



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

NEOJ
MARK E. FERRARIO, Bar No. 1625
KARA B. HENDRICKS, Bar No. 7743
TAMI D. COWDEN, Bar No. 8994
GREENBERG TRAUIG, LLP
10845 Griffith Peak Drive, Suite 600
Las Vegas, NV 89135
Telephone: (702) 792-3773
Facsimile: (702) 792-9002
Email: ferrariom@gtlaw.com
hendricksk@gtlaw.com
cowdent@gtlaw.com

Counsel for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

STATE OF NEVADA, EX REL. COMMISSIONER
OF INSURANCE, IN HER OFFICIAL CAPACITY
AS STATUTORY RECEIVER FOR
DELINQUENT DOMESTIC INSURER,

Plaintiff,

vs.

SPIRIT COMMERCIAL AUTO RISK
RETENTION GROUP, INC., a Nevada Domiciled
Association Captive Insurance Company,

Defendant.

Case No. A-19-787325-B
Dept. No. 27

**NOTICE OF ENTRY OF ORDER
GRANTING MOTION ESTABLISH
CLAIMS APPEAL PROCESS AND
PROCEDURE AND FOR THE
APPOINTMENT OF A SPECIAL
MASTER TO ASSIST WITH THE SAME**

1 PLEASE TAKE NOTICE that the *Order Granting Motion Establish Claims Appeal Process*
2 *and Procedure and for the Appointment of a Special Master to Assist with the Same* was entered on
3 the 3rd day of March 2023. A copy of the same is attached hereto.

4 DATED this 3rd day of March 2023.

5
6 */s/ Kara Hendricks* _____

7 MARK E. FERRARIO
8 KARA B. HENDRICKS
9 TAMI D. COWDEN,
10 GREENBERG TRAURIG, LLP
11 10845 Griffith Peak Drive, Suite 600
12 Las Vegas, NV 89135

13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
Counsel for Plaintiff

CERTIFICATE OF SERVICE

Pursuant to Nev. R. Civ. P. 5(b)(2)(D) and E.D.C.R. 8.05, I certify that on this 3rd day of March 2023, I caused a true and correct copy of the foregoing *Notice of Entry of Order Granting Motion Establish Claims Appeal Process and Procedure and for the Appointment of a Special Master to Assist with the Same* to be filed with the Clerk of Court using the Odyssey e-FileNV Electronic Service system and served on all parties with an email address on record, pursuant to Administrative Order 14-2 and Rule 9 of the N.E.F.C.R.

The date and time of the electronic proof of service is in place of the date and place of deposit in the mail.

/s/ Andrea Lee Rosehill
Employee of Greenberg Traurig, LLP

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Greenberg Traurig, LLP
10845 Griffith Peak Drive, Suite 600
Las Vegas, Nevada 89135

ORD
MARK E. FERRARIO, Bar No. 1625
KARA B. HENDRICKS, Bar No. 7743
GREENBERG TRAUIG, LLP
10845 Griffith Peak Drive, Suite 600
Las Vegas, NV 89135
Telephone: (702) 792-3773
Facsimile: (702) 792-9002
Email: ferrariom@gtlaw.com
hendricksk@gtlaw.com

Attorneys for the Plaintiff

**IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
CLARK COUNTY, NEVADA**

STATE OF NEVADA, EX REL.
COMMISSIONER OF INSURANCE, IN HER
OFFICIAL CAPACITY AS STATUTORY
RECEIVER FOR DELINQUENT DOMESTIC
INSURER,

Plaintiff,

vs.

SPIRIT COMMERCIAL AUTO RISK
RETENTION GROUP, INC., a Nevada Domiciled
Association Captive Insurance Company,

Defendant.

