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7 Attorneys for Defendant

## 8 UNITED STATES DISTRICT COURT

## 9 DISTRICT OF NEVADA

10  
11 HERIBERTO PLAZA, JR., an individual,

12 Plaintiff,

13 v.

14 GEICO GENERAL INSURANCE COMPANY;  
DOES I through X, inclusive; ROE  
15 CORPORATIONS I through X, inclusive,

16 Defendants.

CASE NO. 2:19-cv-1954-JCM-NJK

**PROPOSED JOINT PRE-TRIAL ORDER**17  
18 After pretrial proceedings in this case,

19 IT IS SO ORDERED:

20 **I.**

21 This is an action for:

22 This is an action for breach of contract and bad faith arising out of an insurance policy for  
23 underinsured motorist (“UIM”) coverage.24 Plaintiff’s Complaint brings forth causes of action against Defendant for breach of contract,  
25 unfair claims practice violations, and breach of the covenant of good faith and fair dealing based on  
26 damages Plaintiff alleges arise out of injuries sustained in an automobile accident occurring on or  
27 about February 24, 2018.

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3 Defendant filed a Motion to Dismiss with the Court on November 14, 2019. The Court issued  
4 an Order on January 2, 2020, dismissing Plaintiff's claims for bad faith and unfair claims practices  
5 without prejudice. Plaintiff did not file an amended complaint.

6 Plaintiff's Complaint seeks relief in the form of general, special, and punitive damages,  
7 prejudgment interest, reasonable attorney fees, costs of suit, and for such other and further relief as the  
8 Court deems proper.

9 Defendant submits that it has not breached the policy with Plaintiff in relation to any UIM  
10 benefits.

11 **II.**

12 Statement of jurisdiction:

13 This action was originated by the filing of a Complaint in the Eighth Judicial District Court,  
14 Clark County, Nevada on October 3, 2019. Defendant removed the case from State Court to Federal  
15 Court on November 7, 2019, citing diversity between the parties and that this Court has jurisdiction of  
16 the matter under 28 U.S.C. § 1332 and 28 U.S.C. § 1441(b).

17 **III.**

18 The following facts are admitted by the parties and require no proof:

- 19 1. Plaintiff was involved in an automobile accident on September 3, 2014;
- 20 2. The underlying tort carrier possessed policy limits in the amount of \$15,000.00, for  
21 which GEICO is entitled to claim an offset;
- 22 3. At the same time and place, Plaintiff was insured by Defendant with applicable  
23 underinsured motorist ("UIM") limits of \$300,000.00 per person and \$300,000.00 each  
24 occurrence. The policy provisions are incorporated herein by this reference; and
- 25 4. On July 24, 2019, Plaintiff demanded payment of the UIM policy limit.

26 **IV.**

27 The following facts, though not admitted, will not be contested at trial by evidence to the contrary:

28 None at this time.

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V.

The following are the issues of fact to be tried and determined at trial: Amount of Plaintiff's entitlement to contractual underinsured motorist benefits under the breach of contract cause of action under his UIM policy as a result of injuries sustained in the September 3, 2014, motor vehicle accident.

VI.

The following are the issues of law to be tried and determined at trial.

1. None. The relevant areas of law are settled.

(a) The following exhibits are stipulated into evidence in this case and may be so marked by the clerk:

1. Henderson Police Report (conclusions of fault and private information redacted);
2. Photographs;
3. Advanced Orthopedics and Sports Medicine Billing and Records
4. American Toxicology Billing and Records
5. CareNow Billing and Records
6. Desert Institute of Spine Care Billing and Records
7. Las Vegas Radiology Billing and Records
8. Pueblo Medical Billing and Records
9. Rapid Rehab Billing and Records
10. Ross Medical Billing and Records
11. Seven Hills Surgery Center Billing and Records
12. Shields Family Dentistry Billing and Records
13. Valley Anesthesiology Billing and Records
14. Valley Pain and Injury Specialists Billing and Records
15. WellCare Pharmacy Billing

PROPOSED JOINT PRE-TRIAL ORDER  
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- 16. Advanced Orthopedics & Sports Medicine Images
- 17. Desert Institute of Spine Care Images
- 18. Las Vegas Radiology Images
- 19. Pueblo Medical Imaging Images

(b) As to the following additional exhibits, the parties have reached the stipulations stated:

(1) Set forth stipulations on Plaintiff’s exhibits.

None at this time.

