

COMMISSION ON JUDICIAL SELECTION APPLICATION

EIGHTH JUDICIAL DISTRICT
DEPARTMENT VII

By

Marni K. Watkins, Esq.



Personal Information

1.	Full Name	Marni Kristen Watkins
2.	Have you ever used or been known by any other legal name (including a maiden name)? If so, state name and reason for the name change and years used.	Yes. Marni Kristen Rubin
3.	How long have you been a continuous resident of Nevada?	18 Years
4.	City and county of residence	Las Vegas, Clark County
5.	Age	46

Employment History

6. Please start with your current employment or most recent employment, self-employment, and periods of unemployment for the last 20 years preceding the filing of this Application.

Current or Last Employer	1909 Group, LLC
Phone	702-994-8952
Physical Address & Website	10789 W. Twain Avenue, Ste 100 Las Vegas, NV https://www.facebook.com/1909Group/
Date(s) of Employment	January 2020 to Present
Supervisor's Name and Title	Latoya Kent, Member/Owner
Your Title	Partner
Describe Your Key Duties	1909 Group, LLC is a judicial campaign management consulting firm representing judicial candidates in their run for elected office. 1909 Group, LLC successfully represented two (2) candidates for Justice of the Peace in Las Vegas Township Justice Court.
Reason for Leaving	The election cycle has concluded

Previous Employer	Fidelity National Law Group
Phone	702-697-2020
Address & Website	8363 W. Sunset Rd, Ste 120 Las Vegas, NV 89113
Date(s) of Employment	January 2011 to September 2019
Supervisor's Name and Title	Patrick Davis, Esq.
Your Title	Associate Attorney
Describe Your Key Duties	Manage in-house litigation; defending and prosecuting cases in a variety of different actions including mechanic's liens, real property disputes, property or lending fraud, declaratory actions, Homeowner's Association foreclosures and R.S. 2477 roadways. Practice in all courts in Nevada including the Bankruptcy Court, Family Court, Probate, Supreme Court, State District Court, and Federal Courts. Handle appeals in the Ninth Circuit Court of Appeals and in the Nevada Supreme Court. Manage transactional issues such as drafting contracts and loan documents.
Reason for Leaving	I took a planned sabbatical in September of 2019 to focus my time on my duties as a member of the Board of Directors for Pinecrest Academy of Southern Nevada, to help it grow and prosper, and to volunteer time at its different campuses, one of which my children attend. Shortly thereafter the COVID-19 pandemic spread to Nevada and my children's' school began teaching virtually. I was also diagnosed with breast cancer in April 2020. I postponed my plans to go back to work to focus on my health, and to help guide Pinecrest Academy through the difficult transition to virtual schooling, and to help my children attend virtual school. I am grateful that I have been cancer free since 2020.

Previous Employer	Mainor Eglet (n/k/a Eglet Adams)
Phone	(702) 450-5400
Address & Website	400 S. Seventh Street, Ste 400 Las Vegas, NV 89101
Date(s) of Employment	January 2009 to January 2011
Supervisor's Name and Title	Robert Cottle, Esq., Robert Eglet, Esq. and Robert Adams, Esq.
Your Title	Associate Attorney
Describe Your Key Duties	Managed the <i>In re</i> Endoscopy litigation for twenty-six infected plaintiffs and over 4,000 non-infected plaintiffs. I

	worked-up and prepared the first case out of the hundreds of <i>In re</i> Endoscopy cases to proceed to trial and my clients were awarded approximately \$500 million. Additionally, I handled several single event cases involving product liability, bad faith, and negligence claims.
Reason for Leaving	To work at Fidelity National Law Group

Previous Employer	Fennemore Craig
Phone	702-692-8000
Address & Website	9275 W. Russell Road, Ste 240, Las Vegas, NV
Date(s) of Employment	March 2008 – January 2009
Supervisor's Name and Title	John Mowbray, Esq. and Chris Byrd, Esq.
Your Title	Associate Attorney
Describe Your Key Duties	Reported to five partners and managed several cases, including commercial litigation, real estate litigation, construction, general litigation, and tort litigation. I also handled business disputes and appeals as well as conducting legal research and drafting pleadings, memos, briefs, discovery, preparation of privilege logs, taking and defending depositions, and witness preparation.
Reason for Leaving	To work at Mainor Eglet

Previous Employer	Alverson, Taylor, Mortensen & Sanders
Phone	702-385-7000
Address & Website	6605 Grand Montecito Pkwy, Ste 200, Las Vegas, NV
Date(s) of Employment	September 2005 to February 2008
Supervisor's Name and Title	Nathan Reinmiller, Esq.
Your Title	Associate Attorney
Describe Your Key Duties	Supervised two associates and one law clerk and reported directly to a partner. Managed approximately 90 active cases including suits for attorney malpractice, insurance bad faith, breach of the duty of good faith and fair dealing, breach of contract, negligence, product liability, fraud, declaratory judgments, subrogation, accounting, toxic torts and complex litigation. These cases were in bankruptcy, federal and state court. I prepared numerous coverage opinions and conducted several Examinations Under Oath.
Reason for Leaving	To work at Fennemore Craig

Educational Background

7. List names and addresses of high schools, colleges and graduate schools (other than law school) attended; dates of attendance; certificates or degrees awarded; reason for leaving.

Tenafly High School: 19 Columbus Drive Tenafly, NJ 07670

Dates attended: August 1990 – June 1994

Degree: High School Diploma

Reason for leaving: Graduated

University of Vermont: 184 South Prospect Street Burlington, VT 05405

Dates attended: August 1994 – August 1998

Degree: Bachelor of Arts with a minor in Business Administration

Reason for leaving: Graduated

California Western School of Law: 225 Cedar Street San Diego, CA 92101

Dates attended: - August 2002 - May 2005

Degree: Juris Doctor

Reason for leaving: Graduated

8. Describe significant high school and college activities including extracurricular activities, positions of leadership, special projects that contributed to the learning experience.

High School Activities:

Advanced Placement Courses: High School, I took several advanced placement classes such as AP History, AP Biology, and AP English. I received college credit for each AP course.

Varsity Cheerleading: I was also on the varsity cheerleading team from the winter of my freshman year until the spring of my senior year.

Yearbook: I was a staff member on the Tenafly High School Yearbook. My primary role was creating the page layouts and cropping the photos and text.

Global Routes Community Service Program: At the end of my junior year, I joined Global Routes Community Service Program and traveled to Bali, Indonesia where I lived with a host family and helped to build a Banjar building or community center.

College Activities:

School Newspaper: I wrote for the University of Vermont's school newspaper, the Vermont Cynic.

Pi Beta Phi Sorority: I was a member of the Pi Beta Phi sorority from my sophomore year until I graduated. During my time with Pi Beta Phi, I participated in several community service and outreach programs.

Sierra Club Inner City Outings (ICO): This is a youth outreach program provided by the Sierra Club that provides safe and fun wilderness trips to low-income youth, physically disabled individuals, and others with limited access to the outdoors.

Study Abroad in Seville, Spain: My senior year of college, I attended a Spanish Immersion Program in Seville, Spain where I lived with a Spanish family of four (4).

9. List names and addresses of law schools attended; degree and date awarded; your rank in your graduating class; if more than one law school attended, explain reason for change.

California Western School of Law: 225 Cedar Street San Diego, CA 92101

Dates attended: - August 2002 - May 2005

Degree: Juris Doctor

Degree Date: May 2005

Class Rank: 83/310

10. Indicate whether you were employed during law school, whether the employment was full-time or part-time, the nature of your employment, the name(s) of your employer(s), and dates of employment.

I began law school in August of 2002. Throughout law school, I worked for Professor William J. Aceves, doing research for, and editing his book, The Anatomy of Torture and working with him on briefs on *Amicus Curiae* briefs on behalf of Amnesty International, the Center for Justice & Accountability and the American Civil Liberties Union. Professor Aceves was my civil procedure professor in my first year of law school. He is a renowned human rights and civil rights attorney who has represented several human rights and civil liberties organizations as amicus curiae counsel in cases before the federal courts, including the United States Supreme Court.

Summer 2003: I returned to New York City and clerked for Judge Richard E. Braun, Jr., Supreme Court, New York County, Civil Division.

2003-2004 School year: When I returned to law school in 2003, I clerked for the United State Attorney's Office, Southern District of California.

Summer 2004: During the summer of 2004, I lived in Washington, D.C. and interned for the United States Department of Justice, Environmental and Natural Resource Division.

2004-2005 School year: I returned to and clerked for the United State Attorney's Office, Southern District of California.

Throughout law school, I also volunteered at the San Diego Center for Domestic Violence.

11. Describe significant law school activities including offices held, other leadership positions, clinics participated in, and extracurricular activities.

