UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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DANA ANDREW, as legal guardian on behalf of Ryan T. Pretner, and RYAN T. PRETNER,

Case No. 2:12-cv-00978-APG-PAL

Plaintiffs,

v.

CENTURY SURETY COMPANY,

Defendant.

ORDER (1) GRANTING MOTION TO LIFT STAY, (2) SETTING A BRIEFING SCHEDULE, (3) DIRECTING PARTIES TO MEET AND CONFER REGARDING CERTIFYING QUESTIONS, AND (4) GRANTING MOTION FOR LEAVE TO FILE EXCESS PAGES

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I previously stayed this matter in light of the Ninth Circuit Court of Appeals certifying to the Supreme Court of Nevada a question of law which could have a significant impact on the outcome of this case. ECF No. 227; *Nalder v. United Automobile Ins. Co.*, Ninth Cir. Case No. 13-17441. Prior to the stay, defendant Century Surety Company filed a motion for reconsideration of one of my prior orders. ECF No. 218. Briefing on that motion has been stayed.

Recently, the plaintiffs filed a motion to lift the stay because, given developments in the *Nalder* case, it appears the Supreme Court of Nevada's answer to the certified question will be delayed and possibly mooted altogether. ECF No. 245. Defendant Century does not oppose lifting the stay and requests I set a briefing schedule for its motion for reconsideration.

I grant the motion to lift stay. The plaintiffs shall have until August 9, 2017 to respond to the motion for reconsideration. Defendant Century shall have until August 18, 2017 to file a reply.

Additionally, I direct the parties to meet and confer and submit a joint status report regarding whether I ought to certify to the Supreme Court of Nevada the same question of law as in *Nalder*: "Whether, under Nevada law, the liability of an insurer that has breached its duty to defend, but has not acted in bad faith, is capped at the policy limit plus any costs incurred by the insured in mounting a defense, or is the insurer liable for all losses consequential to the insurer's

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breach?" The parties shall also address whether any other questions of law should be certified to the Supreme Court of Nevada. IT IS THEREFORE ORDERED that the plaintiffs' motion to lift stay (ECF No. 245) is GRANTED. IT IS FURTHER ORDERED that the plaintiffs shall file a response to the defendant's motion for reconsideration (ECF No. 218) on or before August 9, 2017. The defendant shall file a reply on or before August 18, 2017. IT IS FURTHER ORDERED that the parties shall meet and confer and submit a joint status report on or before August 11, 2017 regarding whether I ought to certify to the Supreme Court of Nevada the same question that was certified in *Nalder* and/or any other questions of law. IT IS FURTHER ORDERED that the defendant's motion for leave to file excess pages (ECF No. 217) is GRANTED. DATED this 24th day of July, 2017. ANDREW P. GORDON UNITED STATES DISTRICT JUDGE