director Defendants' Motion for Judgment on the Pleadings Pursuant to NRCP 12(c) is
hereby VACATED.

1 THE COURT FURTHER ORDERS that Defendants Robert Chur, Steve Fogg,
2 Mark Garber, Carol Harter, Robert Hurlbut, Barbara Lumpkin, Jeff Marshall and Eric
3 Stickels' Motion for Judgment on the Pleadings Pursuant to NRCP 12(c) is GRANTED.

4 With Plaintiff's Motion for Leave to file an Amended Complaint having been
5 denied by this Court on August 10, 2020, Judgment is hereby entered in favor of
6 Defendants Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert Hurlbut,
7 Barbara Lumpkin, Jeff Marshall.

8 DATED this 1 day of August, 2020.

Dated this 13th day of August, 2020

Nancy L Allf

JUDGE NANCY ALLF

1FA 835 11BE 21AF
Nancy Allf
District Court Judge

NB

Submitted by:
LIPSON NEILSON P.C.

/s/ Angela Nakamura Ochoa

Joseph P. Garin, Esq. (NV Bar No. 6653)
Angela Ochoa, Esq. (NV Bar No. 10164)
9900 Covington Cross Dr., Suite 120
Las Vegas, NV 89144

*Attorneys for Defendants Robert Chur,
Steve Fogg, Mark Garber, Carol Harter,
Robert Hurlbut, Barbara Lumpkin, Jeff
Marshall & Eric Stickels*

1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

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6 Commissioner of Insurance for
7 the State of Nevada as Receiver
of Lewis and Clark, Plaintiff(s)

CASE NO: A-14-711535-C

DEPT. NO. Department 27

8 vs.

9 Robert Chur, Defendant(s)
10

11 **AUTOMATED CERTIFICATE OF SERVICE**

12
13 This automated certificate of service was generated by the Eighth Judicial District
14 Court. The foregoing Order Granting was served via the court's electronic eFile system to all
recipients registered for e-Service on the above entitled case as listed below:

15 Service Date: 8/13/2020

16 Adrina Harris .	aharris@fclaw.com
17 Angela T. Nakamura Ochoa .	aochoa@lipsonneilson.com
18 Ashley Scott-Johnson .	ascott-johnson@lipsonneilson.com
19 Brenoch Wirthlin .	bwirthli@fclaw.com
20 CaraMia Gerard .	cgerard@mcdonaldcarano.com
21 George F. Ogilvie III .	gogilvie@mcdonaldcarano.com
22 Jessica Ayala .	jayala@fclaw.com
23 Joanna Grigoriev .	jgrigoriev@ag.nv.gov
24 Jon M. Wilson .	jwilson@broadandcassel.com
25 Kathy Barrett .	kbarrett@mcdonaldcarano.com

26
27
28

1	Marilyn Millam .	mmillam@ag.nv.gov
2	Nevada Attorney General .	wiznetfilings@ag.nv.gov
3	Paul Garcia .	pgarcia@fclaw.com
4	Renee Rittenhouse .	rrittenhouse@lipsonneilson.com
5	Rory Kay .	rkay@mcdonaldcarano.com
6	Susana Nutt .	snutt@lipsonneilson.com
7	Yusimy Bordes .	ybordes@broadandcassel.com
8	Jelena Jovanovic .	jjovanovic@mcdonaldcarano.com
9	Christian Orme	corne@hutchlegal.com
10	Patricia Lee	plee@hutchlegal.com
11	Kimberly Freedman	kfreedman@broadandcassel.com
12	Danielle Kelley	dkelley@hutchlegal.com
13	Karen Surowiec	ksurowiec@mcdonaldcarano.com
14	Jonathan Wong	jwong@lipsonneilson.com
15	Erin Kolmansberger	erin.kolmansberger@nelsonmullins.com
16	Melissa Gomberg	melissa.gomberg@nelsonmullins.com
17	Betsy Gould	bgould@doi.nv.gov
18	Juan Cerezo	jcerezo@lipsonneilson.com
19	Stuart Taylor	staylor@hutchlegal.com
20	Heather Bennett	hshepherd@hutchlegal.com
21	Brenoch Wirthlin	bwirthlin@klnevada.com
22	Jon Linder	jlinder@klnevada.com
23	S. Dianne Pomonis	dpomonis@klnevada.com
24		
25		
26		
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21
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23
24
25
26
27
28

Daniel Maul	dmaul@hutchlegal.com
Brenoch Wirthlin	bwirthlin@hutchlegal.com
Jon Linder	jlinder@hutchlegal.com

LIPSON NEILSON P.C.
JOSEPH P. GARIN, ESQ.
Nevada Bar No. 6653
ANGELA T. NAKAMURA OCHOA, ESQ.
Nevada Bar No. 10164
9900 Covington Cross Drive, Suite 120
Las Vegas, Nevada 89144
(702) 382-1500 - Telephone
(702) 382-1512 - Facsimile
jgarin@lipsonneilson.com
aocchoa@lipsonneilson.com
Attorneys for Defendants
Robert Chur, Steve Fogg,
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DISTRICT COURT
CLARK COUNTY, NEVADA

COMMISSIONER OF INSURANCE FOR
THE STATE OF NEVADA AS RECEIVER
OF LEWIS AND CLARK LTC RISK
RETENTION GROUP, INC.,

Plaintiff,

vs.

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GARBER, CAROL HARTER, ROBERT
HURLBUT, BARBARA LUMPKIN, JEFF
MARSHALL, ERIC STICKELS, UNI-TER
UNDERWRITING MANAGEMENT
CORP., UNI-TER CLAIMS SERVICES
CORP., and U.S. RE CORPORATION,
DOES 1-50, inclusive; and ROES 51-100,
inclusive,

Defendants.

CASE NO.: A-14-711535-C

DEPT. NO.: 27

**FINDINGS OF FACT, CONCLUSIONS
OF LAW AND ORDER DENYING THE
MOTION FOR PARTIAL
RECONSIDERATION OF MOTION FOR
LEAVE TO AMEND REGARDING
DIRECTOR DEFENDANTS**

This matter came before the Court for hearing on August 26, 2020 on Plaintiff's Motion for Partial Reconsideration of Motion for Leave to Amend Regarding Director Defendants ("Motion"). Angela T. Nakamura Ochoa, Esq. appeared on behalf of Defendants Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert Hurlbut,

Barbara Lumpkin, Jeff Marshall and Eric Stickels; Mark A. Hutchison, Esq. and Brenoch R. Wirthlin, Esq. appeared on behalf of Plaintiff Commissioner of Insurance for the State of Nevada ("Plaintiff" or "Commissioner"); and George F. Ogilvie III, Esq., appeared on behalf of Defendants Uni-Ter Underwriting Management Corp., Uni-Ter Claims Services Corp., and U.S. RE Corporation; and

Having considered the record and the briefs submitted in support of and in opposition to the Motion, and having entertained the arguments of counsel, and being fully informed in the premises, the Court makes the following findings of fact, conclusions of law and order:

FINDINGS OF FACT

1. Lewis and Clark LTC Risk Retention Group, Inc. ("L&C") was formed in 2003. Between 2004 and February 28, 2013, L&C provided general and professional liability coverage to long term care facilities and home health providers. See Third Amended Complaint ("TAC") at ¶1.

2. The Nevada Division of Insurance ("DOI") filed a Receivership Action related to L&C in November, 2012, commencing case number A-12-672047-B ("Receivership Action"). Plaintiff Commissioner of Insurance for the State of Nevada was appointed as the receiver.

3. On February 28, 2013, an order of liquidation ("Liquidation Order") was entered in the Receivership Action, appointing the Commissioner as the receiver of L&C. See Liquidation Order.

4. On December 23, 2014, the Commissioner instituted this lawsuit against, among other defendants, eight of the former directors of L&C Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert Hurlbut, Barbara Lumpkin, Jeff Marshall and Eric Stickels ("Director Defendants"). In the initial complaint, the Commissioner alleged

1 claims of gross negligence and deepening of the insolvency against the Director
2 Defendants.

3 5. On December 11, 2015, Director Defendants filed their Motion to Dismiss,
4 challenging the sufficiency of the allegations of gross negligence and asserting that a
5 claim for deepening insolvency required allegations of fraud such that the claims must
6 be pled with specificity.

7 6. On June 13, 2016, the Commissioner filed its Second Amended
8 Complaint, and, subsequently, on August 5, 2016, the Commissioner filed its Third
9 Amended Complaint.

10 7. On April 18, 2016, Director Defendants filed a Motion to Dismiss the First
11 Amended Complaint, asserting that claims against officers and directors needed to be
12 supported by claims of intentional misconduct, fraud or knowing violation of the law.
13 Said Motion was subsequently denied.

14 8. During the period of September 5, 2017 through April 13, 2018, Director
15 Defendants propounded written discovery upon Plaintiff.

16 9. Due to the multiple requests to extend discovery in this action and the
17 then approaching 5-year rule expiration, this Court expressly conditioned its May 16,
18 2018 Order continuing discovery deadlines that it would be the "last stipulation to
19 continue."

20 10. On August 14, 2018, the Director Defendants filed a Motion For Judgment
21 On The Pleadings Pursuant To NRCP 12(C) ("Motion For Judgment On The
22 Pleadings"). On November 2, 2018, this Court denied the Director Defendants' Motion
23 for Judgment on the Pleadings.

24 11. On December 12, 2018, the Commissioner filed Plaintiff's Motion for
25 Extension of Discovery Deadlines and to Continue Trial on Order Shortening Time
26 (Fourth Request), which this Court granted in part and denied in part, extending
27 discovery for sixty (60) days and ordering a firm trial setting.
28

12. In and around July, 2018, Director Defendant Barbara Lumpkin passed away.

13. On November 8, 2018, the deposition of the NRCP 30(b)(6) witness for the Commissioner of Insurance for the State of Nevada took place, in which he frequently responded that the complaint spoke for itself and that he would be relying upon experts in response to the Defendants questioning. Mr. Greer also testified regarding the unavailability of certain Division of Insurance former employees. At no time, did he state that the Director Defendants violated the law.

14. On March 8, 2019, the Director Defendants filed a Motion to Stay Proceedings Pending Petition for Writ of Mandamus on an Order Shortening Time. The Commissioner filed a Limited Joinder to Directors' Motion to Stay Proceedings Pending Petition for Writ of Mandamus.

15. On March 12, 2019, the Director Defendants filed their Notice of Filing of Petition for Writ of Mandamus with the Nevada Supreme Court. In their Petition for Writ of Mandamus, the Director Defendants challenged this Court's denial of the Director Defendants' Motion for Judgment on the Pleadings.

16. On March 14, 2019, this Court granted the Motion to Stay Proceedings Pending Petition for Writ of Mandamus, and imposed an immediate stay (the "Stay") of all proceedings in this matter.

17. On February 27, 2020, the Nevada Supreme Court issued its Opinion ("NSC Opinion") granting the Director Defendants' Petition for Writ of Mandamus, and instructed this Court to vacate its order denying the Director Defendants' Motion for Judgment on the Pleadings, and to enter a new order granting the Director Defendants' Motion for Judgment on the Pleadings. The NSC Opinion left to this Court's discretion whether to grant the Commissioner leave to file a fourth amended complaint.

18. On May 14, 2020, because the writ petition proceedings before the Nevada Supreme Court were not concluded, the parties entered into a stipulation

1 continuing the hearing on the Plaintiff's Motion for Clarification and extending the Stay
2 until June 18, 2020.

3 19. On May 22, 2020, the Nevada Supreme Court issued its Order Denying
4 Rehearing, thereby affirming the Opinion, and directing this Court to enter an order
5 granting the Director Defendants' Motion for Judgment on the Pleadings, but leaving to
6 this Court's discretion whether to grant the Commissioner leave to file a fourth amended
7 complaint.

8 20. At the time of the June 18, 2020 hearing, the Commissioner requested
9 that the Stay be extended to July 1, 2020; the Defendants objected to the Plaintiff's
10 request, and requested that the Stay be lifted immediately. This Court granted Plaintiff's
11 Motion for Clarification, and ordered that the Stay be lifted as of July 1, 2020.

12 21. On June 24, 2020, the Commissioner filed Plaintiff's Motion for
13 Preferential Trial Setting And For Issuance of A New Discovery Scheduling Order or, In
14 the Alternative, Motion to Stay All Discovery During the Pendency of Motion For Leave
15 to File Fourth Amended Complaint; On Order Shortening Time ("Plaintiff's Motion for
16 Preferential Trial Setting").

17 22. At the time of the July 1, 2020 hearing on Plaintiff's Motion for Preferential
18 Trial Setting, the Commissioner advised the court that it would file a Motion for Leave to
19 Amend on July 2, 2020. The Defendants requested that the Court direct the Receiver to
20 serve its initial expert disclosures on July 2. Over the Defendants' objection, this Court
21 extended the deadline for the Commissioner to serve its initial expert disclosures to the
22 conclusion of the hearing of Plaintiff's anticipated Motion for Leave to File Fourth
23 Amended Complaint¹.

24 23. On July 2, 2020, Plaintiff filed its Motion for Leave to File Fourth Amended
25 Complaint.

26
27
28 ¹ The hearing was scheduled for July 23, 2020.

24. The hearing on Plaintiff's Motion for Leave to File Fourth Amended Complaint was held on July 23, 2020.

25. The court subsequently ruled that discovery would close on December 17, 2020.

26. As it relates to the Director Defendants, the Commissioner contends that her proposed Fourth Amended Complaint alleges that the Director Defendants knowingly violated the law. The court makes no findings as to the futility of the proposed Fourth Amended Complaint.

27. With the passage of time, the Director Defendants will be unduly prejudiced in establishing their defenses to Plaintiff's new theory that the Director Defendants knowingly violated the law.

If any of these findings of fact should more properly be identified as a conclusion of law, then it shall be deemed a conclusion of law.

CONCLUSIONS OF LAW

1. "A district court may reconsider a previously decided issue if substantially different evidence is subsequently introduced or the decision is clearly erroneous." *Masonry & Title Contractors Ass'n of S. Nevada v. Jolley, Urga & Wirth, Ltd.*, 113 Nev. 737, 741, 941 P.2d 486, 489 (1997).

2. "Only in very rare instances in which new issues of fact or law are raised supporting a ruling contrary to the ruling already reached should a motion for rehearing be granted." *Moore v. Las Vegas* (1976) 92 Nev. 402,405.

3. Whether to allow amendment to a pleading resides within the sound discretion of the trial court. *Kantor v. Kantor*, 116 Nev. 886, 891, 8 P.3d 825, 828 (2000).

4. In "the absence of any apparent or declared reason -- such as undue delay, bad faith or dilatory motive on the part of the movant -- [leave to amend] should

1 be freely given.” *Stephens v. Southern Nev. Music Co.*, 89 Nev. 104, 105-106, 507 P.2d
2 138, 139 (1973) (emphasis added) (citing *Foman v. Davis*, 371 U.S. 178 (1962)). While
3 leave to amend should be freely given when justice so requires, “[t]his does not,
4 however, mean that a trial judge may not, in a proper case, deny a motion to amend.”
5 *Stephens v. S. Nevada Music Co., Inc.*, 89 Nev. 104, 105, 507 P.2d 138, 139 (1973).
6 Indeed, “[i]f that were the intent, leave of court would not be required.” *Id.*
7

8 5. Where a plaintiff has previously amended her complaint, the discretion to
9 deny further amendment is “particularly broad.” *Cafasso v. Gen. Dynamics C4 Sys.*, 637
10 F.3d 1047, 1058 (9th Cir. 2011).

11 6. In evaluating whether a party timely moved for leave to amend, a court is
12 not confined to solely reviewing whether a motion was filed during the time allotted by a
13 scheduling order. *AmerisourceBergen Corp. v. Dialysist West, Inc.*, 465 F.3D 946, 951-
14 952 (9th Cir. 2006).

15 7. There has been a clarification by the Supreme Court of the *Shoen* case
16 [See *Shoen v. SAC Holding Corp.*, 122 Nev. 621, 640, 137 P.3d 1171, 1184 (2006)],
17 that despite the existence of hardship to the Plaintiff, the Court finds that it would not be
18 fair to the Director Defendants to have to defend a fourth amended complaint two
19 months before the discovery deadline and with a five-year rule looming. Justice does
20 not require granting leave to amend for Plaintiff to file the proposed Fourth Amended
21 Complaint as to the Director Defendants because Plaintiff unduly delayed bringing said
22 complaint and it would be unduly prejudicial for the Director Defendants to defend such
23 theories of liability at this point. Plaintiff did not provide any new evidence to warrant
24 reconsideration. Further, this Court did not err in denying Plaintiff’s Motion for Leave to
25 Amend.

26 If any of these conclusions of law should more properly be identified as a finding
27 of fact, then it shall be deemed a finding of fact.
28

ORDER

IT IS HEREBY ORDERED that Plaintiff's Motion for Reconsideration of Motion for Leave to Amend Regarding Director Defendants is DENIED.

DATED this 9 day of September, 2020.

Dated this 9th day of September, 2020

Nancy L. Allf

NANCY L. ALLF

District Court Judge

39B 7F7 F34A 1E07

Nancy Allf

District Court Judge

NB

Submitted by:
LIPSON NEILSON P.C.

/s/ Angela Nakamura Ochoa

Joseph P. Garin, Esq. (NV Bar No. 6653)

Angela Ochoa, Esq. (NV Bar No. 10164)

9900 Covington Cross Dr., Suite 120

Las Vegas, NV 89144

*Attorneys for Defendants Robert Chur,
Steve Fogg, Mark Garber, Carol Harter,
Robert Hurlbut, Barbara Lumpkin, Jeff
Marshall & Eric Stickels*

Approved as to Form and Content:

HUTCHISON & STEFFEN

By: Would not Agree to Form or Content

Brenoch Wirthlin, Esq.

10080 West Alta Drive, Suite 200

Las Vegas, Nevada 89145

*Attorneys for Plaintiff Commissioner
of Insurance for the State of Nevada*

1 **CSERV**

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5
6 Commissioner of Insurance for
7 the State of Nevada as Receiver
8 of Lewis and Clark, Plaintiff(s)

CASE NO: A-14-711535-C

DEPT. NO. Department 27

9 vs.

10 Robert Chur, Defendant(s)

11 **AUTOMATED CERTIFICATE OF SERVICE**

12
13 This automated certificate of service was generated by the Eighth Judicial District
14 Court. The foregoing Findings of Fact, Conclusions of Law and Judgment was served via the
15 court's electronic eFile system to all recipients registered for e-Service on the above entitled
16 case as listed below:

17 Service Date: 9/9/2020

18 Adrina Harris .	aharris@fclaw.com
19 Angela T. Nakamura Ochoa .	aochoa@lipsonneilson.com
20 Ashley Scott-Johnson .	ascott-johnson@lipsonneilson.com
21 Brenoch Wirthlin .	bwirthli@fclaw.com
22 CaraMia Gerard .	cgerard@mcdonaldcarano.com
23 George F. Ogilvie III .	gogilvie@mcdonaldcarano.com
24 Jessica Ayala .	jayala@fclaw.com
25 Joanna Grigoriev .	jgrigoriev@ag.nv.gov
26 Jon M. Wilson .	jwilson@broadandcassel.com
27 Kathy Barrett .	kbarrett@mcdonaldcarano.com

28

1	Marilyn Millam .	mmillam@ag.nv.gov
2	Nevada Attorney General .	wiznetfilings@ag.nv.gov
3	Paul Garcia .	pgarcia@fclaw.com
4	Renee Rittenhouse .	rrittenhouse@lipsonneilson.com
5	Rory Kay .	rkay@mcdonaldcarano.com
6	Susana Nutt .	snutt@lipsonneilson.com
7	Yusimy Bordes .	ybordes@broadandcassel.com
8	Jelena Jovanovic .	jjovanovic@mcdonaldcarano.com
9	Christian Orme	corne@hutchlegal.com
10	Patricia Lee	plee@hutchlegal.com
11	Kimberly Freedman	kfreedman@broadandcassel.com
12	Danielle Kelley	dkelley@hutchlegal.com
13	Karen Surowiec	ksurowiec@mcdonaldcarano.com
14	Jonathan Wong	jwong@lipsonneilson.com
15	Erin Kolmansberger	erin.kolmansberger@nelsonmullins.com
16	Melissa Gomberg	melissa.gomberg@nelsonmullins.com
17	Betsy Gould	bgould@doi.nv.gov
18	Juan Cerezo	jcerezo@lipsonneilson.com
19	Heather Bennett	hshepherd@hutchlegal.com
20	Brenoch Wirthlin	bwirthlin@klnevada.com
21	Jon Linder	jlinder@klnevada.com
22	S. Dianne Pomonis	dpomonis@klnevada.com
23	Daniel Maul	dmaul@hutchlegal.com
24		
25		
26		
27		
28		

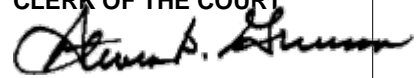
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17
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19
20
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23
24
25
26
27
28

Brenoch Wirthlin

bwirthlin@hutchlegal.com

Jon Linder

jlinder@hutchlegal.com



LIPSON NEILSON P.C.
JOSEPH P. GARIN, ESQ.
Nevada Bar No. 6653
ANGELA T. NAKAMURA OCHOA, ESQ.
Nevada Bar No. 10164
JONATHAN K. WONG, ESQ.
Nevada Bar No. 13621
9900 Covington Cross Drive, Suite 120
Las Vegas, Nevada 89144
(702) 382-1500 - Telephone
(702) 382-1512 - Facsimile
jgarin@lipsonneilson.com
aocchoa@lipsonneilson.com
jwong@lipsonneilson.com

*Attorneys for Defendants/Third-Party
Plaintiffs Robert Chur, Steve Fogg,
Mark Garber, Carol Harter,
Robert Hurlbut, Barbara Lumpkin,
Jeff Marshall, and Eric Stickels*

DISTRICT COURT

CLARK COUNTY, NEVADA

COMMISSIONER OF INSURANCE FOR
THE STATE OF NEVADA AS RECEIVER
OF LEWIS AND CLARK LTC RISK
RETENTION GROUP, INC.,

Plaintiff,

vs.

ROBERT CHUR, STEVE FOGG, MARK
GARBER, CAROL HARTER, ROBERT
HURLBUT, BARBARA LUMPKIN, JEFF
MARSHALL, ERIC STICKELS, UNI-TER
UNDERWRITING MANAGEMENT
CORP., UNI-TER CLAIMS SERVICES
CORP., and U.S. RE CORPORATION;
DOES 1-50, inclusive; and ROES 51-100,
inclusive,

Defendants.

CASE NO.: A-14-711535-C

DEPT. NO.: 27

**NOTICE OF ENTRY OF FINDINGS OF
FACT, CONCLUSIONS OF LAW AND
ORDER DENYING THE MOTION FOR
PARTIAL RECONSIDERATION OF
MOTION FOR LEAVE TO AMEND
REGARDING DIRECTOR DEFENDANTS**

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1 Please take notice that the Findings of Fact, Conclusions of Law and Order
2 Denying the Motion for Partial Reconsideration of Motion for Leave to Amend Regarding
3 Director Defendants was filed with this court on the 9th day of September, 2020, a copy
4 of which is attached hereto, as **Exhibit A**.

5 Dated this 10th day of September, 2020.

6 LIPSON NEILSON P.C.

7 /s/ Angela Ochoa

8 By: _____

9 Joseph P. Garin, Esq. (6653)
10 Angela T. Nakamura Ochoa, Esq. (10164)
11 Jonathan K. Wong, Esq. (13621)
12 9900 Covington Cross Dr., Suite 120
13 Las Vegas, NV 89144
14 jgarin@lipsonneilson.com
15 aochoa@lipsonneilson.com
16 jwong@lipsonneilson.com

17 *Attorneys for Defendants/Third-Party*
18 *Plaintiffs Robert Chur, Steve Fogg,*
19 *Mark Garber, Carol Harter,*
20 *Robert Hurlbut, Barbara Lumpkin,*
21 *Jeff Marshall, and Eric Stickels*

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b) and Administrative Order 14-2, I certify that on the 10th day of September, 2020, I electronically transmitted the foregoing **NOTICE OF ENTRY OF FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER DENYING THE MOTION FOR PARTIAL RECONSIDERATION OF MOTION FOR LEAVE TO AMEND REGARDING DIRECTOR DEFENDANTS** to the Clerk's Office using the Odyssey E-File & Serve System for filing and transmittal to the following Odyssey E-File & Serve registrants:

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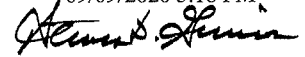
Attorney General's Office	
Contact	Email
Joanna Grigoriev	jgrigoriev@ag.nv.gov
Nevada Attorney General	wiznetfilings@ag.nv.gov
Nelson Mullins	
Contact	Email
Jon M. Wilson	jon.wilson@nelsonmullins.com
Kimberly Freedman	kimberly.freedman@nelsonmullins.com
Hutchison & Steffen	
Contact	Email
Christian M. Orme	corme@hutchlegal.com
Jon Linder	ilinder@hutchlegal.com
Brenoch Wirthlin	bwirthlin@hutchlegal.com
McDonald Carano Wilson LLP	
Contact	Email
CaraMia Gerard	cgerard@mcdonaldcarano.com
George F. Ogilvie III	gogilvie@mcdonaldcarano.com
James W. Bradshaw	jbradshaw@mcdonaldcarano.com
Kathy Barrett	kbarrett@mcdonaldcarano.com
Nancy Hoy	nhoy@mcdonaldcarano.com
Rory Kay	rkay@mcdonaldcarano.com
Nevada Attorney General	
Contact	Email
Marilyn Millam	mmillam@ag.nv.gov
Nevada Division of Insurance	
Contact	Email
Terri Verbrugghen	verbrug@doi.nv.gov

/s/ Juan Cerezo

An employee of LIPSON NEILSON P.C.

EXHIBIT “A”

EXHIBIT “A”


CLERK OF THE COURT

LIPSON NEILSON P.C.
JOSEPH P. GARIN, ESQ.
Nevada Bar No. 6653
ANGELA T. NAKAMURA OCHOA, ESQ.
Nevada Bar No. 10164
9900 Covington Cross Drive, Suite 120
Las Vegas, Nevada 89144
(702) 382-1500 - Telephone
(702) 382-1512 - Facsimile
jgarin@lipsonneilson.com
aocchoa@lipsonneilson.com
Attorneys for Defendants
Robert Chur, Steve Fogg,
Mark Garber, Carol Harter,
Robert Hurlbut, Barbara Lumpkin,
Jeff Marshall, and Eric Stickels

DISTRICT COURT

CLARK COUNTY, NEVADA

COMMISSIONER OF INSURANCE FOR
THE STATE OF NEVADA AS RECEIVER
OF LEWIS AND CLARK LTC RISK
RETENTION GROUP, INC.,

Plaintiff,

vs.

ROBERT CHUR, STEVE FOGG, MARK
GARBER, CAROL HARTER, ROBERT
HURLBUT, BARBARA LUMPKIN, JEFF
MARSHALL, ERIC STICKELS, UNI-TER
UNDERWRITING MANAGEMENT
CORP., UNI-TER CLAIMS SERVICES
CORP., and U.S. RE CORPORATION,
DOES 1-50, inclusive; and ROES 51-100,
inclusive,

Defendants.

CASE NO.: A-14-711535-C

DEPT. NO.: 27

**FINDINGS OF FACT, CONCLUSIONS
OF LAW AND ORDER DENYING THE
MOTION FOR PARTIAL
RECONSIDERATION OF MOTION FOR
LEAVE TO AMEND REGARDING
DIRECTOR DEFENDANTS**

This matter came before the Court for hearing on August 26, 2020 on Plaintiff's Motion for Partial Reconsideration of Motion for Leave to Amend Regarding Director Defendants ("Motion"). Angela T. Nakamura Ochoa, Esq. appeared on behalf of Defendants Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert Hurlbut,

1 Barbara Lumpkin, Jeff Marshall and Eric Stickels; Mark A. Hutchison, Esq. and Brenoch
2 R. Wirthlin, Esq. appeared on behalf of Plaintiff Commissioner of Insurance for the State
3 of Nevada ("Plaintiff" or "Commissioner"); and George F. Ogilvie III, Esq., appeared on
4 behalf of Defendants Uni-Ter Underwriting Management Corp., Uni-Ter Claims Services
5 Corp., and U.S. RE Corporation; and
6

7 Having considered the record and the briefs submitted in support of and in
8 opposition to the Motion, and having entertained the arguments of counsel, and being
9 fully informed in the premises, the Court makes the following findings of fact,
10 conclusions of law and order:
11

12 **FINDINGS OF FACT**

13 1. Lewis and Clark LTC Risk Retention Group, Inc. ("L&C") was formed in
14 2003. Between 2004 and February 28, 2013, L&C provided general and professional
15 liability coverage to long term care facilities and home health providers. See Third
16 Amended Complaint ("TAC") at ¶1.

17 2. The Nevada Division of Insurance ("DOI") filed a Receivership Action
18 related to L&C in November, 2012, commencing case number A-12-672047-B
19 ("Receivership Action"). Plaintiff Commissioner of Insurance for the State of Nevada
20 was appointed as the receiver.

21 3. On February 28, 2013, an order of liquidation ("Liquidation Order") was
22 entered in the Receivership Action, appointing the Commissioner as the receiver of
23 L&C. See Liquidation Order.

24 4. On December 23, 2014, the Commissioner instituted this lawsuit against,
25 among other defendants, eight of the former directors of L&C Robert Chur, Steve Fogg,
26 Mark Garber, Carol Harter, Robert Hurlbut, Barbara Lumpkin, Jeff Marshall and Eric
27 Stickels ("Director Defendants"). In the initial complaint, the Commissioner alleged
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1 claims of gross negligence and deepening of the insolvency against the Director
2 Defendants.

3 5. On December 11, 2015, Director Defendants filed their Motion to Dismiss,
4 challenging the sufficiency of the allegations of gross negligence and asserting that a
5 claim for deepening insolvency required allegations of fraud such that the claims must
6 be pled with specificity.

7 6. On June 13, 2016, the Commissioner filed its Second Amended
8 Complaint, and, subsequently, on August 5, 2016, the Commissioner filed its Third
9 Amended Complaint.

10 7. On April 18, 2016, Director Defendants filed a Motion to Dismiss the First
11 Amended Complaint, asserting that claims against officers and directors needed to be
12 supported by claims of intentional misconduct, fraud or knowing violation of the law.
13 Said Motion was subsequently denied.

14 8. During the period of September 5, 2017 through April 13, 2018, Director
15 Defendants propounded written discovery upon Plaintiff.

16 9. Due to the multiple requests to extend discovery in this action and the
17 then approaching 5-year rule expiration, this Court expressly conditioned its May 16,
18 2018 Order continuing discovery deadlines that it would be the "last stipulation to
19 continue."

20 10. On August 14, 2018, the Director Defendants filed a Motion For Judgment
21 On The Pleadings Pursuant To NRCP 12(C) ("Motion For Judgment On The
22 Pleadings"). On November 2, 2018, this Court denied the Director Defendants' Motion
23 for Judgment on the Pleadings.

24 11. On December 12, 2018, the Commissioner filed Plaintiff's Motion for
25 Extension of Discovery Deadlines and to Continue Trial on Order Shortening Time
26 (Fourth Request), which this Court granted in part and denied in part, extending
27 discovery for sixty (60) days and ordering a firm trial setting.
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1 12. In and around July, 2018, Director Defendant Barbara Lumpkin passed
2 away.

3 13. On November 8, 2018, the deposition of the NRCP 30(b)(6) witness for
4 the Commissioner of Insurance for the State of Nevada took place, in which he
5 frequently responded that the complaint spoke for itself and that he would be relying
6 upon experts in response to the Defendants questioning. Mr. Greer also testified
7 regarding the unavailability of certain Division of Insurance former employees. At no
8 time, did he state that the Director Defendants violated the law.

9 14. On March 8, 2019, the Director Defendants filed a Motion to Stay
10 Proceedings Pending Petition for Writ of Mandamus on an Order Shortening Time. The
11 Commissioner filed a Limited Joinder to Directors' Motion to Stay Proceedings Pending
12 Petition for Writ of Mandamus.

13 15. On March 12, 2019, the Director Defendants filed their Notice of Filing of
14 Petition for Writ of Mandamus with the Nevada Supreme Court. In their Petition for Writ
15 of Mandamus, the Director Defendants challenged this Court's denial of the Director
16 Defendants' Motion for Judgment on the Pleadings.

17 16. On March 14, 2019, this Court granted the Motion to Stay Proceedings
18 Pending Petition for Writ of Mandamus, and imposed an immediate stay (the "Stay") of
19 all proceedings in this matter.

20 17. On February 27, 2020, the Nevada Supreme Court issued its Opinion
21 ("NSC Opinion") granting the Director Defendants' Petition for Writ of Mandamus, and
22 instructed this Court to vacate its order denying the Director Defendants' Motion for
23 Judgment on the Pleadings, and to enter a new order granting the Director Defendants'
24 Motion for Judgment on the Pleadings. The NSC Opinion left to this Court's discretion
25 whether to grant the Commissioner leave to file a fourth amended complaint.

26 18. On May 14, 2020, because the writ petition proceedings before the
27 Nevada Supreme Court were not concluded, the parties entered into a stipulation
28

1 continuing the hearing on the Plaintiff's Motion for Clarification and extending the Stay
2 until June 18, 2020.

3 19. On May 22, 2020, the Nevada Supreme Court issued its Order Denying
4 Rehearing, thereby affirming the Opinion, and directing this Court to enter an order
5 granting the Director Defendants' Motion for Judgment on the Pleadings, but leaving to
6 this Court's discretion whether to grant the Commissioner leave to file a fourth amended
7 complaint.

8 20. At the time of the June 18, 2020 hearing, the Commissioner requested
9 that the Stay be extended to July 1, 2020; the Defendants objected to the Plaintiff's
10 request, and requested that the Stay be lifted immediately. This Court granted Plaintiff's
11 Motion for Clarification, and ordered that the Stay be lifted as of July 1, 2020.

12 21. On June 24, 2020, the Commissioner filed Plaintiff's Motion for
13 Preferential Trial Setting And For Issuance of A New Discovery Scheduling Order or, In
14 the Alternative, Motion to Stay All Discovery During the Pendency of Motion For Leave
15 to File Fourth Amended Complaint; On Order Shortening Time ("Plaintiff's Motion for
16 Preferential Trial Setting").

17 22. At the time of the July 1, 2020 hearing on Plaintiff's Motion for Preferential
18 Trial Setting, the Commissioner advised the court that it would file a Motion for Leave to
19 Amend on July 2, 2020. The Defendants requested that the Court direct the Receiver to
20 serve its initial expert disclosures on July 2. Over the Defendants' objection, this Court
21 extended the deadline for the Commissioner to serve its initial expert disclosures to the
22 conclusion of the hearing of Plaintiff's anticipated Motion for Leave to File Fourth
23 Amended Complaint¹.

24 23. On July 2, 2020, Plaintiff filed its Motion for Leave to File Fourth Amended
25 Complaint.

26
27
28 ¹ The hearing was scheduled for July 23, 2020.

25. The court subsequently ruled that discovery would close on December 17, 2020.

26. As it relates to the Director Defendants, the Commissioner contends that her proposed Fourth Amended Complaint alleges that the Director Defendants knowingly violated the law. The court makes no findings as to the futility of the proposed Fourth Amended Complaint.

27. With the passage of time, the Director Defendants will be unduly prejudiced in establishing their defenses to Plaintiff's new theory that the Director Defendants knowingly violated the law.

If any of these findings of fact should more properly be identified as a conclusion of law, then it shall be deemed a conclusion of law.

CONCLUSIONS OF LAW

1. “A district court may reconsider a previously decided issue if substantially different evidence is subsequently introduced or the decision is clearly erroneous.” *Masonry & Title Contractors Ass’n of S. Nevada v. Jolley, Urga & Wirth, Ltd.*, 113 Nev. 737, 741, 941 P.2d 486, 489 (1997).

2. "Only in very rare instances in which new issues of fact or law are raised supporting a ruling contrary to the ruling already reached should a motion for rehearing be granted." *Moore v. Las Vegas* (1976) 92 Nev. 402,405.

3. Whether to allow amendment to a pleading resides within the sound discretion of the trial court. *Kantor v. Kantor*, 116 Nev. 886, 891, 8 P.3d 825, 828 (2000).

4. In “the absence of any apparent or declared reason -- such as undue delay, bad faith or dilatory motive on the part of the movant – [leave to amend] should

1 be freely given." *Stephens v. Southern Nev. Music Co.*, 89 Nev. 104, 105-106, 507 P.2d
2 138, 139 (1973) (emphasis added) (citing *Foman v. Davis*, 371 U.S. 178 (1962)). While
3 leave to amend should be freely given when justice so requires, "[t]his does not,
4 however, mean that a trial judge may not, in a proper case, deny a motion to amend."
5 *Stephens v. S. Nevada Music Co., Inc.*, 89 Nev. 104, 105, 507 P.2d 138, 139 (1973).
6 Indeed, "[i]f that were the intent, leave of court would not be required." *Id.*
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8 5. Where a plaintiff has previously amended her complaint, the discretion to
9 deny further amendment is "particularly broad." *Cafasso v. Gen. Dynamics C4 Sys.*, 637
10 F.3d 1047, 1058 (9th Cir. 2011).

11 6. In evaluating whether a party timely moved for leave to amend, a court is
12 not confined to solely reviewing whether a motion was filed during the time allotted by a
13 scheduling order. *AmerisourceBergen Corp. v. Dialysist West, Inc.*, 465 F.3D 946, 951-
14 952 (9th Cir. 2006).

15 7. There has been a clarification by the Supreme Court of the *Shoen* case
16 [See *Shoen v. SAC Holding Corp.*, 122 Nev. 621, 640, 137 P.3d 1171, 1184 (2006)],
17 that despite the existence of hardship to the Plaintiff, the Court finds that it would not be
18 fair to the Director Defendants to have to defend a fourth amended complaint two
19 months before the discovery deadline and with a five-year rule looming. Justice does
20 not require granting leave to amend for Plaintiff to file the proposed Fourth Amended
21 Complaint as to the Director Defendants because Plaintiff unduly delayed bringing said
22 complaint and it would be unduly prejudicial for the Director Defendants to defend such
23 theories of liability at this point. Plaintiff did not provide any new evidence to warrant
24 reconsideration. Further, this Court did not err in denying Plaintiff's Motion for Leave to
25 Amend.

26 If any of these conclusions of law should more properly be identified as a finding
27 of fact, then it shall be deemed a finding of fact.
28

ORDER

IT IS HEREBY ORDERED that Plaintiff's Motion for Reconsideration of Motion for Leave to Amend Regarding Director Defendants is DENIED.

DATED this 9 day of September, 2020.

Dated this 9th day of September, 2020

Nancy L. Allf

NANCY L. ALLF

District Court Judge

39B 7F7 F34A 1E07

Nancy Allf

District Court Judge

NB

Submitted by:
LIPSON NEILSON P.C.

/s/ Angela Nakamura Ochoa

Joseph P. Garin, Esq. (NV Bar No. 6653)

Angela Ochoa, Esq. (NV Bar No. 10164)

9900 Covington Cross Dr., Suite 120

Las Vegas, NV 89144

*Attorneys for Defendants Robert Chur,
Steve Fogg, Mark Garber, Carol Harter,
Robert Hurlbut, Barbara Lumpkin, Jeff
Marshall & Eric Stickels*

Approved as to Form and Content:

HUTCHISON & STEFFEN

By: Would not Agree to Form or Content

Brenoch Wirthlin, Esq.

10080 West Alta Drive, Suite 200

Las Vegas, Nevada 89145

*Attorneys for Plaintiff Commissioner
of Insurance for the State of Nevada*

Lipson Neilson P.C.
9900 Covington Cross Drive, Suite 120
Las Vegas, Nevada 89144
(702) 382-1500 FAX: (702) 382-1512

1 CSERV

2 DISTRICT COURT
3 CLARK COUNTY, NEVADA
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5
6 Commissioner of Insurance for
7 the State of Nevada as Receiver
8 of Lewis and Clark, Plaintiff(s)

CASE NO: A-14-711535-C

DEPT. NO. Department 27

9 vs.

10 Robert Chur, Defendant(s)

11 **AUTOMATED CERTIFICATE OF SERVICE**

12
13 This automated certificate of service was generated by the Eighth Judicial District
14 Court. The foregoing Findings of Fact, Conclusions of Law and Judgment was served via the
15 court's electronic eFile system to all recipients registered for e-Service on the above entitled
16 case as listed below:

17 Service Date: 9/9/2020

18 Adrina Harris .	aharris@fclaw.com
19 Angela T. Nakamura Ochoa .	aochoa@lipsonneilson.com
20 Ashley Scott-Johnson .	ascott-johnson@lipsonneilson.com
21 Brenoch Wirthlin .	bwirthli@fclaw.com
22 CaraMia Gerard .	cgerard@mcdonaldcarano.com
23 George F. Ogilvie III .	gogilvie@mcdonaldcarano.com
24 Jessica Ayala .	jayala@fclaw.com
25 Joanna Grigoriev .	jgrigoriev@ag.nv.gov
26 Jon M. Wilson .	jwilson@broadandcassel.com
27 Kathy Barrett .	kbarrett@mcdonaldcarano.com

28

1	Marilyn Millam .	mmillam@ag.nv.gov
2	Nevada Attorney General .	wiznetfilings@ag.nv.gov
3		
4	Paul Garcia .	pgarcia@fclaw.com
5	Renee Rittenhouse .	rrittenhouse@lipsonneilson.com
6	Rory Kay .	rkay@mcdonaldcarano.com
7	Susana Nutt .	snutt@lipsonneilson.com
8	Yusimy Bordes .	ybordes@broadandcassel.com
9	Jelena Jovanovic .	jjovanovic@mcdonaldcarano.com
10	Christian Orme	corme@hutchlegal.com
11	Patricia Lee	plee@hutchlegal.com
12	Kimberly Freedman	kfreedman@broadandcassel.com
13	Danielle Kelley	dkelley@hutchlegal.com
14	Karen Surowiec	ksurowiec@mcdonaldcarano.com
15	Jonathan Wong	jwong@lipsonneilson.com
16	Erin Kolmansberger	erin.kolmansberger@nelsonmullins.com
17	Melissa Gomberg	melissa.gomberg@nelsonmullins.com
18	Betsy Gould	bgould@doi.nv.gov
19	Juan Cerezo	jcerezo@lipsonneilson.com
20	Heather Bennett	hshepherd@hutchlegal.com
21	Brenoch Wirthlin	bwirthlin@klnevada.com
22	Jon Linder	jlinder@klnevada.com
23	S. Dianne Pomonis	dpomonis@klnevada.com
24	Daniel Maul	dmaul@hutchlegal.com
25		
26		
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Brenoch Wirthlin

bwirthlin@hutchlegal.com

Jon Linder

jlinder@hutchlegal.com

LIPSON NEILSON P.C.
JOSEPH P. GARIN, ESQ.
Nevada Bar No. 6653
ANGELA T. NAKAMURA OCHOA, ESQ.
Nevada Bar No. 10164
9900 Covington Cross Drive, Suite 120
Las Vegas, Nevada 89144
(702) 382-1500 - Telephone
(702) 382-1512 - Facsimile
jgarin@lipsonneilson.com
aocchoa@lipsonneilson.com
Attorneys for Defendants
Robert Chur, Steve Fogg,
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DISTRICT COURT
CLARK COUNTY, NEVADA

COMMISSIONER OF INSURANCE FOR
THE STATE OF NEVADA AS RECEIVER
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Plaintiff,

vs.

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GARBER, CAROL HARTER, ROBERT
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Barbara Lumpkin, Jeff Marshall and Eric Stickels; Mark A. Hutchison, Esq. and Brenoch R. Wirthlin, Esq. appeared on behalf of Plaintiff Commissioner of Insurance for the State of Nevada ("Plaintiff" or "Commissioner"); and George F. Ogilvie III, Esq., appeared on behalf of Defendants Uni-Ter Underwriting Management Corp., Uni-Ter Claims Services Corp., and U.S. RE Corporation; and

Having considered the record and the briefs submitted in support of and in opposition to the Motion, and having entertained the arguments of counsel, and being fully informed in the premises, the Court makes the following findings of fact, conclusions of law and order:

FINDINGS OF FACT

1. Lewis and Clark LTC Risk Retention Group, Inc. ("L&C") was formed in 2003. Between 2004 and February 28, 2013, L&C provided general and professional liability coverage to long term care facilities and home health providers. See Third Amended Complaint ("TAC") at ¶1.

2. The Nevada Division of Insurance ("DOI") filed a Receivership Action related to L&C in November, 2012, commencing case number A-12-672047-B ("Receivership Action"). Plaintiff Commissioner of Insurance for the State of Nevada was appointed as the receiver.

3. On February 28, 2013, an order of liquidation ("Liquidation Order") was entered in the Receivership Action, appointing the Commissioner as the receiver of L&C. See Liquidation Order.

4. On December 23, 2014, the Commissioner instituted this lawsuit against, among other defendants, eight of the former directors of L&C Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert Hurlbut, Barbara Lumpkin, Jeff Marshall and Eric Stickels ("Director Defendants"). In the initial complaint, the Commissioner alleged

1 claims of gross negligence and deepening of the insolvency against the Director
2 Defendants.

3 5. On December 11, 2015, Director Defendants filed their Motion to Dismiss,
4 challenging the sufficiency of the allegations of gross negligence and asserting that a
5 claim for deepening insolvency required allegations of fraud such that the claims must
6 be pled with specificity.

7 6. On June 13, 2016, the Commissioner filed its Second Amended
8 Complaint, and, subsequently, on August 5, 2016, the Commissioner filed its Third
9 Amended Complaint.

10 7. On April 18, 2016, Director Defendants filed a Motion to Dismiss the First
11 Amended Complaint, asserting that claims against officers and directors needed to be
12 supported by claims of intentional misconduct, fraud or knowing violation of the law.
13 Said Motion was subsequently denied.

14 8. During the period of September 5, 2017 through April 13, 2018, Director
15 Defendants propounded written discovery upon Plaintiff.

16 9. Due to the multiple requests to extend discovery in this action and the
17 then approaching 5-year rule expiration, this Court expressly conditioned its May 16,
18 2018 Order continuing discovery deadlines that it would be the "last stipulation to
19 continue."

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21 On The Pleadings Pursuant To NRCP 12(C) ("Motion For Judgment On The
22 Pleadings"). On November 2, 2018, this Court denied the Director Defendants' Motion
23 for Judgment on the Pleadings.

24 11. On December 12, 2018, the Commissioner filed Plaintiff's Motion for
25 Extension of Discovery Deadlines and to Continue Trial on Order Shortening Time
26 (Fourth Request), which this Court granted in part and denied in part, extending
27 discovery for sixty (60) days and ordering a firm trial setting.
28

12. In and around July, 2018, Director Defendant Barbara Lumpkin passed away.

13. On November 8, 2018, the deposition of the NRCP 30(b)(6) witness for the Commissioner of Insurance for the State of Nevada took place, in which he frequently responded that the complaint spoke for itself and that he would be relying upon experts in response to the Defendants questioning. Mr. Greer also testified regarding the unavailability of certain Division of Insurance former employees. At no time, did he state that the Director Defendants violated the law.

14. On March 8, 2019, the Director Defendants filed a Motion to Stay Proceedings Pending Petition for Writ of Mandamus on an Order Shortening Time. The Commissioner filed a Limited Joinder to Directors' Motion to Stay Proceedings Pending Petition for Writ of Mandamus.

15. On March 12, 2019, the Director Defendants filed their Notice of Filing of Petition for Writ of Mandamus with the Nevada Supreme Court. In their Petition for Writ of Mandamus, the Director Defendants challenged this Court's denial of the Director Defendants' Motion for Judgment on the Pleadings.

16. On March 14, 2019, this Court granted the Motion to Stay Proceedings Pending Petition for Writ of Mandamus, and imposed an immediate stay (the "Stay") of all proceedings in this matter.

17. On February 27, 2020, the Nevada Supreme Court issued its Opinion ("NSC Opinion") granting the Director Defendants' Petition for Writ of Mandamus, and instructed this Court to vacate its order denying the Director Defendants' Motion for Judgment on the Pleadings, and to enter a new order granting the Director Defendants' Motion for Judgment on the Pleadings. The NSC Opinion left to this Court's discretion whether to grant the Commissioner leave to file a fourth amended complaint.

18. On May 14, 2020, because the writ petition proceedings before the Nevada Supreme Court were not concluded, the parties entered into a stipulation

1 continuing the hearing on the Plaintiff's Motion for Clarification and extending the Stay
2 until June 18, 2020.

3 19. On May 22, 2020, the Nevada Supreme Court issued its Order Denying
4 Rehearing, thereby affirming the Opinion, and directing this Court to enter an order
5 granting the Director Defendants' Motion for Judgment on the Pleadings, but leaving to
6 this Court's discretion whether to grant the Commissioner leave to file a fourth amended
7 complaint.

8 20. At the time of the June 18, 2020 hearing, the Commissioner requested
9 that the Stay be extended to July 1, 2020; the Defendants objected to the Plaintiff's
10 request, and requested that the Stay be lifted immediately. This Court granted Plaintiff's
11 Motion for Clarification, and ordered that the Stay be lifted as of July 1, 2020.

12 21. On June 24, 2020, the Commissioner filed Plaintiff's Motion for
13 Preferential Trial Setting And For Issuance of A New Discovery Scheduling Order or, In
14 the Alternative, Motion to Stay All Discovery During the Pendency of Motion For Leave
15 to File Fourth Amended Complaint; On Order Shortening Time ("Plaintiff's Motion for
16 Preferential Trial Setting").

17 22. At the time of the July 1, 2020 hearing on Plaintiff's Motion for Preferential
18 Trial Setting, the Commissioner advised the court that it would file a Motion for Leave to
19 Amend on July 2, 2020. The Defendants requested that the Court direct the Receiver to
20 serve its initial expert disclosures on July 2. Over the Defendants' objection, this Court
21 extended the deadline for the Commissioner to serve its initial expert disclosures to the
22 conclusion of the hearing of Plaintiff's anticipated Motion for Leave to File Fourth
23 Amended Complaint¹.

24 23. On July 2, 2020, Plaintiff filed its Motion for Leave to File Fourth Amended
25 Complaint.

26
27
28 ¹ The hearing was scheduled for July 23, 2020.

24. The hearing on Plaintiff's Motion for Leave to File Fourth Amended Complaint was held on July 23, 2020.

25. The court subsequently ruled that discovery would close on December 17, 2020.

26. As it relates to the Director Defendants, the Commissioner contends that her proposed Fourth Amended Complaint alleges that the Director Defendants knowingly violated the law. The court makes no findings as to the futility of the proposed Fourth Amended Complaint.

27. With the passage of time, the Director Defendants will be unduly prejudiced in establishing their defenses to Plaintiff's new theory that the Director Defendants knowingly violated the law.

If any of these findings of fact should more properly be identified as a conclusion of law, then it shall be deemed a conclusion of law.

CONCLUSIONS OF LAW

1. "A district court may reconsider a previously decided issue if substantially different evidence is subsequently introduced or the decision is clearly erroneous." *Masonry & Title Contractors Ass'n of S. Nevada v. Jolley, Urga & Wirth, Ltd.*, 113 Nev. 737, 741, 941 P.2d 486, 489 (1997).

2. "Only in very rare instances in which new issues of fact or law are raised supporting a ruling contrary to the ruling already reached should a motion for rehearing be granted." *Moore v. Las Vegas* (1976) 92 Nev. 402,405.

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4. In "the absence of any apparent or declared reason -- such as undue delay, bad faith or dilatory motive on the part of the movant -- [leave to amend] should

1 be freely given.” *Stephens v. Southern Nev. Music Co.*, 89 Nev. 104, 105-106, 507 P.2d
2 138, 139 (1973) (emphasis added) (citing *Foman v. Davis*, 371 U.S. 178 (1962)). While
3 leave to amend should be freely given when justice so requires, “[t]his does not,
4 however, mean that a trial judge may not, in a proper case, deny a motion to amend.”
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9 deny further amendment is “particularly broad.” *Cafasso v. Gen. Dynamics C4 Sys.*, 637
10 F.3d 1047, 1058 (9th Cir. 2011).

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12 not confined to solely reviewing whether a motion was filed during the time allotted by a
13 scheduling order. *AmerisourceBergen Corp. v. Dialysist West, Inc.*, 465 F.3D 946, 951-
14 952 (9th Cir. 2006).

15 7. There has been a clarification by the Supreme Court of the *Shoen* case
16 [See *Shoen v. SAC Holding Corp.*, 122 Nev. 621, 640, 137 P.3d 1171, 1184 (2006)],
17 that despite the existence of hardship to the Plaintiff, the Court finds that it would not be
18 fair to the Director Defendants to have to defend a fourth amended complaint two
19 months before the discovery deadline and with a five-year rule looming. Justice does
20 not require granting leave to amend for Plaintiff to file the proposed Fourth Amended
21 Complaint as to the Director Defendants because Plaintiff unduly delayed bringing said
22 complaint and it would be unduly prejudicial for the Director Defendants to defend such
23 theories of liability at this point. Plaintiff did not provide any new evidence to warrant
24 reconsideration. Further, this Court did not err in denying Plaintiff’s Motion for Leave to
25 Amend.

26 If any of these conclusions of law should more properly be identified as a finding
27 of fact, then it shall be deemed a finding of fact.
28

ORDER

IT IS HEREBY ORDERED that Plaintiff's Motion for Reconsideration of Motion for Leave to Amend Regarding Director Defendants is DENIED.

DATED this 9 day of September, 2020.

Dated this 9th day of September, 2020

Nancy L. Allf

NANCY L. ALLF
District Court Judge

39B 7F7 F34A 1E07
Nancy Allf
District Court Judge

NB

Submitted by:
LIPSON NEILSON P.C.

/s/ Angela Nakamura Ochoa

Joseph P. Garin, Esq. (NV Bar No. 6653)
Angela Ochoa, Esq. (NV Bar No. 10164)
9900 Covington Cross Dr., Suite 120
Las Vegas, NV 89144
*Attorneys for Defendants Robert Chur,
Steve Fogg, Mark Garber, Carol Harter,
Robert Hurlbut, Barbara Lumpkin, Jeff
Marshall & Eric Stickels*

Approved as to Form and Content:

HUTCHISON & STEFFEN

By: Would not Agree to Form or Content
Brenoch Wirthlin, Esq.
10080 West Alta Drive, Suite 200
Las Vegas, Nevada 89145

*Attorneys for Plaintiff Commissioner
of Insurance for the State of Nevada*

1 **CSERV**

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5
6 Commissioner of Insurance for
7 the State of Nevada as Receiver
8 of Lewis and Clark, Plaintiff(s)

CASE NO: A-14-711535-C

DEPT. NO. Department 27

9 vs.

10 Robert Chur, Defendant(s)

11 **AUTOMATED CERTIFICATE OF SERVICE**

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13 This automated certificate of service was generated by the Eighth Judicial District
14 Court. The foregoing Findings of Fact, Conclusions of Law and Judgment was served via the
15 court's electronic eFile system to all recipients registered for e-Service on the above entitled
16 case as listed below:

17 Service Date: 9/9/2020

18 Adrina Harris .	aharris@fclaw.com
19 Angela T. Nakamura Ochoa .	aochoa@lipsonneilson.com
20 Ashley Scott-Johnson .	ascott-johnson@lipsonneilson.com
21 Brenoch Wirthlin .	bwirthli@fclaw.com
22 CaraMia Gerard .	cgerard@mcdonaldcarano.com
23 George F. Ogilvie III .	gogilvie@mcdonaldcarano.com
24 Jessica Ayala .	jayala@fclaw.com
25 Joanna Grigoriev .	jgrigoriev@ag.nv.gov
26 Jon M. Wilson .	jwilson@broadandcassel.com
27 Kathy Barrett .	kbarrett@mcdonaldcarano.com

28

1	Marilyn Millam .	mmillam@ag.nv.gov
2	Nevada Attorney General .	wiznetfilings@ag.nv.gov
3	Paul Garcia .	pgarcia@fclaw.com
4	Renee Rittenhouse .	rrittenhouse@lipsonneilson.com
5	Rory Kay .	rkay@mcdonaldcarano.com
6	Susana Nutt .	snutt@lipsonneilson.com
7	Yusimy Bordes .	ybordes@broadandcassel.com
8	Jelena Jovanovic .	jjovanovic@mcdonaldcarano.com
9	Christian Orme	corne@hutchlegal.com
10	Patricia Lee	plee@hutchlegal.com
11	Kimberly Freedman	kfreedman@broadandcassel.com
12	Danielle Kelley	dkelley@hutchlegal.com
13	Karen Surowiec	ksurowiec@mcdonaldcarano.com
14	Jonathan Wong	jwong@lipsonneilson.com
15	Erin Kolmansberger	erin.kolmansberger@nelsonmullins.com
16	Melissa Gomberg	melissa.gomberg@nelsonmullins.com
17	Betsy Gould	bgould@doi.nv.gov
18	Juan Cerezo	jcerezo@lipsonneilson.com
19	Heather Bennett	hshepherd@hutchlegal.com
20	Brenoch Wirthlin	bwirthlin@klnevada.com
21	Jon Linder	jlinder@klnevada.com
22	S. Dianne Pomonis	dpomonis@klnevada.com
23	Daniel Maul	dmaul@hutchlegal.com
24		
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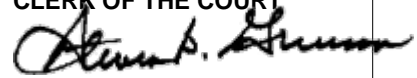
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25
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27
28

Brenoch Wirthlin

bwirthlin@hutchlegal.com

Jon Linder

jlinder@hutchlegal.com



LIPSON NEILSON P.C.
JOSEPH P. GARIN, ESQ.
Nevada Bar No. 6653
ANGELA T. NAKAMURA OCHOA, ESQ.
Nevada Bar No. 10164
JONATHAN K. WONG, ESQ.
Nevada Bar No. 13621
9900 Covington Cross Drive, Suite 120
Las Vegas, Nevada 89144
(702) 382-1500 - Telephone
(702) 382-1512 - Facsimile
jgarin@lipsonneilson.com
aocchoa@lipsonneilson.com
jwong@lipsonneilson.com

*Attorneys for Defendants/Third-Party
Plaintiffs Robert Chur, Steve Fogg,
Mark Garber, Carol Harter,
Robert Hurlbut, Barbara Lumpkin,
Jeff Marshall, and Eric Stickels*

DISTRICT COURT

CLARK COUNTY, NEVADA

COMMISSIONER OF INSURANCE FOR
THE STATE OF NEVADA AS RECEIVER
OF LEWIS AND CLARK LTC RISK
RETENTION GROUP, INC.,

Plaintiff,

vs.

ROBERT CHUR, STEVE FOGG, MARK
GARBER, CAROL HARTER, ROBERT
HURLBUT, BARBARA LUMPKIN, JEFF
MARSHALL, ERIC STICKELS, UNI-TER
UNDERWRITING MANAGEMENT
CORP., UNI-TER CLAIMS SERVICES
CORP., and U.S. RE CORPORATION;
DOES 1-50, inclusive; and ROES 51-100,
inclusive,

Defendants.

CASE NO.: A-14-711535-C

DEPT. NO.: 27

**NOTICE OF ENTRY OF FINDINGS OF
FACT, CONCLUSIONS OF LAW AND
ORDER DENYING THE MOTION FOR
PARTIAL RECONSIDERATION OF
MOTION FOR LEAVE TO AMEND
REGARDING DIRECTOR DEFENDANTS**

///

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1 Please take notice that the Findings of Fact, Conclusions of Law and Order
2 Denying the Motion for Partial Reconsideration of Motion for Leave to Amend Regarding
3 Director Defendants was filed with this court on the 9th day of September, 2020, a copy
4 of which is attached hereto, as **Exhibit A**.

5 Dated this 10th day of September, 2020.

6 LIPSON NEILSON P.C.

7 /s/ Angela Ochoa

8 By: _____
9 Joseph P. Garin, Esq. (6653)
10 Angela T. Nakamura Ochoa, Esq. (10164)
11 Jonathan K. Wong, Esq. (13621)
12 9900 Covington Cross Dr., Suite 120
13 Las Vegas, NV 89144
14 jgarin@lipsonneilson.com
15 aochoa@lipsonneilson.com
16 jwong@lipsonneilson.com

17 *Attorneys for Defendants/Third-Party*
18 *Plaintiffs Robert Chur, Steve Fogg,*
19 *Mark Garber, Carol Harter,*
20 *Robert Hurlbut, Barbara Lumpkin,*
21 *Jeff Marshall, and Eric Stickels*

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b) and Administrative Order 14-2, I certify that on the 10th day of September, 2020, I electronically transmitted the foregoing **NOTICE OF ENTRY OF FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER DENYING THE MOTION FOR PARTIAL RECONSIDERATION OF MOTION FOR LEAVE TO AMEND REGARDING DIRECTOR DEFENDANTS** to the Clerk's Office using the Odyssey E-File & Serve System for filing and transmittal to the following Odyssey E-File & Serve registrants:

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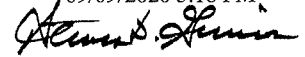
Attorney General's Office	
Contact	Email
Joanna Grigoriev	jgrigoriev@ag.nv.gov
Nevada Attorney General	wiznetfilings@ag.nv.gov
Nelson Mullins	
Contact	Email
Jon M. Wilson	jon.wilson@nelsonmullins.com
Kimberly Freedman	kimberly.freedman@nelsonmullins.com
Hutchison & Steffen	
Contact	Email
Christian M. Orme	corme@hutchlegal.com
Jon Linder	ilinder@hutchlegal.com
Brenoch Wirthlin	bwirthlin@hutchlegal.com
McDonald Carano Wilson LLP	
Contact	Email
CaraMia Gerard	cgerard@mcdonaldcarano.com
George F. Ogilvie III	gogilvie@mcdonaldcarano.com
James W. Bradshaw	jbradshaw@mcdonaldcarano.com
Kathy Barrett	kbarrett@mcdonaldcarano.com
Nancy Hoy	nhoy@mcdonaldcarano.com
Rory Kay	rkay@mcdonaldcarano.com
Nevada Attorney General	
Contact	Email
Marilyn Millam	mmillam@ag.nv.gov
Nevada Division of Insurance	
Contact	Email
Terri Verbrugghen	verbrug@doi.nv.gov

/s/ Juan Cerezo

An employee of LIPSON NEILSON P.C.

EXHIBIT “A”

EXHIBIT “A”


CLERK OF THE COURT

LIPSON NEILSON P.C.
JOSEPH P. GARIN, ESQ.
Nevada Bar No. 6653
ANGELA T. NAKAMURA OCHOA, ESQ.
Nevada Bar No. 10164
9900 Covington Cross Drive, Suite 120
Las Vegas, Nevada 89144
(702) 382-1500 - Telephone
(702) 382-1512 - Facsimile
jgarin@lipsonneilson.com
aocchoa@lipsonneilson.com
Attorneys for Defendants
Robert Chur, Steve Fogg,
Mark Garber, Carol Harter,
Robert Hurlbut, Barbara Lumpkin,
Jeff Marshall, and Eric Stickels

DISTRICT COURT

CLARK COUNTY, NEVADA

COMMISSIONER OF INSURANCE FOR
THE STATE OF NEVADA AS RECEIVER
OF LEWIS AND CLARK LTC RISK
RETENTION GROUP, INC.,

Plaintiff,

vs.

ROBERT CHUR, STEVE FOGG, MARK
GARBER, CAROL HARTER, ROBERT
HURLBUT, BARBARA LUMPKIN, JEFF
MARSHALL, ERIC STICKELS, UNI-TER
UNDERWRITING MANAGEMENT
CORP., UNI-TER CLAIMS SERVICES
CORP., and U.S. RE CORPORATION,
DOES 1-50, inclusive; and ROES 51-100,
inclusive,

Defendants.

CASE NO.: A-14-711535-C

DEPT. NO.: 27

**FINDINGS OF FACT, CONCLUSIONS
OF LAW AND ORDER DENYING THE
MOTION FOR PARTIAL
RECONSIDERATION OF MOTION FOR
LEAVE TO AMEND REGARDING
DIRECTOR DEFENDANTS**

This matter came before the Court for hearing on August 26, 2020 on Plaintiff's Motion for Partial Reconsideration of Motion for Leave to Amend Regarding Director Defendants ("Motion"). Angela T. Nakamura Ochoa, Esq. appeared on behalf of Defendants Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert Hurlbut,

1 Barbara Lumpkin, Jeff Marshall and Eric Stickels; Mark A. Hutchison, Esq. and Brenoch
2 R. Wirthlin, Esq. appeared on behalf of Plaintiff Commissioner of Insurance for the State
3 of Nevada ("Plaintiff" or "Commissioner"); and George F. Ogilvie III, Esq., appeared on
4 behalf of Defendants Uni-Ter Underwriting Management Corp., Uni-Ter Claims Services
5 Corp., and U.S. RE Corporation; and
6

7 Having considered the record and the briefs submitted in support of and in
8 opposition to the Motion, and having entertained the arguments of counsel, and being
9 fully informed in the premises, the Court makes the following findings of fact,
10 conclusions of law and order:
11

12 **FINDINGS OF FACT**

13 1. Lewis and Clark LTC Risk Retention Group, Inc. ("L&C") was formed in
14 2003. Between 2004 and February 28, 2013, L&C provided general and professional
15 liability coverage to long term care facilities and home health providers. See Third
16 Amended Complaint ("TAC") at ¶1.

17 2. The Nevada Division of Insurance ("DOI") filed a Receivership Action
18 related to L&C in November, 2012, commencing case number A-12-672047-B
19 ("Receivership Action"). Plaintiff Commissioner of Insurance for the State of Nevada
20 was appointed as the receiver.

21 3. On February 28, 2013, an order of liquidation ("Liquidation Order") was
22 entered in the Receivership Action, appointing the Commissioner as the receiver of
23 L&C. See Liquidation Order.

24 4. On December 23, 2014, the Commissioner instituted this lawsuit against,
25 among other defendants, eight of the former directors of L&C Robert Chur, Steve Fogg,
26 Mark Garber, Carol Harter, Robert Hurlbut, Barbara Lumpkin, Jeff Marshall and Eric
27 Stickels ("Director Defendants"). In the initial complaint, the Commissioner alleged
28

1 claims of gross negligence and deepening of the insolvency against the Director
2 Defendants.

3 5. On December 11, 2015, Director Defendants filed their Motion to Dismiss,
4 challenging the sufficiency of the allegations of gross negligence and asserting that a
5 claim for deepening insolvency required allegations of fraud such that the claims must
6 be pled with specificity.

7 6. On June 13, 2016, the Commissioner filed its Second Amended
8 Complaint, and, subsequently, on August 5, 2016, the Commissioner filed its Third
9 Amended Complaint.

10 7. On April 18, 2016, Director Defendants filed a Motion to Dismiss the First
11 Amended Complaint, asserting that claims against officers and directors needed to be
12 supported by claims of intentional misconduct, fraud or knowing violation of the law.
13 Said Motion was subsequently denied.

14 8. During the period of September 5, 2017 through April 13, 2018, Director
15 Defendants propounded written discovery upon Plaintiff.

16 9. Due to the multiple requests to extend discovery in this action and the
17 then approaching 5-year rule expiration, this Court expressly conditioned its May 16,
18 2018 Order continuing discovery deadlines that it would be the "last stipulation to
19 continue."

20 10. On August 14, 2018, the Director Defendants filed a Motion For Judgment
21 On The Pleadings Pursuant To NRCP 12(C) ("Motion For Judgment On The
22 Pleadings"). On November 2, 2018, this Court denied the Director Defendants' Motion
23 for Judgment on the Pleadings.

24 11. On December 12, 2018, the Commissioner filed Plaintiff's Motion for
25 Extension of Discovery Deadlines and to Continue Trial on Order Shortening Time
26 (Fourth Request), which this Court granted in part and denied in part, extending
27 discovery for sixty (60) days and ordering a firm trial setting.
28

1 12. In and around July, 2018, Director Defendant Barbara Lumpkin passed
2 away.

3 13. On November 8, 2018, the deposition of the NRCP 30(b)(6) witness for
4 the Commissioner of Insurance for the State of Nevada took place, in which he
5 frequently responded that the complaint spoke for itself and that he would be relying
6 upon experts in response to the Defendants questioning. Mr. Greer also testified
7 regarding the unavailability of certain Division of Insurance former employees. At no
8 time, did he state that the Director Defendants violated the law.

9 14. On March 8, 2019, the Director Defendants filed a Motion to Stay
10 Proceedings Pending Petition for Writ of Mandamus on an Order Shortening Time. The
11 Commissioner filed a Limited Joinder to Directors' Motion to Stay Proceedings Pending
12 Petition for Writ of Mandamus.

13 15. On March 12, 2019, the Director Defendants filed their Notice of Filing of
14 Petition for Writ of Mandamus with the Nevada Supreme Court. In their Petition for Writ
15 of Mandamus, the Director Defendants challenged this Court's denial of the Director
16 Defendants' Motion for Judgment on the Pleadings.

17 16. On March 14, 2019, this Court granted the Motion to Stay Proceedings
18 Pending Petition for Writ of Mandamus, and imposed an immediate stay (the "Stay") of
19 all proceedings in this matter.

20 17. On February 27, 2020, the Nevada Supreme Court issued its Opinion
21 ("NSC Opinion") granting the Director Defendants' Petition for Writ of Mandamus, and
22 instructed this Court to vacate its order denying the Director Defendants' Motion for
23 Judgment on the Pleadings, and to enter a new order granting the Director Defendants'
24 Motion for Judgment on the Pleadings. The NSC Opinion left to this Court's discretion
25 whether to grant the Commissioner leave to file a fourth amended complaint.

26 18. On May 14, 2020, because the writ petition proceedings before the
27 Nevada Supreme Court were not concluded, the parties entered into a stipulation
28

1 continuing the hearing on the Plaintiff's Motion for Clarification and extending the Stay
2 until June 18, 2020.

3 19. On May 22, 2020, the Nevada Supreme Court issued its Order Denying
4 Rehearing, thereby affirming the Opinion, and directing this Court to enter an order
5 granting the Director Defendants' Motion for Judgment on the Pleadings, but leaving to
6 this Court's discretion whether to grant the Commissioner leave to file a fourth amended
7 complaint.

8 20. At the time of the June 18, 2020 hearing, the Commissioner requested
9 that the Stay be extended to July 1, 2020; the Defendants objected to the Plaintiff's
10 request, and requested that the Stay be lifted immediately. This Court granted Plaintiff's
11 Motion for Clarification, and ordered that the Stay be lifted as of July 1, 2020.

12 21. On June 24, 2020, the Commissioner filed Plaintiff's Motion for
13 Preferential Trial Setting And For Issuance of A New Discovery Scheduling Order or, In
14 the Alternative, Motion to Stay All Discovery During the Pendency of Motion For Leave
15 to File Fourth Amended Complaint; On Order Shortening Time ("Plaintiff's Motion for
16 Preferential Trial Setting").

17 22. At the time of the July 1, 2020 hearing on Plaintiff's Motion for Preferential
18 Trial Setting, the Commissioner advised the court that it would file a Motion for Leave to
19 Amend on July 2, 2020. The Defendants requested that the Court direct the Receiver to
20 serve its initial expert disclosures on July 2. Over the Defendants' objection, this Court
21 extended the deadline for the Commissioner to serve its initial expert disclosures to the
22 conclusion of the hearing of Plaintiff's anticipated Motion for Leave to File Fourth
23 Amended Complaint¹.

24 23. On July 2, 2020, Plaintiff filed its Motion for Leave to File Fourth Amended
25 Complaint.

26
27
28 ¹ The hearing was scheduled for July 23, 2020.

25. The court subsequently ruled that discovery would close on December 17, 2020.

26. As it relates to the Director Defendants, the Commissioner contends that her proposed Fourth Amended Complaint alleges that the Director Defendants knowingly violated the law. The court makes no findings as to the futility of the proposed Fourth Amended Complaint.

27. With the passage of time, the Director Defendants will be unduly prejudiced in establishing their defenses to Plaintiff's new theory that the Director Defendants knowingly violated the law.

If any of these findings of fact should more properly be identified as a conclusion of law, then it shall be deemed a conclusion of law.

CONCLUSIONS OF LAW

1. “A district court may reconsider a previously decided issue if substantially different evidence is subsequently introduced or the decision is clearly erroneous.” *Masonry & Title Contractors Ass’n of S. Nevada v. Jolley, Urga & Wirth, Ltd.*, 113 Nev. 737, 741, 941 P.2d 486, 489 (1997).

2. "Only in very rare instances in which new issues of fact or law are raised supporting a ruling contrary to the ruling already reached should a motion for rehearing be granted." *Moore v. Las Vegas* (1976) 92 Nev. 402,405.

3. Whether to allow amendment to a pleading resides within the sound discretion of the trial court. *Kantor v. Kantor*, 116 Nev. 886, 891, 8 P.3d 825, 828 (2000).

4. In “the absence of any apparent or declared reason -- such as undue delay, bad faith or dilatory motive on the part of the movant – [leave to amend] should

1 be freely given." *Stephens v. Southern Nev. Music Co.*, 89 Nev. 104, 105-106, 507 P.2d
2 138, 139 (1973) (emphasis added) (citing *Foman v. Davis*, 371 U.S. 178 (1962)). While
3 leave to amend should be freely given when justice so requires, "[t]his does not,
4 however, mean that a trial judge may not, in a proper case, deny a motion to amend."
5 *Stephens v. S. Nevada Music Co., Inc.*, 89 Nev. 104, 105, 507 P.2d 138, 139 (1973).
6 Indeed, "[i]f that were the intent, leave of court would not be required." *Id.*
7

8 5. Where a plaintiff has previously amended her complaint, the discretion to
9 deny further amendment is "particularly broad." *Cafasso v. Gen. Dynamics C4 Sys.*, 637
10 F.3d 1047, 1058 (9th Cir. 2011).

11 6. In evaluating whether a party timely moved for leave to amend, a court is
12 not confined to solely reviewing whether a motion was filed during the time allotted by a
13 scheduling order. *AmerisourceBergen Corp. v. Dialysist West, Inc.*, 465 F.3D 946, 951-
14 952 (9th Cir. 2006).