- Honors:** **Dean's List: Fall 2004**
Academic Honors Award for Highest Grade: Trial Practice
International Law Award: Judge Ehrenfreund, Author of The Nuremberg Legacy: How the Nazi War Crimes Trials Changed the Course of History, Palgrave Macmillan (New York, NY), 2007, chose my definition of "aggressive war: to submit to the International Criminal Court.
- Externships:** **United States Attorney's Office, Southern District of California, 2004-2005**
- Leadership:** **Co-President of Amnesty International, California Western School of Law Chapter 2003-2005**
- Activities:** **Member of Women's' Law Caucus 2002-2005**
Environmental Law Club 2003-2005
San Diego Center for Domestic Violence, Volunteer, 2002-2004

Law Practice

12. State the year you were admitted to the Nevada Bar.

2005

13. Name states (other than Nevada) where you are or were admitted to practice law and your year of admission.

California, 2006

14. Have you ever been suspended, disbarred, or voluntarily resigned from the practice of law in Nevada or any other state? If so, describe the circumstance, dates, and locations.

No

15. Estimate what percentage of your work over the last five years has involved litigation matters, distinguishing between trial and appellate courts. For judges, answer questions 16-20 for the five years directly preceding your appointment or election to the bench.

Prior to September 2019, 95% of my work was dedicated to trial litigation matters. The other 5% of my legal work was dedicated to transactional or advisory work. Within the 95% of my litigation work, 80% was trial work with the remaining 15% dedicated to appellate matters.

In the past 2 to 3 years, most of my time has been dedicated to managing judicial campaigns with 5 to 10% of my time working on pro bono litigation matters.

16. Estimate percentage of time spent on:

Legal Discipline	Percentage of Practice
Domestic/family	1
Juvenile matters	2
Trial court civil	75
Appellate civil	15
Trial court criminal	0
Appellate criminal	0
Administrative litigation	2
Transactional	5

17. In the past five years, what percentage of your litigation matters involved cases set for jury trials vs. non-jury trials?

In the past five (5) years, 50% of my civil litigation matters involved cases set for jury trial and 50% of my civil litigation matters involved cases set for bench trials.

18. Give the approximate number of jury cases tried to a conclusion during the past five years with you as lead counsel. Give the approximate number of non-jury cases tried to a decision in the same period.

In the past five years, I tried one bench trial to verdict with me acting as lead counsel. I did not try any jury trials as lead counsel; however, I was third chair on a few complex cases.

19. List courts and counties in any state where you have practiced in the past five years.

**Second Judicial District Court, Washoe County
Fifth Judicial District Court, Nye County
Eighth Judicial District Court, Clark County
Ninth Judicial District Court, Douglas County
Eleventh Judicial District Court, Humboldt County
Nevada Supreme Court
United States District Court, Nevada
United States Bankruptcy Court, Nevada**

20. List by case name and date the five cases of most significance to you (not including cases pending in which you have been involved), complete the following tables:

Case 1
Case name and date: <i>Leon Mark Kizer v. Don Damotte, Steve Dickerson, et al; November 13, 2017</i>
Court and presiding judge and all counsel: United States District Court, District of Nevada Case No. 15-cv-00120-RCJ-WGC Counsel for Plaintiff: Faegre Baker Daniels LLP and Douglas Brown, Esq. Counsel for other Defendants: Justin Clouse, Esq. of J.M. Clouse & Associates, Ltd Early Sullivan Wright Gizer & McRae LLP Dyer, Lawrence, Flaherty, Donaldson & Prunty Kelly R. Chase, Esq. Allison MacKenzie, Ltd
Importance of the case to you and the case's impact on you: This case involved a 62.76-acre parcel of land located in Gardnerville, NV that was held in trust by the United States for the benefit of Leon Mark Kizer ("Kizer") under 25 U.S.C.A. § 348 which pertains to patents held in trust on Indian lands. Kizer entered into a master leasehold agreement with a developer, PTP, Inc., which was recorded on October 13, 1997. The master lease gave PTP, inc. the right to sublease lots of the land. My 23 clients subleased lots from PTP, Inc. and built their homes on their subleased lots. In April of 2015, Kizer filed suit in the United States District Court, District of Nevada alleging the 1997 Master Lease was invalid. Kizer alleged that the Master Lease violated federal law which restricts the term of years for which Indian land can be leased. The Complaint sought a judgment that the master lease and all subsequent subleases were <i>void ab initio</i>. There were over 200 individuals who called these lots their home. Each one stood to lose their home and all the monies they invested. In addition to the claims being asserted by Kizer, prior to the case being filed, the EPA ordered Kizer, PTP (the developer) and the HOA to remedy a failing wastewater treatment system. Proceeding with litigation may have resolved the lease issue but it would have left the wastewater problem unresolved. The parties agreed to attend a 3-day mediation in Reno, Nevada. As a result of the mediation, a settlement was reached whereby Kizer would transfer all the common areas to the HOA and then the individual parcels to each of the individual defendants. The HOA, in turn, would apply for a loan from the US Department of

Agriculture to remedy the wastewater problem. Every client was able to keep their home and received a fee title interest right around the New Year, which was special for them and for me.

Your role in the case:

I represented twenty-three (23) of the individual defendant homeowners.

Case 2

Case name and date:

In re Endoscopy Center of Southern Nevada, LLC; 2009 - 2011

Court and presiding judge and all counsel:

There were hundreds of cases filed in the Eighth Judicial District Court, Clark County, Nevada. These cases were consolidated for the purposes of discovery and assigned to Judge Earl as the Administrative Hearing Officer.

Counsel for Teva: James Olson

Counsel for the Endoscopy Clinics: Lewis Brisbois

Importance of the case to you and the case's impact on you:

In February of 2008, the Southern Nevada Health District sent out notices to 40,000 patients informing them that they may have been exposed to Hepatitis C and HIV at the Endoscopy Center of Southern Nevada, LLC because of "unsafe injection practices related to the administration of anesthesia medication."

I spent a considerable amount of time communicating with our clients and developing relationships with each one. These cases taught me people skills and organization across a massive number of clients and evidence.

Your role in the case:

In January of 2009, I began working at Mainor Eglet (n/k/a Eglet Prince) and was assigned to handle Endoscopy litigation. We represented approximately 20 patients that had been infected with hepatitis C and several hundred who had not been infected but had suffered emotional distress because of the unsafe practices of the clinic and drug companies.

Case 3

Case name and date:

Henry Chanin, Lorraine Chanin v. Teva Parenteral Medicines, Inc., et al., September 8, 2008

Court and presiding judge and all counsel:

Eighth Judicial District Court, Clark County, Nevada

Judge Jesse Welsh

Counsel for Teva: James Olson, Esq. and Max Corrick, Esq. of Olson, Cannon, Gormley & Desruisseaux

Counsel for Desert Shadow Endoscopy Center, LLC: Vincent A. Cass, Esq.

Counsel for Dr. Sood and Bobbie Glass-Seran, CRNA: Lynn Marie Hansen, Esq. and Robert S. Qualey, Esq. of Jimmerson Hansen, P.C.
Counsel for Quality Care Consultants, LLC: Tom Winner, Esq. of Atkin Winner & Sherrod
Counsel for Deena Wilson, R.D.: Mike Prangle, Esq. of Hall Prangle & Schoonveld, LLC
Counsel for Baxter Healthcare Corporation: Jim Jackson, Esq. of Thorndal, Armstrong, Delk, Balkenbush & Eisinger, P.C.
Plaintiff's Counsel: Will Kemp, Esq. of Kemp, Jones & Coulthard, L.L.P.
Plaintiff's Counsel: Robert Eglet, Esq., Robert Cottle, Esq., Robert Adams, Esq., Mainor Eglet & Cottle, L.L.P.

Importance of the case to you and the case's impact on you:

Henry Chanin was the first of the patients infected by the multi-dosing with propofol at the Endoscopy Centers of Southern Nevada to go to trial. Henry contracted hepatitis C during the colonoscopy. Henry and his wife Lorraine sued Teva Parenteral Medicines and Baxter Healthcare after an investigation linked the sale of 50 ml vials of propofol from these companies to the clinics. Throughout the litigation, I formed a strong relationship with Henry, Lorraine and their two daughters. Henry and his family taught me that litigation such as this, are not about the money. They wanted to change the corporate policies of the drug manufacturers and make them take corporate responsibility for the patients' health. It also taught me the importance of and intricacies of trial preparation and procedure.

Your role in the case:

I represented the Plaintiffs and participated at jury trial.

Case 4

Case name and date:

Design 3.2 Trust v. Daniel Kennison and Maria J. Kennison; May 18, 2016

Court and presiding judge and all counsel:

Originally filed in the Eighth Judicial District Court, Clark County, NV as Case No.: A-15-713839; removed to the United States District Court, District of Nevada as Case No.: 2:15-cv-01817-JAD-CWH

Presiding Judge: Judge Jennifer A. Dorsey

Counsel for Design 3.2: James Kent, Esq.