Case No. A-19-787325-B
Dept. No. 27

**ORDER GRANTING MOTION TO
ESTABLISH CLAIMS APPEAL
PROCESS AND PROCEDURE AND FOR
THE APPOINTMENT OF A SPECIAL
MASTER TO ASSIST WITH THE SAME**

Plaintiff's Motion to Establish Claims Appeal Process and Procedure and for the Appointment of a Special Master to Assist with the Same having come before the Court on the 19th day of January 2023, Kara Hendricks of Greenberg Traurig appeared on behalf of Plaintiff Barbara D. Richardson, Commissioner of Insurance.¹ The Court having reviewed the Motion, the Supplement in Support of the

¹ Barbara D. Richardson resigned from her position as Commissioner of Insurance effective December 30, 2022. Nick Stosic has been named as acting Insurance Commissioner. Pursuant to NRCP 25(d), when a public officer ceases to hold office while an action is pending, "[t]he officer's successor is automatically substituted as a party."

1 Motion, the arguments made by counsel at the hearing and the evidence in the record, and good cause
2 appearing,

3 IT IS HEREBY ORDERED that:

- 4 1. The legal issues raised in timely submitted Class B² claims to the Special Deputy Receiver
5 (“SDR”) of Spirit Commercial Auto Retention Group, Inc. (“Spirit”) will be adjudicated by
6 this Court and are further identified in Exhibit A hereto.
- 7 2. This Court shall hold a hearing on the same after notice is provided to the parties and they
8 have an opportunity to present arguments to the Court in support of their position/appeal.
- 9 3. Based on the Receiver’s initial request, the Court will hear oral argument on **May 17, 2023**
10 **at 1:30 p.m.** on appeals relating to objections to the application of statute of limitations to
11 claims and issues pertaining to the Federal Motor Carrier Safety Administration Form MCS-
12 90.

13 a. Counsel for the Receiver shall submit an Opening Brief/Motion to both the Court
14 and any identified Claimants that summarizes the issues on appeal and submits relevant
15 documents for consideration. This Opening Brief/Motion shall be submitted to the Court on
16 or before **March 20, 2023** and mailed to Claimant with a copy of this Order providing notice
17 of the scheduled hearing;

18 b. Claimants shall have thirty (30) days to provide a copy of any
19 Opposition/Response Brief to counsel for the Receiver who will file it with the Court. Any
20 such Opposition/Response is due to counsel for the Receiver and such is due on or before
21 **April 19, 2023**.

22
23
24 ² NRS 696B.420 sets forth the order for distribution of claims from the receivership estate. After the
25 payment of administrative expenses, Class B claims have priority and include “all claims under policies,
26 any claims against an insured for liability for bodily injury or for injury to or destruction of tangible
27 property which are covered claims under policies, including any such claims of the Federal Government
28 or any state or local government”. NRS 696B.420(1)(b). Because such claims are prioritized by statute,
the Receiver proposes appeals for such claims occur prior to any other class of claims. NRS
696B.330(4). This will allow the Receiver to complete the processing of the Class B claims and
determine the total liability for these claims and thus the pro rata percentage which can be paid to
claimants based on the available assets in the estate.

1 c. Thereafter, the Receiver may submit any Reply Brief to the Court and mail a copy
2 to Claimants within 14 days or on or before **May 3, 2023**.

3 d. Claimants may appear in proper person and are not required to attend the
4 scheduled hearing in person. Claimants may appear via video at the hearing using the Court's
5 BlueJeans system using the following link: <https://bluejeans.com/897138369>; Meeting ID:
6 897 138 369.

7 4. This Court will hear oral argument on **May 31, 2023 at 1:30 p.m.** on appeals relating to
8 objections to the priority class assigned by the SDR pursuant to NRS 696B.420 and coverage
9 disputes (i.e., disputes about policy interpretation).

10 a. Counsel for the Receiver shall submit an Opening Brief/Motion to both the Court
11 and any identified claimants that summarizes the issues on appeal and submits relevant
12 documents for consideration. This Opening Brief/Motion shall be submitted to the Court on
13 or before **April 3, 2023**, and mailed to Claimant with a copy of this Order providing notice
14 of the scheduled hearing.