15 7. There has been a clarification by the Supreme Court of the *Shoen* case
16 [See *Shoen v. SAC Holding Corp.*, 122 Nev. 621, 640, 137 P.3d 1171, 1184 (2006)],
17 that despite the existence of hardship to the Plaintiff, the Court finds that it would not be
18 fair to the Director Defendants to have to defend a fourth amended complaint two
19 months before the discovery deadline and with a five-year rule looming. Justice does
20 not require granting leave to amend for Plaintiff to file the proposed Fourth Amended
21 Complaint as to the Director Defendants because Plaintiff unduly delayed bringing said
22 complaint and it would be unduly prejudicial for the Director Defendants to defend such
23 theories of liability at this point. Plaintiff did not provide any new evidence to warrant
24 reconsideration. Further, this Court did not err in denying Plaintiff's Motion for Leave to
25 Amend.

26 If any of these conclusions of law should more properly be identified as a finding
27 of fact, then it shall be deemed a finding of fact.
28

ORDER

IT IS HEREBY ORDERED that Plaintiff's Motion for Reconsideration of Motion for Leave to Amend Regarding Director Defendants is DENIED.

DATED this 9 day of September, 2020.

Dated this 9th day of September, 2020

Nancy L. Allf

NANCY L. ALLF

District Court Judge

39B 7F7 F34A 1E07

Nancy Allf

District Court Judge

NB

Submitted by:
LIPSON NEILSON P.C.

/s/ Angela Nakamura Ochoa

Joseph P. Garin, Esq. (NV Bar No. 6653)

Angela Ochoa, Esq. (NV Bar No. 10164)

9900 Covington Cross Dr., Suite 120

Las Vegas, NV 89144

*Attorneys for Defendants Robert Chur,
Steve Fogg, Mark Garber, Carol Harter,
Robert Hurlbut, Barbara Lumpkin, Jeff
Marshall & Eric Stickels*

Approved as to Form and Content:

HUTCHISON & STEFFEN

By: Would not Agree to Form or Content

Brenoch Wirthlin, Esq.

10080 West Alta Drive, Suite 200

Las Vegas, Nevada 89145

*Attorneys for Plaintiff Commissioner
of Insurance for the State of Nevada*

Lipson Neilson P.C.
9900 Covington Cross Drive, Suite 120
Las Vegas, Nevada 89144
(702) 382-1500 FAX: (702) 382-1512

1 CSERV

2 DISTRICT COURT
3 CLARK COUNTY, NEVADA
4

5
6 Commissioner of Insurance for
7 the State of Nevada as Receiver
8 of Lewis and Clark, Plaintiff(s)

CASE NO: A-14-711535-C

DEPT. NO. Department 27

9 vs.

10 Robert Chur, Defendant(s)

11 **AUTOMATED CERTIFICATE OF SERVICE**

12
13 This automated certificate of service was generated by the Eighth Judicial District
14 Court. The foregoing Findings of Fact, Conclusions of Law and Judgment was served via the
15 court's electronic eFile system to all recipients registered for e-Service on the above entitled
16 case as listed below:

17 Service Date: 9/9/2020

18 Adrina Harris .	aharris@fclaw.com
19 Angela T. Nakamura Ochoa .	aochoa@lipsonneilson.com
20 Ashley Scott-Johnson .	ascott-johnson@lipsonneilson.com
21 Brenoch Wirthlin .	bwirthli@fclaw.com
22 CaraMia Gerard .	cgerard@mcdonaldcarano.com
23 George F. Ogilvie III .	gogilvie@mcdonaldcarano.com
24 Jessica Ayala .	jayala@fclaw.com
25 Joanna Grigoriev .	jgrigoriev@ag.nv.gov
26 Jon M. Wilson .	jwilson@broadandcassel.com
27 Kathy Barrett .	kbarrett@mcdonaldcarano.com

1	Marilyn Millam .	mmillam@ag.nv.gov
2	Nevada Attorney General .	wiznetfilings@ag.nv.gov
3		
4	Paul Garcia .	pgarcia@fclaw.com
5	Renee Rittenhouse .	rrittenhouse@lipsonneilson.com
6	Rory Kay .	rkay@mcdonaldcarano.com
7	Susana Nutt .	snutt@lipsonneilson.com
8	Yusimy Bordes .	ybordes@broadandcassel.com
9	Jelena Jovanovic .	jjovanovic@mcdonaldcarano.com
10	Christian Orme	corme@hutchlegal.com
11	Patricia Lee	plee@hutchlegal.com
12	Kimberly Freedman	kfreedman@broadandcassel.com
13	Danielle Kelley	dkelley@hutchlegal.com
14	Karen Surowiec	ksurowiec@mcdonaldcarano.com
15	Jonathan Wong	jwong@lipsonneilson.com
16	Erin Kolmansberger	erin.kolmansberger@nelsonmullins.com
17	Melissa Gomberg	melissa.gomberg@nelsonmullins.com
18	Betsy Gould	bgould@doi.nv.gov
19	Juan Cerezo	jcerezo@lipsonneilson.com
20	Heather Bennett	hshepherd@hutchlegal.com
21	Brenoch Wirthlin	bwirthlin@klnevada.com
22	Jon Linder	jlinder@klnevada.com
23	S. Dianne Pomonis	dpomonis@klnevada.com
24	Daniel Maul	dmaul@hutchlegal.com
25		
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24
25
26
27
28

Brenoch Wirthlin

bwirthlin@hutchlegal.com

Jon Linder

jlinder@hutchlegal.com

ORDER

MARK A. HUTCHISON, ESQ. (4639)
BRENOCH R. WIRTHLIN, ESQ. (10282)
CHRISTIAN M. ORME, ESQ. (10175)
10080 West Alta Drive, Suite 200
Las Vegas, Nevada 89145
Telephone: (702) 385.2500
Facsimile: (702) 385.2086
E-Mail: mhutchison@hutchlegal.com
bwirthlin@hutchlegal.com
corne@hutchlegal.com

Attorneys for Plaintiff

**DISTRICT COURT
CLARK COUNTY, NEVADA**

* * *

COMMISSIONER OF INSURANCE FOR
THE STATE OF NEVADA AS RECEIVER
OF LEWIS AND CLARK LTC RISK
RETENTION GROUP, INC.,

Plaintiff,

vs.

ROBERT CHUR, STEVE FOGG, MARK
GARBER, CAROL HARTER, ROBERT
HURLBUT, BARBARA LUMPKIN, JEFF
MARSHALL, ERIC STICKELS, UNI-TER
UNDERWRITING MANAGEMENT CORP.,
UNI-TER CLAIMS SERVICES CORP., and
U.S. RE CORPORATION,; DOES 1-50,
inclusive; and ROES 51-100, inclusive;

Defendants.

Case No.: A-14-711535-C

Dept. No.: XXVII

**ORDER DENYING PLAINTIFF'S
MOTION TO RETAX AND SETTLE
COSTS OF DIRECTOR DEFENDANTS**

This matter was set for hearing before the Court on the July 1, 2021, Motions calendar on Plaintiff Commissioner of Insurance for the State of Nevada ("Plaintiff" or "Commissioner") as Receiver of Lewis & Clark LTC Risk Retention Group, Inc.'s Motion to Retax and Settle Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert Hurlbut, Barbara Lumpkin, Jeff Marshall,

1 and Eric Stickels’¹ Verified Memorandum of Costs and Disbursements (“Motion to Retax”) which
2 was filed on August 21, 2020; the Director Defendants having filed their opposition (“Opposition”)
3 to the Motion on May 13, 2021; Plaintiff having filed her reply in support of the Motion on June
4 24, 2021; the Court having read and considered the Motion, Opposition, and Reply; good cause
5 appearing,

6 THE COURT HEREBY FINDS after review that NRS 696B.565(3) provides: The
7 Commissioner, all present and former deputy receivers, special deputy receivers and their
8 employees, and the other officers, agents, employees and attorneys of the Division must be
9 indemnified for all expenses, attorney s fees, judgments, settlements decrees, or amounts due or
10 paid in satisfaction of, or incurred in the defense of, such a legal action, unless it is determined
11 upon a final adjudication on the merits of the case that the alleged acts, error or omission of the
12 officer, agent, employee or attorney of the division did not arise out of or by reason of his or her
13 duties or employment and was caused by actual malice.
14

15 THE COURT HEREBY FINDS that the Director Defendants filed a motion for attorney fees
16 and costs which was denied by the Court, rendering the Motion to Retax moot.

17 THEREFORE COURT ORDERS for good cause appearing and after review that the Motion
18 to Retax is hereby DENIED and the matter scheduled on July 1, 2021 on Motions calendar is
19

20 ///

21 ///

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26

27

28 ¹ Collectively the “Director Defendants.”

1 hereby VACATED.

Dated this 16th day of July, 2021

2 July 15, 2021

Nancy L Alif

TW

5 Respectfully submitted by:

1E9 3D1 86DD F3FB
Nancy Alif
District Court Judge

6 Dated this 15th day of July, 2021.

7 HUTCHISON & STEFFEN

8 /s/Brenoch Wirthlin

9 BRENOCH R. WIRTHLIN, ESQ.

10 Nevada Bar No. 10282

11 CHRIS ORME, ESQ.

12 Nevada Bar No. 10175

13 **HUTCHISON & STEFFEN**

14 Peccole Professional Park

15 10080 West Alta Drive, Suite 200

16 Las Vegas, Nevada 89145

17 *Attorneys for Plaintiff*

16 APPROVED AS TO FORM:

17 Dated this ____ day of July, 2021.

18 LIPSON NEILSON

19 Declined

20 Joseph P. Garin, Esq.

21 Nevada Bar No. 6653

22 Angela T. Nakamura Ochoa, Esq.

23 Nevada Bar No. 10164

24 9555 Hillwood Dr., 2nd Floor

25 Las Vegas, Nevada 89134

26 *Attorneys for the Director Defendants*

1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4
5
6 Commissioner of Insurance for
7 the State of Nevada as Receiver
of Lewis and Clark, Plaintiff(s)

CASE NO: A-14-711535-C

DEPT. NO. Department 27

8 vs.

9 Robert Chur, Defendant(s)
10

11 **AUTOMATED CERTIFICATE OF SERVICE**

12
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14 Court. The foregoing Order was served via the court's electronic eFile system to all
recipients registered for e-Service on the above entitled case as listed below:

15 Service Date: 7/16/2021

16 Adrina Harris .	aharris@fclaw.com
17 Angela T. Nakamura Ochoa .	aochoa@lipsonneilson.com
18 Ashley Scott-Johnson .	ascott-johnson@lipsonneilson.com
19 Brenoch Wirthlin .	bwirthli@fclaw.com
20 CaraMia Gerard .	cgerard@mcdonaldcarano.com
21 George F. Ogilvie III .	gogilvie@mcdonaldcarano.com
22 Jessica Ayala .	jayala@fclaw.com
23 Joanna Grigoriev .	jgrigoriev@ag.nv.gov
24 Jon M. Wilson .	jwilson@broadandcassel.com
25 Kathy Barrett .	kbarrett@mcdonaldcarano.com

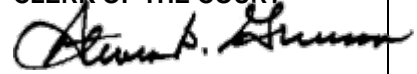
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27
28

1	Marilyn Millam .	mmillam@ag.nv.gov
2	Nevada Attorney General .	wiznetfilings@ag.nv.gov
3	Paul Garcia .	pgarcia@fclaw.com
4	Renee Rittenhouse .	rrittenhouse@lipsonneilson.com
5	Rory Kay .	rkay@mcdonaldcarano.com
6	Susana Nutt .	snutt@lipsonneilson.com
7	Yusimy Bordes .	ybordes@broadandcassel.com
8	Jelena Jovanovic .	jjovanovic@mcdonaldcarano.com
9	Christian Orme	corne@hutchlegal.com
10	Patricia Lee	plee@hutchlegal.com
11	Kimberly Freedman	kfreedman@broadandcassel.com
12	Danielle Kelley	dkelley@hutchlegal.com
13	Karen Surowiec	ksurowiec@mcdonaldcarano.com
14	Jonathan Wong	jwong@lipsonneilson.com
15	Erin Kolmansberger	erin.kolmansberger@nelsonmullins.com
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28

Jon Linder

jlinder@hutchlegal.com



1 **NEO**

2 MARK A. HUTCHISON, ESQ. (4639)

3 BRENOCH R. WIRTHLIN, ESQ. (10282)

4 CHRISTIAN ORME, ESQ. (10175)

5 **HUTCHISON & STEFFEN**

6 10080 West Alta Drive, Suite 200

7 Las Vegas, Nevada 89145

8 Telephone: (702) 385.2500

9 Facsimile: (702) 385.2086

10 E-Mail: mhutchison@hutchlegal.com

11 E-Mail: bwirthlin@hutchlegal.com

12 E-Mail: corne@hutchlegal.com

13 *Attorneys for Plaintiff*

14 **DISTRICT COURT**

15 **CLARK COUNTY, NEVADA**

16 COMMISSIONER OF INSURANCE FOR
17 THE STATE OF NEVADA AS RECEIVER
18 OF LEWIS AND CLARK LTC RISK
19 RETENTION GROUP, INC.,

20 Plaintiff,

21 vs.

22 ROBERT CHUR, STEVE FOGG, MARK
23 GARBER, CAROL HARTER, ROBERT
24 HURLBUT, BARBARA LUMPKIN, JEFF
25 MARSHALL, ERIC STICKELS, UNI-TER
26 UNDERWRITING MANAGEMENT CORP.,
27 UNI-TER CLAIMS SERVICES CORP., and
28 U.S. RE CORPORATION,; DOES 1-50,
inclusive; and ROES 51-100, inclusive;

Defendants.

Case No.: A-14-711535-C

Dept. No.: XXVII

NOTICE OF ENTRY OF ORDER

Please take notice that an Order Denying Plaintiff's Motion to Retax and Settle Costs of
Director Defendants was entered on the 16th day of July, 2021,

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a copy of which is attached hereto.

DATED this 29th day of July, 2021.

HUTCHISON & STEFFEN

By /s/Brenoch Wirthlin
MARK A. HUTCHISON, ESQ. (4639)
BRENOCH R. WIRTHLIN, ESQ. (10282)
CHRISTIAN ORME, ESQ. (10175)
10080 West Alta Drive, Suite 200
Las Vegas, Nevada 89145
Attorneys for Plaintiff

1
2
3
4
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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that on this 29th day of July, 2021, I caused the document entitled **NOTICE OF ENTRY OF ORDER** to be served on the following by Electronic Service to:

ALL PARTIES ON THE E-SERVICE LIST

/s/Danielle Kelley
An Employee of Hutchison & Steffen, PLLC

ORDER

MARK A. HUTCHISON, ESQ. (4639)
BRENOCH R. WIRTHLIN, ESQ. (10282)
CHRISTIAN M. ORME, ESQ. (10175)
10080 West Alta Drive, Suite 200
Las Vegas, Nevada 89145
Telephone: (702) 385.2500
Facsimile: (702) 385.2086
E-Mail: mhutchison@hutchlegal.com
bwirthlin@hutchlegal.com
corne@hutchlegal.com

Attorneys for Plaintiff

**DISTRICT COURT
CLARK COUNTY, NEVADA**

* * *

COMMISSIONER OF INSURANCE FOR
THE STATE OF NEVADA AS RECEIVER
OF LEWIS AND CLARK LTC RISK
RETENTION GROUP, INC.,

Plaintiff,

vs.

ROBERT CHUR, STEVE FOGG, MARK
GARBER, CAROL HARTER, ROBERT
HURLBUT, BARBARA LUMPKIN, JEFF
MARSHALL, ERIC STICKELS, UNI-TER
UNDERWRITING MANAGEMENT CORP.,
UNI-TER CLAIMS SERVICES CORP., and
U.S. RE CORPORATION,; DOES 1-50,
inclusive; and ROES 51-100, inclusive;

Defendants.

Case No.: A-14-711535-C

Dept. No.: XXVII

**ORDER DENYING PLAINTIFF'S
MOTION TO RETAX AND SETTLE
COSTS OF DIRECTOR DEFENDANTS**

This matter was set for hearing before the Court on the July 1, 2021, Motions calendar on Plaintiff Commissioner of Insurance for the State of Nevada ("Plaintiff" or "Commissioner") as Receiver of Lewis & Clark LTC Risk Retention Group, Inc.'s Motion to Retax and Settle Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert Hurlbut, Barbara Lumpkin, Jeff Marshall,

1 and Eric Stickels’¹ Verified Memorandum of Costs and Disbursements (“Motion to Retax”) which
2 was filed on August 21, 2020; the Director Defendants having filed their opposition (“Opposition”)
3 to the Motion on May 13, 2021; Plaintiff having filed her reply in support of the Motion on June
4 24, 2021; the Court having read and considered the Motion, Opposition, and Reply; good cause
5 appearing,

6 THE COURT HEREBY FINDS after review that NRS 696B.565(3) provides: The
7 Commissioner, all present and former deputy receivers, special deputy receivers and their
8 employees, and the other officers, agents, employees and attorneys of the Division must be
9 indemnified for all expenses, attorney s fees, judgments, settlements decrees, or amounts due or
10 paid in satisfaction of, or incurred in the defense of, such a legal action, unless it is determined
11 upon a final adjudication on the merits of the case that the alleged acts, error or omission of the
12 officer, agent, employee or attorney of the division did not arise out of or by reason of his or her
13 duties or employment and was caused by actual malice.
14

15 THE COURT HEREBY FINDS that the Director Defendants filed a motion for attorney fees
16 and costs which was denied by the Court, rendering the Motion to Retax moot.

17 THEREFORE COURT ORDERS for good cause appearing and after review that the Motion
18 to Retax is hereby DENIED and the matter scheduled on July 1, 2021 on Motions calendar is
19

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28 ¹ Collectively the “Director Defendants.”

1 hereby VACATED.

Dated this 16th day of July, 2021

2 July 15, 2021

Nancy L Alif

TW

5 Respectfully submitted by:

1E9 3D1 86DD F3FB
Nancy Alif
District Court Judge

6 Dated this 15th day of July, 2021.

7 HUTCHISON & STEFFEN

8 /s/Brenoch Wirthlin

9 BRENOCH R. WIRTHLIN, ESQ.

10 Nevada Bar No. 10282

11 CHRIS ORME, ESQ.

12 Nevada Bar No. 10175

13 **HUTCHISON & STEFFEN**

14 Peccole Professional Park

15 10080 West Alta Drive, Suite 200

16 Las Vegas, Nevada 89145

17 *Attorneys for Plaintiff*

16 APPROVED AS TO FORM:

17 Dated this ____ day of July, 2021.

18 LIPSON NEILSON

19 Declined

20 Joseph P. Garin, Esq.

21 Nevada Bar No. 6653

22 Angela T. Nakamura Ochoa, Esq.

23 Nevada Bar No. 10164

24 9555 Hillwood Dr., 2nd Floor

25 Las Vegas, Nevada 89134

26 *Attorneys for the Director Defendants*

1 **CSERV**

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3 DISTRICT COURT
CLARK COUNTY, NEVADA

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6 Commissioner of Insurance for
7 the State of Nevada as Receiver
of Lewis and Clark, Plaintiff(s)

CASE NO: A-14-711535-C

DEPT. NO. Department 27

8 vs.

9 Robert Chur, Defendant(s)

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bwirthli@fclaw.com

20 CaraMia Gerard .

cgerard@mcdonaldcarano.com

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26
27
28

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Jon Linder

jlinder@hutchlegal.com

ORDG

MARK A. HUTCHISON, ESQ.

NEVADA BAR NO.: 4639

BRENOCH R. WIRTHLIN, ESQ.

NEVADA BAR NO. 10282

CHRIS ORME, ESQ.

NEVADA BAR NO. 10175

HUTCHISON & STEFFEN

Peccole Professional Park

10080 West Alta Drive, Suite 200

Las Vegas, Nevada 89145

Telephone: (702) 385.2500

Facsimile: (702) 385.2086

E-Mail: bwirthlin@hutchlegal.com

E-Mail: corne@hutchlegal.com

Attorneys for Plaintiff

DISTRICT COURT

CLARK COUNTY, NEVADA

* * *

COMMISSIONER OF INSURANCE FOR
THE STATE OF NEVADA AS RECEIVER
OF LEWIS AND CLARK LTC RISK
RETENTION GROUP, INC.,

Plaintiff,

vs.

ROBERT CHUR, STEVE FOGG, MARK
GARBER, CAROL HARTER, ROBERT
HURLBUT, BARBARA LUMPKIN, JEFF
MARSHALL, ERIC STICKELS, UNI-TER
UNDERWRITING MANAGEMENT
CORP., UNI-TER CLAIMS SERVICES
CORP., and U.S. RE CORPORATION,
DOES 1-50, inclusive; and ROES 51-100,
inclusive;

Defendants.

Case No.: A-14-711535-C

Dept. No.: XXVII

**ORDER GRANTING IN PART AND
DENYING IN PART PLAINTIFF'S
MOTION FOR DECLARATORY RELIEF**

This matter having come before the Honorable Nancy Allf at a hearing on August 2, 2021 ("Hearing"), on Plaintiff's Motion for Declaratory Relief ("Motion") filed herein on June 20, 2021; George F. Ogilvie III, Esq. having appeared on behalf of Defendants Uni-Ter Underwriting

1 Management Corp. and U.S. Re Corporation (collectively the “Corporate Defendants”); Brenoch
2 Wirthlin, Esq., having appeared on behalf of Plaintiff Commissioner of Insurance for the State of
3 Nevada as Receiver of Lewis and Clark LTC Risk Retention Group (“Plaintiff”); the Corporate
4 Defendants having filed an opposition (“Corporate Defendants’ Opposition”) to the Motion on July
5 6, 2021; the Plaintiff having filed its reply (“Reply”) in support of the Motion on July 19, 2021; the
6 Court having read and considered the Motion, the Corporate Defendants’ Opposition, and the Reply,
7 as well as having heard and considered the arguments of counsel at the Hearing on the Motion; good
8 cause appearing;

9 IT IS HEREBY ORDERED that the Motion is granted in part and denied in part as set forth
10 herein.

11 IT IS HEREBY FURTHER ORDERED that the Motion will be denied to the extent that
12 there was not a request in the third amended complaint for declaratory relief, which would have
13 been a remedy.

14 IT IS HEREBY FURTHER ORDERED that the Motion will be granted to the extent that
15 the admissions of the Corporate Defendants at issue are undisputed facts, with the effect of those
16 admissions to be determined.

17 IT IS HEREBY FURTHER ORDERED that it is deemed admitted by U.S. Re Corporation
18 that U.S. Re Corporation was never licensed in Nevada as a reinsurance intermediary or broker to
19 broker reinsurance on behalf of Lewis and Clark LTC Risk Retention Group, Inc.

20 IT IS HEREBY FURTHER ORDERED that it is deemed admitted by Uni-Ter
21 Underwriting Management Corp. that Uni-Ter Underwriting Management Corp., through Sanford

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Commissioner of Insurance for the State of Nevada v. Chur, et al.
Case No. A-14-711535-C

Elsass, bound reinsurance on behalf of Lewis and Clark LTC Risk Retention Group, Inc.

DATED this 17 day of August, 2021.

Dated this 17th day of August, 2021

Nancy L Alf
DISTRICT COURT JUDGE

TW

Respectfully submitted by:

HUTCHISON & STEFFEN

/s/ Brenoch Wirthlin
Brenoch Wirthlin, Esq.
Nevada Bar No. 10282
Stuart J. Taylor, Esq.
10080 West Alta Drive, Suite 200
Las Vegas, Nevada 89145
Attorneys for Plaintiff

23B 741 7CC8 1B7F
Nancy Alf
Approved as to form and content by:
District Court Judge

MCDONALD CARANO LLP

Did not sign
George F. Ogilvie III, Esq.
Nevada Bar No. 3352
2300 West Sahara Avenue, Ste 1200
Las Vegas, Nevada 89102

Jon M. Wilson, Esq.
Jon M Wilson Attorney
200 Biscayne Blvd Way
Suite 4405
Miami, Fl 33131
*Attorneys for Defendants U.S. Re
Corporation, Uni-Ter Management Corp.,
and Uni-Ter Claims Services Corp*

1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

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6 Commissioner of Insurance for
7 the State of Nevada as Receiver
of Lewis and Clark, Plaintiff(s)

CASE NO: A-14-711535-C

DEPT. NO. Department 27

8 vs.

9 Robert Chur, Defendant(s)

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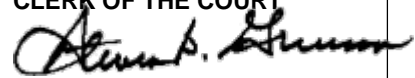
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Jon Linder

jlinder@hutchlegal.com



1 **NEO**

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5 **HUTCHISON & STEFFEN**

6 10080 West Alta Drive, Suite 200

7 Las Vegas, Nevada 89145

8 Telephone: (702) 385.2500

9 Facsimile: (702) 385.2086

10 E-Mail: mhutchison@hutchlegal.com

11 E-Mail: bwirthlin@hutchlegal.com

12 E-Mail: corne@hutchlegal.com

13 *Attorneys for Plaintiff*

14 **DISTRICT COURT**

15 **CLARK COUNTY, NEVADA**

16 COMMISSIONER OF INSURANCE FOR
17 THE STATE OF NEVADA AS RECEIVER
18 OF LEWIS AND CLARK LTC RISK
19 RETENTION GROUP, INC.,

20 Plaintiff,

21 vs.

22 ROBERT CHUR, STEVE FOGG, MARK
23 GARBER, CAROL HARTER, ROBERT
24 HURLBUT, BARBARA LUMPKIN, JEFF
25 MARSHALL, ERIC STICKELS, UNI-TER
26 UNDERWRITING MANAGEMENT CORP.,
27 UNI-TER CLAIMS SERVICES CORP., and
28 U.S. RE CORPORATION,; DOES 1-50,
inclusive; and ROES 51-100, inclusive;

Defendants.

Case No.: A-14-711535-C

Dept. No.: XXVII

NOTICE OF ENTRY OF ORDER

Please take notice that an Order Granting in Part and Denying in Part Plaintiff's Motion
for Declaratory Relief was entered on the 17th day of August, 2021,

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a copy of which is attached hereto.

DATED this 17th day of August, 2021.

HUTCHISON & STEFFEN

By /s/Brenoch Wirthlin
MARK A. HUTCHISON, ESQ. (4639)
BRENOCH R. WIRTHLIN, ESQ. (10282)
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10080 West Alta Drive, Suite 200
Las Vegas, Nevada 89145
Attorneys for Plaintiff

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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that on this 17th day of August, 2021, I caused the document entitled **NOTICE OF ENTRY OF ORDER** to be served on the following by Electronic Service to:

ALL PARTIES ON THE E-SERVICE LIST

/s/Danielle Kelley
An Employee of Hutchison & Steffen, PLLC

ORDG

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NEVADA BAR NO.: 4639

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NEVADA BAR NO. 10282

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Las Vegas, Nevada 89145

Telephone: (702) 385.2500

Facsimile: (702) 385.2086

E-Mail: bwirthlin@hutchlegal.com

E-Mail: corne@hutchlegal.com

Attorneys for Plaintiff

DISTRICT COURT

CLARK COUNTY, NEVADA

* * *

COMMISSIONER OF INSURANCE FOR
THE STATE OF NEVADA AS RECEIVER
OF LEWIS AND CLARK LTC RISK
RETENTION GROUP, INC.,

Plaintiff,

vs.

ROBERT CHUR, STEVE FOGG, MARK
GARBER, CAROL HARTER, ROBERT
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UNDERWRITING MANAGEMENT
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**ORDER GRANTING IN PART AND
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MOTION FOR DECLARATORY RELIEF**

This matter having come before the Honorable Nancy Allf at a hearing on August 2, 2021 ("Hearing"), on Plaintiff's Motion for Declaratory Relief ("Motion") filed herein on June 20, 2021; George F. Ogilvie III, Esq. having appeared on behalf of Defendants Uni-Ter Underwriting

1 Management Corp. and U.S. Re Corporation (collectively the “Corporate Defendants”); Brenoch
2 Wirthlin, Esq., having appeared on behalf of Plaintiff Commissioner of Insurance for the State of
3 Nevada as Receiver of Lewis and Clark LTC Risk Retention Group (“Plaintiff”); the Corporate
4 Defendants having filed an opposition (“Corporate Defendants’ Opposition”) to the Motion on July
5 6, 2021; the Plaintiff having filed its reply (“Reply”) in support of the Motion on July 19, 2021; the
6 Court having read and considered the Motion, the Corporate Defendants’ Opposition, and the Reply,
7 as well as having heard and considered the arguments of counsel at the Hearing on the Motion; good
8 cause appearing;

9 IT IS HEREBY ORDERED that the Motion is granted in part and denied in part as set forth
10 herein.

11 IT IS HEREBY FURTHER ORDERED that the Motion will be denied to the extent that
12 there was not a request in the third amended complaint for declaratory relief, which would have
13 been a remedy.

14 IT IS HEREBY FURTHER ORDERED that the Motion will be granted to the extent that
15 the admissions of the Corporate Defendants at issue are undisputed facts, with the effect of those
16 admissions to be determined.

17 IT IS HEREBY FURTHER ORDERED that it is deemed admitted by U.S. Re Corporation
18 that U.S. Re Corporation was never licensed in Nevada as a reinsurance intermediary or broker to
19 broker reinsurance on behalf of Lewis and Clark LTC Risk Retention Group, Inc.

20 IT IS HEREBY FURTHER ORDERED that it is deemed admitted by Uni-Ter
21 Underwriting Management Corp. that Uni-Ter Underwriting Management Corp., through Sanford

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Commissioner of Insurance for the State of Nevada v. Chur, et al.
Case No. A-14-711535-C

Elsass, bound reinsurance on behalf of Lewis and Clark LTC Risk Retention Group, Inc.

DATED this 17 day of August, 2021.

Dated this 17th day of August, 2021

Nancy L Alf
DISTRICT COURT JUDGE

TW

Respectfully submitted by:

HUTCHISON & STEFFEN

/s/ Brenoch Wirthlin
Brenoch Wirthlin, Esq.
Nevada Bar No. 10282
Stuart J. Taylor, Esq.
10080 West Alta Drive, Suite 200
Las Vegas, Nevada 89145
Attorneys for Plaintiff

23B 741 7CC8 1B7F
Nancy Alf
Approved as to form and content by:
District Court Judge

MCDONALD CARANO LLP

Did not sign
George F. Ogilvie III, Esq.
Nevada Bar No. 3352
2300 West Sahara Avenue, Ste 1200
Las Vegas, Nevada 89102

Jon M. Wilson, Esq.
Jon M Wilson Attorney
200 Biscayne Blvd Way
Suite 4405
Miami, Fl 33131
*Attorneys for Defendants U.S. Re
Corporation, Uni-Ter Management Corp.,
and Uni-Ter Claims Services Corp*

1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4
5
6 Commissioner of Insurance for
7 the State of Nevada as Receiver
of Lewis and Clark, Plaintiff(s)

CASE NO: A-14-711535-C

DEPT. NO. Department 27

8 vs.

9 Robert Chur, Defendant(s)

10
11 **AUTOMATED CERTIFICATE OF SERVICE**

12
13 This automated certificate of service was generated by the Eighth Judicial District
14 Court. The foregoing Order was served via the court's electronic eFile system to all
recipients registered for e-Service on the above entitled case as listed below:

15 Service Date: 8/17/2021

16 Adrina Harris .	aharris@fclaw.com
17 Angela T. Nakamura Ochoa .	aochoa@lipsonneilson.com
18 Ashley Scott-Johnson .	ascott-johnson@lipsonneilson.com
19 Brenoch Wirthlin .	bwirthli@fclaw.com
20 CaraMia Gerard .	cgerard@mcdonaldcarano.com
21 George F. Ogilvie III .	gogilvie@mcdonaldcarano.com
22 Jessica Ayala .	jayala@fclaw.com
23 Joanna Grigoriev .	jgrigoriev@ag.nv.gov
24 Jon M. Wilson .	jwilson@broadandcassel.com
25 Kathy Barrett .	kbarrett@mcdonaldcarano.com

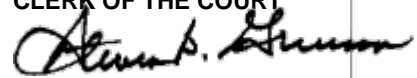
26
27
28

1	Marilyn Millam .	mmillam@ag.nv.gov
2	Nevada Attorney General .	wiznetfilings@ag.nv.gov
3	Paul Garcia .	pgarcia@fclaw.com
4	Renee Rittenhouse .	rrittenhouse@lipsonneilson.com
5	Rory Kay .	rkay@mcdonaldcarano.com
6	Susana Nutt .	snutt@lipsonneilson.com
7	Yusimy Bordes .	ybordes@broadandcassel.com
8	Jelena Jovanovic .	jjovanovic@mcdonaldcarano.com
9	Christian Orme	corne@hutchlegal.com
10	Patricia Lee	plee@hutchlegal.com
11	Kimberly Freedman	kfreedman@broadandcassel.com
12	Danielle Kelley	dkelley@hutchlegal.com
13	Karen Surowiec	ksurowiec@mcdonaldcarano.com
14	Jonathan Wong	jwong@lipsonneilson.com
15	Erin Kolmansberger	erin.kolmansberger@nelsonmullins.com
16	Melissa Gomberg	melissa.gomberg@nelsonmullins.com
17	Betsy Gould	bgould@doi.nv.gov
18	Juan Cerezo	jcerezo@lipsonneilson.com
19	Heather Bennett	hshepherd@hutchlegal.com
20	Brenoch Wirthlin	bwirthlin@klnevada.com
21	Jon Linder	jlinder@klnevada.com
22	S. Dianne Pomonis	dpomonis@klnevada.com
23	Brenoch Wirthlin	bwirthlin@hutchlegal.com
24		
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Jon Linder

jlinder@hutchlegal.com



DCCR
MARK A. HUTCHISON, ESQ.
NEVADA BAR NO.: 4639
BRENOCH R. WIRTHLIN, ESQ.
NEVADA BAR NO. 10282
CHRIS ORME, ESQ.
NEVADA BAR NO. 10175
HUTCHISON & STEFFEN
Peccole Professional Park
10080 West Alta Drive, Suite 200
Las Vegas, Nevada 89145
Telephone: (702) 385.2500
Facsimile: (702) 385.2086
E-Mail: bwirthlin@hutchlegal.com
E-Mail: corne@hutchlegal.com
Attorneys for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

* * *

COMMISSIONER OF INSURANCE FOR
THE STATE OF NEVADA AS RECEIVER
OF LEWIS AND CLARK LTC RISK
RETENTION GROUP, INC.,

Plaintiff,

vs.

ROBERT CHUR, STEVE FOGG, MARK
GARBER, CAROL HARTER, ROBERT
HURLBUT, BARBARA LUMPKIN, JEFF
MARSHALL, ERIC STICKELS, UNI-TER
UNDERWRITING MANAGEMENT
CORP., UNI-TER CLAIMS SERVICES
CORP., and U.S. RE CORPORATION;;
DOES 1-50, inclusive; and ROES 51-100,
inclusive;

Defendants.

Case No.: A-14-711535-C

Dept. No.: XXVII

**DISCOVERY COMMISSIONER'S
REPORT AND RECOMMENDATION**

Hearing Date: July 29, 2021

Hearing Time: 9:30 a.m.

**DISCOVERY COMMISSIONER'S
REPORT and RECOMMENDATIONS**

Hearing Date: July 29, 2021 ("Hearing")

Hearing Time: 9:30 a.m.

Attorney for Plaintiff: Brenoch Wirthlin and Chris Orme, Hutchinson & Steffen

Attorney for Defendants Uni-Ter Underwriting Management Corp., Uni-Ter Claims Services Corp., and U.S. Re Corporation: George F. Ogilvie III, McDonald Carano LLP

I. FINDINGS

1. In November 2012, the Commissioner of Insurance for the State of Nevada initiated a receivership action, Case No. A-12-672047-B ("Receivership Action") and was appointed as Receiver of Lewis and Clark LTC Risk Retention Group, Inc. ("L&C").

2. Subsequently, on December 23, 2014, the Receiver filed this lawsuit against Uni-Ter Underwriting Management Corp., Uni-Ter Claims Services Corp. (collectively "Uni-Ter"), and U.S. Re Corporation ("U.S. Re"), as well as several former directors of L&C.

3. In May 2018, Uni-Ter and U.S. Re produced approximately 1.5 million pages of documents. Shortly thereafter, Uni-Ter and U.S. Re produced approximately 200,000 additional pages of documents for a total of approximately 1.7 million pages of documents.

4. Following a meet and confer, on July 13, 2021, Plaintiff filed her Motion to Compel Discovery Pursuant to NRCP 37(a)(4) on Order Shortening Time ("Motion to Compel"). The Motion to Compel requested the Court to: 1) compel Uni-Ter and U.S. Re to produce or permit for inspection all documents in their alleged "secret database" dated between January 1, 2008 through February 28, 2013; 2) compel Uni-Ter and U.S. Re to provide information necessary to identify and locate which documents are responsive to which requests for production served by Plaintiff; and 3) compel Uni-Ter and U.S. Re to produce any additional documentation that has been inappropriately withheld.

5. On July 27, 2021, Uni-Ter and U.S. Re filed their Response in Opposition to Plaintiff's Motion to Compel ("Response in Opposition").

6. A firm jury trial setting in this matter is scheduled for September 20, 2021. *At the time of the hearing of this motion, only one (1) week remained before the discovery cut-off.*

1 7. The Discovery Commissioner finds that there is insufficient time to complete the
2 requested discovery prior to the date set for the close of discovery in this matter, which is on
3 August 5, 2021.

4 8. After reviewing the Motion to Compel, the Response in Opposition, and
5 entertaining argument from counsel, the Discovery Commissioner recommends as follows:

6 **II. RECOMMENDATIONS**

7 **IT IS HEREBY RECOMMENDED** that the Motion to Compel is **GRANTED IN PART**
8 and **DENIED IN PART**.

9 **IT IS FURTHER RECOMMENDED** that the Motion to Compel is **DENIED** without
10 prejudice to the extent the Receiver seeks to compel the production of additional documents within
11 the discovery period. If the district court reopens discovery, the Discovery Commissioner may
12 reconsider this recommendation.

13 **IT IS FURTHER RECOMMENDED** that Uni-Ter UMC, Uni-Ter CS, and U.S. Re are
14 hereby required within 30 days of the date of the Hearing, on or before August 30, 2021, to provide
15 appropriate responses to the Receiver's requests for production of documents with bates numbers
16 or bates ranges responsive to the requests for production.

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The Discovery Commissioner, having met with counsel for the parties, having discussed the issues noted above and having reviewed any materials proposed in support thereof, hereby submits the above recommendations.

DATED this 20th day of August, 2021.

DISCOVERY COMMISSIONER, ERIN L. TRUMAN

Respectfully submitted by:

HUTCHISON & STEFFEN

/s/ Brenoch Wirthlin

MARK A. HUTCHISON, ESQ.

NEVADA BAR NO.: 4639

BRENOCH R. WIRTHLIN, ESQ.

NEVADA BAR NO. 10282

CHRIS ORME, ESQ.

NEVADA BAR NO. 10175

Attorneys for Plaintiff

Approved as to form and content by:

MCDONALD CARANO LLP

Did Not Sign

George F. Ogilvie III, Esq.

Nevada Bar No. 3352

2300 West Sahara Avenue, Ste 1200

Las Vegas, Nevada 89102

Jon M. Wilson, Esq.

Jon M Wilson Attorney

200 Biscayne Blvd Way

Suite 4405

Miami, FL 33131

Attorneys for Defendants U.S. Re

Corporation, Uni-Ter Management Corp.,

and Uni-Ter Claims Services Corp

1 **NOTICE**

2 Pursuant to NRCP 16.3(c)(2), you are hereby notified that within fourteen (14) days after being
3 served with a report any party may file and serve written objections to the recommendations.
4 Written authorities may be filed with objections, but are not mandatory. If written authorities
5 are filed, any other party may file and serve responding authorities within seven (7) days after
6 being served with objections.

7 **Objection time will expire on September 7, 2021.**

8 A copy of the foregoing Discovery Commissioner's Report was:

9 _____ Mailed to Plaintiff/Defendant at the following address on the _____ day of
10 _____ 2021:

11
12 ☒ Electronically filed and served counsel on **August 23**, 2021, Pursuant to
13 N.E.F.C.R. Rule 9.

14
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16 By: /s/ Sandy Gerety
17 COMMISSIONER DESIGNEE
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Heather S. Linn

CLERK OF THE COURT

DISTRICT COURT

CLARK COUNTY, NEVADA

COMMISSIONER OF INSURANCE FOR THE
STATE OF NEVADA AS RECEIVER OF
LEWIS AND CLARK LTC RISK RETENTION
GROUP, INC.,

Plaintiff(s),

v.

ROBERT CHUR. et al.,

Defendant(s).

CASE NO. A-14-711535-C
DEPT NO. XXVII

HEARING DATE: July 29, 2021
HEARING TIME: 9:30 AM

ORDER

RE: DISCOVERY COMMISSIONER'S
REPORT AND RECOMMENDATIONS

The Court, having reviewed the above report and recommendations prepared by the
Discovery Commissioner and,

_____ No timely objection having been filed,

X After reviewing the objections to the Report and Recommendations and good cause
appearing,

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AND

IT IS HEREBY ORDERED the Discovery Commissioner's Report and
Recommendations are affirmed and adopted.

X IT IS HEREBY ORDERED the Discovery Commissioner's Report and
Recommendations are affirmed and adopted as modified in the following manner.
(attached hereto) Plaintiff are to prioritize 20 requests for production of documents
and Defendants are required to search and provide the Bates
ranges and numbers for the top 20 that they choose.

IT IS HEREBY ORDERED this matter is remanded to the Discovery Commissioner for
reconsideration or further action.

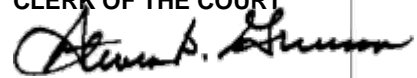
IT IS HEREBY ORDERED that a hearing on the Discovery Commissioner's Report is
set for _____, 2021, at _____ a.m.

DATED this 17th day of September, 2021.

Dated this 18th day of September, 2021

Nancy L Alf
DISTRICT COURT JUDGE TW

B99 184 1CEF 7442
Nancy Alf
District Court Judge



DCCR
MARK A. HUTCHISON, ESQ.
NEVADA BAR NO.: 4639
BRENOCH R. WIRTHLIN, ESQ.
NEVADA BAR NO. 10282
CHRIS ORME, ESQ.
NEVADA BAR NO. 10175
HUTCHISON & STEFFEN
Peccole Professional Park
10080 West Alta Drive, Suite 200
Las Vegas, Nevada 89145
Telephone: (702) 385.2500
Facsimile: (702) 385.2086
E-Mail: bwirthlin@hutchlegal.com
E-Mail: corne@hutchlegal.com
Attorneys for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

* * *

COMMISSIONER OF INSURANCE FOR
THE STATE OF NEVADA AS RECEIVER
OF LEWIS AND CLARK LTC RISK
RETENTION GROUP, INC.,

Plaintiff,

vs.

ROBERT CHUR, STEVE FOGG, MARK
GARBER, CAROL HARTER, ROBERT
HURLBUT, BARBARA LUMPKIN, JEFF
MARSHALL, ERIC STICKELS, UNI-TER
UNDERWRITING MANAGEMENT
CORP., UNI-TER CLAIMS SERVICES
CORP., and U.S. RE CORPORATION;;
DOES 1-50, inclusive; and ROES 51-100,
inclusive;

Defendants.

Case No.: A-14-711535-C

Dept. No.: XXVII

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REPORT AND RECOMMENDATION**

Hearing Date: July 29, 2021

Hearing Time: 9:30 a.m.

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REPORT and RECOMMENDATIONS**

Hearing Date: July 29, 2021 ("Hearing")

Hearing Time: 9:30 a.m.

Attorney for Plaintiff: Brenoch Wirthlin and Chris Orme, Hutchinson & Steffen

Attorney for Defendants Uni-Ter Underwriting Management Corp., Uni-Ter Claims Services Corp., and U.S. Re Corporation: George F. Ogilvie III, McDonald Carano LLP

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6. A firm jury trial setting in this matter is scheduled for September 20, 2021. *At the time of the hearing of this motion, only one (1) week remained before the discovery cut-off.*

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16 or bates ranges responsive to the requests for production.

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The Discovery Commissioner, having met with counsel for the parties, having discussed the issues noted above and having reviewed any materials proposed in support thereof, hereby submits the above recommendations.

DATED this 20th day of August, 2021.

DISCOVERY COMMISSIONER, ERIN L. TRUMAN

Respectfully submitted by:

HUTCHISON & STEFFEN

/s/ Brenoch Wirthlin

MARK A. HUTCHISON, ESQ.

NEVADA BAR NO.: 4639

BRENOCH R. WIRTHLIN, ESQ.

NEVADA BAR NO. 10282

CHRIS ORME, ESQ.

NEVADA BAR NO. 10175

Attorneys for Plaintiff

Approved as to form and content by:

MCDONALD CARANO LLP

Did Not Sign

George F. Ogilvie III, Esq.

Nevada Bar No. 3352

2300 West Sahara Avenue, Ste 1200

Las Vegas, Nevada 89102

Jon M. Wilson, Esq.

Jon M Wilson Attorney

200 Biscayne Blvd Way

Suite 4405

Miami, FL 33131

Attorneys for Defendants U.S. Re

Corporation, Uni-Ter Management Corp.,

and Uni-Ter Claims Services Corp

1 **NOTICE**

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7 **Objection time will expire on September 7, 2021.**

8 A copy of the foregoing Discovery Commissioner's Report was:

9 _____ Mailed to Plaintiff/Defendant at the following address on the _____ day of
10 _____ 2021:

11
12 ☒ Electronically filed and served counsel on **August 23**, 2021, Pursuant to
13 N.E.F.C.R. Rule 9.

14
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16 By: /s/ Sandy Gerety
17 COMMISSIONER DESIGNEE
18
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1 **CSERV**

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5
6 Commissioner of Insurance for
7 the State of Nevada as Receiver
8 of Lewis and Clark, Plaintiff(s)

CASE NO: A-14-711535-C

DEPT. NO. Department 27

9 vs.

10 Robert Chur, Defendant(s)

11 **AUTOMATED CERTIFICATE OF SERVICE**

12
13 This automated certificate of service was generated by the Eighth Judicial District
14 Court. The foregoing Order was served via the court's electronic eFile system to all
recipients registered for e-Service on the above entitled case as listed below:

15 Service Date: 9/18/2021

16 Adrina Harris .	aharris@fclaw.com
17 Angela T. Nakamura Ochoa .	aochoa@lipsonneilson.com
18 Ashley Scott-Johnson .	ascott-johnson@lipsonneilson.com
19 Brenoch Wirthlin .	bwirthli@fclaw.com
20 CaraMia Gerard .	cgerard@mcdonaldcarano.com
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23 Joanna Grigoriev .	jgrigoriev@ag.nv.gov
24 Jon M. Wilson .	jwilson@broadandcassel.com
25 Kathy Barrett .	kbarrett@mcdonaldcarano.com

26
27
28

1	Marilyn Millam .	mmillam@ag.nv.gov
2	Nevada Attorney General .	wiznetfilings@ag.nv.gov
3	Paul Garcia .	pgarcia@fclaw.com
4	Renee Rittenhouse .	rrittenhouse@lipsonneilson.com
5	Rory Kay .	rkay@mcdonaldcarano.com
6	Susana Nutt .	snutt@lipsonneilson.com
7	Yusimy Bordes .	ybordes@broadandcassel.com
8	Jelena Jovanovic .	jjovanovic@mcdonaldcarano.com
9	Betsy Gould	bgould@doi.nv.gov
10	Karen Surowiec	ksurowiec@mcdonaldcarano.com
11	Patricia Lee	plee@hutchlegal.com
12	Kimberly Freedman	kfreedman@broadandcassel.com
13	Christian Orme	corne@hutchlegal.com
14	Danielle Kelley	dkelley@hutchlegal.com
15	Jonathan Wong	jwong@lipsonneilson.com
16	Erin Kolmansberger	erin.kolmansberger@nelsonmullins.com
17	Melissa Gomberg	melissa.gomberg@nelsonmullins.com
18	Juan Cerezo	jcerezo@lipsonneilson.com
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24		
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1 Jon Linder

jlinder@hutchlegal.com

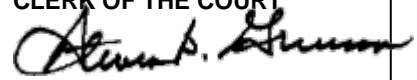
2
3 If indicated below, a copy of the above mentioned filings were also served by mail
4 via United States Postal Service, postage prepaid, to the parties listed below at their last
5 known addresses on 9/20/2021

6 George Ogilvie

McDonald Carano Wilson LLP
Attn: George F. Ogilvie, III
2300 West Sahara Avenue - Suite 1200
Las Vegas, NV, 89102

8 Joseph Garin

Lipson Neilson P.C.
Attn: Joseph P. Garin
9900 Covington Cross Drive, Suite 120
Las Vegas, NV, 89144



NEOJ

George F. Ogilvie III, Esq.
Nevada Bar No. 3552
MCDONALD CARANO LLP
2300 West Sahara Avenue, Suite 1200
Las Vegas, NV 89102
Telephone: (702) 873-4100
Facsimile: (702) 873-9966
gogilvie@mcdonaldcarano.com

Jon M. Wilson, Esq. (Appearing *Pro Hac Vice*)
LAW OFFICES OF JON WILSON
200 Biscayne Blvd Way, Suite 4405
Miami, Florida 33131
Telephone: (310) 626-2216
jonwilson@jonmwilsonattorney.com

Kimberly Freedman, Esq. (Appearing *Pro Hac Vice*)
Erin Kolmansberger, Esq. (Appearing *Pro Hac Vice*)
NELSON MULLINS BROAD AND CASSEL
2 S. Biscayne Boulevard, 21st Floor
Miami, Florida 33131
Telephone: (305) 373-9400
Facsimile: (305) 373-9443
Kimberly.Freedman@nelsonmullins.com
Erin.Kolmansberger@nelsonmullins.com

*Attorneys for Defendants Uni-Ter Underwriting
Management Corp., Uni-Ter Claims Services
Corp., and U.S. RE Corporation*

**DISTRICT COURT
CLARK COUNTY, NEVADA**

COMMISSIONER OF INSURANCE FOR
THE STATE OF NEVADA AS RECEIVER
OF LEWIS AND CLARK LTC RISK
RETENTION GROUP, INC.,

Plaintiff,
vs.

ROBERT CHUR, STEVE FOGG, MARK
GARBER, CAROL HARTER, ROBERT
HURLBUT, BARBARA LUMPKIN, JEFF
MARSHALL, ERIC STICKELS, UNI-TER
UNDERWRITING MANAGEMENT CORP.
UNI-TER CLAIMS SERVICES CORP., and
U.S. RE CORPORATION, DOES 1-50,
inclusive; and ROES 51-100, inclusive,

Defendants.

Case No. A-14-711535-C

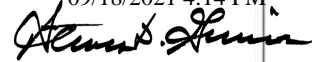
Dept. No.: XXVII

**NOTICE OF ENTRY OF ORDER RE:
DISCOVERY COMMISSIONER'S
REPORT AND RECOMMENDATIONS**

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of McDonald Carano LLP, and that on or about the 20th day of September, 2021, a true and correct copy of the foregoing **NOTICE OF ENTRY OF ORDER RE: DISCOVERY COMMISSIONER'S REPORT AND RECOMMENDATIONS** was electronically served with the Clerk of the Court via the Clark County District Court Electronic Filing Program which will provide copies to all counsel of record registered to receive such electronic notification.

/s/ Jelena Jovanovic
An employee of McDonald Carano LLP


CLERK OF THE COURT

DISTRICT COURT

CLARK COUNTY, NEVADA

COMMISSIONER OF INSURANCE FOR THE
STATE OF NEVADA AS RECEIVER OF
LEWIS AND CLARK LTC RISK RETENTION
GROUP, INC.,

Plaintiff(s),

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ROBERT CHUR. et al.,

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CASE NO. A-14-711535-C
DEPT NO. XXVII

HEARING DATE: July 29, 2021
HEARING TIME: 9:30 AM

ORDER

RE: DISCOVERY COMMISSIONER'S
REPORT AND RECOMMENDATIONS

The Court, having reviewed the above report and recommendations prepared by the
Discovery Commissioner and,

_____ No timely objection having been filed,

☒ After reviewing the objections to the Report and Recommendations and good cause
appearing,

* * *

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AND

IT IS HEREBY ORDERED the Discovery Commissioner's Report and
Recommendations are affirmed and adopted.

X IT IS HEREBY ORDERED the Discovery Commissioner's Report and
Recommendations are affirmed and adopted as modified in the following manner.
(attached hereto) Plaintiff are to prioritize 20 requests for production of documents
and Defendants are required to search and provide the Bates
ranges and numbers for the top 20 that they choose.

IT IS HEREBY ORDERED this matter is remanded to the Discovery Commissioner for
reconsideration or further action.

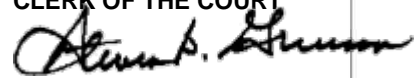
IT IS HEREBY ORDERED that a hearing on the Discovery Commissioner's Report is
set for _____, 2021, at _____ a.m.

DATED this 17th day of September, 2021.

Dated this 18th day of September, 2021

Nancy L Alf
DISTRICT COURT JUDGE TW

B99 184 1CEF 7442
Nancy Alf
District Court Judge



DCCR
MARK A. HUTCHISON, ESQ.
NEVADA BAR NO.: 4639
BRENOCH R. WIRTHLIN, ESQ.
NEVADA BAR NO. 10282
CHRIS ORME, ESQ.
NEVADA BAR NO. 10175
HUTCHISON & STEFFEN
Peccole Professional Park
10080 West Alta Drive, Suite 200
Las Vegas, Nevada 89145
Telephone: (702) 385.2500
Facsimile: (702) 385.2086
E-Mail: bwirthlin@hutchlegal.com
E-Mail: corne@hutchlegal.com
Attorneys for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

* * *

COMMISSIONER OF INSURANCE FOR
THE STATE OF NEVADA AS RECEIVER
OF LEWIS AND CLARK LTC RISK
RETENTION GROUP, INC.,

Plaintiff,

vs.

ROBERT CHUR, STEVE FOGG, MARK
GARBER, CAROL HARTER, ROBERT
HURLBUT, BARBARA LUMPKIN, JEFF
MARSHALL, ERIC STICKELS, UNI-TER
UNDERWRITING MANAGEMENT
CORP., UNI-TER CLAIMS SERVICES
CORP., and U.S. RE CORPORATION;;
DOES 1-50, inclusive; and ROES 51-100,
inclusive;

Defendants.

Case No.: A-14-711535-C

Dept. No.: XXVII

**DISCOVERY COMMISSIONER'S
REPORT AND RECOMMENDATION**

Hearing Date: July 29, 2021

Hearing Time: 9:30 a.m.

**DISCOVERY COMMISSIONER'S
REPORT and RECOMMENDATIONS**

Hearing Date: July 29, 2021 ("Hearing")

Hearing Time: 9:30 a.m.

Attorney for Plaintiff: Brenoch Wirthlin and Chris Orme, Hutchinson & Steffen

Attorney for Defendants Uni-Ter Underwriting Management Corp., Uni-Ter Claims Services Corp., and U.S. Re Corporation: George F. Ogilvie III, McDonald Carano LLP

I. FINDINGS

1. In November 2012, the Commissioner of Insurance for the State of Nevada initiated a receivership action, Case No. A-12-672047-B ("Receivership Action") and was appointed as Receiver of Lewis and Clark LTC Risk Retention Group, Inc. ("L&C").

2. Subsequently, on December 23, 2014, the Receiver filed this lawsuit against Uni-Ter Underwriting Management Corp., Uni-Ter Claims Services Corp. (collectively "Uni-Ter"), and U.S. Re Corporation ("U.S. Re"), as well as several former directors of L&C.

3. In May 2018, Uni-Ter and U.S. Re produced approximately 1.5 million pages of documents. Shortly thereafter, Uni-Ter and U.S. Re produced approximately 200,000 additional pages of documents for a total of approximately 1.7 million pages of documents.

4. Following a meet and confer, on July 13, 2021, Plaintiff filed her Motion to Compel Discovery Pursuant to NRCP 37(a)(4) on Order Shortening Time ("Motion to Compel"). The Motion to Compel requested the Court to: 1) compel Uni-Ter and U.S. Re to produce or permit for inspection all documents in their alleged "secret database" dated between January 1, 2008 through February 28, 2013; 2) compel Uni-Ter and U.S. Re to provide information necessary to identify and locate which documents are responsive to which requests for production served by Plaintiff; and 3) compel Uni-Ter and U.S. Re to produce any additional documentation that has been inappropriately withheld.

5. On July 27, 2021, Uni-Ter and U.S. Re filed their Response in Opposition to Plaintiff's Motion to Compel ("Response in Opposition").

6. A firm jury trial setting in this matter is scheduled for September 20, 2021. *At the time of the hearing of this motion, only one (1) week remained before the discovery cut-off.*

1 7. The Discovery Commissioner finds that there is insufficient time to complete the
2 requested discovery prior to the date set for the close of discovery in this matter, which is on
3 August 5, 2021.

4 8. After reviewing the Motion to Compel, the Response in Opposition, and
5 entertaining argument from counsel, the Discovery Commissioner recommends as follows:

6 **II. RECOMMENDATIONS**

7 **IT IS HEREBY RECOMMENDED** that the Motion to Compel is **GRANTED IN PART**
8 and **DENIED IN PART**.

9 **IT IS FURTHER RECOMMENDED** that the Motion to Compel is **DENIED** without
10 prejudice to the extent the Receiver seeks to compel the production of additional documents within
11 the discovery period. If the district court reopens discovery, the Discovery Commissioner may
12 reconsider this recommendation.

13 **IT IS FURTHER RECOMMENDED** that Uni-Ter UMC, Uni-Ter CS, and U.S. Re are
14 hereby required within 30 days of the date of the Hearing, on or before August 30, 2021, to provide
15 appropriate responses to the Receiver's requests for production of documents with bates numbers
16 or bates ranges responsive to the requests for production.

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The Discovery Commissioner, having met with counsel for the parties, having discussed the issues noted above and having reviewed any materials proposed in support thereof, hereby submits the above recommendations.

DATED this 20th day of August, 2021.

DISCOVERY COMMISSIONER, ERIN L. TRUMAN

Respectfully submitted by:

HUTCHISON & STEFFEN

/s/ Brenoch Wirthlin

MARK A. HUTCHISON, ESQ.

NEVADA BAR NO.: 4639

BRENOCH R. WIRTHLIN, ESQ.

NEVADA BAR NO. 10282

CHRIS ORME, ESQ.

NEVADA BAR NO. 10175

Attorneys for Plaintiff

Approved as to form and content by:

MCDONALD CARANO LLP

Did Not Sign

George F. Ogilvie III, Esq.

Nevada Bar No. 3352

2300 West Sahara Avenue, Ste 1200

Las Vegas, Nevada 89102

Jon M. Wilson, Esq.

Jon M Wilson Attorney

200 Biscayne Blvd Way

Suite 4405

Miami, FL 33131

Attorneys for Defendants U.S. Re

Corporation, Uni-Ter Management Corp.,

and Uni-Ter Claims Services Corp

1 **NOTICE**

2 Pursuant to NRCP 16.3(c)(2), you are hereby notified that within fourteen (14) days after being
3 served with a report any party may file and serve written objections to the recommendations.
4 Written authorities may be filed with objections, but are not mandatory. If written authorities
5 are filed, any other party may file and serve responding authorities within seven (7) days after
6 being served with objections.

7 **Objection time will expire on September 7, 2021.**

8 A copy of the foregoing Discovery Commissioner's Report was:

9 _____ Mailed to Plaintiff/Defendant at the following address on the _____ day of
10 _____ 2021:

11
12 ☒ Electronically filed and served counsel on **August 23**, 2021, Pursuant to
13 N.E.F.C.R. Rule 9.

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16 By: /s/ Sandy Gerety
17 COMMISSIONER DESIGNEE
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1 **CSERV**

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5
6 Commissioner of Insurance for
7 the State of Nevada as Receiver
8 of Lewis and Clark, Plaintiff(s)

CASE NO: A-14-711535-C

DEPT. NO. Department 27

9 vs.

10 Robert Chur, Defendant(s)

11 **AUTOMATED CERTIFICATE OF SERVICE**

12
13 This automated certificate of service was generated by the Eighth Judicial District
14 Court. The foregoing Order was served via the court's electronic eFile system to all
recipients registered for e-Service on the above entitled case as listed below:

15 Service Date: 9/18/2021

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17 Angela T. Nakamura Ochoa .	aochoa@lipsonneilson.com
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20 CaraMia Gerard .	cgerard@mcdonaldcarano.com
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22 Jessica Ayala .	jayala@fclaw.com
23 Joanna Grigoriev .	jgrigoriev@ag.nv.gov
24 Jon M. Wilson .	jwilson@broadandcassel.com
25 Kathy Barrett .	kbarrett@mcdonaldcarano.com

26
27
28

1	Marilyn Millam .	mmillam@ag.nv.gov
2	Nevada Attorney General .	wiznetfilings@ag.nv.gov
3	Paul Garcia .	pgarcia@fclaw.com
4	Renee Rittenhouse .	rrittenhouse@lipsonneilson.com
5	Rory Kay .	rkay@mcdonaldcarano.com
6	Susana Nutt .	snutt@lipsonneilson.com
7	Yusimy Bordes .	ybordes@broadandcassel.com
8	Jelena Jovanovic .	jjovanovic@mcdonaldcarano.com
9	Betsy Gould	bgould@doi.nv.gov
10	Karen Surowiec	ksurowiec@mcdonaldcarano.com
11	Patricia Lee	plee@hutchlegal.com
12	Kimberly Freedman	kfreedman@broadandcassel.com
13	Christian Orme	corne@hutchlegal.com
14	Danielle Kelley	dkelley@hutchlegal.com
15	Jonathan Wong	jwong@lipsonneilson.com
16	Erin Kolmansberger	erin.kolmansberger@nelsonmullins.com
17	Melissa Gomberg	melissa.gomberg@nelsonmullins.com
18	Juan Cerezo	jcerezo@lipsonneilson.com
19	Heather Bennett	hshepherd@hutchlegal.com
20	Brenoch Wirthlin	bwirthlin@klnevada.com
21	Jon Linder	jlinder@klnevada.com
22	S. Dianne Pomonis	dpomonis@klnevada.com
23	Brenoch Wirthlin	bwirthlin@hutchlegal.com
24		
25		
26		
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1 Jon Linder

jlinder@hutchlegal.com

2
3 If indicated below, a copy of the above mentioned filings were also served by mail
4 via United States Postal Service, postage prepaid, to the parties listed below at their last
5 known addresses on 9/20/2021

6 George Ogilvie

McDonald Carano Wilson LLP
Attn: George F. Ogilvie, III
2300 West Sahara Avenue - Suite 1200
Las Vegas, NV, 89102

8 Joseph Garin

Lipson Neilson P.C.
Attn: Joseph P. Garin
9900 Covington Cross Drive, Suite 120
Las Vegas, NV, 89144

ORDR

MARK A. HUTCHISON, ESQ. (4639)
BRENOCH WIRTHLIN, ESQ. (10282)
TRACY L. CASSITY, ESQ. (9648)
Hutchison & Steffen
10080 West Alta Drive, Suite 200
Las Vegas, Nevada 89145
Telephone: (702) 385.2500
Facsimile: (702) 385.2086
E-Mail: bwirthlin@hutchlegal.com
Attorneys for Plaintiff

**DISTRICT COURT
CLARK COUNTY, NEVADA**

COMMISSIONER OF INSURANCE FOR
THE STATE OF NEVADA AS RECEIVER
OF LEWIS AND CLARK LTC RISK
RETENTION GROUP, INC.,

Plaintiff,
vs.

ROBERT CHUR, STEVE FOGG, MARK
GARBER, CAROL HARTER, ROBERT
HURLBUT, BARBARA LUMPKIN, JEFF
MARSHALL, ERIC STICKELS, UNI-TER
UNDERWRITING MANAGEMENT CORP.,
UNI-TER CLAIMS SERVICES CORP., and
U.S. RE CORPORATION; DOES 1-50,
inclusive; and ROES 51-100, inclusive;

Defendants.

Case No.: A-14-711535-C

Dept. No.: XXVII

**ORDER GRANTING IN PART AND
DENYING IN PART PLAINTIFF'S
MOTION IN LIMINE NO. 2**

This matter having come before the Honorable Nancy Allf at the hearing on all pending motions on September 2, 2021 (the "Hearing"), on Plaintiff's Motion in *Limine* No. 2 to Preclude Testimony by Joseph Petrelli, Richard Lord, and Jim Murphy Regarding Unperformed Solvency Analysis (the "Motion") filed on August 13, 2021; Brenoch Wirthlin, Esq., Christian M. Orme, Esq. and Tanya M. Fraser, Esq. of Hutchison & Steffen, PLLC appearing on behalf of Plaintiff; Jon M. Wilson, Esq. of the Law Offices of Jon Wilson, and George F. Ogilvie III, Esq., of McDonald Carano, LLP, appearing on behalf of Defendants Uni-Ter Underwriting Management Corp, Uni-Ter Claims Services Corp., and U.S. RE Corporation (the "Corporate Defendants"); the Corporate Defendants having filed an opposition ("Opposition") to the Motion on August 27,

1 2021; the Plaintiff having filed its reply ("Reply") in support of the Motion on August 31, 2021;
2 the Court having read and considered the Motion, the Corporate Defendants' Opposition, and the
3 Reply, as well as having heard and considered the arguments of counsel at the Hearing on the
4 Motion; good cause appearing:

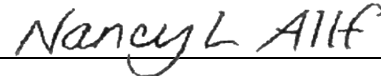
5 THE COURT HEREBY FINDS that neither Mr. Petrelli, Mr. Lord, nor Mr. Murphy
6 performed any insolvency analysis with respect to Lewis & Clark.

7 IT IS HEREBY ORDERED that the Motion is **GRANTED in part** and **DENIED in part**,
8 as set forth herein.

9 IT IS HEREBY FURTHER ORDERED that the Motion is granted to the extent to preclude
10 any testimony with regard to insolvency, because Mr. Petrelli, Mr. Lord, and Mr. Murphy didn't do
11 insolvency analyses. Mr. Petrelli, Mr. Lord, and Mr. Murphy can talk about how they rated, what
12 they did as an actuary and what they did as an auditor.

13
14
15 IT IS HEREBY ORDERED.
16 September 20, 2021

Dated this 20th day of September, 2021



8C8 8A8 EB49 9095
Nancy Alf
District Court Judge

TW

1 Respectfully submitted by:

2 **HUTCHISON & STEFFEN, PLLC**

3
4 /s/Brenoch Wirthlin

5 Brenoch R. Wirthlin, Esq.
6 Nevada Bar No. 10282
7 Christian M. Orme, Esq.
8 Nevada Bar No. 10175)
9 10080 West Alta Drive, Suite 200
10 Las Vegas, Nevada 89145
11 Telephone: (702) 385-2500
12 bwirthlin@hutchlegal.com
13 cmorme@hutchlegal.com

14 *Attorneys for Plaintiffs*

Approved as to form and content by:

McDONALD CARANO, LLP

George f. Ogilvie III, Esq.
Nevada Bar No. 3352
2300 West Sahara Avenue, Suite 1200
Las Vegas, Nevada 89102
Telephone: (702) 873-4100
gogilvie@mcdonaldcarano.com

LAW OFFICES OF JON WILSON

Jon M. Wilson, Esq. (Appearing *Pro Hac Vice*)
200 Biscayne Boulevard Way, Suite 4405
Miami, Florida 33131

*Attorneys for Defendants Uni-Ter Underwriting
Management Corp., Uni-Ter Claims Services
Corp., and U.S. RE Corporation*

1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4
5
6 Commissioner of Insurance for
7 the State of Nevada as Receiver
of Lewis and Clark, Plaintiff(s)

CASE NO: A-14-711535-C

DEPT. NO. Department 27

8 vs.

9 Robert Chur, Defendant(s)

10
11 **AUTOMATED CERTIFICATE OF SERVICE**

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14 Court. The foregoing Order was served via the court's electronic eFile system to all
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15 Service Date: 9/20/2021

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17 Angela T. Nakamura Ochoa .	aochoa@lipsonneilson.com
18 Ashley Scott-Johnson .	ascott-johnson@lipsonneilson.com
19 Brenoch Wirthlin .	bwirthli@fclaw.com
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24 Jon M. Wilson .	jwilson@broadandcassel.com
25 Kathy Barrett .	kbarrett@mcdonaldcarano.com

26
27
28

1	Marilyn Millam .	mmillam@ag.nv.gov
2	Nevada Attorney General .	wiznetfilings@ag.nv.gov
3	Paul Garcia .	pgarcia@fclaw.com
4	Renee Rittenhouse .	rrittenhouse@lipsonneilson.com
5	Rory Kay .	rkay@mcdonaldcarano.com
6	Susana Nutt .	snutt@lipsonneilson.com
7	Yusimy Bordes .	ybordes@broadandcassel.com
8	Jelena Jovanovic .	jjovanovic@mcdonaldcarano.com
9	Betsy Gould	bgould@doi.nv.gov
10	Karen Surowiec	ksurowiec@mcdonaldcarano.com
11	Patricia Lee	plee@hutchlegal.com
12	Kimberly Freedman	kfreedman@broadandcassel.com
13	Christian Orme	corne@hutchlegal.com
14	Danielle Kelley	dkelley@hutchlegal.com
15	Jonathan Wong	jwong@lipsonneilson.com
16	Erin Kolmansberger	erin.kolmansberger@nelsonmullins.com
17	Melissa Gomberg	melissa.gomberg@nelsonmullins.com
18	Juan Cerezo	jcerezo@lipsonneilson.com
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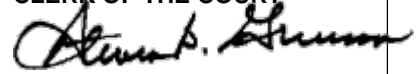
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McDonald Carano Wilson LLP
Attn: George F. Ogilvie, III
2300 West Sahara Avenue - Suite 1200
Las Vegas, NV, 89102

8 Joseph Garin

Lipson Neilson P.C.
Attn: Joseph P. Garin
9900 Covington Cross Drive, Suite 120
Las Vegas, NV, 89144



1 **NEO**

2 MARK A. HUTCHISON, ESQ. (4639)

3 BRENOCH R. WIRTHLIN, ESQ. (10282)

4 CHRISTIAN ORME, ESQ. (10175)

5 **HUTCHISON & STEFFEN**

6 10080 West Alta Drive, Suite 200

7 Las Vegas, Nevada 89145

8 Telephone: (702) 385.2500

9 Facsimile: (702) 385.2086

10 E-Mail: mhutchison@hutchlegal.com

11 E-Mail: bwirthlin@hutchlegal.com

12 E-Mail: corne@hutchlegal.com

13 *Attorneys for Plaintiff*

14 **DISTRICT COURT**

15 **CLARK COUNTY, NEVADA**

16 COMMISSIONER OF INSURANCE FOR
17 THE STATE OF NEVADA AS RECEIVER
18 OF LEWIS AND CLARK LTC RISK
19 RETENTION GROUP, INC.,

20 Plaintiff,

21 vs.

22 ROBERT CHUR, STEVE FOGG, MARK
23 GARBER, CAROL HARTER, ROBERT
24 HURLBUT, BARBARA LUMPKIN, JEFF
25 MARSHALL, ERIC STICKELS, UNI-TER
26 UNDERWRITING MANAGEMENT CORP.,
27 UNI-TER CLAIMS SERVICES CORP., and
28 U.S. RE CORPORATION,; DOES 1-50,
inclusive; and ROES 51-100, inclusive;

Defendants.

Case No.: A-14-711535-C

Dept. No.: XXVII

NOTICE OF ENTRY OF ORDER

Please take notice that an Order Granting in Part and Denying in Part Plaintiff's Motion in
Limine No. 2 was entered on the 20th day of September, 2021,

///

///

///

1 a copy of which is attached hereto.

2 DATED this 21st day of September, 2021.

3 HUTCHISON & STEFFEN

4

5 By /s/Brenoch Wirthlin
6 MARK A. HUTCHISON, ESQ. (4639)
7 BRENOCH R. WIRTHLIN, ESQ. (10282)
8 CHRISTIAN ORME, ESQ. (10175)
9 10080 West Alta Drive, Suite 200
10 Las Vegas, Nevada 89145
11 *Attorneys for Plaintiff*
12
13
14
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CERTIFICATE OF SERVICE

Pursuant to NRCp 5(b), I certify that on this 21st day of September, 2021, I caused the document entitled **NOTICE OF ENTRY OF ORDER** to be served on the following by Electronic Service to:

ALL PARTIES ON THE E-SERVICE LIST

/s/Danielle Kelley
An Employee of Hutchison & Steffen, PLLC

ORDR

MARK A. HUTCHISON, ESQ. (4639)
BRENOCH WIRTHLIN, ESQ. (10282)
TRACY L. CASSITY, ESQ. (9648)
Hutchison & Steffen
10080 West Alta Drive, Suite 200
Las Vegas, Nevada 89145
Telephone: (702) 385.2500
Facsimile: (702) 385.2086
E-Mail: bwirthlin@hutchlegal.com
Attorneys for Plaintiff

**DISTRICT COURT
CLARK COUNTY, NEVADA**

COMMISSIONER OF INSURANCE FOR
THE STATE OF NEVADA AS RECEIVER
OF LEWIS AND CLARK LTC RISK
RETENTION GROUP, INC.,

Plaintiff,
vs.

ROBERT CHUR, STEVE FOGG, MARK
GARBER, CAROL HARTER, ROBERT
HURLBUT, BARBARA LUMPKIN, JEFF
MARSHALL, ERIC STICKELS, UNI-TER
UNDERWRITING MANAGEMENT CORP.,
UNI-TER CLAIMS SERVICES CORP., and
U.S. RE CORPORATION; DOES 1-50,
inclusive; and ROES 51-100, inclusive;

Defendants.