Counsel for the Kennisons: Fidelity National Law Group

Importance of the case to you and the case's impact on you:

Daniel and Maria Kennison were a young couple that had just purchased their first house and had their first baby. Daniel recently retired from Las Vegas Metro. Daniel and Maria just recently had a baby and bought their dream home in 2009 at a bank foreclosure sale. Unfortunately, in 2009, the Homeowners Association ("HOA") also foreclosed, separately, upon the same real property. The property was sold to Design 3.2 at the HOA foreclosure sale.

The Kennisons' story and desire to hold onto their dream home tugged at my heart strings. However, the law was not on their side. This is a case that clearly depicts that a judge's role is to apply the law to the facts. The judge does not get to make the law or have discretion on how to apply it.

Your role in the case:

I was counsel for the Kennisons

Case 5

Case name and date:

Rock Springs Road, LLC v. City of Las Vegas, Roohani Kushrow, Trustee of the Kushrow Roohani Family Trust Dated November 12, 1997, et al; September 10, 2014

Court and presiding judge and all counsel:

Eight Judicial District Court, Department VIII; Case No.: A-14-706792-C

Counsel for City of Law Vegas: Deputy City Attorney, John A. Curtas, Esq.

Counsel for Roohani Kushrow, Trustee of the Kushrow Roohani Family Trust Dated November 12, 1997: Lance Earl, Esq. of Holland & Hart, LLP

Counsel for Berke Claire Living Trust and Berke Claire TRS, c/o Rock Springs Lunan Corp., c/o Lunan Corp and Clarke Berke, Trustee of the Claire Berke Living Trust Dated October 20, 1997:

Glenn F. Meier, Esq. and Rachel E. Donn, Esq. of Meier Fine & Wray, LLC

Counsel for CSFB 2004-C3 Rock Springs Drive, LLC: Douglas D. Gerrard, Esq. of Gerrard, Cox & Larsen

Importance of the case to you and the case's impact on you:

This was a fascinating case that required me to research all property transactions dating back to when the Bureau of Land Management ("BLM" issued its first patent on the relevant parcels of land. I also had to research a series of agreements that were entered into by the City of Las Vegas regarding the building of the 95 and the surrounding parcels. This entire case was a complex Rubik's cube puzzle.

On or about March 30, 2004, Plaintiff Rock Springs purchased the real property known as 1910 Rock Springs Drive, Las Vegas, NV 89128. In 1994, the City of Las Vegas granted an access and use license to the original Property Developer to a narrow strip of land immediately abutting the northwest boundary of the Property and directly abutting Rock Springs Drive (the "Encroachment Parcel"), via a written agreement between the City of Las Vegas and the Property Developer. Per the terms of the Encroachment Agreement, the Property Developer was permitted to construct a public sidewalk, a public right of way of ingress and egress into the Property, and a landscaping boundary between the Property and Rock Springs Drive. In accordance with the Encroachment Agreement, the Property Developer constructed and completed these improvements on the Encroachment Parcel during or about 1995.

Rock Springs was trying to short sell the Property to avoid foreclosure by its lender. However, a short sale was impossible because of a dispute regarding the Encroachment Parcel. The litigation pertained to whether the City of Las Vegas had an actual right to convey the license to the Property Developer in the Encroachment Agreement.

After months of working with opposing counsels to review the land patents, deeds and lease agreements, we were able to solve the Rubik’s cube. This case encapsulates that counsel, all working together despite their adversarial roles in litigation, can figure out how to resolve even the most complex problems.

Your role in the case:
Counsel for Plaintiff, Rock Springs Road, LLC

21. Do you now serve, or have you previously served as a mediator, an arbitrator, a part-time or full-time judicial officer, or a quasi-judicial officer? To the extent possible, explain each experience.

Yes. I have acted as a quasi-judicial officer by participating on the Southern Nevada Disciplinary Board. The Southern Nevada Disciplinary Board conducts screenings and hearings for the Office of Bar Counsel.

22. Describe any pro bono or public interest work as an attorney.

I have handled a few cases for the Children’s Advocacy Program.

23. List all bar associations and professional societies of which you are or have been a member. Give titles and dates of offices held. List chairs or committees in such groups you believe to be of significance. Exclude information regarding your political affiliation.

**State Bar of Nevada
 Clark County Bart Association
 State Bar of California
 Howard D. McKibben Inn of Court**

24. List all courses, seminars, or institutes you have attended relating to continuing legal education during the past five years. Are you in compliance with the continuing legal education requirements applicable to you as a lawyer or judge?

I am in compliance with all continuing legal education requirements applicable to me as a lawyer. In the last 5 years, I have attended the following course, seminars, and/or institutes related to continuing legal education:

Date	Course	Provider
09/29/2022	NJAs 46 th Annual Convention	Nevada Justice Association

09/20/2022	Ethics From the Desk of Bar Counsel	Clark Co. Bar Association
08/31/2022	Deposition Conduct Rules – Do’s & Don’ts	Clark Co. Bar Association
05/04/2022	Wellness 101	State Bar of Nevada
12/22/2021	2021 Pro Bono Credits	Legal Aid Center of So. NV
11/17/2021	What Every Lawyer Should Know About Estate Planning	Clark Co. Bar Association
11/16/2021	Diversity in the Legal Profession	Clark Co. Bar Association
10/20/2021	Redistricting in Nevada	State Bar of Nevada
10/08/2021	No One Makes It Out Unscathed: The Effects of Trauma, Stress and Bur	WestlegalCenter
10/05/2021	Hot Topics in Civil Discovery	Clark Co. Bar Association
10/05/2021	ADR: What do you Need to Know?	Clark Co. Bar Association
10/01/2021	Rudy Giuliani: An Ethical Collapse	WestLegalCenter
09/14/2021	Best Practices for Virtual Appearances	Eighth Judicial Dist. Ct. - Bench Bar
09/01/2021	Thin Walls, Smart Homes, Zoom Towns & Data Breaches: 21 Things Lawy	State Bar of Nevada
07/31/2021	Persuasive Story Vitality In & Out of the Courtroom	State Bar of Nevada
07/09/2021	Disciplinary Board Training (Production Date 8/20/19)	State Bar of Nevada
06/22/2021	Nobody Wants to be THAT Person: Avoiding Diversity, Equity, & Inclus	State Bar of Nevada
06/22/2021	A Practitioner’s Guide to the Nuts & Bolts of Negotiation	State Bar of Nevada
12/30/2020	2020 Pro Bono Credits	Legal Aid Center of So. NV
10/15/2020	Rule 35- Part of NJA 44 th Annual Convention	Nevada Justice Association
10/07/2020	NJA 44 th Annual Convention/Seminar – Hybrid	Nevada Justice Association
10/07/2020	Fear in the Courtroom & Other Obstacles, Part of NJA Virtual Convention	Nevada Justice Association
09/18/2020	Implicit Bias Against Females in the Judicial System	State Bar of Nevada
07/09/2020	Tips from Sherlock Holmes (& His Creator) on How to Become a Better	State Bar of Nevada
07/02/2020	Navigating the New Normal: How to Thrive in the Age of Millennials	State Bar of Nevada
06/19/2020	Preparation & Examination if Witnesses in Contested Dependency Hearings	Legal Aid Center of So. NV
05/15/2020	Finding a New Normal: Advocating For Children Transitioning Out of	Legal Aid Center of So. NV
05/06/2020	Financial Wellness	State Bar of Nevada
04/29/2020	Landlord Tenant Law in COVID-19: Understanding Nevada’s Eviction Sus	Legal Aid Center of So. NV
01/24/2020	Working with Child Clients: Interviewing & Counseling	Legal Aid Center of So. NV

01/17/2020	Introduction to Representing Children in Abuse & Neglect Cases	Legal Aid Center of So. NV
10/03/2019	NJA 43 rd Annual Convention	Nevada Justice Association
06/13/2019	The LLC Charging Order – The Quiet Shield of LLC Asset Protection	WestLegalCenter
06/06/2019	New Ethics Rules for Attorney Use of Social Media	WestLegalCenter
06/05/2019	Substance Abuse & Addiction in the Legal Profession	WestLegalCenter
06/05/2019	Attorney Ethics Update: New & Proposed Rules & Key Opinion	WestLegalCenter
06/04/2019	The Future of Wellness Program Compliance	WestLegalCenter
05/31/2019	Borrower or Lender Be: Trade Finance Basics	WestLegalCenter
05/30/2019	30(b)(6) Depositions: Best Practices for Use of & Defending Company	Clear Law Institute
10/04/2018	NJA 42 nd Annual Convention	Nevada Justice Association
05/03/2018	For the Love of Money: Risk Management & Ethical Considerations	WestLegalCenter
05/01/2018	Legal Ethics: New Rules for Client Due Diligence	WestLegalCenter
04/17/2018	Ethics & The Addict: Detection and Treatment of Addiction	WestLegalCenter
04/16/2018	Top 10 Legal Ethics Mistakes & How to Avoid Them	WestLegalCenter
04/02/2018	Legal Ethics: Top Ten Mistakes Attorneys Make Online	WestLegalCenter
12/20/2017	Substance Abuse Part 1: The Legal Profession	WestLegalCenter
10/17/2017	Persuasive Pre-Trial Advocacy in Title Litigation	Fidelity National Law Group
07/05/2017	Clowns to the Left of Me, Jokers to the Right, What Do I Do?	WestLegalCenter
07/03/2017	Ethics Considerations for Lawyers Regarding Technology & Trial	WestLegalCenter

25. Do you have Professional Liability Insurance or do you work for a governmental agency?

No.