15 b. Claimants shall have thirty (30) days to provide a copy of any
16 Opposition/Response Brief to counsel for the Receiver who will file it with the Court. Any
17 such Opposition/Response is due to counsel for the Receiver and such is due on or before
18 **May 3, 2023**.

19 c. Thereafter the Receiver may submit any Reply Brief to the Court and mail a copy
20 to Claimants within 14 days or on or before **May 17, 2023**.

21 d. Claimants may appear in proper person and are not required to attend the
22 scheduled hearing in person. Claimants may appear via video at the hearing using the Court's
23 BlueJeans system using the following link: : <https://bluejeans.com/897138369>; Meeting ID:
24 897 138 369.

25 As additional appeals are filed, to the extent that the Receiver determines that such appeals should
26 be heard by the Court rather than the Special Masters, the Receiver may request that the Court schedule
27 additional hearings with the recommendation that the above procedures be applied to any type of claim
28

1 that is recommended by the Receiver to be heard by the Court.

2 IT IS FURTHER ORDERED that:

3 5. Factual issues raised in Spirit Class B claims (“Factual Appeals”) will first be heard by a
4 Special Master(s) appointed by this Court for the purpose of hearing such matters.

5 6. The Court hereby appoints the Honorable Jennifer Togliatti (Ret) and attorney David Lee to
6 act as Special Masters to hear the Factual Appeals at a rate of \$550 an hour.

7 a. The Receiver is to pay a retainer of \$7,500 to both Judge Togliatti and Mr. Lee
8 for their services.

9 b. Judge Togliatti and Mr. Lee shall submit monthly invoices to the Receiver for
10 their services and said invoices shall be submitted to this Court for in camera review with the
11 quarterly status reports filed by the Receiver.

12 7. The procedure that is to be utilized by the Special Masters for their de novo review and
13 consideration of the Factual Appeals is as follows:

14 a. Counsel for the Receiver shall provide the Special Masters with a list of appeals in
15 which there are factual issues, and will update this list on a rolling basis (*i.e.*, as
16 additional appeals are filed with the SDR) without further order from the Court. The
17 Factual Appeals will be divided between the Special Masters as they, in conjunction
18 with the SDR, deem warranted.

19 b. Each Special Master will identify hearing dates for appeals, setting aside up to
20 one hour for each Claimants’ hearing³ and will hear the appeals on a rolling basis.

21 c. Counsel for the Receiver shall provide each Claimant with notice of the hearing
22 date and appeal process after the Special Master identifies the same. Claimants may attend
23 the appeal hearing via audiovisual transmission, and the Special Master, or counsel for the
24 Receiver at the Special Master’s direction, will circulate information such as a Zoom link to
25

26 ³ For cause, the Receiver or a Claimant can request the Special Master schedule additional time for a
27 hearing on an appeal and the decision to provide additional time will be at the discretion of the Special
28 Master.

1 facilitate virtual attendance.

2 d. Counsel for the Receiver shall submit an Opening Brief to the Special Master and
3 Claimant by the date specified by the Special Master. The body of the Opening Brief should
4 not exceed 15 pages, and must include, in electronic form, bates stamped copies of:

- 5 i. Proof of Claim filed by Claimant (and any supporting documents);
- 6 ii. The Notice of Claim Determination sent by the SDR;
- 7 iii. Appeal filed by Claimant (and any new supporting documents); and
- 8 iv. Any additional materials considered by the SDR which, in the SDR's
9 discretion, may aid the Special Master (*e.g.*, claim summary reports).

10 e. Claimants shall submit any Opposition/Response to the Special Master and
11 Counsel for the Receiver within 30 days of Opening Brief submittal or on a date specified by
12 the Special Master. The Opposition/Response must not exceed 20 pages and should reference
13 the specific bates numbers for documents the Claimant intends to rely on that are in the record
14 submitted by the Receiver. Claimants are discouraged from making generic references to the
15 record and are encouraged to use the Opposition/Response to present arguments regarding
16 why the decision by the Receiver was erroneous. Additional documents and records not
17 provided by Claimant to the SDR as part of the claims/appeal process will not be considered
18 by the Special Master.