Case No.: A-14-711535-C

Dept. No.: XXVII

**ORDER GRANTING IN PART AND
DENYING IN PART PLAINTIFF'S
MOTION IN LIMINE NO. 2**

This matter having come before the Honorable Nancy Allf at the hearing on all pending motions on September 2, 2021 (the "Hearing"), on Plaintiff's Motion in *Limine* No. 2 to Preclude Testimony by Joseph Petrelli, Richard Lord, and Jim Murphy Regarding Unperformed Solvency Analysis (the "Motion") filed on August 13, 2021; Brenoch Wirthlin, Esq., Christian M. Orme, Esq. and Tanya M. Fraser, Esq. of Hutchison & Steffen, PLLC appearing on behalf of Plaintiff; Jon M. Wilson, Esq. of the Law Offices of Jon Wilson, and George F. Ogilvie III, Esq., of McDonald Carano, LLP, appearing on behalf of Defendants Uni-Ter Underwriting Management Corp, Uni-Ter Claims Services Corp., and U.S. RE Corporation (the "Corporate Defendants"); the Corporate Defendants having filed an opposition ("Opposition") to the Motion on August 27,

1 2021; the Plaintiff having filed its reply ("Reply") in support of the Motion on August 31, 2021;
2 the Court having read and considered the Motion, the Corporate Defendants' Opposition, and the
3 Reply, as well as having heard and considered the arguments of counsel at the Hearing on the
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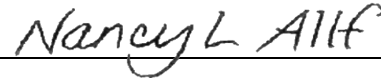
5 THE COURT HEREBY FINDS that neither Mr. Petrelli, Mr. Lord, nor Mr. Murphy
6 performed any insolvency analysis with respect to Lewis & Clark.

7 IT IS HEREBY ORDERED that the Motion is **GRANTED in part** and **DENIED in part**,
8 as set forth herein.

9 IT IS HEREBY FURTHER ORDERED that the Motion is granted to the extent to preclude
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11 insolvency analyses. Mr. Petrelli, Mr. Lord, and Mr. Murphy can talk about how they rated, what
12 they did as an actuary and what they did as an auditor.

13
14
15 IT IS HEREBY ORDERED.
16 September 20, 2021

Dated this 20th day of September, 2021



8C8 8A8 EB49 9095
Nancy Alf
District Court Judge

TW

1 Respectfully submitted by:

Approved as to form and content by:

2 **HUTCHISON & STEFFEN, PLLC**

McDONALD CARANO, LLP

3
4 /s/Brenoch Wirthlin

5 Brenoch R. Wirthlin, Esq.
6 Nevada Bar No. 10282
7 Christian M. Orme, Esq.
8 Nevada Bar No. 10175)
9 10080 West Alta Drive, Suite 200
10 Las Vegas, Nevada 89145
11 Telephone: (702) 385-2500
12 bwirthlin@hutchlegal.com
13 cmorme@hutchlegal.com

George f. Ogilvie III, Esq.
Nevada Bar No. 3352
2300 West Sahara Avenue, Suite 1200
Las Vegas, Nevada 89102
Telephone: (702) 873-4100
gogilvie@mcdonaldcarano.com

LAW OFFICES OF JON WILSON

10 *Attorneys for Plaintiffs*

Jon M. Wilson, Esq. (Appearing *Pro Hac Vice*)
200 Biscayne Boulevard Way, Suite 4405
Miami, Florida 33131

*Attorneys for Defendants Uni-Ter Underwriting
Management Corp., Uni-Ter Claims Services
Corp., and U.S. RE Corporation*

1 **CSERV**

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3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

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6 Commissioner of Insurance for
7 the State of Nevada as Receiver
8 of Lewis and Clark, Plaintiff(s)

CASE NO: A-14-711535-C

DEPT. NO. Department 27

9 vs.

10 Robert Chur, Defendant(s)

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18 Ashley Scott-Johnson .	ascott-johnson@lipsonneilson.com
19 Brenoch Wirthlin .	bwirthli@fclaw.com
20 CaraMia Gerard .	cgerard@mcdonaldcarano.com
21 George F. Ogilvie III .	gogilvie@mcdonaldcarano.com
22 Jessica Ayala .	jayala@fclaw.com
23 Joanna Grigoriev .	jgrigoriev@ag.nv.gov
24 Jon M. Wilson .	jwilson@broadandcassel.com
25 Kathy Barrett .	kbarrett@mcdonaldcarano.com

26
27
28

1	Marilyn Millam .	mmillam@ag.nv.gov
2	Nevada Attorney General .	wiznetfilings@ag.nv.gov
3	Paul Garcia .	pgarcia@fclaw.com
4	Renee Rittenhouse .	rrittenhouse@lipsonneilson.com
5	Rory Kay .	rkay@mcdonaldcarano.com
6	Susana Nutt .	snutt@lipsonneilson.com
7	Yusimy Bordes .	ybordes@broadandcassel.com
8	Jelena Jovanovic .	jjovanovic@mcdonaldcarano.com
9	Betsy Gould	bgould@doi.nv.gov
10	Karen Surowiec	ksurowiec@mcdonaldcarano.com
11	Patricia Lee	plee@hutchlegal.com
12	Kimberly Freedman	kfreedman@broadandcassel.com
13	Christian Orme	corne@hutchlegal.com
14	Danielle Kelley	dkelley@hutchlegal.com
15	Jonathan Wong	jwong@lipsonneilson.com
16	Erin Kolmansberger	erin.kolmansberger@nelsonmullins.com
17	Melissa Gomberg	melissa.gomberg@nelsonmullins.com
18	Juan Cerezo	jcerezo@lipsonneilson.com
19	Heather Bennett	hshepherd@hutchlegal.com
20	Brenoch Wirthlin	bwirthlin@klnevada.com
21	Jon Linder	jlinder@klnevada.com
22	S. Dianne Pomonis	dpomonis@klnevada.com
23	Brenoch Wirthlin	bwirthlin@hutchlegal.com
24		
25		
26		
27		
28		

1 Jon Linder

jlinder@hutchlegal.com

2
3 If indicated below, a copy of the above mentioned filings were also served by mail
4 via United States Postal Service, postage prepaid, to the parties listed below at their last
5 known addresses on 9/21/2021

6 George Ogilvie

McDonald Carano Wilson LLP
Attn: George F. Ogilvie, III
2300 West Sahara Avenue - Suite 1200
Las Vegas, NV, 89102

8 Joseph Garin

Lipson Neilson P.C.
Attn: Joseph P. Garin
9900 Covington Cross Drive, Suite 120
Las Vegas, NV, 89144

ORDR

MARK A. HUTCHISON, ESQ. (4639)
BRENOCH WIRTHLIN, ESQ. (10282)
TRACY L. CASSITY, ESQ. (9648)
Hutchison & Steffen
10080 West Alta Drive, Suite 200
Las Vegas, Nevada 89145
Telephone: (702) 385.2500
Facsimile: (702) 385.2086
E-Mail: bwirthlin@hutchlegal.com
Attorneys for Plaintiff

**DISTRICT COURT
CLARK COUNTY, NEVADA**

COMMISSIONER OF INSURANCE FOR
THE STATE OF NEVADA AS RECEIVER
OF LEWIS AND CLARK LTC RISK
RETENTION GROUP, INC.,

Plaintiff,
vs.

ROBERT CHUR, STEVE FOGG, MARK
GARBER, CAROL HARTER, ROBERT
HURLBUT, BARBARA LUMPKIN, JEFF
MARSHALL, ERIC STICKELS, UNI-TER
UNDERWRITING MANAGEMENT CORP.,
UNI-TER CLAIMS SERVICES CORP., and
U.S. RE CORPORATION; DOES 1-50,
inclusive; and ROES 51-100, inclusive;

Defendants.

Case No.: A-14-711535-C

Dept. No.: XXVII

**ORDER GRANTING IN PART AND
DENYING IN PART PLAINTIFF'S
MOTION FOR PARTIAL SUMMARY
JUDGMENT AS TO U.S. RE
CORPORATION**

This matter having come before the Honorable Nancy Allf at the hearing on all pending motions on September 2, 2021 (the "Hearing"), on Plaintiff's Motion for Partial Summary Judgment as to U.S. RE Corporation (the "Motion") filed on August 13, 2021; Brenoch Wirthlin, Esq., Christian M. Orme, Esq. and Tanya M. Fraser, Esq. of Hutchison & Steffen, PLLC appearing on behalf of Plaintiff; Jon M. Wilson, Esq. of the Law Offices of Jon Wilson, and George F. Ogilvie III, Esq., of McDonald Carano, LLP, appearing on behalf of Defendants Uni-Ter Underwriting Management Corp, Uni-Ter Claims Services Corp., and U.S. RE Corporation (the "Corporate Defendants"); the Corporate Defendants having filed an opposition ("Opposition") to the Motion on August 27, 2021; Plaintiff having filed its Reply in Support of the Motion ("Reply")

1 on August 31, 2021; the Court having read and considered Plaintiff's Motion, the Corporate
2 Defendants' Opposition, and the Reply, as well as having heard and considered the arguments of
3 counsel at the Hearing on the Motion; good cause appearing:

4 THE COURT HEREBY FINDS upon the admissions that Defendant U.S. RE Corporation
5 did not obtain a Nevada license authorizing it to serve as a reinsurance broker for Lewis and Clark.

6 THE COURT HEREBY FINDS that Defendant U.S. Re Corporation brokered the
7 reinsurance contracts for Lewis and Clark.

8 Based upon the foregoing, good cause appearing, and after review:

9 IT IS HEREBY ORDERED that Plaintiff's Motion for Partial Summary Judgment as to
10 U.S. RE Corporation is **GRANTED in part** and **DENIED in part**.

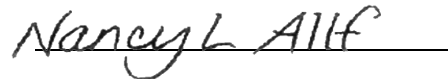
11 IT IS HEREBY FURTHER ORDERED that the Motion is granted in part based upon the
12 admissions that Defendant U.S. RE Corporation was not licensed in Nevada for the brokering of
13 reinsurance for Lewis & Clark.

14 IT IS HEREBY FURTHER ORDERED that the Motion is denied to the extent that it is a
15 question for the trier of fact to determine the effect of Defendant U.S. RE Corporation's failure to
16 obtain a Nevada license for brokering reinsurance for Lewis & Clark.

17
18
19 IT IS SO ORDERED.

20 September 19, 2021

Dated this 20th day of September, 2021

21 
22

TW

23 F9A 8EC C31F 73A1
24 Nancy Alf
25 District Court Judge
26
27
28

1 Respectfully submitted by:

2 **HUTCHISON & STEFFEN, PLLC**

3
4 /s/Brenoch Wirthlin

5 Brenoch R. Wirthlin, Esq.
6 Nevada Bar No. 10282
7 Christian M. Orme, Esq.
8 Nevada Bar No. 10175)
9 10080 West Alta Drive, Suite 200
10 Las Vegas, Nevada 89145
11 Telephone: (702) 385-2500
12 bwirthlin@hutchlegal.com
13 cmorme@hutchlegal.com

14 *Attorneys for Plaintiffs*

Approved as to form and content by:

McDONALD CARANO, LLP

George f. Ogilvie III, Esq.
Nevada Bar No. 3352
2300 West Sahara Avenue, Suite 1200
Las Vegas, Nevada 89102
Telephone: (702) 873-4100
gogilvie@mcdonaldcarano.com

LAW OFFICES OF JON WILSON

Jon M. Wilson, Esq. (Appearing *Pro Hac Vice*)
200 Biscayne Boulevard Way, Suite 4405
Miami, Florida 33131

*Attorneys for Defendants Uni-Ter Underwriting
Management Corp., Uni-Ter Claims Services
Corp., and U.S. RE Corporation*

1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4
5
6 Commissioner of Insurance for
7 the State of Nevada as Receiver
of Lewis and Clark, Plaintiff(s)

CASE NO: A-14-711535-C

DEPT. NO. Department 27

8 vs.

9 Robert Chur, Defendant(s)

10
11 **AUTOMATED CERTIFICATE OF SERVICE**

12
13 This automated certificate of service was generated by the Eighth Judicial District
14 Court. The foregoing Order was served via the court's electronic eFile system to all
recipients registered for e-Service on the above entitled case as listed below:

15 Service Date: 9/20/2021

16 Adrina Harris .	aharris@fclaw.com
17 Angela T. Nakamura Ochoa .	aochoa@lipsonneilson.com
18 Ashley Scott-Johnson .	ascott-johnson@lipsonneilson.com
19 Brenoch Wirthlin .	bwirthli@fclaw.com
20 CaraMia Gerard .	cgerard@mcdonaldcarano.com
21 George F. Ogilvie III .	gogilvie@mcdonaldcarano.com
22 Jessica Ayala .	jayala@fclaw.com
23 Joanna Grigoriev .	jgrigoriev@ag.nv.gov
24 Jon M. Wilson .	jwilson@broadandcassel.com
25 Kathy Barrett .	kbarrett@mcdonaldcarano.com

26
27
28

1	Marilyn Millam .	mmillam@ag.nv.gov
2	Nevada Attorney General .	wiznetfilings@ag.nv.gov
3	Paul Garcia .	pgarcia@fclaw.com
4	Renee Rittenhouse .	rrittenhouse@lipsonneilson.com
5	Rory Kay .	rkay@mcdonaldcarano.com
6	Susana Nutt .	snutt@lipsonneilson.com
7	Yusimy Bordes .	ybordes@broadandcassel.com
8	Jelena Jovanovic .	jjovanovic@mcdonaldcarano.com
9	Betsy Gould	bgould@doi.nv.gov
10	Karen Surowiec	ksurowiec@mcdonaldcarano.com
11	Patricia Lee	plee@hutchlegal.com
12	Kimberly Freedman	kfreedman@broadandcassel.com
13	Christian Orme	corne@hutchlegal.com
14	Danielle Kelley	dkelley@hutchlegal.com
15	Jonathan Wong	jwong@lipsonneilson.com
16	Erin Kolmansberger	erin.kolmansberger@nelsonmullins.com
17	Melissa Gomberg	melissa.gomberg@nelsonmullins.com
18	Juan Cerezo	jcerezo@lipsonneilson.com
19	Heather Bennett	hshepherd@hutchlegal.com
20	Brenoch Wirthlin	bwirthlin@klnevada.com
21	Jon Linder	jlinder@klnevada.com
22	S. Dianne Pomonis	dpomonis@klnevada.com
23	Brenoch Wirthlin	bwirthlin@hutchlegal.com
24		
25		
26		
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28		

1 Jon Linder

jlinder@hutchlegal.com

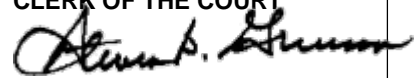
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6 George Ogilvie

McDonald Carano Wilson LLP
Attn: George F. Ogilvie, III
2300 West Sahara Avenue - Suite 1200
Las Vegas, NV, 89102

8 Joseph Garin

Lipson Neilson P.C.
Attn: Joseph P. Garin
9900 Covington Cross Drive, Suite 120
Las Vegas, NV, 89144



1 **NEO**

2 MARK A. HUTCHISON, ESQ. (4639)

3 BRENOCH R. WIRTHLIN, ESQ. (10282)

4 CHRISTIAN ORME, ESQ. (10175)

5 **HUTCHISON & STEFFEN**

6 10080 West Alta Drive, Suite 200

7 Las Vegas, Nevada 89145

8 Telephone: (702) 385.2500

9 Facsimile: (702) 385.2086

10 E-Mail: mhutchison@hutchlegal.com

11 E-Mail: bwirthlin@hutchlegal.com

12 E-Mail: corne@hutchlegal.com

13 *Attorneys for Plaintiff*

14 **DISTRICT COURT**

15 **CLARK COUNTY, NEVADA**

16 COMMISSIONER OF INSURANCE FOR
17 THE STATE OF NEVADA AS RECEIVER
18 OF LEWIS AND CLARK LTC RISK
19 RETENTION GROUP, INC.,

20 Plaintiff,

21 vs.

22 ROBERT CHUR, STEVE FOGG, MARK
23 GARBER, CAROL HARTER, ROBERT
24 HURLBUT, BARBARA LUMPKIN, JEFF
25 MARSHALL, ERIC STICKELS, UNI-TER
26 UNDERWRITING MANAGEMENT CORP.,
27 UNI-TER CLAIMS SERVICES CORP., and
28 U.S. RE CORPORATION,; DOES 1-50,
inclusive; and ROES 51-100, inclusive;

Defendants.

Case No.: A-14-711535-C

Dept. No.: XXVII

NOTICE OF ENTRY OF ORDER

Please take notice that an Order Granting in Part and Denying in Part Plaintiff's Motion for Partial Summary Judgment as to U.S. Re Corporation was entered on the 20th day of September, 2021,

///

///

1 a copy of which is attached hereto.

2 DATED this 21st day of September, 2021.

3 HUTCHISON & STEFFEN

4
5 By /s/Brenoch Wirthlin
6 MARK A. HUTCHISON, ESQ. (4639)
7 BRENOCH R. WIRTHLIN, ESQ. (10282)
8 CHRISTIAN ORME, ESQ. (10175)
9 10080 West Alta Drive, Suite 200
10 Las Vegas, Nevada 89145
11 *Attorneys for Plaintiff*
12
13
14
15
16
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CERTIFICATE OF SERVICE

Pursuant to NRCp 5(b), I certify that on this 21st day of September, 2021, I caused the document entitled **NOTICE OF ENTRY OF ORDER** to be served on the following by Electronic Service to:

ALL PARTIES ON THE E-SERVICE LIST

/s/Danielle Kelley
An Employee of Hutchison & Steffen, PLLC

ORDR

MARK A. HUTCHISON, ESQ. (4639)
BRENOCH WIRTHLIN, ESQ. (10282)
TRACY L. CASSITY, ESQ. (9648)
Hutchison & Steffen
10080 West Alta Drive, Suite 200
Las Vegas, Nevada 89145
Telephone: (702) 385.2500
Facsimile: (702) 385.2086
E-Mail: bwirthlin@hutchlegal.com
Attorneys for Plaintiff

**DISTRICT COURT
CLARK COUNTY, NEVADA**

COMMISSIONER OF INSURANCE FOR
THE STATE OF NEVADA AS RECEIVER
OF LEWIS AND CLARK LTC RISK
RETENTION GROUP, INC.,

Plaintiff,
vs.

ROBERT CHUR, STEVE FOGG, MARK
GARBER, CAROL HARTER, ROBERT
HURLBUT, BARBARA LUMPKIN, JEFF
MARSHALL, ERIC STICKELS, UNI-TER
UNDERWRITING MANAGEMENT CORP.,
UNI-TER CLAIMS SERVICES CORP., and
U.S. RE CORPORATION; DOES 1-50,
inclusive; and ROES 51-100, inclusive;

Defendants.

Case No.: A-14-711535-C

Dept. No.: XXVII

**ORDER GRANTING IN PART AND
DENYING IN PART PLAINTIFF'S
MOTION FOR PARTIAL SUMMARY
JUDGMENT AS TO U.S. RE
CORPORATION**

This matter having come before the Honorable Nancy Allf at the hearing on all pending motions on September 2, 2021 (the "Hearing"), on Plaintiff's Motion for Partial Summary Judgment as to U.S. RE Corporation (the "Motion") filed on August 13, 2021; Brenoch Wirthlin, Esq., Christian M. Orme, Esq. and Tanya M. Fraser, Esq. of Hutchison & Steffen, PLLC appearing on behalf of Plaintiff; Jon M. Wilson, Esq. of the Law Offices of Jon Wilson, and George F. Ogilvie III, Esq., of McDonald Carano, LLP, appearing on behalf of Defendants Uni-Ter Underwriting Management Corp, Uni-Ter Claims Services Corp., and U.S. RE Corporation (the "Corporate Defendants"); the Corporate Defendants having filed an opposition ("Opposition") to the Motion on August 27, 2021; Plaintiff having filed its Reply in Support of the Motion ("Reply")

1 on August 31, 2021; the Court having read and considered Plaintiff's Motion, the Corporate
2 Defendants' Opposition, and the Reply, as well as having heard and considered the arguments of
3 counsel at the Hearing on the Motion; good cause appearing:

4 THE COURT HEREBY FINDS upon the admissions that Defendant U.S. RE Corporation
5 did not obtain a Nevada license authorizing it to serve as a reinsurance broker for Lewis and Clark.

6 THE COURT HEREBY FINDS that Defendant U.S. Re Corporation brokered the
7 reinsurance contracts for Lewis and Clark.

8 Based upon the foregoing, good cause appearing, and after review:

9 IT IS HEREBY ORDERED that Plaintiff's Motion for Partial Summary Judgment as to
10 U.S. RE Corporation is **GRANTED in part** and **DENIED in part**.

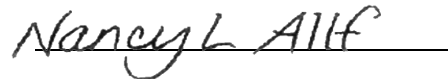
11 IT IS HEREBY FURTHER ORDERED that the Motion is granted in part based upon the
12 admissions that Defendant U.S. RE Corporation was not licensed in Nevada for the brokering of
13 reinsurance for Lewis & Clark.

14 IT IS HEREBY FURTHER ORDERED that the Motion is denied to the extent that it is a
15 question for the trier of fact to determine the effect of Defendant U.S. RE Corporation's failure to
16 obtain a Nevada license for brokering reinsurance for Lewis & Clark.

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18
19 IT IS SO ORDERED.

20 September 19, 2021

Dated this 20th day of September, 2021

21 
22

TW

23 F9A 8EC C31F 73A1
24 Nancy Alf
25 District Court Judge
26
27
28

1 Respectfully submitted by:

Approved as to form and content by:

2 **HUTCHISON & STEFFEN, PLLC**

McDONALD CARANO, LLP

3
4 /s/Brenoch Wirthlin

5 Brenoch R. Wirthlin, Esq.
6 Nevada Bar No. 10282
7 Christian M. Orme, Esq.
8 Nevada Bar No. 10175)
9 10080 West Alta Drive, Suite 200
10 Las Vegas, Nevada 89145
11 Telephone: (702) 385-2500
12 bwirthlin@hutchlegal.com
13 cmorme@hutchlegal.com

George f. Ogilvie III, Esq.
Nevada Bar No. 3352
2300 West Sahara Avenue, Suite 1200
Las Vegas, Nevada 89102
Telephone: (702) 873-4100
gogilvie@mcdonaldcarano.com

LAW OFFICES OF JON WILSON

10 *Attorneys for Plaintiffs*

Jon M. Wilson, Esq. (Appearing *Pro Hac Vice*)
200 Biscayne Boulevard Way, Suite 4405
Miami, Florida 33131

*Attorneys for Defendants Uni-Ter Underwriting
Management Corp., Uni-Ter Claims Services
Corp., and U.S. RE Corporation*

1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4
5
6 Commissioner of Insurance for
7 the State of Nevada as Receiver
of Lewis and Clark, Plaintiff(s)

CASE NO: A-14-711535-C

DEPT. NO. Department 27

8 vs.

9 Robert Chur, Defendant(s)

10
11 **AUTOMATED CERTIFICATE OF SERVICE**

12
13 This automated certificate of service was generated by the Eighth Judicial District
14 Court. The foregoing Order was served via the court's electronic eFile system to all
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15 Service Date: 9/20/2021

16 Adrina Harris .	aharris@fclaw.com
17 Angela T. Nakamura Ochoa .	aochoa@lipsonneilson.com
18 Ashley Scott-Johnson .	ascott-johnson@lipsonneilson.com
19 Brenoch Wirthlin .	bwirthli@fclaw.com
20 CaraMia Gerard .	cgerard@mcdonaldcarano.com
21 George F. Ogilvie III .	gogilvie@mcdonaldcarano.com
22 Jessica Ayala .	jayala@fclaw.com
23 Joanna Grigoriev .	jgrigoriev@ag.nv.gov
24 Jon M. Wilson .	jwilson@broadandcassel.com
25 Kathy Barrett .	kbarrett@mcdonaldcarano.com

26
27
28

1	Marilyn Millam .	mmillam@ag.nv.gov
2	Nevada Attorney General .	wiznetfilings@ag.nv.gov
3	Paul Garcia .	pgarcia@fclaw.com
4	Renee Rittenhouse .	rrittenhouse@lipsonneilson.com
5	Rory Kay .	rkay@mcdonaldcarano.com
6	Susana Nutt .	snutt@lipsonneilson.com
7	Yusimy Bordes .	ybordes@broadandcassel.com
8	Jelena Jovanovic .	jjovanovic@mcdonaldcarano.com
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10	Karen Surowiec	ksurowiec@mcdonaldcarano.com
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13	Christian Orme	corne@hutchlegal.com
14	Danielle Kelley	dkelley@hutchlegal.com
15	Jonathan Wong	jwong@lipsonneilson.com
16	Erin Kolmansberger	erin.kolmansberger@nelsonmullins.com
17	Melissa Gomberg	melissa.gomberg@nelsonmullins.com
18	Juan Cerezo	jcerezo@lipsonneilson.com
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22	S. Dianne Pomonis	dpomonis@klnevada.com
23	Brenoch Wirthlin	bwirthlin@hutchlegal.com
24		
25		
26		
27		
28		

1 Jon Linder

jlinder@hutchlegal.com

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4 via United States Postal Service, postage prepaid, to the parties listed below at their last
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6 George Ogilvie

McDonald Carano Wilson LLP
Attn: George F. Ogilvie, III
2300 West Sahara Avenue - Suite 1200
Las Vegas, NV, 89102

8 Joseph Garin

Lipson Neilson P.C.
Attn: Joseph P. Garin
9900 Covington Cross Drive, Suite 120
Las Vegas, NV, 89144

Heather S. Hume

CLERK OF THE COURT

ODM

George F. Ogilvie III, Esq.
Nevada Bar No. 3552
McDONALD CARANO LLP
2300 West Sahara Avenue, Suite 1200
Las Vegas, NV 89102
Telephone: (702) 873-4100
Facsimile: (702) 873-9966
gogilvie@mcdonaldcarano.com

Jon M. Wilson, Esq. (Appearing *Pro Hac Vice*)
LAW OFFICES OF JON WILSON
200 Biscayne Blvd Way, Suite 4405
Miami, Florida 33131
Telephone: (310) 626-2216
jonwilson@jonmwilsonattorney.com

Kimberly Freedman, Esq. (Appearing *Pro Hac Vice*)
Erin Kolmansberger, Esq. (Appearing *Pro Hac Vice*)
NELSON MULLINS BROAD AND CASSEL
2 S. Biscayne Boulevard, 21st Floor
Miami, Florida 33131
Telephone: (305) 373-9400
Kimberly.Freedman@nelsonmullins.com
Erin.Kolmansberger@nelsonmullins.com

*Attorneys for Defendants Uni-Ter Underwriting
Management Corp., Uni-Ter Claims Services
Corp., and U.S. RE Corporation*

DISTRICT COURT

CLARK COUNTY, NEVADA

COMMISSIONER OF INSURANCE FOR THE
STATE OF NEVADA AS RECEIVER OF
LEWIS AND CLARK LTC RISK RETENTION
GROUP, INC.,

Plaintiffs,

v.

ROBERT CHUR, STEVE FOGG, MARK
GARBER, CAROL HARTER, ROBERT
HURLBUT, BARBARA LUMPKIN, JEFF
MARSHALL, ERIC STICKELS, UNI-TER
UNDERWRITING MANAGEMENT CORP.
UNI-TER CLAIMS SERVICES CORP., and
U.S. RE CORPORATION, DOES 1-50,
inclusive; and ROES 51-100, inclusive,

Defendants.

Case No. A-14-711535-C

Dept. No.: XXVII

**ORDER DENYING PLAINTIFF'S
MOTION IN LIMINE NUMBER 5: TO
LIMIT THE SCOPE OF EXPERT
WITNESS TESTIMONY REGARDING
SPECULATION CONCERNING THE
ECONOMY**

Date of Hearing: September 2, 2021
Time of Hearing: 10:00 a.m.

This matter came before the Court for hearing on September 2, 2021 on Plaintiff's Motion In Limine Number 5: To Limit The Scope Of Expert Witness Testimony Regarding Speculation Concerning The Economy. Brenoch Wirthlin, Esq., Christian M. Orme, Esq. and Tanya M. Fraser, Esq. of Hutchison & Steffen, PLLC appeared on behalf of Plaintiff. George F. Ogilvie III, Esq. of McDonald Carano LLP and Jon N. Wilson, Esq. of the Law Offices of Jon Wilson appeared on behalf of Defendants Uni-Ter Underwriting Management Corp., Uni-Ter Claims Services Corp., and U.S. RE Corporation.

The Court having considered the record and the briefs filed in support of and in opposition to the Motion, having entertained the oral arguments of counsel, and good cause appearing,

IT IS HEREBY ORDERED that Plaintiff's Motion In Limine Number 5: To Limit The Scope Of Expert Witness Testimony Regarding Speculation Concerning The Economy is **DENIED**. However, the Court will prohibit cumulative evidence of the economy.

DATED this 24th day of September, 2021.

Dated this 24th day of September, 2021

Nancy L. Allf

NANCY L. ALLF
District Court Judge
CE8 F01 6EDB9C5C
Nancy Allf
District Court Judge
TW

Submitted By:

Approved as to Form and Content:

McDONALD CARANO LLP

HUTCHISON & STEFFEN, PLLC

By: /s/ George F. Ogilvie III
George F. Ogilvie III, Esq. (#3552)
2300 West Sahara Avenue, Suite 1200
Las Vegas, NV 89102

By: /s/ Brenoch R. Wirthlin
Brenoch R. Wirthlin, Esq. (NSB #10282)
Christian M. Orme, Esq. (NSB #10175)
10080 West Alta Drive, Suite 200
Las Vegas, Nevada 89145

Jon M. Wilson, Esq.
(Admitted *Pro Hac Vice*)
LAW OFFICES OF JON WILSON
200 Biscayne Boulevard Way, Ste 4405
Miami, Florida 33131

Attorneys for Plaintiff

*Attorneys for Defendants Uni-Ter
Underwriting Management Corp., Uni-Ter
Claims Services Corp., and U.S. RE
Corporation*

Subject: FW: Emailing: Order Denying Plaintiffs Motion In Limine Number 5 To Limit The Scope Of Expert Witness Testimony Regarding Speculation Concerning The Economy 09 - Redline, Order Denying Plaintiffs Motion In Limine Number 6 To Strike Proffered Expert Witne

Attachments: Order Denying Plaintiffs Motion In Limine Number 5 To Limit The Scope Of Expert Witness Testimony Regarding Speculation Concerning The Economy 09 - Redline.docx; Order Denying Plaintiffs Motion In Limine Number 6 To Strike Proffered Expert Witness Alan Gray 091921 - version 1 - Redline.docx; Order Denying Plaintiffs Motion For Partial Summary Judgment Regarding The Uni-Ter Defendants Fiduciary Duties 091921 - version 1 - Redline.docx; Order Denying Plaintiffs Motion For Partial Summary Judgment Regarding Uni-Ter Defendants Breach Of Their Fiduciary Duties 091921 - version 1 - Redline.docx; Order Denying Plaintiffs Motion In Limine Number 1 To Preclude Sam Hewitt From Providing Expert Testimony Regarding Insolvency Analysis 091921 - Redline.docx; Order Denying Plaintiffs Motion In Limine Number 4 To Preclude Any Reference To Reinsurance Estimates 091921 - version 1 - Redline.docx

From: Brenoch R. Wirthlin <bwirthlin@hutchlegal.com>

Sent: Thursday, September 23, 2021 8:43 PM

To: George F. Ogilvie III <gogilvie@Mcdonaldcarano.com>; Jon Wilson <jonwilson2013@gmail.com>

Cc: Christian M. Orme <COrme@hutchlegal.com>; Tanya M. Fraser <tfraser@hutchlegal.com>; Jon Linder <jlinder@hutchlegal.com>

Subject: Emailing: Order Denying Plaintiffs Motion In Limine Number 5 To Limit The Scope Of Expert Witness Testimony Regarding Speculation Concerning The Economy 09 - Redline, Order Denying Plaintiffs Motion In Limine Number 6 To Strike Proffered Expert Witness A

We are ok with the following redline versions.

Brenoch R. Wirthlin

Partner

[HS logo]<<http://hutchlegal.com/>>

HUTCHISON & STEFFEN, PLLC

(702) 385-2500

hutchlegal.com <<http://www.hutchlegal.com>>

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1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4
5
6 Commissioner of Insurance for
7 the State of Nevada as Receiver
of Lewis and Clark, Plaintiff(s)

CASE NO: A-14-711535-C

DEPT. NO. Department 27

8 vs.

9 Robert Chur, Defendant(s)

10
11 **AUTOMATED CERTIFICATE OF SERVICE**

12
13 This automated certificate of service was generated by the Eighth Judicial District
14 Court. The foregoing Order Denying Motion was served via the court's electronic eFile
system to all recipients registered for e-Service on the above entitled case as listed below:

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aharris@fclaw.com

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aochoa@lipsonneilson.com

18 Ashley Scott-Johnson .

ascott-johnson@lipsonneilson.com

19 Brenoch Wirthlin .

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20 CaraMia Gerard .

cgerard@mcdonaldcarano.com

21 George F. Ogilvie III .

gogilvie@mcdonaldcarano.com

22 Jessica Ayala .

jayala@fclaw.com

23 Joanna Grigoriev .

jgrigoriev@ag.nv.gov

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jwilson@broadandcassel.com

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kbarrett@mcdonaldcarano.com

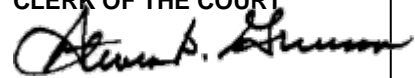
26
27
28

1	Marilyn Millam .	mmillam@ag.nv.gov
2	Nevada Attorney General .	wiznetfilings@ag.nv.gov
3	Paul Garcia .	pgarcia@fclaw.com
4	Renee Rittenhouse .	rrittenhouse@lipsonneilson.com
5	Rory Kay .	rkay@mcdonaldcarano.com
6	Susana Nutt .	snutt@lipsonneilson.com
7	Yusimy Bordes .	ybordes@broadandcassel.com
8	Jelena Jovanovic .	jjovanovic@mcdonaldcarano.com
9	Christian Orme	corne@hutchlegal.com
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11	Kimberly Freedman	kfreedman@broadandcassel.com
12	Danielle Kelley	dkelley@hutchlegal.com
13	Karen Surowiec	ksurowiec@mcdonaldcarano.com
14	Jonathan Wong	jwong@lipsonneilson.com
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21	Jon Linder	jlinder@klnevada.com
22	S. Dianne Pomonis	dpomonis@klnevada.com
23	Brenoch Wirthlin	bwirthlin@hutchlegal.com
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24
25
26
27
28

Jon Linder

jlinder@hutchlegal.com



NEOJ

George F. Ogilvie III, Esq.
Nevada Bar No. 3552
MCDONALD CARANO LLP
2300 West Sahara Avenue, Suite 1200
Las Vegas, NV 89102
Telephone: (702) 873-4100
Facsimile: (702) 873-9966
gogilvie@mcdonaldcarano.com

Jon M. Wilson, Esq. (Appearing *Pro Hac Vice*)
LAW OFFICES OF JON WILSON
200 Biscayne Blvd Way, Suite 4405
Miami, Florida 33131
Telephone: (310) 626-2216
jonwilson@jonmwilsonattorney.com

Kimberly Freedman, Esq. (Appearing *Pro Hac Vice*)
Erin Kolmansberger, Esq. (Appearing *Pro Hac Vice*)
NELSON MULLINS BROAD AND CASSEL
2 S. Biscayne Boulevard, 21st Floor
Miami, Florida 33131
Telephone: (305) 373-9400
Facsimile: (305) 373-9443
Kimberly.Freedman@nelsonmullins.com
Erin.Kolmansberger@nelsonmullins.com

*Attorneys for Defendants Uni-Ter Underwriting
Management Corp., Uni-Ter Claims Services
Corp., and U.S. RE Corporation*

**DISTRICT COURT
CLARK COUNTY, NEVADA**

COMMISSIONER OF INSURANCE FOR
THE STATE OF NEVADA AS RECEIVER
OF LEWIS AND CLARK LTC RISK
RETENTION GROUP, INC.,

Plaintiff,

vs.

ROBERT CHUR, STEVE FOGG, MARK
GARBER, CAROL HARTER, ROBERT
HURLBUT, BARBARA LUMPKIN, JEFF
MARSHALL, ERIC STICKELS, UNI-TER
UNDERWRITING MANAGEMENT CORP.
UNI-TER CLAIMS SERVICES CORP., and
U.S. RE CORPORATION, DOES 1-50,
inclusive; and ROES 51-100, inclusive,

Defendants.

Case No. A-14-711535-C

Dept. No.: XXVII

**NOTICE OF ENTRY OF ORDER
DENYING PLAINTIFF'S MOTION IN
LIMINE NO. 5: TO LIMIT THE SCOPE OF
EXPERT WITNESS TESTIMONY
REGARDING SPECULATION
CONCERNING THE ECONOMY**

PLEASE TAKE NOTICE that an Order Denying Plaintiff's Motion in Limine No. 5, to Limit the Scope of Expert Witness Testimony Regarding Speculation Concerning the Economy was entered in the above-captioned case on the 24th day of September, 2021, a copy of which is attached hereto.

DATED this 30th day of September, 2021.

McDONALD CARANO LLP

By: /s/ George F. Ogilvie III
George F. Ogilvie III (NSBN 3552)
2300 West Sahara Avenue, Suite 1200
Las Vegas, NV 89102

Jon M. Wilson, Esq. (Appearing *Pro Hac Vice*)
LAW OFFICES OF JON WILSON
200 Biscayne Blvd Way, Suite 4405
Miami, Florida 33131

Kimberly Freedman, Esq. (Appearing *Pro Hac Vice*)
Erin Kolmansberger, Esq. (Appearing *Pro Hac Vice*)
NELSON MULLINS BROAD AND CASSEL
2 S. Biscayne Boulevard, 21st Floor
Miami, Florida 33131

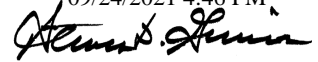
*Attorneys for Defendants Uni-Ter Underwriting
Management Corp., Uni-Ter Claims Services
Corp., and U.S. RE Corporation*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of McDonald Carano LLP, and that on or about the 30th day of September, 2021, a true and correct copy of the foregoing **NOTICE OF ENTRY OF ORDER DENYING PLAINTIFF'S MOTION IN LIMINE NO. 5: TO LIMIT THE SCOPE OF EXPERT WITNESS TESTIMONY REGARDING SPECULATION CONCERNING THE ECONOMY** was electronically served with the Clerk of the Court via the Clark County District Court Electronic Filing Program which will provide copies to all counsel of record registered to receive such electronic notification.

/s/ Jelena Jovanovic

An employee of McDonald Carano LLP


CLERK OF THE COURT

ODM

George F. Ogilvie III, Esq.
Nevada Bar No. 3552
McDONALD CARANO LLP
2300 West Sahara Avenue, Suite 1200
Las Vegas, NV 89102
Telephone: (702) 873-4100
Facsimile: (702) 873-9966
gogilvie@mcdonaldcarano.com

Jon M. Wilson, Esq. (Appearing *Pro Hac Vice*)
LAW OFFICES OF JON WILSON
200 Biscayne Blvd Way, Suite 4405
Miami, Florida 33131
Telephone: (310) 626-2216
jonwilson@jonmwilsonattorney.com

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2 S. Biscayne Boulevard, 21st Floor
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*Attorneys for Defendants Uni-Ter Underwriting
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DISTRICT COURT

CLARK COUNTY, NEVADA

COMMISSIONER OF INSURANCE FOR THE
STATE OF NEVADA AS RECEIVER OF
LEWIS AND CLARK LTC RISK RETENTION
GROUP, INC.,

Plaintiffs,

v.

ROBERT CHUR, STEVE FOGG, MARK
GARBER, CAROL HARTER, ROBERT
HURLBUT, BARBARA LUMPKIN, JEFF
MARSHALL, ERIC STICKELS, UNI-TER
UNDERWRITING MANAGEMENT CORP.
UNI-TER CLAIMS SERVICES CORP., and
U.S. RE CORPORATION, DOES 1-50,
inclusive; and ROES 51-100, inclusive,

Defendants.

Case No. A-14-711535-C

Dept. No.: XXVII

**ORDER DENYING PLAINTIFF'S
MOTION IN LIMINE NUMBER 5: TO
LIMIT THE SCOPE OF EXPERT
WITNESS TESTIMONY REGARDING
SPECULATION CONCERNING THE
ECONOMY**

Date of Hearing: September 2, 2021
Time of Hearing: 10:00 a.m.

This matter came before the Court for hearing on September 2, 2021 on Plaintiff's Motion In Limine Number 5: To Limit The Scope Of Expert Witness Testimony Regarding Speculation Concerning The Economy. Brenoch Wirthlin, Esq., Christian M. Orme, Esq. and Tanya M. Fraser, Esq. of Hutchison & Steffen, PLLC appeared on behalf of Plaintiff. George F. Ogilvie III, Esq. of McDonald Carano LLP and Jon N. Wilson, Esq. of the Law Offices of Jon Wilson appeared on behalf of Defendants Uni-Ter Underwriting Management Corp., Uni-Ter Claims Services Corp., and U.S. RE Corporation.

The Court having considered the record and the briefs filed in support of and in opposition to the Motion, having entertained the oral arguments of counsel, and good cause appearing,

IT IS HEREBY ORDERED that Plaintiff's Motion In Limine Number 5: To Limit The Scope Of Expert Witness Testimony Regarding Speculation Concerning The Economy is **DENIED**. However, the Court will prohibit cumulative evidence of the economy.

DATED this 24th day of September, 2021.

Dated this 24th day of September, 2021

Nancy L. Allf

NANCY L. ALLF
District Court Judge
CE8 F01 6EDB9C5C
Nancy Allf
District Court Judge
TW

Submitted By:

Approved as to Form and Content:

McDONALD CARANO LLP

HUTCHISON & STEFFEN, PLLC

By: /s/ George F. Ogilvie III
George F. Ogilvie III, Esq. (#3552)
2300 West Sahara Avenue, Suite 1200
Las Vegas, NV 89102

By: /s/ Brenoch R. Wirthlin
Brenoch R. Wirthlin, Esq. (NSB #10282)
Christian M. Orme, Esq. (NSB #10175)
10080 West Alta Drive, Suite 200
Las Vegas, Nevada 89145

Jon M. Wilson, Esq.
(Admitted *Pro Hac Vice*)
LAW OFFICES OF JON WILSON
200 Biscayne Boulevard Way, Ste 4405
Miami, Florida 33131

Attorneys for Plaintiff

*Attorneys for Defendants Uni-Ter
Underwriting Management Corp., Uni-Ter
Claims Services Corp., and U.S. RE
Corporation*

Subject: FW: Emailing: Order Denying Plaintiffs Motion In Limine Number 5 To Limit The Scope Of Expert Witness Testimony Regarding Speculation Concerning The Economy 09 - Redline, Order Denying Plaintiffs Motion In Limine Number 6 To Strike Proffered Expert Witne

Attachments: Order Denying Plaintiffs Motion In Limine Number 5 To Limit The Scope Of Expert Witness Testimony Regarding Speculation Concerning The Economy 09 - Redline.docx; Order Denying Plaintiffs Motion In Limine Number 6 To Strike Proffered Expert Witness Alan Gray 091921 - version 1 - Redline.docx; Order Denying Plaintiffs Motion For Partial Summary Judgment Regarding The Uni-Ter Defendants Fiduciary Duties 091921 - version 1 - Redline.docx; Order Denying Plaintiffs Motion For Partial Summary Judgment Regarding Uni-Ter Defendants Breach Of Their Fiduciary Duties 091921 - version 1 - Redline.docx; Order Denying Plaintiffs Motion In Limine Number 1 To Preclude Sam Hewitt From Providing Expert Testimony Regarding Insolvency Analysis 091921 - Redline.docx; Order Denying Plaintiffs Motion In Limine Number 4 To Preclude Any Reference To Reinsurance Estimates 091921 - version 1 - Redline.docx

From: Brenoch R. Wirthlin <bwirthlin@hutchlegal.com>
Sent: Thursday, September 23, 2021 8:43 PM
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Cc: Christian M. Orme <COrme@hutchlegal.com>; Tanya M. Fraser <tfraser@hutchlegal.com>; Jon Linder <jlinder@hutchlegal.com>
Subject: Emailing: Order Denying Plaintiffs Motion In Limine Number 5 To Limit The Scope Of Expert Witness Testimony Regarding Speculation Concerning The Economy 09 - Redline, Order Denying Plaintiffs Motion In Limine Number 6 To Strike Proffered Expert Witness A

We are ok with the following redline versions.

Brenoch R. Wirthlin
Partner
[HS logo]<<http://hutchlegal.com/>>
HUTCHISON & STEFFEN, PLLC
(702) 385-2500
[hutchlegal.com](http://www.hutchlegal.com) <<http://www.hutchlegal.com>>

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CLARK COUNTY, NEVADA

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6 Commissioner of Insurance for
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CASE NO: A-14-711535-C

DEPT. NO. Department 27

8 vs.

9 Robert Chur, Defendant(s)

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bwirthli@fclaw.com

20 CaraMia Gerard .

cgerard@mcdonaldcarano.com

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gogilvie@mcdonaldcarano.com

22 Jessica Ayala .

jayala@fclaw.com

23 Joanna Grigoriev .

jgrigoriev@ag.nv.gov

24 Jon M. Wilson .

jwilson@broadandcassel.com

25 Kathy Barrett .

kbarrett@mcdonaldcarano.com

26
27
28

1	Marilyn Millam .	mmillam@ag.nv.gov
2	Nevada Attorney General .	wiznetfilings@ag.nv.gov
3	Paul Garcia .	pgarcia@fclaw.com
4	Renee Rittenhouse .	rrittenhouse@lipsonneilson.com
5	Rory Kay .	rkay@mcdonaldcarano.com
6	Susana Nutt .	snutt@lipsonneilson.com
7	Yusimy Bordes .	ybordes@broadandcassel.com
8	Jelena Jovanovic .	jjovanovic@mcdonaldcarano.com
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11	Kimberly Freedman	kfreedman@broadandcassel.com
12	Danielle Kelley	dkelley@hutchlegal.com
13	Karen Surowiec	ksurowiec@mcdonaldcarano.com
14	Jonathan Wong	jwong@lipsonneilson.com
15	Erin Kolmansberger	erin.kolmansberger@nelsonmullins.com
16	Melissa Gomberg	melissa.gomberg@nelsonmullins.com
17	Betsy Gould	bgould@doi.nv.gov
18	Juan Cerezo	jcerezo@lipsonneilson.com
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22	S. Dianne Pomonis	dpomonis@klnevada.com
23	Brenoch Wirthlin	bwirthlin@hutchlegal.com
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23
24
25
26
27
28

Jon Linder

jlinder@hutchlegal.com

Heather S. Hume

CLERK OF THE COURT

ODM

George F. Ogilvie III, Esq.
Nevada Bar No. 3552
McDONALD CARANO LLP
2300 West Sahara Avenue, Suite 1200
Las Vegas, NV 89102
Telephone: (702) 873-4100
Facsimile: (702) 873-9966
gogilvie@mcdonaldcarano.com

Jon M. Wilson, Esq. (Appearing *Pro Hac Vice*)
LAW OFFICES OF JON WILSON
200 Biscayne Blvd Way, Suite 4405
Miami, Florida 33131
Telephone: (310) 626-2216
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Kimberly Freedman, Esq. (Appearing *Pro Hac Vice*)
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Telephone: (305) 373-9400
Kimberly.Freedman@nelsonmullins.com
Erin.Kolmansberger@nelsonmullins.com

*Attorneys for Defendants Uni-Ter Underwriting
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DISTRICT COURT

CLARK COUNTY, NEVADA

COMMISSIONER OF INSURANCE FOR THE
STATE OF NEVADA AS RECEIVER OF
LEWIS AND CLARK LTC RISK RETENTION
GROUP, INC.,

Plaintiffs,

v.

ROBERT CHUR, STEVE FOGG, MARK
GARBER, CAROL HARTER, ROBERT
HURLBUT, BARBARA LUMPKIN, JEFF
MARSHALL, ERIC STICKELS, UNI-TER
UNDERWRITING MANAGEMENT CORP.
UNI-TER CLAIMS SERVICES CORP., and
U.S. RE CORPORATION, DOES 1-50,
inclusive; and ROES 51-100, inclusive,

Defendants.

Case No. A-14-711535-C

Dept. No.: XXVII

**ORDER DENYING PLAINTIFF'S
MOTION IN LIMINE NUMBER 4: TO
PRECLUDE ANY REFERENCE TO
REINSURANCE ESTIMATES**

Date of Hearing: September 2, 2021
Time of Hearing: 10:00 a.m.

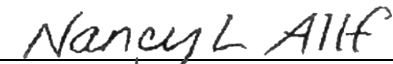
This matter came before the Court for hearing on September 2, 2021 on Plaintiff's Motion In Limine Number 4: To Preclude Any Reference To Reinsurance Estimates. Brenoch Wirthlin, Esq., Christian M. Orme, Esq. and Tanya M. Fraser, Esq. of Hutchison & Steffen, PLLC appeared on behalf of Plaintiff. George F. Ogilvie III, Esq. of McDonald Carano LLP and Jon N. Wilson, Esq. of the Law Offices of Jon Wilson appeared on behalf of Defendants Uni-Ter Underwriting Management Corp., Uni-Ter Claims Services Corp., and U.S. RE Corporation.

The Court having considered the record and the briefs filed in support of and in opposition to the Motion, having entertained the oral arguments of counsel, and good cause appearing,

IT IS HEREBY ORDERED that Plaintiff's Motion In Limine Number 4: To Preclude Any Reference To Reinsurance Estimates is **DENIED**.

DATED this 24th day of September, 2021.

Dated this 24th day of September, 2021


NANCY L. ALLF
District Court Judge
348 9B3 D885 A999
Nancy Allf
District Court Judge

TW

Submitted By:

Approved as to Form and Content:

MCDONALD CARANO LLP

HUTCHISON & STEFFEN, PLLC

By: /s/ George F. Ogilvie III
George F. Ogilvie III, Esq. (#3552)
2300 West Sahara Avenue, Suite 1200
Las Vegas, NV 89102

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LAW OFFICES OF JON WILSON
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Attorneys for Plaintiff

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Subject: Emailing: Order Denying Plaintiffs Motion In Limine Number 5 To Limit The Scope Of Expert Witness Testimony Regarding Speculation Concerning The Economy 09 - Redline, Order Denying Plaintiffs Motion In Limine Number 6 To Strike Proffered Expert Witness A

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CASE NO: A-14-711535-C

DEPT. NO. Department 27

8 vs.

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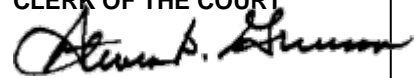
kbarrett@mcdonaldcarano.com
26
27
28

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21	Jon Linder	jlinder@klnevada.com
22	S. Dianne Pomonis	dpomonis@klnevada.com
23	Brenoch Wirthlin	bwirthlin@hutchlegal.com
24		
25		
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22
23
24
25
26
27
28

Jon Linder

jlinder@hutchlegal.com



NEOJ

George F. Ogilvie III, Esq.
Nevada Bar No. 3552
MCDONALD CARANO LLP
2300 West Sahara Avenue, Suite 1200
Las Vegas, NV 89102
Telephone: (702) 873-4100
Facsimile: (702) 873-9966
gogilvie@mcdonaldcarano.com

Jon M. Wilson, Esq. (Appearing *Pro Hac Vice*)
LAW OFFICES OF JON WILSON
200 Biscayne Blvd Way, Suite 4405
Miami, Florida 33131
Telephone: (310) 626-2216
jonwilson@jonmwilsonattorney.com

Kimberly Freedman, Esq. (Appearing *Pro Hac Vice*)
Erin Kolmansberger, Esq. (Appearing *Pro Hac Vice*)
NELSON MULLINS BROAD AND CASSEL
2 S. Biscayne Boulevard, 21st Floor
Miami, Florida 33131
Telephone: (305) 373-9400
Facsimile: (305) 373-9443
Kimberly.Freedman@nelsonmullins.com
Erin.Kolmansberger@nelsonmullins.com

*Attorneys for Defendants Uni-Ter Underwriting
Management Corp., Uni-Ter Claims Services
Corp., and U.S. RE Corporation*

**DISTRICT COURT
CLARK COUNTY, NEVADA**

COMMISSIONER OF INSURANCE FOR
THE STATE OF NEVADA AS RECEIVER
OF LEWIS AND CLARK LTC RISK
RETENTION GROUP, INC.,

Plaintiff,

vs.

ROBERT CHUR, STEVE FOGG, MARK
GARBER, CAROL HARTER, ROBERT
HURLBUT, BARBARA LUMPKIN, JEFF
MARSHALL, ERIC STICKELS, UNI-TER
UNDERWRITING MANAGEMENT CORP.
UNI-TER CLAIMS SERVICES CORP., and
U.S. RE CORPORATION, DOES 1-50,
inclusive; and ROES 51-100, inclusive,

Defendants.

Case No. A-14-711535-C

Dept. No.: XXVII

**NOTICE OF ENTRY OF ORDER
DENYING PLAINTIFF'S MOTION IN
LIMINE NO. 4: TO PRECLUDE ANY
REFERENCE TO REINSURANCE
ESTIMATES**

DATED this 30th day of September, 2021.

Attorneys for Defendants Uni-Ter Underwriting Management Corp., Uni-Ter Claims Services Corp., and U.S. RE Corporation

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of McDonald Carano LLP, and that on or about the 30th day of September, 2021, a true and correct copy of the foregoing **NOTICE OF ENTRY OF ORDER DENYING PLAINTIFF'S MOTION IN LIMINE NO. 4: TO PRECLUDE ANY REFERENCE TO REINSURANCE ESTIMATES** was electronically served with the Clerk of the Court via the Clark County District Court Electronic Filing Program which will provide copies to all counsel of record registered to receive such electronic notification.

/s/ Jelena Jovanovic
An employee of McDonald Carano LLP

Heather S. Smith

CLERK OF THE COURT

ODM

George F. Ogilvie III, Esq.
Nevada Bar No. 3552
McDONALD CARANO LLP
2300 West Sahara Avenue, Suite 1200
Las Vegas, NV 89102
Telephone: (702) 873-4100
Facsimile: (702) 873-9966
gogilvie@mcdonaldcarano.com

Jon M. Wilson, Esq. (Appearing *Pro Hac Vice*)
LAW OFFICES OF JON WILSON
200 Biscayne Blvd Way, Suite 4405
Miami, Florida 33131
Telephone: (310) 626-2216
jonwilson@jonmwilsonattorney.com

Kimberly Freedman, Esq. (Appearing *Pro Hac Vice*)
Erin Kolmansberger, Esq. (Appearing *Pro Hac Vice*)
NELSON MULLINS BROAD AND CASSEL
2 S. Biscayne Boulevard, 21st Floor
Miami, Florida 33131
Telephone: (305) 373-9400
Kimberly.Freedman@nelsonmullins.com
Erin.Kolmansberger@nelsonmullins.com

*Attorneys for Defendants Uni-Ter Underwriting
Management Corp., Uni-Ter Claims Services
Corp., and U.S. RE Corporation*

DISTRICT COURT

CLARK COUNTY, NEVADA

COMMISSIONER OF INSURANCE FOR THE
STATE OF NEVADA AS RECEIVER OF
LEWIS AND CLARK LTC RISK RETENTION
GROUP, INC.,

Plaintiffs,

v.

ROBERT CHUR, STEVE FOGG, MARK
GARBER, CAROL HARTER, ROBERT
HURLBUT, BARBARA LUMPKIN, JEFF
MARSHALL, ERIC STICKELS, UNI-TER
UNDERWRITING MANAGEMENT CORP.
UNI-TER CLAIMS SERVICES CORP., and
U.S. RE CORPORATION, DOES 1-50,
inclusive; and ROES 51-100, inclusive,

Defendants.

Case No. A-14-711535-C

Dept. No.: XXVII

**ORDER DENYING PLAINTIFF'S
MOTION IN LIMINE NUMBER 4: TO
PRECLUDE ANY REFERENCE TO
REINSURANCE ESTIMATES**

Date of Hearing: September 2, 2021
Time of Hearing: 10:00 a.m.

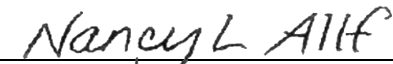
This matter came before the Court for hearing on September 2, 2021 on Plaintiff's Motion In Limine Number 4: To Preclude Any Reference To Reinsurance Estimates. Brenoch Wirthlin, Esq., Christian M. Orme, Esq. and Tanya M. Fraser, Esq. of Hutchison & Steffen, PLLC appeared on behalf of Plaintiff. George F. Ogilvie III, Esq. of McDonald Carano LLP and Jon N. Wilson, Esq. of the Law Offices of Jon Wilson appeared on behalf of Defendants Uni-Ter Underwriting Management Corp., Uni-Ter Claims Services Corp., and U.S. RE Corporation.

The Court having considered the record and the briefs filed in support of and in opposition to the Motion, having entertained the oral arguments of counsel, and good cause appearing,

IT IS HEREBY ORDERED that Plaintiff's Motion In Limine Number 4: To Preclude Any Reference To Reinsurance Estimates is **DENIED**.

DATED this 24th day of September, 2021.

Dated this 24th day of September, 2021


NANCY L. ALLF
District Court Judge
348 9B3 D885 A999
Nancy Allf
District Court Judge

TW

Submitted By:

Approved as to Form and Content:

McDONALD CARANO LLP

HUTCHISON & STEFFEN, PLLC

By: /s/ George F. Ogilvie III
George F. Ogilvie III, Esq. (#3552)
2300 West Sahara Avenue, Suite 1200
Las Vegas, NV 89102

By: /s/ Brenoch R. Wirthlin
Brenoch R. Wirthlin, Esq. (NSB #10282)
Christian M. Orme, Esq. (NSB #10175)
10080 West Alta Drive, Suite 200
Las Vegas, Nevada 89145

Jon M. Wilson, Esq.
(Admitted *Pro Hac Vice*)
LAW OFFICES OF JON WILSON
200 Biscayne Boulevard Way, Ste 4405
Miami, Florida 33131

Attorneys for Plaintiff

*Attorneys for Defendants Uni-Ter
Underwriting Management Corp., Uni-Ter
Claims Services Corp., and U.S. RE
Corporation*

Subject: FW: Emailing: Order Denying Plaintiffs Motion In Limine Number 5 To Limit The Scope Of Expert Witness Testimony Regarding Speculation Concerning The Economy 09 - Redline, Order Denying Plaintiffs Motion In Limine Number 6 To Strike Proffered Expert Witne

Attachments: Order Denying Plaintiffs Motion In Limine Number 5 To Limit The Scope Of Expert Witness Testimony Regarding Speculation Concerning The Economy 09 - Redline.docx; Order Denying Plaintiffs Motion In Limine Number 6 To Strike Proffered Expert Witness Alan Gray 091921 - version 1 - Redline.docx; Order Denying Plaintiffs Motion For Partial Summary Judgment Regarding The Uni-Ter Defendants Fiduciary Duties 091921 - version 1 - Redline.docx; Order Denying Plaintiffs Motion For Partial Summary Judgment Regarding Uni-Ter Defendants Breach Of Their Fiduciary Duties 091921 - version 1 - Redline.docx; Order Denying Plaintiffs Motion In Limine Number 1 To Preclude Sam Hewitt From Providing Expert Testimony Regarding Insolvency Analysis 091921 - Redline.docx; Order Denying Plaintiffs Motion In Limine Number 4 To Preclude Any Reference To Reinsurance Estimates 091921 - version 1 - Redline.docx

From: Brenoch R. Wirthlin <bwirthlin@hutchlegal.com>
Sent: Thursday, September 23, 2021 8:43 PM
To: George F. Ogilvie III <gogilvie@Mcdonaldcarano.com>; Jon Wilson <jonwilson2013@gmail.com>
Cc: Christian M. Orme <COrme@hutchlegal.com>; Tanya M. Fraser <tfraser@hutchlegal.com>; Jon Linder <jlinder@hutchlegal.com>
Subject: Emailing: Order Denying Plaintiffs Motion In Limine Number 5 To Limit The Scope Of Expert Witness Testimony Regarding Speculation Concerning The Economy 09 - Redline, Order Denying Plaintiffs Motion In Limine Number 6 To Strike Proffered Expert Witness A

We are ok with the following redline versions.

Brenoch R. Wirthlin
Partner
[HS logo]<<http://hutchlegal.com/>>
HUTCHISON & STEFFEN, PLLC
(702) 385-2500
[hutchlegal.com](http://www.hutchlegal.com) <<http://www.hutchlegal.com>>

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1 **CSERV**

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5
6 Commissioner of Insurance for
7 the State of Nevada as Receiver
8 of Lewis and Clark, Plaintiff(s)

CASE NO: A-14-711535-C

DEPT. NO. Department 27

9 vs.

10 Robert Chur, Defendant(s)

11 **AUTOMATED CERTIFICATE OF SERVICE**

12
13 This automated certificate of service was generated by the Eighth Judicial District
14 Court. The foregoing Order Denying Motion was served via the court's electronic eFile
15 system to all recipients registered for e-Service on the above entitled case as listed below:

Service Date: 9/24/2021

16 Adrina Harris .	aharris@fclaw.com
17 Angela T. Nakamura Ochoa .	aochoa@lipsonneilson.com
18 Ashley Scott-Johnson .	ascott-johnson@lipsonneilson.com
19 Brenoch Wirthlin .	bwirthli@fclaw.com
20 CaraMia Gerard .	cgerard@mcdonaldcarano.com
21 George F. Ogilvie III .	gogilvie@mcdonaldcarano.com
22 Jessica Ayala .	jayala@fclaw.com
23 Joanna Grigoriev .	jgrigoriev@ag.nv.gov
24 Jon M. Wilson .	jwilson@broadandcassel.com
25 Kathy Barrett .	kbarrett@mcdonaldcarano.com

26
27
28

1	Marilyn Millam .	mmillam@ag.nv.gov
2	Nevada Attorney General .	wiznetfilings@ag.nv.gov
3	Paul Garcia .	pgarcia@fclaw.com
4	Renee Rittenhouse .	rrittenhouse@lipsonneilson.com
5	Rory Kay .	rkay@mcdonaldcarano.com
6	Susana Nutt .	snutt@lipsonneilson.com
7	Yusimy Bordes .	ybordes@broadandcassel.com
8	Jelena Jovanovic .	jjovanovic@mcdonaldcarano.com
9	Christian Orme	corne@hutchlegal.com
10	Patricia Lee	plee@hutchlegal.com
11	Kimberly Freedman	kfreedman@broadandcassel.com
12	Danielle Kelley	dkelley@hutchlegal.com
13	Karen Surowiec	ksurowiec@mcdonaldcarano.com
14	Jonathan Wong	jwong@lipsonneilson.com
15	Erin Kolmansberger	erin.kolmansberger@nelsonmullins.com
16	Melissa Gomberg	melissa.gomberg@nelsonmullins.com
17	Betsy Gould	bgould@doi.nv.gov
18	Juan Cerezo	jcerezo@lipsonneilson.com
19	Heather Bennett	hshepherd@hutchlegal.com
20	Brenoch Wirthlin	bwirthlin@klnevada.com
21	Jon Linder	jlinder@klnevada.com
22	S. Dianne Pomonis	dpomonis@klnevada.com
23	Brenoch Wirthlin	bwirthlin@hutchlegal.com
24		
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28

Jon Linder

jlinder@hutchlegal.com

ODM

George F. Ogilvie III, Esq.
Nevada Bar No. 3552
McDONALD CARANO LLP
2300 West Sahara Avenue, Suite 1200
Las Vegas, NV 89102
Telephone: (702) 873-4100
Facsimile: (702) 873-9966
gogilvie@mcdonaldcarano.com

Jon M. Wilson, Esq. (Appearing *Pro Hac Vice*)
LAW OFFICES OF JON WILSON
200 Biscayne Blvd Way, Suite 4405
Miami, Florida 33131
Telephone: (310) 626-2216
jonwilson@jonmwilsonattorney.com

Kimberly Freedman, Esq. (Appearing *Pro Hac Vice*)
Erin Kolmansberger, Esq. (Appearing *Pro Hac Vice*)
NELSON MULLINS BROAD AND CASSEL
2 S. Biscayne Boulevard, 21st Floor
Miami, Florida 33131
Telephone: (305) 373-9400
Kimberly.Freedman@nelsonmullins.com
Erin.Kolmansberger@nelsonmullins.com

*Attorneys for Defendants Uni-Ter Underwriting
Management Corp., Uni-Ter Claims Services
Corp., and U.S. RE Corporation*

DISTRICT COURT

CLARK COUNTY, NEVADA

COMMISSIONER OF INSURANCE FOR THE
STATE OF NEVADA AS RECEIVER OF
LEWIS AND CLARK LTC RISK RETENTION
GROUP, INC.,

Plaintiffs,

v.

ROBERT CHUR, STEVE FOGG, MARK
GARBER, CAROL HARTER, ROBERT
HURLBUT, BARBARA LUMPKIN, JEFF
MARSHALL, ERIC STICKELS, UNI-TER
UNDERWRITING MANAGEMENT CORP.
UNI-TER CLAIMS SERVICES CORP., and
U.S. RE CORPORATION, DOES 1-50,
inclusive; and ROES 51-100, inclusive,

Defendants.

Case No. A-14-711535-C

Dept. No.: XXVII

**ORDER DENYING PLAINTIFF'S
MOTION IN LIMINE NUMBER 1: TO
PRECLUDE SAM HEWITT FROM
PROVIDING EXPERT TESTIMONY
REGARDING INSOLVENCY
ANALYSIS**

Date of Hearing: September 2, 2021
Time of Hearing: 10:00 a.m.

This matter came before the Court for hearing on September 2, 2021 on Plaintiff's Motion In Limine Number 1: To Preclude Sam Hewitt From Providing Expert Testimony Regarding Insolvency Analysis. Brenoch Wirthlin, Esq., Christian M. Orme, Esq. and Tanya M. Fraser, Esq. of Hutchison & Steffen, PLLC appeared on behalf of Plaintiff. George F. Ogilvie III, Esq. of McDonald Carano LLP and Jon N. Wilson, Esq. of the Law Offices of Jon Wilson appeared on behalf of Defendants Uni-Ter Underwriting Management Corp., Uni-Ter Claims Services Corp., and U.S. RE Corporation.

The Court having considered the record and the briefs filed in support of and in opposition to the Motion, having entertained the oral arguments of counsel, and good cause appearing,

IT IS HEREBY ORDERED that Plaintiff's Motion In Limine Number 1: To Preclude Sam Hewitt From Providing Expert Testimony Regarding Insolvency Analysis is **DENIED**. However, a proper foundation will have to be laid if Mr. Hewitt is to testify regarding the timing of Lewis and Clark LTC Risk Retention Group, Inc.'s insolvency.

DATED this 24th day of September, 2021.

Dated this 24th day of September, 2021

Nancy L. Allf
NANCY L. ALLF
District Court Judge TW

1F8 DB5 80A3 E618

Nancy Allf

Appointed as Foundation and Content:

Submitted By:

McDONALD CARANO LLP

HUTCHISON & STEFFEN, PLLC

By: /s/ George F. Ogilvie III
George F. Ogilvie III, Esq. (#3552)
2300 West Sahara Avenue, Suite 1200
Las Vegas, NV 89102

By: /s/ Brenoch R. Wirthlin
Brenoch R. Wirthlin, Esq. (NSB #10282)
Christian M. Orme, Esq. (NSB #10175)
10080 West Alta Drive, Suite 200
Las Vegas, Nevada 89145

Jon M. Wilson, Esq.
(Admitted *Pro Hac Vice*)
LAW OFFICES OF JON WILSON
200 Biscayne Boulevard Way, Ste 4405
Miami, Florida 33131

Attorneys for Plaintiff

*Attorneys for Defendants Uni-Ter
Underwriting Management Corp., Uni-Ter
Claims Services Corp., and U.S. RE
Corporation*

Subject: FW: Emailing: Order Denying Plaintiffs Motion In Limine Number 5 To Limit The Scope Of Expert Witness Testimony Regarding Speculation Concerning The Economy 09 - Redline, Order Denying Plaintiffs Motion In Limine Number 6 To Strike Proffered Expert Witne

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We are ok with the following redline versions.

Brenoch R. Wirthlin
Partner
[HS logo]<<http://hutchlegal.com/>>
HUTCHISON & STEFFEN, PLLC
(702) 385-2500
[hutchlegal.com](http://www.hutchlegal.com) <<http://www.hutchlegal.com>>

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1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

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6 Commissioner of Insurance for
7 the State of Nevada as Receiver
of Lewis and Clark, Plaintiff(s)

CASE NO: A-14-711535-C

DEPT. NO. Department 27

8 vs.

9 Robert Chur, Defendant(s)

10
11 **AUTOMATED CERTIFICATE OF SERVICE**

12
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14 Court. The foregoing Order Denying Motion was served via the court's electronic eFile
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16 Adrina Harris .

aharris@fclaw.com

17 Angela T. Nakamura Ochoa .

aochoa@lipsonneilson.com

18 Ashley Scott-Johnson .

ascott-johnson@lipsonneilson.com

19 Brenoch Wirthlin .

bwirthli@fclaw.com

20 CaraMia Gerard .

cgerard@mcdonaldcarano.com

21 George F. Ogilvie III .

gogilvie@mcdonaldcarano.com

22 Jessica Ayala .

jayala@fclaw.com

23 Joanna Grigoriev .

jgrigoriev@ag.nv.gov

24 Jon M. Wilson .

jwilson@broadandcassel.com

25 Kathy Barrett .

kbarrett@mcdonaldcarano.com

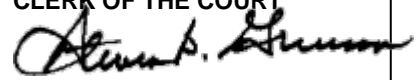
26
27
28

1	Marilyn Millam .	mmillam@ag.nv.gov
2	Nevada Attorney General .	wiznetfilings@ag.nv.gov
3	Paul Garcia .	pgarcia@fclaw.com
4	Renee Rittenhouse .	rrittenhouse@lipsonneilson.com
5	Rory Kay .	rkay@mcdonaldcarano.com
6	Susana Nutt .	snutt@lipsonneilson.com
7	Yusimy Bordes .	ybordes@broadandcassel.com
8	Jelena Jovanovic .	jjovanovic@mcdonaldcarano.com
9	Christian Orme	corne@hutchlegal.com
10	Patricia Lee	plee@hutchlegal.com
11	Kimberly Freedman	kfreedman@broadandcassel.com
12	Danielle Kelley	dkelley@hutchlegal.com
13	Karen Surowiec	ksurowiec@mcdonaldcarano.com
14	Jonathan Wong	jwong@lipsonneilson.com
15	Erin Kolmansberger	erin.kolmansberger@nelsonmullins.com
16	Melissa Gomberg	melissa.gomberg@nelsonmullins.com
17	Betsy Gould	bgould@doi.nv.gov
18	Juan Cerezo	jcerezo@lipsonneilson.com
19	Heather Bennett	hshepherd@hutchlegal.com
20	Brenoch Wirthlin	bwirthlin@klnevada.com
21	Jon Linder	jlinder@klnevada.com
22	S. Dianne Pomonis	dpomonis@klnevada.com
23	Brenoch Wirthlin	bwirthlin@hutchlegal.com
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28

Jon Linder

jlinder@hutchlegal.com



NEOJ

George F. Ogilvie III, Esq.
Nevada Bar No. 3552
MCDONALD CARANO LLP
2300 West Sahara Avenue, Suite 1200
Las Vegas, NV 89102
Telephone: (702) 873-4100
Facsimile: (702) 873-9966
gogilvie@mcdonaldcarano.com

Jon M. Wilson, Esq. (Appearing *Pro Hac Vice*)
LAW OFFICES OF JON WILSON
200 Biscayne Blvd Way, Suite 4405
Miami, Florida 33131
Telephone: (310) 626-2216
jonwilson@jonmwilsonattorney.com

Kimberly Freedman, Esq. (Appearing *Pro Hac Vice*)
Erin Kolmansberger, Esq. (Appearing *Pro Hac Vice*)
NELSON MULLINS BROAD AND CASSEL
2 S. Biscayne Boulevard, 21st Floor
Miami, Florida 33131
Telephone: (305) 373-9400
Facsimile: (305) 373-9443
Kimberly.Freedman@nelsonmullins.com
Erin.Kolmansberger@nelsonmullins.com

*Attorneys for Defendants Uni-Ter Underwriting
Management Corp., Uni-Ter Claims Services
Corp., and U.S. RE Corporation*

**DISTRICT COURT
CLARK COUNTY, NEVADA**

COMMISSIONER OF INSURANCE FOR
THE STATE OF NEVADA AS RECEIVER
OF LEWIS AND CLARK LTC RISK
RETENTION GROUP, INC.,

Plaintiff,

vs.

ROBERT CHUR, STEVE FOGG, MARK
GARBER, CAROL HARTER, ROBERT
HURLBUT, BARBARA LUMPKIN, JEFF
MARSHALL, ERIC STICKELS, UNI-TER
UNDERWRITING MANAGEMENT CORP.
UNI-TER CLAIMS SERVICES CORP., and
U.S. RE CORPORATION, DOES 1-50,
inclusive; and ROES 51-100, inclusive,

Defendants.

Case No. A-14-711535-C

Dept. No.: XXVII

**NOTICE OF ENTRY OF ORDER
DENYING PLAINTIFF'S MOTION IN
LIMINE NO. 1: TO PRECLUDE SAM
HEWITT FROM PROVIDING EXPERT
TESTIMONY REGARDING
INSOLVENCY ANALYSIS**

PLEASE TAKE NOTICE that an Order Denying Plaintiff's Motion in Limine No. 1: to Preclude Sam Hewitt from Providing Expert Testimony Regarding Insolvency Analysis was entered in the above-captioned case on the 24th day of September, 2021, a copy of which is attached hereto.

DATED this 30th day of September, 2021.