Business & Occupational Experience

26. Have you ever been engaged in any occupation, business, or profession other than a judicial officer or the practice of law? If yes, please list, including the dates of your involvement with the occupation, business, or profession.

Yes. I am currently a partner in the 1909 Group, LLC, a judicial campaign management firm. Prior to attending law school, I worked in advertising in New York City. I was employed by OgilvyOne, an interactive and online advertising and marketing agency, from 1998-1999. In 1999, I moved over to

McCann Erickson where I worked on advertising accounts such as Sprint and Marriot. I was employed at McCann Erickson until a few weeks prior to attending law school in August of 2002.

27. Do you currently serve or have you in the past served as a manager, officer, or director of any business enterprise, including a law practice? If so, please provide details as to:

I am a Partner in 1909 Group, LLC.

a. The nature of the business: **1909 Group, LLC is a judicial campaign management firm responsible for managing the campaigns of candidates whose names are on the ballot for election.**

b. The nature of your duties: **As a partner of 1909 Group, LLC, my obligations include assisting with and organizing campaign events. Reviewing campaign collateral and helping with endorsements. I also have certain obligations to meet and socialize with individuals who tend to provide donations to judicial candidates so I can later introduce those individuals to the candidates I represent.**

c. The extent of your involvement in the administration or management of the business: **I was involved in the administration and management of the business when 1909 Group was first opening. However, once the campaign season began, I was not involved in the administration and management and more involved in the day-to-day business.**

d. The terms of your service: **No specific terms**

e. The percentage of your ownership: **None**

28. List experience as an executor, trustee, or in any other fiduciary capacity. Give name, address, position title, nature of your duties, terms of service and, if any, the percentage of your ownership.

I am an officer on the Board of Directors for the Pinecrest Academy of Southern Nevada charter schools. I have been on the Board of Directors since 2015.

Civic Professional & Community Involvement
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29. Have you ever held an elective or appointive public office in this or any other state?

No

Have you been a candidate for such an office?

No

If so, give details, including the offices involved, whether initially appointed or elected, and the length of service. Exclude political affiliation.

30. State significant activities in which you have taken part, giving dates and offices or leadership positions.

Pinecrest Academy of Southern Nevada – Officer on the Board of Directors (2015 – present)
Southern Nevada Disciplinary Board – Attorney Member (2020 – present)
Candlelighters Childhood Cancer Foundation of Nevada – Volunteer (2020 – present)
American Cancer Society, Cancer Action Network – State Vice Legislative Lead (2020 – 2022)
Trial by Peers program - Advising attorney (2018 – 2019)

31. Describe any courses taught at law schools or continuing education programs. Describe any lectures delivered at bar association conferences.

I have been a guest speaker at UNLV Boyd School of Law for the secured transactions and real estate class.

32. List educational, military service, service to your country, charitable, fraternal and church activities you deem significant. Indicate leadership positions.

Pinecrest Academy of Southern Nevada – Officer on the Board of Directors (2015 – present)
Candlelighters Childhood Cancer Foundation of Nevada – Volunteer (2020 – present)
American Cancer Society, Cancer Action Network – Volunteer (2020 – 2022)
Trial by Peers program – Advising attorney (2018 – 2019)
San Diego Center for Domestic Violence – Volunteer (2004 – 2005)
Sierra Club Inner City Outings – Volunteer (1997 – 2001)
Global Routes Community Service Program – Volunteer (1992 – 1993)
Pi Beta Phi Sorority - Member

33. List honors, prizes, awards, or other forms of recognition.

Nevada Business Magazine Legal Elite - Litigation
Dean's List Fall of 2004.
Academic Honors Award for highest grade in Trial Practice

34. Have you at any time in the last 12 months belonged to, or do you currently belong to, any club or organization that in practice or policy restricts (or restricted during the time of your membership) its membership on the basis of race, religion, creed, national origin or sex? If so, detail the name and nature of the club(s) or organization(s), relevant policies and practices, and whether you intend to continue as a member if you are selected for this vacancy.

No

35. List books, articles, speeches and public statements published, or examples of opinions rendered, with citations and dates.

None

36. During the past ten years, have you been registered to vote?

Yes

Have you voted in the general elections held in those years?

Yes

37. List avocational interests and hobbies.

I do a lot of volunteer work at my daughters' school, Pinecrest Academy of Nevada. This work includes the significant amount of time I contribute to my role on the Board of Directors. I also do a lot of volunteer work with Candlelighters Childhood Cancer Foundation of Nevada, Nevada Childhood Cancer Foundation, Stand Up 2 Cancer and American Cancer Society, Cancer Action Network.

I enjoy running, skiing, swimming, and getting outdoors with my family.

Conduct

38. Have you read the Nevada Code of Judicial Conduct and are you able to comply if appointed?

Yes

39. Have you ever been convicted of or formally found to be in violation of federal, state or local law, ordinance or regulation? Provide details of circumstances, charges, and dispositions.

No

40. Have you ever been sanctioned, disciplined, reprimanded, found to have breached an ethics rule or to have acted unprofessionally by any judicial or bar association discipline commission, other professional organization or administrative body or military tribunal? If yes, explain. If the disciplinary action is confidential, please respond to the corresponding question in the confidential section.

No

41. Have you ever been dropped, suspended, disqualified, expelled, dismissed from, or placed on probation at any college, university, professional school, or law school for any reason including scholastic, criminal, or moral? If yes, explain.

No

42. Have you ever been refused admission to or been released from any of the armed services for reasons other than honorable discharge? If yes, explain.

No

43. Has a lien ever been asserted against you or any property of yours that was not discharged within 30 days? If yes, explain.

Yes. A few years ago, I was representing my client in a real property dispute. The Plaintiff was pro se and filed a UCC Lien against me in the amount of \$20,000,000.00. The lien was eventually expunged and the pro se plaintiff was deemed a vexatious litigant.

44. Has any Bankruptcy Court in a case where you are or were the debtor, entered an order providing a creditor automatic relief from the bankruptcy stay (providing in rem relief) in any present or future bankruptcy case, related to property in which you have an interest?

No

45. Are you aware of anything that may require you to recuse or disqualify yourself from hearing a case if you are appointed to serve as a member of the judiciary? If so, please describe the circumstances where you may be required to recuse or disqualify yourself.

Yes. My husband is an attorney who owns his own law firm. I would have to recuse myself from any his firm's cases. Additionally, I own a second home through an LLC with Marissa and Jefferson Temple and would have to recuse myself from their cases. Finally, as a member of the Board of Directors for Pinecrest Academy of Southern Nevada, I would recuse myself from any cases involving it or its management company Academica.

Other

46. If you have previously submitted a questionnaire or Application to this or any other judicial nominating commission, please provide the name of the commission, the approximate date(s) of submission, and the result.

I submitted my application for the Eight Judicial District Court vacancy in 2019 for Department 6.

47. In no more than three pages (double spaced) attached to this Application, provide a statement describing what you believe sets you apart from your peers, and explains what education, experience, personality or character traits you possess, or have acquired, that you feel qualify you as a supreme court justice. In so doing, address appellate, civil (including family law matters), and criminal processes (including criminal sentencing).

See Attachment A

48. Detail any further information relative to your judicial candidacy that you desire to call to the attention of the members of the Commission on Judicial Selection.

Throughout my career as an attorney, I have had the privilege of practicing and focusing on every aspect of civil litigation. I truly enjoy researching and learning new areas, issues, and procedures. My experience shows that I not only excel at this, but it has become a way of life for me. I have no

doubt that I can do the same for the criminal bench. Additionally, nobody can say I am biased to one side or another because of my prior practice.

I began my career practicing insurance defense, litigating and providing coverage opinions at Alverson, Taylor, Mortensen and Sanders. I expanded my practice area and began practicing attorney malpractice defense. Attorney malpractice defense is one of the most interesting areas of law. It exposes the attorney to all different areas of law; transactional, complex litigation, personal injury – there is no limit.

At Fennemore Craig I worked on complex commercial litigation and some high-profile civil sexual assault cases. At Mainor Eglet, I worked on multi-party personal injury cases. Finally, at Fidelity National Law Group, my main focus was on real estate litigation, however, these cases included fraud, complex commercial litigation, RICO, etc.

