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17 Attorneys for Plaintiff  
 18 GEICO County Mutual Insurance Company

19 UNITED STATES DISTRICT COURT  
 20 DISTRICT OF NEVADA, SOUTHERN DIVISION

21 GEICO COUNTY MUTUAL INSURANCE  
 22 COMPANY, a Corporation,

23 Plaintiff,

24 v.

25 RYAN A. ANDERSON, an Individual;  
 26 JONATHAN R. ANDERSON, an Individual;  
 27 Alixandria Burton as Special Administrator of  
 28 the ESTATE OF WALTER R. ANDERSON;  
 ANDREW JAMES RODRIGUEZ, an  
 Individual,

Defendants.

Case No. 2:23-cv-00985-JCM-DJA

**ORDER RE:  
 MOTION TO ENLARGE TIME TO  
 SERVE DEFENDANTS**

Plaintiff GEICO County Mutual Insurance Company (“GEICO”), by and through its attorneys of record, the law firm McCormick, Barstow, Sheppard, Wayte & Carruth LLP, hereby moves this Honorable Court pursuant to FRCP 4(e) and NRCPP 4(e)(1) for Order enlarging the time allowed to serve the Summons and Complaint on Defendants Ryan A. Anderson, Jonathan R. Anderson, Alixandria Burton as Special Administrator of the Estate of Walter R. Anderson and Andrew James Rodriguez.

1 **I. INTRODUCTION AND FACTUAL BACKGROUND**

2 GEICO instituted this declaratory relief action on June 27, 2023 seeking to have this Court  
 3 declare that the claims of Ryan Anderson, Jonathan Anderson and Alixandria Burton as Special  
 4 Administrator of the Estate of Walter R. Anderson, are all derivative in nature arising from the death  
 5 of Decedent Walter R. Anderson, and that under the terms and conditions of GEICO policy no.  
 6 4335-88-94-83, they are not entitled to recover from GEICO on any judgment in the Underlying  
 7 Action entitled *Anderson v. Rodriguez*, Clark County District Court, Nevada case no. A-21-838344-  
 8 C (the “Underlying Action”) against any covered person for an amount in excess of the policy’s  
 9 \$100,001 “Each Person” limit. *See* ECF No. 1. The summonses as to all Defendants were issued  
 10 on June 29, 2023. *See* ECF Nos. 6, 6-1, 6-2, and 6-3. GEICO filed its Amended Complaint for  
 11 Declaratory Relief on July 13, 2023 to correct the inadvertent inclusion of its Named Insureds, David  
 12 Lara and Sylvia Rodriguez, as named defendants to the declaratory relief action. *See* ECF No. 10.

13 On July 31, 2023, in an attempt to formally serve the Summons and First Amended  
 14 Complaint, counsel for GEICO prepared correspondence to counsel representing Defendants Ryan  
 15 Anderson, Jonathan Anderson and Alixandria Burton as Special Administrator of the Estate of  
 16 Walter R. Anderson (the “Anderson Defendants”) in the Underlying Action enclosing a copy of the  
 17 Amended Complaint for Declaratory Judgment filed on July 13, 2023, the accompanying court  
 18 documents, and a Notice and Acknowledgment of Receipt of Summons and Complaint requesting  
 19 they accept service on behalf of the Anderson Defendants. *See* July 31, 2023 Correspondence to  
 20 Peter S. Christiansen, Esq., attached hereto as Exhibit 1. An identical letter was addressed and sent  
 21 that same date by counsel for GEICO to counsel for Defendant Andrew Rodriguez in the Underlying  
 22 Action. *See* July 31, 2023 Correspondence to Craig S. Newman, Esq., attached hereto as Exhibit 2.

23 Shortly thereafter, the parties to the Underlying Action reached a settlement. *See* Notice of  
 24 Settlement filed August 9, 2023 in Clark County District Court, Nevada case no. A-21-838344-C,  
 25 attached hereto as Exhibit 3. A status check in the Underlying Action regarding the settlement has  
 26 been scheduled for September 12, 2023 at 9:15 a.m. before the Hon. Jasmin Lilly-Spells in  
 27 Department 23. *See* Notice of Hearing filed August 28, 2023, attached hereto as Exhibit 4.

