

1 Brenoch R. Wirthlin, Esq. (10282)  
2 **Hutchison & Steffen**  
3 Peccole Professional Park  
4 10080 West Alta Drive, Suite 200  
5 Las Vegas, Nevada 89145  
6 Telephone: (702) 385.2500  
7 Facsimile: (702) 385.2086  
8 E-Mail: [bwirthlin@hutchlegal.com](mailto:bwirthlin@hutchlegal.com)  
9 *Attorneys for Plaintiff*

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Elizabeth A. Brown  
Clerk of Supreme Court

10 **DISTRICT COURT**  
11 **CLARK COUNTY, NEVADA**

12 \* \* \*

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 CORP.,  
24 UNI-TER CLAIMS SERVICES CORP., and  
25 U.S. RE CORPORATION,; DOES 1-50,  
26 inclusive; and ROES 51-100, inclusive;

27 Defendants.

Case No.: A-14-711535-C  
Dept. No.: XXVII

Nevada Supreme Court Case No. 85907

**CASE APPEAL STATEMENT**

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1. **Name of appellant filing this case appeal statement:** Commissioner of Insurance  
for the State of Nevada as Receiver for Lewis & Clark LTC Risk Retention Group, Inc.  
("Appellant" or "Commissioner of Insurance").

2. **Identify the judge issuing the decision, judgment, or order appealed from:**  
Honorable Nancy L. Allf, Department XXVII, of Eighth Judicial District Court.

1           **3. Identify each appellant and the name and address of counsel for each**  
2 **appellant:** Counsel for Commissioner of Insurance is Brenoch Wirthlin, Esq., Hutchison &  
3 Steffen, 10080 W. Alta Dr., Suite 200, Las Vegas, Nevada 89145.

4           **4. Identify each respondent and the name and address of appellate counsel, if**  
5 **known, for each respondent (if the name of a respondent's appellate counsel is unknown,**  
6 **indicate as much and provide the name and address of that respondent's trial counsel): \**

8           Respondents:           Uni-Ter Underwriting Management Corp., Uni-Ter Claims  
9                                       Services Corp., and U.S. RE Corporation.  
   (collectively the "Corporate Defendants")

10          Counsel:               George F. Ogilvie III, Esq.  
11                                       McDonald Carano  
12                                       2300 W. Sahara Ave., Suite 1200  
   Las Vegas, NV 89102

13          **5. Indicate whether any attorney identified above in response to question 3 or 4**  
14 **is not licensed to practice law in Nevada and, if so, whether the district court granted that**  
15 **attorney permission to appear under SCR 42 (attach a copy of any district court order**  
16 **granting such permission):** All counsel for Appellant and Respondents are licensed in the State  
17 of Nevada.

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19          **6. Indicate whether appellant was represented by appointed or retained counsel**  
20 **in the district court:** Retained.

21          **7. Indicate whether appellant is represented by appointed or retained counsel on**  
22 **appeal:** Retained.

23          **8. Indicate whether appellant was granted leave to proceed in forma pauperis,**  
24 **and the date of entry of the district court order granting such leave:** Leave to file in *forma*  
25 *pauperis* was not requested.

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27          **9. Indicate the date the proceedings commenced in the district court (e.g., date**  
28 **complaint, indictment, information, or petition was filed):** December 23, 2014.

1           **10. Provide a brief description of the nature of the action and result in the district**  
2 **court, including the type of judgment or order being appealed and the relief granted by the**  
3 **district court:**

4           The Commissioner of Insurance brought this action against multiple defendants, including  
5 U.S. Re Corporation, Uni-Ter Underwriting Management Corporation, and Uni-Ter Claims Services  
6 Corporation (collectively the “Corporate Defendants”) for their role in causing the insolvency of a  
7 Nevada-based insurer, Lewis and Clark LTC Risk Retention Group, Inc. Trial against the Corporate  
8 Defendants commenced on September 20, 2021 and was submitted to the jury on October 14, 2021,  
9 which rendered a verdict in favor of Plaintiff that same day.

10           The Commissioner of Insurance seeks relief from the District Court’s erroneous rulings  
11 regarding proper calculation of attorneys’ fees and costs, in which the Court denied certain  
12 attorneys’ fees and costs requested by Plaintiff. Specifically, this appeal seeks relief from the  
13 District Court’s Order Granting Attorney Fees and Costs, dated December 2, 2022.

14           **Indicate whether the case has previously been the subject of an appeal to or original**  
15 **writ proceeding in the Supreme Court and, if so, the caption and Supreme Court docket**  
16 **number of the prior proceeding:**

17  
18           Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert Hurlbut, Barbara Lumpkin,  
19 Jeff Marshall, and Eric Stickels vs. The Eight Judicial District Court of the State of Nevada,  
20 in and for the County of Clark and the Honorable Nancy L. Allf, District Judge, Case No.  
21 78301.

22           Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark LTC  
23 Risk Retention Group, Inc. vs. The Eight Judicial District Court of the State of Nevada, in  
24 and for the County of Clark and the Honorable Nancy L. Allf, District Judge, Case No.  
25 81857.

26           Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark LTC  
27 Risk Retention Group, Inc. vs. Robert Chur, Steve Fogg, Mark Garber, Carol Harter,  
28 Robert Hurlbut, Barbara Lumpkin, Jeff Marshall, and Eric Stickels, Case No. 84253.

          Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert Hurlbut, Barbara Lumpkin,  
Jeff Marshall, and Eric Stickels vs. Commissioner of Insurance for the State of Nevada as  
Receiver of Lewis and Clark LTC Risk Retention Group, Inc., Case No. 84311.

1 Commissioner of Insurance for the State of Nevada as Receiver of Lewis and Clark LTC  
2 Risk Retention Group, Inc. vs. Robert Chur, Steve Fogg, Mark Garber, Carol Harter,  
3 Robert Hurlbut, Barbara Lumpkin, Jeff Marshall, Eric Stickels, Uni-Ter Underwriting  
4 Management Corp., Uni-Ter Claims Services Corp., and U.S. RE Corporation, Case No.  
5 85668.

6 Robert Chur, Steve Fogg, Mark Garber, Carol Harter, Robert Hurlbut, Barbara Lumpkin,  
7 Jeff Marshall, and Eric Stickels vs. Commissioner of Insurance for the State of Nevada as  
8 Receiver of Lewis and Clark LTC Risk Retention Group, Inc., Case No. 85728.

9 **Indicate whether this appeal involves child custody or visitation:** This case does not  
10 involve child custody or visitation.

11 **11. If this is a civil case, indicate whether this appeal involves the possibility of**  
12 **settlement:** Lewis & Clark is willing to discuss settlement.

13 DATED this 30th day of January, 2023.

14 HUTCHISON & STEFFEN, PLLC

15 /s/Brenoch Wirthlin  
16 Brenoch R. Wirthlin, Esq. (10282)  
17 Nevada Bar No. 14285  
18 10080 West Alta Drive, Suite 200  
19 Las Vegas, Nevada 89145  
20 *Attorneys for Plaintiff*  
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**CERTIFICATE OF SERVICE**

Pursuant to NRCP 5(b), I certify that on this 30th day of January, 2023, I caused the document entitled **CASE APPEAL STATEMENT** 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