19 f. Counsel for the Receiver shall submit any Reply Brief to Special Master and
20 Claimant at least ten (10) days prior to scheduled hearing. The Reply Brief is not to exceed
21 15 pages.

22 g. Unless otherwise determined by the Special Master, the Hearing held by Special
23 Master will proceed as follows: 15 minutes for the opening statement by Receiver; 25 minutes
24 for Claimants' response; 10-minute rebuttal by the Receiver.

25 h. Written Findings of Fact and Conclusions of Law submitted ("FOF") are to be
26 submitted to this Court by the Special Master and relevant parties 60 days after the date of
27

1 hearing.⁴

2 8. Each Special Master is vested with the ability to reasonably alter and/or modify the procedure
3 approved by the Court based on his/her judgment and discretion.

4 9. The Court shall enter an order approving or denying, in whole or in part, the findings of the
5 Special Master, which order by the Court shall be an appealable order as contemplated by
6 NRS 696B.330(9).

7 **IT IS SO ORDERED.**

8 Dated this ___ of March, 2023.

Dated this 3rd day of March, 2023

9 
10 _____
District Court Judge MA

11 **7BA FDD CB60 6062**
12 **Nancy Ailf**
13 **District Court Judge**

12 Submitted by

13 GREENBERG TRAUIG, LLP

14 /s/ Kara B. Hendricks

15 MARK E. FERRARIO, Bar No. 1625
16 KARA B. HENDRICKS, Bar No. 7743
17 10845 Griffith Peak Drive, Suite 600
Las Vegas, NV 89135

18 *Attorneys for the Plaintiff*

19
20
21
22
23
24 ⁴ Twenty-one (21) days after the hearing, the Special Master will provide the parties notice of his/her
25 decision to affirm, modify or reverse the SDR's determination. If the Special Master modifies or denies
26 the SDR's Notice of Claim Determination, the Special Master will provide bullet points explaining its
27 decision and reasoning and direct counsel to prepare a report and recommendation with findings of fact
28 consistent with the same. Counsel will then provide a draft FOF to the Special Master and the other side
within 21 days utilizing the form attached as **Exhibit 3** to the Supplement to the Motion to Establish
Claims Appeal Process and Procedure and for the Appointment of a Special Master to Assist with the
Same or a similar document.

EXHIBIT A

Exhibit A

Legal Objections to be Heard by the Court

POC No.	Appeal Issue	Total Claimed	Total Approved	NRS Classification
SP-000305	Statute of Limitations	\$2,660,880.00	\$0.00	N/A
SP-000372	Objection to CMS reporting requirement	\$135,507.74	\$135,507.74	Class B
SP-000448	Statute of Limitations	\$250,000.00	\$0.00	N/A
SP-000524	Objects to priority class	\$20,000.00	\$20,000.00	Class G
SP-000565	Objects to priority class	\$90,646.51	\$90,646.51	Class G
SP-000636	Policyholder and Claimant Both Filed POCs (Dupe), SDR approved claimant's and denied policyholder's (per PH attorney instruction); possibly could be resolved without hearing, due to apparent misunderstanding of process by PH atty (assuming PH has appropriate documentation of atty fees)	\$101,913.91	\$0.00	n/a
SP-000673	Objects to priority class; MCS-90 Issues	\$1,154,511.13	\$750,000.00	Class B; Class H
SP-000764	Coverage Dispute; MCS-90 issues	\$1,000,000.00	\$0.00	n/a
SP-000929	Objection to CMS reporting requirement	\$14,000.00	\$14,000.00	Class B
SP-000996	Objects to amount allowed; Insured submitted record of additional defense fees incurred since last POC supplement (determine whether claimant may submit additional fees after claim bar date and NCD sent out)	\$24,829.19	\$24,829.19	Class B
SP-001017	Objection to Application of Policy Limit to Claim	\$8,222,467.13	\$1,000,000.00	Class B
SP-001019	Objects to priority class	\$770,000.00	TBD	Class G
SP-001064	Objects to priority class	\$115,665.67	TBD	Class G
SP-001085	Causation/Liability; Priority of Post-Receivership Default Judgment	\$10,000,000.00	\$0.00	N/A
SP-001087	Objects to priority class	\$66,096.13	TBD	Class G