28 The current deadline for GEICO to serve all Defendants in this declaratory relief action is

1 September 25, 2023. FRCP 4(m). If the settlement in the Underlying Action becomes  
2 finalized pursuant to the filing of dismissal with prejudice, the instant declaratory relief action will  
3 become moot. However, if for any reason the settlement in the Underlying Action should not be  
4 finalized or otherwise fall through, GEICO will likely need to proceed with the instant action.

5 Based on the foregoing, GEICO respectfully requests an extension of ninety (90) days within  
6 which to serve all Defendants in this declaratory relief action. If the Underlying Action should  
7 resolve as anticipated, service will not need to be effectuated and the instant action may be  
8 dismissed. However, if the Underlying Action should not resolve, the instant action may need to  
9 proceed.

10 An enlargement of time to serve Defendants does not prejudice any party because this action  
11 will either be dismissed or the parties will be formally served personally. Further, an enlargement  
12 of time is in the interest of judicial economy, preserving the instant action should it need to move  
13 forward rather than being dismissed on grounds of lack of timely service and requiring GEICO to  
14 refile its Complaint at a later date.

15 **II. LAW AND ARGUMENT**

16 **A. Motion to Enlarge Time to Serve All Defendants.**

17 Local Rule of Practice LR IC 3-1(d), states in relevant part: “In the absence of a court order,  
18 the applicable Federal Rules, statutes, or local rules govern computing and extending time for  
19 serving and filing of all documents notwithstanding any contrary deadline in a Notice of Electronic  
20 Filing.”

21 FRCP 6(b) provides:

22 (b) Extending Time.

23 (1) In General. When an act may or must be done within  
24 a specified time, the court may, for good cause, extend  
the time:

25 (A) with or without motion or notice if the court  
26 acts, or if a request is made, before the original  
time or its extension expires ....

27 Here, good cause exists for an Order enlarging the time to serve the Summons and Complaint  
28 on all Defendants. After filing its Amended Complaint for Declaratory Relief, GEICO attempted

1 to have the defendants served via Notices of Acknowledgment and Receipt. Shortly  
2 thereafter, however, the parties in the Underlying Action reached a tentative settlement, which,  
3 if finalized, will render the instant declaratory relief action moot. GEICO therefore seeks this  
4 extension of time to allow the settlement of the Underlying Action to become finalized without  
5 foregoing its right to pursue the declaratory relief action should the Underlying Action  
6 settlement not be finalized for some unknown, unanticipated reason. Should the latter happen,  
7 GEICO will immediately re-enlist efforts to personally serve the parties.

8 As demonstrated above, good cause exists for an Order enlarging the time by ninety (90)  
9 days to serve the Summons and Amended Complaint for Declaratory Relief on all Defendants.

10 **III. CONCLUSION**

11 Based on the foregoing, Plaintiff GEICO County Mutual Insurance Company respectfully  
12 requests an Order enlarging the time to serve all Defendants to a date of ninety (90) days after the  
13 date of the Court’s order granting this Motion.

14 Dated: August 31, 2023

McCORMICK, BARSTOW, SHEPPARD,  
WAYTE & CARRUTH LLP

15  
16  
17 By:    /s/ Jonathan W. Carlson  
18 James P. Wagoner  
19 Nevada Bar No.  
Jonathan W. Carlson  
20 Nevada Bar No. 10536  
Mandy Vogel  
21 Nevada Bar No. 16150  
Attorneys for Plaintiff  
22 GEICO County Mutual Insurance Company

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23 **IT IS SO ORDERED.** Plaintiff shall have until November 29, 2023 within which  
to serve Defendants.

24 DATED this 5th day of September, 2023.

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27 DANIEL J. ALBREGTS  
UNITED STATES MAGISTRATE JUDGE

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 31st day of August, 2023, a true and correct copy of **MOTION TO ENLARGE TIME TO SERVE DEFENDANTS** was served via the United States District Court CM/ECF system on all parties or persons requiring notice.

By /s/ Susan Kingsbury  
an Employee of  
McCORMICK, BARSTOW, SHEPPARD,  
WAYTE & CARRUTH LLP

# **EXHIBIT 1**



James P. Wagoner  
jim.wagoner@mccormickbarstow.com

\*Certified Appellate Law Specialist certified  
by the Board of Legal Specialization of the  
California State Bar.