McDONALD CARANO LLP

By: /s/ George F. Ogilvie III
George F. Ogilvie III (NSBN 3552)
2300 West Sahara Avenue, Suite 1200
Las Vegas, NV 89102

Jon M. Wilson, Esq. (Appearing *Pro Hac Vice*)
LAW OFFICES OF JON WILSON
200 Biscayne Blvd Way, Suite 4405
Miami, Florida 33131

Kimberly Freedman, Esq. (Appearing *Pro Hac Vice*)
Erin Kolmansberger, Esq. (Appearing *Pro Hac Vice*)
NELSON MULLINS BROAD AND CASSEL
2 S. Biscayne Boulevard, 21st Floor
Miami, Florida 33131

*Attorneys for Defendants Uni-Ter Underwriting
Management Corp., Uni-Ter Claims Services
Corp., and U.S. RE Corporation*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of McDonald Carano LLP, and that on or about the 30th day of September, 2021, a true and correct copy of the foregoing **NOTICE OF ENTRY OF ORDER DENYING PLAINTIFF'S MOTION IN LIMINE NO. 1: TO PRECLUDE SAM HEWITT FROM PROVIDING EXPERT TESTIMONY REGARDING INSOLVENCY ANALYSIS** was electronically served with the Clerk of the Court via the Clark County District Court Electronic Filing Program which will provide copies to all counsel of record registered to receive such electronic notification.

/s/ Jelena Jovanovic

An employee of McDonald Carano LLP

Heather S. Hume

CLERK OF THE COURT

ODM

George F. Ogilvie III, Esq.
Nevada Bar No. 3552
McDONALD CARANO LLP
2300 West Sahara Avenue, Suite 1200
Las Vegas, NV 89102
Telephone: (702) 873-4100
Facsimile: (702) 873-9966
gogilvie@mcdonaldcarano.com

Jon M. Wilson, Esq. (Appearing *Pro Hac Vice*)
LAW OFFICES OF JON WILSON
200 Biscayne Blvd Way, Suite 4405
Miami, Florida 33131
Telephone: (310) 626-2216
jonwilson@jonmwilsonattorney.com

Kimberly Freedman, Esq. (Appearing *Pro Hac Vice*)
Erin Kolmansberger, Esq. (Appearing *Pro Hac Vice*)
NELSON MULLINS BROAD AND CASSEL
2 S. Biscayne Boulevard, 21st Floor
Miami, Florida 33131
Telephone: (305) 373-9400
Kimberly.Freedman@nelsonmullins.com
Erin.Kolmansberger@nelsonmullins.com

*Attorneys for Defendants Uni-Ter Underwriting
Management Corp., Uni-Ter Claims Services
Corp., and U.S. RE Corporation*

DISTRICT COURT

CLARK COUNTY, NEVADA

COMMISSIONER OF INSURANCE FOR THE
STATE OF NEVADA AS RECEIVER OF
LEWIS AND CLARK LTC RISK RETENTION
GROUP, INC.,

Plaintiffs,

v.

ROBERT CHUR, STEVE FOGG, MARK
GARBER, CAROL HARTER, ROBERT
HURLBUT, BARBARA LUMPKIN, JEFF
MARSHALL, ERIC STICKELS, UNI-TER
UNDERWRITING MANAGEMENT CORP.
UNI-TER CLAIMS SERVICES CORP., and
U.S. RE CORPORATION, DOES 1-50,
inclusive; and ROES 51-100, inclusive,

Defendants.

Case No. A-14-711535-C

Dept. No.: XXVII

**ORDER DENYING PLAINTIFF'S
MOTION IN LIMINE NUMBER 1: TO
PRECLUDE SAM HEWITT FROM
PROVIDING EXPERT TESTIMONY
REGARDING INSOLVENCY
ANALYSIS**

Date of Hearing: September 2, 2021
Time of Hearing: 10:00 a.m.

This matter came before the Court for hearing on September 2, 2021 on Plaintiff's Motion In Limine Number 1: To Preclude Sam Hewitt From Providing Expert Testimony Regarding Insolvency Analysis. Brenoch Wirthlin, Esq., Christian M. Orme, Esq. and Tanya M. Fraser, Esq. of Hutchison & Steffen, PLLC appeared on behalf of Plaintiff. George F. Ogilvie III, Esq. of McDonald Carano LLP and Jon N. Wilson, Esq. of the Law Offices of Jon Wilson appeared on behalf of Defendants Uni-Ter Underwriting Management Corp., Uni-Ter Claims Services Corp., and U.S. RE Corporation.

The Court having considered the record and the briefs filed in support of and in opposition to the Motion, having entertained the oral arguments of counsel, and good cause appearing,

IT IS HEREBY ORDERED that Plaintiff's Motion In Limine Number 1: To Preclude Sam Hewitt From Providing Expert Testimony Regarding Insolvency Analysis is **DENIED**. However, a proper foundation will have to be laid if Mr. Hewitt is to testify regarding the timing of Lewis and Clark LTC Risk Retention Group, Inc.'s insolvency.

DATED this 24th day of September, 2021.

Dated this 24th day of September, 2021

Nancy L. Allf
NANCY L. ALLF TW
District Court Judge

1F8 DB5 80A3 E618

Nancy Allf

Appointed as Foundation and Content:

Submitted By:

McDONALD CARANO LLP

HUTCHISON & STEFFEN, PLLC

By: /s/ George F. Ogilvie III
George F. Ogilvie III, Esq. (#3552)
2300 West Sahara Avenue, Suite 1200
Las Vegas, NV 89102

By: /s/ Brenoch R. Wirthlin
Brenoch R. Wirthlin, Esq. (NSB #10282)
Christian M. Orme, Esq. (NSB #10175)
10080 West Alta Drive, Suite 200
Las Vegas, Nevada 89145

Jon M. Wilson, Esq.
(Admitted *Pro Hac Vice*)
LAW OFFICES OF JON WILSON
200 Biscayne Boulevard Way, Ste 4405
Miami, Florida 33131

Attorneys for Plaintiff

*Attorneys for Defendants Uni-Ter
Underwriting Management Corp., Uni-Ter
Claims Services Corp., and U.S. RE
Corporation*

Subject: FW: Emailing: Order Denying Plaintiffs Motion In Limine Number 5 To Limit The Scope Of Expert Witness Testimony Regarding Speculation Concerning The Economy 09 - Redline, Order Denying Plaintiffs Motion In Limine Number 6 To Strike Proffered Expert Witne

Attachments: Order Denying Plaintiffs Motion In Limine Number 5 To Limit The Scope Of Expert Witness Testimony Regarding Speculation Concerning The Economy 09 - Redline.docx; Order Denying Plaintiffs Motion In Limine Number 6 To Strike Proffered Expert Witness Alan Gray 091921 - version 1 - Redline.docx; Order Denying Plaintiffs Motion For Partial Summary Judgment Regarding The Uni-Ter Defendants Fiduciary Duties 091921 - version 1 - Redline.docx; Order Denying Plaintiffs Motion For Partial Summary Judgment Regarding Uni-Ter Defendants Breach Of Their Fiduciary Duties 091921 - version 1 - Redline.docx; Order Denying Plaintiffs Motion In Limine Number 1 To Preclude Sam Hewitt From Providing Expert Testimony Regarding Insolvency Analysis 091921 - Redline.docx; Order Denying Plaintiffs Motion In Limine Number 4 To Preclude Any Reference To Reinsurance Estimates 091921 - version 1 - Redline.docx

From: Brenoch R. Wirthlin <bwirthlin@hutchlegal.com>
Sent: Thursday, September 23, 2021 8:43 PM
To: George F. Ogilvie III <gogilvie@Mcdonaldcarano.com>; Jon Wilson <jonwilson2013@gmail.com>
Cc: Christian M. Orme <COrme@hutchlegal.com>; Tanya M. Fraser <tfraser@hutchlegal.com>; Jon Linder <jlinder@hutchlegal.com>
Subject: Emailing: Order Denying Plaintiffs Motion In Limine Number 5 To Limit The Scope Of Expert Witness Testimony Regarding Speculation Concerning The Economy 09 - Redline, Order Denying Plaintiffs Motion In Limine Number 6 To Strike Proffered Expert Witness A

We are ok with the following redline versions.

Brenoch R. Wirthlin
Partner
[HS logo]<<http://hutchlegal.com/>>
HUTCHISON & STEFFEN, PLLC
(702) 385-2500
[hutchlegal.com](http://www.hutchlegal.com) <<http://www.hutchlegal.com>>

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1 **CSERV**

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3 DISTRICT COURT
CLARK COUNTY, NEVADA

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6 Commissioner of Insurance for
7 the State of Nevada as Receiver
of Lewis and Clark, Plaintiff(s)

CASE NO: A-14-711535-C

DEPT. NO. Department 27

8 vs.

9 Robert Chur, Defendant(s)

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11 **AUTOMATED CERTIFICATE OF SERVICE**

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16 Adrina Harris .	aharris@fclaw.com
17 Angela T. Nakamura Ochoa .	aochoa@lipsonneilson.com
18 Ashley Scott-Johnson .	ascott-johnson@lipsonneilson.com
19 Brenoch Wirthlin .	bwirthli@fclaw.com
20 CaraMia Gerard .	cgerard@mcdonaldcarano.com
21 George F. Ogilvie III .	gogilvie@mcdonaldcarano.com
22 Jessica Ayala .	jayala@fclaw.com
23 Joanna Grigoriev .	jgrigoriev@ag.nv.gov
24 Jon M. Wilson .	jwilson@broadandcassel.com
25 Kathy Barrett .	kbarrett@mcdonaldcarano.com

26
27
28

1	Marilyn Millam .	mmillam@ag.nv.gov
2	Nevada Attorney General .	wiznetfilings@ag.nv.gov
3	Paul Garcia .	pgarcia@fclaw.com
4	Renee Rittenhouse .	rrittenhouse@lipsonneilson.com
5	Rory Kay .	rkay@mcdonaldcarano.com
6	Susana Nutt .	snutt@lipsonneilson.com
7	Yusimy Bordes .	ybordes@broadandcassel.com
8	Jelena Jovanovic .	jjovanovic@mcdonaldcarano.com
9	Christian Orme	corne@hutchlegal.com
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23
24
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26
27
28

Jon Linder

jlinder@hutchlegal.com

ODM

George F. Ogilvie III, Esq.
Nevada Bar No. 3552
McDONALD CARANO LLP
2300 West Sahara Avenue, Suite 1200
Las Vegas, NV 89102
Telephone: (702) 873-4100
Facsimile: (702) 873-9966
gogilvie@mcdonaldcarano.com

Jon M. Wilson, Esq. (Appearing *Pro Hac Vice*)
LAW OFFICES OF JON WILSON
200 Biscayne Blvd Way, Suite 4405
Miami, Florida 33131
Telephone: (310) 626-2216
jonwilson@jonmwilsonattorney.com

Kimberly Freedman, Esq. (Appearing *Pro Hac Vice*)
Erin Kolmansberger, Esq. (Appearing *Pro Hac Vice*)
NELSON MULLINS BROAD AND CASSEL
2 S. Biscayne Boulevard, 21st Floor
Miami, Florida 33131
Telephone: (305) 373-9400
Kimberly.Freedman@nelsonmullins.com
Erin.Kolmansberger@nelsonmullins.com

*Attorneys for Defendants Uni-Ter Underwriting
Management Corp., Uni-Ter Claims Services
Corp., and U.S. RE Corporation*

DISTRICT COURT

CLARK COUNTY, NEVADA

COMMISSIONER OF INSURANCE FOR THE
STATE OF NEVADA AS RECEIVER OF
LEWIS AND CLARK LTC RISK RETENTION
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Plaintiffs,

v.

ROBERT CHUR, STEVE FOGG, MARK
GARBER, CAROL HARTER, ROBERT
HURLBUT, BARBARA LUMPKIN, JEFF
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Defendants.

Case No. A-14-711535-C

Dept. No.: XXVII

**ORDER DENYING PLAINTIFF'S
MOTION IN LIMINE NUMBER 6 TO
STRIKE PROFFERED EXPERT
WITNESS ALAN GRAY**

Date of Hearing: September 2, 2021
Time of Hearing: 10:00 a.m.


This matter came before the Court for hearing on September 2, 2021 on Plaintiff's Motion In Limine Number 6 To Strike Proffered Expert Witness Alan Gray. Brenoch Wirthlin, Esq., Christian M. Orme, Esq. and Tanya M. Fraser, Esq. of Hutchison & Steffen, PLLC appeared on behalf of Plaintiff. George F. Ogilvie III, Esq. of McDonald Carano LLP and Jon N. Wilson, Esq. of the Law Offices of Jon Wilson appeared on behalf of Defendants Uni-Ter Underwriting Management Corp., Uni-Ter Claims Services Corp., and U.S. RE Corporation.

The Court having considered the record and the briefs filed in support of and in opposition to the Motion, having entertained the oral arguments of counsel, and good cause appearing,

IT IS HEREBY ORDERED that Plaintiff's Motion In Limine Number 6 To Strike Proffered Expert Witness Alan Gray is **DENIED**.

DATED this 24th day of September, 2021.

Dated this 24th day of September, 2021



NANCY L. ALLF
District Court Judge
CEB 83E-1A01 89D8
Nancy Allf
District Court Judge

TW

Submitted By:

Approved as to Form and Content:

McDONALD CARANO LLP

HUTCHISON & STEFFEN, PLLC

By: /s/ George F. Ogilvie III
George F. Ogilvie III, Esq. (#3552)
2300 West Sahara Avenue, Suite 1200
Las Vegas, NV 89102

By: /s/ Brenoch R. Wirthlin
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Christian M. Orme, Esq. (NSB #10175)
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Las Vegas, Nevada 89145

Jon M. Wilson, Esq.
(Admitted *Pro Hac Vice*)
LAW OFFICES OF JON WILSON
200 Biscayne Boulevard Way, Ste 4405
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Attorneys for Plaintiff

*Attorneys for Defendants Uni-Ter
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Brenoch R. Wirthlin

Partner

[HS logo]<<http://hutchlegal.com/>>

HUTCHISON & STEFFEN, PLLC

(702) 385-2500

hutchlegal.com <<http://www.hutchlegal.com>>

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1 **CSERV**

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8 vs.

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ascott-johnson@lipsonneilson.com

19 Brenoch Wirthlin .

bwirthli@fclaw.com

20 CaraMia Gerard .

cgerard@mcdonaldcarano.com

21 George F. Ogilvie III .

gogilvie@mcdonaldcarano.com

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jayala@fclaw.com

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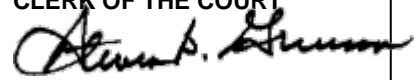
kbarrett@mcdonaldcarano.com
26
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1	Marilyn Millam .	mmillam@ag.nv.gov
2	Nevada Attorney General .	wiznetfilings@ag.nv.gov
3	Paul Garcia .	pgarcia@fclaw.com
4	Renee Rittenhouse .	rrittenhouse@lipsonneilson.com
5	Rory Kay .	rkay@mcdonaldcarano.com
6	Susana Nutt .	snutt@lipsonneilson.com
7	Yusimy Bordes .	ybordes@broadandcassel.com
8	Jelena Jovanovic .	jjovanovic@mcdonaldcarano.com
9	Christian Orme	corne@hutchlegal.com
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13	Karen Surowiec	ksurowiec@mcdonaldcarano.com
14	Jonathan Wong	jwong@lipsonneilson.com
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16	Melissa Gomberg	melissa.gomberg@nelsonmullins.com
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Jon Linder

jlinder@hutchlegal.com



NEOJ

George F. Ogilvie III, Esq.
Nevada Bar No. 3552
MCDONALD CARANO LLP
2300 West Sahara Avenue, Suite 1200
Las Vegas, NV 89102
Telephone: (702) 873-4100
Facsimile: (702) 873-9966
gogilvie@mcdonaldcarano.com

Jon M. Wilson, Esq. (Appearing *Pro Hac Vice*)
LAW OFFICES OF JON WILSON
200 Biscayne Blvd Way, Suite 4405
Miami, Florida 33131
Telephone: (310) 626-2216
jonwilson@jonmwilsonattorney.com

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Erin Kolmansberger, Esq. (Appearing *Pro Hac Vice*)
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2 S. Biscayne Boulevard, 21st Floor
Miami, Florida 33131
Telephone: (305) 373-9400
Facsimile: (305) 373-9443
Kimberly.Freedman@nelsonmullins.com
Erin.Kolmansberger@nelsonmullins.com

*Attorneys for Defendants Uni-Ter Underwriting
Management Corp., Uni-Ter Claims Services
Corp., and U.S. RE Corporation*

**DISTRICT COURT
CLARK COUNTY, NEVADA**

COMMISSIONER OF INSURANCE FOR
THE STATE OF NEVADA AS RECEIVER
OF LEWIS AND CLARK LTC RISK
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Plaintiff,

vs.

ROBERT CHUR, STEVE FOGG, MARK
GARBER, CAROL HARTER, ROBERT
HURLBUT, BARBARA LUMPKIN, JEFF
MARSHALL, ERIC STICKELS, UNI-TER
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UNI-TER CLAIMS SERVICES CORP., and
U.S. RE CORPORATION, DOES 1-50,
inclusive; and ROES 51-100, inclusive,

Defendants.

Case No. A-14-711535-C

Dept. No.: XXVII

**NOTICE OF ENTRY OF ORDER
DENYING PLAINTIFF'S MOTION IN
LIMINE NUMBER 6 TO STRIKE
PROFFERED EXPERT WITNESS ALAN
GRAY**

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of McDonald Carano LLP, and that on or about the 30th day of September, 2021, a true and correct copy of the foregoing **NOTICE OF ENTRY OF ORDER DENYING PLAINTIFF'S MOTION IN LIMINE NUMBER 6 TO STRIKE PROFFERED EXPERT WITNESS ALAN GRAY** was electronically served with the Clerk of the Court via the Clark County District Court Electronic Filing Program which will provide copies to all counsel of record registered to receive such electronic notification.

/s/ Jelena Jovanovic

An employee of McDonald Carano LLP

Heather S. Smith

CLERK OF THE COURT

ODM

George F. Ogilvie III, Esq.
Nevada Bar No. 3552
McDONALD CARANO LLP
2300 West Sahara Avenue, Suite 1200
Las Vegas, NV 89102
Telephone: (702) 873-4100
Facsimile: (702) 873-9966
gogilvie@mcdonaldcarano.com

Jon M. Wilson, Esq. (Appearing *Pro Hac Vice*)
LAW OFFICES OF JON WILSON
200 Biscayne Blvd Way, Suite 4405
Miami, Florida 33131
Telephone: (310) 626-2216
jonwilson@jonmwilsonattorney.com

Kimberly Freedman, Esq. (Appearing *Pro Hac Vice*)
Erin Kolmansberger, Esq. (Appearing *Pro Hac Vice*)
NELSON MULLINS BROAD AND CASSEL
2 S. Biscayne Boulevard, 21st Floor
Miami, Florida 33131
Telephone: (305) 373-9400
Kimberly.Freedman@nelsonmullins.com
Erin.Kolmansberger@nelsonmullins.com

*Attorneys for Defendants Uni-Ter Underwriting
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DISTRICT COURT

CLARK COUNTY, NEVADA

COMMISSIONER OF INSURANCE FOR THE
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v.

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Case No. A-14-711535-C

Dept. No.: XXVII

**ORDER DENYING PLAINTIFF'S
MOTION IN LIMINE NUMBER 6 TO
STRIKE PROFFERED EXPERT
WITNESS ALAN GRAY**

Date of Hearing: September 2, 2021
Time of Hearing: 10:00 a.m.


This matter came before the Court for hearing on September 2, 2021 on Plaintiff's Motion In Limine Number 6 To Strike Proffered Expert Witness Alan Gray. Brenoch Wirthlin, Esq., Christian M. Orme, Esq. and Tanya M. Fraser, Esq. of Hutchison & Steffen, PLLC appeared on behalf of Plaintiff. George F. Ogilvie III, Esq. of McDonald Carano LLP and Jon N. Wilson, Esq. of the Law Offices of Jon Wilson appeared on behalf of Defendants Uni-Ter Underwriting Management Corp., Uni-Ter Claims Services Corp., and U.S. RE Corporation.

The Court having considered the record and the briefs filed in support of and in opposition to the Motion, having entertained the oral arguments of counsel, and good cause appearing,

IT IS HEREBY ORDERED that Plaintiff's Motion In Limine Number 6 To Strike Proffered Expert Witness Alan Gray is **DENIED**.

DATED this 24th day of September, 2021.

Dated this 24th day of September, 2021



NANCY L. ALLF
District Court Judge
CEB 83E-1A01 89D8
Nancy Allf
District Court Judge

TW

Submitted By:

Approved as to Form and Content:

McDONALD CARANO LLP

HUTCHISON & STEFFEN, PLLC

By: /s/ George F. Ogilvie III
George F. Ogilvie III, Esq. (#3552)
2300 West Sahara Avenue, Suite 1200
Las Vegas, NV 89102

By: /s/ Brenoch R. Wirthlin
Brenoch R. Wirthlin, Esq. (NSB #10282)
Christian M. Orme, Esq. (NSB #10175)
10080 West Alta Drive, Suite 200
Las Vegas, Nevada 89145

Jon M. Wilson, Esq.
(Admitted *Pro Hac Vice*)
LAW OFFICES OF JON WILSON
200 Biscayne Boulevard Way, Ste 4405
Miami, Florida 33131

Attorneys for Plaintiff

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We are ok with the following redline versions.

Brenoch R. Wirthlin
Partner
[HS logo]<<http://hutchlegal.com/>>
HUTCHISON & STEFFEN, PLLC
(702) 385-2500
[hutchlegal.com](http://www.hutchlegal.com) <<http://www.hutchlegal.com>>

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CASE NO: A-14-711535-C

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20 CaraMia Gerard .

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23 Joanna Grigoriev .

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jwilson@broadandcassel.com

25 Kathy Barrett .

kbarrett@mcdonaldcarano.com

26
27
28

1	Marilyn Millam .	mmillam@ag.nv.gov
2	Nevada Attorney General .	wiznetfilings@ag.nv.gov
3	Paul Garcia .	pgarcia@fclaw.com
4	Renee Rittenhouse .	rrittenhouse@lipsonneilson.com
5	Rory Kay .	rkay@mcdonaldcarano.com
6	Susana Nutt .	snutt@lipsonneilson.com
7	Yusimy Bordes .	ybordes@broadandcassel.com
8	Jelena Jovanovic .	jjovanovic@mcdonaldcarano.com
9	Christian Orme	corne@hutchlegal.com
10	Patricia Lee	plee@hutchlegal.com
11	Kimberly Freedman	kfreedman@broadandcassel.com
12	Danielle Kelley	dkelley@hutchlegal.com
13	Karen Surowiec	ksurowiec@mcdonaldcarano.com
14	Jonathan Wong	jwong@lipsonneilson.com
15	Erin Kolmansberger	erin.kolmansberger@nelsonmullins.com
16	Melissa Gomberg	melissa.gomberg@nelsonmullins.com
17	Betsy Gould	bgould@doi.nv.gov
18	Juan Cerezo	jcerezo@lipsonneilson.com
19	Heather Bennett	hshepherd@hutchlegal.com
20	Brenoch Wirthlin	bwirthlin@klnevada.com
21	Jon Linder	jlinder@klnevada.com
22	S. Dianne Pomonis	dpomonis@klnevada.com
23	Brenoch Wirthlin	bwirthlin@hutchlegal.com
24		
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21
22
23
24
25
26
27
28

Jon Linder

jlinder@hutchlegal.com

Heather S. Hume

CLERK OF THE COURT

ODM

George F. Ogilvie III, Esq.
Nevada Bar No. 3552
McDONALD CARANO LLP
2300 West Sahara Avenue, Suite 1200
Las Vegas, NV 89102
Telephone: (702) 873-4100
Facsimile: (702) 873-9966
gogilvie@mcdonaldcarano.com

Jon M. Wilson, Esq. (Appearing *Pro Hac Vice*)
LAW OFFICES OF JON WILSON
200 Biscayne Blvd Way, Suite 4405
Miami, Florida 33131
Telephone: (310) 626-2216
jonwilson@jonmwilsonattorney.com

Kimberly Freedman, Esq. (Appearing *Pro Hac Vice*)
Erin Kolmansberger, Esq. (Appearing *Pro Hac Vice*)
NELSON MULLINS BROAD AND CASSEL
2 S. Biscayne Boulevard, 21st Floor
Miami, Florida 33131
Telephone: (305) 373-9400
Kimberly.Freedman@nelsonmullins.com
Erin.Kolmansberger@nelsonmullins.com

*Attorneys for Defendants Uni-Ter Underwriting
Management Corp., Uni-Ter Claims Services
Corp., and U.S. RE Corporation*

DISTRICT COURT

CLARK COUNTY, NEVADA

COMMISSIONER OF INSURANCE FOR THE
STATE OF NEVADA AS RECEIVER OF
LEWIS AND CLARK LTC RISK RETENTION
GROUP, INC.,

Plaintiffs,

v.

ROBERT CHUR, STEVE FOGG, MARK
GARBER, CAROL HARTER, ROBERT
HURLBUT, BARBARA LUMPKIN, JEFF
MARSHALL, ERIC STICKELS, UNI-TER
UNDERWRITING MANAGEMENT CORP.
UNI-TER CLAIMS SERVICES CORP., and
U.S. RE CORPORATION, DOES 1-50,
inclusive; and ROES 51-100, inclusive,

Defendants.

Case No. A-14-711535-C

Dept. No.: XXVII

**ORDER DENYING PLAINTIFF'S
MOTION FOR PARTIAL SUMMARY
JUDGMENT REGARDING UNI-TER
DEFENDANTS' BREACH OF THEIR
FIDUCIARY DUTIES**

Date of Hearing: September 2, 2021
Time of Hearing: 10:00 a.m.

This matter came before the Court for hearing on September 2, 2021 on Plaintiff's Motion For Partial Summary Judgment Regarding Uni-Ter Defendants' Breach Of Their Fiduciary Duties. Brenoch Wirthlin, Esq., Christian M. Orme, Esq. and Tanya M. Fraser, Esq. of Hutchison & Steffen, PLLC appeared on behalf of Plaintiff. George F. Ogilvie III, Esq. of McDonald Carano LLP and Jon N. Wilson, Esq. of the Law Offices of Jon Wilson appeared on behalf of Defendants Uni-Ter Underwriting Management Corp., Uni-Ter Claims Services Corp., and U.S. RE Corporation.

The Court having considered the record and the briefs filed in support of and in opposition to the Motion, having entertained the oral arguments of counsel, and good cause appearing,

IT IS HEREBY ORDERED that Plaintiff's Motion For Partial Summary Judgment Regarding Uni-Ter Defendants' Breach Of Their Fiduciary Duties is **DENIED**.

DATED this 27th day of September, 2021.

Dated this 27th day of September, 2021

Nancy L. Alif
NANCY L. ALIF TW
District Court Judge
34A E03 24FF DABE
Nancy Alif
District Court Judge
Approved as to Form and Content:

Submitted By:

McDONALD CARANO LLP

HUTCHISON & STEFFEN, PLLC

By: /s/ George F. Ogilvie III
George F. Ogilvie III, Esq. (#3552)
2300 West Sahara Avenue, Suite 1200
Las Vegas, NV 89102

By: /s/ Brenoch R. Wirthlin
Brenoch R. Wirthlin, Esq. (NSB #10282)
Christian M. Orme, Esq. (NSB #10175)
10080 West Alta Drive, Suite 200
Las Vegas, Nevada 89145

Jon M. Wilson, Esq.
(Admitted *Pro Hac Vice*)
LAW OFFICES OF JON WILSON
200 Biscayne Boulevard Way, Suite 4405
Miami, Florida 33131

Attorneys for Plaintiff

*Attorneys for Defendants Uni-Ter
Underwriting Management Corp., Uni-Ter
Claims Services Corp., and U.S. RE
Corporation*

Subject: FW: Emailing: Order Denying Plaintiffs Motion In Limine Number 5 To Limit The Scope Of Expert Witness Testimony Regarding Speculation Concerning The Economy 09 - Redline, Order Denying Plaintiffs Motion In Limine Number 6 To Strike Proffered Expert Witne

Attachments: Order Denying Plaintiffs Motion In Limine Number 5 To Limit The Scope Of Expert Witness Testimony Regarding Speculation Concerning The Economy 09 - Redline.docx; Order Denying Plaintiffs Motion In Limine Number 6 To Strike Proffered Expert Witness Alan Gray 091921 - version 1 - Redline.docx; Order Denying Plaintiffs Motion For Partial Summary Judgment Regarding The Uni-Ter Defendants Fiduciary Duties 091921 - version 1 - Redline.docx; Order Denying Plaintiffs Motion For Partial Summary Judgment Regarding Uni-Ter Defendants Breach Of Their Fiduciary Duties 091921 - version 1 - Redline.docx; Order Denying Plaintiffs Motion In Limine Number 1 To Preclude Sam Hewitt From Providing Expert Testimony Regarding Insolvency Analysis 091921 - Redline.docx; Order Denying Plaintiffs Motion In Limine Number 4 To Preclude Any Reference To Reinsurance Estimates 091921 - version 1 - Redline.docx

From: Brenoch R. Wirthlin <bwirthlin@hutchlegal.com>

Sent: Thursday, September 23, 2021 8:43 PM

To: George F. Ogilvie III <gogilvie@Mcdonaldcarano.com>; Jon Wilson <jonwilson2013@gmail.com>

Cc: Christian M. Orme <COrme@hutchlegal.com>; Tanya M. Fraser <tfraser@hutchlegal.com>; Jon Linder <jlinder@hutchlegal.com>

Subject: Emailing: Order Denying Plaintiffs Motion In Limine Number 5 To Limit The Scope Of Expert Witness Testimony Regarding Speculation Concerning The Economy 09 - Redline, Order Denying Plaintiffs Motion In Limine Number 6 To Strike Proffered Expert Witness A

We are ok with the following redline versions.

Brenoch R. Wirthlin

Partner

[HS logo]<<http://hutchlegal.com/>>

HUTCHISON & STEFFEN, PLLC

(702) 385-2500

hutchlegal.com <<http://www.hutchlegal.com>>

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1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4
5
6 Commissioner of Insurance for
7 the State of Nevada as Receiver
of Lewis and Clark, Plaintiff(s)

CASE NO: A-14-711535-C

DEPT. NO. Department 27

8 vs.

9 Robert Chur, Defendant(s)

10
11 **AUTOMATED CERTIFICATE OF SERVICE**

12
13 This automated certificate of service was generated by the Eighth Judicial District
14 Court. The foregoing Order Denying Motion was served via the court's electronic eFile
system to all recipients registered for e-Service on the above entitled case as listed below:

15 Service Date: 9/27/2021

16 Adrina Harris .	aharris@fclaw.com
17 Angela T. Nakamura Ochoa .	aochoa@lipsonneilson.com
18 Ashley Scott-Johnson .	ascott-johnson@lipsonneilson.com
19 Brenoch Wirthlin .	bwirthli@fclaw.com
20 CaraMia Gerard .	cgerard@mcdonaldcarano.com
21 George F. Ogilvie III .	gogilvie@mcdonaldcarano.com
22 Jessica Ayala .	jayala@fclaw.com
23 Joanna Grigoriev .	jgrigoriev@ag.nv.gov
24 Jon M. Wilson .	jwilson@broadandcassel.com
25 Kathy Barrett .	kbarrett@mcdonaldcarano.com

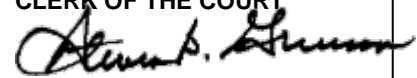
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27
28

1	Marilyn Millam .	mmillam@ag.nv.gov
2	Nevada Attorney General .	wiznetfilings@ag.nv.gov
3	Paul Garcia .	pgarcia@fclaw.com
4	Renee Rittenhouse .	rrittenhouse@lipsonneilson.com
5	Rory Kay .	rkay@mcdonaldcarano.com
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11	Patricia Lee	plee@hutchlegal.com
12	Kimberly Freedman	kfreedman@broadandcassel.com
13	Christian Orme	corne@hutchlegal.com
14	Danielle Kelley	dkelley@hutchlegal.com
15	Jonathan Wong	jwong@lipsonneilson.com
16	Erin Kolmansberger	erin.kolmansberger@nelsonmullins.com
17	Melissa Gomberg	melissa.gomberg@nelsonmullins.com
18	Juan Cerezo	jcerezo@lipsonneilson.com
19	Heather Bennett	hshepherd@hutchlegal.com
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21	Jon Linder	jlinder@klnevada.com
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24
25
26
27
28

Jon Linder

jlinder@hutchlegal.com



NEOJ

George F. Ogilvie III, Esq.
Nevada Bar No. 3552
MCDONALD CARANO LLP
2300 West Sahara Avenue, Suite 1200
Las Vegas, NV 89102
Telephone: (702) 873-4100
Facsimile: (702) 873-9966
gogilvie@mcdonaldcarano.com

Jon M. Wilson, Esq. (Appearing *Pro Hac Vice*)
LAW OFFICES OF JON WILSON
200 Biscayne Blvd Way, Suite 4405
Miami, Florida 33131
Telephone: (310) 626-2216
jonwilson@jonmwilsonattorney.com

Kimberly Freedman, Esq. (Appearing *Pro Hac Vice*)
Erin Kolmansberger, Esq. (Appearing *Pro Hac Vice*)
NELSON MULLINS BROAD AND CASSEL
2 S. Biscayne Boulevard, 21st Floor
Miami, Florida 33131
Telephone: (305) 373-9400
Facsimile: (305) 373-9443
Kimberly.Freedman@nelsonmullins.com
Erin.Kolmansberger@nelsonmullins.com

*Attorneys for Defendants Uni-Ter Underwriting
Management Corp., Uni-Ter Claims Services
Corp., and U.S. RE Corporation*

**DISTRICT COURT
CLARK COUNTY, NEVADA**

COMMISSIONER OF INSURANCE FOR
THE STATE OF NEVADA AS RECEIVER
OF LEWIS AND CLARK LTC RISK
RETENTION GROUP, INC.,

Plaintiff,
vs.

ROBERT CHUR, STEVE FOGG, MARK
GARBER, CAROL HARTER, ROBERT
HURLBUT, BARBARA LUMPKIN, JEFF
MARSHALL, ERIC STICKELS, UNI-TER
UNDERWRITING MANAGEMENT CORP.
UNI-TER CLAIMS SERVICES CORP., and
U.S. RE CORPORATION, DOES 1-50,
inclusive; and ROES 51-100, inclusive,

Defendants.

Case No. A-14-711535-C

Dept. No.: XXVII

**NOTICE OF ENTRY OF ORDER
DENYING PLAINTIFF'S MOTION FOR
PARTIAL SUMMARY JUDGMENT
REGARDING UNI-TER DEFENDANTS'
BREACH OF THEIR FIDUCIARY DUTIES**

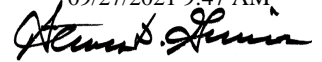
DATED this 30th day of September, 2021.

Attorneys for Defendants Uni-Ter Underwriting Management Corp., Uni-Ter Claims Services Corp., and U.S. RE Corporation

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of McDonald Carano LLP, and that on or about the 30th day of September, 2021, a true and correct copy of the foregoing **NOTICE OF ENTRY OF ORDER DENYING PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT REGARDING UNI-TER DEFENDANTS' BREACH OF THEIR FIDUCIARY DUTIES** was electronically served with the Clerk of the Court via the Clark County District Court Electronic Filing Program which will provide copies to all counsel of record registered to receive such electronic notification.

/s/ Jelena Jovanovic
An employee of McDonald Carano LLP


CLERK OF THE COURT

ODM

George F. Ogilvie III, Esq.
Nevada Bar No. 3552
McDONALD CARANO LLP
2300 West Sahara Avenue, Suite 1200
Las Vegas, NV 89102
Telephone: (702) 873-4100
Facsimile: (702) 873-9966
gogilvie@mcdonaldcarano.com

Jon M. Wilson, Esq. (Appearing *Pro Hac Vice*)
LAW OFFICES OF JON WILSON
200 Biscayne Blvd Way, Suite 4405
Miami, Florida 33131
Telephone: (310) 626-2216
jonwilson@jonmwilsonattorney.com

Kimberly Freedman, Esq. (Appearing *Pro Hac Vice*)
Erin Kolmansberger, Esq. (Appearing *Pro Hac Vice*)
NELSON MULLINS BROAD AND CASSEL
2 S. Biscayne Boulevard, 21st Floor
Miami, Florida 33131
Telephone: (305) 373-9400
Kimberly.Freedman@nelsonmullins.com
Erin.Kolmansberger@nelsonmullins.com

*Attorneys for Defendants Uni-Ter Underwriting
Management Corp., Uni-Ter Claims Services
Corp., and U.S. RE Corporation*

DISTRICT COURT

CLARK COUNTY, NEVADA

COMMISSIONER OF INSURANCE FOR THE
STATE OF NEVADA AS RECEIVER OF
LEWIS AND CLARK LTC RISK RETENTION
GROUP, INC.,

Plaintiffs,

v.

ROBERT CHUR, STEVE FOGG, MARK
GARBER, CAROL HARTER, ROBERT
HURLBUT, BARBARA LUMPKIN, JEFF
MARSHALL, ERIC STICKELS, UNI-TER
UNDERWRITING MANAGEMENT CORP.
UNI-TER CLAIMS SERVICES CORP., and
U.S. RE CORPORATION, DOES 1-50,
inclusive; and ROES 51-100, inclusive,

Defendants.

Case No. A-14-711535-C

Dept. No.: XXVII

**ORDER DENYING PLAINTIFF'S
MOTION FOR PARTIAL SUMMARY
JUDGMENT REGARDING UNI-TER
DEFENDANTS' BREACH OF THEIR
FIDUCIARY DUTIES**

Date of Hearing: September 2, 2021
Time of Hearing: 10:00 a.m.

This matter came before the Court for hearing on September 2, 2021 on Plaintiff's Motion For Partial Summary Judgment Regarding Uni-Ter Defendants' Breach Of Their Fiduciary Duties. Brenoch Wirthlin, Esq., Christian M. Orme, Esq. and Tanya M. Fraser, Esq. of Hutchison & Steffen, PLLC appeared on behalf of Plaintiff. George F. Ogilvie III, Esq. of McDonald Carano LLP and Jon N. Wilson, Esq. of the Law Offices of Jon Wilson appeared on behalf of Defendants Uni-Ter Underwriting Management Corp., Uni-Ter Claims Services Corp., and U.S. RE Corporation.

The Court having considered the record and the briefs filed in support of and in opposition to the Motion, having entertained the oral arguments of counsel, and good cause appearing,

IT IS HEREBY ORDERED that Plaintiff's Motion For Partial Summary Judgment Regarding Uni-Ter Defendants' Breach Of Their Fiduciary Duties is **DENIED**.

DATED this 27th day of September, 2021.

Dated this 27th day of September, 2021

Nancy L. Alif
NANCY L. ALIF
District Court Judge
34A E03 24FF DABE
Nancy Alif
District Court Judge
Approved as to Form and Content: TW

Submitted By:

McDONALD CARANO LLP

HUTCHISON & STEFFEN, PLLC

By: /s/ George F. Ogilvie III
George F. Ogilvie III, Esq. (#3552)
2300 West Sahara Avenue, Suite 1200
Las Vegas, NV 89102

By: /s/ Brenoch R. Wirthlin
Brenoch R. Wirthlin, Esq. (NSB #10282)
Christian M. Orme, Esq. (NSB #10175)
10080 West Alta Drive, Suite 200
Las Vegas, Nevada 89145

Jon M. Wilson, Esq.
(Admitted *Pro Hac Vice*)
LAW OFFICES OF JON WILSON
200 Biscayne Boulevard Way, Suite 4405
Miami, Florida 33131

Attorneys for Plaintiff

*Attorneys for Defendants Uni-Ter
Underwriting Management Corp., Uni-Ter
Claims Services Corp., and U.S. RE
Corporation*

Subject: FW: Emailing: Order Denying Plaintiffs Motion In Limine Number 5 To Limit The Scope Of Expert Witness Testimony Regarding Speculation Concerning The Economy 09 - Redline, Order Denying Plaintiffs Motion In Limine Number 6 To Strike Proffered Expert Witne

Attachments: Order Denying Plaintiffs Motion In Limine Number 5 To Limit The Scope Of Expert Witness Testimony Regarding Speculation Concerning The Economy 09 - Redline.docx; Order Denying Plaintiffs Motion In Limine Number 6 To Strike Proffered Expert Witness Alan Gray 091921 - version 1 - Redline.docx; Order Denying Plaintiffs Motion For Partial Summary Judgment Regarding The Uni-Ter Defendants Fiduciary Duties 091921 - version 1 - Redline.docx; Order Denying Plaintiffs Motion For Partial Summary Judgment Regarding Uni-Ter Defendants Breach Of Their Fiduciary Duties 091921 - version 1 - Redline.docx; Order Denying Plaintiffs Motion In Limine Number 1 To Preclude Sam Hewitt From Providing Expert Testimony Regarding Insolvency Analysis 091921 - Redline.docx; Order Denying Plaintiffs Motion In Limine Number 4 To Preclude Any Reference To Reinsurance Estimates 091921 - version 1 - Redline.docx

From: Brenoch R. Wirthlin <bwirthlin@hutchlegal.com>
Sent: Thursday, September 23, 2021 8:43 PM
To: George F. Ogilvie III <gogilvie@Mcdonaldcarano.com>; Jon Wilson <jonwilson2013@gmail.com>
Cc: Christian M. Orme <COrme@hutchlegal.com>; Tanya M. Fraser <tfraser@hutchlegal.com>; Jon Linder <jlinder@hutchlegal.com>
Subject: Emailing: Order Denying Plaintiffs Motion In Limine Number 5 To Limit The Scope Of Expert Witness Testimony Regarding Speculation Concerning The Economy 09 - Redline, Order Denying Plaintiffs Motion In Limine Number 6 To Strike Proffered Expert Witness A

We are ok with the following redline versions.

Brenoch R. Wirthlin
Partner
[HS logo]<<http://hutchlegal.com/>>
HUTCHISON & STEFFEN, PLLC
(702) 385-2500
[hutchlegal.com](http://www.hutchlegal.com) <<http://www.hutchlegal.com>>

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1 **CSERV**

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5
6 Commissioner of Insurance for
7 the State of Nevada as Receiver
8 of Lewis and Clark, Plaintiff(s)

CASE NO: A-14-711535-C

DEPT. NO. Department 27

9 vs.

10 Robert Chur, Defendant(s)

11 **AUTOMATED CERTIFICATE OF SERVICE**

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14 Court. The foregoing Order Denying Motion was served via the court's electronic eFile
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17 Adrina Harris .	aharris@fclaw.com
18 Angela T. Nakamura Ochoa .	aochoa@lipsonneilson.com
19 Ashley Scott-Johnson .	ascott-johnson@lipsonneilson.com
20 Brenoch Wirthlin .	bwirthli@fclaw.com
21 CaraMia Gerard .	cgerard@mcdonaldcarano.com
22 George F. Ogilvie III .	gogilvie@mcdonaldcarano.com
23 Jessica Ayala .	jayala@fclaw.com
24 Joanna Grigoriev .	jgrigoriev@ag.nv.gov
25 Jon M. Wilson .	jwilson@broadandcassel.com
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27
28

1	Marilyn Millam .	mmillam@ag.nv.gov
2	Nevada Attorney General .	wiznetfilings@ag.nv.gov
3	Paul Garcia .	pgarcia@fclaw.com
4	Renee Rittenhouse .	rrittenhouse@lipsonneilson.com
5	Rory Kay .	rkay@mcdonaldcarano.com
6	Susana Nutt .	snutt@lipsonneilson.com
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8	Jelena Jovanovic .	jjovanovic@mcdonaldcarano.com
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12	Kimberly Freedman	kfreedman@broadandcassel.com
13	Christian Orme	corne@hutchlegal.com
14	Danielle Kelley	dkelley@hutchlegal.com
15	Jonathan Wong	jwong@lipsonneilson.com
16	Erin Kolmansberger	erin.kolmansberger@nelsonmullins.com
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18	Juan Cerezo	jcerezo@lipsonneilson.com
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23	Brenoch Wirthlin	bwirthlin@hutchlegal.com
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26
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28

Jon Linder

jlinder@hutchlegal.com

OGM

George F. Ogilvie III, Esq.
Nevada Bar No. 3552
McDONALD CARANO LLP
2300 West Sahara Avenue, Suite 1200
Las Vegas, NV 89102
Telephone: (702) 873-4100
Facsimile: (702) 873-9966
gogilvie@mcdonaldcarano.com

Jon M. Wilson, Esq. (Appearing *Pro Hac Vice*)
LAW OFFICES OF JON WILSON
200 Biscayne Blvd Way, Suite 4405
Miami, Florida 33131
Telephone: (310) 626-2216
jonwilson@jonmwilsonattorney.com

Kimberly Freedman, Esq. (Appearing *Pro Hac Vice*)
Erin Kolmansberger, Esq. (Appearing *Pro Hac Vice*)
NELSON MULLINS BROAD AND CASSEL
2 S. Biscayne Boulevard, 21st Floor
Miami, Florida 33131
Telephone: (305) 373-9400
Kimberly.Freedman@nelsonmullins.com
Erin.Kolmansberger@nelsonmullins.com

*Attorneys for Defendants Uni-Ter Underwriting
Management Corp., Uni-Ter Claims Services
Corp., and U.S. RE Corporation*

DISTRICT COURT

CLARK COUNTY, NEVADA

COMMISSIONER OF INSURANCE FOR THE
STATE OF NEVADA AS RECEIVER OF
LEWIS AND CLARK LTC RISK RETENTION
GROUP, INC.,

Plaintiffs,

v.

ROBERT CHUR, STEVE FOGG, MARK
GARBER, CAROL HARTER, ROBERT
HURLBUT, BARBARA LUMPKIN, JEFF
MARSHALL, ERIC STICKELS, UNI-TER
UNDERWRITING MANAGEMENT CORP.
UNI-TER CLAIMS SERVICES CORP., and
U.S. RE CORPORATION, DOES 1-50,
inclusive; and ROES 51-100, inclusive,

Defendants.

Case No. A-14-711535-C

Dept. No.: XXVII

**ORDER GRANTING DEFENDANTS
UNI-TER UNDERWRITING
MANAGEMENT CORP., UNI-TER
CLAIMS SERVICES CORP., AND U.S.
RE CORPORATION'S MOTION FOR
ORDER EXCLUDING INTEREST
ACCRUED DURING STAY PERIODS**

Date of Hearing: November 24, 2021
Time of Hearing: 10:00 a.m.

This matter came before the Court for hearing on November 24, 2021 on Defendants Uni-Ter Underwriting Management Corp., Uni-Ter Claims Services Corp., and U.S. Re Corporation's Motion for Order Excluding Interest Accrued During Stay Periods. Brenoch Wirthlin, Esq., of Hutchison & Steffen, PLLC appeared on behalf of Plaintiff. George F. Ogilvie III, Esq. of McDonald Carano LLP appeared on behalf of Defendants Uni-Ter Underwriting Management Corp., Uni-Ter Claims Services Corp., and U.S. RE Corporation.

The Court having considered the record and the briefs filed in support of and in opposition to the Motion, having entertained the oral arguments of counsel, and good cause appearing,

IT IS HEREBY ORDERED that the Motion for Order Excluding Interest Accrued During Stay Periods is **GRANTED**. The computation of pre-judgment interest included in the judgment shall exclude the 726 days during which this matter was stayed pending the Nevada Supreme Court's adjudication of pre-trial writ petitions.

DATED this ____ day of December, 2021.

Dated this 15th day of December, 2021

Nancy L. Allf
NANCY L. ALLF
District Court Judge
8CB AB0 441A 42E9
Nancy Allf
District Court Judge
Approved as to Form:

Submitted By:

MCDONALD CARANO LLP

HUTCHISON & STEFFEN, PLLC

By: /s/ George F. Ogilvie III
George F. Ogilvie III, Esq. (#3552)
2300 West Sahara Avenue, Suite 1200
Las Vegas, NV 89102

By: /s/ Brenoch R. Wirthlin
Brenoch R. Wirthlin, Esq. (NSB #10282)
Christian M. Orme, Esq. (NSB #10175)
10080 West Alta Drive, Suite 200
Las Vegas, Nevada 89145

Jon M. Wilson, Esq.
(Admitted *Pro Hac Vice*)
LAW OFFICES OF JON WILSON
200 Biscayne Boulevard Way, Suite 4405
Miami, Florida 33131

Attorneys for Plaintiff

*Attorneys for Defendants Uni-Ter
Underwriting Management Corp., Uni-Ter
Claims Services Corp., and U.S. RE
Corporation*

Subject: FW: Lewis & Clark

From: Brenoch R. Wirthlin <bwirthlin@hutchlegal.com>

Sent: Tuesday, December 14, 2021 7:48 AM

To: George F. Ogilvie III <gogilvie@Mcdonaldcarano.com>; Christian M. Orme <COrme@hutchlegal.com>; Tanya M. Fraser <tfraser@hutchlegal.com>

Cc: Jon <jonwilson@jonmwilsonattorney.com>; Jon Wilson <jonwilson2013@gmail.com>; Kimberly Freedman <Kimberly.Freedman@nelsonmullins.com>; erin Kolmansberger <erin.kolmansberger@nelsonmullins.com>

Subject: RE: Lewis & Clark

George, I sent that email too quickly – please change “Approved as to form and content” to “Approved as to form.” With that change my electronic signature can be added. Thanks

From: George F. Ogilvie III <gogilvie@Mcdonaldcarano.com>

Sent: Wednesday, December 08, 2021 7:24 PM

To: Brenoch R. Wirthlin <bwirthlin@hutchlegal.com>; Christian M. Orme <COrme@hutchlegal.com>; Tanya M. Fraser <tfraser@hutchlegal.com>

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Subject: Lewis & Clark

Brenoch,

My apologies for the delay in submitting the attached proposed Order to you. The Thanksgiving holiday immediately followed the hearing, I was traveling last week and in an arbitration hearing this week. In any event, the attached is provided for your review and comment.

George

George F. Ogilvie III | Partner

MCDONALD CARANO

2300 West Sahara Avenue | Suite 1200
Las Vegas, NV 89102

P: 702.873.4100 | **F:** 702.873.9966

BIO | **WEBSITE** | **V-CARD** | **LINKEDIN**

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1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

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5
6 Commissioner of Insurance for
7 the State of Nevada as Receiver
of Lewis and Clark, Plaintiff(s)

CASE NO: A-14-711535-C

DEPT. NO. Department 27

8 vs.

9 Robert Chur, Defendant(s)
10

11 **AUTOMATED CERTIFICATE OF SERVICE**

12
13 This automated certificate of service was generated by the Eighth Judicial District
14 Court. The foregoing Order Granting Motion was served via the court's electronic eFile
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15 Service Date: 12/15/2021

16 Adrina Harris .	aharris@fclaw.com
17 Angela T. Nakamura Ochoa .	aochoa@lipsonneilson.com
18 Ashley Scott-Johnson .	ascott-johnson@lipsonneilson.com
19 Brenoch Wirthlin .	bwirthli@fclaw.com
20 CaraMia Gerard .	cgerard@mcdonaldcarano.com
21 George F. Ogilvie III .	gogilvie@mcdonaldcarano.com
22 Jessica Ayala .	jayala@fclaw.com
23 Joanna Grigoriev .	jgrigoriev@ag.nv.gov
24 Jon M. Wilson .	jwilson@broadandcassel.com
25 Kathy Barrett .	kbarrett@mcdonaldcarano.com

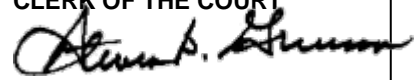
26
27
28

1	Marilyn Millam .	mmillam@ag.nv.gov
2	Nevada Attorney General .	wiznetfilings@ag.nv.gov
3	Paul Garcia .	pgarcia@fclaw.com
4	Renee Rittenhouse .	rrittenhouse@lipsonneilson.com
5	Rory Kay .	rkay@mcdonaldcarano.com
6	Susana Nutt .	snutt@lipsonneilson.com
7	Yusimy Bordes .	ybordes@broadandcassel.com
8	Jelena Jovanovic .	jjovanovic@mcdonaldcarano.com
9	Betsy Gould	bgould@doi.nv.gov
10	Karen Surowiec	ksurowiec@mcdonaldcarano.com
11	Patricia Lee	plee@hutchlegal.com
12	Kimberly Freedman	kfreedman@broadandcassel.com
13	Christian Orme	corne@hutchlegal.com
14	Danielle Kelley	dkelley@hutchlegal.com
15	Jonathan Wong	jwong@lipsonneilson.com
16	Erin Kolmansberger	erin.kolmansberger@nelsonmullins.com
17	Melissa Gomberg	melissa.gomberg@nelsonmullins.com
18	Juan Cerezo	jcerezo@lipsonneilson.com
19	Heather Bennett	hshepherd@hutchlegal.com
20	Brenoch Wirthlin	bwirthlin@klnevada.com
21	Jon Linder	jlinder@klnevada.com
22	S. Dianne Pomonis	dpomonis@klnevada.com
23	Brenoch Wirthlin	bwirthlin@hutchlegal.com
24		
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23
24
25
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27
28

Jon Linder

jlinder@hutchlegal.com



NEOJ

George F. Ogilvie III, Esq.
Nevada Bar No. 3552
MCDONALD CARANO LLP
2300 West Sahara Avenue, Suite 1200
Las Vegas, NV 89102
Telephone: (702) 873-4100
Facsimile: (702) 873-9966
gogilvie@mcdonaldcarano.com

Jon M. Wilson, Esq. (Appearing *Pro Hac Vice*)
LAW OFFICES OF JON WILSON
200 Biscayne Blvd Way, Suite 4405
Miami, Florida 33131
Telephone: (310) 626-2216
jonwilson@jonmwilsonattorney.com

Kimberly Freedman, Esq. (Appearing *Pro Hac Vice*)
Erin Kolmansberger, Esq. (Appearing *Pro Hac Vice*)
NELSON MULLINS BROAD AND CASSEL
2 S. Biscayne Boulevard, 21st Floor
Miami, Florida 33131
Telephone: (305) 373-9400
Facsimile: (305) 373-9443
Kimberly.Freedman@nelsonmullins.com
Erin.Kolmansberger@nelsonmullins.com

*Attorneys for Defendants Uni-Ter Underwriting
Management Corp., Uni-Ter Claims Services
Corp., and U.S. RE Corporation*

**DISTRICT COURT
CLARK COUNTY, NEVADA**

COMMISSIONER OF INSURANCE FOR
THE STATE OF NEVADA AS RECEIVER
OF LEWIS AND CLARK LTC RISK
RETENTION GROUP, INC.,

Plaintiff,

vs.

ROBERT CHUR, STEVE FOGG, MARK
GARBER, CAROL HARTER, ROBERT
HURLBUT, BARBARA LUMPKIN, JEFF
MARSHALL, ERIC STICKELS, UNI-TER
UNDERWRITING MANAGEMENT CORP.
UNI-TER CLAIMS SERVICES CORP., and
U.S. RE CORPORATION, DOES 1-50,
inclusive; and ROES 51-100, inclusive,

Defendants.

Case No. A-14-711535-C

Dept. No.: XXVII

**NOTICE OF ENTRY OF ORDER
GRANTING DEFENDANTS UNI-TER
UNDERWRITING MANAGEMENT
CORP., UNI-TER CLAIMS SERVICES
CORP., AND U.S. RE CORPORATION'S
MOTION FOR ORDER EXCLUDING
INTEREST ACCRUED DURING STAY
PERIODS**

DATED this 16th day of December, 2021.

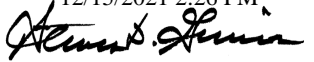
Attorneys for Defendants Uni-Ter Underwriting Management Corp., Uni-Ter Claims Services Corp., and U.S. RE Corporation

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of McDonald Carano LLP, and that on or about the 16th day of December, 2021, a true and correct copy of the foregoing **NOTICE OF ENTRY OF ORDER GRANTING DEFENDANTS UNI-TER UNDERWRITING MANAGEMENT CORP., UNI-TER CLAIMS SERVICES CORP., AND U.S. RE CORPORATION'S MOTION FOR ORDER EXCLUDING INTEREST ACCRUED DURING STAY PERIODS** was electronically served with the Clerk of the Court via the Clark County District Court Electronic Filing Program which will provide copies to all counsel of record registered to receive such electronic notification.

/s/ Jelena Jovanovic

An employee of McDonald Carano LLP


CLERK OF THE COURT

OGM

George F. Ogilvie III, Esq.
Nevada Bar No. 3552
McDONALD CARANO LLP
2300 West Sahara Avenue, Suite 1200
Las Vegas, NV 89102
Telephone: (702) 873-4100
Facsimile: (702) 873-9966
gogilvie@mcdonaldcarano.com

Jon M. Wilson, Esq. (Appearing *Pro Hac Vice*)
LAW OFFICES OF JON WILSON
200 Biscayne Blvd Way, Suite 4405
Miami, Florida 33131
Telephone: (310) 626-2216
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Kimberly Freedman, Esq. (Appearing *Pro Hac Vice*)
Erin Kolmansberger, Esq. (Appearing *Pro Hac Vice*)
NELSON MULLINS BROAD AND CASSEL
2 S. Biscayne Boulevard, 21st Floor
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Telephone: (305) 373-9400
Kimberly.Freedman@nelsonmullins.com
Erin.Kolmansberger@nelsonmullins.com

*Attorneys for Defendants Uni-Ter Underwriting
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DISTRICT COURT

CLARK COUNTY, NEVADA

COMMISSIONER OF INSURANCE FOR THE
STATE OF NEVADA AS RECEIVER OF
LEWIS AND CLARK LTC RISK RETENTION
GROUP, INC.,

Plaintiffs,

v.

ROBERT CHUR, STEVE FOGG, MARK
GARBER, CAROL HARTER, ROBERT
HURLBUT, BARBARA LUMPKIN, JEFF
MARSHALL, ERIC STICKELS, UNI-TER
UNDERWRITING MANAGEMENT CORP.
UNI-TER CLAIMS SERVICES CORP., and
U.S. RE CORPORATION, DOES 1-50,
inclusive; and ROES 51-100, inclusive,

Defendants.

Case No. A-14-711535-C

Dept. No.: XXVII

**ORDER GRANTING DEFENDANTS
UNI-TER UNDERWRITING
MANAGEMENT CORP., UNI-TER
CLAIMS SERVICES CORP., AND U.S.
RE CORPORATION'S MOTION FOR
ORDER EXCLUDING INTEREST
ACCRUED DURING STAY PERIODS**

Date of Hearing: November 24, 2021
Time of Hearing: 10:00 a.m.

This matter came before the Court for hearing on November 24, 2021 on Defendants Uni-Ter Underwriting Management Corp., Uni-Ter Claims Services Corp., and U.S. Re Corporation's Motion for Order Excluding Interest Accrued During Stay Periods. Brenoch Wirthlin, Esq., of Hutchison & Steffen, PLLC appeared on behalf of Plaintiff. George F. Ogilvie III, Esq. of McDonald Carano LLP appeared on behalf of Defendants Uni-Ter Underwriting Management Corp., Uni-Ter Claims Services Corp., and U.S. RE Corporation.

The Court having considered the record and the briefs filed in support of and in opposition to the Motion, having entertained the oral arguments of counsel, and good cause appearing,

IT IS HEREBY ORDERED that the Motion for Order Excluding Interest Accrued During Stay Periods is **GRANTED**. The computation of pre-judgment interest included in the judgment shall exclude the 726 days during which this matter was stayed pending the Nevada Supreme Court's adjudication of pre-trial writ petitions.

DATED this ____ day of December, 2021.

Dated this 15th day of December, 2021

Nancy L. Allf
NANCY L. ALLF
District Court Judge
8CB AB0 441A 42E9
Nancy Allf
District Court Judge
Approved as to Form:

Submitted By:

McDONALD CARANO LLP

HUTCHISON & STEFFEN, PLLC

By: /s/ George F. Ogilvie III
George F. Ogilvie III, Esq. (#3552)
2300 West Sahara Avenue, Suite 1200
Las Vegas, NV 89102

By: /s/ Brenoch R. Wirthlin
Brenoch R. Wirthlin, Esq. (NSB #10282)
Christian M. Orme, Esq. (NSB #10175)
10080 West Alta Drive, Suite 200
Las Vegas, Nevada 89145

Jon M. Wilson, Esq.
(Admitted *Pro Hac Vice*)
LAW OFFICES OF JON WILSON
200 Biscayne Boulevard Way, Suite 4405
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Attorneys for Plaintiff

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1 **CSERV**

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3 **DISTRICT COURT**
4 **CLARK COUNTY, NEVADA**

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6 Commissioner of Insurance for
7 the State of Nevada as Receiver
8 of Lewis and Clark, Plaintiff(s)

CASE NO: A-14-711535-C

DEPT. NO. Department 27

9 vs.

10 Robert Chur, Defendant(s)

11 **AUTOMATED CERTIFICATE OF SERVICE**

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17 Adrina Harris .

aharris@fclaw.com

18 Angela T. Nakamura Ochoa .

aochoa@lipsonneilson.com

19 Ashley Scott-Johnson .

ascott-johnson@lipsonneilson.com

20 Brenoch Wirthlin .

bwirthli@fclaw.com

21 CaraMia Gerard .

cgerard@mcdonaldcarano.com

22 George F. Ogilvie III .

gogilvie@mcdonaldcarano.com

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jayala@fclaw.com

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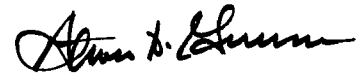
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28

1	Marilyn Millam .	mmillam@ag.nv.gov
2	Nevada Attorney General .	wiznetfilings@ag.nv.gov
3	Paul Garcia .	pgarcia@fclaw.com
4	Renee Rittenhouse .	rrittenhouse@lipsonneilson.com
5	Rory Kay .	rkay@mcdonaldcarano.com
6	Susana Nutt .	snutt@lipsonneilson.com
7	Yusimy Bordes .	ybordes@broadandcassel.com
8	Jelena Jovanovic .	jjovanovic@mcdonaldcarano.com
9	Betsy Gould	bgould@doi.nv.gov
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13	Christian Orme	corne@hutchlegal.com
14	Danielle Kelley	dkelley@hutchlegal.com
15	Jonathan Wong	jwong@lipsonneilson.com
16	Erin Kolmansberger	erin.kolmansberger@nelsonmullins.com
17	Melissa Gomberg	melissa.gomberg@nelsonmullins.com
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23	Brenoch Wirthlin	bwirthlin@hutchlegal.com
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24
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28

Jon Linder

jlinder@hutchlegal.com



CLERK OF THE COURT

ORDG

LIPSON, NEILSON, COLE, SELTZER & GARIN, P.C.

JOSEPH P. GARIN, ESQ.

Nevada Bar No. 6653

ANGELA T. NAKAMURA OCHOA, ESQ.

Nevada Bar No. 10164

9900 Covington Cross Drive, Suite 120

Las Vegas, Nevada 89144

(702) 382-1500 - Telephone

(702) 382-1512 - Facsimile

jgarin@lipsonneilson.com

aocchoa@lipsonneilson.com

Attorneys for Defendants/Third-Party

Plaintiffs Robert Chur, Steve Fogg,

Mark Garber, Carol Harter,

Robert Hurlbut, Barbara Lumpkin,

Jeff Marshall, and Eric Stickels

DISTRICT COURT

CLARK COUNTY, NEVADA

COMMISSIONER OF INSURANCE FOR
THE STATE OF NEVADA AS RECEIVER
OF LEWIS AND CLARK LTC RISK
RETENTION GROUP, INC.,

Plaintiff,

vs.

ROBERT CHUR, STEVE FOGG, MARK
GARBER, CAROL HARTER, ROBERT
HURLBUT, BARBARA LUMPKIN, JEFF
MARSHALL, ERIC STICKELS, UNI-TER
UNDERWRITING MANAGEMENT
CORP., UNI-TER CLAIMS SERVICES
CORP., and U.S. RE CORPORATION;;
DOES 1-50, inclusive; and ROES 51-100,
inclusive,

Defendants.

CASE NO.: A-14-711535-C

DEPT. NO.: 27

**ORDER GRANTING IN PART AND
DENYING IN PART DEFENDANTS
ROBERT CHUR, STEVE FOGG, MARK
GARBER, CAROL HARTER, ROBERT
HURLBUT, BARBARA LUMPKIN, JEFF
MARSHALL, AND ERIC STICKELS'
MOTION TO DISMISS**

Date of Hearing: January 27, 2016

Time of Hearing: 10:00 a.m.

Defendants Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert
Hurlbut, Barbara Lumpkin, Jeff Marshall and Eric Stickels' Motion to Dismiss was heard
on January 27, 2016. In attendance were Angela Ochoa, Esq. on behalf of Defendants
Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert Hurlbut, Barbara Lumpkin,
Jeff Marshall and Eric Stickels; Karl Nielson, Esq. and Brenoch Wirthlin, Esq. on behalf

1 of Plaintiff, Commissioner of Insurance for the State of Nevada as Receiver for the
2 Lewis & Clark Risk Retention Group, Inc.; and George Ogilvie, III, Esq. on behalf of U.S.
3 RE Corporation, Uni-Ter Underwriting Management Corp., and Uni-Ter Claims
4 Servicing Corp.

5 The Honorable Nancy Alif presiding, and the Court having heard oral argument,
6 reviewed the pleadings and papers on file herein and being fully advised in the
7 premises and for good cause appearing,

8 THE COURT HEREBY ORDERS that Defendants Robert Chur, Steve Fogg,
9 Mark Garber, Carol Harter, Robert Hurlbut, Barbara Lumpkin, Jeff Marshal and Eric
10 Stickels' Motion to Dismiss is GRANTED in PART and DENIED in PART.

11 Specifically, the Court grants the Motion to Dismiss without prejudice based on
12 NRCP 12(b)(5), that Plaintiff failed to state a claim for which relief can be granted, as to
13 the claim for gross negligence. The Court finds that Plaintiff's Complaint states a claim
14 for mere negligence rather than gross negligence. Plaintiff shall be granted leave to
15 amend its complaint to support a claim for gross negligence (Plaintiff's First Claim for
16 Relief) within 30 days of the entry of this order.

17 The Motion to Dismiss is denied as to the second claim for relief for deepening
18 the insolvency. The Court finds the decision in *In re AgriBioTech, Inc.*, 319 B.R. 216,
19 224 (D. Nev. 2004) to be persuasive law, and finds that the Complaint states a claim for
20 deepening the insolvency which is a recognized claim in Nevada. However, the Court
21 finds that this claim is a collateral cause of action to the gross negligence claim. Should
22 the Plaintiff choose to amend the Complaint to state a claim for gross negligence, the

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claim for deepening the insolvency will proceed as well.

DATED this 23 day of February, 2016.

Nancy L. Allf
JUDGE NANCY ALLF

Submitted by:
LIPSON, NEILSON, COLE, SELTZER &
GARIN, P.C.

Approved as to Form and Content:
FENNEMORE CRAIG, P.C.

Angela Ochoa
Joseph P. Garin, Esq. (NV Bar No. 6653)
Angela Ochoa, Esq. (NV Bar No. 10164)
9900 Covington Cross Dr., Suite 120
Las Vegas, NV 89144
*Attorneys for Defendants Robert Chur,
Steve Fogg, Mark Garber, Carol Harter,
Robert Hurlbut, Barbara Lumpkin, Jeff
Marshall & Eric Stickels*

James Wadhams
James Wadhams, Esq. (NV Bar No. 1115)
Karl Nielson, Esq. (NV Bar No. 5082)
Brenoch Wirthlin, Esq. (NV Bar No. 10282)
300 S. Fourth St., Suite 1400
Las Vegas, NV 89101
Attorneys for Plaintiff

1 **NEOJ**

2 LIPSON, NEILSON, COLE, SELTZER & GARIN, P.C.

3 JOSEPH P. GARIN, ESQ.

4 Nevada Bar No. 6653

5 ANGELA T. NAKAMURA OCHOA, ESQ.

6 Nevada Bar No. 10164

7 9900 Covington Cross Drive, Suite 120

8 Las Vegas, Nevada 89144

9 (702) 382-1500 - Telephone

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10 jgarin@lipsonneilson.com

11 aocchoa@lipsonneilson.com

12 *Attorneys for Defendants/Third-Party*

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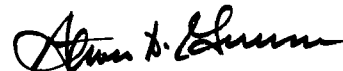
14 *Mark Garber, Carol Harter,*

15 *Robert Hurlbut, Barbara Lumpkin,*

16 *Jeff Marshall, and Eric Stickels*

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CLERK OF THE COURT

10 **DISTRICT COURT**

11 **CLARK COUNTY, NEVADA**

12 COMMISSIONER OF INSURANCE FOR
13 THE STATE OF NEVADA AS RECEIVER
14 OF LEWIS AND CLARK LTC RISK
15 RETENTION GROUP, INC.,

16 Plaintiff,

17 vs.

18 ROBERT CHUR, STEVE FOGG, MARK
19 GARBER, CAROL HARTER, ROBERT
20 HURLBUT, BARBARA LUMPKIN, JEFF
21 MARSHALL, ERIC STICKELS, UNI-TER
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25 DOES 1-50, inclusive; and ROES 51-100,
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27 Defendants.

CASE NO.: A-14-711535-C

DEPT. NO.: 27

**NOTICE OF ENTRY OF ORDER
GRANTING IN PART AND DENYING IN
PART DEFENDANTS ROBERT CHUR,
STEVE FOGG, MARK GARBER, CAROL
HARTER, ROBERT HURLBUT,
BARBARA LUMPKIN, JEFF MARSHALL,
AND ERIC STICKELS' MOTION TO
DISMISS**

28 PLEASE TAKE NOTICE that on the 25th day of February, 2016, an Order
Granting in Part and Denying in Part Defendants Robert Chur, Steve Fogg, Mark
Garber, Carol Harter, Robert Hurlbut, Barbara Lumpkin, Jeff Marshall, and Eric Stickels'
Motion to Dismiss, was entered. A copy of said Order is attached hereto and made part

hereof.

DATED this 26th day of February, 2016.

LIPSON, NEILSON, COLE, SELTZER & GARIN, P.C.

By: /s/ Angela T. Nakamura Ochoa

Joseph P. Garin, Esq. (6653)

Angela T. Nakamura Ochoa, Esq. (10164)

9900 Covington Cross Dr., Suite 120

Las Vegas, NV 89144

(702) 382-1500 – Telephone

(702) 382-1512 – Facsimile

lgarin@lipsonneilson.com

aochoa@lipsonneilson.com

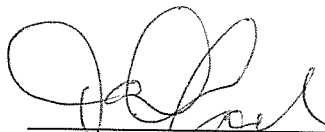
*Attorneys for Defendants/Third-Party
Plaintiffs Robert Chur, Steve Fogg,
Mark Garber, Carol Harter,
Robert Hurlbut, Barbara Lumpkin,
Jeff Marshall, and Eric Stickels*

CERTIFICATE OF SERVICE

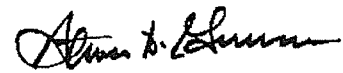
Pursuant to NRCP 5(b) and Administrative Order 14-2, I certify that on the 26th day of February, 2016, I electronically transmitted the foregoing **NOTICE OF ENTRY OF ORDER GRANTING IN PART AND DENYING IN PART DEFENDANTS ROBERT CHUR, STEVE FOGG, MARK GARBER, CAROL HARTER, ROBERT HURLBUT, BARBARA LUMPKIN, JEFF MARSHALL, AND ERIC STICKELS' MOTION TO DISMISS** to the Clerk's Office using the Odyssey E-File & Serve System for filing and transmittal to the following Odyssey E-File & Serve registrants:

James L. Wadhams, Esq.
Karl L. Nielson, Esq.
Brenoch, Wirthlin, Esq.
FENNEMORE CRAIG, P.C.
300 S. Fourth St., Suite 1400
Las Vegas, NV 89101
knielson@fclaw.com
bwirthlin@fclaw.com
Attorneys for Plaintiff

George F. Ogilvie III, Esq.
James W. Bradshaw, Esq.
Jeffry S. Riesenmy, Esq.
MCDONALD CARANO WILSON LLP
2300 West Sahara Avenue, Suite 1200
Las Vegas, NV 89102
gogilvie@mcdonaldcarano.com
jbradshaw@mcdonaldcarano.com
jriesennmy@mcdonaldcarano.com
*Attorneys for Defendants U.S. RE Corporation,
Uni-Ter Underwriting Management Corp.
and Uni-Ter Claims Services Corp.*



Employee of
LIPSON, NEILSON, COLE, SELTZER & GARIN, P.C.



CLERK OF THE COURT

1 **ORDG**
2 LIPSON, NEILSON, COLE, SELTZER & GARIN, P.C.
3 JOSEPH P. GARIN, ESQ.
4 Nevada Bar No. 6653
5 ANGELA T. NAKAMURA OCHOA, ESQ.
6 Nevada Bar No. 10164
7 9900 Covington Cross Drive, Suite 120
8 Las Vegas, Nevada 89144
9 (702) 382-1500 - Telephone
10 (702) 382-1512 - Facsimile
11 jgarin@lipsonneilson.com
12 aocchoa@lipsonneilson.com
13 *Attorneys for Defendants/Third-Party*
14 *Plaintiffs Robert Chur, Steve Fogg,*
15 *Mark Garber, Carol Harter,*
16 *Robert Hurlbut, Barbara Lumpkin,*
17 *Jeff Marshall, and Eric Stickels*

10 **DISTRICT COURT**
11 **CLARK COUNTY, NEVADA**

13 COMMISSIONER OF INSURANCE FOR
14 THE STATE OF NEVADA AS RECEIVER
15 OF LEWIS AND CLARK LTC RISK
16 RETENTION GROUP, INC.,

17 Plaintiff,

18 vs.

19 ROBERT CHUR, STEVE FOGG, MARK
20 GARBER, CAROL HARTE, ROBERT
21 HURLBUT, BARBARA LUMPKIN, JEFF
22 MARSHALL, ERIC STICKELS, UNI-TER
23 UNDERWRITING MANAGEMENT
24 CORP., UNI-TER CLAIMS SERVICES
25 CORP., and U.S. RE CORPORATION;;
26 DOES 1-50, inclusive; and ROES 51-100,
27 inclusive,

28 Defendants.

CASE NO.: A-14-711535-C

DEPT. NO.: 27

**ORDER GRANTING IN PART AND
DENYING IN PART DEFENDANTS
ROBERT CHUR, STEVE FOGG, MARK
GARBER, CAROL HARTE, ROBERT
HURLBUT, BARBARA LUMPKIN, JEFF
MARSHALL, AND ERIC STICKELS'
MOTION TO DISMISS**

Date of Hearing: January 27, 2016

Time of Hearing: 10:00 a.m.