Additionally, throughout 2020, while on sabbatical, I was diagnosed with triple negative breast cancer. While undergoing surgeries and chemotherapy, I worked tirelessly to help the Pinecrest Charter Schools turn from an in-person school to a virtual school in less than one week. We continued to research software and programs and had to prepare plans to present to the Southern Nevada Charter Authority. It was a massive effort and, yet the team at Academica and Pinecrest made it look easy.

49. Attach a sample of no more than ten pages of your original writing in the form of a decision, “points and authorities,” or appellate brief generated within the past five years, which demonstrates your ability to write in a logical, cohesive, concise, organized, and persuasive fashion.

See Attachment B

ATTACHMENT A

QUESTION NO. 47

It takes a certain type of person to make a quality judge. It is true that it requires the right kind of judicial temperament, but it also requires intellect and integrity. These traits are the cornerstone to our justice system because they make litigants, attorneys and the public feel heard and understood. I have cultivated these qualities throughout my life. First, I am an extremely patient person with a “sympathetic perseverance.” Sympathetic perseverance is the ability to be firm, yet tactful and compassionate. It is the ability to interact with people of diverse backgrounds and professions. It is determination to achieve an end goal while remaining ethical. My experiences throughout the pandemic highlight how this characteristic is inherent in who I am and qualify me to serve as a district court judge.

I have been on the Board of Directors for Pinecrest Academy of Southern Nevada for over five (5) years. When I joined the Board, Pinecrest Academy of Nevada had three (3) K-8 schools in Southern Nevada. Since joining the Board, we have grown the school system to include one school in Northern Nevada, five (5) K-8 Schools and two (2) High-Schools. We are currently building out another K-8 school that will be located near the Springs Preserve. Also, throughout the pandemic, I worked tirelessly to take our schools virtual and keep them functioning smoothly. This taught me to work with many kinds of people. It taught me how to motivate people when the world lacked motivation. Most importantly, it created a strong relationship between me and a community of parents, teachers, staff, and administrators that spans across our valley.

Second, this perseverance also plays a part in my drive to research, study and learn different areas of law. My practice over the past 15 years has been diverse. I have practiced across many different industries, and in many different areas of law, including secured transactions, HOA cases, negligence, plaintiff personal injury, personal injury defense, product liability, fraud, real estate, commercial contracts, and more. I have also practiced on different sides of the aisle. I was a defense side lawyer at Alverson, Taylor, Mortensen & Sanders and a plaintiff side lawyer at Mainor, Eglet. I have also done a significant amount of appellate work.

This experience, coupled with my diligence and determination to thoroughly learn new areas of law, will enable me to make fair and informed decisions as a district court judge.

Third, the ability to make fair opinions is crucial to being a district court judge. I always thought of “fairness” as a subjective term until I had children. The word “fair” has become a regular part of my children’s’ vocabulary. They look to me daily to determine what is fair. My household is a simple microcosm of our community. Our system of justice depends on our citizen’s faith and trust that judges will decide disputes fairly and impartially, free from bias or prejudice. I believe my experiences as a jurist, a Board Member, and a parent, afford me the ability to treat everyone with dignity and patience by listening carefully to the testimony presented.

ATTACHMENT B
QUESTION NO. 50

1 **MSJD**
 2 MARNI RUBIN WATKINS, ESQ.
 3 Nevada Bar No. 9674
 4 FIDELITY NATIONAL LAW GROUP
 5 1701 Village Center Circle, Suite 110
 6 Las Vegas, Nevada 89134
 7 Tel: (702) 667-3000
 8 Fax: (702) 243-3091
 9 Email: marni.watkins@fnf.com
 10 *Attorney for Third Party Defendants*
 11 *Fidelity National Title Insurance Company*
 12 *Chicago Title of Nevada, Inc.*

8 **DISTRICT COURT**
 9 **CLARK COUNTY, NEVADA**

10 THE MONEY SOURCE, INC.,

11 Plaintiff,

12 vs.

13 CHARTERED HOLDINGS, INC. PROFIT
 14 SHARING PLAN FR THE BENEFIT OF CARL
 15 RITTER, CAROL RITTER AS TRUSTEE AND
 16 PATRICK PATTERSON; DOES 1-10
 17 INCLUSIVE; ROES 1-10 INCLUSIVE,

18 Defendants.

18 CHARTERED HOLDINGS, INC. PROFIT
 19 SHARING PLAN FOR THE BENEFIT OF
 20 CAROL RITTER, CAROL RITTER AS
 21 TRUSTEE,

22 Third-Party Plaintiff,

23 vs.

24 FIDELITY NATIONAL TITLE INSURANCE
 25 COMPANY, a business entity of unknown origin;
 26 CHICAGO TITLE OF NEVADA, INC., a Nevada
 27 Corporation; UNITED TITLE OF NEVADA,
 28 INC., a Nevada Corporation; DOES 11-20,
 INCLUSIVE; ROES 11-20, INCLUSIVE,

Third-Party Defendants.

Third-Party Defendants, FIDELITY NATIONAL TITLE INSURANCE COMPANY
 ("Fidelity Title"), CHICAGO TITLE OF NEVADA, INC. ("Chicago Title") and UNITED

Case No.: A-17-749645-B

Dept. No.: XI


THIRD-PARTY DEFENDANTS'
MOTION FOR PARTIAL SUMMARY
JUDGMENT AGAINST CHARTERED
HOLDINGS, INC., PROFIT SHARING
PLAN FOR THE BENEFIT OF
CAROL RITTER, CAROL RITTER
AS TRUSTEE AND CHARTERED
REALTY IV REGARDING THE
CLAIM FOR PUNITIVE DAMAGES

1 TITLE OF NEVADA, INC. (“United Title”) (jointly “Third-Party Defendants”) by and through
 2 their attorneys of record, Fidelity National Law Group, hereby files this Motion for Partial
 3 Summary Judgment (“Motion”) against Chartered Holdings, Inc. Profit Sharing Plan For The
 4 Benefit of Carol Ritter, Carole Ritter As Trustee’s (“Chartered Holdings”) and Chartered Realty
 5 IV (“Chartered Realty”) on their claim for punitive damages.

6 This Motion is based upon the following Points and Authorities, all pleadings and
 7 papers on file herein, and any oral argument allowed by this Court at the time of the hearing on
 8 this matter.

9 DATED this 8th day of January, 2019.

FIDELITY NATIONAL LAW GROUP


 MARNI RUBIN WATKINS, ESQ.
 Nevada Bar No. 9674
 1701 Village Center Circle, Suite 110
 Las Vegas, Nevada 89134
*Attorney for Third Party Defendants
 Fidelity National Title Insurance Company
 Chicago Title of Nevada, Inc.*

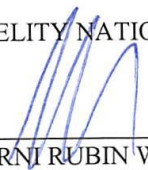
NOTICE OF HEARING

TO: ALL INTERESTED PARTIES:

18 Please take notice that the undersigned will bring on the foregoing Motion for Summary
 19 Judgment for hearing on the ____ day of _____, 2019, at the hour of ____ m., before the
 20 above entitled court. You are invited to attend.

21 DATED this 8th day of January, 2019.

FIDELITY NATIONAL LAW GROUP


 MARNI RUBIN WATKINS, ESQ.
 Nevada Bar No. 9674
 1701 Village Center Circle, Suite 110
 Las Vegas, Nevada 89134
*Attorney for Third Party Defendants
 Fidelity National Title Insurance Company
 Chicago Title of Nevada, Inc.*

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

There is no evidence of any fraud, malice, or oppression on the part of United Title, Chicago Title or Fidelity Title. United Title no longer exists and did not handle an escrow transaction to which the pension plan, Chartered Holdings, was a party. It merely recorded the Deed of Trust, “as an accommodation only with no liability” for Chartered Holdings’ attorney. Chicago Title just acquired United Title. Fidelity Title has no relationship, whatsoever, with either Chartered entity, so is not properly a party to this action.

Regardless of what United Title allegedly did or did not do, the genesis of this entire lawsuit is Chartered Holdings, Inc.’s refusal to release its fully satisfied deed of trust. It is undisputed that Chartered Holdings’ was paid in full by 2001. Exhibit A, Declaration of Ward Ritter, ¶ 17.¹ But, when asked to release its deed of trust from a single lot to clear title for lender plaintiff Money Source’s foreclosure in 2016, Chartered Holdings’ trustee refused to do so unless the Money Source paid it thousands of more dollars. . Even Chartered Holdings’ expert, Dale Puhl, acknowledges that a beneficiary under a deed of trust, like Chartered Holdings, is not only able to execute a release and reconveyance but must release a deed of trust when paid in full. Exhibit B, Puhl Deposition, 37:02-09; 40:17-24; cf. NRS 107.077(1). The Money Source only commenced this quiet title action because Chartered Holdings refused to execute a release in 2016. Exhibit C, Deposition of Ruth Hernandez,² P.12:6-18. Moreover, Chartered Holdings’ only claim to compensatory damages are the attorneys’ fees it has incurred in this case. Accordingly, Third-Party Plaintiffs cannot meet the clear and convincing burden of proof or establish, under any circumstances, that United Title, Chicago Title or Fidelity Title is guilty of oppression, fraud, malice or which proximately caused the alleged damages. So, the third-party defendants are entitled to summary judgment on third party plaintiffs’ punitive damage claim.