SP-001263	Objects to priority class	\$31,172.38	\$31,172.38	Class G
SP-001272	Additional Amounts not Claimed in POC, Subrogation Claim	\$8,472.00	\$8,472.00	Class G
SP-001280	Coverage Dispute	\$750,000.00	\$0.00	n/a

1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4
5
6 State of Nevada, Commissioner
of Insurance, Plaintiff(s)

CASE NO: A-19-787325-B

7 vs.

DEPT. NO. Department 27

8
9 Spirit Commercial Auto Risk
Retention Group Inc,
10 Defendant(s)

11
12 **AUTOMATED CERTIFICATE OF SERVICE**

13 This automated certificate of service was generated by the Eighth Judicial District
14 Court. The foregoing Order was served via the court's electronic eFile system to all
recipients registered for e-Service on the above entitled case as listed below:

15 Service Date: 3/3/2023

16 Christopher Connell	cconnell@connelllawlv.com
17 Joshua Dickey	jdickey@baileykennedy.com
18 Timothy Lepore	timothy.lepore@ropers.com
19 Joseph Liebman	jliebman@baileykennedy.com
20 John Bailey	jbailey@baileykennedy.com
21 Bailey Kennedy, LLP	bkfederaldownloads@baileykennedy.com
22 Marilyn Millam	mmillam@ag.nv.gov
23 Cynthia Ney	neyc@gtlaw.com
24 Tami Cowden	cowdent@gtlaw.com
25 Mark Ferrario	ferrariom@gtlaw.com
26	
27	
28	

1	Kara Hendricks	hendricksk@gtlaw.com
2	LVGT docketing	lvlitdock@gtlaw.com
3	Andrea Rosehill	rosehilla@gtlaw.com
4	Megan Sheffield	sheffieldm@gtlaw.com
5	Olivia Swibies	oswibies@nevadafirm.com
6	Elliott Kroll	elliott.kroll@arentfox.com
7	Denise Doyle	service@cb-firm.com
8	Registered Agent Spirit	ct-statecommunications@wolterskluwer.com
9	Richard O'Connor	rkorn@oconnorlaw.com
10	Rebecca Crooker	rcrooker@baileykennedy.com
11	Douglas May	dmay@travelers.com
12	Mary Rodriguez	mary@connelllaw.com
13	Lucy Trotter	ltrotter@fclaw.com
14	Richard Holley, Esq.	rholley@nevadafirm.com
15	Mary Langsner	mlangsner@nevadafirm.com
16	Andrea Flintz	flintza@gtlaw.com
17	Calendar-LAO .	calendar-lao@ropers.com
18	Bethany Rabe	rabeb@gtlaw.com
19	Richard Yien	RYien@ag.nv.gov
20	Evelyn Gaddi	escobargaddie@gtlaw.com
21	Chase Sorenson	cs@cokerlaw.com
22	Mandy Good	agood@hirstapplegate.com
23	Crystal Stewart	cstewart@hirstapplegate.com
24		
25		
26		
27		
28		

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

John Sundahl	jsundahl@spkm.org
Teresa Taranto	ttaranto@geico.com
Joanna Grigoriev	jgrigoriev@ag.nv.gov
Ryan Andersen, Esq.	ryan@vegaslawfirm.legal
Breane Stryker	breane.stryker@ropers.com
Jerrell Berrios	berriosj@gtlaw.com
Casey Shomo	cshomo@cdstriallaw.com
Joanne Doherty	jdoherly@cdstriallaw.com
Leslie Fee	adminAsst@cdstriallaw.com
Danue High	dhigh@nevadafirm.com