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Fax (805) 541-2802

July 31, 2023

*Via Email: Pete@christiansenlaw.com*

Peter S. Christiansen, Esq.  
Christiansen Trial Lawyers  
710 S. 7<sup>th</sup> Street, Suite B  
Las Vegas, Nevada 89101

Re: *Ryan Anderson v. Andrew James Rodriguez*, District Court, Clark County  
Nevada, Case No. A-21-838344-C

*GEICO County Mutual Insurance Company v. Ryan Anderson, et al.*  
District Case No. 2-23-cv-00985-JCM-DJA

Dear Mr. Christiansen:

This Firm and the undersigned are counsel of record for GEICO County Mutual Insurance Company (“GEICO”) in the above-referenced declaratory relief action. Enclosed herewith is a copy of the Amended Complaint for Declaratory Relief filed on July 13, 2023, the accompanying court documents, and a Notices and Acknowledgments of Receipt of Summons and Complaint.

We ask that you accept service for Defendants Ryan A. Anderson, Jonathan R. Anderson, and Alexandria Burton as the Special Administrator for the Estate of Walter R. Anderson by way of the enclosed Notices and Acknowledgments of Receipt and return a signed copy of the Acknowledgments to our office. Otherwise, we will have no choice but to attempt to have the documents formally served.

Please contact our office if you have any questions. Thank you for your assistance.

Very truly yours,

James P. Wagoner  
McCormick Barstow LLP

Enclosures

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# **EXHIBIT 2**





James P. Wagoner  
jim.wagoner@mccormickbarstow.com

\*Certified Appellate Law Specialist certified  
by the Board of Legal Specialization of the  
California State Bar.

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July 31, 2023

*Via Email: cnewman@sklar-law.com*

Craig S. Newman, Esq.  
Sklar Williams PLLC  
410 South Rampart Blvd., Ste. 350  
Las Vegas, Nevada 89145

Re: *Ryan Anderson v. Andrew James Rodriguez*, District Court, Clark County  
Nevada, Case No. A-21-838344-C

*GEICO County Mutual Insurance Company v. Ryan Anderson, et al.*  
District Case No. 2-23-cv-00985-JCM-DJA

Dear Mr. Newman:

This Firm and the undersigned are counsel of record for GEICO County Mutual Insurance Company (“GEICO”) in the above-referenced declaratory relief action. Enclosed herewith is a copy of the Amended Complaint for Declaratory Relief filed on July 13, 2023, the accompanying court documents, and a Notice and Acknowledgment of Receipt of Summons and Complaint.

We ask that you accept service for Defendant Andrew James Rodriguez by way of the enclosed Notice and Acknowledgment of Receipt and return a signed copy of the Acknowledgment to our office. Otherwise, we will have no choice but to attempt to have the documents formally served.

Please contact our office if you have any questions. Thank you for your assistance.

Very truly yours,

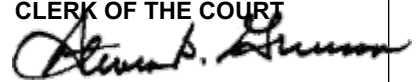
James P. Wagoner  
McCormick Barstow LLP

Enclosures

9208736.1

# EXHIBIT 3

Electronically Filed  
8/9/2023 11:42 AM  
Steven D. Grierson  
CLERK OF THE COURT



1 **NOTC**  
2 THOMAS E. WINNER  
3 Nevada Bar No. 5168  
4 ZACHARY W. LIVINGSTON  
5 Nevada Bar No. 15954  
6 Winner & Booze  
7 1117 S. Rancho Drive  
8 Las Vegas, NV 89102  
9 Phone (702) 243-7000  
10 Facsimile (702) 243-7059  
11 twinner@winnerfirm.com  
12 zlivingston@winnerfirm.com  
13 *Attorney for Defendant*

8 EIGHTH JUDICIAL DISTRICT COURT

9 CLARK COUNTY, NEVADA

11 RYAN A. ANDERSON, JONATHAN R.  
12 ANDERSON, ALIXANDRIA BURTON, as  
13 Special Administrator of the ESTATE OF  
14 WALTER R. ANDERSON, Deceased,

14 Plaintiffs,

15 vs.