¹ Ward Ritter is the Person Most Knowledgeable for both of the Third-Party Plaintiff Chartered Entities.

² Ruth Hernandez is the Person Most Knowledgeable for The Money Source.

1 **II. STATEMENT OF UNDISPUTED FACTS**

2 **A. Relevant Background Facts**

3 In 1998, Chartered Holdings, a self-directed profit sharing plan loaned Chartered Realty
 4 Partners IV \$290,000 for construction of Chartered Realty's 606 lot Spring Valley Ranch
 5 development. Exhibit D, DOT. The loan was secured by a deed of trust drafted by the
 6 Chartered entities' counsel which encumbered 55 of the 606 lots in Spring Valley Ranch (the
 7 "Deed of Trust"). Id.; Exhibit E, S. Turner P. 9:15-25; 11:21-25; 12:23-25; 13:3-25; 14-1-25;
 8 15:1-25; 16:1-17. Exhibit F, Rice 14; 23:02-07. At the time, United Title was handling escrows
 9 for Chartered Realty's Spring Valley Ranch lot sales to third party home-buyers but there was
 10 no escrow opened for the Chartered to Chartered loan transaction. Exhibit F; Rice 18:12- 24.
 11
 12 Instead, United Title merely recorded the Deed of Trust "AS AN ACCOMMODATION ONLY
 13 WITH NO LIABILITY" Exhibit D, DOT; Exhibit G, Declaration of Lisa Engelman. Exhibit
 14 H, Deposition of PMK of United Title and Chicago Title, P.19:9-20; P. 21:17-25; 22:1-2.
 15 Exhibit I, PMK of Fidelity, P. 22:23-25; P. 23:1-9; 28:10-22. Exhibit J, Deposition of James
 16 Bennett, P.25:12-25; P.26:1-25; 27:1-25; 28:1-2.³ United Title was unilaterally designated as
 17 "Trustee" under the Deed of Trust by counsel for Chartered but there was no agreement
 18 between Chartered Holdings and United Title regarding the terms under which United Title
 19 was expected to serve as Trustee and, in particular, there was no agreement regarding what
 20 compensation United Title would receive for services rendered as trustee under the Deed of
 21 Trust. United Title was, in fact, not paid for services as trustee by Chartered Holdings. Exhibit
 22 K, Deposition of Ward Ritter, P. 94, 11-25; 95:1.
 23
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28 ³ The original Deed of Trust was returned to Chartered Holdings' counsel after it was recorded. Id.

1 Chartered Holdings did not purchase or receive a lender's policy of title insurance.⁴
 2 Exhibit G, Declaration of Lisa Engelman. Exhibit H, Deposition of PMK of United Title and
 3 Chicago Title, P.19:9-20; P. 21:17-25; 22:1-2. Exhibit I, PMK of Fidelity, P. 22:23-25; P. 23:1-
 4 9; 28:10-22. Exhibit J, Deposition of James Bennett, P.25:12-25; P.26:1-25; 27:1-25; 28:1-2;
 5 Exhibit L, Deposition of Robert Cannata, P.29-301-14. According to Mr. Ritter, principal of
 6 both Chartered entities, the loan "was not an arms' length transaction" so he did not, at the
 7 time, feel the need for a title policy. Exhibit K, Deposition of Ward Ritter, 86:05-17.

9 Chartered Realty sold all the Spring Valley Ranch home lots, repaid Chartered Holdings
 10 in full, and concluded its relationship with United Title by 2001.⁵ Exhibit K, Deposition of
 11 Ward Ritter; P.106:12-20; 181:4-25; 182:2-8. Exhibit A, Declaration of Ward Ritter, ¶17.
 12 Chartered Holdings was obligated to release the Deed of Trust within 21 days of payment but
 13 did not. N.R.S 107.077(1); Exhibit B, Puhl, p. 37. The ongoing encumbrance by the Deed of
 14 Trust, however, did not prevent or delay the sale of any of the homes in the Spring Valley
 15 Ranch development during the 15 years that followed. In or about August 2016, however, the
 16 lender, Plaintiff Money Source, Inc., was foreclosing upon Spring Valley Ranch Lot 41, and
 17 requested that Chartered Holdings release its Deed of Trust from Lot 41 of Spring Valley
 18 Ranch. Chartered Holdings trustee, Ward Ritter, refused and demanded payment \$2,500 before
 19 signing a reconveyance. Exhibit M, CHTD0000083-88, at CHTD000088; Exhibit N,
 20 Declaration of Stephen Butler, ¶¶ 3-16. Ritter also confirmed to the Money Source that the
 21
 22
 23

24 ⁴ Although Chartered Holdings' complaint vaguely alleges a policy or policies exist, Chartered does not produce a
 25 copy of any alleged policy, cannot or will not identify the form or terms of the policy and cannot identify the
 26 underwriter that is allegedly bound by the policy. Exhibit K, Ritter Deposition, P. 49:6-15; 86:5-17; 95:7-
 27 21; 101:3-25; 102:1-19; Exhibit B, Puhl Deposition, 25:3-25; 26:1-5.

28 ⁵ Chartered Realty was a single purpose entity created for the acquisition and development of Spring Valley Ranch.
 Exhibit L, Ritter Deposition, 21:20-24. Chartered Realty's principal activities ceased in 2001. *Id.* at 19:22-20:3.
 Chartered Realty's status with the Nevada Secretary of State was "cancelled" for many years until it was made
 "active" in August, 2018, solely for "purposes of this litigation". *Id.* at 20:04-21:13.

1 Deed of Trust was satisfied and paid in full but Money Source, nonetheless, offered to pay
2 Chartered Holdings \$500 for reconveyance. Exhibit O, TC_00116-117. Ritter, however,
3 proclaimed \$500 “not acceptable”, renewed his demand for \$2,500 payment and warned that
4 the price for reconveyance would go up to “\$3000” after “5 days”. Id at TC_00117. Ritter also
5 admonished “please do not contact me any further on this matter as I will consider it closed.”
6 Id. Because Mr. Ritter refused to release and reconvey the Deed of Trust as to Lot 41, Money
7 Source commenced this action against Chartered Holdings on January 17, 2017. Exhibit K,
8 Ward Ritter depo, P. 11:10-21, 23-25, 12:1-18. Chartered Realty is not named as a defendant in
9 this action. See, Money Source January 17, 2017, Complaint For Quiet Title.
10

11
12 In spite knowing it had been paid in full over 15 years before, Chartered Holdings filed
13 a *verified* responsive pleading: falsely denying the fact that the Deed of Trust was satisfied or
14 paid in full; asserting 25 affirmative defenses; praying that Money Source be denied any relief;
15 and asserting 7 claims against the third-party defendants. See, Chartered Holdings, April 7,
16 2017, Answer and Third-Party Complaint. Also, importantly, Chartered Holdings subsequently
17 amended its Third-Party Complaint on October 19, 2018, to add Chartered Realty as a third-
18 party plaintiff allegedly because the other 54 lots subject to the Deed of Trust were not released
19 but, in fact, no subsequent lender, or owner of any of those other 54 lots, had ever made a
20 claim, demand or complaint with regard to release of the Deed of Trust. Moreover, Chartered
21 Holdings executed a Substitution of Trustee and Reconveyance of Deed of Trust, releasing
22 those lots in September, 2018 - *one month before* filing of its Verified First Amended Answer
23 and Third-Party Complaint. Exhibit P. Moreover, Chartered’s recently amended and verified
24 pleading reiterates its false denial of payment and satisfaction of the Deed of Trust and the
25 frivolous claim that Money Source’s is not entitled to clear title to Lot 41.
26
27
28

1 Third-party plaintiffs seek punitive damages pursuant to NRS 42.005 under their
2 “SIXTH THIRD-PARTY CLAIM (Breach of the Implied Covenant of Good Faith and Fair
3 Dealing)”.