24 Defendants Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert
25 Hurlbut, Barbara Lumpkin, Jeff Marshall and Eric Stickels' Motion to Dismiss was heard
26 on January 27, 2016. In attendance were Angela Ochoa, Esq. on behalf of Defendants
27 Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert Hurlbut, Barbara Lumpkin,
28 Jeff Marshall and Eric Stickels; Karl Nielson, Esq. and Brenoch Wirthlin, Esq. on behalf

Lipson, Neilson, Cole, Seltzer & Garin, P.C.
9900 Covington Cross Drive, Suite 120
Las Vegas, Nevada 89144
(702) 382-1500 FAX: (702) 382-1512

1 of Plaintiff, Commissioner of Insurance for the State of Nevada as Receiver for the
2 Lewis & Clark Risk Retention Group, Inc.; and George Ogilvie, III, Esq. on behalf of U.S.
3 RE Corporation, Uni-Ter Underwriting Management Corp., and Uni-Ter Claims
4 Servicing Corp.

5 The Honorable Nancy Allf presiding, and the Court having heard oral argument,
6 reviewed the pleadings and papers on file herein and being fully advised in the
7 premises and for good cause appearing,

8 THE COURT HEREBY ORDERS that Defendants Robert Chur, Steve Fogg,
9 Mark Garber, Carol Harter, Robert Hurlbut, Barbara Lumpkin, Jeff Marshal and Eric
10 Stickels' Motion to Dismiss is GRANTED in PART and DENIED in PART.

11 Specifically, the Court grants the Motion to Dismiss without prejudice based on
12 NRCP 12(b)(5), that Plaintiff failed to state a claim for which relief can be granted, as to
13 the claim for gross negligence. The Court finds that Plaintiff's Complaint states a claim
14 for mere negligence rather than gross negligence. Plaintiff shall be granted leave to
15 amend its complaint to support a claim for gross negligence (Plaintiff's First Claim for
16 Relief) within 30 days of the entry of this order.

17 The Motion to Dismiss is denied as to the second claim for relief for deepening
18 the insolvency. The Court finds the decision in *In re AgriBioTech, Inc.*, 319 B.R. 216,
19 224 (D. Nev. 2004) to be persuasive law, and finds that the Complaint states a claim for
20 deepening the insolvency which is a recognized claim in Nevada. However, the Court
21 finds that this claim is a collateral cause of action to the gross negligence claim. Should
22 the Plaintiff choose to amend the Complaint to state a claim for gross negligence, the

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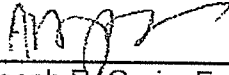
claim for deepening the insolvency will proceed as well.

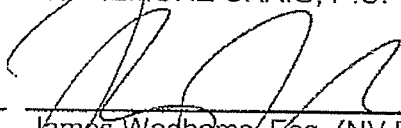
DATED this 23 day of February, 2016.

Nancy Allf
JUDGE NANCY ALLF

Submitted by:
LIPSON, NEILSON, COLE, SELTZER &
GARIN, P.C.

Approved as to Form and Content:
FENNEMORE CRAIG, P.C.


Joseph P. Garin, Esq. (NV Bar No. 6653)
Angela Ochoa, Esq. (NV Bar No. 10164)
9900 Covington Cross Dr., Suite 120
Las Vegas, NV 89144
*Attorneys for Defendants Robert Chur,
Steve Fogg, Mark Garber, Carol Harter,
Robert Hurlbut, Barbara Lumpkin, Jeff
Marshall & Eric Stickels*


James Wadhams, Esq. (NV Bar No. 1115)
Karl Nielson, Esq. (NV Bar No. 5082)
Brenoch Wirthlin, Esq. (NV Bar No. 10282)
300 S. Fourth St., Suite 1400
Las Vegas, NV 89101
Attorneys for Plaintiff

1 **ORDR**

2 **DISTRICT COURT**
3 **CLARK COUNTY, NEVADA**

4 * * * *

5 COMMISSIONER OF INSURANCE FOR THE
6 STATE OF NEVADA AS RECEIVER OF
7 LEWIS AND CLARK LTC RISK RETENTION
8 GROUP, INC.,

9 Plaintiff,

10 v.

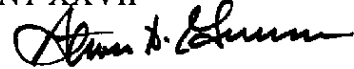
11 ROBERT CHUR; STEVE FOGG; MARK
12 GARBER; CAROL HARTER; ROBERT
13 HURLBUT; BARBARA LUMPKIN; JEFF
14 MARSHALL; ERIC STICKELS; UNI-TER
15 UNDERWRITING MANAGEMENT CORP.;
16 UNI-TER CLAIMS SERVICES CORP.; and
17 U.S. RE CORPORATION; DOES 1-50,
18 inclusive; and ROES 51-100, inclusive,

19 Defendants.

CASE NO.: A-14-711535-C

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DEPARTMENT XXVII



CLERK OF THE COURT

20 **DECISION AND ORDER**

21 These matters having come on for hearing on February 25, 2016; Brenoch
22 Wirthlin, Esq., appearing for and on behalf of Plaintiff, Commissioner of Insurance for
23 the State of Nevada as Receiver of Lewis and Clark LTC Risk Retention Group, Inc.
24 (hereinafter "Plaintiff"); George F. Ogilvie, III, Esq. and Jon M. Wilson, Esq., appearing
25 for and on behalf of Defendants, Uni-Ter Underwriting Management Corp.; Uni-Ter
Claims Services Corp.; and U.S. RE Corporation (hereinafter collectively "Entity
Defendants"), and the Court having heard arguments of counsel, and being fully advised
of the matters herein, the **COURT FINDS** after review:

26 This action is brought by Plaintiff, the Court-appointed receiver for Lewis and
27 Clark LTC Risk Retention Group, Inc. ("L&C"). It is brought against L&C's former
28 officers and directors ("Individual Defendants") and against the Entity Defendants L&C's

1 underwriting managers and reinsurance broker. L&C was formed in 2004 and between
2 2004 and February 28, 2013 it provided general and professional liability coverage to
3 long term care facilities and home health providers. See Complaint ¶1.

4 L&C's relationship with Entity Defendant Uni-Ter Underwriting Management
5 Corp. began in 2004 when the parties entered into a Management Agreement providing
6 the specifics of their relationship. Id. ¶42. This 2004 Management Agreement was
7 amended in minor ways until 2011 when a new Management Agreement was executed.
8 Id. ¶¶50, 56. This 2011 Management Agreement was substantially similar to the prior one
9 with a few revisions and the addition of and Defendant Uni-Ter Claims Services Corp. Id.
10 ¶¶56, 58–59. The 2011 Management Agreement was also amended in minor ways. Id.
11 ¶¶60–62.

12
13 The 2004 Management Agreements explicitly stated that Defendant Uni-Ter
14 Underwriting Management Corp. would “serve L&C in a fiduciary capacity for all legal
15 duties.” Id. ¶44. The 2011 Management Agreement also explicitly stated that Defendant
16 Uni-Ter Underwriting Management Corp. and Defendant Uni-Ter Claims Services Corp.
17 would “serve L&C in a fiduciary capacity for all legal duties.” Id. ¶58.

18
19 L&C's relationship with Entity Defendant U.S. RE Corporation began in
20 December, 2003 when the parties entered into a Letter Agreement whereby L&C
21 appointed U.S. RE Corporation as its exclusive reinsurance intermediary/broker. Id. ¶64.
22 The Letter Agreement specifically states “[a]ll funds collected for [L&C]'s account will
23 be handled by U.S. RE in a fiduciary capacity in a bank which is a qualified United States
24 financial institution.” Id. ¶65, Ex. 4. This is the only mention of fiduciary duty with
25 regard to U.S. RE Corporation.
26
27
28

1 In November, 2012 the Nevada Division of Insurance filed a receivership action
2 against L&C and the Court entered a liquidation order on February 28, 2013. Id. ¶2. The
3 liquidation order gave Plaintiff, as receiver, the express power to prosecute any action
4 which may exist on behalf of the policyholders, members, or shareholders of L&C
5 against any officer of L&C or any other person. Id. ¶2, Ex. 1.

6
7 **COURT FURTHER FINDS** after review Plaintiff filed its Complaint on
8 December 23, 2014 and it stated claims for 1) Gross Negligence of the Former Officers
9 and Directors of L&C; 2) Deepening of the Insolvency of L&C Caused by the Former
10 Officers and Directors; 3) Negligent Misrepresentation by Uni-Ter Underwriting
11 Management Corp.; 4) Breach of Fiduciary Duty by Uni-Ter Underwriting Management
12 Corp. and Uni-Ter Claims Services Corp.; 5) Breach of Fiduciary Duty against U.S. RE
13 Corporation.

14
15 On February 25, 2016 the Court took Defendants Uni-Ter Underwriting
16 Management Corp. and Uni-Ter Claims Services Corp.'s Motion to Dismiss and U.S. RE
17 Corporation's Motion to Dismiss under advisement. The Motions only concern claims 3,
18 4, and 5.

19 **COURT FURTHER FINDS** after review Defendants move to Dismiss
20 Plaintiff's claims 3, 4, and 5 under NRCP 5(b)(5) because the complaint does not state a
21 claim upon which relief can be granted. Nevada is a notice-pleading jurisdiction, and as
22 such does not have a strict requirement for pleading. "The test for determining whether
23 the allegations of a cause of action are sufficient to assert a claim for relief is whether the
24 allegations give fair notice of the nature of the basis of the claim and the relief
25 requested." Ravera v. City of Reno, 100 Nev. 68, 70, 675 P.2d 407, 408 (1984).
26
27
28

1 Defendants Uni-Ter Underwriting Management Corp. and Uni-Ter Claims
2 Services Corp. argue that the economic loss doctrine requires dismissal of the claim for
3 negligent misrepresentation because Defendants duties were created by the 2004 and
4 2011 Management Agreements, so an alleged failure to provide the services in the
5 Management Agreements would lead to a breach of contract claim. Likewise, Defendants
6 argue that the economic loss doctrine requires dismissal of the claim for breach of
7 fiduciary duty because this claim arises from an alleged breach of the Management
8 Agreements.
9

10 Defendant U.S. RE Corporation also argues that the economic loss doctrine
11 requires dismissal of the claim for breach of fiduciary duty because any alleged duty was
12 created by the contract provided in the Letter Agreement. Furthermore, Defendant U.S.
13 RE Corporation argues that even if the claim is not barred by the economic loss doctrine,
14 it must be dismissed because the Complaint does not adequately describe the duties owed
15 by Defendant U.S. RE Corporation, how exactly those same duties were breached, and
16 how an alleged breach proximately caused damages and what those damages were.
17

18 Plaintiff rebuts the arguments proffered by Defendants Uni-Ter Underwriting
19 Management Corp. and Uni-Ter Claims Services Corp. by arguing that claims for
20 negligent misrepresentation are not barred by the economic loss doctrine when the
21 misstatements are regarding financial matters. Plaintiff also argues that claims for breach
22 of fiduciary duty are not barred by the economic loss doctrine because the economic loss
23 doctrine does not bar intentional torts.
24

25 Additionally, Plaintiff rebuts the arguments proffered by Defendant U.S. RE
26 Corporation by arguing that, similar to the prior argument, breach of fiduciary duty is an
27 intentional tort under NRS 78.138(7) and as such, is not barred by the economic loss
28

1 doctrine. Plaintiff also argues that it has sufficiently set forth the elements of a breach of
2 fiduciary duty; specifically, it argued that there are multiple additional bases for fiduciary
3 duties. Alternatively, Plaintiff requests leave to amend the Complaint if breach of
4 fiduciary duty is not pled with sufficient detail.

5 **COURT FURTHER FINDS** after review that the economic loss doctrine “marks
6 the fundamental boundary between contract law, which is designed to enforce the
7 expectancy interests of the parties, and tort law, which imposes a duty of reasonable care
8 and thereby [generally] encourages citizens to avoid causing physical harm to others.”
9 Terracon Consultants W., Inc. v. Mandalay Resort Grp., 125 Nev. 66, 72–73, 206 P.3d
10 81, 86 (2009). Thus, the economic loss doctrine applies to bar claims for “unintentional
11 tort actions when the plaintiff seeks to recover purely economic losses.” Id. It is accepted
12 that the economic loss doctrine does not apply to bar intentional torts. Halcrow, Inc. v.
13 Eighth Jud. Dist. Ct., 129 Nev. Adv. Op. 42, 302 P.3d 1148, 1154 fn. 2 (2013), as
14 corrected (Aug. 14, 2013) (“Intentional torts are not barred by the economic loss
15 doctrine.”).

16
17
18 However, there are established exceptions to the economic loss doctrine’s bar on
19 unintentional tort actions; specifically, “[l]iability is proper in cases where there is
20 significant risk that the law would not exert significant financial pressures to avoid such
21 negligence. These types of cases encompass economic losses sustained, for example, as a
22 result of defamation, **intentionally caused harm, negligent misstatements about**
23 **financial matters**, and loss of consortium.” Id. at 1153 (emphasis added) (internal
24 citations and quotations omitted).

25
26 **COURT FURTHER FINDS** after review that the economic loss doctrine does
27 not apply to bar Plaintiff’s claims for relief against Defendants Uni-Ter Underwriting
28

1 Management Corp. and Uni-Ter Claims Services Corp. for negligent misrepresentation or
2 breach of fiduciary duty. Thus, claims 3 and 4 will not be dismissed.

3 Plaintiff's claim for negligent misrepresentation is not barred because in the
4 Complaint Plaintiff alleges that the misrepresentations were regarding financial matters;
5 specifically, Plaintiff alleges "Uni-Ter UMC, through its employees, negligently
6 misrepresented the specific financial conditions of L&C including the level of losses and
7 LAE." See Complaint ¶¶174–177. Thus, under Halcrow, the allegations in the Complaint
8 are sufficient to plead an exception to the economic loss doctrine.

9
10 Plaintiff's claim for breach of fiduciary duty is likewise not barred because the
11 economic loss doctrine does not apply, because breach of fiduciary duty is an intentional
12 tort. NRS 78.138(7) is clear that only intentional conduct can form the basis for a
13 violation because "intentional misconduct, fraud or a knowing violation of law" must be
14 proven. Here, Plaintiff alleges that Defendants took actions that were not authorized by
15 the Board of L&C which caused damage to the company. See Complaint ¶¶183–186.
16 These allegations are sufficient to allege that the economic loss doctrine does not apply to
17 this claim of intentional misconduct.

18
19 **COURT FURTHER FINDS** after review that to plead a claim for breach of
20 fiduciary duty Plaintiff must allege "the existence of a fiduciary duty, the breach of that
21 duty, and that the breach proximately caused the damages." Brown v. Kinross Gold
22 U.S.A., Inc., 531 F. Supp. 2d 1234, 1245 (D. Nev. 2008) (citing Clark v. Lubritz, 113
23 Nev. 1089, 944 P.2d 861, 866–67 (1997)). "[T]o hold a director or officer individually
24 liable, the shareholder must prove that the director's breach of his or her fiduciary duty of
25 loyalty involved intentional misconduct, fraud or a knowing violation of law." In re
26
27
28

1 Amerco Derivative Litig., 127 Nev. Adv. Op. 17, 252 P.3d 681, 701 (2011) (internal
2 alterations and quotations omitted) (citing NRS 78.138(7)(b)).

3 **COURT FURTHER FINDS** after review that the Court is unable to determine at
4 this time if the economic loss doctrine bars Plaintiff's claim for relief against Defendant
5 U.S. RE Corporation for breach of fiduciary duty because the claim for breach of
6 fiduciary duty is not sufficiently plead. In order to determine whether the economic loss
7 doctrine bars the claim, the Court must determine whether the conduct states a claim for
8 an intentional tort. Here, Plaintiff alleges that Defendant failed to secure appropriate
9 reinsurance because the insurance that it did obtain contained deductible rates that were
10 consistently too high. See Complaint ¶¶190–193. It appears that Plaintiff is attempting to
11 state a claim for an intentional tort because it labeled this claim "breach of fiduciary
12 duty." See Complaint ¶¶189–195. However, the allegations do not actually allege that
13 this was an intentional act. Indeed, NRS 78.138(7)(b), which codifies a breach of
14 fiduciary duty requires "intentional misconduct, fraud or a knowing violation of law."
15
16

17 In the briefing in opposition to Defendant U.S. RE Corporation's Motion to
18 Dismiss, Plaintiff argues that Defendant and L&C were in an agency relationship;
19 however, this agency relationship has not been plead in the Complaint and in order to
20 state a claim for breach of fiduciary duty Plaintiff still must comply with NRS
21 78.138(7)(b). Thus, claim 5 will be dismissed with leave to amend to clarify the basis for
22 the duty owed, the actual duty owed, the actions that constituted a breach of the duty, and
23 the damages incurred by the breach.
24

25 **THEREFORE, THE COURT ORDERS** for good cause appearing and for the
26 reasons stated above, Defendants Uni-Ter Underwriting Management Corp. and Uni-Ter
27
28

1 Claims Services Corp.'s Motion to Dismiss **DENIED** and U.S. RE Corporation's Motion
2 to Dismiss under advisement **GRANTED WITH LEAVE TO AMEND**.

3 **COURT FURTHER ORDERS** for good cause appearing and for the reasons
4 stated above, Plaintiff has **30 DAYS LEAVE TO AMEND** from the Notice of Entry of
5 Order.

6 **COURT FURTHER ORDERS** for good cause appearing and for the reasons
7 stated above, the **STATUS CHECK** set for **CHAMBERS CALENDAR** on May 17,
8 2016 is **VACATED**.

9
10 Dated: April 27, 2016

11
12
13 Nancy L Alf
14 NANCY ALF
15 DISTRICT COURT JUDGE
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28

1
2 **CERTIFICATE OF SERVICE**

3 I hereby certify that on or about the date signed I caused the foregoing document to be
4 electronically served pursuant to EDCR 8.05(a) and 8.05(f) through the Eighth Judicial
5 District Court's electronic filing system, with the date and time of the electronic service
substituted for the date and place of deposit in the mail to:

6 Fennemore Craig – Brenoch Wirthlin, Esq. – bwirthlin@fclaw.com

7 McDonald Carano Wilson LLP – George F. Ogilvie, Esq.
8 gogilvie@mcdonaldcarano.com

9 Lipson, Neilson, Cole, Seltzer & Garin, P.C. – Angela T. Nakamura Ochoa, Esq.
10 aocchoa@lipsonneilson.com

11
12 

13 Karen Lawrence
14 Judicial Executive Assistant
15
16
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CLERK OF THE COURT

NOED
JAMES L. WADHAMS, ESQ.
Nevada Bar No. 1115
KARL L. NIELSON, ESQ.
Nevada Bar No. 5082
BRENOCH WIRTHLIN, ESQ.
Nevada Bar No. 10282
FENNEMORE CRAIG, P.C.
300 South Fourth Street, Suite 1400
Las Vegas, Nevada 89101
Telephone: (702) 692-8000
Facsimile: (702) 692-8099
knielson@fclaw.com; bwirthlin@fclaw.com
*Attorneys for Plaintiff Commissioner of Insurance
For the State of Nevada*

DISTRICT COURT

CLARK COUNTY, NEVADA

COMMISSIONER OF INSURANCE FOR
THE STATE OF NEVADA AS RECEIVER
OF LEWIS AND CLARK LTC RISK
RETENTION GROUP, INC.,

Plaintiff,

vs.

ROBERT CHUR, STEVE FOGG, MARK
GARBER, CAROL HARTER, ROBERT
HURLBUT, BARBARA LUMPKIN, JEFF
MARSHALL, ERIC STICKELS, UNI-TER
UNDERWRITING MANAGEMENT CORP.,
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U.S. RE CORPORATION; DOES 1-50,
inclusive; and ROES 51-100, inclusive;

Defendants.

Case No.: A-14-711535-C

Dept No.: 27

**NOTICE OF ENTRY OF DECISION AND
ORDER**

PLEASE TAKE NOTICE that a Decision and Order was entered by the Court on May 4,
2016, a copy of which is attached hereto.

///

///

///

///

1 DATED this 10th day of May, 2016.

2 **FENNEMORE CRAIG, P.C.**

3
4 By: /s/ Karl L. Nielson

JAMES L. WADHAMS, ESQ.

Nevada Bar No. 1115

KARL L. NIELSON, ESQ.

Nevada Bar No. 5082

BRENOCH WIRTHLIN, ESQ.

Nevada Bar No. 10282

300 South Fourth Street, Suite 1400

Las Vegas, Nevada 89101

Telephone: (702) 692-8000

Facsimile: (702) 692-8099

knielson@fclaw.com

bwirthlin@fclaw.com

*Attorneys for Plaintiff Commissioner of
Insurance For the State of Nevada*

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George F. Ogilvie III, Esq.
James W. Bradshaw, Esq.
Jeffrey S. Riesenmy, Esq.
McDonald Carano Wilson LLP
2300 West Sahara Avenue, Suite 1200
Las Vegas, NV 89102
gogilvie@mcdonaldcarano.com
jbradshaw@mcdonaldcarano.com
jriesenmy@mcdonaldcarano.com
Attorneys for Defendants
Uni-Ter Underwriting Management Corp.,
Uni-Ter Claims Services Corp. and U.S. RE Corporation

and by depositing a true and correct of the same via U.S. Mail, postage prepaid addressed as follows:

Jon M. Wilson, Esq.
Broad and Cassel
2 South Biscayne Blvd., 21st Floor
Miami, FL 33131
jwilson@broadandcassel.com
Attorneys for Defendants
Uni-Ter Underwriting Management Corp.,
Uni-Ter Claims Services Corp. and U.S. RE Corporation

27
28

1 ORDR

2 DISTRICT COURT
3 CLARK COUNTY, NEVADA

4 * * * *

5 COMMISSIONER OF INSURANCE FOR THE
6 STATE OF NEVADA AS RECEIVER OF
7 LEWIS AND CLARK LTC RISK RETENTION
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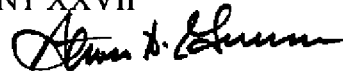
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18 inclusive; and ROES 51-100, inclusive,

19 Defendants.

CASE NO.: A-14-711535-C

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DEPARTMENT XXVII



CLERK OF THE COURT

20 DECISION AND ORDER

21 These matters having come on for hearing on February 25, 2016; Brenoch
22 Wirthlin, Esq., appearing for and on behalf of Plaintiff, Commissioner of Insurance for
23 the State of Nevada as Receiver of Lewis and Clark LTC Risk Retention Group, Inc.
24 (hereinafter "Plaintiff"); George F. Ogilvie, III, Esq. and Jon M. Wilson, Esq., appearing
25 for and on behalf of Defendants, Uni-Ter Underwriting Management Corp.; Uni-Ter
26 Claims Services Corp.; and U.S. RE Corporation (hereinafter collectively "Entity
27 Defendants"), and the Court having heard arguments of counsel, and being fully advised
28 of the matters herein, the **COURT FINDS** after review:

29 This action is brought by Plaintiff, the Court-appointed receiver for Lewis and
30 Clark LTC Risk Retention Group, Inc. ("L&C"). It is brought against L&C's former
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1 underwriting managers and reinsurance broker. L&C was formed in 2004 and between
2 2004 and February 28, 2013 it provided general and professional liability coverage to
3 long term care facilities and home health providers. See Complaint ¶1.

4 L&C's relationship with Entity Defendant Uni-Ter Underwriting Management
5 Corp. began in 2004 when the parties entered into a Management Agreement providing
6 the specifics of their relationship. Id. ¶42. This 2004 Management Agreement was
7 amended in minor ways until 2011 when a new Management Agreement was executed.
8 Id. ¶¶50, 56. This 2011 Management Agreement was substantially similar to the prior one
9 with a few revisions and the addition of and Defendant Uni-Ter Claims Services Corp. Id.
10 ¶¶56, 58–59. The 2011 Management Agreement was also amended in minor ways. Id.
11 ¶¶60–62.

12
13 The 2004 Management Agreements explicitly stated that Defendant Uni-Ter
14 Underwriting Management Corp. would “serve L&C in a fiduciary capacity for all legal
15 duties.” Id. ¶44. The 2011 Management Agreement also explicitly stated that Defendant
16 Uni-Ter Underwriting Management Corp. and Defendant Uni-Ter Claims Services Corp.
17 would “serve L&C in a fiduciary capacity for all legal duties.” Id. ¶58.

18
19 L&C's relationship with Entity Defendant U.S. RE Corporation began in
20 December, 2003 when the parties entered into a Letter Agreement whereby L&C
21 appointed U.S. RE Corporation as its exclusive reinsurance intermediary/broker. Id. ¶64.
22 The Letter Agreement specifically states “[a]ll funds collected for [L&C]'s account will
23 be handled by U.S. RE in a fiduciary capacity in a bank which is a qualified United States
24 financial institution.” Id. ¶65, Ex. 4. This is the only mention of fiduciary duty with
25 regard to U.S. RE Corporation.
26
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28

1 In November, 2012 the Nevada Division of Insurance filed a receivership action
2 against L&C and the Court entered a liquidation order on February 28, 2013. Id. ¶2. The
3 liquidation order gave Plaintiff, as receiver, the express power to prosecute any action
4 which may exist on behalf of the policyholders, members, or shareholders of L&C
5 against any officer of L&C or any other person. Id. ¶2, Ex. 1.

6
7 **COURT FURTHER FINDS** after review Plaintiff filed its Complaint on
8 December 23, 2014 and it stated claims for 1) Gross Negligence of the Former Officers
9 and Directors of L&C; 2) Deepening of the Insolvency of L&C Caused by the Former
10 Officers and Directors; 3) Negligent Misrepresentation by Uni-Ter Underwriting
11 Management Corp.; 4) Breach of Fiduciary Duty by Uni-Ter Underwriting Management
12 Corp. and Uni-Ter Claims Services Corp.; 5) Breach of Fiduciary Duty against U.S. RE
13 Corporation.

14
15 On February 25, 2016 the Court took Defendants Uni-Ter Underwriting
16 Management Corp. and Uni-Ter Claims Services Corp.'s Motion to Dismiss and U.S. RE
17 Corporation's Motion to Dismiss under advisement. The Motions only concern claims 3,
18 4, and 5.

19 **COURT FURTHER FINDS** after review Defendants move to Dismiss
20 Plaintiff's claims 3, 4, and 5 under NRCP 5(b)(5) because the complaint does not state a
21 claim upon which relief can be granted. Nevada is a notice-pleading jurisdiction, and as
22 such does not have a strict requirement for pleading. "The test for determining whether
23 the allegations of a cause of action are sufficient to assert a claim for relief is whether the
24 allegations give fair notice of the nature of the basis of the claim and the relief
25 requested." Ravera v. City of Reno, 100 Nev. 68, 70, 675 P.2d 407, 408 (1984).
26
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28

1 Defendants Uni-Ter Underwriting Management Corp. and Uni-Ter Claims
2 Services Corp. argue that the economic loss doctrine requires dismissal of the claim for
3 negligent misrepresentation because Defendants duties were created by the 2004 and
4 2011 Management Agreements, so an alleged failure to provide the services in the
5 Management Agreements would lead to a breach of contract claim. Likewise, Defendants
6 argue that the economic loss doctrine requires dismissal of the claim for breach of
7 fiduciary duty because this claim arises from an alleged breach of the Management
8 Agreements.
9

10 Defendant U.S. RE Corporation also argues that the economic loss doctrine
11 requires dismissal of the claim for breach of fiduciary duty because any alleged duty was
12 created by the contract provided in the Letter Agreement. Furthermore, Defendant U.S.
13 RE Corporation argues that even if the claim is not barred by the economic loss doctrine,
14 it must be dismissed because the Complaint does not adequately describe the duties owed
15 by Defendant U.S. RE Corporation, how exactly those same duties were breached, and
16 how an alleged breach proximately caused damages and what those damages were.
17

18 Plaintiff rebuts the arguments proffered by Defendants Uni-Ter Underwriting
19 Management Corp. and Uni-Ter Claims Services Corp. by arguing that claims for
20 negligent misrepresentation are not barred by the economic loss doctrine when the
21 misstatements are regarding financial matters. Plaintiff also argues that claims for breach
22 of fiduciary duty are not barred by the economic loss doctrine because the economic loss
23 doctrine does not bar intentional torts.
24

25 Additionally, Plaintiff rebuts the arguments proffered by Defendant U.S. RE
26 Corporation by arguing that, similar to the prior argument, breach of fiduciary duty is an
27 intentional tort under NRS 78.138(7) and as such, is not barred by the economic loss
28

1 doctrine. Plaintiff also argues that it has sufficiently set forth the elements of a breach of
2 fiduciary duty; specifically, it argued that there are multiple additional bases for fiduciary
3 duties. Alternatively, Plaintiff requests leave to amend the Complaint if breach of
4 fiduciary duty is not pled with sufficient detail.

5 **COURT FURTHER FINDS** after review that the economic loss doctrine “marks
6 the fundamental boundary between contract law, which is designed to enforce the
7 expectancy interests of the parties, and tort law, which imposes a duty of reasonable care
8 and thereby [generally] encourages citizens to avoid causing physical harm to others.”
9 Terracon Consultants W., Inc. v. Mandalay Resort Grp., 125 Nev. 66, 72–73, 206 P.3d
10 81, 86 (2009). Thus, the economic loss doctrine applies to bar claims for “unintentional
11 tort actions when the plaintiff seeks to recover purely economic losses.” Id. It is accepted
12 that the economic loss doctrine does not apply to bar intentional torts. Halcrow, Inc. v.
13 Eighth Jud. Dist. Ct., 129 Nev. Adv. Op. 42, 302 P.3d 1148, 1154 fn. 2 (2013), as
14 corrected (Aug. 14, 2013) (“Intentional torts are not barred by the economic loss
15 doctrine.”).

16
17
18 However, there are established exceptions to the economic loss doctrine’s bar on
19 unintentional tort actions; specifically, “[l]iability is proper in cases where there is
20 significant risk that the law would not exert significant financial pressures to avoid such
21 negligence. These types of cases encompass economic losses sustained, for example, as a
22 result of defamation, **intentionally caused harm, negligent misstatements about**
23 **financial matters**, and loss of consortium.” Id. at 1153 (emphasis added) (internal
24 citations and quotations omitted).

25
26 **COURT FURTHER FINDS** after review that the economic loss doctrine does
27 not apply to bar Plaintiff’s claims for relief against Defendants Uni-Ter Underwriting
28

1 Management Corp. and Uni-Ter Claims Services Corp. for negligent misrepresentation or
2 breach of fiduciary duty. Thus, claims 3 and 4 will not be dismissed.

3 Plaintiff's claim for negligent misrepresentation is not barred because in the
4 Complaint Plaintiff alleges that the misrepresentations were regarding financial matters;
5 specifically, Plaintiff alleges "Uni-Ter UMC, through its employees, negligently
6 misrepresented the specific financial conditions of L&C including the level of losses and
7 LAE." See Complaint ¶¶174–177. Thus, under Halcrow, the allegations in the Complaint
8 are sufficient to plead an exception to the economic loss doctrine.

9
10 Plaintiff's claim for breach of fiduciary duty is likewise not barred because the
11 economic loss doctrine does not apply, because breach of fiduciary duty is an intentional
12 tort. NRS 78.138(7) is clear that only intentional conduct can form the basis for a
13 violation because "intentional misconduct, fraud or a knowing violation of law" must be
14 proven. Here, Plaintiff alleges that Defendants took actions that were not authorized by
15 the Board of L&C which caused damage to the company. See Complaint ¶¶183–186.
16 These allegations are sufficient to allege that the economic loss doctrine does not apply to
17 this claim of intentional misconduct.

18
19 **COURT FURTHER FINDS** after review that to plead a claim for breach of
20 fiduciary duty Plaintiff must allege "the existence of a fiduciary duty, the breach of that
21 duty, and that the breach proximately caused the damages." Brown v. Kinross Gold
22 U.S.A., Inc., 531 F. Supp. 2d 1234, 1245 (D. Nev. 2008) (citing Clark v. Lubritz, 113
23 Nev. 1089, 944 P.2d 861, 866–67 (1997)). "[T]o hold a director or officer individually
24 liable, the shareholder must prove that the director's breach of his or her fiduciary duty of
25 loyalty involved intentional misconduct, fraud or a knowing violation of law." In re
26
27
28

1 Amerco Derivative Litig., 127 Nev. Adv. Op. 17, 252 P.3d 681, 701 (2011) (internal
2 alterations and quotations omitted) (citing NRS 78.138(7)(b)).

3 **COURT FURTHER FINDS** after review that the Court is unable to determine at
4 this time if the economic loss doctrine bars Plaintiff's claim for relief against Defendant
5 U.S. RE Corporation for breach of fiduciary duty because the claim for breach of
6 fiduciary duty is not sufficiently plead. In order to determine whether the economic loss
7 doctrine bars the claim, the Court must determine whether the conduct states a claim for
8 an intentional tort. Here, Plaintiff alleges that Defendant failed to secure appropriate
9 reinsurance because the insurance that it did obtain contained deductible rates that were
10 consistently too high. See Complaint ¶¶190–193. It appears that Plaintiff is attempting to
11 state a claim for an intentional tort because it labeled this claim "breach of fiduciary
12 duty." See Complaint ¶¶189–195. However, the allegations do not actually allege that
13 this was an intentional act. Indeed, NRS 78.138(7)(b), which codifies a breach of
14 fiduciary duty requires "intentional misconduct, fraud or a knowing violation of law."
15

16
17 In the briefing in opposition to Defendant U.S. RE Corporation's Motion to
18 Dismiss, Plaintiff argues that Defendant and L&C were in an agency relationship;
19 however, this agency relationship has not been plead in the Complaint and in order to
20 state a claim for breach of fiduciary duty Plaintiff still must comply with NRS
21 78.138(7)(b). Thus, claim 5 will be dismissed with leave to amend to clarify the basis for
22 the duty owed, the actual duty owed, the actions that constituted a breach of the duty, and
23 the damages incurred by the breach.
24

25 **THEREFORE, THE COURT ORDERS** for good cause appearing and for the
26 reasons stated above, Defendants Uni-Ter Underwriting Management Corp. and Uni-Ter
27
28

1 Claims Services Corp.'s Motion to Dismiss **DENIED** and U.S. RE Corporation's Motion
2 to Dismiss under advisement **GRANTED WITH LEAVE TO AMEND**.

3 **COURT FURTHER ORDERS** for good cause appearing and for the reasons
4 stated above, Plaintiff has **30 DAYS LEAVE TO AMEND** from the Notice of Entry of
5 Order.

6 **COURT FURTHER ORDERS** for good cause appearing and for the reasons
7 stated above, the **STATUS CHECK** set for **CHAMBERS CALENDAR** on May 17,
8 2016 is **VACATED**.

9
10 Dated: April 27, 2016

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13 Nancy L Alf
14 NANCY ALF
15 DISTRICT COURT JUDGE
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1
2 **CERTIFICATE OF SERVICE**

3 I hereby certify that on or about the date signed I caused the foregoing document to be
4 electronically served pursuant to EDCR 8.05(a) and 8.05(f) through the Eighth Judicial
5 District Court's electronic filing system, with the date and time of the electronic service
substituted for the date and place of deposit in the mail to:

6 Fennemore Craig – Brenoch Wirthlin, Esq. – bwirthlin@fclaw.com

7 McDonald Carano Wilson LLP – George F. Ogilvie, Esq.
8 gogilvie@mcdonaldcarano.com

9 Lipson, Neilson, Cole, Seltzer & Garin, P.C. – Angela T. Nakamura Ochoa, Esq.
10 aocchoa@lipsonneilson.com

11 

12 _____
13 Karen Lawrence
14 Judicial Executive Assistant
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Heather S. Lumin

CLERK OF THE COURT

ORDG
LIPSON NEILSON P.C.
JOSEPH P. GARIN, ESQ.
Nevada Bar No. 6653
ANGELA T. NAKAMURA OCHOA, ESQ.
Nevada Bar No. 10164
9900 Covington Cross Drive, Suite 120
Las Vegas, Nevada 89144
(702) 382-1500 - Telephone
(702) 382-1512 - Facsimile
jgarin@lipsonneilson.com
aocchoa@lipsonneilson.com
Attorneys for Defendants
Robert Chur, Steve Fogg,
Mark Garber, Carol Harter,
Robert Hurlbut, Barbara Lumpkin,
Jeff Marshall, and Eric Stickels

DISTRICT COURT
CLARK COUNTY, NEVADA

COMMISSIONER OF INSURANCE FOR
THE STATE OF NEVADA AS RECEIVER
OF LEWIS AND CLARK LTC RISK
RETENTION GROUP, INC.,

Plaintiff,

vs.

ROBERT CHUR, STEVE FOGG, MARK
GARBER, CAROL HARTER, ROBERT
HURLBUT, BARBARA LUMPKIN, JEFF
MARSHALL, ERIC STICKELS, UNI-TER
UNDERWRITING MANAGEMENT
CORP., UNI-TER CLAIMS SERVICES
CORP., and U.S. RE CORPORATION,
DOES 1-50, inclusive; and ROES 51-100,
inclusive,

Defendants.

CASE NO.: A-14-711535-C

DEPT. NO.: 27

**ORDER GRANTING DEFENDANTS
ROBERT CHUR, STEVE FOGG, MARK
GARBER, CAROL HARTER, ROBERT
HURLBUT, BARBARA LUMPKIN, JEFF
MARSHALL, AND ERIC STICKELS'
MOTION FOR JUDGMENT ON THE
PLEADINGS PURSUANT TO NRCP
12(C)**

AND

JUDGMENT THEREON

Pursuant to the Nevada Supreme Court's Order Granting the Petition for Writ of
Mandamus and Notice in Lieu of Remittitur,

THE COURT HEREBY ORDERS that its November 2, 2018 Order Denying
Director Defendants' Motion for Judgment on the Pleadings Pursuant to NRCP 12(c) is
hereby VACATED.

THE COURT FURTHER ORDERS that Defendants Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert Hurlbut, Barbara Lumpkin, Jeff Marshall and Eric Stickels' Motion for Judgment on the Pleadings Pursuant to NRCP 12(c) is GRANTED.

With Plaintiff's Motion for Leave to file an Amended Complaint having been denied by this Court on August 10, 2020, Judgment is hereby entered in favor of Defendants Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert Hurlbut, Barbara Lumpkin, Jeff Marshall.

DATED this 1 day of August, 2020.

Dated this 13th day of August, 2020

Nancy L Allf

JUDGE NANCY ALLF

1FA 835 11BE 21AF
Nancy Allf
District Court Judge

NB

Submitted by:
LIPSON NEILSON P.C.

/s/ Angela Nakamura Ochoa

Joseph P. Garin, Esq. (NV Bar No. 6653)

Angela Ochoa, Esq. (NV Bar No. 10164)

9900 Covington Cross Dr., Suite 120

Las Vegas, NV 89144

*Attorneys for Defendants Robert Chur,
Steve Fogg, Mark Garber, Carol Harter,
Robert Hurlbut, Barbara Lumpkin, Jeff
Marshall & Eric Stickels*

1 **CSERV**

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5
6 Commissioner of Insurance for
7 the State of Nevada as Receiver
8 of Lewis and Clark, Plaintiff(s)

CASE NO: A-14-711535-C

DEPT. NO. Department 27

9 vs.

10 Robert Chur, Defendant(s)

11 **AUTOMATED CERTIFICATE OF SERVICE**

12
13 This automated certificate of service was generated by the Eighth Judicial District
14 Court. The foregoing Order Granting was served via the court's electronic eFile system to all
recipients registered for e-Service on the above entitled case as listed below:

15 Service Date: 8/13/2020

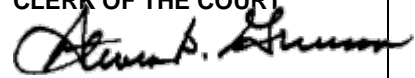
16 Adrina Harris .	aharris@fclaw.com
17 Angela T. Nakamura Ochoa .	aochoa@lipsonneilson.com
18 Ashley Scott-Johnson .	ascott-johnson@lipsonneilson.com
19 Brenoch Wirthlin .	bwirthli@fclaw.com
20 CaraMia Gerard .	cgerard@mcdonaldcarano.com
21 George F. Ogilvie III .	gogilvie@mcdonaldcarano.com
22 Jessica Ayala .	jayala@fclaw.com
23 Joanna Grigoriev .	jgrigoriev@ag.nv.gov
24 Jon M. Wilson .	jwilson@broadandcassel.com
25 Kathy Barrett .	kbarrett@mcdonaldcarano.com

26
27
28

1	Marilyn Millam .	mmillam@ag.nv.gov
2	Nevada Attorney General .	wiznetfilings@ag.nv.gov
3	Paul Garcia .	pgarcia@fclaw.com
4	Renee Rittenhouse .	rrittenhouse@lipsonneilson.com
5	Rory Kay .	rkay@mcdonaldcarano.com
6	Susana Nutt .	snutt@lipsonneilson.com
7	Yusimy Bordes .	ybordes@broadandcassel.com
8	Jelena Jovanovic .	jjovanovic@mcdonaldcarano.com
9	Christian Orme	corne@hutchlegal.com
10	Patricia Lee	plee@hutchlegal.com
11	Kimberly Freedman	kfreedman@broadandcassel.com
12	Danielle Kelley	dkelley@hutchlegal.com
13	Karen Surowiec	ksurowiec@mcdonaldcarano.com
14	Jonathan Wong	jwong@lipsonneilson.com
15	Erin Kolmansberger	erin.kolmansberger@nelsonmullins.com
16	Melissa Gomberg	melissa.gomberg@nelsonmullins.com
17	Betsy Gould	bgould@doi.nv.gov
18	Juan Cerezo	jcerezo@lipsonneilson.com
19	Stuart Taylor	staylor@hutchlegal.com
20	Heather Bennett	hshepherd@hutchlegal.com
21	Brenoch Wirthlin	bwirthlin@klnevada.com
22	Jon Linder	jlinder@klnevada.com
23	S. Dianne Pomonis	dpomonis@klnevada.com
24		
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26
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28

Daniel Maul	dmaul@hutchlegal.com
Brenoch Wirthlin	bwirthlin@hutchlegal.com
Jon Linder	jlinder@hutchlegal.com



NEO
BRENOCH R. WIRTHLIN, ESQ.
Nevada Bar No. 10282
CHRIS ORME, ESQ.
Nevada Bar No. 10175
HUTCHISON & STEFFEN
10080 West Alta Drive, Suite 200
Las Vegas, Nevada 89145
Telephone: (702) 385.2500
Facsimile: (702) 385.2086
E-Mail: bwirthlin@hutchlegal.com
E-mail: corne@hutchlegal.com
Attorneys for Plaintiff

DISTRICT COURT

CLARK COUNTY, NEVADA

COMMISSIONER OF INSURANCE FOR
THE STATE OF NEVADA AS RECEIVER
OF LEWIS AND CLARK LTC RISK
RETENTION GROUP, INC.,

Plaintiff,

vs.

ROBERT CHUR, STEVE FOGG, MARK
GARBER, CAROL HARTER, ROBERT
HURLBUT, BARBARA LUMPKIN, JEFF
MARSHALL, ERIC STICKELS, UNI-TER
UNDERWRITING MANAGEMENT CORP.,
UNI-TER CLAIMS SERVICES CORP., and
U.S. RE CORPORATION,; DOES 1-50,
inclusive; and ROES 51-100, inclusive;

Defendants.

Case No.: A-14-711535-C

Dept. No.: XXVII

NOTICE OF ENTRY OF ORDER

Please take notice that an Order to Strike from Record was entered on the 13th day of
August, 2020,

///

///

///

///

1 a copy of which is attached hereto.

2 DATED this 14th day of August, 2020.

3 HUTCHISON & STEFFEN

4

5 By /s/Brenoch Wirthlin
6 BRENOCH R. WIRTHLIN, ESQ.
7 Nevada Bar No. 10282
8 CHRIS ORME, ESQ.
9 Nevada Bar No. 10175
10 10080 West Alta Drive, Suite 200
11 Las Vegas, Nevada 89145
12 *Attorneys for Plaintiff*

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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that on this 14th day of August, 2020, I caused the document entitled **NOTICE OF ENTRY OF ORDER** to be served on the following by Electronic Service to:

ALL PARTIES ON THE E-SERVICE LIST

/s/Danielle Kelley
An Employee of Hutchison & Steffen, PLLC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

* * * *

COMMISSIONER OF INSURANCE FOR
THE STATE OF NEVADA AS RECEIVER
OF LEWIS AND CLARK

CASE NO.: A-18-711535-C

Plaintiff(s),

DEPARTMENT 27

v.

ROBERT CHUR

Defendant(s).

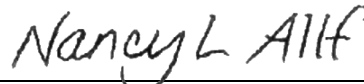
ORDER TO STRIKE FROM RECORD

COURT FINDS after review the Findings of Fact/ Conclusions of Law and Order Denying Plaintiff's Motion for Leave to File Fourth Amended Complaint was signed erroneously on August 10, 2020.

THEREFORE, COURT ORDERS for good cause appearing and after review that the Findings of Fact/Conclusions of Law and Order Denying Plaintiff's Motion for Leave to File Fourth Amended Complaint be stricken from the record.

Dated: August 13, 2020

Dated this 13th day of August, 2020



NANCY ALLF
DISTRICT COURT JUDGE
338 DD8 771A 099D
Nancy Allf
District Court Judge

1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4
5
6 Commissioner of Insurance for
7 the State of Nevada as Receiver
of Lewis and Clark, Plaintiff(s)

CASE NO: A-14-711535-C

DEPT. NO. Department 27

8 vs.

9 Robert Chur, Defendant(s)

10
11 **AUTOMATED CERTIFICATE OF SERVICE**

12
13 This automated certificate of service was generated by the Eighth Judicial District
14 Court. The foregoing Order was served via the court's electronic eFile system to all
recipients registered for e-Service on the above entitled case as listed below:

15 Service Date: 8/13/2020

16 Adrina Harris .	aharris@fclaw.com
17 Angela T. Nakamura Ochoa .	aochoa@lipsonneilson.com
18 Ashley Scott-Johnson .	ascott-johnson@lipsonneilson.com
19 Brenoch Wirthlin .	bwirthli@fclaw.com
20 CaraMia Gerard .	cgerard@mcdonaldcarano.com
21 George F. Ogilvie III .	gogilvie@mcdonaldcarano.com
22 Jessica Ayala .	jayala@fclaw.com
23 Joanna Grigoriev .	jgrigoriev@ag.nv.gov
24 Jon M. Wilson .	jwilson@broadandcassel.com
25 Kathy Barrett .	kbarrett@mcdonaldcarano.com

26
27
28

1	Marilyn Millam .	mmillam@ag.nv.gov
2	Nevada Attorney General .	wiznetfilings@ag.nv.gov
3	Paul Garcia .	pgarcia@fclaw.com
4	Renee Rittenhouse .	rrittenhouse@lipsonneilson.com
5	Rory Kay .	rkay@mcdonaldcarano.com
6	Susana Nutt .	snutt@lipsonneilson.com
7	Yusimy Bordes .	ybordes@broadandcassel.com
8	Jelena Jovanovic .	jjovanovic@mcdonaldcarano.com
9	Christian Orme	corne@hutchlegal.com
10	Patricia Lee	plee@hutchlegal.com
11	Kimberly Freedman	kfreedman@broadandcassel.com
12	Danielle Kelley	dkelley@hutchlegal.com
13	Karen Surowiec	ksurowiec@mcdonaldcarano.com
14	Jonathan Wong	jwong@lipsonneilson.com
15	Erin Kolmansberger	erin.kolmansberger@nelsonmullins.com
16	Melissa Gomberg	melissa.gomberg@nelsonmullins.com
17	Betsy Gould	bgould@doi.nv.gov
18	Juan Cerezo	jcerezo@lipsonneilson.com
19	Stuart Taylor	staylor@hutchlegal.com
20	Heather Bennett	hshepherd@hutchlegal.com
21	Brenoch Wirthlin	bwirthlin@klnevada.com
22	Jon Linder	jlinder@klnevada.com
23	S. Dianne Pomonis	dpomonis@klnevada.com
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1 Daniel Maul dmaul@hutchlegal.com

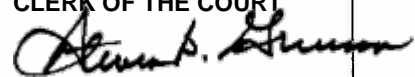
2 Brenoch Wirthlin bwirthlin@hutchlegal.com

3 Jon Linder jlinder@hutchlegal.com

4
5 If indicated below, a copy of the above mentioned filings were also served by mail
6 via United States Postal Service, postage prepaid, to the parties listed below at their last
7 known addresses on 8/14/2020

8 George Ogilvie McDonald Carano Wilson LLP
9 Attn: George F. Ogilvie, III
10 2300 West Sahara Avenue - Suite 1200
11 Las Vegas, NV, 89102

12 Joseph Garin Lipson Neilson P.C.
13 Attn: Joseph P. Garin
14 9900 Covington Cross Drive, Suite 120
15 Las Vegas, NV, 89144
16
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1 **ORDG**
2 BRENOCH WIRTHLIN, ESQ.
3 Nevada Bar No. 10282
4 **FENNEMORE CRAIG, P.C.**
5 1400 Bank of America Plaza
6 300 South Fourth Street
7 Las Vegas, Nevada 89101
8 Telephone: (702) 692-8000
9 Facsimile: (702) 692-8099
10 Email: bwirthlin@fclaw.com
11 *Attorneys for Plaintiff Commissioner of Insurance*
12 *For the State of Nevada*

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DISTRICT COURT
CLARK COUNTY, NEVADA

COMMISSIONER OF INSURANCE FOR
THE STATE OF NEVADA AS RECEIVER
OF LEWIS AND CLARK LTC RISK
RETENTION GROUP,

Plaintiff,

vs.

ROBERT CHUR, STEVE FOGG, MARK
GARBER, CAROL HARTER, ROBERT
HURLBUT, BARBARA LUMPKIN, JEFF
MARSHALL, ERIC STICKELS, UNI-TER
UNDERWRITING MANAGEMENT CORP.,
UNI-TER CLAIMS SERVICES CORP., and
U.S. RE CORPORATION; DOES 1-50,
inclusive; and ROES 51-100, INCLUSIVE;

Defendants.

Case No.: A-14-711535-C

Dept. No.: XXVII

ORDER DENYING PLAINTIFF'S
MOTION TO LIFT STAY OR
ALTERNATIVELY GRANT PLAINTIFF
OTHER RELIEF ON ORDER
SHORTENING TIME

This matter having come before the Honorable Nancy Allf on July 11, 2019, on Plaintiff's Motion to Lift Stay or Alternatively Grant Plaintiff Other Relief on Order Shortening Time ("Motion"); Steven Peek, Esq., having appeared on behalf of Defendants Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert Hurlbut, Barbara Lumpkin, Jeff Marshall, and Eric Stickels (collectively the "Director Defendants"); George F. Ogilvie III, Esq. having appeared on behalf of Defendants Uni-Ter Underwriting Management Corp., Uni-Ter Claims Services Corp., and U.S. Re Corporation; Brenoch R. Wirthlin, Esq., having appeared on behalf of Plaintiff Commissioner

1 of Insurance for the State of Nevada as Receiver of Lewis and Clark LTC Risk Retention Group;
2 the Court having read and considered the Motion and responses thereto, considered the arguments
3 of counsel, being fully advised of the premises, and good cause appearing therefore;

4 The Court finds that the prior stay order entered April 4, 2019, stayed all proceedings in
5 this matter. Furthermore, at the hearing on the Motion the parties conceded that the stay applies
6 to all parties in the case. Thus, the effect of the prior stay order as it pertains to the 5 year rule of
7 NRCP 41(e) is governed by *Las Vegas Sands Corp. et al. v. Eighth Judicial District Court*,
8 Supreme Court of Nevada case no.: 68309, wherein the Supreme Court of Nevada held that an
9 order staying all proceedings “serve[s] to toll NRCP 41(e)’s five-year time frame because the stay

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1 prevent[s] the parties from bringing the action to trial while the stay [is] in place.” (Citing *Boren*
2 *v. City of N. Las Vegas*, 98 Nev. 5, 6, 638 P.2d 404, 404 (1982)).

3 Therefore, it is hereby ordered, adjudged and decreed that the Motion is DENIED.

4
5 DATED this 4 day of Aug, 2019.

6
7 Nancy L. Alf
DISTRICT COURT JUDGE

8 Respectfully submitted by:

9 Dated this 7th day of August, 2019.

Approved as to form and content:

10 **FENNEMORE CRAIG, P.C.**

**LIPSON NEILSON COLE SELTZER
& GARIN, P.C.**

11
12 [Signature]
13 Brenoch Wirthlin, Esq.
14 Nevada Bar No. 10282
15 300 South Fourth Street, Suite 1400
Las Vegas, Nevada 89101

By: [Signature]
Joseph P. Garin, Esq.
Nevada Bar No. 6653
9900 Covington Cross Drive, Suite 120
Las Vegas, Nevada 89144

16 *Attorneys for Plaintiff Commissioner of Insurance*
17 *for the State of Nevada*

J. Stephen Peek, Esq.
Jessica E Whelan, Esq.
Ryan A. Semerald, Esq.
Holland & Hart LLP
9555 Hillwood Dr., 2nd Floor
Las Vegas, NV 89134

18
19 Approved as to form and content:
MCDONALD CARANO WILSON LLP

20
21 By: _____
22 George F. Ogilvie III, Esq.
23 Nevada Bar No. 3352
24 2300 West Sahara Avenue, Suite 1200
Las Vegas, Nevada 89102

*Attorneys for Robert Chur, Steve Fogg, Mark
Garber, Carol Harter, Robert Hurlbut,
Barbara Lumpkin, Jeff Marshall, and Eric
Stickels*

25 Jon M. Wilson, Esq.
26 BROAD AND CASSEL
27 2 S. Biscayne Boulevard, 21st Floor
28 Miami, Florida, 33131

*Attorney for Defendants Uni-Ter Underwriting Management Corp.,
Uni-Ter Services Corp. and U.S. RE Corporation*

Therefore, it is hereby ordered, adjudged and decreed that the Motion is DENIED.

DISTRICT COURT JUDGE

Approved as to form and content:

**LIPSON NEILSON COLE SELTZER
& GARIN, P.C.**

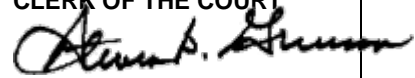
By: _____
Joseph P. Garin, Esq.
Nevada Bar No. 6653
9900 Covington Cross Drive, Suite 120
Las Vegas, Nevada 89144

J. Stephen Peek, Esq.
Jessica E Whelan, Esq.
Ryan A. Semerald, Esq.
Holland & Hart LLP
9555 Hillwood Dr., 2nd Floor
Las Vegas, NV 89134

MCDONALD CARANO WILSON LLP

Attorneys for Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert Hurlbut, Barbara Lumpkin, Jeff Marshall, and Eric Stickels

*Attorney for Defendants Uni-Ter Underwriting Management Corp.,
Uni-Ter Services Corp. and U.S. RE Corporation*



BRENOCH WIRTHLIN, ESQ.
Nevada Bar No. 10282
FENNEMORE CRAIG, P.C.
1400 Bank of America Plaza
300 South Fourth Street
Las Vegas, Nevada 89101
Telephone: (702) 692-8000
Facsimile: (702) 692-8099
Email: bwirthlin@fclaw.com
*Attorneys for Plaintiff Commissioner of Insurance
For the State of Nevada*

DISTRICT COURT

CLARK COUNTY, NEVADA

COMMISSIONER OF INSURANCE FOR
THE STATE OF NEVADA AS RECEIVER
OF LEWIS AND CLARK LTC RISK
RETENTION GROUP,

Plaintiff,

vs.

ROBERT CHUR, STEVE FOGG, MARK
GARBER, CAROL HARTER, ROBERT
HURLBUT, BARBARA LUMPKIN, JEFF
MARSHALL, ERIC STICKELS, UNI-TER
UNDERWRITING MANAGEMENT CORP.,
UNI-TER CLAIMS SERVICES CORP., and
U.S. RE CORPORATION; DOES 1-50,
inclusive; and ROES 51-100, INCLUSIVE;

Defendants.

Case No.: A-14-711535-C

Dept. No.: XXVII

NOTICE OF ENTRY ORDER

PLEASE TAKE NOTICE that on the 12th day of August, 2019, an ORDER DENYING PLAINTIFF'S MOTION TO LIFT STAY OR ALTERNATIVELY GRANT PLAINTIFF OTHER RELIEF ON ORDER SHORTENING TIME, was entered in the above case. A copy is attached hereto.

DATED August 12, 2019.

FENNEMORE CRAIG, P.C.

By: /s/ Brenoch Wirthlin

Brenoch Wirthlin (NV Bar No. 10282)
300 South Fourth Street, Suite 1400
Las Vegas, Nevada 89101
*Attorneys for Plaintiff Commissioner of
Insurance For the State of Nevada*

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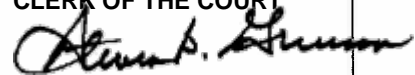
Joseph P. Garin, Esq.
Angela Ochoa, Esq.
LIPSON, NEILSON
9900 Covington Cross Drive, Suite 120
Las Vegas, Nevada 89144

J. Stephen Peek
Jessica E. Qhelan
Ryan A. Semerad
HOLLAND & HART LLP
9555 Hillwood Dr., 2nd Floor
Las Vegas, NV 89134
*Attorneys for Defendants Robert Chur, Steve Fogg,
Mark Garber, Carol Harter, Robert Hurlbut,
Barbara Lumpkin, Jeff Marshall & Eric Stickels*

George Ogline, III
MCDONALD CARANO LLP
 2300 W. Sahara Avenue, Suite 1200
 Las Vegas, Nevada 89102
*Attorneys for Defendants Uni-Ter Underwriting
 Management Corp., Uni-Ter Claims Services Corp.,
 and U.S. RE Corporation*

Jon M. Wilson, Esq.
Kimberly Freedman, Esq.
NELSON MULLINS BROAD AND CASSEL
2 South Biscayne Blvd., 21st Floor
Miami Florida 33131
*Attorneys for Defendants Uni-Ter Underwriting
Management Corp., Uni-Ter Claims Services Corp.,
and U.S. RE Corporation*

/s/ Morganne N. Westover
An employee of **Fennemore Craig, P.C.**



1 **ORDG**
2 BRENOCH WIRTHLIN, ESQ.
3 Nevada Bar No. 10282
4 **FENNEMORE CRAIG, P.C.**
5 1400 Bank of America Plaza
6 300 South Fourth Street
7 Las Vegas, Nevada 89101
8 Telephone: (702) 692-8000
9 Facsimile: (702) 692-8099
10 Email: bwirthlin@fclaw.com
11 *Attorneys for Plaintiff Commissioner of Insurance*
12 *For the State of Nevada*

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DISTRICT COURT
CLARK COUNTY, NEVADA

COMMISSIONER OF INSURANCE FOR
THE STATE OF NEVADA AS RECEIVER
OF LEWIS AND CLARK LTC RISK
RETENTION GROUP,

Plaintiff,

vs.

ROBERT CHUR, STEVE FOGG, MARK
GARBER, CAROL HARTER, ROBERT
HURLBUT, BARBARA LUMPKIN, JEFF
MARSHALL, ERIC STICKELS, UNI-TER
UNDERWRITING MANAGEMENT CORP.,
UNI-TER CLAIMS SERVICES CORP., and
U.S. RE CORPORATION; DOES 1-50,
inclusive; and ROES 51-100, INCLUSIVE;

Defendants.

Case No.: A-14-711535-C

Dept. No.: XXVII

ORDER DENYING PLAINTIFF'S
MOTION TO LIFT STAY OR
ALTERNATIVELY GRANT PLAINTIFF
OTHER RELIEF ON ORDER
SHORTENING TIME

This matter having come before the Honorable Nancy Allf on July 11, 2019, on Plaintiff's Motion to Lift Stay or Alternatively Grant Plaintiff Other Relief on Order Shortening Time ("Motion"); Steven Peek, Esq., having appeared on behalf of Defendants Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert Hurlbut, Barbara Lumpkin, Jeff Marshall, and Eric Stickels (collectively the "Director Defendants"); George F. Ogilvie III, Esq. having appeared on behalf of Defendants Uni-Ter Underwriting Management Corp., Uni-Ter Claims Services Corp., and U.S. Re Corporation; Brenoch R. Wirthlin, Esq., having appeared on behalf of Plaintiff Commissioner

1 of Insurance for the State of Nevada as Receiver of Lewis and Clark LTC Risk Retention Group;
2 the Court having read and considered the Motion and responses thereto, considered the arguments
3 of counsel, being fully advised of the premises, and good cause appearing therefore;

4 The Court finds that the prior stay order entered April 4, 2019, stayed all proceedings in
5 this matter. Furthermore, at the hearing on the Motion the parties conceded that the stay applies
6 to all parties in the case. Thus, the effect of the prior stay order as it pertains to the 5 year rule of
7 NRCP 41(e) is governed by *Las Vegas Sands Corp. et al. v. Eighth Judicial District Court*,
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1 prevent[s] the parties from bringing the action to trial while the stay [is] in place.” (Citing *Boren*
2 *v. City of N. Las Vegas*, 98 Nev. 5, 6, 638 P.2d 404, 404 (1982)).

3 Therefore, it is hereby ordered, adjudged and decreed that the Motion is DENIED.

4
5 DATED this 4 day of Aug, 2019.

6
7 Nancy L. Alf
DISTRICT COURT JUDGE

8 Respectfully submitted by:

9 Dated this 7th day of August, 2019.

Approved as to form and content:

10 **FENNEMORE CRAIG, P.C.**

**LIPSON NEILSON COLE SELTZER
& GARIN, P.C.**

11
12 [Signature]
13 Brenoch Wirthlin, Esq.
14 Nevada Bar No. 10282
15 300 South Fourth Street, Suite 1400
Las Vegas, Nevada 89101

By: [Signature]
Joseph P. Garin, Esq.
Nevada Bar No. 6653
9900 Covington Cross Drive, Suite 120
Las Vegas, Nevada 89144

16 *Attorneys for Plaintiff Commissioner of Insurance*
17 *for the State of Nevada*

J. Stephen Peek, Esq.
Jessica E Whelan, Esq.
Ryan A. Semerald, Esq.
Holland & Hart LLP
9555 Hillwood Dr., 2nd Floor
Las Vegas, NV 89134

18
19 Approved as to form and content:
MCDONALD CARANO WILSON LLP

20
21 By: _____
22 George F. Ogilvie III, Esq.
23 Nevada Bar No. 3352
24 2300 West Sahara Avenue, Suite 1200
Las Vegas, Nevada 89102

*Attorneys for Robert Chur, Steve Fogg, Mark
Garber, Carol Harter, Robert Hurlbut,
Barbara Lumpkin, Jeff Marshall, and Eric
Stickels*

25 Jon M. Wilson, Esq.
26 BROAD AND CASSEL
27 2 S. Biscayne Boulevard, 21st Floor
28 Miami, Florida, 33131

*Attorney for Defendants Uni-Ter Underwriting Management Corp.,
Uni-Ter Services Corp. and U.S. RE Corporation*

prevent[s] the parties from bringing the action to trial while the stay [is] in place.” (*Citing Boren v. City of N. Las Vegas*, 98 Nev. 5, 6, 638 P.2d 404, 404 (1982)).

Therefore, it is hereby ordered, adjudged and decreed that the Motion is DENIED.

DATED this ____ day of _____, 2019.

DISTRICT COURT JUDGE

Respectfully submitted by:

Dated this ____ day of July, 2019.

FENNEMORE CRAIG, P.C.

Approved as to form and content:

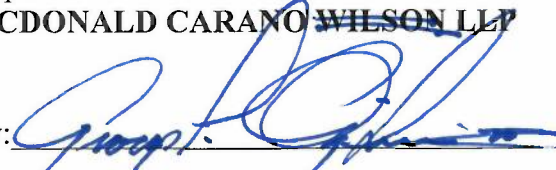
**LIPSON NEILSON COLE SELTZER
& GARIN, P.C.**

Brenoch Wirthlin, Esq.
Nevada Bar No. 10282
300 South Fourth Street, Suite 1400
Las Vegas, Nevada 89101

*Attorneys for Plaintiff Commissioner of Insurance
for the State of Nevada*

Approved as to form and content:

MCDONALD CARANO WILSON LLP

By: 
George F. Ogilvie III, Esq.
Nevada Bar No. 3352
2300 West Sahara Avenue, Suite 1200
Las Vegas, Nevada 89102

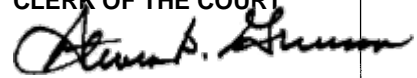
Jon M. Wilson, Esq.
BROAD AND CASSEL
2 S. Biscayne Boulevard, 21st Floor
Miami, Florida, 33131

*Attorney for Defendants Uni-Ter Underwriting Management Corp.,
Uni-Ter Services Corp. and U.S. RE Corporation*

By: _____
Joseph P. Garin, Esq.
Nevada Bar No. 6653
9900 Covington Cross Drive, Suite 120
Las Vegas, Nevada 89144

J. Stephen Peek, Esq.
Jessica E Whelan, Esq.
Ryan A. Semerald, Esq.
Holland & Hart LLP
9555 Hillwood Dr., 2nd Floor
Las Vegas, NV 89134

*Attorneys for Robert Chur, Steve Fogg, Mark
Garber, Carol Harter, Robert Hurlbut,
Barbara Lumpkin, Jeff Marshall, and Eric
Stickels*



ORD
LIPSON NEILSON, P.C.
JOSEPH P. GARIN, ESQ.
Nevada Bar No. 6653
ANGELA T. NAKAMURA OCHOA, ESQ.
Nevada Bar No. 10164
9900 Covington Cross Drive, Suite 120
Las Vegas, Nevada 89144
(702) 382-1500 - Telephone
(702) 382-1512 - Facsimile
jgarin@lipsonneilson.com
aocchoa@lipsonneilson.com
*Attorneys for Defendants/Third-Party
Plaintiffs Robert Chur, Steve Fogg,
Mark Garber, Carol Harter,
Robert Hurlbut, Barbara Lumpkin,
Jeff Marshall, and Eric Stickels*

DISTRICT COURT
CLARK COUNTY, NEVADA

COMMISSIONER OF INSURANCE FOR
THE STATE OF NEVADA AS RECEIVER
OF LEWIS AND CLARK LTC RISK
RETENTION GROUP, INC.,

Plaintiff,

vs.

ROBERT CHUR, STEVE FOGG, MARK
GARBER, CAROL HARTER, ROBERT
HURLBUT, BARBARA LUMPKIN, JEFF
MARSHALL, ERIC STICKELS, UNI-TER
UNDERWRITING MANAGEMENT
CORP., UNI-TER CLAIMS SERVICES
CORP., and U.S. RE CORPORATION,
DOES 1-50, inclusive; and ROES 51-100,
inclusive,

Defendants.

CASE NO.: A-14-711535-C

DEPT. NO.: 27

**ORDER DENYING THE MOTION TO
SUBSTITUTE**

Date of Hearing: January 24, 2019

Time of Hearing: 9:30 a.m.

Plaintiff's Motion for Substitution of Deceased Party Pursuant to NRCP 25(a) was heard on January 24, 2019. In attendance were Angela Ochoa, Esq. on behalf of Defendants Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert Hurlbut, Barbara Lumpkin, Jeff Marshall and Eric Stickels; Brenoch Wirthlin, Esq. on behalf of Plaintiff, Commissioner of Insurance for the State of Nevada as Receiver for the Lewis

1 & Clark Risk Retention Group, Inc.; and George Ogilive, III, Esq. on behalf of U.S. RE
2 Corporation, Uni-Ter Underwriting Management Corp., and Uni-Ter Claims Servicing
3 Corp.

4 The Honorable Nancy Allf presiding, and the Court having heard oral argument,
5 reviewed the pleadings and papers on file herein and being fully advised in the
6 premises and for good cause appearing,

7 THE COURT HEREBY FINDS that the 90-day period referenced in NRCP 25
8 was not triggered by the Suggestion of Death Upon the Record Pursuant to NRCP 25(a)
9 filed on November 2, 2018.

10 THE COURT FURTHER FINDS that it is not defense counsel's duty to find a
11 personal representative for the deceased.

12 THE COURT FURTHER FINDS that the Philis Oeters declaration stating that she
13 is not the personal representative for the deceased, Barbara Lumpkin, is persuasive.

14 Therefore, THE COURT HEREBY ORDERS that the Motion to Substitute is
15 Denied.

16 DATED this 19 day of February, 2019.

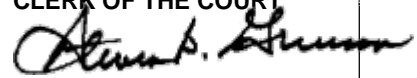
17
18 Nancy L Allf
JUDGE NANCY ALLF

19 Submitted by:
20 LIPSON NEILSON, P.C.

Approved as to Form and Content:
FENNEMORE CRAIG

21 Angela Ochoa
22 Joseph P. Garin, Esq. (NV Bar No. 6653)
23 Angela Ochoa, Esq. (NV Bar No. 10164)
24 9900 Covington Cross Dr., Suite 120
25 Las Vegas, NV 89144
26 *Attorneys for Defendants Robert Chur,
Steve Fogg, Mark Garber, Carol Harter,
Robert Hurlbut, Barbara Lumpkin, Jeff
Marshall & Eric Stickels*

27 James Wadhams
28 James Wadhams, Esq. (NV Bar No. 1115)
Brenoch Wirthlin, Esq. (NV Bar No. 10282)
300 S. Fourth St., Suite 1400
Las Vegas, NV 89101
Attorneys for Plaintiff



LIPSON NEILSON, P.C.
JOSEPH P. GARIN, ESQ.
Nevada Bar No. 6653
ANGELA T. NAKAMURA OCHOA, ESQ.
Nevada Bar No. 10164
JONATHAN K. WONG, ESQ.
Nevada Bar No. 13621
9900 Covington Cross Drive, Suite 120
Las Vegas, Nevada 89144
(702) 382-1500 - Telephone
(702) 382-1512 - Facsimile
jgarin@lipsonneilson.com
aochoa@lipsonneilson.com
jwong@lipsonneilson.com

*Attorneys for Defendants/Third-Party
Plaintiffs Robert Chur, Steve Fogg,
Mark Garber, Carol Harter,
Robert Hurlbut, Barbara Lumpkin,
Jeff Marshall, and Eric Stickels*

DISTRICT COURT

CLARK COUNTY, NEVADA

COMMISSIONER OF INSURANCE FOR
THE STATE OF NEVADA AS RECEIVER
OF LEWIS AND CLARK LTC RISK
RETENTION GROUP, INC.,

Plaintiff,

vs.

ROBERT CHUR, STEVE FOGG, MARK
GARBER, CAROL HARTER, ROBERT
HURLBUT, BARBARA LUMPKIN, JEFF
MARSHALL, ERIC STICKELS, UNI-TER
UNDERWRITING MANAGEMENT
CORP., UNI-TER CLAIMS SERVICES
CORP., and U.S. RE CORPORATION;
DOES 1-50, inclusive; and ROES 51-100,
inclusive,

Defendants.

CASE NO.: A-14-711535-C

DEPT. NO.: 27

NOTICE OF ENTRY OF ORDER

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NOTICE OF ENTRY OF ORDER

Please take notice that the Order Denying the Motion to Substitute was filed with this court on the 21st day of February, 2019, a copy of which is attached.

Dated this 25th day of February, 2019.

LIPSON NEILSON, P.C.

By: 
Joseph P. Garin, Esq. (6653)
Angela T. Nakamura Ochoa, Esq. (10164)
Jonathan K. Wong, Esq. (13621)
9900 Covington Cross Dr., Suite 120
Las Vegas, NV 89144
jgarin@lipsonneilson.com
aochoa@lipsonneilson.com
jwong@lipsonneilson.com

*Attorneys for Defendants/Third-Party
Plaintiffs Robert Chur, Steve Fogg,
Mark Garber, Carol Harter,
Robert Hurlbut, Barbara Lumpkin,
Jeff Marshall, and Eric Stickels*

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b) and Administrative Order 14-2, I certify that on the 26th day of February, 2019, I electronically transmitted the foregoing **NOTICE OF ENTRY OF ORDER** to the Clerk's Office using the Odyssey E-File & Serve System for filing and transmittal to the following Odyssey E-File & Serve registrants:

E-Service Master List For Case

Attorney General's Office

Contact	Email
Joanna Grigoriev	jgrigoriev@ag.nv.gov
Nevada Attorney General	wiznetfilings@ag.nv.gov

Broad and Cassel

Contact	Email
Jon M. Wilson	jwilson@broadandcassel.com
Yusimy Bordes	ybordes@broadandcassel.com

Fennemore Craig, P.C.

Contact	Email
Adrina Harris	aharris@fclaw.com
Brenoch Wirthlin	bwirthli@fclaw.com

McDonald Carano Wilson LLP

Contact	Email
CaraMia Gerard	cgerard@mcdonaldcarano.com
George F. Ogilvie III	gogilvie@mcdonaldcarano.com
James W. Bradshaw	jbradshaw@mcdonaldcarano.com
Kathy Barrett	kbarrett@mcdonaldcarano.com
Nancy Hoy	nhoy@mcdonaldcarano.com
Rory Kay	rkay@mcdonaldcarano.com

Nevada Attorney General

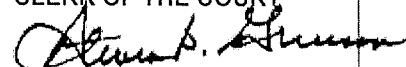
Contact	Email
Marilyn Millam	mmillam@ag.nv.gov

Nevada Division of Insurance

Contact	Email
Terri Verbrugghen	verbrug@doi.nv.gov



Employee of LIPSON NEILSON, P.C.



ORD
LIPSON NEILSON, P.C.
JOSEPH P. GARIN, ESQ.
Nevada Bar No. 6653
ANGELA T. NAKAMURA OCHOA, ESQ.
Nevada Bar No. 10164
9900 Covington Cross Drive, Suite 120
Las Vegas, Nevada 89144
(702) 382-1500 - Telephone
(702) 382-1512 - Facsimile
jgarin@lipsonneilson.com
aocchoa@lipsonneilson.com
Attorneys for Defendants/Third-Party
Plaintiffs Robert Chur, Steve Fogg,
Mark Garber, Carol Harter,
Robert Hurlbut, Barbara Lumpkin,
Jeff Marshall, and Eric Stickels

DISTRICT COURT
CLARK COUNTY, NEVADA

COMMISSIONER OF INSURANCE FOR
THE STATE OF NEVADA AS RECEIVER
OF LEWIS AND CLARK LTC RISK
RETENTION GROUP, INC.,

Plaintiff,

vs.