(2) Set forth stipulations on Defendant’s exhibits.

None at this time.

(c) As to the following exhibits, the party against whom the same will be offered objects to their admission on the grounds stated:

None.

(d) Electronic evidence: The parties do not intend to present any electronic evidence for purposes of jury deliberations at this time.

(e) Depositions: None at this time.

(f) Objections to Depositions: The parties object to the use of deposition transcripts and videotaped depositions of any witnesses offered by the parties, to the extent allowable by the rules of evidence, and consistent with the rules of unavailability.

**VII.**

The following witnesses may be called by the parties at trial, though both parties reserve the right to call any witness identified herein by the opposing party:

(a) Provide names and addresses of Plaintiff’s witnesses.

- 1. Heriberto Plaza, Jr.  
c/o Clear Counsel Law Group  
1671 West Horizon Ridge Parkway, Suite 200  
Las Vegas, NV 89012

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2. Advanced Orthopedics & Sports Medicine  
30(b)(6) Designee, Person Most Knowledgeable, Custodian of Records  
Michael Trainor, D.O.  
8420 West Warm Springs Road, Suite 100  
Las Vegas, Nevada 89113
3. Valley Pain & Injury Specialists  
30(b)(6) Designee, Person Most Knowledgeable, Custodian of Records  
Scott Martin, M.D., Pain Management  
10120 S. Eastern Avenue, Suite 100  
Henderson, Nevada 89052
4. Pueblo Medical Imaging  
30(b)(6) Designee, Person Most Knowledgeable, Custodian of Records  
Keith Lewis, M.D.  
5495 S Rainbow Boulevard, Suite 203  
Las Vegas, Nevada 89118
5. Shields Family Dentistry  
30(b)(6) Designee, Person Most Knowledgeable, Custodian of Records  
Andrew Shields III, DMD  
601 Whitney Ranch Drive, Suite D-22  
Henderson, Nevada 89014
6. CareNow Urgent Care  
30(b)(6) Designee, Person Most Knowledgeable, Custodian of Records  
Naomi Purdy, M.D.  
2269 North Green Valley Parkway  
Henderson, Nevada 89014
7. Rapid Rehab Physical Therapy  
30(b)(6) Designee, Person Most Knowledgeable, Custodian of Records  
Samantha Serwon, PT, DPT  
8751 W. Charleston Blvd 270  
Las Vegas, Nevada 89117
8. Ross Medical Group  
30(b)(6) Designee, Person Most Knowledgeable, Custodian of Records  
Douglas Ross, M.D.  
2481 W. Horizon Ridge Pkwy, 100  
Henderson, Nevada 89052
9. Las Vegas Radiology  
30(b)(6) Designee, Person Most Knowledgeable, Custodian of Records  
Jeffrey Markham, M.D.  
7500 Smoke Ranch Road, Suite 100  
Las Vegas, Nevada 89128

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APPROVED AS TO FORM AND CONTENT:

DATED this 2<sup>nd</sup> day of December, 2020

CLEAR COUNSEL LAW GROUP

By           /s/ Dustin E. Birch            
JARED R. RICHARDS, ESQ.  
Nevada Bar No. 11254  
DUSTIN E. BIRCH, ESQ.  
Nevada Bar No. 10517  
Attorneys for Plaintiff

DATED this 2<sup>nd</sup> day of December, 2020

McCORMICK, BARSTOW, SHEPPARD,  
WAYTE & CARRUTH LLP

By           /s/ Wade M. Hansard            
WADE M. HANSARD, ESQ.  
Nevada Bar No. 8104  
JONATHAN W. CARLSON, ESQ.  
Nevada Bar No. 10536  
Attorneys for Defendant

**XI.**

**ACTION BY THE COURT**

This case is set for ~~court~~/jury trial on the ~~fixed~~/stacked calendar on June 21, 2021/~~2022~~, at  
9:00 a.m./~~p.m.~~ in Courtroom 6A. Calendar call will be held on June 16, 2021/~~2022~~, at  
1:30 ~~a.m.~~/p.m. in Courtroom 6A.

This pretrial order has been approved by the parties to this action as evidenced by their signatures or the signatures of their attorneys hereon, and the order is hereby entered and will govern the trial of this case. This order may not be amended except by Court order and based upon the parties' agreement or to prevent manifest injustice.

DATED December 9, 2020.

By           James C. Mahan            
UNITED STATES DISTRICT JUDGE