4 **III. LEGAL STANDARD FOR A MOTION FOR SUMMARY JUDGMENT**

5 “Summary judgment is appropriate and ‘shall be rendered forthwith’ when the
6 pleadings and other evidence on file demonstrate that no ‘genuine issue as to any material fact
7 [remains] and that the moving party is entitled to a judgment as a matter of law.’” Wood v.
8 Safeway, Inc., 121 Nev. 724, 729, 121 P.3d 1026, 1029 (2005). “While the pleadings and
9 other proof must be construed in a light most favorable to the nonmoving party, that party bears
10 the burden to ‘do more than simply show that there is some metaphysical doubt’ as to the
11 operative facts in order to avoid summary judgment being entered in the moving party’s favor.”
12 Wood, 121 Nev. at 732, 121 P.3d at 1031 quoting Matsushita Elec. Indus. Co., Ltd. V Zenith
13 Radio Corp., 475 U.S. 574, 586 (1986). Also, the “The nonmoving party ‘must, by affidavit or
14 otherwise, set forth specific facts demonstrating the existence of a genuine issue for trial or
15 have summary judgment entered against him.’” .” Wood, 121 Nev. at 732, 121 P.3d at 1031
16 quoting Bulbman, Inc. v. Nevada Bell, 108 Nev. 105, 110, 825 P.2d 588, 591 (1992). “The
17 nonmoving party ‘is not entitled to build a case on the gossamer threads of whimsy,
18 speculation, and conjecture.’” Wood, 121 Nev. at 732, 121 P.3d at 1031 quoting Bulbman,
19 Inc. v. Nevada Bell, 108 Nev. at 110, 825 P.2d at 591 quoting Collins v. Union Federal Sav. &
20 Loan Ass’n, 99 Nev. 284, 302, 662 P.2d 610, 621 (1983).

21 **IV. THIRD-PARTY PLAINTIFFS ARE NOT ENTITLED TO PUNITIVE**
22 **DAMAGES**

23
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25
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27 The only claim for which the Chartered entities seek NRS 42.005 punitive damages is
28 under their Sixth Claim which alleges that all third-party defendants breached the implied

1 covenant of good faith and fair dealing in various purported agreements because they “knew or
 2 should have known” the Deed of Trust was not released and they did not “convey that
 3 information to each Third-Party.” First Amended Third-Party Complaint, ¶ 167. Punitive
 4 damages under NRS 42.005, however, “are not available for contract-based causes of action.”
 5 Peri & Sons Farms, Inc. v. Jain Irr., Inc., 933 F. Supp. 2d 1279, 1294 (D. Nev. 2013). The
 6 defendant’s conduct must exceed “mere recklessness or gross negligence.” Prestige of Beverly
 7 Hills, Inc. v. Weber, 128 Nev. 927, 6 , 381 P.3d 652 (2012)(quoting Wyeth v. Rowatt, 126
 8 Nev. 446, 244 P.3d 765 (2010)(quoting Countrywide Home Loans v. Thitchener, 124 Nev.
 9 725, 743, 192 P.3d 243, 255 (2008)). For an award of punitive damages there must be proof of
 10 motive and intent to violate a duty. See, Allstate Ins. Co. v. Miller, 125 Nev. 300, 314, 212
 11 P.3d 318, 328 (2009). So, punitive damages “are only available for *tort* claims in which
 12 ‘oppression, fraud or malice, express or implied’ can be proven by clear and convincing
 13 evidence.” Peri & Sons, 933 F.Supp.2d at 1294.

14
 15 **A. The Chartered Entities Do Not Have A Tort Claim For Breach of the
 16 Covenant of Good Faith and Fair Dealing.**

17
 18 Regardless, of the alleged breach of implied covenants by Third-Party Defendants,
 19 Nevada law only recognizes an action in tort “in rare and exceptional cases.” Ins. Co. of the W.
 20 v. Gibson Tile Co., Inc., 122 Nev. 455, 461, 134 P.3d 698, 702 (2006). There must be a
 21 “special relationship” “characterized by elements of public interest, adhesion and fiduciary
 22 responsibility” where there “is a need to protect the weak from insults of the stronger that is not
 23 adequately met by ordinary contract damages.” Id. (citations omitted)

24
 25 **1. With Regard to Release of the Deed of Trust, United Title Was
 26 Merely a “Common Agent” for the Chartered Entities Under the
 27 Deed of Trust.**

28
 29 As detailed above, there was no escrow opened for the Chartered to Chartered loan. The
 30 Deed of Trust was recorded as an “accommodation,” aka favor, by United Title. United Title
 31 was designated as “Trustee” but a trustee under a deed of trust is not a typical common-law

1 trustee with fiduciary duties but rather a common agent whose obligations are governed by the
2 deed of trust and NRS Chapter 107. Indeed, NRS 107.028(6) specifically provides the “trustee
3 [under a deed of trust] does not have a fiduciary obligation to the grantor or any other person
4 having an interest in the property which is subject to the deed of trust.”
5

6 As shown, Chartered Holdings did not purchase or receive a title insurance policy from
7 any of the Third-Party Defendants. Accordingly, no claim can be made against the Third-Party
8 Defendants as an insurer. See, Bergerud v. Progressive Cas. Ins., 453 F. Supp. 2d 1241, 1251
9 (D. Nev. 2006)(“[A] plaintiff must have a contractual relationship with an insurer to assert a
10 bad faith claim.”)
11

12 United Title did handle escrows for the sale of Spring Valley lots from Chartered Realty
13 to home buyers, **but the pension plan, Chartered Holdings, was not party to those escrows.**
14 An escrow agent has only a “limited agency relationship with the *parties to the escrow*. Mark
15 Properties, Inc. v. Nat'l Title Co., 117 Nev. 941, 946, 34 P.3d 587, 591 (2001), opinion
16 reinstated on reh'g (Nov. 26, 2001) (emphasis added). Moreover, Nevada law limits an escrow
17 agent's duty to compliance with the parties' escrow instructions; the agent had no general duty
18 to police the affairs of the parties. Id. United Title did not provide any escrow instructions to
19 Chartered Holdings. So, United Title was not an escrow agent for Chartered Holdings and,
20 therefore, owed no duty as escrow agent to Chartered Holdings for any escrow. Moreover,
21 without an escrow contract, Chartered Holdings has no claim for breach of the covenant of
22 good faith and fair dealing. Sands Regent v. Valgardson, 105 Nev. 436, 777 P.2d 898, 899
23 (1989) (“[i]mplying a covenant of good faith and fair dealing presupposes the existence of a
24 contract.”).
25
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1 **2. There is No “Special Relationship” between the Chartered Entities**
2 **and the Third-Party Defendants.**

3 As shown, the tort for breach of the covenant of good faith and fair dealing is only
4 recognized if there is a special relationship between the parties which implicates the public
5 interest and must be imposed to protect weak and vulnerable parties from inadequate remedy in
6 contract. See, Ins. Co. of the W. v. Gibson Tile Co., Inc., 122 Nev. 455, 461, 134 P.3d 698, 702
7 (2006). For example, tort liability is often denied where agreements have been heavily
8 negotiated and the aggrieved party was a sophisticated businessman. See, Great Am. Ins. Co. v.
9 Gen. Builders, Inc., 113 Nev. 346, 355, 934 P.2d 257, 263 (1997).

11 According to Chartereds’ own attorney, Ward Ritter is an experienced and sophisticated
12 real estate developer. Exhibit F, Rice Deposition, P9:20-10:01. Third-Party Plaintiffs were not
13 required to select United Title as trustee under the Deed of Trust. Chartered Holdings could
14 also substitute the trustee at any time under the terms of the Deed of Trust. Moreover, by the
15 terms of the Deed of Trust, Chartered Holdings retained all control – United Title could not
16 release or reconvey the Deed of Trust, partially or in full, without “written request” from
17 Chartered Holdings. Exhibit D, DOT. Thus, Chartered Holdings retained the right to control
18 any release and reconveyance as well as the ability to release and reconvey.

20 Similarly, Chartered Realty was not required to select United Title to serve as escrow
21 agent for lot sales to home-buyers. Again, any agreement between Chartered Realty and United
22 Title creates only a limited agency relationship confined by the terms of the escrow agreement
23 and instructions. Mark Properties, Inc. v. Nat’l Title Co., 117 Nev. at 946, 34 P.3d at 591
24 (2001).

26 Third-Party Plaintiffs are, in any event, adequately protected by ordinary contract
27 damages. They claim no other. The Person Most Knowledgeable for the profit sharing plan and
28

1 Chartered Realty, Ward Ritter, testified that Third-Party Plaintiffs have not incurred any
 2 monetary damages except for the cost of this litigation. Exhibit K, Deposition of the Person
 3 Most Knowledgeable for Third-Party Plaintiffs, P. 210:13-25; 211:1-24. ⁶ With the exception
 4 of the prayer for punitive damages, the SECOND THIRD-PARTY CLAIM (Breach of
 5 Contract) and THIRD THIRD-PARTY CLAIM (Contractual Indemnity) requests relief
 6 identical to that prayed for in the SIXTH THIRD-PARTY CLAIM for Breach of the Implied
 7 Covenant of Good Faith and Fair Dealing. In any event, any such *ex contractual* damages are
 8 barred by the economic loss rule. The economic loss doctrine prevents a plaintiff from asserting
 9 contract claims “cloaked in the language of a tort.” Giles v. General Motors, 494 F.3d 865, 872
 10 (9th Cir. 2007). Cf. Blotzke v. Christmas Tree, Inc., 88 Nev. 449 (1972). The economic loss
 11 doctrine further bars breach of fiduciary duty claims premised on a contractual relationship. See
 12 G.K. Las Vegas Limited P'ship v. Simon Prop. Group, Inc., 460 F. Supp. 2d 1222, 1242 (D.
 13 Nev. 2006).