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GARBER, CAROL HARTER, ROBERT
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MARSHALL, ERIC STICKELS, UNI-TER
UNDERWRITING MANAGEMENT
CORP., UNI-TER CLAIMS SERVICES
CORP., and U.S. RE CORPORATION,
DOES 1-50, inclusive; and ROES 51-100,
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Defendants.

CASE NO.: A-14-711535-C

DEPT. NO.: 27

**ORDER DENYING THE MOTION TO
SUBSTITUTE**

Date of Hearing: January 24, 2019

Time of Hearing: 9:30 a.m.

Plaintiff's Motion for Substitution of Deceased Party Pursuant to NRCP 25(a) was heard on January 24, 2019. In attendance were Angela Ochoa, Esq. on behalf of Defendants Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert Hurlbut, Barbara Lumpkin, Jeff Marshall and Eric Stickels; Brenoch Wirthlin, Esq. on behalf of Plaintiff, Commissioner of Insurance for the State of Nevada as Receiver for the Lewis

1 & Clark Risk Retention Group, Inc.; and George Ogilive, III, Esq. on behalf of U.S. RE
2 Corporation, Uni-Ter Underwriting Management Corp., and Uni-Ter Claims Servicing
3 Corp.

4 The Honorable Nancy Allf presiding, and the Court having heard oral argument,
5 reviewed the pleadings and papers on file herein and being fully advised in the
6 premises and for good cause appearing,

7 THE COURT HEREBY FINDS that the 90-day period referenced in NRCP 25
8 was not triggered by the Suggestion of Death Upon the Record Pursuant to NRCP 25(a)
9 filed on November 2, 2018.

10 THE COURT FURTHER FINDS that it is not defense counsel's duty to find a
11 personal representative for the deceased.

12 THE COURT FURTHER FINDS that the Philis Oeters declaration stating that she
13 is not the personal representative for the deceased, Barbara Lumpkin, is persuasive.

14 Therefore, THE COURT HEREBY ORDERS that the Motion to Substitute is
15 Denied.

16 DATED this 19 day of February, 2019.

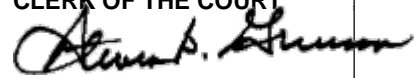
17
18 Nancy L Allf
JUDGE NANCY ALLF

19 Submitted by:
20 LIPSON NEILSON, P.C.

Approved as to Form and Content:
FENNEMORE CRAIG

21 Angela Ochoa
22 Joseph P. Garin, Esq. (NV Bar No. 6653)
23 Angela Ochoa, Esq. (NV Bar No. 10164)
24 9900 Covington Cross Dr., Suite 120
25 Las Vegas, NV 89144
26 *Attorneys for Defendants Robert Chur,
Steve Fogg, Mark Garber, Carol Harter,
Robert Hurlbut, Barbara Lumpkin, Jeff
Marshall & Eric Stickels*

27 James Wadhams
28 James Wadhams, Esq. (NV Bar No. 1115)
Brenoch Wirthlin, Esq. (NV Bar No. 10282)
300 S. Fourth St., Suite 1400
Las Vegas, NV 89101
Attorneys for Plaintiff



ORDG
LIPSON NEILSON, P.C.
JOSEPH P. GARIN, ESQ.
Nevada Bar No. 6653
ANGELA T. NAKAMURA OCHOA, ESQ.
Nevada Bar No. 10164
9900 Covington Cross Drive, Suite 120
Las Vegas, Nevada 89144
(702) 382-1500 - Telephone
(702) 382-1512 - Facsimile
jgarin@lipsonneilson.com
aocchoa@lipsonneilson.com
Attorneys for Defendants
Robert Chur, Steve Fogg,
Mark Garber, Carol Harter,
Robert Hurlbut, Barbara Lumpkin,
Jeff Marshall, and Eric Stickels

DISTRICT COURT
CLARK COUNTY, NEVADA

COMMISSIONER OF INSURANCE FOR
THE STATE OF NEVADA AS RECEIVER
OF LEWIS AND CLARK LTC RISK
RETENTION GROUP, INC.,

Plaintiff,

vs.

ROBERT CHUR, STEVE FOGG, MARK
GARBER, CAROL HARTER, ROBERT
HURLBUT, BARBARA LUMPKIN, JEFF
MARSHALL, ERIC STICKELS, UNI-TER
UNDERWRITING MANAGEMENT
CORP., UNI-TER CLAIMS SERVICES
CORP., and U.S. RE CORPORATION;;
DOES 1-50, inclusive; and ROES 51-100,
inclusive,

Defendants.

CASE NO.: A-14-711535-C

DEPT. NO.: 27

**ORDER GRANTING IN PART
DEFENDANTS ROBERT CHUR, STEVE
FOGG, MARK GARBER, CAROL
HARTER, ROBERT HURLBUT,
BARBARA LUMPKIN, JEFF
MARSHALL, AND ERIC STICKELS'
MOTION TO STRIKE**

Date of Hearing: October 11, 2018

Time of Hearing: 9:30 a.m.

Defendants Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert
Hurlbut, Barbara Lumpkin, Jeff Marshal and Eric Stickels' Motion to Strike was heard on
October 11, 2018. In attendance were Angela Ochoa, Esq. on behalf of Defendants
Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert Hurlbut, Barbara Lumpkin,
Jeff Marshal and Eric Stickels; Brenoch Wirthlin, Esq., and Dan Cereghino, Esq. on

1 behalf of Plaintiff, Commissioner of Insurance for the State of Nevada as Receiver for
2 the Lewis & Clark Risk Retention Group, Inc.; and George Ogilive, III, Esq. on behalf of
3 U.S. RE Corporation, Uni-Ter Underwriting Management Corp., and Uni-Ter Claims
4 Servicing Corp.

5 The Honorable Nancy Allf presiding, and the Court having heard oral argument,
6 reviewed the pleadings and papers on file herein and being fully advised in the
7 premises and for good cause appearing,

8 THE COURT HEREBY ORDERS that Defendants Robert Chur, Steve Fogg,
9 Mark Garber, Carol Harter, Robert Hurlbut, Barbara Lumpkin, Jeff Marshal and Eric
10 Stickels' Motion to Strike is GRANTED in PART.

11 Specifically, the Court grants the Motion to Strike, such that the Plaintiff's
12 Countermotion for Summary Judgment shall not be heard on October 11, 2018. Plaintiff
13 may file a Motion for Summary Judgment, to be heard in normal course.

14 DATED this 31 day of October, 2018.

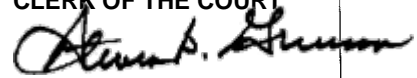
15
16 Nancy Allf
JUDGE NANCY ALLF

17 Submitted by:
18 LIPSON NEILSON, P.C.

19 Approved as to Form and Content:
20 FENNEMORE CRAIG

21 Joseph P. Garin, Esq. (NV Bar No. 6653)
22 Angela Ochoa, Esq. (NV Bar No. 10164)
23 9900 Covington Cross Dr., Suite 120
24 Las Vegas, NV 89144
Attorneys for Defendants Robert Chur,
Steve Fogg, Mark Garber, Carol Harter,
Robert Hurlbut, Barbara Lumpkin, Jeff
Marshall & Eric Stickels

25 James Wadhams, Esq. (NV Bar No. 1115)
26 Brenoch Wirthlin, Esq. (NV Bar No. 10282)
27 Dan Cereghino, Esq. (NV Bar No. 11534)
28 300 S. Fourth St., Suite 1400
Las Vegas, NV 89101
Attorneys for Plaintiff



LIPSON NEILSON, P.C.
JOSEPH P. GARIN, ESQ.
Nevada Bar No. 6653
ANGELA T. NAKAMURA OCHOA, ESQ.
Nevada Bar No. 10164
9900 Covington Cross Drive, Suite 120
Las Vegas, Nevada 89144
(702) 382-1500 - Telephone
(702) 382-1512 - Facsimile
jgarin@lipsonneilson.com
aocchoa@lipsonneilson.com
Attorneys for Defendants
Robert Chur, Steve Fogg,
Mark Garber, Carol Harter,
Robert Hurlbut, Barbara Lumpkin,
Jeff Marshall, and Eric Stickels

DISTRICT COURT

CLARK COUNTY, NEVADA

COMMISSIONER OF INSURANCE FOR
THE STATE OF NEVADA AS RECEIVER
OF LEWIS AND CLARK LTC RISK
RETENTION GROUP, INC.,

Plaintiff,

vs.

ROBERT CHUR, STEVE FOGG, MARK
GARBER, CAROL HARTER, ROBERT
HURLBUT, BARBARA LUMPKIN, JEFF
MARSHALL, ERIC STICKELS, UNI-TER
UNDERWRITING MANAGEMENT
CORP., UNI-TER CLAIMS SERVICES
CORP., and U.S. RE CORPORATION;;
DOES 1-50, inclusive; and ROES 51-100,
inclusive,

Defendants.

CASE NO.: A-14-711535-C

DEPT. NO.: 27

NOTICE OF ENTRY OF ORDER

PLEASE TAKE NOTICE that the Order Granting in part Defendants Robert Chur,
Steve Fogg, Mark Garber, Carol Harter, Robert Hurlbut, Barbara Lumpkin, Jeff
Marshall, and Eric Stickels' Motion to Strike was filed with the court this 6th day of

\\

\\

1 November, 2018, a copy of which is attached.

2 DATED this 7th day of November, 2018.

3 LIPSON NEILSON, P.C.

4
5 By: 

6 Joseph P. Garin, Esq. (6653)
7 Angela T. Nakamura Ochoa, Esq. (10164)
8 9900 Covington Cross Dr., Suite 120
9 Las Vegas, NV 89144
10 jgarin@lipsonneilson.com
11 aochoa@lipsonneilson.com
12 jwong@lipsonneilson.com

13 *Attorneys for Defendants/Third-Party*
14 *Plaintiffs Robert Chur, Steve Fogg,*
15 *Mark Garber, Carol Harter,*
16 *Robert Hurlbut, Barbara Lumpkin,*
17 *Jeff Marshall, and Eric Stickels*
18
19
20
21
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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b) and Administrative Order 14-2, I certify that on the 7th day of November, 2018, I electronically transmitted the foregoing **NOTICE OF ENTRY OF ORDER** to the Clerk's Office using the Odyssey E-File & Serve System for filing and transmittal to the following Odyssey E-File & Serve registrants:

E-Service Master List For Case

Attorney General's Office

Contact	Email
Joanna Grigoriev	jgrigoriev@ag.nv.gov
Nevada Attorney General	wiznetfilings@ag.nv.gov

Broad and Cassel

Contact	Email
Jon M. Wilson	jwilson@broadandcassel.com
Yusimy Bordes	ybordes@broadandcassel.com

Fennemore Craig, P.C.

Contact	Email
Adrina Harris	aharris@fclaw.com
Brenoch Wirthlin	bwirthli@fclaw.com

McDonald Carano Wilson LLP

Contact	Email
CaraMia Gerard	cgerard@mcdonaldcarano.com
George F. Ogilvie III	gogilvie@mcdonaldcarano.com
James W. Bradshaw	jbradshaw@mcdonaldcarano.com
Kathy Barrett	kbarrett@mcdonaldcarano.com
Nancy Hoy	nhoy@mcdonaldcarano.com
Rory Kay	rkay@mcdonaldcarano.com

Nevada Attorney General

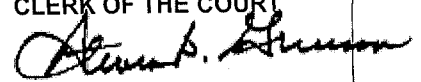
Contact	Email
Marilyn Millam	mmillam@ag.nv.gov

Nevada Division of Insurance

Contact	Email
Terri Verbrugghen	verbrug@doi.nv.gov



Employee of LIPSON NEILSON, P.C.



1 **ORDG**
2 LIPSON NEILSON, P.C.
3 JOSEPH P. GARIN, ESQ.
4 Nevada Bar No. 6653
5 ANGELA T. NAKAMURA OCHOA, ESQ.
6 Nevada Bar No. 10164
7 9900 Covington Cross Drive, Suite 120
8 Las Vegas, Nevada 89144
9 (702) 382-1500 - Telephone
10 (702) 382-1512 - Facsimile
11 jgarin@lipsonneilson.com
12 aocchoa@lipsonneilson.com
13 *Attorneys for Defendants*
14 *Robert Chur, Steve Fogg,*
15 *Mark Garber, Carol Harter,*
16 *Robert Hurlbut, Barbara Lumpkin,*
17 *Jeff Marshall, and Eric Stickels*

10 **DISTRICT COURT**
11 **CLARK COUNTY, NEVADA**

13 COMMISSIONER OF INSURANCE FOR
14 THE STATE OF NEVADA AS RECEIVER
15 OF LEWIS AND CLARK LTC RISK
16 RETENTION GROUP, INC.,

17 Plaintiff,

18 vs.

19 ROBERT CHUR, STEVE FOGG, MARK
20 GARBER, CAROL HARTER, ROBERT
21 HURLBUT, BARBARA LUMPKIN, JEFF
22 MARSHALL, ERIC STICKELS, UNI-TER
23 UNDERWRITING MANAGEMENT
24 CORP., UNI-TER CLAIMS SERVICES
25 CORP., and U.S. RE CORPORATION;;
26 DOES 1-50, inclusive; and ROES 51-100,
27 inclusive,

28 Defendants.

CASE NO.: A-14-711535-C

DEPT. NO.: 27

**ORDER GRANTING IN PART
DEFENDANTS ROBERT CHUR, STEVE
FOGG, MARK GARBER, CAROL
HARTER, ROBERT HURLBUT,
BARBARA LUMPKIN, JEFF
MARSHALL, AND ERIC STICKELS'
MOTION TO STRIKE**

Date of Hearing: October 11, 2018

Time of Hearing: 9:30 a.m.

24 Defendants Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert
25 Hurlbut, Barbara Lumpkin, Jeff Marshal and Eric Stickels' Motion to Strike was heard on
26 October 11, 2018. In attendance were Angela Ochoa, Esq. on behalf of Defendants
27 Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert Hurlbut, Barbara Lumpkin,
28 Jeff Marshal and Eric Stickels; Brenoch Wirthlin, Esq., and Dan Cereghino, Esq. on

1 behalf of Plaintiff, Commissioner of Insurance for the State of Nevada as Receiver for
2 the Lewis & Clark Risk Retention Group, Inc.; and George Ogilive, III, Esq. on behalf of
3 U.S. RE Corporation, Uni-Ter Underwriting Management Corp., and Uni-Ter Claims
4 Servicing Corp.

5 The Honorable Nancy Allf presiding, and the Court having heard oral argument,
6 reviewed the pleadings and papers on file herein and being fully advised in the
7 premises and for good cause appearing,

8 THE COURT HEREBY ORDERS that Defendants Robert Chur, Steve Fogg,
9 Mark Garber, Carol Harter, Robert Hurlbut, Barbara Lumpkin, Jeff Marshal and Eric
10 Stickels' Motion to Strike is GRANTED in PART.

11 Specifically, the Court grants the Motion to Strike, such that the Plaintiff's
12 Countermotion for Summary Judgment shall not be heard on October 11, 2018. Plaintiff
13 may file a Motion for Summary Judgment, to be heard in normal course.

14 DATED this 31 day of October, 2018.

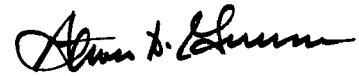
15
16 Nancy Allf
JUDGE NANCY ALLF

17 Submitted by:
18 LIPSON NEILSON, P.C.

19 Approved as to Form and Content:
20 FENNEMORE CRAIG

21 mm
22 Joseph P. Garin, Esq. (NV Bar No. 6653)
23 Angela Ochoa, Esq. (NV Bar No. 10164)
24 9900 Covington Cross Dr., Suite 120
Las Vegas, NV 89144
*Attorneys for Defendants Robert Chur,
Steve Fogg, Mark Garber, Carol Harter,
Robert Hurlbut, Barbara Lumpkin, Jeff
Marshall & Eric Stickels*

25 James Wadhams #11710 for
26 James Wadhams, Esq. (NV Bar No. 1115)
27 Brenoch Wirthlin, Esq. (NV Bar No. 10282)
28 Dan Cereghino, Esq. (NV Bar No. 11534)
300 S. Fourth St., Suite 1400
Las Vegas. NV 89101
Attorneys for Plaintiff



CLERK OF THE COURT

ORDG

LIPSON, NEILSON, COLE, SELTZER & GARIN, P.C.

JOSEPH P. GARIN, ESQ.

Nevada Bar No. 6653

ANGELA T. NAKAMURA OCHOA, ESQ.

Nevada Bar No. 10164

9900 Covington Cross Drive, Suite 120

Las Vegas, Nevada 89144

(702) 382-1500 - Telephone

(702) 382-1512 - Facsimile

jgarin@lipsonneilson.com

aocchoa@lipsonneilson.com

Attorneys for Defendants/Third-Party

Plaintiffs Robert Chur, Steve Fogg,

Mark Garber, Carol Harter,

Robert Hurlbut, Barbara Lumpkin,

Jeff Marshall, and Eric Stickels

DISTRICT COURT

CLARK COUNTY, NEVADA

COMMISSIONER OF INSURANCE FOR
THE STATE OF NEVADA AS RECEIVER
OF LEWIS AND CLARK LTC RISK
RETENTION GROUP, INC.,

Plaintiff,

vs.

ROBERT CHUR, STEVE FOGG, MARK
GARBER, CAROL HARTER, ROBERT
HURLBUT, BARBARA LUMPKIN, JEFF
MARSHALL, ERIC STICKELS, UNI-TER
UNDERWRITING MANAGEMENT
CORP., UNI-TER CLAIMS SERVICES
CORP., and U.S. RE CORPORATION;;
DOES 1-50, inclusive; and ROES 51-100,
inclusive,

Defendants.

CASE NO.: A-14-711535-C

DEPT. NO.: 27

**ORDER GRANTING IN PART AND
DENYING IN PART DEFENDANTS
ROBERT CHUR, STEVE FOGG, MARK
GARBER, CAROL HARTER, ROBERT
HURLBUT, BARBARA LUMPKIN, JEFF
MARSHALL, AND ERIC STICKELS'
MOTION TO DISMISS**

Date of Hearing: January 27, 2016

Time of Hearing: 10:00 a.m.

Defendants Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert
Hurlbut, Barbara Lumpkin, Jeff Marshall and Eric Stickels' Motion to Dismiss was heard
on January 27, 2016. In attendance were Angela Ochoa, Esq. on behalf of Defendants
Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert Hurlbut, Barbara Lumpkin,
Jeff Marshall and Eric Stickels; Karl Nielson, Esq. and Brenoch Wirthlin, Esq. on behalf

1 of Plaintiff, Commissioner of Insurance for the State of Nevada as Receiver for the
2 Lewis & Clark Risk Retention Group, Inc.; and George Ogilvie, III, Esq. on behalf of U.S.
3 RE Corporation, Uni-Ter Underwriting Management Corp., and Uni-Ter Claims
4 Servicing Corp.

5 The Honorable Nancy Alif presiding, and the Court having heard oral argument,
6 reviewed the pleadings and papers on file herein and being fully advised in the
7 premises and for good cause appearing,

8 THE COURT HEREBY ORDERS that Defendants Robert Chur, Steve Fogg,
9 Mark Garber, Carol Harter, Robert Hurlbut, Barbara Lumpkin, Jeff Marshal and Eric
10 Stickels' Motion to Dismiss is GRANTED in PART and DENIED in PART.

11 Specifically, the Court grants the Motion to Dismiss without prejudice based on
12 NRCP 12(b)(5), that Plaintiff failed to state a claim for which relief can be granted, as to
13 the claim for gross negligence. The Court finds that Plaintiff's Complaint states a claim
14 for mere negligence rather than gross negligence. Plaintiff shall be granted leave to
15 amend its complaint to support a claim for gross negligence (Plaintiff's First Claim for
16 Relief) within 30 days of the entry of this order.

17 The Motion to Dismiss is denied as to the second claim for relief for deepening
18 the insolvency. The Court finds the decision in *In re AgriBioTech, Inc.*, 319 B.R. 216,
19 224 (D. Nev. 2004) to be persuasive law, and finds that the Complaint states a claim for
20 deepening the insolvency which is a recognized claim in Nevada. However, the Court
21 finds that this claim is a collateral cause of action to the gross negligence claim. Should
22 the Plaintiff choose to amend the Complaint to state a claim for gross negligence, the

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claim for deepening the insolvency will proceed as well.

DATED this 23 day of February, 2016.

Nancy L. Allf
JUDGE NANCY ALLF

Submitted by:
LIPSON, NEILSON, COLE, SELTZER &
GARIN, P.C.

Approved as to Form and Content:
FENNEMORE CRAIG, P.C.

Angela Ochoa
Joseph P. Garin, Esq. (NV Bar No. 6653)
Angela Ochoa, Esq. (NV Bar No. 10164)
9900 Covington Cross Dr., Suite 120
Las Vegas, NV 89144
*Attorneys for Defendants Robert Chur,
Steve Fogg, Mark Garber, Carol Harter,
Robert Hurlbut, Barbara Lumpkin, Jeff
Marshall & Eric Stickels*

James Wadhams
James Wadhams, Esq. (NV Bar No. 1115)
Karl Nielson, Esq. (NV Bar No. 5082)
Brenoch Wirthlin, Esq. (NV Bar No. 10282)
300 S. Fourth St., Suite 1400
Las Vegas, NV 89101
Attorneys for Plaintiff

NEOJ

LIPSON, NEILSON, COLE, SELTZER & GARIN, P.C.

JOSEPH P. GARIN, ESQ.

Nevada Bar No. 6653

ANGELA T. NAKAMURA OCHOA, ESQ.

Nevada Bar No. 10164

9900 Covington Cross Drive, Suite 120

Las Vegas, Nevada 89144

(702) 382-1500 - Telephone

(702) 382-1512 - Facsimile

jgarin@lipsonneilson.com

aocchoa@lipsonneilson.com

Attorneys for Defendants/Third-Party

Plaintiffs Robert Chur, Steve Fogg,


Mark Garber, Carol Harter,

Robert Hurlbut, Barbara Lumpkin,

Jeff Marshall, and Eric Stickels

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CLERK OF THE COURT

DISTRICT COURT

CLARK COUNTY, NEVADA

COMMISSIONER OF INSURANCE FOR
THE STATE OF NEVADA AS RECEIVER
OF LEWIS AND CLARK LTC RISK
RETENTION GROUP, INC.,

Plaintiff,

vs.

ROBERT CHUR, STEVE FOGG, MARK
GARBER, CAROL HARTER, ROBERT
HURLBUT, BARBARA LUMPKIN, JEFF
MARSHALL, ERIC STICKELS, UNI-TER
UNDERWRITING MANAGEMENT
CORP., UNI-TER CLAIMS SERVICES
CORP., and U.S. RE CORPORATION;;
DOES 1-50, inclusive; and ROES 51-100,
inclusive,

Defendants.

CASE NO.: A-14-711535-C

DEPT. NO.: 27

**NOTICE OF ENTRY OF ORDER
GRANTING IN PART AND DENYING IN
PART DEFENDANTS ROBERT CHUR,
STEVE FOGG, MARK GARBER, CAROL
HARTER, ROBERT HURLBUT,
BARBARA LUMPKIN, JEFF MARSHALL,
AND ERIC STICKELS' MOTION TO
DISMISS**

PLEASE TAKE NOTICE that on the 25th day of February, 2016, an Order Granting in Part and Denying in Part Defendants Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert Hurlbut, Barbara Lumpkin, Jeff Marshall, and Eric Stickels' Motion to Dismiss, was entered. A copy of said Order is attached hereto and made part

hereof.

DATED this 26th day of February, 2016.

LIPSON, NEILSON, COLE, SELTZER & GARIN, P.C.

By: /s/ Angela T. Nakamura Ochoa

Joseph P. Garin, Esq. (6653)

Angela T. Nakamura Ochoa, Esq. (10164)

9900 Covington Cross Dr., Suite 120

Las Vegas, NV 89144

(702) 382-1500 – Telephone

(702) 382-1512 – Facsimile

lgarin@lipsonneilson.com

aochoa@lipsonneilson.com

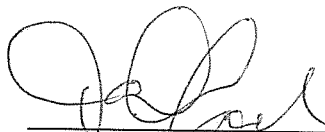
*Attorneys for Defendants/Third-Party
Plaintiffs Robert Chur, Steve Fogg,
Mark Garber, Carol Harter,
Robert Hurlbut, Barbara Lumpkin,
Jeff Marshall, and Eric Stickels*

CERTIFICATE OF SERVICE

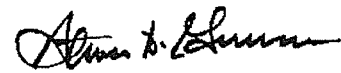
Pursuant to NRCP 5(b) and Administrative Order 14-2, I certify that on the 26th day of February, 2016, I electronically transmitted the foregoing **NOTICE OF ENTRY OF ORDER GRANTING IN PART AND DENYING IN PART DEFENDANTS ROBERT CHUR, STEVE FOGG, MARK GARBER, CAROL HARTER, ROBERT HURLBUT, BARBARA LUMPKIN, JEFF MARSHALL, AND ERIC STICKELS' MOTION TO DISMISS** to the Clerk's Office using the Odyssey E-File & Serve System for filing and transmittal to the following Odyssey E-File & Serve registrants:

James L. Wadhams, Esq.
Karl L. Nielson, Esq.
Brenoch, Wirthlin, Esq.
FENNEMORE CRAIG, P.C.
300 S. Fourth St., Suite 1400
Las Vegas, NV 89101
knielson@fclaw.com
bwirthlin@fclaw.com
Attorneys for Plaintiff

George F. Ogilvie III, Esq.
James W. Bradshaw, Esq.
Jeffry S. Riesenmy, Esq.
MCDONALD CARANO WILSON LLP
2300 West Sahara Avenue, Suite 1200
Las Vegas, NV 89102
gogilvie@mcdonaldcarano.com
jbradshaw@mcdonaldcarano.com
jriesennmy@mcdonaldcarano.com
*Attorneys for Defendants U.S. RE Corporation,
Uni-Ter Underwriting Management Corp.
and Uni-Ter Claims Services Corp.*



Employee of
LIPSON, NEILSON, COLE, SELTZER & GARIN, P.C.



CLERK OF THE COURT

1 **ORDG**
2 LIPSON, NEILSON, COLE, SELTZER & GARIN, P.C.
3 JOSEPH P. GARIN, ESQ.
4 Nevada Bar No. 6653
5 ANGELA T. NAKAMURA OCHOA, ESQ.
6 Nevada Bar No. 10164
7 9900 Covington Cross Drive, Suite 120
8 Las Vegas, Nevada 89144
9 (702) 382-1500 - Telephone
(702) 382-1512 - Facsimile
10 jgarin@lipsonneilson.com
11 aocchoa@lipsonneilson.com
12 *Attorneys for Defendants/Third-Party*
13 *Plaintiffs Robert Chur, Steve Fogg,*
14 *Mark Garber, Carol Harter,*
15 *Robert Hurlbut, Barbara Lumpkin,*
16 *Jeff Marshall, and Eric Stickels*

10 **DISTRICT COURT**
11 **CLARK COUNTY, NEVADA**

13 COMMISSIONER OF INSURANCE FOR
14 THE STATE OF NEVADA AS RECEIVER
15 OF LEWIS AND CLARK LTC RISK
16 RETENTION GROUP, INC.,

17 Plaintiff,

18 vs.

19 ROBERT CHUR, STEVE FOGG, MARK
20 GARBER, CAROL HARTER, ROBERT
21 HURLBUT, BARBARA LUMPKIN, JEFF
22 MARSHALL, ERIC STICKELS, UNI-TER
23 UNDERWRITING MANAGEMENT
24 CORP., UNI-TER CLAIMS SERVICES
25 CORP., and U.S. RE CORPORATION;;
26 DOES 1-50, inclusive; and ROES 51-100,
27 inclusive,

28 Defendants.

CASE NO.: A-14-711535-C

DEPT. NO.: 27

**ORDER GRANTING IN PART AND
DENYING IN PART DEFENDANTS
ROBERT CHUR, STEVE FOGG, MARK
GARBER, CAROL HARTER, ROBERT
HURLBUT, BARBARA LUMPKIN, JEFF
MARSHALL, AND ERIC STICKELS'
MOTION TO DISMISS**

Date of Hearing: January 27, 2016

Time of Hearing: 10:00 a.m.

24 Defendants Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert
25 Hurlbut, Barbara Lumpkin, Jeff Marshall and Eric Stickels' Motion to Dismiss was heard
26 on January 27, 2016. In attendance were Angela Ochoa, Esq. on behalf of Defendants
27 Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert Hurlbut, Barbara Lumpkin,
28 Jeff Marshall and Eric Stickels; Karl Nielson, Esq. and Brenoch Wirthlin, Esq. on behalf

Lipson, Neilson, Cole, Seltzer & Garin, P.C.
9900 Covington Cross Drive, Suite 120
Las Vegas, Nevada 89144
(702) 382-1500 FAX: (702) 382-1512

1 of Plaintiff, Commissioner of Insurance for the State of Nevada as Receiver for the
2 Lewis & Clark Risk Retention Group, Inc.; and George Ogilvie, III, Esq. on behalf of U.S.
3 RE Corporation, Uni-Ter Underwriting Management Corp., and Uni-Ter Claims
4 Servicing Corp.

5 The Honorable Nancy Allf presiding, and the Court having heard oral argument,
6 reviewed the pleadings and papers on file herein and being fully advised in the
7 premises and for good cause appearing,

8 THE COURT HEREBY ORDERS that Defendants Robert Chur, Steve Fogg,
9 Mark Garber, Carol Harter, Robert Hurlbut, Barbara Lumpkin, Jeff Marshal and Eric
10 Stickels' Motion to Dismiss is GRANTED in PART and DENIED in PART.

11 Specifically, the Court grants the Motion to Dismiss without prejudice based on
12 NRCP 12(b)(5), that Plaintiff failed to state a claim for which relief can be granted, as to
13 the claim for gross negligence. The Court finds that Plaintiff's Complaint states a claim
14 for mere negligence rather than gross negligence. Plaintiff shall be granted leave to
15 amend its complaint to support a claim for gross negligence (Plaintiff's First Claim for
16 Relief) within 30 days of the entry of this order.

17 The Motion to Dismiss is denied as to the second claim for relief for deepening
18 the insolvency. The Court finds the decision in *In re AgriBioTech, Inc.*, 319 B.R. 216,
19 224 (D. Nev. 2004) to be persuasive law, and finds that the Complaint states a claim for
20 deepening the insolvency which is a recognized claim in Nevada. However, the Court
21 finds that this claim is a collateral cause of action to the gross negligence claim. Should
22 the Plaintiff choose to amend the Complaint to state a claim for gross negligence, the

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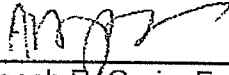
claim for deepening the insolvency will proceed as well.

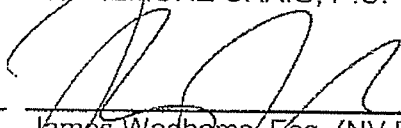
DATED this 23 day of February, 2016.

Nancy Allf
JUDGE NANCY ALLF

Submitted by:
LIPSON, NEILSON, COLE, SELTZER &
GARIN, P.C.

Approved as to Form and Content:
FENNEMORE CRAIG, P.C.


Joseph P. Garin, Esq. (NV Bar No. 6653)
Angela Ochoa, Esq. (NV Bar No. 10164)
9900 Covington Cross Dr., Suite 120
Las Vegas, NV 89144
*Attorneys for Defendants Robert Chur,
Steve Fogg, Mark Garber, Carol Harter,
Robert Hurlbut, Barbara Lumpkin, Jeff
Marshall & Eric Stickels*


James Wadhams, Esq. (NV Bar No. 1115)
Karl Nielson, Esq. (NV Bar No. 5082)
Brenoch Wirthlin, Esq. (NV Bar No. 10282)
300 S. Fourth St., Suite 1400
Las Vegas, NV 89101
Attorneys for Plaintiff

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Other Negligence**COURT MINUTES****January 27, 2016**

A-14-711535-C	Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark, Plaintiff(s) vs. Robert Chur, Defendant(s)
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January 27, 2016	10:00 AM	Motion to Dismiss	Defendants Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert Hurlbut, Barbara Lumpkin, Jeff Marshall, and Eric Stickels' Motion to Dismiss
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HEARD BY: Alf, Nancy**COURTROOM:** RJC Courtroom 03A**COURT CLERK:** Nicole McDevitt
Cynthia Moleres**RECORDER:** Traci Rawlinson**REPORTER:****PARTIES**

PRESENT:	Nakamura Ochoa, Angela T.	Attorney
	Nielson, Karl L	Attorney
	Ogilvie, George F., III	Attorney
	Wirthlin, Brenoch	Attorney

JOURNAL ENTRIES

- Arguments by Ms. Ochoa and Mr. Wirthlin regarding the merits of and opposition to the motion. Mr. Ogilvie stated he had nothing to add. Court stated its findings and ORDERED, Defendants Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert Hurlbut, Barbara Lumpkin, Jeff Marshall and Erick Stickels' Motion to Dismiss GRANTED IN PART/DENIED IN PART, as to the first cause of action GRANTED, with 30 days, from entry of the order, leave to amend; as to the

second cause of action, if Plaintiffs choose to amend the first cause of action, the second cause of action will proceed. Ms. Ochoa to prepare the order and submit it to counsel for approval.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Other Negligence**COURT MINUTES****February 19, 2016**

A-14-711535-C	Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark, Plaintiff(s) vs. Robert Chur, Defendant(s)
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February 19, 2016**3:00 AM****Minute Order**

**Minute Order:
Motino to Associate
Counsel set 3/1/2016
GRANTED and
VACATED**

HEARD BY: Alf, Nancy**COURTROOM:** No Location**COURT CLERK:** Nicole McDevitt**RECORDER:****REPORTER:****PARTIES****PRESENT:**

JOURNAL ENTRIES

- COURT FINDS after review that Defendants U.S. RE Corporation, Uni-Ter Underwriting Corp., and Uni-Ter Claims Services Corp. filed a Motion to Associate Counsel, Jon M. Wilson, Esq. on January 26, 2016, with a hearing set for Chambers Calendar on March 1, 2016. COURT FURTHER FINDS after review the Motion is in compliance with SCR 42 and all parties have filed Non-Oppositions.

COURT ORDERS after review, for good cause appearing and pursuant to EDCR 2.20 (e), failure to file an opposition may be construed as an admission that the motion is meritorious and consent to granting the same, that Defendants U.S. RE Corporation, Uni-Ter Underwriting Corp., and Uni-Ter Claims Services Corp. s Motion to Associate Counsel is GRANTED; Hearing on CHAMBERS CALENDAR on March 1, 2016 is VACATED. An Order has already been provided to the Court.

CLERK'S NOTE: A copy of this minute order was faxed to: James L. Wadhams, Esq. (702-692-8099), Joseph P. Garin, Esq. (702-382-1512), and George F. Ogilvie III, Esq. (702-873-9966).

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Other Negligence

COURT MINUTES

February 25, 2016

A-14-711535-C Commissioner of Insurance for the State of Nevada as Receiver of Lewis and
Clark, Plaintiff(s)
vs.
Robert Chur, Defendant(s)

February 25, 2016 10:30 AM All Pending Motions

HEARD BY: Allf, Nancy **COURTROOM:** RJC Courtroom 03A

COURT CLERK: Nicole McDevitt

RECORDER: Traci Rawlinson

REPORTER:

PARTIES

PRESENT: Ogilvie, George F., III Attorney
 Wirthlin, Brenoch Attorney

JOURNAL ENTRIES

- DEFENDANTS UNI-TER UNDERWRITING MANAGEMENT CORP. AND UNI-TER CLAIMS SERVICES CORP.'S MOTION TO DISMISS...DEFENDANT U.S. RE CORPORATION'S MOTION TO DISMISS

John Wilson, Pro Hac Vice, also present.

Arguments by counsel regarding the merits of and oppositions to the pending motions. COURT ORDERED, Defendants Uni-Ter Underwriting Management Corp. and Uni-Ter Claims Services Corp's Motion to Dismiss...Defendant U.S. RE Corporation's Motion to Dismiss CONTINUED TO CHAMBERS for Court to review additional case law and provide a written decision, if decision is not ready by continuance then Court will issue a minute order letting counsel know.

3/15/2016 (CHAMBERS) DECISION: DEFENDANTS UNI-TER UNDERWRITING MANAGEMENT CORP. AND UNI-TER CLAIMS SERVICES CORP.'S MOTION TO DISMISS, DEFENDANT U.S. RE CORPORATION'S MOTION TO DISMISS

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Other Negligence

COURT MINUTES

March 15, 2016

A-14-711535-C Commissioner of Insurance for the State of Nevada as Receiver of Lewis and
Clark, Plaintiff(s)
vs.
Robert Chur, Defendant(s)

March 15, 2016 3:00 AM Decision

HEARD BY: Allf, Nancy **COURTROOM:** No Location

COURT CLERK: Nicole McDevitt

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- COURT FINDS after review two Motions were taken under submission on February 25, 2016: 1) Defendants Uni-Ter Underwriting Management Corp. and Uni-Ter Claims Services Corp. s Motion to Dismiss; and 2) Defendant U.S. RE Corporation s Motion to Dismiss. COURT FURTHER FINDS after review a Status Check on Written Decision was set for Chambers Calendar on March 15, 2016.

COURT ORDERS for good cause appearing and after review, the Hearing on the Status Check on the Decision and Order set for CHAMBERS CALENDAR on March 15, 2016 CONTINUED to CHAMBERS CALENDAR on April 5, 2016.

CONTINUED TO.....4/5/2016 (CHAMBERS)

CLERK'S NOTE: A copy of this minute order was faxed to: James L. Wadhams, Esq. (702-692-8099), Joseph P. Garin, Esq. (702-382-1512), and George F. Ogilvie III, Esq. (702-873-9966).

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Other Negligence

COURT MINUTES

April 05, 2016

A-14-711535-C	Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark, Plaintiff(s) vs. Robert Chur, Defendant(s)
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April 05, 2016

3:00 AM

Decision

HEARD BY: Allf, Nancy

COURTROOM: No Location

COURT CLERK: Nicole McDevitt

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- COURT FINDS after review two Motions were taken under submission on February 25, 2016: 1) Defendants Uni-Ter Underwriting Management Corp. and Uni-Ter Claims Services Corp. s Motion to Dismiss; and 2) Defendant U.S. RE Corporation s Motion to Dismiss. COURT FURTHER FINDS after review a Status Check on Written Decision was set for Chambers Calendar on March 15, 2016 then Continued to April 5, 2016.

COURT ORDERS for good cause appearing and after review, the Hearing on the Status Check on the Decision and Order set for CHAMBERS CALENDAR on April 5, 2016 CONTINUED to CHAMBERS CALENDAR on April 19, 2016.

CONTINUED TO.....4/19/2016 (CONTINUED)

CLERK'S NOTE: A copy of this minute order was faxed to: James L. Wadhams, Esq. (702-692-8099), Joseph P. Garin, Esq. (702-382-1512), and George F. Ogilvie III, Esq. (702-873-9966).

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Other Negligence

COURT MINUTES

April 19, 2016

A-14-711535-C Commissioner of Insurance for the State of Nevada as Receiver of Lewis and
Clark, Plaintiff(s)
vs.
Robert Chur, Defendant(s)

April 19, 2016 3:00 AM Decision

HEARD BY: Allf, Nancy

COURTROOM: No Location

COURT CLERK: Nicole McDevitt

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- COURT FINDS after review two Motions were taken under submission on February 25, 2016: 1) Defendants Uni-Ter Underwriting Management Corp. and Uni-Ter Claims Services Corp. s Motion to Dismiss; and 2) Defendant U.S. RE Corporation s Motion to Dismiss. COURT FURTHER FINDS after review a Status Check on Written Decision was set for Chambers Calendar on March 15, 2016 then Continued to April 5, 2016, and then April 19, 2016.

COURT ORDERS for good cause appearing and after review, the Hearing on the Status Check on the Decision and Order set for CHAMBERS CALENDAR on April 19, 2016 CONTINUED to CHAMBERS CALENDAR on May 17, 2016.

CONTINUED TO.....5/17/2016 (CHAMBERS)

CLERK'S NOTE: A copy of this minute order was faxed to: James L. Wadhams, Esq. (702-692-8099), Joseph P. Garin, Esq. (702-382-1512), and George F. Ogilvie III, Esq. (702-873-9966).

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Other Negligence

COURT MINUTES

June 14, 2016

A-14-711535-C	Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark, Plaintiff(s) vs. Robert Chur, Defendant(s)
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June 14, 2016

3:00 AM

Minute Order

HEARD BY: Allf, Nancy

COURTROOM: No Location

COURT CLERK: Nicole McDevitt

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- COURT FINDS after review that on April 1, 2016, Plaintiff filed its First Amended Complaint. COURT FURTHER FINDS after review that on April 18, 2016 Defendants Chur, et al. filed a Motion to Dismiss the First Amended Complaint and the Hearing was set for Motions Calendar on June 16, 2016 at 10:30 a.m.

COURT FURTHER FINDS after review that on May 4, 2016 the Court issued a Decision and Order on Defendants Uni-Ter Underwriting Management Corp., et al. s Motion to Dismiss the Original Complaint that it had taken under advisement on February 25, 2016. COURT FURTHER FINDS after review that in the May 4, 2016 Decision and Order the Court gave Plaintiff 30 days from Notice of Entry of Order, which was filed on May 10, 2016, to filed a Second Amended Complaint.

COURT FURTHER FINDS after review that Plaintiff filed the Second Amended Complaint on June 13, 2016. COURT FURTHER FINDS after review that none of the parties have addressed the fact that the First Amended Complaint is no longer the operative Complaint and as such is no longer subject to dismissal during the June 16, 2016 Hearing.

COURT ORDERS for good cause appearing and after review, the Court will be convening a

Telephonic Conference between all parties to discuss how the motions to dismiss will be handled; the Court will be in contact with all parties to determine a mutually convenient time to set the Telephonic Conference. COURT FURTHER ORDERS for good cause appearing and after review, the Hearing set for MOTIONS CALENDAR on June 16, 2016 is VACATED subject to being re-set pending the outcome of the discussion during the Telephonic Conference between all parties.

CLERK S NOTE: Counsel is to ensure a copy of the forgoing minute order is distributed to all interested parties; additionally, a copy of the foregoing minute order was distributed to the following Service Recipients via Wiznet E-Service:

Attorney General's Office
Joanna Grigoriev jgrigoriev@ag.nv.gov
Nevada Attorney General wiznetfilings@ag.nv.gov

Broad and Cassel
Jon M. Wilson jwilson@broadandcassel.com

Fennemore Craig, P.C.
Adrina Harris aharris@fclaw.com
Brenoch Wirthlin bwirthli@fclaw.com
Cheryl Landis clandis@fclaw.com
Karl L. Nielson, Esq. knielson@fclaw.com

Lipson, Neilson, Cole, Seltzer & Garin, P.C.
Angela T. Nakamura Ochoa aochoa@lipsonneilson.com
Joseph P. Garin, Esq. jgarin@lipsonneilson.com
Lisa Noltie lnoltie@lipsonneilson.com
Renee Rittenhouse rrittenhouse@lipsonneilson.com
Susana Nutt snutt@lipsonneilson.com

McDonald Carano Wilson LLP
CaraMia Gerard cgerard@mcdonaldcarano.com
George F. Ogilvie III gogilvie@mcdonaldcarano.com
James W. Bradshaw jbradshaw@mcdonaldcarano.com
Jeff Riesenmy jriesenmy@mcdonaldcarano.com
Kathy Barrett kbarrett@mcdonaldcarano.com
Nancy Hoy nhoy@mcdonaldcarano.com

Nevada Attorney General
Marilyn Millam mmillam@ag.nv.gov

Nevada Division of Insurance

Terri Verbrugghen verbrug@doi.nv.gov

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Other Negligence**COURT MINUTES****June 23, 2016**

A-14-711535-C Commissioner of Insurance for the State of Nevada as Receiver of Lewis and
Clark, Plaintiff(s)
vs.
Robert Chur, Defendant(s)

June 23, 2016**2:30 PM****Status Check****HEARD BY:** Allf, Nancy**COURTROOM:** RJC Courtroom 03A**COURT CLERK:** Nicole McDevitt**RECORDER:** Traci Rawlinson**REPORTER:****PARTIES**

PRESENT:	Nakamura Ochoa, Angela T.	Attorney
	Ogilvie, George F., III	Attorney
	Wilson, Jon M.	Attorney
	Wirthlin, Brenoch	Attorney

JOURNAL ENTRIES

- All counsel present telephonically.

Mr. Wirthlin stated he has filed the second amended complaint and the complaint was intended to address the allegation as to U S Re Corporation. Ms. Ochoa stated she has requested to see a redline copy which would help her determine whether to amend her motion to dismiss or refile it. Mr. Wilson stated he is also getting a redline version of the complaint for the same reason. Upon inquiry by the Court whether there would be any objection to vacating the current motion to dismiss for Defendants to review the redline version of the complaint to determine how to proceed, counsel stated they had no objection. COURT ORDERED, motion to dismiss VACATED. Mr. Ogilvie requested an extension of time to respond to the second complaint. Ms. Ochoa requested the same extension. Mr. Wirthling stipulated to the extensions until July 15, 2016. COURT ORDERED, response will be due on or by July 15, 2016.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Other Negligence

COURT MINUTES

September 15, 2016

A-14-711535-C Commissioner of Insurance for the State of Nevada as Receiver of Lewis and
Clark, Plaintiff(s)
vs.
Robert Chur, Defendant(s)

September 15, 2016 10:30 AM All Pending Motions

HEARD BY: Allf, Nancy **COURTROOM:** RJC Courtroom 03A

COURT CLERK: Nicole McDevitt

RECORDER: Patti Slattery

REPORTER:

PARTIES

PRESENT: Nakamura Ochoa, Angela T. Attorney
 Ogilvie, George F., III Attorney
 Wirthlin, Brenoch Attorney

JOURNAL ENTRIES

- Arguments by counsel regarding the merits of and opposition to the pending motions. Court stated its findings and ORDERED, Defendant's Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert Hurlbut, Barbara Lumpkin, Jeff Marshall, and Eric Stickels Motion to Dismiss First Amended Complaint DENIED, Defendant Uni-Ter Underwriting Management Corp.'s Motion to Dismiss Negligent Misrepresentation Claim of Third Party Complaint DENIED. Mr. Wirthlin to prepare the orders and submit them to opposing counsel for approval as to form.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Other Negligence

COURT MINUTES

February 28, 2017

A-14-711535-C Commissioner of Insurance for the State of Nevada as Receiver of Lewis and
Clark, Plaintiff(s)
vs.
Robert Chur, Defendant(s)

February 28, 2017 9:30 AM Discovery Conference

HEARD BY: Bulla, Bonnie

COURTROOM: RJC Level 5 Hearing Room

COURT CLERK: Jennifer Lott

RECORDER: Francesca Haak

REPORTER:

PARTIES

PRESENT: Nakamura Ochoa, Angela T. Attorney
 Ogilvie, George F., III Attorney
 Wirthlin, Brenoch Attorney

JOURNAL ENTRIES

- Mr. Ogilvie stated co-counsel on Court Call had a medical issue and could not be present.

Colloquy re: dates. Counsel anticipate four weeks for trial re: Breach of fiduciary duty; no Settlement Conference requested. COMMISSIONER RECOMMENDED, discovery cutoff is 1/31/18; adding parties, amended pleadings, and initial expert disclosures DUE 9/29/17; Defts' initial expert disclosures DUE 10/30/17; rebuttal expert disclosures DUE 11/30/17; FILE dispositive motions by 3/1/18. Scheduling Order will issue.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Other Negligence

COURT MINUTES

August 01, 2017

A-14-711535-C	Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark, Plaintiff(s) vs. Robert Chur, Defendant(s)
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August 01, 2017	3:00 AM	Motion to Associate Counsel
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HEARD BY: Allf, Nancy

COURTROOM: No Location

COURT CLERK: Nicole McDevitt

RECORDER:

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- COURT FINDS after review that Defendants U.S. RE Corporation, Uni-Ter Underwriting management Corp., and Uni-Ter Claims Services Corp. filed a Motion to Associate Counsel (Kimberly J. Freedman) (Motion) on June 29, 2017 and the matter was set for Chambers Calendar on August 1, 2017.

COURT FURTHER FINDS after review the Motion seeks to associate Kimberly J. Freedman, Esq. of the law firm of Broad and Cassel LLP; the Motion is in compliance with SCR 42 and no opposition has been filed.

COURT ORDERS for good cause appearing and after review Defendants U.S. RE Corporation, Uni-Ter Underwriting management Corp., and Uni-Ter Claims Services Corp. s Motion to Associate Counsel (Kimberly J. Freedman) is GRANTED; the Court has reviewed the Motion, which provides for cause for the Granting of this Motion; Hearing on MOTIONS CALENDAR on August 1, 2017 is VACATED; Movant to submit the Order.

CLERK'S NOTE: A copy of this minute order was faxed to: McDonald Carano LLP (702-873-9966),

Lipson, Neilson, Cole, Seltzer & Garin, P.C. (702-382-1512), and Fennemore Craig, P.C. (702-692-8099)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Other Negligence**COURT MINUTES****September 28, 2018**

A-14-711535-C	Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark, Plaintiff(s) vs. Robert Chur, Defendant(s)
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September 28, 2018	10:00 AM	Motion for Protective Order	Defts Uni-Ter Underwriting Management Corp, Uni-Ter Claims Services Corp. and US Re Corporation's Motion for Entry of a Protective Order on OST
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HEARD BY: Bulla, Bonnie**COURTROOM:** RJC Level 5 Hearing Room**COURT CLERK:** Jennifer Lott**RECORDER:** Patti Slattery**REPORTER:****PARTIES**

PRESENT:	Adams, Chelsie A.	Attorney
	Freedman, Kimberly J.	Attorney
	Ogilvie, George F., III	Attorney
	Wirthlin, Brenoch	Attorney

JOURNAL ENTRIES

- Erin Kolmansberger, Esquire, for U.S. Re Corporation and Uni-Ter Defts (Pro Hac Vice application pending); Jonathan Wong, Esquire, for Director Defts.

Commissioner questioned why this matter isn't before Judge Gonzalez. Mr. Wirthlin stated the Receiver stepped in when Uni-Ter went under (Managers and Brokers for Lewis and Clark);

Claimants and policy holders had their policies canceled / denied because Lewis and Clark became insolvent. The action in front of Judge Gonzalez is the precursor action to the instant action. Upon Commissioner's inquiry, Mr. Wirthlin state this case involves claims the Receiver has on behalf of Lewis and Clark against Uni-Ter, the Management Company, for breach of fiduciary duty, U.S. Re, the Broker for Re Insurance, and the Director Defts. Mr. Wirthlin confirmed the case involves wasting of assets as well. If there is a problem with documentation productions related to Receivership and the Orders Judge Gonzalez implemented, Commissioner stated it must go back to Judge Gonzalez. Colloquy re: questions to the 30(b)(6) Deponent. Counsel must decide the purpose of the deposition. Mr. Wirthlin requested from 2006, but he would be ok with 2008 processes and document retention and servers going forward.

COMMISSIONER RECOMMENDED, Amend the 30(b)(6) deposition notice; 1 and 2 are PROTECTED, for problems, go back to the Court handling the Receivership; 3 - before the Receivership was filed; 4 - if you have missing information you want, go back to Judge Gonzalez; counsel can ask about a specific document you found out about later. Mr. Wirthlin addressed two document dumps. Ask where emails were stored. COMMISSIONER RECOMMENDED, no problem with 5; 6 - if you want to modify for prior to the Receivership action; 7 - Commissioner is ok with modifications (make relevant to the current case). Contact Commissioner by conference call during the deposition if necessary. COMMISSIONER RECOMMENDED, 7 and 8 were modified; 9 is PROTECTED; how they complied with the Receivership Orders must be eliminated.

COMMISSIONER RECOMMENDED, motion is GRANTED within parameters; Mr. Ogilvie has 30 days from the date they received the amended 30(b)(6) notice to prepare and produce someone for deposition. Commissioner suggested the end of October. Mr. Wirthlin will coordinate with the Attorney General's Office and notice a deposition in the other case; take concurrent depositions if Judge Gonzalez and Judge Allf agree (two separate deposition on the same day). COMMISSIONER RECOMMENDED, the 30(b)(6) depositions must be taken, but limited as set forth by Commissioner. Commissioner Is Not Waiving the 15 days notice and three days for mailing or e-service unless counsel agree. Commissioner will stand by counsels' agreement. Mr. Ogilvie to prepare the Report and Recommendations, and Mr. Wirthlin to approve as to form and content. A proper report must be timely submitted within 10 days of the hearing. Otherwise, counsel will pay a contribution. Commissioner advised counsel to read the Proposed Rules on the Supreme Court website, and let the Supreme Court know if there are problems.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Other Negligence**COURT MINUTES****October 11, 2018**

A-14-711535-C Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark, Plaintiff(s)
vs.
Robert Chur, Defendant(s)

October 11, 2018 9:30 AM All Pending Motions

HEARD BY: Allf, Nancy **COURTROOM:** RJC Courtroom 03A

COURT CLERK: Nicole McDevitt

RECORDER: Brynn White

REPORTER:

PARTIES

PRESENT: Cereghino, Daniel, ESQ Attorney
Nakamura Ochoa, Angela T. Attorney
Ogilvie, George F., III Attorney
Wirthlin, Brenoch Attorney

JOURNAL ENTRIES

- ROBERT CHUR, STEVE FOGG, MARK GARBER, CAROL HARTER, ROBERT HURLBUT, BARBARA LUMPKIN, JEFF MARSHALL, AND ERIC STICKELS' MOTION TO STRIKE PLAINTIFF'S COUNTERMOTION FOR SUMMARY JUDGMENT ON ORDER SHORTENING TIME PLAINTIFF'S (1) OPPOSITION TO DIRECTOR DEFENDANTS' MOTION FOR JUDGMENT ON THE PLEADINGS AND (2) COUNTERMOTION FOR SUMMARY JUDGMENT AS TO LIABILITY ONLY ROBERT CHUR, STEVE FOGG, MARK GARBER, CAROL HARTER, ROBERT HURLBUT, BARBARA LUMPKIN, JEFF MARSHALL, AND ERIC STICKELS MOTION FOR JUDGMENT ON THE PLEADINGS PURSUANT TO NRCP 12(C)

Arguments by Ms. Nakamura and Mr. Cereghino regarding the merits of and opposition to the motion to strike. Court stated its findings and ORDERED, Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert Hurlbut, Barbara Lumpkin, Jeff Marshall, and Eric Stickels' Motion to Strike Plaintiff's Countermotion for Summary Judgment on Order Shortening Time GRANTED. Ms. Nakamura to prepare the order and submit it to opposing counsel for approval. COURT FURTHER

ORDERED, Plaintiff's (1) Opposition to Director Defendants' Motion for Judgment on the Pleadings and (2) Countermotion for Summary Judgment as to Liability Only STRICKEN and OFF CALENDAR.

Arguments by Ms. Nakamura and Mr. Wirthlin regarding the merits of and opposition to the motion for judgment. Court stated its findings and ORDERED, Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert Hurlbut, Barbara Lumpkin, Jeff Marshall, And Eric Stickels Motion For Judgment On The Pleadings Pursuant To NRCP 12(C) DENIED. Plaintiff's counsel to prepare the order and submit it to opposing counsel.

Upon inquiry of Court regarding if a settlement conference would help parties, Mr. Wirthlin stated he is open to whatever Defendant wants to address and they have done mediation in which they were not able to resolve the matter. Upon further inquiry of Court regarding if there is any opposition to the Motion to Associate Counsel set on October 16, 2018, Mr. Wirthlin and Ms. Nakamura stated they did not oppose it. COURT ORDERED, Motion to Association Counsel Erin Kolmansberger GRANTED and VACATED from the October 16, 2018 chambers calendar.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Other Negligence**COURT MINUTES****December 27, 2018**

A-14-711535-C Commissioner of Insurance for the State of Nevada as Receiver of Lewis and
Clark, Plaintiff(s)
vs.
Robert Chur, Defendant(s)

December 27, 2018 9:30 AM Motion

HEARD BY: Allf, Nancy**COURTROOM:** RJC Courtroom 03A**COURT CLERK:** Nicole McDevitt**RECORDER:** Rubina Fedra**REPORTER:****PARTIES**

PRESENT: Nakamura Ochoa, Angela T. Attorney
 Ogilvie, George F., III Attorney
 Wirthlin, Brenoch Attorney

JOURNAL ENTRIES

- Arguments by Mr. Wirthlin and Ms. Ochoa regarding the merits of and opposition of the motion. Colloquy regarding the five year rule. Mr. Wirthlin requested a firm setting in November 2019. Court stated it would give an additional sixty days on t discovery and set a firm trial day, however, there will be no more extensions. Upon inquiry of the Court regarding time need for trial, Mr. Wirthlin stated it should be two to three weeks. Ms. Ochoa stated three weeks would be fine. Court directed counsel to provide their availability in October, November, and December for three weeks of trial to Court's Judicial Executive Assistant by January 9, 2019. COURT ORDERED, Plaintiff's Motion for Extension of Discovery Deadlines and to Continue Trial on an Order Shortening Time GRANTED IN PART, DENIED IN PART; extension of discovery will be for sixty days and a firm trial will be set. Court directed counsel to provide their availability in October, November, and December for three weeks of trial to Court's Judicial Executive Assistant by January 9, 2019. Mr. Wirthlin to prepare the order and submit it to opposing counsel for approval.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Other Negligence**COURT MINUTES****January 04, 2019**

A-14-711535-C	Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark, Plaintiff(s) vs. Robert Chur, Defendant(s)
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January 04, 2019**3:00 AM****Minute Order**

**Minute Order:
Request for Hearing
on Defendant's
Motion for
Reconsideration and
Plaintiff's Opposition
to Director
Defendants' Motion
for Reconsideration
and Countermotion
for Attorney's Fees
set 1/10/2019
CONTINUED to
1/9/2019**

HEARD BY: Alf, Nancy**COURTROOM:** No Location**COURT CLERK:** Nicole McDevitt**RECORDER:****REPORTER:****PARTIES****PRESENT:**

JOURNAL ENTRIES

- On December 3, 2019, Request for Hearing on Defendant's Motion for Reconsideration was filed and set for January 3, 2019. On December 17, 2019 a request was made to continue the hearing to January 10, 2019 and matter was continued. On December 27, 2018 Plaintiff's Opposition to Director Defendants' Motion for Reconsideration and Countermotion for Attorney's Fees was filed and set for January 10, 2019. As Court is unavailable on January 10, 2019, COURT ORDERED, motion and

PRINT DATE: 11/22/2022

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Minutes Date: January 27, 2016

countermotion CONTINUED to January 9, 2019 at 9:00 a.m.

CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 1/4/2019

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Other Negligence

COURT MINUTES

January 09, 2019

A-14-711535-C Commissioner of Insurance for the State of Nevada as Receiver of Lewis and
Clark, Plaintiff(s)
vs.
Robert Chur, Defendant(s)

January 09, 2019 9:00 AM All Pending Motions

HEARD BY: Allf, Nancy **COURTROOM:** RJC Courtroom 03A

COURT CLERK: Nicole McDevitt

RECORDER: Brynn White

REPORTER:

PARTIES

PRESENT: Nakamura Ochoa, Angela T. Attorney
Ogilvie, George F., III Attorney
Peek, Joseph S. Attorney
Semerad, Ryan A. Attorney
Wadhams, James L. Attorney
Wirthlin, Brenoch Attorney

JOURNAL ENTRIES

- PLAINTIFF'S OPPOSITION TO DIRECTOR DEFENDANTS' MOTION FOR RECONSIDERATION
AND COUNTERMOTION FOR ATTORNEY'S FEES...REQUEST FOR HEARING ON
DEFENDANT'S MOTION FOR RECONSIDERATION

Arguments by Mr. Peek and Mr. Wirthlin regarding the merits of and opposition to the pending motions. COURT ORDERED, Request for Hearing on Defendant's Motion for Reconsideration and Plaintiff's Opposition to Director Defendants' Motion for Reconsideration and Countermotion for Attorney's Fees TAKEN UNDER ADVISEMENT, court will consider the merits and write a decision. COURT ORDERED, status check for decision SET on chambers calendar

1/29/2019 CHAMBERS DECISION: PLAINTIFF'S OPPOSITION TO DIRECTOR DEFENDANTS'
MOTION FOR RECONSIDERATION AND COUNTERMOTION FOR ATTORNEY'S FEES;

REQUEST FOR HEARING ON DEFENDANT'S MOTION FOR RECONSIDERATION

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Other Negligence

COURT MINUTES

January 24, 2019

A-14-711535-C	Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark, Plaintiff(s)
	vs.
	Robert Chur, Defendant(s)

January 24, 2019 9:30 AM Motion

HEARD BY: Allf, Nancy **COURTROOM:** RJC Courtroom 03A

COURT CLERK: Nicole McDevitt

RECORDER: Brynn White

REPORTER:

PARTIES

PRESENT:	Nakamura Ochoa, Angela T.	Attorney
	Ogilvie, George F., III	Attorney
	Wirthlin, Brenoch	Attorney

JOURNAL ENTRIES

- Mr. Wirthlin noted that the death certificate of Ms. Lumpkin did not have a redacted social security number. Court directed counsel to submit an ex-parte application and order to redact or seal, submit it to all parties, and court will enter the order. Arguments by Mr. Wirthlin and Ms. Ochoa regarding the merits and opposition to the motion. Court stated its findings and ORDERED, Plaintiffs Motion for Substitution of Deceased Party Pursuant to NRCP 25(a) DENIED. Ms. Ochoa to prepare the order and submit it to opposing counsel for approval.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Other Negligence

COURT MINUTES

January 29, 2019

A-14-711535-C	Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark, Plaintiff(s) vs. Robert Chur, Defendant(s)
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January 29, 2019	3:00 AM	Decision
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HEARD BY: Allf, Nancy

COURTROOM: No Location

COURT CLERK: Nicole McDevitt

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- COURT FINDS after review that on November 29, 2018 Plaintiff s Motion for Reconsideration (Motion) was filed with the Court and the matter was set for hearing before the Court on January 9, 2019.

COURT FURTHER FINDS after review that the Court heard oral arguments on the Motion on January 9, 2019. The Court took the matter under submission and set a Status Check for January 29, 2019 on Chambers Calendar for the Court to issue its decision.

COURT ORDERS for good cause appearing and after review the date set for the Court to issue a Decision on the Motion is hereby CONTINUED to February 5, 2019; the Court will either release a Decision by February 5, 2019 at 5:00 p.m., or provide a prospective future date to expect it.

CONTINUED TO: 2/5/2019 (CHAMBERS)

CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 1/30/2019

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Other Negligence

COURT MINUTES

March 08, 2019

A-14-711535-C Commissioner of Insurance for the State of Nevada as Receiver of Lewis and
Clark, Plaintiff(s)
vs.
Robert Chur, Defendant(s)

March 08, 2019 3:15 PM Telephonic Conference

HEARD BY: Allf, Nancy **COURTROOM:** RJC Courtroom 03A

COURT CLERK: Nicole McDevitt

RECORDER: Brynn White

REPORTER:

PARTIES

PRESENT: Adams, Chelsie A. Attorney
Cereghino, Daniel, ESQ Attorney
Nakamura Ochoa, Angela T. Attorney
Ogilvie, George F., III Attorney

JOURNAL ENTRIES

- Colloquy regarding a stay of discovery deadlines. COURT ORDERED, request by letter for stay DENIED, however, Court will set it for hearing and Court will not stay the deposition next week. Colloquy regarding hearing date. Court stated the Motion to Stay proceedings will remain on the March 14, 2019 calendar at 10:00 a.m. and the request for extension of all deadlines will be heard at that time. Court directed counsel that they may provide additional briefings, oppositions will be due by 5:00 p.m. on March 12, 2019 and replies will be due by 5:00 p.m. March 13, 2019.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Other Negligence**COURT MINUTES****March 14, 2019**

A-14-711535-C	Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark, Plaintiff(s) vs. Robert Chur, Defendant(s)
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March 14, 2019	10:00 AM	Motion to Stay	Defendants' Motion to Stay Proceedings Pending Petition for Writ of Mandamus on an Order Shortening Time
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HEARD BY: Allf, Nancy**COURTROOM:** RJC Courtroom 03A**COURT CLERK:** Nicole McDevitt**RECORDER:** Brynn White**REPORTER:****PARTIES**

PRESENT:	Cereghino, Daniel, ESQ	Attorney
	Kolmansberger, Erin K.	Attorney
	Ogilvie, George F., III	Attorney
	Peek, Joseph S.	Attorney

JOURNAL ENTRIES

- Erin Kolmansberger present telephonically.

Mr. Peek submitted on the pleadings. Arguments by Mr. Ogilvie and Mr. Cereghino. COURT ORDERED, Defendants' Motion to Stay Proceedings Pending Petition for Writ of Mandamus on an Order Shortening Time GRANTED, matter SET for status check, and parties to provide an update no later than May 10, 2019. Mr. Peek to prepare the order and submit to opposing counsel for approval as to form.

5/14/2019 (CHAMBERS) STATUS CHECK

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Other Negligence**COURT MINUTES****May 15, 2019**

A-14-711535-C Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark, Plaintiff(s)
vs.
Robert Chur, Defendant(s)

May 15, 2019**2:30 PM****Minute Order****HEARD BY:** Allf, Nancy**COURTROOM:** No Location**COURT CLERK:** Phyllis Irby**RECORDER:****REPORTER:**

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- A711535; Commissioner v. Chur; Status Check re Stay; 5/14/19

COURT FINDS after review that on April 4, 2019, the Order Granting Motion to Stay Proceedings Pending Petition for Writ of Mandamus was filed with the Court wherein the Court ordered all proceedings in the matter stayed. The Court set a Status Check for May 14, 2019 on Chambers Calendar regarding the status of the Petition for Writ of Mandamus.

COURT FURTHER FINDS after review that on May 8, 2019 the Director Defendants Status Report Regarding Petition for Writ of Mandamus was filed with the Court indicating that the Director Defendants filed their Petition with the Nevada Supreme Court on March 13, 2019 and have received no notice of any update as to the status of the Petition or the Nevada Supreme Court's consideration of the Petition.

COURT ORDERS for good cause appearing and after review that the Status Check set for May 14, 2019 on Chambers Calendar is hereby CONTINUED to June 25, 2019 on Chambers Calendar. The Director Defendants are directed to file a Status Report regarding the status of the Petition on or before June 21, 2019.

CLERK'S NOTE: This Minute Order was electronically served by Court Clerk, P. Irby, to all registered parties for Odyssey File & Serve./pi (5-16-19)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Other Negligence

COURT MINUTES

June 13, 2019

A-14-711535-C Commissioner of Insurance for the State of Nevada as Receiver of Lewis and
Clark, Plaintiff(s)
vs.
Robert Chur, Defendant(s)

June 13, 2019 9:30 AM Status Check

HEARD BY: Cherry, Michael A.

COURTROOM: RJC Courtroom 03A

COURT CLERK: Nicole McDevitt

RECORDER: Brynn White

REPORTER:

PARTIES

PRESENT: Wirthlin, Brenoch

Attorney

JOURNAL ENTRIES

- Mr. Wirthlin stated previous status checks had been removed and he did not have anything to add. Regarding the matter in the Supreme Court, Mr. Wirthlin stated they have filed their responsive brief and the opposition has two weeks to file their reply. COURT ORDERED, matter SET for status check in sixty days, status reports to be filed prior to hearing.

8/15/2019 9:30 AM STATUS CHECK

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Other Negligence

COURT MINUTES

July 11, 2019

A-14-711535-C	Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark, Plaintiff(s) vs. Robert Chur, Defendant(s)
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July 11, 2019

9:30 AM

Motion

HEARD BY: Alf, Nancy

COURTROOM: RJC Courtroom 03A

COURT CLERK: Nicole McDevitt

RECORDER: Rubina Feda

REPORTER:

PARTIES

PRESENT:

Ogilvie, George F., III
Peek, Joseph S.
Wirthlin, Brenoch

Attorney
Attorney
Attorney

JOURNAL ENTRIES

- Arguments by counsel regarding the merits of and opposition to the motion. COURT ORDERED, Plaintiff's Motion to Lift Stay or Alternatively Grant Plaintiff Other Relief on Order Shortening Time DENIED, the order will be enforced, and Court will enforce the Jacobs case. Mr. Wirthlin to prepare the order and submit it to opposing counsel for approval as to form.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Other Negligence

COURT MINUTES

August 15, 2019

A-14-711535-C Commissioner of Insurance for the State of Nevada as Receiver of Lewis and
Clark, Plaintiff(s)
vs.
Robert Chur, Defendant(s)

August 15, 2019 9:30 AM Status Check

HEARD BY: Allf, Nancy **COURTROOM:** RJC Courtroom 03A

COURT CLERK: Nicole McDevitt

RECORDER: Brynn White

REPORTER:

PARTIES

PRESENT: Wirthlin, Brenoch Attorney

JOURNAL ENTRIES

- Mr. Wirthlin stated the briefing has been submitted and they are just waiting for either a decision or request for oral argument from supreme court. Court noted there is another status check set on the chambers calendar on September 17, 2019 and directed Mr. Wirthlin if there is any update to do so before that status check.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Other Negligence

COURT MINUTES

September 17, 2019

A-14-711535-C Commissioner of Insurance for the State of Nevada as Receiver of Lewis and
Clark, Plaintiff(s)
vs.
Robert Chur, Defendant(s)

September 17, 2019 3:00 AM Status Check

HEARD BY: Allf, Nancy

COURTROOM: No Location

COURT CLERK: Nicole McDevitt

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- COURT FINDS after review that on April 4, 2019, the Order Granting Motion to Stay Proceedings Pending Petition for Writ of Mandamus was filed with the Court wherein the Court ordered all proceedings in the matter stayed. The Court set a Status Check for May 14, 2019 on Chambers Calendar regarding the status of the Petition for Writ of Mandamus.

COURT FURTHER FINDS after review that on May 8, 2019 the Director Defendants Status Report Regarding Petition for Writ of Mandamus was filed with the Court indicating that the Director Defendants filed their Petition with the Nevada Supreme Court on March 13, 2019 and have received no notice of any update as to the status of the Petition or the Nevada Supreme Court's consideration of the Petition. The Status Check set for May 14, 2019 was CONTINUED to June 13, 2019.

COURT FURTHER FINDS after review that June 13, 2019, Mr. Wirthlin appeared before the Court and indicated that responsive briefs and oppositions were pending before the Supreme Court, so the matter was set for Status Check on August 15, 2019.

COURT FURTHER FINDS after review that on August 15, 2019, Mr. Wirthlin appeared before the Court and indicated that the parties are waiting for either a decision or request for oral argument

from the Supreme Court, so the matter was CONTINUED for September 17, 2019 on Chambers Calendar.

COURT FURTHER FINDS after review that a decision from the Supreme Court of Nevada is still pending.

COURT ORDERS for good cause appearing and after review that the Status Check set for September 17, 2019 on Chambers Calendar is CONTINUED for November 19, 2019 on Chambers Calendar. The parties shall file Status Reports in advance of the November 19, 2019 Status Check.

COURT FURTHER ORDERS for good cause appearing and after review that the Firm Jury Trial set for October 21, 2019 is hereby VACATED.

CONTINUED TO: 11/19/2019 (CHAMBERS)

CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Other Negligence

COURT MINUTES

November 19, 2019

A-14-711535-C Commissioner of Insurance for the State of Nevada as Receiver of Lewis and
Clark, Plaintiff(s)
vs.
Robert Chur, Defendant(s)

November 19, 2019 3:00 AM Status Check

HEARD BY: Allf, Nancy

COURTROOM: No Location

COURT CLERK: Nicole McDevitt

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- COURT FINDS after review that on April 4, 2019, the Order Granting Motion to Stay Proceedings Pending Petition for Writ of Mandamus was filed with the Court wherein the Court ordered all proceedings in the matter stayed. The Court set a Status Check for May 14, 2019 on Chambers Calendar regarding the status of the Petition for Writ of Mandamus.

COURT FURTHER FINDS after review that on May 8, 2019 the Director Defendants Status Report Regarding Petition for Writ of Mandamus was filed with the Court indicating that the Director Defendants filed their Petition with the Nevada Supreme Court on March 13, 2019 and have received no notice of any update as to the status of the Petition or the Nevada Supreme Court s consideration of the Petition. The Status Check set for May 14, 2019 was CONTINUED to June 13, 2019.

COURT FURTHER FINDS after review that June 13, 2019, Mr. Wirthlin appeared before the Court and indicated that responsive briefs and oppositions were pending before the Supreme Court, so the matter was set for Status Check on August 15, 2019.

COURT FURTHER FINDS after review that on August 15, 2019, Mr. Wirthlin appeared before the Court and indicated that the parties are waiting for either a decision or request for oral argument

from the Supreme Court, so the matter was CONTINUED for September 17, 2019 on Chambers Calendar.

COURT FURTHER FINDS after review that a decision from the Supreme Court of Nevada was still pending at the time of the Status Check on September 17, 2019, so the matter was CONTINUED for November 19, 2019 on Chambers Calendar.

COURT FURTHER FINDS after review that on November 18, 2019, a Joint Status Report was filed indicating that the Supreme Court entered an Order Submitting for Decision Without Oral Argument, and that the Directors Writ of Mandamus remains pending before the Supreme Court of Nevada.

THEREFORE, COURT ORDERS for good cause appearing and after review that the Status Check set for November 19, 2019 on Chambers Calendar is CONTINUED for January 21, 2020 on Chambers Calendar. The parties shall file a Joint Status Report in advance of the January 21, 2020 Status Check.

CONTINUED TO: 1/21/2020 (CHAMBERS)

CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Other Negligence**COURT MINUTES****January 21, 2020**

A-14-711535-C Commissioner of Insurance for the State of Nevada as Receiver of Lewis and
Clark, Plaintiff(s)
vs.
Robert Chur, Defendant(s)

January 21, 2020 3:00 AM Status Check

HEARD BY: Allf, Nancy**COURTROOM:** No Location**COURT CLERK:** Nicole McDevitt**RECORDER:****REPORTER:**

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- COURT FINDS after review that on April 4, 2019, the Order Granting Motion to Stay Proceedings Pending Petition for Writ of Mandamus was filed with the Court wherein the Court ordered all proceedings in the matter stayed. The Court set a Status Check for May 14, 2019 on Chambers Calendar regarding the status of the Petition for Writ of Mandamus.