16 ANDREW JAMES RODRIGUEZ, an  
17 individual; SABRINA WENGER, an individual;  
18 KEATON SCOTT LUTHER, an individual; ,  
19 LUTHER CAPITAL, LLC, a Domestic Limited-  
20 Liability Company; SCOTT L. HUSS, LLC, an  
21 individual; ALL STAR CARS, LLC., a  
22 Domestic Limited Liability Company; CORY  
23 MCCORMACK, an individual; DOES I through  
24 X, inclusive; and ROE BUSINESS ENTITIES I  
25 through X, inclusive,

21 Defendants.

CASE NO.: A-21-838344-C  
DEPT. NO.: XXIII

**NOTICE OF SETTLEMENT**

23 TO THE COURT, ALL PARTIES AND THEIR ATTORNEYS OF RECORD HEREIN:

25 PLEASE TAKE NOTICE that the parties to the above-entitled action have now fully settled  
26 their claims in this case, with an agreement that each side will bear their own fees and costs.  
27

WINNER & BOOZE  
A NEVADA LAW FIRM

1 It is expected that the settlement documents can be exchanged, and this matter will be fully resolved,  
2 with a Stipulation and Order for Dismissal with Prejudice filed with the Court within the next 30  
3 days.

4  
5 DATED this 9th day of August, 2023.

6 WINNER & BOOZE

7  
8 /s/ Zach Livingston

9 THOMAS E. WINNER  
10 Nevada Bar No. 5168  
11 ZACHARY W. LIVINGSTON  
12 Nevada Bar No. 15954  
13 1117 S. Rancho Drive  
14 Las Vegas, NV 89102  
15 Phone (702) 243-7000  
16 Facsimile (702) 243-7059  
17 *twinner@winnerfirm.com*  
18 Attorney for Defendant  
19 Andrew Rodriguez  
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WINNER & BOOZE  
A NEVADA LAW FIRM

**CERTIFICATE OF SERVICE**

I certify that on this 9th day of August, 2023, the foregoing NOTICE OF SETTLEMENT was served on the following by  Electronic Service pursuant to NEFR 9  Electronic Filing and Service pursuant to NEFR 9  hand delivery  overnight delivery  fax  fax and mail  mailing by depositing with the U.S. mail in Las Vegas, Nevada, enclosed in a sealed envelope with first class postage prepaid, addressed as follows:

R. Todd Terry  
Kendelee L. Works  
Christiansen Trial Lawyers  
710 South 7th Street, Suite B  
Las Vegas, Nevada 89101  
Attorneys for Plaintiffs

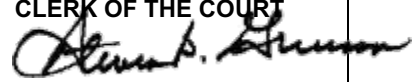
/s/ Sherri Leyva  
An employee of WINNER & BOOZE

WINNER & BOOZE  
A NEVADA LAW FIRM

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# **EXHIBIT 4**

Electronically Filed  
8/28/2023 9:10 AM  
Steven D. Grierson  
CLERK OF THE COURT



DISTRICT COURT  
CLARK COUNTY, NEVADA

\*\*\*\*

RYAN ANDERSON, PLAINTIFF(S)	CASE NO.: A-21-838344-C
VS.	
ANDREW RODRIGUEZ, DEFENDANT(S)	DEPARTMENT 23

**NOTICE OF HEARING**

TO: Peter S Christiansen  
R. Todd Terry  
Kendele Leascher Works  
Whitney Barrett  
Craig S. Newman  
Johnathon Fayeghi  
Steven C. Devney  
John Holiday  
Michael L. Shirts  
Philip Goodhart  
Patrick J. Sheehan  
Michael C. Van  
Garrett R. Chase

Please be advised that the above-entitled matter has been scheduled for Status Check: Settlement Documents, to be heard by the Honorable JASMIN LILLY-SPELLS, at the Regional Justice Center, 200 Lewis Ave, Las Vegas, Nevada 89155, on the 12th day of September, 2023, at the hour of 9:15 AM, in RJC Courtroom 12D, Department 23.

YOUR PRESENCE IS NECESSARY

HONORABLE JASMIN LILLY-SPELLS

/s/ Deborah Boyer

By: Deborah Boyer  
Judicial Executive Assistant

**CERTIFICATE OF SERVICE**

I hereby certify that on or about the date e-filed, I served a copy of the foregoing document.

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SHUMWAY VAN  
Attn: John R. Holiday, Esq.  
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Attn: Steven C. Devney, Esq  
1117 South Rancho Drive  
Las Vegas, NV 89102

/s/ Deborah Boyer

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Deborah Boyer  
Judicial Executive Assistant  
Department 23

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