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 16 Accordingly, there is simply no justification or basis for tort damages from breach of
 17 implied contractual obligations. Without a claim for the tort of breach of implied covenant of
 18 good faith and fair dealing, the Third-Party Plaintiffs are not entitled to an award of punitive
 19 damages. Peri & Sons Farms, F. Supp. 2d at 1294.

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 21 **B. The Chartered Entities Do Not Have A Tort Claim For Breach Of**
 22 **Fiduciary Duty**

23 “In Nevada, a claim for breach of fiduciary duty has three elements (1) existence of a
 24 fiduciary duty; (2) breach of the duty; and (3) the breach proximately caused the damages.”
 25 Walker v. State Farm Mutual Automobile Insurance Company, 259 F.Supp.3d 1139, 1150 (D.
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27 ⁶ On page 6 of Third-Party Plaintiffs’ Reply in support of their Motion to Compel, counsel admits that the only
 28 damages incurred by his clients are: “statutorily proscribed attorney’s fees and costs incurred in compelling the
 Fidelity Parties’ adherence to the obligation of the Deed of Trust and NRS 107.077, as well as, the \$1,000.00 per lot
 statutory fine totaling \$54,000.00, as well as, the punitive damages averred in the TP Complaint.”

1 Nev. 2017) (quoting Klein v. Strategic Partners, LLC, 595 F.Supp.2d 1152, 1162 (D. Nev.
2 2009).

3 Third-Party Plaintiffs cannot prove that they have suffered any actual damages that were
4 not self-inflicted. Chartered Holdings was paid in full on the debt secured by the Short Form
5 Deed of Trust and Assignment of Rents that is the subject of the Amended Complaint. As
6 explained by Stephen Butler in his email to counsel for the Money Source, "there is currently
7 no compensable loss being suffered." Exhibit N, Exhibit 3, STG00001, of Declaration of
8 Stephen Butler. The attorney's fees and costs claimed by Chartered Holdings **could have**
9 **wholly been avoided.** Those fees and costs need not have been incurred. When Mr. Ritter was
10 contacted by Benny Chang of Trustee Corp. he could have simply checked his records to
11 determine if Chartered Holdings had been paid and if so executed the Release and
12 Reconveyance provided to him. He refused. He failed to mitigate damages.
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15 Once The Money Source sued Chartered Holdings, Chartered Holdings could have
16 executed and recorded a Substitution of Trustee and Deed of Reconveyance to release the deed
17 of trust on all of the parcels. They did not. Instead, they contacted claims and began threatening
18 litigation. They moved forward and filed the Amended Complaint claiming damages that do not
19 exist, or are and were entirely avoidable with a simple signature. Chartered Holdings has not
20 suffered any actual damages. As such, as a matter of law, Third-Party Plaintiffs cannot prove
21 breach of fiduciary duty.
22

23 **C. There is No Evidence of Oppression, Fraud Or Malice.**

24 As provided by NRS 42.005(1), for an award of punitive damages, oppression, fraud or
25 malice must be proven by clear and convincing evidence. Clear and convincing evidence is
26 "evidence establishing every factual element to be highly probable" and evidence "so clear as to
27 leave no substantial doubt". In re Discipline of Drakulich, 111 Nev. 1556, 1567, 908 P.2d 709,
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1 715 (1995)(citations omitted). "Oppression' means despicable conduct that subjects a person
2 to cruel and unjust hardship with conscious disregard of the rights of the person." NRS
3 42.001(4). For purposes of punitive damages, "Fraud' means an intentional misrepresentation,
4 deception or concealment of a material fact known to the person with the intent to deprive
5 another person of his or her rights or property or to otherwise injure another person." NRS
6 42.001(2). "Malice, express or implied' means conduct which is intended to injure a person or
7 despicable conduct which is engaged in with a conscious disregard of the rights or safety of
8 others." NRS 42.001(2).
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10 **1. United Title/Chicago Title**

11
12 In 1998, United Title recorded the Deed of Trust with the stamp "AS AN
13 ACCOMMODATION ONLY WITH NO LIABILITY" Exhibit D, DOT; Exhibit G,
14 Declaration of Lisa Engelman. Exhibit H, Deposition of PMK of United Title and Chicago
15 Title, P.19:9-20; P. 21:17-25; 22:1-2. Exhibit I, PMK of Fidelity, P. 22:23-25; P. 23:1-9; 28:10-
16 22. Exhibit J, Deposition of James Bennett, P.25:12-25; P.26:1-25; 27:1-25; 28:1-2. The Deed
17 of Trust was drafted by Chartered and returned to Chartered's attorney after recording.
18

19 Chartered Realty sold out the Spring Valley Ranch subdivision in 2001. Chartered
20 Holding was paid in full by 2001. There is, of course, a dispute as to who was obligated to
21 release and reconvey the deed of trust but according to NRS 107.077(1) Chartered Holdings, as
22 beneficiary of the deed of trust, was, within 21 days of payment, required to give the trustee
23 "written notice" of satisfaction, deliver the original note and executed request to reconvey to the
24 trustee. Similarly, the Deed of Trust required that Chartered Holdings give "written request" to
25 release before the trustee had authority to release. There is simply no evidence that that
26 occurred. Indeed, the contrary is true. Regardless, at all times relevant hereto, Chartered
27
28

1 Holdings retained not only the right to release and reconvey but also the obligation. Exhibit D,
2 DOT, Section 9, 12 and Section 2 in Rider to the Deed of Trust.

3 The alleged wrongdoing on the part of United Title is not telling Chartered Holdings or
4 Chartered Realty that the Deed of Trust was not released. But, the defendant's conduct must
5 exceed "mere recklessness or gross negligence." Prestige of Beverly Hills, 128 Nev. 927, 381
6 P.3d 652 (2012). First, there must be proof that United Title had a duty to inform third-party
7 defendants. There must also be proof of motive and intent to violate a duty. See, Allstate Ins.
8 Co. v. Miller, 125 Nev. 300, 314, 212 P.3d 318, 328 (2009). There is simply no evidence of
9 despicable conduct or intent to harm either Chartered Holdings or Chartered Realty. And there
10 is certainly no evidence of intent to harm, despicable conduct or any profit from the alleged
11 concealment. Indeed, whether or not a release and reconveyance is recorded is a matter of
12 public record. As has been shown, there was no harm or complaint arising from the Deed of
13 Trust during the 15 years following the satisfaction of Chartered Holding's Deed of Trust.
14 Again, Chartered Holdings retained the right and ability to release the Deed of Trust throughout
15 that period of time if an issue came up. This entire action would also have been avoided,
16 entirely, if Chartered Holdings simply agreed to release the Deed of Trust to Lot 41 as Plaintiff
17 Money Source requested in 2016. That refusal is what cause Chartered Holdings to be sued.

18 Chartered Realty did not face any risk. In fact, no one ever made a claim against it for
19 the Deed of Trust. It ceased operation after 2001 and was only reactivated for the purpose of
20 this litigation to assert claims against United Title. Exhibit K, Deposition of Ward Ritter, p.
21 20:8-25; 21:1-25.

22 Stated simply, Third-Party Plaintiff have not and cannot meet the clear and convincing
23 standard for an award of punitive damages.
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2. Fidelity Title

As a separate motion for summary judgement will set forth in greater detail, Fidelity Title is not properly a party to this litigation. Fidelity Title is a company that solely provides escrow and title services but did not provide any such services to the Chartered entities. Fidelity Title did not issue a title policy to either Chartered entity. Fidelity Title does not handle claims made under any title policies. Fidelity Title is not a parent corporation or a successor in liability by merger with either United Title of Nevada, Inc. or Chicago Title of Nevada, Inc. Exhibit Q, Affidavit of Madeline Lovejoy. Fidelity Title, in fact, has no relationship of any kind with either Chartered Holdings or Chartered Realty. Accordingly, Third-Party Plaintiffs are not entitled to an award of punitive damages pursuant to NRS 42.005 under any circumstances alleged in the complaint.

V. ALTERNATIVELY, ANY PUNITIVE DAMAGE AWARD MUST BE CAPPED AT \$300,000

In any action, not arising from contract, NRS 42.005 also caps punitive damages to (a) “[t]hree times the amount of compensatory damages awarded to the plaintiff if the amount of compensatory damages is \$100,000 or more; or (b) three hundred thousand dollars if the amount of compensatory damages awarded to the plaintiff is less than \$100,000.” There are exceptions to the cap but none apply here. Accordingly, in the event this Court determines there is an issue of fact regarding punitive damages, those damages, if any, must may not exceed \$300,000. As such, Third-Party Defendants can pay this amount and disclosure of financial documents, records and filings is unnecessary.


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1 **VI. CONCLUSION**

2 Based on the above arguments, Third-Party Defendants respectfully request that
3 Summary Judgment be granted.

4 DATED this 21st day of January, 2019.

FIDELITY NATIONAL LAW GROUP


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