COURT FURTHER FINDS after review that on May 8, 2019 the Director Defendants Status Report Regarding Petition for Writ of Mandamus was filed with the Court indicating that the Director Defendants filed their Petition with the Nevada Supreme Court on March 13, 2019 and have received no notice of any update as to the status of the Petition or the Nevada Supreme Court's consideration of the Petition. The Status Check set for May 14, 2019 was CONTINUED to June 13, 2019.

COURT FURTHER FINDS after review that June 13, 2019, Mr. Wirthlin appeared before the Court and indicated that responsive briefs and oppositions were pending before the Supreme Court, so the matter was set for Status Check on August 15, 2019.

COURT FURTHER FINDS after review that on August 15, 2019, Mr. Wirthlin appeared before the Court and indicated that the parties are waiting for either a decision or request for oral argument

from the Supreme Court, so the matter was CONTINUED for September 17, 2019 on Chambers Calendar.

COURT FURTHER FINDS after review that a decision from the Supreme Court of Nevada was still pending at the time of the Status Check on September 17, 2019, so the matter was CONTINUED for November 19, 2019 on Chambers Calendar.

COURT FURTHER FINDS after review that on November 18, 2019, a Joint Status Report was filed indicating that the Supreme Court entered an Order Submitting for Decision Without Oral Argument, and that the Directors Writ of Mandamus remains pending before the Supreme Court of Nevada, so the matter was CONTINUED for January 21, 2020 on Chambers Calendar.

COURT FURTHER FINDS after review that on January 17, 2020, a Joint Status Report was filed indicating that no further orders have been entered by the Supreme Court of Nevada and that the case is submitted for decision according to the Supreme Court of Nevada's website.

THEREFORE, COURT ORDERS for good cause appearing and after review that the Status Check set for January 21, 2020 on Chambers Calendar is CONTINUED for March 24, 2020 on Chambers Calendar. The parties shall file a Joint Status Report in advance of the March 24, 2020 Status Check.

CONTINUED TO: 3/24/2020 (CHAMBERS)

CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 1/21/2020

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Other Negligence**COURT MINUTES****March 24, 2020**

A-14-711535-C Commissioner of Insurance for the State of Nevada as Receiver of Lewis and
Clark, Plaintiff(s)
vs.
Robert Chur, Defendant(s)

March 24, 2020 3:00 AM Status Check

HEARD BY: Allf, Nancy**COURTROOM:** No Location**COURT CLERK:** Nicole McDevitt**RECORDER:****REPORTER:**

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- COURT FINDS after review that on April 4, 2019, the Order Granting Motion to Stay Proceedings Pending Petition for Writ of Mandamus was filed with the Court wherein the Court ordered all proceedings in the matter stayed. The Court set a Status Check for May 14, 2019 on Chambers Calendar regarding the status of the Petition for Writ of Mandamus.

COURT FURTHER FINDS after review that on May 8, 2019 the Director Defendants Status Report Regarding Petition for Writ of Mandamus was filed with the Court indicating that the Director Defendants filed their Petition with the Nevada Supreme Court on March 13, 2019 and have received no notice of any update as to the status of the Petition or the Nevada Supreme Court's consideration of the Petition. The Status Check set for May 14, 2019 was CONTINUED to June 13, 2019.

COURT FURTHER FINDS after review that June 13, 2019, Mr. Wirthlin appeared before the Court and indicated that responsive briefs and oppositions were pending before the Supreme Court, so the matter was set for Status Check on August 15, 2019.

COURT FURTHER FINDS after review that on August 15, 2019, Mr. Wirthlin appeared before the Court and indicated that the parties are waiting for either a decision or request for oral argument

from the Supreme Court, so the matter was CONTINUED for September 17, 2019 on Chambers Calendar.

COURT FURTHER FINDS after review that a decision from the Supreme Court of Nevada was still pending at the time of the Status Check on September 17, 2019, so the matter was CONTINUED for November 19, 2019 on Chambers Calendar.

COURT FURTHER FINDS after review that on November 18, 2019, a Joint Status Report was filed indicating that the Supreme Court entered an Order Submitting for Decision Without Oral Argument, and that the Directors Writ of Mandamus remains pending before the Supreme Court of Nevada, so the matter was CONTINUED for January 21, 2020 on Chambers Calendar.

COURT FURTHER FINDS after review that on January 17, 2020, a Joint Status Report was filed indicating that no further orders have been entered by the Supreme Court of Nevada and that the case is submitted for decision according to the Supreme Court of Nevada's website. The Status Check was continued to March 24, 2020 on Chambers Calendar.

COURT FURTHER FINDS after review that on March 23, 2020, the parties submitted three separate Status Reports indicating, inter alia, that on February 27, 2020, the Supreme Court of Nevada entered an opinion granting the Directors Petition for Writ of Mandamus. The Status Reports also indicated that on March 2, 2020, the Supreme Court of Nevada filed an order granting Plaintiff's request for an extension to March 30, 2020, to file a petition for rehearing of the Directors Petition for Writ of Mandamus. The parties expressed differences on whether or not the Stay will remain in place following the Supreme Court's entry of a notice in lieu of remittitur, in the event the petition for rehearing is denied.

THEREFORE, COURT ORDERS for good cause appearing and after review that the Status Check set for March 24, 2020 on Chambers Calendar is hereby CONTINUED to May 26, 2020 on Chambers Calendar. The Stay shall remain in place pending the Supreme Court of Nevada's review of Plaintiff's petition for rehearing. Once the Supreme Court resolves such petition, the parties shall advise the Court and a status hearing will be set shortly thereafter. In the event the petition is not resolved by the May 26, 2020 Status Check, the parties shall file a Joint Status Report indicating the same in advance of the May 26, 2020 Status Check.

CONTINUED TO 5/26/2020 (CHAMBERS)

CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 3/24/2020

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Other Negligence

COURT MINUTES

April 10, 2020

A-14-711535-C Commissioner of Insurance for the State of Nevada as Receiver of Lewis and
Clark, Plaintiff(s)
vs.
Robert Chur, Defendant(s)

April 10, 2020 2:00 PM Motion for Clarification

HEARD BY: Allf, Nancy **COURTROOM:** RJC Courtroom 03A

COURT CLERK: Nicole McDevitt

RECORDER: Brynn White

REPORTER:

PARTIES

PRESENT: Ogilvie, George F., III Attorney
 Peek, Joseph S. Attorney
 Wirthlin, Brenoch Attorney

JOURNAL ENTRIES

- All appearances made via BlueJeans video conferencing.

Court noted how cases and proceedings are being handled during the Covid-19 pandemic. Arguments by Mr. Wirthlin, Mr. Peek and Mr. Ogilvie regarding the merits of and opposition to the pending the motion. COURT ORDERED, Plaintiff's Motion for Clarification on Order Shortening Time CONTINUED, if there is decision from the Supreme Court on the Petition for Rehearing, matter can be stipulated to be moved out, or it may be stipulated to be moved if there is decision and parties want to hear it sooner. Mr. Wirthlin to prepare the order and submit it to opposing counsel.

CONTINUED to 5/15/2020 1:30 PM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Other Negligence

COURT MINUTES

June 16, 2020

A-14-711535-C	Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark, Plaintiff(s) vs. Robert Chur, Defendant(s)
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June 16, 2020

3:00 AM

Minute Order

**Minute Order:
Telephonic
Appearance**

HEARD BY: Allf, Nancy

COURTROOM: No Location

COURT CLERK: Nicole McDevitt

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Department 27 Formal Request to Appear Telephonically

Re: Plaintiff's Motion for Clarification on Order Shortening Time and Status Check

Set: June 18, 2020 at 9:30 a.m.

Please be advised that due to the COVID-19 pandemic, Department 27 will continue to conduct Court hearings REMOTELY using the Blue Jeans Video Conferencing system. You have the choice to appear either by phone or computer/video.

Dial the following number: 1-408-419-1715

Meeting ID: 241 897 186

Meeting URL: <https://bluejeans.com/241897186>

To connect by phone dial the number provided and enter the meeting ID followed by #

To connect by computer if you do NOT have the app, copy the URL link into a web browser. Google Chrome is preferred but not required. Once you are on the BlueJeans website click on Join with Browser which is located on the bottom of the page. Follow the instructions and prompts given by BlueJeans.

You may also download the Blue Jeans app and join the meeting by entering the meeting ID

PLEASE NOTE the following protocol each participant will be required to follow:

Place your phone on MUTE while waiting for your matter to be called.

Do NOT place the call on hold since some phones may play wait/hold music.

Please do NOT use speaker phone as it causes a loud echo/ringing noise.

Please state your name each time you speak so that the court recorder can capture a clear record.

Please be mindful of rustling papers, background noise, and coughing or loud breathing.

Please be mindful of where your camera is pointing.

We encourage you to visit the [Bluejeans.com](https://bluejeans.com) website to get familiar with the Blue Jeans phone/videoconferencing system before your hearing.

If your hearing gets continued to a different date after you have already received this minute order please note a new minute order will issue with a different meeting ID since the ID number changes with each meeting/hearing.

Please be patient if you call in and we are in the middle of oral argument from a previous case. Your case should be called shortly. Again, please keep your phone or computer mic on MUTE until your case is called.

CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 6/16/2020

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Other Negligence

COURT MINUTES

June 18, 2020

A-14-711535-C Commissioner of Insurance for the State of Nevada as Receiver of Lewis and
Clark, Plaintiff(s)
vs.
Robert Chur, Defendant(s)

June 18, 2020

9:30 AM

All Pending Motions

HEARD BY: Allf, Nancy

COURTROOM: RJC Courtroom 03A

COURT CLERK: Nicole McDevitt

RECORDER: Brynn White

REPORTER:

PARTIES

PRESENT: Nakamura Ochoa, Angela T. Attorney
 Ogilvie, George F., III Attorney
 Wirthlin, Brenoch Attorney

JOURNAL ENTRIES

- STATUS CHECK...PLAINTIFF'S MOTION FOR CLARIFICATION ON ORDER SHORTENING TIME

Appearances made via the BlueJeans videoconferencing application.

Colloquy regarding lifting the stay. Court stated its findings and ORDERED, Plaintiff's Motion for Clarification on Order Shortening Time GRANTED, stay will be lifted as of July 1, 2020. Mr. Wirthlin to prepare the order and submit it to opposing counsel approval as to form.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Other Negligence

COURT MINUTES

June 30, 2020

A-14-711535-C	Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark, Plaintiff(s) vs. Robert Chur, Defendant(s)
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June 30, 2020

3:00 AM

Minute Order

**Minute Order:
BlueJeans
Appearances**

HEARD BY: Allf, Nancy

COURTROOM: No Location

COURT CLERK: Nicole McDevitt

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Department 27 Formal Request to Appear Telephonically

Re: Plaintiff's Motion for Preferential Trial Setting And For Issuance of A New Discovery Scheduling Order or, In the Alternative, Motion to Stay All Discovery During the Pendency of Motion For Leave to File Fourth Amended Complaint; On Order Shortening Time
Set: July 1, 2020 at 10:00 a.m.

Please be advised that due to the COVID-19 pandemic, Department 27 will continue to conduct Court hearings REMOTELY using the Blue Jeans Video Conferencing system. You have the choice to appear either by phone or computer/video.

Dial the following number: 1-408-419-1715

Meeting ID: 356 362 567

Meeting URL: <https://bluejeans.com/356362567>

To connect by phone dial the number provided and enter the meeting ID followed by #

To connect by computer if you do NOT have the app, copy the URL link into a web browser. Google Chrome is preferred but not required. Once you are on the BlueJeans website click on Join with Browser which is located on the bottom of the page. Follow the instructions and prompts given by BlueJeans.

You may also download the Blue Jeans app and join the meeting by entering the meeting ID

PLEASE NOTE the following protocol each participant will be required to follow:

Place your phone on MUTE while waiting for your matter to be called.

Do NOT place the call on hold since some phones may play wait/hold music.

Please do NOT use speaker phone as it causes a loud echo/ringing noise.

Please state your name each time you speak so that the court recorder can capture a clear record.

Please be mindful of rustling papers, background noise, and coughing or loud breathing.

Please be mindful of where your camera is pointing.

We encourage you to visit the [Bluejeans.com](https://bluejeans.com) website to get familiar with the Blue Jeans phone/videoconferencing system before your hearing.

If your hearing gets continued to a different date after you have already received this minute order please note a new minute order will issue with a different meeting ID since the ID number changes with each meeting/hearing.

Please be patient if you call in and we are in the middle of oral argument from a previous case. Your case should be called shortly. Again, please keep your phone or computer mic on MUTE until your case is called.

CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 6/30/2020

CLERK'S NOTE: Minute order AMENDED to correct Meeting ID number and Meeting URL. This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 6/30/2020

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Other Negligence

COURT MINUTES

July 01, 2020

A-14-711535-C Commissioner of Insurance for the State of Nevada as Receiver of Lewis and
Clark, Plaintiff(s)
vs.
Robert Chur, Defendant(s)

July 01, 2020	10:00 AM	Motion for Preferential Trial Setting
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HEARD BY: Allf, Nancy

COURTROOM: RJC Courtroom 03A

COURT CLERK: Nicole McDevitt

RECORDER: Brynn White

REPORTER:

PARTIES

PRESENT: Freedman, Kimberly J. Attorney
Kolmansberger, Erin K. Attorney
Nakamura Ochoa, Angela T. Attorney
Ogilvie, George F., III Attorney
Wirthlin, Brenoch Attorney

JOURNAL ENTRIES

- All counsel present via the BlueJeans Videoconferencing Application.

Upon inquiry of Court if parties are prepared to go forward today as matter was set on shortened time, Ms. Ochoa and Mr. Ogilvie stated they were. Mr. Wirthlin advised they are filing a motion for leave to amend on July 2, 2020. Arguments by Mr. Wirthlin, Ms. Ochoa, and Mr. Ogilvie as to the merits of and opposition of the motion. Ms. Ochoa stated the motion should be heard after the motion for leave. COURT ORDERED, Plaintiff's Motion for Preferential Trial Setting And For Issuance of A New Discovery Scheduling Order or, In the Alternative, Motion to Stay All Discovery During the Pendency of Motion For Leave to File Fourth Amended Complaint; On Order Shortening Time CONTINUED to be heard with the motion to amend, deadline extended until the motion to amend is heard, opposition due July 13, 2020, reply due July 14, 2020.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Other Negligence

COURT MINUTES

July 21, 2020

A-14-711535-C	Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark, Plaintiff(s) vs. Robert Chur, Defendant(s)
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July 21, 2020

3:00 AM

Minute Order

**Minute Order:
BlueJeans
Appearance**

HEARD BY: Allf, Nancy

COURTROOM: No Location

COURT CLERK: Nicole McDevitt

RECORDER:

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Department 27 Formal Request to Appear Telephonically

Re: Matter set on July 23, 2020 at 10:00 a.m.

Please be advised that due to the COVID-19 pandemic, Department 27 will continue to conduct Court hearings REMOTELY using the Blue Jeans Video Conferencing system. You have the choice to appear either by phone or computer/video.

Dial the following number: 1-408-419-1715

Meeting ID: 897 138 369

Meeting URL: <https://bluejeans.com/897138369>

To connect by phone dial the number provided and enter the meeting ID followed by #

To connect by computer if you do NOT have the app, copy the URL link into a web browser. Google Chrome is preferred but not required. Once you are on the BlueJeans website click on Join with Browser which is located on the bottom of the page. Follow the instructions and prompts given by BlueJeans.

You may also download the Blue Jeans app and join the meeting by entering the meeting ID

PLEASE NOTE the following protocol each participant will be required to follow:

Place your phone on MUTE while waiting for your matter to be called.

Do NOT place the call on hold since some phones may play wait/hold music.

Please do NOT use speaker phone as it causes a loud echo/ringing noise.

Please state your name each time you speak so that the court recorder can capture a clear record.

Please be mindful of rustling papers, background noise, and coughing or loud breathing.

Please be mindful of where your camera is pointing.

We encourage you to visit the [Bluejeans.com](https://bluejeans.com) website to get familiar with the Blue Jeans phone/videoconferencing system before your hearing.

If your hearing gets continued to a different date after you have already received this minute order please note a new minute order will issue with a different meeting ID since the ID number changes with each meeting/hearing.

Please be patient if you call in and we are in the middle of oral argument from a previous case. Your case should be called shortly. Again, please keep your phone or computer mic on MUTE until your case is called.

CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 7/21/2020.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Other Negligence

COURT MINUTES

July 23, 2020

A-14-711535-C	Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark, Plaintiff(s) vs. Robert Chur, Defendant(s)
---------------	--

July 23, 2020

10:00 AM

All Pending Motions

HEARD BY: Allf, Nancy

COURTROOM: RJC Courtroom 03A

COURT CLERK: Nicole McDevitt

RECORDER: Brynn White

REPORTER:

PARTIES

PRESENT:	Kolmansberger, Erin K.	Attorney
	Lee, Patricia	Attorney
	Nakamura Ochoa, Angela T.	Attorney
	Ogilvie, George F., III	Attorney
	Orme, Christian M.	Attorney
	Wilson, Jon M.	Attorney
	Wirthlin, Brenoch	Attorney

JOURNAL ENTRIES

- All appearances made via the BlueJeans Videoconferencing Application

DEFENDANTS UNI-TER UNDERWRITING MANAGEMENT CORP., UNI-TER CLAIMS SERVICES CORP. AND U.S. RE CORPORATION S MOTION OR LEAVE TO FILE AMENDED ANSWERS TO THIRD AMENDED COMPLAINT

There being no opposition, COURT ORDERED, Defendants Uni-Ter Underwriting Management Corp., Uni-Ter Claims Services Corp. and U.S. RE Corporation's Motion for Leave to File Amended Answers to Third Amended Complaint GRANTED.

PLAINTIFF MOTION FOR LEAVE TO FILE FOURTH AMENDED COMPLAINT

Arguments by Mr. Wirthlin, Ms. Ochoa, and Mr. Ogilvie regarding the merits of and opposition to

the motion. Mr. Wirthlin requested until July 31, 2020 to disclose experts. Court stated its findings and ORDERED, Plaintiff Motion for Leave to File Fourth Amended Complaint DENIED. Mr. Ochoa or Mr. Ogilvie to prepare the order and submit it to opposing counsel for approval as to form.

PLAINTIFF'S MOTION FOR PREFERENTIAL TRIAL SETTING AND FOR ISSUANCE OF A NEW DISCOVERY SCHEDULING ORDER OR, IN THE ALTERNATIVE, MOTION TO STAY ALL DISCOVERY DURING THE PENDENCY OF MOTION FOR LEAVE TO FILE FOURTH AMENDED COMPLAINT; ON ORDER SHORTENING TIME

Colloquy regarding preferential trial setting. COURT ORDERED, Plaintiff's Motion for Preferential Trial Setting And For Issuance of A New Discovery Scheduling Order or, In the Alternative, Motion to Stay All Discovery During the Pendency of Motion For Leave to File Fourth Amended Complaint; On Order Shortening Time GRANTED, all parties to give all availability to start trial in February 2021 or March 2021 and Court will set trial based on the availability of counsel, most likely in February. Defense to prepare the order from the hearing and parties should collaborate on the order. Colloquy regarding expert disclosures and deadline. COURT FURTHER ORDERED, expert disclosures will be extended until July 31, 2020.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Other Negligence**COURT MINUTES****July 30, 2020**

A-14-711535-C	Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark, Plaintiff(s) vs. Robert Chur, Defendant(s)
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July 30, 2020**3:00 AM****Minute Order**

**Minute Order:
Transcript filed
7/24/2020 STRICKEN**

HEARD BY: Allf, Nancy**COURTROOM:** No Location**COURT CLERK:** Nicole McDevitt**RECORDER:****REPORTER:**

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- COURT FINDS after review a Transcript of Proceedings was inadvertently filed on July 24, 2020 related to the June 18, 2020 hearing.

THEREFORE, COURT ORDERS for good cause appearing and after review the Transcript of Proceedings related to the June 18, 2020 hearing filed on July 24, 2020 is hereby STRICKEN from the record.

CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 7/30/2020

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Other Negligence

COURT MINUTES

August 07, 2020

A-14-711535-C	Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark, Plaintiff(s) vs. Robert Chur, Defendant(s)
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August 07, 2020	3:00 AM	Minute Order	Minute Order: BlueJeans Appearance
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HEARD BY: Allf, Nancy

COURTROOM: No Location

COURT CLERK: Nicole McDevitt

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Department 27 Formal Request to Appear Telephonically

Re: Matter set on August 13, 2020 at 9:30 a.m.

Please be advised that due to the COVID-19 pandemic, Department 27 will continue to conduct Court hearings REMOTELY using the Blue Jeans Video Conferencing system. You have the choice to appear either by phone or computer/video.

Dial the following number: 1-408-419-1715

Meeting ID: 897 138 369

Meeting URL: <https://bluejeans.com/897138369>

To connect by phone dial the number provided and enter the meeting ID followed by #

To connect by computer if you do NOT have the app, copy the URL link into a web browser. Google Chrome is preferred but not required. Once you are on the BlueJeans website click on Join with Browser which is located on the bottom of the page. Follow the instructions and prompts given by BlueJeans.

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Please be mindful of where your camera is pointing.

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If your hearing gets continued to a different date after you have already received this minute order please note a new minute order will issue with a different meeting ID since the ID number changes with each meeting/hearing.

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CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 8/7/2020.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Other Negligence

COURT MINUTES

August 13, 2020

A-14-711535-C Commissioner of Insurance for the State of Nevada as Receiver of Lewis and
Clark, Plaintiff(s)
vs.
Robert Chur, Defendant(s)

August 13, 2020 9:30 AM Telephonic Conference

HEARD BY: Allf, Nancy **COURTROOM:** RJC Courtroom 03A

COURT CLERK: Michele Tucker

RECORDER: Brynn White

REPORTER:

PARTIES

PRESENT: Nakamura Ochoa, Angela T. Attorney
 Ogilvie, George F., III Attorney
 Orme, Christian M. Attorney
 Wirthlin, Brenoch Attorney

JOURNAL ENTRIES

- Appearances made via BlueJeans Videoconferencing Application.

Court NOTED the matter had been set to set the trial start date. Colloquy regarding starting the trial the last week of February and the first week of March. Arguments by counsel as to the tolling of the five year rule. Further arguments by counsel as to striking the Order regarding the receiver. Court STATED it would ISSUE A DECISION.

After the Court hearing Court indicated the trial date would be set the last week of February 2021, starting on Monday, February 22, 2021.

2/22/21 10:00 AM JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Other Negligence

COURT MINUTES

August 25, 2020

A-14-711535-C	Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark, Plaintiff(s) vs. Robert Chur, Defendant(s)
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August 25, 2020

3:00 AM

Minute Order

**Minute Order:
BlueJeans
Appearance**

HEARD BY: Alf, Nancy

COURTROOM: No Location

COURT CLERK: Nicole McDevitt

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Department 27 Formal Request to Appear Telephonically

Re: Matter set on August 26, 2020 at 9:00 a.m.

Please be advised that due to the COVID-19 pandemic, Department 27 will continue to conduct Court hearings REMOTELY using the Blue Jeans Video Conferencing system. You have the choice to appear either by phone or computer/video.

Dial the following number: 1-408-419-1715

Meeting ID: 897 138 369

Meeting URL: <https://bluejeans.com/897138369>

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Please be patient if you call in and we are in the middle of oral argument from a previous case. Your case should be called shortly. Again, please keep your phone or computer mic on MUTE until your case is called.

CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 8/25/2020.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Other Negligence**COURT MINUTES****August 26, 2020**

A-14-711535-C Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark, Plaintiff(s)
vs.
Robert Chur, Defendant(s)

**August 26, 2020 9:00 AM Motion For
Reconsideration**

HEARD BY: Allf, Nancy **COURTROOM:** RJC Courtroom 03A

COURT CLERK: Nicole McDevitt

RECORDER: Brynn White

REPORTER:

PARTIES

PRESENT:	Hutchings, Mark H.	Attorney
	Nakamura Ochoa, Angela T.	Attorney
	Ogilvie, George F., III	Attorney
	Wirthlin, Brenoch	Attorney

JOURNAL ENTRIES

- Upon inquiry of Court if Plaintiff would like to go forward today, or wait until Court has reviewed the reply that was filed yesterday afternoon, Mr. Hutchinson stated he would like to go forward. No opposition to proceeding from remaining counsel. Arguments by Mr. Hutchinson, Mr. Wirthlin, and Ms. Ochoa regarding the merits of and opposition to the motion. Court stated its findings and ORDERED, Motion for Partial Reconsideration of Plaintiff's Motion for Leave to Amend Regarding Director Defendants DENIED. Ms. Ochoa to prepare the order and submit it to Plaintiff's counsel for approval. Additional arguments by Mr. Wirthlin including a request that Judge review the reply. Court stated it did review the reply during the hearing and it would consider granting a stay if the matter was taken up on a writ. Mr. Ogilvie stated a scheduling order had issued with a discovery cut-off date of October 19, 2020 and parties would like to propose a discovery cut-off date of December 17, 2020. Court stated if parties can stipulate to the new date then Court would adjust the scheduling order accordingly.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Other Negligence

COURT MINUTES

September 02, 2020

A-14-711535-C Commissioner of Insurance for the State of Nevada as Receiver of Lewis and
Clark, Plaintiff(s)
vs.
Robert Chur, Defendant(s)

**September 02, 2020 3:00 AM Minute Order Minute Order:
BlueJeans
Appearance**

HEARD BY: Allf, Nancy

COURTROOM: No Location

COURT CLERK: Nicole McDevitt

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Department 27 Formal Request to Appear Telephonically

Re: Matter set on September 3, 2020 at 11:00 a.m.

Please be advised that due to the COVID-19 pandemic, Department 27 will continue to conduct Court hearings REMOTELY using the Blue Jeans Video Conferencing system. You have the choice to appear either by phone or computer/video.

Dial the following number: 1-408-419-1715

Meeting ID: 897 138 369

Meeting URL: <https://bluejeans.com/897138369>

To connect by phone dial the number provided and enter the meeting ID followed by #

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If your hearing gets continued to a different date after you have already received this minute order please note a new minute order will issue with a different meeting ID since the ID number changes with each meeting/hearing.

Please be patient if you call in and we are in the middle of oral argument from a previous case. Your case should be called shortly. Again, please keep your phone or computer mic on MUTE until your case is called.

CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 9/2/2020.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Other Negligence**COURT MINUTES****September 03, 2020**

A-14-711535-C Commissioner of Insurance for the State of Nevada as Receiver of Lewis and
Clark, Plaintiff(s)
vs.
Robert Chur, Defendant(s)

September 03, 2020 11:00 AM Motion to Stay

HEARD BY: Allf, Nancy **COURTROOM:** RJC Courtroom 10E

COURT CLERK: Nicole McDevitt

RECORDER: Brynn White

REPORTER:

PARTIES

PRESENT: Nakamura Ochoa, Angela T. Attorney
 Ogilvie, George F., III Attorney
 Wall, Michael K. Attorney
 Wirthlin, Brenoch Attorney

JOURNAL ENTRIES

- All appearances made via the BlueJeans Videoconferencing Application.

Mr. Wall stated he spoke with other counsel and he is requesting the order from the last hearing be certified as final pursuant to NRCP 54(B) so parties can appeal instead of filing a petition for a writ. Ms. Ochoa stated the Plaintiff did contact her and it is her opinion that the court needs to be apprised through a motion so Court can make the findings it needs to make. Ms. Ochoa further stated she offered to try to do a stipulation or joint motion. Mr. Ogilvie stated the matter should be briefed or brought to their attention before it is raised as a housekeeping matter. Further colloquy as to the request for certification. COURT ORDERED, oral request for 54(B) certification DENIED and Court would entertain an order shortening time. Court directed counsel the motion could be set September 10, 2020 at 11:00 a.m. and counsel should add that setting date to the motion. Arguments by counsel regarding the merits of and opposition to the motion. Colloquy regarding Court's jurisdiction or discretion on the matter. Court stated its findings and ORDERED, Motion to Stay Proceedings Pending Petition for Writ of Mandamus on Order Shortening Time GRANTED, stay will be effective

on all matters except the motion to certify. Plaintiff's counsel to prepare the order and submit it to opposing counsel for approval as to form.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Other Negligence

COURT MINUTES

September 04, 2020

A-14-711535-C Commissioner of Insurance for the State of Nevada as Receiver of Lewis and
Clark, Plaintiff(s)
vs.
Robert Chur, Defendant(s)

**September 04, 2020 3:00 AM Minute Order Minute Order:
BlueJeans
Appearance**

HEARD BY: Allf, Nancy **COURTROOM:** No Location

COURT CLERK: Nicole McDevitt

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Department 27 Formal Request to Appear Telephonically

Re: Matter set on September 10, 2020 at 11:00 a.m.

Please be advised that due to the COVID-19 pandemic, Department 27 will continue to conduct Court hearings REMOTELY using the Blue Jeans Video Conferencing system. You have the choice to appear either by phone or computer/video.

Dial the following number: 1-408-419-1715

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Meeting URL: <https://bluejeans.com/897138369>

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CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 9/4/2020

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Other Negligence

COURT MINUTES

September 10, 2020

A-14-711535-C Commissioner of Insurance for the State of Nevada as Receiver of Lewis and
Clark, Plaintiff(s)
vs.
Robert Chur, Defendant(s)

September 10, 2020 11:00 AM Motion

HEARD BY: Allf, Nancy

COURTROOM: RJC Courtroom 10E

COURT CLERK: Nicole McDevitt

RECORDER: Brynn White

REPORTER:

PARTIES

PRESENT:	Nakamura Ochoa, Angela T.	Attorney
	Wall, Michael K.	Attorney
	Wirthlin, Brenoch	Attorney

JOURNAL ENTRIES

- All appearances made via the BlueJeans Videoconferencing Application

Arguments by counsel regarding the merits of and opposition to the motion. Court stated its findings and ORDERED, Motion to Certify Judgment as Final Pursuant to NRCP 54(b) on Order Shortening Time DENIED. Mr. Ogilvie to prepare the order and submit to other counsel for approval.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Other Negligence

COURT MINUTES

September 18, 2020

A-14-711535-C	Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark, Plaintiff(s)
	vs.
	Robert Chur, Defendant(s)

September 18, 2020	3:00 AM	Minute Order	Minute Order: Blue Jeans Appearance
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HEARD BY: Allf, Nancy **COURTROOM:** No Location

COURT CLERK: Nicole McDevitt

RECORDER:

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Department 27 Formal Request to Appear Telephonically

Re: Matter set on September 24, 2020 at 9:30 a.m.

Please be advised that due to the COVID-19 pandemic, Department 27 will continue to conduct Court hearings REMOTELY using the Blue Jeans Video Conferencing system. You have the choice to appear either by phone or computer/video.

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Meeting ID: 897 138 369

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CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 9/18/2020.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Other Negligence

COURT MINUTES

September 24, 2020

A-14-711535-C Commissioner of Insurance for the State of Nevada as Receiver of Lewis and
Clark, Plaintiff(s)
vs.
Robert Chur, Defendant(s)

September 24, 2020 9:30 AM Motion to Retax

HEARD BY: Allf, Nancy

COURTROOM: RJC Courtroom 10E

COURT CLERK: Nicole McDevitt

RECORDER: Angelica Michaux

REPORTER:

PARTIES

PRESENT: Nakamura Ochoa, Angela T. Attorney
Ogilvie, George F., III Attorney
Wirthlin, Brenoch Attorney

JOURNAL ENTRIES

- All appearances made via the BlueJeans Videoconferencing Application.

At request of counsel, COURT ORDERED, Plaintiff Motion to Retax and Settle Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert Hurlbut, Barbara Lumpkin, Jeff Marshall, and Eric Stickels Verified Memorandum of Costs and Disbursements OFF CALENDAR.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Other Negligence**COURT MINUTES****May 04, 2021**

A-14-711535-C Commissioner of Insurance for the State of Nevada as Receiver of Lewis and
Clark, Plaintiff(s)
vs.
Robert Chur, Defendant(s)

May 04, 2021**3:00 AM****Minute Order**

**Minute Order:
BlueJeans
Appearance**

HEARD BY: Allf, Nancy**COURTROOM:** No Location**COURT CLERK:** Nicole McDevitt**RECORDER:****REPORTER:****PARTIES****PRESENT:**

JOURNAL ENTRIES

- Department 27 Information to Appear Telephonically

Re: Matter set on May 5, 2021, 9:00 a.m.

Please be advised that due to the COVID-19 pandemic, Department 27 will continue to conduct Court hearings REMOTELY using the Blue Jeans Video Conferencing system. Counsel have the choice to appear either by phone or computer/video, however, if appearing remotely via BlueJeans, please appear by audio AND video. Also, in person hearings are now being held in Department 27, at the option of counsel. Mask wearing protocols will be strictly enforced. As of May 1, 2021, the Governor has relaxed the capacity to 80%, so that the courtroom can now accommodate up to 32 people.

Dial the following number: 1-408-419-1715

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CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 5/4/2021.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Other Negligence**COURT MINUTES****May 05, 2021**

A-14-711535-C	Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark, Plaintiff(s) vs. Robert Chur, Defendant(s)
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May 05, 2021	9:00 AM	Motion for Preferential Trial Setting	Plaintiff's Motion to Lift Stay and for Re-Setting of Preferential Trial Setting
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HEARD BY: Allf, Nancy**COURTROOM:** RJC Courtroom 16A**COURT CLERK:** Nicole McDevitt**RECORDER:** Brynn White**REPORTER:****PARTIES**

PRESENT:	Nakamura Ochoa, Angela T.	Attorney
	Ogilvie, George F., III	Attorney
	Wilson, Jon M.	Attorney
	Wirthlin, Brenoch	Attorney

JOURNAL ENTRIES

- All appearances made via the BlueJeans Videoconferencing Application.

Arguments by Mr. Wirthlin and Mr. Ogilvie regarding the merits of and opposition to the motion. COURT ORDERED, Plaintiff's Motion to Lift Stay and for Re-Setting of Preferential Trial Setting GRANTED, STAY LIFTED on the date the notice of entry is filed, and request for additional depositions should be taken up with the Discovery Commissioner unless all parties stipulate for Court to take over discovery. Colloquy regarding setting a firm trial date. COURT ORDERED, trial SET for firm date on September 20, 2021.

9/20/2021 10:30 AM JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Other Negligence**COURT MINUTES****June 30, 2021**

A-14-711535-C Commissioner of Insurance for the State of Nevada as Receiver of Lewis and
Clark, Plaintiff(s)
vs.
Robert Chur, Defendant(s)

June 30, 2021**3:00 AM****Minute Order**

**Minute Order:
BlueJeans
Appearance**

HEARD BY: Allf, Nancy**COURTROOM:** No Location**COURT CLERK:** Nicole McDevitt**RECORDER:****REPORTER:****PARTIES****PRESENT:**

JOURNAL ENTRIES

- Department 27 Information to Appear Telephonically

Re: Matter set on July 1, 2021, 11:00 a.m.

Please be advised that due to the COVID-19 pandemic, Department 27 will continue to conduct Court hearings REMOTELY using the Blue Jeans Video Conferencing system. Counsel have the choice to appear either by phone or computer/video, however, if appearing remotely via BlueJeans, please appear by audio AND video. Also, in person hearings are now being held in Department 27, at the option of counsel. Mask wearing protocols will be strictly enforced. As of May 1, 2021, the Governor has relaxed the capacity to 80%, so that the courtroom can now accommodate up to 32 people.

Dial the following number: 1-408-419-1715

Meeting ID: 897 138 369

Meeting URL: <https://bluejeans.com/897138369>

To connect by phone dial the number provided and enter the meeting ID followed by #

To connect by computer if you do NOT have the app, copy the URL link into a web browser. Google Chrome is preferred but not required. Once you are on the BlueJeans website click on Join with Browser which is located on the bottom of the page. Follow the instructions and prompts given by BlueJeans.

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Please be patient if you call in and we are in the middle of oral argument from a previous case. Your case should be called shortly. Again, please keep your phone or computer mic on MUTE until your case is called.

CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 6/30/2021.

of Costs and Disbursements DENIED. Mr. Wirthlin to prepare the order and provide it to opposing counsel for approval.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Other Negligence**COURT MINUTES****July 06, 2021**

A-14-711535-C	Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark, Plaintiff(s) vs. Robert Chur, Defendant(s)
---------------	--

July 06, 2021**3:00 AM****Minute Order**

**Minute Order:
Plaintiff's Motion to
Retax and Settle
Robert Chur, Steve
Fogg, Mark Garber,
Carol Harter, Robert
Hurlbut (Motion to
Retax) DENIED**

HEARD BY: Allf, Nancy**COURTROOM:** No Location**COURT CLERK:** Nicole McDevitt**RECORDER:****REPORTER:**

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- COURT FINDS after review that on August 21, 2020 Plaintiff's Motion to Retax and Settle Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert Hurlbut (Motion to Retax) was filed.

COURT FURTHER FINDS after review that a Motion to Retax was scheduled on July 1, 2021 on Motions calendar.

COURT FURTHER FINDS after review that NRS 696B.565 (3) provides:

The Commissioner, all present and former deputy receivers, special deputy receivers and their employees, and the other officers, agents, employees and attorneys of the Division must be indemnified for all expenses, attorney s fees, judgments, settlements decrees, or amounts due or paid

in satisfaction of, or incurred in the defense of, such a legal action, unless it is determined upon a final adjudication on the merits of the case that the alleged acts, error or omission of the officer, agent, employee or attorney of the division did not arise out of or by reason of his or her duties or employment and was caused by actual malice.

THEREFORE COURT ORDERS for good cause appearing and after review that the Motion to Retax is hereby DENIED and the matter scheduled on July 1, 2021 on Motions calendar is hereby VACATED. Movant to prepare the Order in compliance with EDCR 7.21 and email it in pdf format to DC27Inbox@ClarkCountyCourts.us.

CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 7/6/2021.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Other Negligence**COURT MINUTES****July 28, 2021**

A-14-711535-C Commissioner of Insurance for the State of Nevada as Receiver of Lewis and
Clark, Plaintiff(s)
vs.
Robert Chur, Defendant(s)

July 28, 2021**3:00 AM****Minute Order**

**Minute Order:
BlueJeans
Appearance**

HEARD BY: Allf, Nancy**COURTROOM:** No Location**COURT CLERK:** Nicole McDevitt**RECORDER:****REPORTER:****PARTIES****PRESENT:**

JOURNAL ENTRIES

- Department 27 Information to Appear Telephonically

Re: Matter set on July 29, 2021, 9:30 a.m.

Please be advised that due to the COVID-19 pandemic, Department 27 will continue to conduct Court hearings REMOTELY using the Blue Jeans Video Conferencing system. Counsel have the choice to appear either by phone or computer/video, however, if appearing remotely via BlueJeans, please appear by audio AND video. Also, in person hearings are now being held in Department 27, at the option of counsel. Mask wearing protocols will be strictly enforced. As of May 1, 2021, the Governor has relaxed the capacity to 80%, so that the courtroom can now accommodate up to 32 people.

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Meeting ID: 897 138 369

Meeting URL: <https://bluejeans.com/897138369>

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CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 7/28/2021.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Other Negligence**COURT MINUTES****July 29, 2021**

A-14-711535-C	Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark, Plaintiff(s) vs. Robert Chur, Defendant(s)
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July 29, 2021	9:30 AM	Motion to Compel	Motion to Compel Discovery Pursuant to NRCP 37(a)(4) on Order Shortening Time
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HEARD BY: Truman, Erin**COURTROOM:** RJC Level 5 Hearing Room**COURT CLERK:** Jennifer Lott**RECORDER:** Francesca Haak**REPORTER:****PARTIES**

PRESENT:	Ogilvie, George F., III	Attorney
	Orme, Christian M.	Attorney
	Wirthlin, Brenoch	Attorney

JOURNAL ENTRIES

- MATTER TRAILED to 10:30 a.m. MATTER RECALLED. Commissioner Truman DISCLOSED as a private attorney, she was Of Counsel at the Law Firm of Hutchison & Steffen from approximately 2010 through May 2017. Commissioner offered to recuse herself at request of counsel. Colloquy regarding Mr. Young previously worked for McDonald Carano in the 1990's. No objection by Mr. Ogilvie to Commissioner Truman deciding this Motion. Upon Commissioner's inquiry, Mr. Wirthlin stated Hutchison & Steffen were retained in February 2020.

Commissioner stated the Trial is set September 21, 2021, discovery closes in one week, and 1.7 million documents were referenced. Commissioner will not extend discovery as it is not within her purview. Mr. Orme does not have all the documents that were promised, and counsel found out through the depositions. Mr. Orme requested Deft provide the password to the data base of documents.

Colloquy regarding the timeframe of the search. Commissioner inquired what search terms were used, and what other search terms would Plaintiff have proposed to be used. Arguments by counsel. Commissioner stated there is not enough time to get the discovery before the close of discovery. If there were more time, Commissioner may allow the discovery.

Given the posture of the case, and the timeliness, COMMISSIONER RECOMMENDED, motion is DENIED WITHOUT PREJUDICE; if discovery is extended, the Motion can be re-Noticed. Mr. Wirthlin can submit the search terms today. Arguments by counsel. If discovery is extended by the Judge, Commissioner advised counsel to bring the issue back for the Commissioner to consider. COMMISSIONER RECOMMENDED, Deft is required to respond with bates numbers or bates ranges, and supplement within 30 days. Arguments by counsel regarding the format of document production.

Mr. Ogilvie to prepare the Report and Recommendations, and counsel to approve as to form and content. Comply with Administrative Order 20-10, and submit the DCRR to DiscoveryInbox@clarkcountycourts.us. A proper report must be timely submitted within 14 days of the hearing. Otherwise, counsel will pay a contribution. COMMISSIONER RECOMMENDED, Status Check SET; if the DCRR is submitted, contact the Discovery office to vacate the Status Check.

8-26-2021 9:00 a.m. Status Check: Compliance / 7-29-2021 DCRR

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Other Negligence

COURT MINUTES

July 29, 2021

A-14-711535-C Commissioner of Insurance for the State of Nevada as Receiver of Lewis and
Clark, Plaintiff(s)
vs.
Robert Chur, Defendant(s)

**July 29, 2021 9:30 AM Motion for Declaratory
Relief**

HEARD BY: Allf, Nancy

COURTROOM: RJC Courtroom 16A

COURT CLERK: Nicole McDevitt

RECORDER: Brynn White

REPORTER:

PARTIES

PRESENT: Ogilvie, George F., III Attorney
 Wirthlin, Brenoch Attorney

JOURNAL ENTRIES

- Present in Courtroom: Brenoch Wirthlin, Esq.
All other counsel present via the BlueJeans Videoconferencing Application.

Due to time restraints, COURT ORDERED, Plaintiff's Motion for Declaratory Relief CONTINUED.

CONTINUED TO: 8/2/2021 10:00 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Other Negligence**COURT MINUTES****August 02, 2021**

A-14-711535-C Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark, Plaintiff(s)
vs.
Robert Chur, Defendant(s)

August 02, 2021 10:00 AM Motion for Declaratory Relief

HEARD BY: Allf, Nancy **COURTROOM:** RJC Courtroom 03A

COURT CLERK: Carolyn Jackson

RECORDER: Brynn White

REPORTER:

PARTIES

PRESENT: Ogilvie, George F., III Attorney
Wirthlin, Brenoch Attorney

JOURNAL ENTRIES

- Parties present via Bluejeans Videoconferencing Application.

Upon Courts inquiry Mr. Wirthlin stated this motion is strictly based on admission by corporation. Mr. Wirthlin further added the defendant opposition asserts declaratory relief will not have an impact on this case, however Mr. Wirthlin believes it will narrow issues for the case. Mr. Wirthlin continued by stating declaratory relief will narrow the facts and evidence down substantially to allow trial to be more substantive. Mr. Ogilvie responded, declaratory relief is not appropriate as it has nothing to do with insolvency. Mr. Ogilvie added, the plaintiff can not seek relief because declaratory relief was not pleaded and pursuant to Rule 56, by law it can not be allowed. After hearing arguments, COURT ORDERED, Plaintiffs Motion for Declaratory Relief against the Corporate Defendants Uni-Ter Underwriting, Uni-ter Claims and US Re, relating to the Third, Fourth, and Fifth Causes of Action for Negligence, Misrepresentation, and Fiduciary Duty, DENIED, because there was not a request made in the third amended complaint for declaratory relief. However, it will be GRANTED to the extent that admissions of the defendant of undisputed facts, and will be deemed admitted for the purpose of the case. COURT FURTHER ORDERED, Mr. Wirthlin to prepare the

order and provide a copy to Mr. Ogilvie for review.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Other Negligence

COURT MINUTES

August 25, 2021

A-14-711535-C	Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark, Plaintiff(s) vs. Robert Chur, Defendant(s)
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August 25, 2021

3:00 AM

Minute Order

**Minute Order:
BlueJeans
Appearance**

HEARD BY: Allf, Nancy

COURTROOM: No Location

COURT CLERK: Nicole McDevitt

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Department 27 Information to Appear Telephonically

Re: Matter set on August 26, 2021, 10:30 a.m.

Please be advised that due to the COVID-19 pandemic, Department 27 will continue to conduct Court hearings REMOTELY using the Blue Jeans Video Conferencing system. Counsel have the choice to appear either by phone or computer/video, however, if appearing remotely via BlueJeans, please appear by audio AND video. Also, in person hearings are now being held in Department 27, at the option of counsel. Mask wearing protocols will be strictly enforced. As of May 1, 2021, the Governor has relaxed the capacity to 80%, so that the courtroom can now accommodate up to 32 people.

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CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 8/25/2021.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Other Negligence

COURT MINUTES

August 26, 2021

A-14-711535-C Commissioner of Insurance for the State of Nevada as Receiver of Lewis and
Clark, Plaintiff(s)
vs.
Robert Chur, Defendant(s)

August 26, 2021 10:30 AM Calendar Call

HEARD BY: Allf, Nancy

COURTROOM: RJC Courtroom 03A

COURT CLERK: Nicole McDevitt

RECORDER: Francesca Haak

REPORTER:

PARTIES

PRESENT:	Freedman, Kimberly J.	Attorney
	Kolmansberger, Erin K.	Attorney
	Ogilvie, George F., III	Attorney
	Wilson, Jon M.	Attorney
	Wirthlin, Brenoch	Attorney

JOURNAL ENTRIES

- Present in the Courtroom: George F. Ogilvie, III, Esq.
All other parties present via the BlueJeans Videoconferencing Application.

Upon inquiry of Court regarding trial, counsel stated they were ready for trial. Colloquy regarding time needed for trial and moving the Motions in Limine to a special setting. Matter concluded.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Other Negligence**COURT MINUTES****August 31, 2021**

A-14-711535-C Commissioner of Insurance for the State of Nevada as Receiver of Lewis and
Clark, Plaintiff(s)
vs.
Robert Chur, Defendant(s)

**August 31, 2021 3:00 AM Minute Order Minute Order:
BlueJeans
Appearance**

HEARD BY: Allf, Nancy**COURTROOM:** No Location**COURT CLERK:** Nicole McDevitt**RECORDER:****REPORTER:**

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Department 27 Information to Appear Telephonically

Re: Matter set on September 2, 2021, 10:00 a.m.

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CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 8/31/2021.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Other Negligence

COURT MINUTES

September 02, 2021

A-14-711535-C Commissioner of Insurance for the State of Nevada as Receiver of Lewis and
Clark, Plaintiff(s)
vs.
Robert Chur, Defendant(s)

September 02, 2021 10:00 AM All Pending Motions

HEARD BY: Allf, Nancy **COURTROOM:** RJC Courtroom 03A

COURT CLERK: Nicole McDevitt

RECORDER: Melissa Delgado-Murphy

REPORTER:

PARTIES

PRESENT: Fraser, Tanya Attorney
 Ogilvie, George F., III Attorney
 Orme, Christian M. Attorney
 Wilson, Jon M. Attorney
 Wirthlin, Brenoch Attorney

JOURNAL ENTRIES

- PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT AS TO UNI-TER DEFENDANTS' BREACH OF THEIR FIDUCIARY DUTIES

Arguments by Mr. Wirthlin and Mr. Ogilvie regarding the merits of and opposition to the motion. Court stated its findings and ORDERED, Plaintiff's Motion for Partial Summary Judgment as to Uni-ter Defendants' Breach of their Fiduciary Duties DENIED, it will come in with regard to the contract.

MOTION FOR PARTIAL SUMMARY JUDGMENT REGARDING THE UNI-TER DEFENDANTS FIDUCIARY DUTIES

Arguments by Mr. Wirthlin and Mr. Ogilvie regarding the merits of and opposition to the motion. Court stated its findings and ORDERED, Motion for Partial Summary Judgment Regarding the Uni-ter Defendants Fiduciary Duties DENIED.

PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT AS TO U.S. RE CORPORATION

Arguments by Mr. Wirthlin and Mr. Ogilvie regarding the merits of and opposition to the motion. Court stated its findings and ORDERED, Plaintiff's Motion for Partial Summary Judgment as to U.S. RE Corporation GRANTED IN PART based on the admissions that they did broker the reinsurance and never became licensed, the affect of that to be determined by the jury; DENIED IN PART as to remainder of the motion.

DEFENDANTS' MOTION IN LIMINE NUMBER 1: TO PRECLUDE MARK D. THARP FROM PROVIDING EXPERT TESTIMONY ON IMPERMISSIBLE LEGAL CONCLUSIONS

Arguments by Mr. Wilson and Mr. Wirthlin regarding the merits of and opposition to the motion. COURT ORDERED, Defendants' Motion in Limine Number 1: to Preclude Mark D. Tharp from Providing Expert Testimony on Impermissible Legal Conclusions GRANTED reciprocally.

DEFENDANTS' MOTION IN LIMINE NUMBER 2: TO PRECLUDE MARK D. THARP FROM PROVIDING EXPERT TESTIMONY REGARDING CLAIMS RESERVING AND "SUPPRESSION" OF RESERVES

Arguments by Mr. Wilson and Mr. Wirthlin regarding the merits of and opposition to the motion. Court stated its findings and ORDERED, Defendants' Motion in Limine Number 2: to Preclude Mark D. Tharp from Providing Expert Testimony Regarding Claims Reserving and "Suppression" of Reserves DENIED.

DEFENDANTS UNI-TER UNDERWRITING MANAGEMENT CORP., UNI-TER CLAIMS SERVICES CORP., AND U.S. RE CORPORATIONS' MOTION IN LIMINE TO STRIKE AND EXCLUDE TESTIMONY OF THE RECEIVER'S PROPOSED DAMAGES EXPERT, MARK KUGA

Arguments by Mr. Wilson and Mr. Wirthlin regarding the merits of and opposition to the motion. Court stated its findings and ORDERED, Defendants Uni-Ter Underwriting Management Corp., Uni-Ter Claims Services Corp., and U.S. Re Corporations' Motion in Limine to Strike and Exclude Testimony of the Receiver's Proposed Damages Expert, Mark Kuga DENIED.

PLAINTIFF'S MOTION IN LIMINE NUMBER 6 TO STRIKE PROFFERED EXPERT WITNESS ALAN GRAY

Arguments by Mr. Wirthlin and Mr. Ogilvie regarding the merits of and opposition to the motion. Court stated its findings and ORDERED, Plaintiff's Motion in Limine Number 6 to Strike Proffered Expert Witness Alan Gray DENIED.

PLAINTIFF'S MOTION IN LIMINE NUMBER 1: TO PRECLUDE SAM HEWITT FROM PROVIDING EXPERT TESTIMONY REGARDING INSOLVENCY ANALYSIS

Arguments by Mr. Orme and Mr. Ogilvie regarding the merits of and opposition to the motion. Court stated its findings and ORDERED, Plaintiff's Motion in Limine Number 1: to Preclude Sam Hewitt from Providing Expert Testimony Regarding Insolvency Analysis DENIED

PLAINTIFF'S MOTION IN LIMINE NO. 2 TO PRECLUDE TESTIMONY BY JOSEPH PETRELLI, RICHARD LORD AND JIM MURPHY REGARDING UNPERFORMED SOLVENCY ANALYSIS

Arguments by Mr. Wirthlin and Mr. Wilson regarding the merits of and opposition to the motion.

COURT ORDERED, Plaintiff's Motion in Limine No. 2 to Preclude Testimony by Joseph Petrelli, Richard Lord and Jim Murphy Regarding Unperformed Solvency Analysis GRANTED IN PART, DENIED IN PART; Court will preclude any testimony with regard to insolvency however, Mr. Petrelli, Mr. Lord, and Mr. Murphy can talk about how they rated, what they did as an actuary, and what they did as an auditor.

PLAINTIFF'S MOTION IN LIMINE NUMBER 3 TO PRECLUDE TESTIMONY THAT US RE WAS A LICENSED REINSURANCE BROKER IN NEVADA

Arguments by Mr. Wirthlin and Mr. Wilson regarding the merits of and opposition to the motion. Court stated its findings and ORDERED, Plaintiff's Motion in Limine Number 3 to Preclude Testimony that US RE was a Licensed Reinsurance Broker in Nevada GRANTED.

PLAINTIFF'S MOTION IN LIMINE NUMBER 4 TO PRECLUDE ANY REFERENCE TO REINSURANCE ESTIMATES

Arguments by Mr. Orme and Mr. Wilson regarding the merits of and opposition to the motion. Court stated its findings and ORDERED, Plaintiff's Motion in Limine Number 4 to Preclude any Reference to Reinsurance Estimates DENIED.

PLAINTIFF'S MOTION IN LIMINE NUMBER 5 TO LIMIT THE SCOPE OF EXPERT WITNESS TESTIMONY REGARDING SPECULATION CONCERNING THE ECONOMY

Arguments by Mr. Wirthlin and Mr. Ogilvie regarding the merits of and opposition to the motion. Court stated its findings and ORDERED, Plaintiff's Motion in Limine Number 5 to Limit the Scope of Expert Witness Testimony Regarding Speculation Concerning the Economy DENIED, Court will not allow cumulative evidence.

PLAINTIFF'S MOTION IN LIMINE NUMBER 7 TO PRECLUDE INTRODUCTION OF IRRELEVANT EVIDENCE FROM RECEIVERSHIP ACTION, CASE NO. A-12-672047-C

There being no opposition, COURT ORDERED, Plaintiff's Motion in Limine Number 7 to Preclude Introduction of Irrelevant Evidence from Receivership Action, Case No. A-12-672047-C GRANTED.

UNI-TER UNDERWRITING MANAGEMENT CORP., UNI-TER CLAIMS SERVICES CORP., AND U.S. RE CORPORATIONS OBJECTION TO THE DISCOVERY COMMISSIONER'S REPORT AND RECOMMENDATIONS ON ORDER SHORTENING TIME

Arguments by Mr. Ogilvie and Mr. Orme regarding the merits of and opposition to the motion. COURT ORDERED, Uni-Ter Underwriting Management Corp., Uni-Ter Claims Services Corp., And U.S. Re Corporations Objection To The Discovery Commissioner's Report And Recommendations On Order Shortening Time GRANTED IN PART, OVERRULED IN PART, Plaintiff can prioritize twenty requests for production of documents and provide those, Plaintiff will be required to search and provide bates ranges and numbers for the top twenty.

Colloquy regarding trial schedule and trial procedures.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Other Negligence

COURT MINUTES

September 20, 2021

A-14-711535-C Commissioner of Insurance for the State of Nevada as Receiver of Lewis and
Clark, Plaintiff(s)
vs.
Robert Chur, Defendant(s)

September 20, 2021 10:30 AM Jury Trial

HEARD BY: Allf, Nancy

COURTROOM: RJC Courtroom 03A

COURT CLERK: Nicole McDevitt
Patia Cunningham

RECORDER: Brynn White

REPORTER:

PARTIES

PRESENT:	Fraser, Tanya	Attorney
	Ogilvie, George F., III	Attorney
	Orme, Christian M.	Attorney
	Wilson, Jon M.	Attorney
	Wirthlin, Brenoch	Attorney

JOURNAL ENTRIES

- Also present: Robert Greer, Receiver.

OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURORS

Colloquy regarding jury selection, resolution of disputed voir dire questions, adverse witnesses, and request to take judicial notice. There being no objection, COURT ORDERED, request to take judicial notice GRANTED. Upon inquiry of Court regarding seating additional alternate jurors, both sides agreed to do so.

PROSPECTIVE JURORS PRESENT

Prospective jury panel present. Jury and alternate juror selected and sworn. COURT ORDERED, trial CONTINUED.

OUTSIDE THE PRESENCE OF THE JURY

Court noted there was a issue with the jury selection and the matter could be taken up at the start of trial on September 21, 2021. Trial recessed for the evening.

CONTINUED TO: 9/21/2021 9:30 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Other Negligence

COURT MINUTES

September 21, 2021

A-14-711535-C Commissioner of Insurance for the State of Nevada as Receiver of Lewis and
Clark, Plaintiff(s)
vs.
Robert Chur, Defendant(s)

September 21, 2021 9:30 AM Jury Trial

HEARD BY: Allf, Nancy

COURTROOM: RJC Courtroom 03A

COURT CLERK: Nicole McDevitt
Patia Cunningham

RECORDER: Brynn White

REPORTER:

PARTIES

PRESENT:	Fraser, Tanya	Attorney
	Ogilvie, George F., III	Attorney
	Orme, Christian M.	Attorney
	Wilson, Jon M.	Attorney
	Wirthlin, Brenoch	Attorney

JOURNAL ENTRIES

- Also present: Robert Greer, Receiver.

OUTSIDE THE PRESENCE OF THE JURY

Colloquy regarding issues with jury selection and preemptory challenges placed on record. Mr. Ogilvie requested proposed jury list and preemptory challenges be made part of the record. Court Clerk stated it would mark those documents as Court's exhibits. Colloquy regarding scheduling issues and depositions of adverse witnesses. Court directed counsel to exchange the depositions and Court will make rulings as to the objections in them. Colloquy regarding stipulated exhibits and objection to jury instruction.

JURY PRESENT

Exclusionary rule is invoked. Opening statements by Mr. Wirthlin.

OUTSIDE THE PRESENCE OF THE JURY

Mr. Wilson placed objections on the record regarding opening statements made by Mr. Wirthlin.

JURY PRESENT

Opening statements by Mr. Wilson. Testimony and exhibits presented (see worksheets). Deposition of Eric E. Stickels was PUBLISHED and FILED IN OPEN COURT. Deposition of Mark Garber (volumes 1 and 2) were PUBLISHED and FILED IN OPEN COURT. Deposition of Mark Garber was PUBLISHED and FILED IN OPEN COURT. Deposition of Steven Charles Fogg was PUBLISHED and FILED IN OPEN COURT. Deposition of Robert W. Hurlbut was PUBLISHED and FILED IN OPEN COURT. COURT ORDERED, trial CONTINUED.

OUTSIDE THE PRESENCE OF THE JURY

Court recessed for the evening.

CONTINUED TO: 9/22/2021 1:00 PM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Other Negligence

COURT MINUTES

September 22, 2021

A-14-711535-C Commissioner of Insurance for the State of Nevada as Receiver of Lewis and
Clark, Plaintiff(s)
vs.
Robert Chur, Defendant(s)

September 22, 2021 1:00 PM Jury Trial

HEARD BY: Allf, Nancy

COURTROOM: RJC Courtroom 03A

COURT CLERK: Nicole McDevitt
Patia Cunningham

RECORDER: Brynn White

REPORTER:

PARTIES

PRESENT:	Fraser, Tanya	Attorney
	Ogilvie, George F., III	Attorney
	Orme, Christian M.	Attorney
	Wilson, Jon M.	Attorney
	Wirthlin, Brenoch	Attorney

JOURNAL ENTRIES

- Also present: Robert Greer, Receiver.

OUTSIDE THE PRESENCE OF THE JURY

Colloquy regarding scope of the next witness. Mr. Wirthlin requested to publish admitted exhibits by providing binders to jurors of admitted exhibits. Mr. Wilson stated he had no objection as long as they were admitted exhibits. Court stated it would allow the binders to be provided to the jurors.

JURY PRESENT

Testimony and exhibits presented (see worksheets). COURT ORDERED, trial CONTINUED.

OUTSIDE THE PRESENCE OF THE JURY

Colloquy regarding scheduling of witnesses. Trial recessed for the evening.

CONTINUED TO: 9/23/2021 1:00 PM

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**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Other Negligence

COURT MINUTES

September 23, 2021

A-14-711535-C Commissioner of Insurance for the State of Nevada as Receiver of Lewis and
Clark, Plaintiff(s)
vs.
Robert Chur, Defendant(s)

September 23, 2021 1:00 PM Jury Trial

HEARD BY: Allf, Nancy

COURTROOM: RJC Courtroom 03A

COURT CLERK: Nicole McDevitt
Patia Cunningham

RECORDER: Brynn White

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Also present: Robert Greer, Receiver.

OUTSIDE THE PRESENCE OF THE JURY

Mr. Withlin stated opposing counsel may be using claims files today and there are privacy issues as to those files. Mr. Wilson stated if he talks about the files he will use first names only and not last names. Mr. Wirthin stated that would be fine

JURY PRESENT

Testimony and exhibits presented (see worksheets). COURT ORDERED, trial CONTINUED.

OUTSIDE THE PRESENCE OF THE JURY

Objections made at side bar placed on the record. Trial recessed for the evening.

CONTINUED TO: 9/24/2021 9:30 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Other Negligence

COURT MINUTES

September 24, 2021

A-14-711535-C Commissioner of Insurance for the State of Nevada as Receiver of Lewis and
Clark, Plaintiff(s)
vs.
Robert Chur, Defendant(s)

September 24, 2021 9:30 AM Jury Trial

HEARD BY: Allf, Nancy

COURTROOM: RJC Courtroom 03A

COURT CLERK: Nicole McDevitt
Patia Cunningham

RECORDER: Brynn White

REPORTER:

PARTIES

PRESENT:	Fraser, Tanya	Attorney
	Ogilvie, George F., III	Attorney
	Orme, Christian M.	Attorney
	Wilson, Jon M.	Attorney
	Wirthlin, Brenoch	Attorney

JOURNAL ENTRIES

- Also present: Robert Greer, Receiver.

OUTSIDE THE PRESENCE OF THE JURY
Colloquy regarding note from juror and trial schedule

JURY PRESENT
Testimony and exhibits presented (see worksheets).

OUTSIDE THE PRESENCE OF THE JURY
Colloquy regarding note from juror with scheduling conflict.

JURY PRESENT

Testimony and exhibits presented (see worksheets).

OUTSIDE THE PRESENCE OF THE JURY

Mr. Wirthlin advised that several exhibits that were stipulated to on September 21, 2021 were skipped in the exhibit binders and no actually exhibits exist for those stipulated exhibits. Mr. Wirthlin further advised that those exhibits need to be un-admitted as well as two other exhibits to depositions that were not provided but admitted. COURT ORDERED, exhibits 204, 210, 216, 220, 228, 233, 239, 240, 242, 252, 343, and 351 STRICKEN as to admittance. Colloquy regarding objections to exhibits Plaintiffs intend to admit with the witness. Court stated a foundation could be laid with the witnesses at the time of testimony to admit the exhibits and no cumulative testimony is to be provided.

JURY PRESENT

Testimony and exhibits presented (see worksheets).

OUTSIDE THE PRESENCE OF THE JURY

COURT ORDERED, trial CONTINUED.

OUTSIDE THE PRESENCE OF THE JURY

Trial recessed for the evening.

CONTINUED TO: 9/27/2021 9:30 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Other Negligence

COURT MINUTES

September 27, 2021

A-14-711535-C Commissioner of Insurance for the State of Nevada as Receiver of Lewis and
Clark, Plaintiff(s)
vs.
Robert Chur, Defendant(s)

September 27, 2021 9:30 AM Jury Trial

HEARD BY: Allf, Nancy

COURTROOM: RJC Courtroom 03A

COURT CLERK: Natalie Ortega

RECORDER: Brynn White

REPORTER:

PARTIES

PRESENT:	Fraser, Tanya	Attorney
	Ogilvie, George F., III	Attorney
	Orme, Christian M.	Attorney
	Wilson, Jon M.	Attorney
	Wirthlin, Brenoch	Attorney

JOURNAL ENTRIES

- OUTSIDE THE PRESENCE OF THE JURY:

Colloquy regarding presenting testimony and depositions.

INSIDE THE PRESENCE OF THE JURY:

Testimony present (see worksheets).

OUTSIDE THE PRESENCE OF THE JURY:

Colloquy regarding examination of Ms. Miller.

INSIDE THE PRESENCE:

PRINT DATE: 11/22/2022

Page 106 of 133

Minutes Date: January 27, 2016

Testimony continues.

OUTSIDE THE PRESENCE:

COURT ORDERED, the objections to the question during testimony as to form OVERRULED.

INSIDE THE PRESENCE:

Video deposition played. Testimony presented (see worksheet). Depositions FILED IN OPEN COURT.

EVENING RECESS.

COURT ORDERED, trial CONTINUED.

CONTINUED TO: 09/28/21 9:30 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Other Negligence

COURT MINUTES

September 28, 2021

A-14-711535-C Commissioner of Insurance for the State of Nevada as Receiver of Lewis and
Clark, Plaintiff(s)
vs.
Robert Chur, Defendant(s)

September 28, 2021 9:30 AM Jury Trial

HEARD BY: Allf, Nancy **COURTROOM:** RJC Courtroom 03A

COURT CLERK: Nicole McDevitt

RECORDER: Brynn White

REPORTER:

PARTIES

PRESENT:	Fraser, Tanya	Attorney
	Ogilvie, George F., III	Attorney
	Orme, Christian M.	Attorney
	Wilson, Jon M.	Attorney
	Wirthlin, Brenoch	Attorney

JOURNAL ENTRIES

- Robert Greer, Esq. representative for Plaintiff, also present.

OUTSIDE THE PRESENCE OF THE JURY

Colloquy regarding witness schedule and objection to exhibits that are going to be used. Court directed counsel to review the exhibits over the upcoming breaks. Deposition of Sanford Elsass Volumes 1 & 2 PUBLISHED IN OPEN COURT.

JURY PRESENT

Testimony and exhibits presented (see worksheets).

OUTSIDE THE PRESENCE OF THE JURY

Objection to testimony and ruling as to objection to testimony placed on the record.

JURY PRESENT

Testimony and exhibits presented (see worksheets).

OUTSIDE THE PRESENCE OF THE JURY

Mr. Ogilvie advised that Mr. Wilson is feeling ill and would like to recess for the evening. No objection from Plaintiff's counsel.

JURY PRESENT

COURT ORDERED, trial CONTINUED.

CONTINUED TO 9/29/2021 1:10 PM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Other Negligence

COURT MINUTES

September 29, 2021

A-14-711535-C Commissioner of Insurance for the State of Nevada as Receiver of Lewis and
Clark, Plaintiff(s)
vs.
Robert Chur, Defendant(s)

September 29, 2021 1:10 PM Jury Trial

HEARD BY: Allf, Nancy

COURTROOM: RJC Courtroom 03A

COURT CLERK: Nicole McDevitt

RECORDER: Brynn White

REPORTER:

PARTIES

PRESENT:	Fraser, Tanya	Attorney
	Ogilvie, George F., III	Attorney
	Orme, Christian M.	Attorney
	Wirthlin, Brenoch	Attorney

JOURNAL ENTRIES

- Robert Greer, Representative for Plaintiff, also present.

OUTSIDE THE PRESENCE OF THE JURY

Colloquy regarding Mr. Wilson's health and trial schedule going forward.

JURY PRESENT

COURT ORDERED, trial CONTINUED.

CONTINUED TO: 10/1/2021 1:00 PM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Other Negligence

COURT MINUTES

October 01, 2021

A-14-711535-C	Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark, Plaintiff(s) vs. Robert Chur, Defendant(s)
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October 01, 2021 1:00 PM Jury Trial

HEARD BY: Allf, Nancy **COURTROOM:** RJC Courtroom 03A

COURT CLERK: Nicole McDevitt

RECORDER: Brynn White

REPORTER:

PARTIES

PRESENT:	Fraser, Tanya	Attorney
	Ogilvie, George F., III	Attorney
	Orme, Christian M.	Attorney
	Wilson, Jon M.	Attorney
	Wirthlin, Brenoch	Attorney

JOURNAL ENTRIES

- Robert Greer, Receiver, also present.

JURY PRESENT

Testimony and exhibits presented (see worksheets).

OUTSIDE THE PRESENCE OF THE JURY

Colloquy regarding trial schedule and availability of jurors.

JURY PRESENT

Testimony and exhibits presented (see worksheets). COURT ORDERED, trial CONTINUED.

OUTSIDE THE PRESENCE OF THE JURY

Colloquy with Juror #6, outside the present of the other jurors, regarding trial schedule and juror's

conflict on October 11, 2021. Court recessed for the evening.

CONTINUED TO: 10/5/2021 8:30 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Other Negligence

COURT MINUTES

October 05, 2021

A-14-711535-C Commissioner of Insurance for the State of Nevada as Receiver of Lewis and
Clark, Plaintiff(s)
vs.
Robert Chur, Defendant(s)

October 05, 2021 8:30 AM Jury Trial

HEARD BY: Allf, Nancy **COURTROOM:** RJC Courtroom 03A

COURT CLERK: Michelle Jones

RECORDER: Brynn White

REPORTER:

PARTIES

PRESENT:	Fraser, Tanya	Attorney
	Ogilvie, George F., III	Attorney
	Orme, Christian M.	Attorney
	Wilson, Jon M.	Attorney
	Wirthlin, Brenoch	Attorney

JOURNAL ENTRIES

- Called To Order. Jury Present.

Testimony and exhibits presented. (See worksheets),

Jury excused for the evening with the instruction to 1:00pm.

Outside the Presence of the Jury. Statements by counsel regarding demonstrative exhibits and witness testimony.

Trial Adjourned.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Other Negligence

COURT MINUTES

October 06, 2021

A-14-711535-C Commissioner of Insurance for the State of Nevada as Receiver of Lewis and
Clark, Plaintiff(s)
vs.
Robert Chur, Defendant(s)

October 06, 2021 1:00 PM Jury Trial

HEARD BY: Allf, Nancy **COURTROOM:** RJC Courtroom 03A

COURT CLERK: Jill Chambers

RECORDER: Brynn White

REPORTER:

PARTIES

PRESENT: Fraser, Tanya Attorney
 Ogilvie, George F., III Attorney
 Orme, Christian M. Attorney
 Wirthlin, Brenoch Attorney

JOURNAL ENTRIES

- INSIDE THE PRESENCE ON THE JURY

Testimony and exhibits presented. (See worksheets)

OUTSIDE THE PRESENCE ON THE JURY

Court questioned juror #6 about her ability to continued serving. The Juror stated that she would not be able to serve.

COURT ORDERED, JUROR NUMBER SIX, DISMISSED.

TRIAL CONTINUES: 10/7/21 11:00 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Other Negligence

COURT MINUTES

October 07, 2021

A-14-711535-C Commissioner of Insurance for the State of Nevada as Receiver of Lewis and
Clark, Plaintiff(s)
vs.
Robert Chur, Defendant(s)

October 07, 2021 11:00 AM Jury Trial

HEARD BY: Allf, Nancy

COURTROOM: RJC Courtroom 03A

COURT CLERK: Nylasia Packer

RECORDER: Brynn White

REPORTER:

PARTIES

PRESENT:	Fraser, Tanya	Attorney
	Freedman, Kimberly J.	Attorney
	Kolmansberger, Erin K.	Attorney
	Ogilvie, George F., III	Attorney
	Orme, Christian M.	Attorney
	Wilson, Jon M.	Attorney
	Wirthlin, Brenoch	Attorney

JOURNAL ENTRIES

- Robert Greer, Receiver, also present.

OUTSIDE THE PRESENCE OF THE JURY

Colloquy regarding jury instructions.

JURY PRESENT

Testimony and exhibits presented (see worksheets). Court admonished Jurors for lunch.

OUTSIDE THE PRESENCE OF THE JURY

Colloquy regarding stipulation to rebuttals. Upon Court's inquiry, parties agreed and confirmed to be able to discuss jury instructions on the continued date.

JURY PRESENT

Testimony and exhibits presented (see worksheets). Court admonished Jurors for break.

OUTSIDE THE PRESENCE OF THE JURY

Colloquy regarding trial schedule.

JURY PRESENT

Testimony and exhibits presented (see worksheets). Court admonished Jurors to go home and informed Jurors of trial schedule. COURT ORDERED, trial CONTINUED.

CONTINUED TO: 10/8/2021 9:30 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Other Negligence

COURT MINUTES

October 08, 2021

A-14-711535-C	Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark, Plaintiff(s) vs. Robert Chur, Defendant(s)
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October 08, 2021 9:30 AM Jury Trial

HEARD BY: Allf, Nancy

COURTROOM: RJC Courtroom 03A

COURT CLERK: Nicole McDevitt

RECORDER: Brynn White

REPORTER:

PARTIES

PRESENT:	Fraser, Tanya	Attorney
	Ogilvie, George F., III	Attorney
	Orme, Christian M.	Attorney
	Wilson, Jon M.	Attorney
	Wirthlin, Brenoch	Attorney

JOURNAL ENTRIES

- Robert Greer, representative for Plaintiff also present.

JURY PRESENT

Testimony and exhibits presented (see worksheets). Plaintiff rests. Testimony and exhibits presented (see worksheets).

OUTSIDE THE PRESENCE OF THE JURY

Counsel waived the formality of publishing the depositions read to the jury.

JURY PRESENT

Testimony and exhibits presented (see worksheets). COURT ORDERED, trial CONTINUED.

OUTSIDE THE PRESENCE OF THE JURY

Colloquy regarding jury instructions and trial schedule. Court recessed for the evening.

CONTINUED TO: 10/11/2021 9:30 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Other Negligence

COURT MINUTES

October 11, 2021

A-14-711535-C	Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark, Plaintiff(s) vs. Robert Chur, Defendant(s)
---------------	--

October 11, 2021 9:30 AM Jury Trial

HEARD BY: Allf, Nancy **COURTROOM:** RJC Courtroom 03A

COURT CLERK: Carina Bracamontez-Munguia

RECORDER: Sara Richardson

REPORTER:

PARTIES

PRESENT:	Fraser, Tanya	Attorney
	Ogilvie, George F., III	Attorney
	Orme, Christian M.	Attorney
	Wilson, Jon M.	Attorney
	Wirthlin, Brenoch	Attorney

JOURNAL ENTRIES

- ALSO PRESENT: Robert Greer, representative for Plaintiff.

OUTSIDE THE PRESENCE OF THE JURY

Colloquy regarding finalizing the jury instructions, the anticipated amount of remaining witness, and trial schedule. Court reminded counsel one of the jurors had an appointment tomorrow afternoon.

JURY PRESENT

Testimony and exhibits presented (see worksheets).

COURT ORDERED, trial CONTINUED. Court instructed Jury to return at 9:30 a.m. tomorrow.

OUTSIDE THE PRESENCE OF THE JURY

Colloquy as to trial schedule. Court recessed for the evening.

CONTINUED TO: 10-12-2021 09:30 AM JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Other Negligence

COURT MINUTES

October 12, 2021

A-14-711535-C	Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark, Plaintiff(s) vs. Robert Chur, Defendant(s)
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October 12, 2021 9:30 AM Jury Trial

HEARD BY: Allf, Nancy **COURTROOM:** RJC Courtroom 03A

COURT CLERK: Nicole McDevitt

RECORDER: Brynn White

REPORTER:

PARTIES

PRESENT:	Fraser, Tanya	Attorney
	Ogilvie, George F., III	Attorney
	Orme, Christian M.	Attorney
	Wilson, Jon M.	Attorney
	Wirthlin, Brenoch	Attorney

JOURNAL ENTRIES

- Robert Greer, representative for Plaintiff also present.

JURY PRESENT

Testimony and exhibits presented (see worksheets). Defendant rests. Testimony and exhibits presented (see worksheets). COURT ORDERED, trial CONTINUED.

OUTSIDE THE PRESENCE OF THE JURY

Colloquy as to trial scheduling and jury instructions. Court recessed for the evening.

CONTINUED TO: 10/13/2021 9:30 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Other Negligence

COURT MINUTES

October 13, 2021

A-14-711535-C Commissioner of Insurance for the State of Nevada as Receiver of Lewis and
Clark, Plaintiff(s)
vs.
Robert Chur, Defendant(s)

October 13, 2021 9:30 AM Jury Trial

HEARD BY: Allf, Nancy **COURTROOM:** RJC Courtroom 03A

COURT CLERK: Nicole McDevitt

RECORDER: Brynn White

REPORTER:

PARTIES

PRESENT: Fraser, Tanya Attorney
 Ogilvie, George F., III Attorney
 Orme, Christian M. Attorney
 Wilson, Jon M. Attorney
 Wirthlin, Brenoch Attorney

JOURNAL ENTRIES

- Robert Greer, Esq., representative of Plaintiff also present.

OUTSIDE THE PRESENCE OF THE JURY

Colloquy regarding jury instructions, verdict form, and witness schedule.

JURY PRESENT

Testimony and exhibits present (see worksheets).

OUTSIDE THE PRESENCE OF THE JURY

Colloquy regarding jury instructions and verdict form issues. Further colloquy regarding excusing jury for the date for continued settling of jury instructions.

JURY PRESENT

COURT ORDERED, trial CONTINUED.

OUTSIDE THE PRESENCE OF THE JURY
Court recessed for the evening.

CONTINUED TO: 10/14/2021 12:00 PM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Other Negligence

COURT MINUTES

October 14, 2021

A-14-711535-C Commissioner of Insurance for the State of Nevada as Receiver of Lewis and
Clark, Plaintiff(s)
vs.
Robert Chur, Defendant(s)

October 14, 2021 12:00 AM Jury Trial

HEARD BY: Allf, Nancy

COURTROOM: RJC Courtroom 03A

COURT CLERK: Nicole McDevitt
Patia Cunningham

RECORDER: Brynn White

REPORTER:

PARTIES

PRESENT:	Fraser, Tanya	Attorney
	Ogilvie, George F., III	Attorney
	Orme, Christian M.	Attorney
	Wilson, Jon M.	Attorney
	Wirthlin, Brenoch	Attorney

JOURNAL ENTRIES

- Robert Greer, Receiver, also present.

OUTSIDE THE PRESENCE OF THE JURY
Jury instructions settled on the record.

JURY PRESENT
Court read jury instructions to the jury.

OUTSIDE THE PRESENCE OF THE JURY
Mr. Ogilvie stated parties have stipulated that the defense closing arguments will be split between Mr. Wilson and himself. Mr. Wilson stated that was correct.

JURY PRESENT

Closing arguments by Mr. Wirthlin, Mr. Wilson, and Mr. Ogilvie. Court Marshal and Judicial Executive Assistant sworn to take charge of the jury at 3:38 PM.

OUTSIDE THE PRESENCE OF THE JURY

Questions from the jury resolved on the record. Objections and resolutions placed on the record.

JURY PRESENT

Jury returned with a verdict at 5:21 PM. Same parties present (or if one does not return, list who is present). **JURY FOUND IN FAVOR OF PLAINTIFF and AWARDED \$15,222,853.00.** Jury polled at the request of Mr. Ogilvie. Court thanked and excused the Jury.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Other Negligence

COURT MINUTES

November 24, 2021

A-14-711535-C Commissioner of Insurance for the State of Nevada as Receiver of Lewis and
Clark, Plaintiff(s)
vs.
Robert Chur, Defendant(s)

November 24, 2021 10:00 AM Motion for Order

HEARD BY: Allf, Nancy

COURTROOM: RJC Courtroom 16A

COURT CLERK: Nicole McDevitt

RECORDER: Brynn White

REPORTER:

PARTIES

PRESENT: Ogilvie, George F., III Attorney
 Wirthlin, Brenoch Attorney

JOURNAL ENTRIES

- Present in Courtroom: George F. Ogilvie, III
Present via BlueJeans Videoconferencing Application: Brenoch Wirthlin, Esq.

Arguments by counsel regarding the merits of and opposition to the motion. Court stated its findings and ORDERED, Defendants Uni-Ter Underwriting Management Corp., Uni-Ter Claims Services Corp., and U.S. Re Corporations' Motion for Order Excluding Interest Accrued During Stay Periods on OST GRANTED. Mr. Ogilvie to prepare the order and submit it to opposing counsel for approval as to form.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Other Negligence

COURT MINUTES

May 02, 2022

A-14-711535-C Commissioner of Insurance for the State of Nevada as Receiver of Lewis and
Clark, Plaintiff(s)
vs.
Robert Chur, Defendant(s)

May 02, 2022 3:00 AM Motion to Amend

HEARD BY: Allf, Nancy **COURTROOM:** No Location

COURT CLERK: Nicole McDevitt

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- COURT FINDS after review that on March 31, 2022, Plaintiffs Motion to Amend Pleadings to Conform Them to the Evidence (Motion to Amend) was filed. A Motion to Amend is scheduled for May 11, 2022, at 9 am on Motion Calendar.

COURT FURTHER FINDS after review EDCR 2.20(e) provides in relevant part: [f]ailure of the opposing party to serve and file written opposition may be construed as an admission that the motion and/or joinder is meritorious and a consent to granting the same.

COURT FURTHER FINDS after review that no opposition to the Motion to Amend was filed.

THEREFORE COURT ORDERS for good cause appearing and after review the Motion to Amend is hereby GRANTED and the matter scheduled for May 11, 2022, at 9 am on Motion Calendar is hereby VACATED. Movant to prepare the Order in compliance with EDCR 7.21 and email it in pdf format to DC27Inbox@ClarkCountyCourts.us

CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 5/2/2022

documentation provided with regard to them; any miscellaneous costs that relate to attorney fees DISALLOWED.

COURT FURTHER ORDERED, the apportionment will be JOINT AND SEVERAL as to Uni-Ter and U S Re Corporation; there is no ruling against the directors at this time.

COURT FURTHER ORDERED, any costs that were unrelated to the corporate defendants, except for computer related costs, will be DISALLOWED; the receiver is required to re-calculate pre-judgment interest on any costs.

COURT FURTHER ORDERED, supplemental information with regard to Greer and Anderson costs, Betty Cordial, travel time, bank fees, off-site storage in West Virginia, and moving storage to be provided and this is TAKEN UNDER SUBMISSION.

DEFENDANT U.S. RE CORPORATION'S MOTION TO ALTER OR AMEND JUDGMENT PURSUANT TO RULE 59(E), FOR RELIEF FROM JUDGMENT AND PURSUANT TO RULE 60(B), AND FOR STAY OF EXECUTION PURSUANT TO 62(B)(3) AND (4)

Upon inquiry of Court if matter should be taken off calendar, Mr. Ogilvie stated it could. COURT ORDERED, Defendant U.S. Re Corporation's Motion to Alter or Amend Judgment Pursuant to Rule 59(e), for Relief from Judgment and Pursuant to Rule 60(b), and for Stay of Execution Pursuant to 62(b)(3) and (4) OFF CALENDAR.

DEFENDANT'S MOTION TO RETAX MEMORANDUM OF COSTS

Counsel submitted on their pleadings. Court noted this motion had been addressed in Court's prior ruling as to Plaintiff's Motion for Fees and Costs. Mr. Ogilvie submitted on the pleadings. COURT ORDERED, Defendant's Motion to Retax Memorandum of Costs GRANTED IN PART, DENIED IN PART consistent to the ruling as to the Motion for Fees and Costs.

PLAINTIFF'S MOTION TO ALTER OR AMEND JUDGMENT PURSUANT TO NRCP 59

Arguments by Mr. Wirthlin in support of his motion. Mr. Ogilvie submitted on the pleadings.

COURT ORDERED, Plaintiff's Motion to Alter or Amend Judgment Pursuant to NRCP 59

GRANTED. Court directed counsel to submit any supplemental pleadings within THIRTY (30) DAYS as to fees and costs. COURT ORDERED, status check SET on a chambers calendar in SIXTY (60) DAYS for Court to rule on the outstanding issues. Mr. Wirthlin stated he would prepare the orders and submit them to opposing counsel.

11/8/2022 (CHAMBERS) STATUS CHECK: RULINGS ON OUTSTANDING ISSUES

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Other Negligence

COURT MINUTES

November 08, 2022

A-14-711535-C Commissioner of Insurance for the State of Nevada as Receiver of Lewis and
Clark, Plaintiff(s)
vs.
Robert Chur, Defendant(s)

November 08, 2022 3:00 AM Status Check

HEARD BY: Allf, Nancy

COURTROOM: No Location

COURT CLERK: Nicole McDevitt

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- COURT FINDS after review that on September 7, 2022, all pending motions were heard on Motion Calendar. The Court directed counsel to submit any supplemental pleadings within Thirty (30) Days as to fees and costs. COURT ORDERED, status check set on a chambers calendar in sixty (60) days for Court to rule on the outstanding issues.

COURT FINDS after review that on October 7, 2022, a Supplement to Errata to Plaintiff s Verified Memorandum of Costs (Supplement) was filed by Plaintiff.

COURT FURTHER FINDS after review EDCR 2.20(e) provides in relevant part: [f]ailure of the opposing party to serve and file written opposition may be construed as an admission that the motion and/or joinder is meritorious and a consent to granting the same.

COURT FURTHER FINDS after review no opposition to the Supplement has been filed.

THEREFORE COURT ORDERS for good cause appearing and after review the Supplement is hereby GRANTED and the matter scheduled for November 8, 2022, on Chamber Calendar is hereby VACATED. Movant to prepare the Order in compliance with EDCR 7.21 and email it in pdf format to

DC27Inbox@ClarkCountyCourts.us

CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 11/8/2022

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Other Negligence**COURT MINUTES****November 10, 2022**

A-14-711535-C Commissioner of Insurance for the State of Nevada as Receiver of Lewis and
Clark, Plaintiff(s)
vs.
Robert Chur, Defendant(s)

November 10, 2022	10:00 AM	Motion to Dismiss	Motion to Dismiss and Enforce Settlement Agreement on OST
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HEARD BY: Allf, Nancy**COURTROOM:** RJC Courtroom 16A**COURT CLERK:** Nicole McDevitt
Joy McClain**RECORDER:** Brynn White**REPORTER:****PARTIES
PRESENT:**

JOURNAL ENTRIES

- Appearances made via the BlueJeans Videoconferencing Application.

Arguments by Mr. Wirthlin and Ms. Armstrong regarding the merits of and opposition to the motion. Court stated that due to the filing of the appeal on November 9, 2022, Court is divested of jurisdiction and ORDERED, Motion to Dismiss and Enforce Settlement Agreement on OST OFF CALENDAR. Court noted its advisory opinion as to the motion. Mr. Ogilvie stated he does not believe the Court is divested of jurisdiction due to the appeal and he would brief that in a motion for reconsideration. Plaintiff to prepare the order and submit it to opposing counsel for approval as to form.

EXHIBIT(S) LIST

Case No.: **A711535**

Trial Date: **9/20/2021**

Dept. No.: **27**

Judge: **Nancy Allf**

Court Clerk: **Nicole McDevitt**

Plaintiff: **Commissioner of Insurance
for the State of Nevada as
Receiver of**

Recorder / Reporter: **Brynn White**

Lewis and Clark

Counsel for Plaintiff: **Brennoch Wirthlin, Esq.**

vs.

Defendant: **Robert Chur**

Counsel for Defendant: **Christian Orme, Esq., Tanya Fraser, Esq.
Jon M. Wilson, Esq.
George Ogilve, Esq.**

JURY TRIAL BEFORE THE COURT

PLAINTIFF'S EXHIBITS

Exhibit No.	Document Description	Offered	Obj.	Admitted	
1	Depo Notice - NRCP 30(b)(6) for Plaintiff				wa
2	Third Amended Complaint				wa
3	Declaration of Jeff Marshall (ISO Opposition to Plaintiff's 1st CMSJ)	9-21-21	Stip	9-21-21	wa
4	Letter from C. Akridge to T. Verbrugghen re L&C/SP merger	↓	↓	↓	wa
5	L&C BOD Meeting Minutes	↓	↓	↓	wa
6	Letter From Stiefel (Praxis) to Piccione, Elsass, Davies re On-site Claims Audit - 9/8-9/9/2011	↓	↓	↓	wa
7	Management Agreement (and 1 st - 8 th Amends)	↓	↓	↓	wa
8	Unanimous Written Consent Action by L&C BOD (In Lieu of a Special Meeting)	↓	↓	↓	wa
9	L&C DOI Application and Business Plan Section 3, Section 5, Section 8, Section 9	↓	↓	↓	wa
10	L&C Amended Business Plan (9/11/2009)	9-21-21	Stip	9-21-21	wa
11	L&C - US RE Broker of Record Letter Agreement	↓	↓	↓	wa
12	L&C BOD Meeting Minutes	↓	↓	↓	wa

EXHIBIT(S) LIST

13	Plaintiff's Amended Responses to Defendants' 1st ROGs			
14	DOI Letter re L&C Deteriorating Financial Condition	9-21-21	SHIP	9-21-21
15	L&C BOD Meeting Minutes	↓	↓	↓
16	UniTers' App for Out-of-State Deposition of Steven Fogg			
17	Email from Michelle Smith (Uni-Ter) re L&C BOD Agenda with Attachment	9-21-21	SHIP	9-21-21
18	Email Chain re incident sensitive coverage trigger/manner of reporting claims			
19	Email Chain re Spero v Plaza Regency			
20	Email Chain re L&C reinsurance			
21	Email Chain re ROR and retention letters			
22	Email Chain re Country Villa			
23	Email Chain re Country Villa			
24	Email Chain re Country Villa			
25	Email Chain re Country Villa			
26	L&C BOD Meeting Minutes			
27	L&C BOD Meeting Minutes			
28	L&C BOD Meeting Minutes			
29	L&C BOD Meeting Minutes			
30	Email from Fogg to Elsass, Dalton re specific claim info request			
31	Email Chain re L&C Loss Analysis and L&C After Audit Reserves at 11/30/2011			
32	Email from Marshall to Elsass, Dalton (and ccs) re questions			
33	Email from Sitterson re L&C BOD meeting (12/23/2011) and resolutions			
34	Email Chain re Praxis reserve spreadsheet updated with Sept reserves			
35	Email Chain re Projection for December - L&C			
36	Email Chain re Fishlinger review of claims	↓	↓	↓

EXHIBIT(S) LIST

37	Email Chain re Fogg answers to questions	9-21-21	Stip	9-21-21	WA
38	Email Chain re Fishlinger review of claims				
39	Email Chain re Fishlinger review of claims				
40	Email Chain b/w Fogg, Sitterson, Elsass, Dalton re potential agenda template for BOD conference call				
41	Email from Dalton re BOD Materials with attachments				
42	L&C BOD Meeting Minutes re SP merger "pending further relevant" info				
43	Email Chain re Sophia – merger financial notes				
44	L&C BOD Meeting Minutes – SP merger approval				
45	DOI letter re 6/30/2011 L&C Deteriorating Financing Condition				
46	DOI Letter re Post Sophia Palmer Merger Deteriorating Financial Condition				
47	Declaration of Eric Stickles (ISO Opposition to Plaintiff's 1 st CMSJ)				
48	L&C BOD Meeting Minutes				
49	L&C BOD Meeting Minutes				
50	L&C BOD Meeting Minutes				
51	L&C BOD Meeting Minutes				
52	L&C BOD Meeting Minutes				
53	L&C BOD Meeting Minutes				
54	L&C BOD Meeting Minutes				
55	L&C BOD Meeting Minutes – Sonoma (re CV)				
56	L&C BOD Meeting Minutes				
57	L&C BOD Meeting Minutes				
58	L&C BOD Meeting Minutes				
59	Letter to Dalton from R. Lord (Milliman) re actuarial opinion summary, 12/31/2010				
60	Letter to Dalton from R. Lord (Milliman) re actuarial opinion summary, 12/31/2011				
61	Email Chain from Elsass to Stickels / BOD re SP merger				

EXHIBIT(S) LIST

62	Email Chain from Stickels <i>re</i> software financing	9-21-21	stip	9-21-21	WA
63	Email Chain from Davies re BOD resolution of Oneida loan facility				
64	Email Chain from Stickels re Logan Capital				
65	Email Chain from Dalton re 1st Amend to Brokerage Agreement (with attachment)				
66	Email Chain from T Dugan re interview				
67	Email Chain from Stickels re Country Villa				
68	Email Chain from Dalton to Stickels re L&C sub account				
69	Email Chain from Fogg re L&C 6/2011 Financials				
70	Email from Elsass to Fogg, Garber, Stickels re thoughts before the L&C 1:00 p.m. call				
71	Email Chain from Elsass re Bill Fishlinger				
72	Email from Stickels to Elsass re HealthCap				
73	Email Chain from Stickels re BHL-Oneida 2011 payments				
74	Email chain from J Martin to Marshall and Elsass re Eagle Healthcare				
75	Email chain from Greg Worden to Marshall and J Martin re Yabaki v. Eagle				
76	Email chain from Dalton to J Miller regarding Eagle Healthcare Loss Run				
77	Email chain from Garber to BOD, Sitterson re Country Villa				
78	Document entitled UniTer UMC Gen'l / Prof'l Liability Quotation				
79	Memo from Paul Meshekow (CV) to Chamberlain re Country Villa 2011 Renewal				
80	Email chain from Garber to Marshall re Country Villa				
81	Email chain from Marshall to J Miller, Elsass, Dalton, BOD re Country Villa				
82	Case Review and Reserve Analysis				
83	Email chain from Marshall to J Miller, Elsass, Dalton, BOD re Nevarrez v. CV San Marino				
84	Email from Dalton to BOD re L&C Loss Analysis (with attachments)				
85	Email chain from Dalton to BOD re Updated Praxis reserve spreadsheet				

EXHIBIT(S) LIST

86	Email from Marshall to Elsass, Dalton re Questions	9-21-21	Stip	9-21-21	WA
87	Email from Sitterson to Piccione, Elsass, Dalton re L&C				
88	Email chain from Marshall to Elsass, Sitterson re L&C				
89	Email from Dalton to Sitterson re BOD Memo (with attachments)				
90	Email chain from Dalton to BOD, Elsass re L&C				
91	Email chain from Marshall to Sitterson re L&C				
92	Email from Sitterson to Elsass, Dalton, Piccione, Davies, Stieffel re Meeting today				
93	L&C BOD Meeting Minutes				
94	L&C BOD Meeting Minutes				
95	L&C BOD Meeting Minutes				
96	Annual Shareholders Letter from Marshall				
97	Email chain from Dalton re need discussion w/ Dick re Elsass lower reserves to fix balance sheets				
98	Oneida Case Complaint (N.D.N.Y; Case No. 5:13-cv-00746)				
99	Elsass / Dalton's Motion to Dismiss Oneida Complaint				
100	Oneida/BOD entities' Opposition to Motion to Dismiss Oneida Complaint				
101	Email chain from Harter re Country Villa				
102	Email from Chamberlain to Elsass re Country Villa history				
103	L&C Annual Statement – 12/31/2011				
104	L&C Annual Statement – 12/31/2010				
105	L&C BOD Meeting Minutes				
106	Email chain from Dalton re SP Merger (with attachments)				
107	Letter from Bud Brittain (DOI) to Marshall re examination report				
108	Email chain from Elsass to Harter re BOD meeting				
109	Email chain from Harter to Elsass re reinsurance				

EXHIBIT(S) LIST

110	Email chain from Elsass re L&C June financials	9-21-21	STIP	9-21-21	WA
111	Email chain from Arlene Garland re L&C adverse development cover				
112	Email chain from Hurlbut re Meeting				
113	Email chain from Hurlbut re Meeting				
114	Email chain from Hurlbut re L&C Preliminary YE 2011, Proforma 2012				
115	Email chain from Hurlbut re Country Villa				
116	Email chain from Elsass re terms of management agreements				
117	Email chain b/w Dalton, DOI, Sitterson, Akridge re L&C Post-SP Merger Capital Deterioration				
118	L&C BOD Meeting Minutes				
119	Email chain from Sitterson re L&C				
120	Email chain from Harter re L&C 2011 YE statement				
121	Email chain from Harter re L&C BOD resolutions				
122	Email chain from Harter re Lewis & Clark strategies				
123	Email chain from Harter re L&C				
124	Email chain from Harter re CV/Garcia - Marshall Manley's take on Country Villa				
125	Email chain from Fogg re L&C 6/2011 Financials				
126	Email chain from Dalton <i>to whom?</i> re L&C Loss Analysis				
127	Email chain from Dalton <i>to whom?</i> re Fishlinger review of claims				
128	Email chain from Arlene Garland re L&C adverse development cover				
129	Email chain from Elsass re Country Villa				
130	Email chain from Hurlbut re Country Villa				
131	Email chain from Hurlbut re Monday's BOD Mtg	↓	↓	↓	
132	Amended NDEP 30(b)(6) UniTer UMC				
133	Email Piccione to Dalton re on site visit to Atlanta re Production overemphasized	9-21-21	STIP	9-21-21	

EXHIBIT(S) LIST

134	Renewed Management Agreement	9-21-21	STP	9-21-21
135	L&C BOD Meeting Minutes	↓	↓	↓
136	L&C BOD Meeting Minutes	↓	↓	↓
137	Email chain Shatoff to Elsass, Dalton re booking "profit commission" from reinsurance treaty commutations	↓	↓	↓
138	DOI Report of Examination of L&C (J Moskowitz)	9-24-21	NO	9-24-21
139	Letter from Malone to Shatoff re relax underwriting	9-21-21	STP	9-21-21
140	Memo from UniTer to BOD re Marshall questions prior to meeting	↓	↓	↓
141	Memo from UniTer to BOD re claims reserving philosophy	↓	↓	↓
142	Country Villa Underwriting Risk Management Clinical Review – 2011, not acceptable risk	↓	↓	↓
143	FL OIC Technology Report of UniTer	↓	↓	↓
144	Email Amy Hodge to T Dugan re problems with Pyramid program	↓	↓	↓
145	Email Elsass to Dalton, Ciervo, etc re Pyramid as "inept" system	↓	↓	↓
146	Country Villa Underwriting Risk Management Clinical Reviews – 2009	↓	↓	↓
147	Email from P Hannam / Nick Readings to Piccione, Davies re BeazleyRe's concerns about L&C	↓	↓	↓
148	Letter from Elsass to Shatoff re sudden upward claim development	9-21-21	STP	9-21-21
149	Memo to Elsass / "File" from Piccione, Davies regarding (1) UniTer exposure, claim to insurance; (2) UniTer's former claims practices	↓	↓	↓
150	Letter to DOI from Akridge summarizing corrective steps after 2011 DOI letter	↓	↓	↓
151	Email chain between UniTer, Akridge, DOI re withdrawal of hearing request (re unrelated stockholder issue)	↓	↓	↓
152	Plaintiff's Notice of Taking Continued Deposition of PMK of Defendant Uni-Ter UMC Pursuant to NRCP 30(b)(6)	↓	↓	↓

WA

EXHIBIT(S) LIST

153	Chart detailing the history of Uni-Ter	9-21-21	Shp	9-21-21	wa
154	Email chain from McCarthy to Elsass and Dalton regarding lowering reserves.				
155	Long terms care Underwriting Philosophy & Strategic Direction.				
156	Biography of Jonna Miller.				
157	Uni-Ter Litigation Management Guidelines.				
158	Uni-Ter Liability Claims Procedure Manual.				
159	Uni-Ter Claims Procedures Chart.				
160	Email chain from Shatoff to Piccione, Elsass, Fedor, Davies, and Donnely regarding audits of L&C.				
161	2010 Claims Manual.				
162	2011 Claims Manual.				
163	Email chain from Miller to Stiefel, Dalton, and Elsass.				
164	2011 Reinsurance Submission.				
165	2010 Johnson & Lambert Engagement Letter.				
166	2009 Milliman Engagement Letter.				
167	2012 Fishlinger Engagement Letter.				
168	2012 email chain between Sitterson and the Board.				
169	L&C Risk Management Plan.				
170	Uni-Ter Group Organizational Chart.				
171	2006 letter to Elsass from Chief Examiner Wright.				
172	201002011 Century Surety Company for L&C.				
173	2009 email from Chamblerlain to Meshekow regarding Country Villa.				
174	2007 letter to the Board regarding contents of Board packets.				

EXHIBIT(S) LIST

175	December 2011 email from Stiefel to Piccione, Donnelly, Davies, and Elsass regarding recommended reserve increases.	9.21.21	SHD	9.21.21
176	2010 Email chain between Dalton to Elsass, and Sitterson regarding the 2010 DOI capital deterioration letter.			
177	2012 Stiefel email chain with Piccione and Davies regarding Praxis update.			
178	2007 Uni-Ter Underwriting Management Corp. Standard Income Statement.			
179	September 2012 letter from Piccione to Elsass regarding Termination of Employment for Cause.			
180	Transcript of recorded conversation between Piccione, Dalton, and Davies.			
181	First Amendment to Management Agreement.			
182	2009 Country Villa Binder.			
183	November 2009 email chain between the DOI and Dalton, Johnson, and Shatoff regarding US RE's Nevada license.			
184	November 2009 letter from Shatoff to Blundetto, Joseph, and Klaus regarding US RE's Nevada license.			
185	November 2009 email from Dalton to Elsass regarding need for US RE's Nevada license.			
186	Akridge email to Dalton, Johnson, and Elsass regarding US RE's Nevada license.			
187	Dalton response to Akridge email regarding US RE's Nevada license.			
188	Response from DOI regarding Akridge argument regarding US RE's Nevada license.			
189	April 2010 email chain between Dalton, Fernandez, Joseph, and Wood-Clater regarding			

WA

EXHIBIT(S) LIST

	status of application for license.	9-21-21	STP	9-21-21	WA
190	2010 Report of Examination response from Uni-Ter.				
191	2010 Report of Examination response from Jeff Marshall.				
192	May 2010 email chain from Folster regarding research regarding the need of US RE to have a license.				
193	May 2010 letter to McCarthy from Dalton regarding need to review large increase in reserves.				
194	List of insurance licenses held by US RE dated July 2010.				
195	Email from Sitterson's legal assistant Shaddock of Jones Vargas regarding Sophia Palmer merger.				
196	August 2010 email from Dalton to Johnson, Elsass, and McCarthy regarding actuary review of L&C loss data.				
197	September 2010 email chain between Marshall, Johnson, Elsass, Willard-Ross, and McCune regarding L&C Post Merger Capital Deterioration.				
198	September 2010 email chain between McCarthy and Dalton regarding L&C Capital Deterioration letter from the DOI.				
199	Order and Report of Examination for L&C as of December 31, 2008.				
200	February 2011 email chain between Dalton, McCarthy, Johnson, and Elsass regarding new process needed for approval of bordereau.				
201	February 2011 email chain between Dalton, McCarthy, Johnson, and Elsass regarding questions about new process needed for approval of bordereau.				

EXHIBIT(S) LIST

202	February 2011 email chain regarding Pyramid moving slowly.	9.21.21	STIP	9.21.21
203	February 2011 email chain between McCarthy, Dalton and Elsass regarding lowering reserves.	↓	↓	↓
204	inadvertently skipped			
205	May 2011 Klaus email regarding favorable experience for reinsurers.	9.21.21	STIP	9.21.21
206	July 2011 letter from Joseph to Piccione regarding "My Functions" at US RE.	↓	↓	↓
207	August 2011 email from Dalton to Dugan regarding how Sandy made the claims department lower their reserves at year end to fix the balance sheets.	↓	↓	↓
208	August 2011 email between Elsass and Harter regarding L&C June Financials.	↓	↓	↓
209	August 2011 email between Dalton, Miller, Bugg, Wood-Clater, Dugan, and Elsass regarding L&C June Financials.	↓	↓	↓
210	inadvertently skipped			
211	Email discussion between Elsass and the Board regarding L&C June Financials.	9.21.21	STIP	9.21.21
212	inadvertently skipped			
213	inadvertently skipped			
214	Email from Dalton to Elsass, Sitterson, and the Board regarding Sophia Palmer financial notes.	9.21.21	STIP	9.21.21
215	September 2011 from Uni-Ter to the Board regarding the June 2011 financial results.	↓	↓	↓
216	inadvertently skipped			
217	September 2011 email chain regarding edits by US RE and Uni-Ter personnel to the Praxis Report.	9.21.21	STIP	9.21.21
218	September 2011 email to Elsass and Davies regarding the Country Villa Summary.	↓	↓	↓

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EXHIBIT(S) LIST

219	September 2011 request by Donna to print 15 copies of the final version of the Country Villa summary for the Board meeting.	9.21.21	skip	9.21.21
220	inadvertently skipped			
221	September 2011 email chain between the Board and Sitterson, Dalton, and Elsass regarding capital contribution.	9.21.21	skip	9.21.21
222	inadvertently skipped			
223	inadvertently skipped			
224	October 2011 email from Dalton to Elsass discussing DOI requesting a call from Uni-Ter and reference to the 2010 letter.	9.21.21	skip	9.21.21
225	October 2011 email chain between Dalton, John Marshall, McCune, and Elsass regarding L&C Capital Deterioration.	↓	↓	↓
226	Dalton biography and resume.	↓	↓	↓
227	April 2009 email from Elsass to the Board and Dalton regarding capital surplus near \$500K.	↓	↓	↓
228	inadvertently skipped			
229	Elsass letter to Shatoff regarding L&C claims development.	9.21.21	skip	9.21.21
230	November 2011 email from Elsass to Dalton discussing the need to edit Miller's change in claims philosophy letter.	↓	↓	↓
231	December 2011 letter from John Marshall to Dalton and Elsass regarding L&C 3 rd quarter results.	↓	↓	↓
232	December 2011 email from Marshall to Dalton and Elsass regarding increases 3 rd quarter losses despite the capital contribution.	↓	↓	↓

EXHIBIT(S) LIST

233	inadvertently skipped			
234	December 2011 email chain between Dalton and Dugan in which Donna says Marshall feels as though his house has been ransacked and wants answers.	9.21.21	STIP	9.21.21
235	Transcript of recorded Board Call conversation.			
236	Transcript of recorded phone conversation between Piccione, Elsass, and Sitterson.			
237	December 2011 discussion between the Board and Sitterson regarding stopping policy renewals of nurses.			
238	Johnson & Lambert 2007 and 2008 Sophia Palmer audited financial statements.	↓	↓	↓
239	inadvertently skipped			
240	inadvertently skipped			
241	March 2012 letter from Dalton to John Marshall regarding cash flow questions of the DOI.	9.21.21	STIP	9.21.21
242	inadvertently skipped			
243	August 2012 email from Dalton to Piccione, Davies, Elsass, Stiefel, and Miller regarding claim development identifying the three bad apples.	9.21.21	STIP	9.21.21
244	August 2012 email from Elsass to Dalton regarding their partner pack.	↓	↓	↓
245	inadvertently skipped			
246	September 2012 letter from Maynard to Dalton regarding Uni-Ter violating NAC 694C.300 by contracting with an unlicensed reinsurance broker.			
247	August 2011 email from Shatoff to Elsass and Dalton regarding L&C reinsurance.	9.21.21	STIP	9.21.21
248	May 2011 Klaus letter regarding the historical favorable experience of reinsurers.	↓	↓	↓

EXHIBIT(S) LIST

249	January 2007 letter from Shatoff to Elsass regarding the decision to change the reinsurance structure and companies that L&C deals with.	9.21.21	Stip	9.21.21
250	December 2011 letter from Fogg to Elsass and Dalton specific claim information request.	↓	↓	↓
251	July 2012 email to Davies, Elsass, and Piccione regarding concern of Uni-Ter employees about decisions of the Board which may lead to potential liability.	↓	↓	↓
252	February 2011 email from McCarthy to Kay-Volk regarding further reserve reductions. <i>Not provided</i>			
253	inadvertently skipped			
254	Richard DeCoux initial expert report.			
255	Richard DeCoux rebuttal report.			
256	2003 Broker of Record Letter Agreement.	9.21.21	Stip	9.21.21
257	July 2009 J.M. Woodworth Amended Order.	↓	↓	↓
258	September 2012 Maynard letter regarding Uni-Ter violation of NAC 694C.300 regarding contracting with an unlicensed reinsurance broker.			
259	Tharp Exhibit AF – Klaus email to reinsurers regarding no losses and \$8 million of profit to reinsurers.			
260	Tharp Exhibit 4 – Shatoff memorandum to Elsass regarding summary of reinsurance discussions.	9.21.21	Stip	9.21.21
261	Alan Gray initial expert report.			
262	Alan Gray rebuttal expert report.			
263	2005 Liability Claims Procedure Manual.	9.21.21	Stip	9.21.21
264	2010 Uni-Ter Claims Manual.	↓	↓	↓
265	2011 Uni-Ter Claims Manual.	↓	↓	↓
266	Tharp Exhibit AA – Large Loss Claims of the insured/operator facilities.			

EXHIBIT(S) LIST

267	Sam Hewitt initial expert report.			
268	Sam Hewitt initial rebuttal expert report.			
269	July 2011 letter from Chamberlain to Meshekow regarding last minute claims notices.	9.21.21	STP	9.21.21
270	December 2011 email from Sitterson to Elsass and the Board regarding definition of "impaired" under Nevada law.	↓	↓	↓
271	December 2011 Carlton Fields letter to the Board.	↓	↓	↓
272	Robert Hurlbut deposition transcript excerpt regarding Country Villa being a done deal.			
273	Demotech brochure.	9.21.21	STP	9.21.21
274	May 2005 letter from Petrelli to Elsass rating of L&C.	↓	↓	↓
275	October 2008 letter regarding Demotech's review procedure and bank covenants related to insurers.	↓	↓	↓
276	February 2009 email from Petrelli to Dalton regarding HUD financing.	↓	↓	↓
277	September 2010 email from Dalton to Petrelli regarding 2010 Production Projections and Report of Exam.	↓	↓	↓
278	September 2010 letter from Demotech to Olson requesting an insurance waiver on behalf of L&C.	↓	↓	↓
279	September 2010 letter from Demotech to Dalton regarding renewal of Management Agreement with L&C.	↓	↓	↓
280	Email from McCarthy to Petrelli and Dalton regarding L&C reserves July 2010 v. April 2010.	↓	↓	↓
281	March 2011 email from Petrelli to McCarthy, Dalton, and Elsass regarding reserve development of L&C.	↓	↓	↓
282	March 2011 email from Dalton to Petrelli and Elsass regarding L&C Claims narrative as of	↓	↓	↓

WA

EXHIBIT(S) LIST

	December 31, 2010.			
283	July 2011 email from Petrelli to Elsass, Dalton, Chamberlain, and Piccione regarding Fannie Mae Senior Facility Acceptance.	9-21-21	STP	9-21-21
284	August 2011 email from Petrelli to Fogg and Chamberlain regarding FNMA's request for additional data.			
285	September 2011 email from Dalton to Petrelli and Elsass regarding Second Quarter Results for L&C.			
286	September 2011 email from Demotech to Dalton requesting that Uni-Ter provide additional financial information.			
287	February 2012 email from Dalton to Petrelli, Davies, and Elsass regarding financial statement for L&C.			
288	February 2012 email from Dalton to Petrelli and Elsass regarding 2012 plans for L&C.			
289	February 2012 email chain between Elsass, Petrelli, Akridge, Dalton, and Sitterson regarding correspondence from John Marshall.			
290	February 2012 letter from Demotech to Elsass regarding a discussion of L&C and Year-End 2011 Financial Statements.			
291	February 2012 email from Petrelli to Dalton, Elsass, and Davies withdrawing L&C's FSR.			
292	June 2012 letter from Petrelli to Elsass discussing needs for re-evaluation of L&C.			
293	April 2010 email from Demotech to Dalton regarding the financial stability rating for L&C.			
294	April 2011 email from Elsass to Piccione and Davies stating that Petrelli has lost control.			
295	June 2011 email from Petrelli to Piccione regarding staying with Piccione during visit to			

WA

EXHIBIT(S) LIST

	New York.			
296	L&C Cash Disbursement Testing date 8/31/2008.			
297	February 2012 email from Petrelli to Elsass, Dalton, and Davies regarding save L&C, Uni-Ter's reputation, and eliminate a legal dispute.	9.21.21	Ship	9.21.21
298	February 2012 letter from Petrelli to Elsass regarding warning of withdrawal of FSR.	↓	↓	↓
299	October 2012 email from Piccione to May regarding Petrelli going nuts.			
300	August 2009 email from Petrelli to Piccione and Elsass regarding meeting for dinner.			
301	September 2009 email from Piccione to Hernandez regarding Piccione being close friends with Petrelli and wife Sharon.			
302	Notes regarding November 2009 meeting with Petrelli and Romano regarding Insolvency Gap Cover business plans.			
303	August 2009 email from Piccione to Petrelli reading coming to New York.			
304	August 2009 email from Piccione to Petrelli regarding visit and future business plans.			
305	July 2010 Outline of Century Surety Company E&O Omissions Insurance Gap Coverage Plans.			
306	June 2011 email from Petrelli to Piccione regarding coming to New York and staying with Piccione and wife Lena.			
307	June 2011 email from Petrelli to Piccione regarding plans for upcoming trip to New York.			
308	June 2011 email from Petrelli to Piccione regarding more details about plans for upcoming trip to New York.			

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EXHIBIT(S) LIST

309	July 2011 email from Piccione to Petrelli discussing how it was dull not having the Petrelli's at the Piccione home.			
310	June 2011 email from Piccione to Petrelli regarding arranging plans for upcoming visit and Petrelli and wife Sharon to New York.			
311	March 2012 email from Petrelli to Piccione discussing various topics.			
312	October 2012 email from May to Piccione regarding Petrelli hanging from the rafters.			
313	October 2009 Demotech letter to Piccione regarding minority ownership interest of US RE in Demotech and potential licensing agreement.	9-21-21	stip	9-21-21
314	November 2009 letter from Petrelli to Piccione regarding business opportunity.			
315	May 2010 email from Elsass to Petrelli, Dalton, Lord, Murphy, Sitterson, and Johnson regarding terms of management agreements.	9-21-21	stip	9-21-21
316	October 2010 email from Petrelli to Newsome and Piccione regarding business plans for insolvency gap coverage business.			
317	Expert Witness Report of Dr. Mark Kuga.			
318	Seventy-Second Status Report of Commissioner of Insurance.	9-21-21	stip	9-21-21
319	Tharp Exhibit V.			
320	Tharp Exhibit Z.			
321	Tharp Table of Schedule P Part I Summary.			
322	Tharp selected list of claims.	9-21-21	stip	9-21-21
323	Expert Sam Hewitt's Table 10 – Corrected and Appended Kuga Exhibit 3.1.			
324	Initial Expert Report of Mark D. Tharp.			
325	Tharp Comparison of 72 nd Receiver Report as of			

EXHIBIT(S) LIST

	September 20, 2019 to Tharp Exhibit Z.			
326	Annual Statement of Lewis & Clark for year-end December 31, 2011.	9-21-21	STP	9-21-21
327	Actuarial Evaluation of Loss and Loss Adjustment Expense Reserves as of December 31, 2008.			
328	Actuarial Evaluation of Loss and Loss Adjustment Expense Reserves as of December 31, 2011.			
329	Actuarial Evaluation of Loss and Loss Adjustment Expense Reserves as of December 31, 2010.			
330	Email regarding expense ratios.			
331	Email regarding nurse professional liability insurance study.			
332	Email regarding nurse professional liability insurance study with attachment.			
333	Email regarding retrospectively rated policy.			
334	Email regarding L&C presentation with attachment.			
335	Email regarding updated L&C reserves as of October 31, 2011 with attachment.			
336	Email regarding L&C after audit reserves at November 30, 2011.			
337	Email regarding reinsurance.			
338	Email regarding L&C claims review by Fishlinger with attachments.			
339	Email regarding claims review by Fishlinger, et al.			
340	Email regarding March 31, 2012 reserves with attachment.			
341	Email regarding L&C claims development through May 31, 2012, with attachment.			

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EXHIBIT(S) LIST

342	Email regarding June 30, 2012 reserve estimate with attachments.	9-21-21	STIP	9-21-21	w3
343	inadvertently skipped				
344	Statement of Actuarial opinion for L&C for the year ended December 31, 2008.	9-21-21	STIP	9-21-21	w3
345	Statement of Actuarial opinion for L&C for the year ended December 31, 2009.				
346	Actuarial Evaluation 2009.				
347	Statements of Actuarial.				
348	Actuarial evaluation of L&C as of December 31, 2011.				
349	Letter dated January 19, 2012.				
350	Letter dated January 2010 from Milliman to Dalton regarding engagement for actuarial consulting services.				
351	Marked exhibit to Elsass deposition taken July 16, 2021. <i>Not provided</i>				
352	Marked exhibit to Elsass deposition taken July 16, 2021. <i>Not provided</i>				
353	inadvertently skipped				
354	December 2011 email from Dalton to the Board regarding Praxis reserves.	9-21-21	STIP	9-21-21	
355	2003 Offering Memorandum.				
356	2011 Offering Memorandum.				
357	Sanford Elsass Professional Experience.				
358	February 2012 letter from Elsass to Readings regarding reinsurance issues.				
359	Amended complaint filed in New York by Defendants naming Elsass as a defendant.				
360	Email from Davies to Piccione regarding Elsass.	9-21-21	STIP	9-21-21	
361	Amendments to the Management Agreement.				

EXHIBIT(S) LIST

362	Sophia Palmer merger documents.	9-21-21	STP	9-21-21
363	December 2011 letter from Carlton Fields to Sitterson.			
364	September 2012 Capital Deterioration letter from the DOI to Jeff Marshall.			
365	August 2011 email from Elsass to the Board regarding the June L&C financials.			
366	September 2011 email chain between Sitterson and Board regarding capital contributions.			
367	September 2011 email chain between Board and Sitterson regarding capital contributions and the amount of surplus required.			
368	September 2011 email chain between Board and Sitterson regarding capital contributions and floating.			
369	September 2011 email chain between Board and Sitterson regarding conversion price of stock.			
370	October 2011 email chain regarding capital contribution and impact of offsetting amount by deductible recoverables.			
371	Actuarial Evaluation of L&C by Milliman as of December 31, 2011.	▼	▼	▼
372	Letter from Milliman to Dalton regarding NAIC Data Testing Requirements for L&C.			
373	Notes on changes to claims reserves.	9-21-21	STP	9-21-21
374	August 2011 about taking off another \$500K off of reserves.	9-21-21	STP	9-21-21
375				
376	December 2011 letter from Praxis to Piccione and Davies regarding L&C reserves.	9-21-21	STP	9-21-21
377	File Notes for P. Clements.			
378	File Notes for W. Bannister.			

EXHIBIT(S) LIST

379	May 2011 Miller email to Johnson and Dugan increasing reserves.	9-21-21	stip	9-21-21
380	May 2011 letter from Miller to Elsass regarding the need to increase indemnity reserves.			
381	July 2011 email from Miller to Elsass regarding indemnity reserves.			
382	August 2011 email from Miller to Dalton and Chamberlain regarding Braswell.			
383	August 2012 email from Linda Brucia to Sitterson and Dalton regarding Uni-Ter files.			
384	November 2011 email from Shatoff to Elsass regarding Jo McCann of Beazley.			
385	August 2011 email from Shatoff to Donnelly regarding Uni-Ter claims late increase in reserves.			
386	October 2011 email from Elsass to Shatoff regarding reinsurers and claims development.			
387	December 2011 email from Shatoff to Piccione regarding Praxis reserve amounts.			
388	March 2012 email from Shatoff to Dalton and Miller regarding defense counsel's projected ALAE.			
389	File Notes for P. Clements.			
389	May 2012 email from Piccione to Davies, Bludetto, and Elsass regarding ALAE for RRGs.	↓	↓	↓
390	File Notes for J. Mullen.			
391	September 2011 email from Davies to Stiefel regarding claims audit report.	9-21-21	stip	9-21-21
392	April 2012 email chain between Dalton, Miller, Stiefel, Donnelly, Shatoff, and Elsass regarding Elsass and Dalton no longer setting reserves.	↓	↓	↓

EXHIBIT(S) LIST

393	Marked exhibit to Davies deposition taken August 2, 2021.			
394	Marked exhibit to Davies deposition taken August 2, 2021.			
395	May 2012 email from Stiefel to Piccione and Davies regarding Praxis update.			
396	March 2009 email from Hodge to Dugan regarding Pyramid.	9.21.21	Shp	9.21.21
397	October 2011 email from Dalton to Dugan regarding Jeff Marshall's capital contribution.			
398	December 2011 email from Dugan to Dalton regarding Marshall losing his cool.			
399	2012 Broker Authorization Contract.			
400	June 2012 Letter from Fedor to Elsass regarding reinsurance and the 2012 Reinsurance Agreement.			
401	Captive Insurance Underwriting Guidelines.			
402	July 2009 email from Kiel to Chamberlain regarding \$5 million aggregate.			
403	July 2009 email from Meshekow to Chamberlain second year issue.			
404	August 2006 email from Lubalin to Elsass and Shatoff regarding underwriting guidelines presented to reinsurers.			
405	September 2009 email from Kiel to Chamberlain regarding 2-year commitment letter.			
406	July 2009 email from Meshekow to Chamberlain regarding commitment for second years.			
407	Country Villa application.			
408	September 2011 Board Meeting package.			
409	Consolidated submission recap for Country Villa.			
410	June 2009 email from Elsass to Dalton regarding binding Country Villa as an insured.	↓	↓	↓

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EXHIBIT(S) LIST

411	September 2009 L&C business plan.	9.21.21	Shp	9.21.21
412	April 2010 letter from Dalton to Kipper regarding response to exam report.	↓	↓	↓
413	May 2010 email from Joseph to Fedor, Shatoff, Elsass, and Dalton regarding instruction for reinsurance intermediaries.	↓	↓	↓
414	2003 L&C business plan.	↓	↓	↓
415	September 2012 email from Corrigan to Dalton regarding license request.	↓	↓	↓
416	Maynard email to Stern and Memo to Dalton regarding binding reinsurance through an unlicensed broker.	↓	↓	↓
417	Tharp Exhibit Schedule P – Part I Summary	9.21.21	Shp	9.21.21
418	August 2011 email from Shatoff to Elsass and Dalton regarding L&C Reinsurance.	↓	↓	↓
419	March 2012 Shatoff email to Davies regarding summary of reinsurance development.	9.21.21	Shp	9.21.21
420	November 2009 email from Dalton to Shatoff regarding request for license.	↓	↓	↓
421	November 2009 email from Dalton to Johnson regarding US RE's licensing issues.	↓	↓	↓
422	Email from J. Fedor to Joseph and Shatoff dates 4-12-10	↓	↓	↓
423	Email from B. Joseph to Shatoff and Fedor dated 4-13-10	↓	↓	↓
424	Email from Shatoff to B. Fedor dated 4-14-10	↓	↓	↓
425	Email from S. Lubalin to Elsass dated 8-11-06	↓	↓	↓
426	List of Claims	↓	↓	↓
427	Cover notes and other terms of 2004-2005 reinsurance agreement.	↓	↓	↓
428	L&C 2003 Business Plan	9.21.21	Shp	9.21.21
429	L&C 2005-2007 Reinsurance Agreement	↓	↓	↓

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EXHIBIT(S) LIST

430	Second L&C 2005-2007 Reinsurance Agreement	9-21-21	SHIP	9-21-21
431	Second L&C 2005-2006 Reinsurance Agreement			
432	L&C 2007 Reinsurance Agreement			
433	L&C 2009 Reinsurance Agreement			
434	L&C 2009-2011 Reinsurance Agreement			
435	L&C 2009-2011 Reinsurance Agreement			
436	L&C 2010-2011 Reinsurance Agreement			
437	L&C 2011-2012 Reinsurance Agreement			
438	Second L&C 2011-2012 Reinsurance Agreement			
439	L&C 2012 Reinsurance Agreement			
440	L&C 2005 Reinsurance Agreement			
441	Email from Hurlbut to Uni-Ter dated 3-30-09 regarding capital contribution			
442	Email from A. Hodge to Board and Uni-Ter dated 5-8-09			
443	Email from P. Meshekow to Uni-Ter dated 6-24-09 regarding Country Villa			
444	Email from G. Kiel to Chamberlain dated 5-21-09 regarding Country Villa			
445	Email from Elsass to Dalton dated 6-26-09 regarding Country Villa			
446	Email from Hodge to Board and Uni-Ter dated 5-8-09			
447	Board Packet May 2009			
448	Board Minutes dated May 14-15, 2009			
449	L&C Underwriting Guidelines	↓	↓	↓
450	May 2009 Board Packet more pages			
451	L&C Underwriting Guidelines dated Fall 2003	9-21-21	SHIP	9-21-21
452	Email McCarthy to Kay-Volk dated 2-3-11 regarding reserves			
453	2012 L&C Bordereau			
454	2011-2012 US RE Companies Analysis of Total Benefits	9-21-21	SHIP	9-21-21

EXHIBIT(S) LIST

1000	L&C Annual Statement for 2008	9-21-21	STUP	9-21-21
1001	L&C Quarterly Financial Statement – March 31, 2009	↓	↓	↓
1002	L&C Quarterly Financial Statement – June, 2009	↓	↓	↓
1002	L&C Quarterly Financial Statement – September 30, 2009	↓	↓	↓
1003	L&C Annual Statement for 2009	↓	↓	↓
1004	L&C Quarterly Financial Statement – March 31, 2010	↓	↓	↓
1005	L&C Quarterly Financial Statement – June, 2010	↓	↓	↓
1006	L&C Quarterly Financial Statement – September 30, 2010	↓	↓	↓
1007	L&C Annual Statement for 2010	↓	↓	↓
1008	L&C Quarterly Financial Statement – March 31, 2011	↓	↓	↓
1009	L&C Quarterly Financial Statement – June, 2011	↓	↓	↓
1010	L&C Quarterly Financial Statement – September 30, 2011	↓	↓	↓
1011	L&C Annual Statement for 2011	↓	↓	↓
1012	L&C Quarterly Financial Statement – March 31, 2012	↓	↓	↓
1013	L&C Quarterly Financial Statement – June, 2012	↓	↓	↓
1014	September 2012 letter from Maynard to Dalton regarding Uni-Ter violating NAC 683A530(7) by binding Company on Reinsurance.	9-24-21	yes	9-24-21
1015	September 2012 letter from Maynard to Dalton regarding Uni-Ter violating NAC 694C.300 by contracting with an unlicensed reinsurance broker.	9-24-21	yes	9-24-21
1016	May 5, 2011 Report of Independent Auditors.	9-21-21	STUP	9-21-21
1017	Exhibits attached to Plaintiff's Expert Witness Mark Tharp Rebuttal Report to Sam Hewitt.	↓	↓	↓
1018	Claims file for P. Clements	Not Provided ↓		
1019	Claims file for S. Macagnone			
1020	Claims file for D. Maquire			

EXHIBIT(S) LIST

1021	Claims file for H. Yarbrough	Not provided			
1022	Claims file for J. Lewicki				
1023	Claims file for J. Gill				
1024	Claims file for P. Weber				
1025	Claims file for J. Katchuk				
1026	Claims file for J. Jackson				
1027	Claims file for I. Arce				
1028	Claims file for L. McKenzie				
1029	Claims file for V. Rinaldi				
1030	Claims file for R. Stringfellow				
1031	Claims file for D. Mullon				
1032	Claims file for L. Johnson				
1033	Claims file for M. Fonseca				
1034	Claims file for G. Cooper				
1035	Claims file for J. Newberg				
1036	Claims file for K. Maltby				
1037	Claims file for M. Terrell				
1038	Claims file for R. Bushover				
1039	Claims file for P. Black				
1040	Claims file for N. Sewell				
1041	Claims file for J. Ciocca				
1042	Claims file for V. Drumm				
1043	Claims file for F. Russell				
1044	Claims file for W. Bannister				
1029	Claims file for A. Papaj				
1045	Claims file for M. Myles				

EXHIBIT(S) LIST

1046	Claims file for R. Palombi	Not Provided			
1047	Claims file for H. English				
1048	Claims file for F. Hall				
1049	Claims file for L. Hilleges				
1050	Claims file for J. Umfreyville				
1051	Claims file for N. Pantano-Blake				
1052	Claims file for R. Porcellio				
1053	Claims file for K. Gillespie				
1054	Claims file for D. Bennett				
1055	Claims file for E. Williams				
1056	Claims file for R. Rosenthal				
1057	Claims file for H. Coleman				
1058	Claims file for A. Allen				
1060	Claims file for J. Adams				
1061	Claims file for D. Wells				
1062	Claims file for M. Mann				
1063	Claims file for C. Bergen				
1064	Claims file for C. Frye				
1065	Claims file for K. Chelette				
1066	Claims file for J. Allen				
1067	Claims file for E. Lester				
1068	Claims file for M. Helberg				
1069	Claims file for P. Geffin				
1070	Claims file for G. Gipson				
1071	Claims file for G. Shubin				
1072	Claims file for M. Klaboe				

EXHIBIT(S) LIST

1073	Claims file for B. Goude	NOT Provided			
1074	Claims file for T. Durnin				
1075	Claims file for L. Sanchez				
1076	Claims file for W. Whitaker				
1078	Claims file for M. Andolina				
1079	Claims file for A. Johnson				
1080	Claims file for S. Williams				
1081	Claims file for M. Lancellotti				
1082	Claims file for A. Correa				
1083	Claims file for G. Knott				
1084	Claims file for J. Mullen				
1085	Claims file for W. Naylor				
1086	Claims file for T. Lassalle				
1088	Claims file for O. McLiesh				
1089	Claims file for G. Peterseil				
1090	Claims file for R. Bringas				
1091	Claims file for R. Pflieger				
1092	Claims file for G. Klipfel				
1093	Claims file for R. Koppola				
1094	Claims file for J. Brown				
1095	Claims file for P. Czosek				
1096	Claims file for B. Kellig				
1097	Claims file for R. Jackson				
1098	Claims file for M. O'Meara				
1099	Claims file for A. Tiberio				
1100	Claims file for B. Wojcinski				

EXHIBIT(S) LIST

1101	Claims file for M. Smith	Not provided			
1102	Claims file for S. McCullen				
1103	Claims file for E. Poplawski				
1104	Claims file for M. Rosenblatt				
1105	Claims file for T. Waldo				
1106	Claims file for R. Austin				
1107	Claims file for D. Fry				
1108	Claims file for S. Van Donsel				
1109	Motions and Order for Approval of Fees in the Receivership matter Case No. A-12-672047-B				
1110	April 2011 email from John Marshall to Dalton regarding amazing turn-around from prior year.	9.21.21	STIP	9.21.21	UA
1111	L&C Bordereau Monthly Production Report for September 2012				
1112	L&C Bordereau Monthly Production Report for October 2012				
1114	L&C Bordereau Monthly Production Report for November 2012				
1115	L&C Bordereau Monthly Production Report for December 2012				
1116	Sophia Palmer Claims Report through September 2012	9.21.21	STIP	9.21.21	
1117	Tharp Model				
1118	October 2011 email form Marrone cc'd to Piccione regarding US RE Corp. financial statement and questionnaire.				
1119	Financial statements of US RE Corporation.				
1120	April 2012 letter from Piccione to Hudson.				
1121	April 2012 email from Hudson to Piccione.				
1122	May 2012 email from Piccione to Hudson.				
1123	May 2012 email from Piccione to Hudson.				
1124	2005 Report of Examination from Division	9.21.21	STIP	9.21.21	

EXHIBIT(S) LIST

1125	Deposition Exhibit 175 with attachments.			
1126	Deposition Exhibit 176 with attachments.	9.21.21	Stip	9.21.21
1127	Deposition Exhibit 193 with attachments.			
1128	Deposition Exhibit 197 with attachments.			
1129	Deposition Exhibit 198 with attachments.			
1130	Deposition Exhibit 227 with attachments.			
1131	Deposition Exhibit 231 with attachments.			
1132	Deposition Exhibit 297 with attachments.	↓	↓	↓
1133	Deposition Exhibit 306 with attachments.			

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EXHIBIT(S) LIST

Case No.: A711535

Trial Date: 9/20/2021

Dept. No.: 27

Judge: Nancy Allf

Court Clerk: Nicole McDevitt

Plaintiff: Commissioner of Insurance
for the State of Nevada as
Receiver of

Recorder / Reporter: Brynn White

Lewis and Clark

Counsel for Plaintiff: Brenach Wirthlin, Esq.,

vs.

Defendant: Robert Chur

Christian Orme, Esq., Tanya Fraser, Esq.

Counsel for Defendant: Jon Wilson, Esq.,

George Ogilve, Esq.

JURY TRIAL BEFORE THE COURT

DEFENDANT'S EXHIBITS

Exhibit No.	Document Description	Offered	Obj.	Admitted
2000	Email from Debra Keys to Uni-Ter Staff(Atlanta) Dated February 28, 2011 FW: Resignation LC-USRE-0451153 - LC-USRE-0451153			
2001	LC Deferred Tax Asset December 31, 2011 JL_SDT017999 - JL_SDT018002			
2002	Lewis & Clark LTC Risk Retention Group, Inc. Audited Financial Statements, Years ended December 31, 2011 and 2010 JL_SDT001807 - JL_SDT001824			
2003	Lewis & Clark LTC Risk Retention Group, Inc. Audited Financial Statements, Years ended December 31, 2010 and 2009 JL_SDT008768 - JL_SDT008784			
2004	Draft Lewis & Clark LTC Risk Retention Group, Inc. Audited Financial Statements, Years ended December 31, 2008 and 2007 BD 0001804 - BD 0001819			
2005	Lewis & Clark LTC Risk Retention Group, Inc. Audited Financial Statements, Years ended December 31, 2007 and 2006 JL_SDT000399 - JL_SDT000414			

W3

EXHIBIT(S) LIST

2006	Email from Donna Dalton to Ken D. Stern Dated August 20, 2012 FW: Lewis & Clark CapitalDeterioration KS - 0305 - KS - 0309			
2007	Email from Rick Stickels to Robert W.Hurlbut Dated September 23, 2012 Re: L&C SWMLCEM020962 - SWMLCEM020963			
2008	Email from Jonna Miller to Curtis Sitterson, Sandy Elsass, Donna Dalton, Tonya Dugan and Dwain Chamberlain Dated July 22, 2011 Re: Peterseil v. RRT Enterprise/Country Villa (Claim No. 072645) SWMLCEM008858 - SWMLCEM008860			
2009	Email from Dwain Chamberlain to DonnaDalton Dated January20, 2012 Re: Submission review of CV file LC-USRE-0824373 - LC-USRE-0824373			
2010	Email from Dwain Chamberlain to SandyElsass Dated February17, 2012 Fw: Lewis &Clark LC-USRE-0723915 - LC-USRE-0723915			
2011	Email from Donna Dalton to Larry Shatoff, Sandy Elsass, Tonya Dugan, Dwain Chamberlain Dated February 23, 2012 Re: L&C Reinsurance LC-USRE-0242620 - LC-USRE-0242620			
2012	Email from ChristinaIsom to Dwain Chamberlain, TonyaDugan and ElizabethSterling Dated April17, 2012 Re: Do we know why these insureds did not renew with us? LC-USRE-0628928 - LC-USRE-0628930			
2013	Email from Sandy Elsass to Dwain Chamberlain, Donna Dalton and Tonya Dugan Dated June 22, 2012 Fw: Marquis 7/1Renewal - HUD refinancing LC-USRE-0754630 - LC-USRE-0754630			
2014	Email from Curtis Sitterson to Jonna Miller, Sandy Elsass, Donna Dalton, DwainChamberlain and Tonya Dugan Dated July 28, 2011 Re: July 288, 2011 letter to CV cc San Marino re bond SWMLCEM009050 - SWMLCEM009051			
2015	Email from Jonna Miller to Sandy Elsassand Dwain Chamberlain Dated November 9, 2011 Fw: Garcia LC-USRE-1254664 - LC-USRE-1254665			

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EXHIBIT(S) LIST

2016	Email from Dwain Chamberlain to TonyaDugan Dated January31, 2012 Re: CV LC-USRE-1763867 - LC-USRE-1763868			
2017	Email from Sandy Elsass to Dwain Chmaberlain Dated September 8, 2011 Fw: HCFA, Braswell and CV LC-USRE-0836015 - LC-USRE-0836017			
2018	Email from Sandy Elsass to Curtis Sitterson and DwainChamberlain Dated July 13, 2011 Re: Country Villa LC-USRE-0172623 - LC-USRE-0172624			
2019	Email from Debra Kay-Volk to Bruce Bolger Dated July 11, 2011 Re: Coverage Issue Raised By New California Claim LC-USRE-1223341 - LC-USRE-1223342			
2020	Email from Debra Kay-Volk to Jonna Miller, Sandy Elsass, Curtis Sitterson, Dwain Chamberlain, and Donna Dalton Dated July 8, 2011 Re: Peterseil vs. RRT Enterprises, LP SWMLCEM008789 - SWMLCEM008795			
2021	January 21, 2004BOD Meeting Minutes LC0130982 - LC0130982	9.21.21	Stip	9.21.21
2022	February 3, 2004BOD Meeting Minutes LC0130977 - LC0130978			
2023	July 27, 2004 BOD Meeting Minutes LC0130937 - LC0130938			
2024	August 20, 2004BOD Meeting Minutes LC0130936 - LC0130936			
2025	September 8, 2004BOD Meeting Minutes LC0130935 - LC0130935			
2026	October 26, 2004BOD Meeting Minutes LC0130933 - LC0130934			
2027	November 8, 2004BOD Meeting Minutes LC0130932 - LC0130932			
2028	March 1, 2005 BOD Meeting Minutes LC0130931 - LC0130931			
2029	June 17, 2005 BOD Meeting Minutes LC0130926 - LC0130926			
2030	August 12, 2005BOD Meeting Minutes LC0130923 - LC0130924			
2031	November 10, 2005BOD Meeting Minutes LC0130921 - LC0130921			

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EXHIBIT(S) LIST

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EXHIBIT(S) LIST

Case No: A-14-711535-C

Commissioner of Ins for the state of NV vs. Robert Chur

Court's

EXHIBITS

Exhibit Number	Exhibit Description	Date Offered	Objection	Date Admitted	
1	Jury Selection Paperwork			9/21/21	ut
2	Jury Note asked			9/23/21	ut
3	Jury Note			9/23/21	ut
4	Jury Note			9/23/21	ut
5	Jury Note			9/24/21	ut
6	Jury Note asked			9/24/21	ut
7	Jury Note			9/24/21	ut
8	Jury Note			10-1-21	ut
9	Jury Note			10-1-21	ut
10	Jury Note asked			10-5-21	ut
11	Jury Note			10-6-21	ut
12	Jury Note			10-8-21	ut
13	Jury Note			10-8-21	ut
14	Jury Note asked			10-12-21	ut
15	Jury Note asked				ut
16	Jury Note asked				ut
17	Jury Note			10-14-21	ut
18	Partial Transcript sent back to Jury			10-14-21	ut

Certification of Copy

State of Nevada }
County of Clark } **SS:**

I, Steven D. Grierson, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, does hereby certify that the foregoing is a true, full and correct copy of the hereinafter stated original document(s):

AMENDED NOTICE OF APPEAL; DISTRICT COURT DOCKET ENTRIES; CIVIL COVER SHEET; ORDER DENYING PLAINTIFF'S MOTION FOR LEAVE TO FILE FOURTH AMENDED COMPLAINT; NOTICE OF ENTRY OF ORDER; NOTICE OF ENTRY OF FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER DENYING PLAINTIFF'S MOTION FOR LEAVE TO FILE FOURTH AMENDED COMPLAINT (CONFIDENTIAL); ORDER TO STRIKE FROM RECORD; NOTICE OF ENTRY OF ORDER; ORDER GRANTING DEFENDANTS ROBERT CHUR, STEVE FOGG, MARK GARBER, CAROL HARTER, ROBERT HURLBUT, BARBARA LUMPKIN, JEFF MARSHALL, AND ERIC STICKELS' MOTION FOR JUDGMENT ON THE PLEADINGS PURSUANT TO NRCP 12(C) AND JUDGMENT THEREON; NOTICE OF ENTRY OF ORDER; FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER DENYING THE MOTION FOR PARTIAL RECONSIDERATION OF MOTION FOR LEAVE TO AMEND REGARDING DIRECTOR DEFENDANTS; NOTICE OF ENTRY OF FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER DENYING THE MOTION FOR PARTIAL RECONSIDERATION OF MOTION FOR LEAVE TO AMEND REGARDING DIRECTOR DEFENDANTS; ORDER DENYING PLAINTIFF'S MOTION TO RETAX AND SETTLE COSTS OF DIRECTOR DEFENDANTS; NOTICE OF ENTRY OF ORDER; ORDER GRANTING IN PART AND DENYING IN PART PLAINTIFF'S MOTION FOR DECLARATORY RELIEF; NOTICE OF ENTRY OF ORDER; DISCOVERY COMMISSIONER'S REPORT AND RECOMMENDATION; ORDER RE: DISCOVERY COMMISSIONER'S REPORT AND RECOMMENDATIONS; NOTICE OF ENTRY OF ORDER RE: DISCOVERY COMMISSIONER'S REPORT AND RECOMMENDATIONS; ORDER GRANTING IN PART AND DENYING IN PART PLAINTIFF'S MOTION IN LIMINE NO. 2; NOTICE OF ENTRY OF ORDER; ORDER GRANTING IN PART AND DENYING IN PART PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT AS TO U.S. RE CORPORATION; NOTICE OF ENTRY OF ORDER; ORDER DENYING PLAINTIFF'S MOTION IN LIMINE NUMBER 5: TO LIMIT THE SCOPE OF EXPERT WITNESS TESTIMONY REGARDING SPECULATION CONCERNING THE ECONOMY; NOTICE OF ENTRY OF ORDER DENYING PLAINTIFF'S MOTION IN LIMINE NO. 5: TO LIMIT THE SCOPE OF EXPERT WITNESS TESTIMONY REGARDING SPECULATION CONCERNING THE ECONOMY; ORDER DENYING PLAINTIFF'S MOTION IN LIMINE NUMBER 4: TO PRECLUDE ANY REFERENCE TO REINSURANCE ESTIMATES; NOTICE OF ENTRY OF ORDER DENYING PLAINTIFF'S MOTION IN LIMINE NO. 4: TO PRECLUDE ANY REFERENCE TO REINSURANCE ESTIMATES; ORDER DENYING PLAINTIFF'S MOTION IN LIMINE NUMBER 1: TO PRECLUDE SAM HEWITT FROM PROVIDING EXPERT TESTIMONY REGARDING INSOLVENCY ANALYSIS; NOTICE OF ENTRY OF ORDER DENYING PLAINTIFF'S MOTION IN LIMINE NO. 1: TO PRECLUDE SAM HEWITT FROM PROVIDING EXPERT TESTIMONY REGARDING INSOLVENCY ANALYSIS; ORDER DENYING PLAINTIFF'S MOTION IN LIMINE NUMBER 6 TO STRIKE PROFFERED EXPERT WITNESS ALAN GRAY; NOTICE OF ENTRY OF ORDER DENYING PLAINTIFF'S MOTION IN LIMINE NUMBER 6 TO STRIKE PROFFERED EXPERT WITNESS ALAN GRAY; ORDER DENYING PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT REGARDING UNI-TER DEFENDANTS' BREACH OF THEIR FIDUCIARY DUTIES; NOTICE OF ENTRY OF ORDER DENYING PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT REGARDING UNI-TER

DEFENDANTS' BREACH OF THEIR FIDUCIARY DUTIES; ORDER GRANTING DEFENDANTS UNI-TER UNDERWRITING MANAGEMENT CORP., UNIT-TER CLAIMS SERVICES CORP., AND U.S. RE CORPORATION'S MOTION FOR ORDER EXCLUDING INTEREST ACCRUED DURING STAY PERIODS; NOTICE OF ENTRY OF ORDER GRANTING DEFENDANTS UNI-TER UNDERWRITING MANAGEMENT CORP., UNIT-TER CLAIMS SERVICES CORP., AND U.S. RE CORPORATION'S MOTION FOR ORDER EXCLUDING INTEREST ACCRUED DURING STAY PERIODS; ORDER GRANTING IN PART AND DENYING IN PART DEFENDANTS ROBERT CHUR, STEVE FOGG, MARK GARBER, CAROL HARTER, ROBERT HURLBUT, BARBARA LUMPKIN, JEFF MARSHALL, AND ERIC STICKELS' MOTION TO DISMISS; NOTICE OF ENTRY OF ORDER GRANTING IN PART AND DENYING IN PART DEFENDANTS ROBERT CHUR, STEVE FOGG, MARK GARBER, CAROL HARTER, ROBERT HURLBUT, BARBARA LUMPKIN, JEFF MARSHALL, AND ERIC STICKELS' MOTION TO DISMISS; DECISION AND ORDER; NOTICE OF ENTRY OF DECISION AND ORDER; ORDER GRANTING DEFENDANTS ROBERT CHUR, STEVE FOGG, MARK GARBER, CAROL HARTER, ROBERT HURLBUT, BARBARA LUMPKIN, JEFF MARSHALL, AND ERIC STICKELS' MOTION FOR JUDGMENT ON THE PLEADINGS PURSUANT TO NRCP 12(C) AND JUDGMENT THEREON; NOTICE OF ENTRY OF ORDER; ORDER DENYING PLAINTIFF'S MOTION TO LIFT STAY OR ALTERNATIVELY GRANT PLAINTIFF OTHER RELIEF ON ORDER SHORTENING TIME; NOTICE OF ENTRY OF ORDER; ORDER DENYING MOTION TO SUBSTITUTE; NOTICE OF ENTRY OF ORDER; ORDER GRANTING IN PART DEFENDANTS ROBERT CHUR, STEVE FOGG, MARK GARBER, CAROL HARTER, ROBERT HURLBUT, BARBARA LUMPKIN, JEFF MARSHALL, AND ERIC STICKELS' MOTION TO STRIKE; NOTICE OF ENTRY OF ORDER; ORDER GRANTING IN PART AND DENYING IN PART DEFENDANTS ROBERT CHUR, STEVE FOGG, MARK GARBER, CAROL HARTER, ROBERT HURLBUT, BARBARA LUMPKIN, JEFF MARSHALL, AND ERIC STICKELS' MOTION TO DISMISS; NOTICE OF ENTRY OF ORDER GRANTING IN PART AND DENYING IN PART DEFENDANTS ROBERT CHUR, STEVE FOGG, MARK GARBER, CAROL HARTER, ROBERT HURLBUT, BARBARA LUMPKIN, JEFF MARSHALL, AND ERIC STICKELS' MOTION TO DISMISS; DISTRICT COURT MINUTES; EXHIBITS LIST

COMMISSIONER OF INSURANCE FOR THE
STATE OF NEVADA AS RECEIVER OF
LEWIS AND CLARK LTC RISK RETENTION
GROUP, INC.,

Plaintiff(s),

vs.

ROBERT CHUR; STEVE FOGG; MARK
GARBER; CAROL HARTER; ROBERT
HURLBUT; BARBARA LUMPKIN; JEFF
MARSHALL; ERIC STICKELS; UNI-TER
UNDERWRITING MANAGEMENT CORP.;
UNI-TER CLAIMS SERVICES CORP.; U.S.
RE CORPORATION,

Defendant(s),

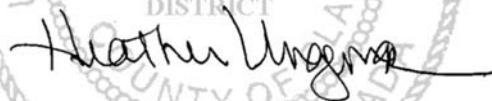
Case No: A-14-711535-C

Dept No: XXVII

now on file and of record in this office.

IN WITNESS THEREOF, I have hereunto
Set my hand and Affixed the seal of the
Court at my office, Las Vegas, Nevada
This 22 day of November 2022.

Steven D. Grierson, Clerk of the Court

A handwritten signature in black ink, appearing to read "Heather Ungermann", is written over a faint, circular court seal. The seal contains the text "CLERK OF THE EIGHTH JUDICIAL DISTRICT" and "COUNTY OF CLARK, NEVADA".

Heather Ungermann, Deputy Clerk
A-14-711535-C