  
CLERK OF THE COURT

Electronically Filed  
Aug 06 2014 09:02 a.m.  
Tracie K. Lindeman  
Clerk of Supreme Court

1 **NOAS**  
2 JOHN R. MUGAN, Esquire  
3 Nevada Bar No. 10690  
4 [john@jeffreyburr.com](mailto:john@jeffreyburr.com)  
5 MICHAEL D. LUM, Esquire  
6 Nevada Bar No. 12997  
7 [michael@jeffreyburr.com](mailto:michael@jeffreyburr.com)  
8 JEFFREY BURR, LTD.  
9 2600 Paseo Verde Parkway, Suite 200  
10 Henderson, NV 89074  
11 Telephone: (702) 433-4455  
12 Facsimile: (702) 451-1853  
13 *Attorneys for Trustee ELEANOR CONNELL HARTMAN AHERN*

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

11 In the Matter of

12 THE W. N. CONNELL AND MARJORIE T. CONNELL  
13 LIVING TRUST,  
14 Dated May 18, 1972

Case No. P-09-066425-T  
Dept. 26

15 An Inter Vivos Irrevocable Trust.

16  
17 **NOTICE OF APPEAL**

18 NOTICE IS HEREBY GIVEN that the above named, ELEANOR C. AHERN, a/k/a  
19 ELEANOR CONNELL HARTMAN AHERN ("ELEANOR"), as Trustee of THE W. N.  
20 CONNELL AND MARJORIE T. CONNELL LIVING TRUST dated May 18, 1972, by and through  
21 her counsel of record, JOHN R. MUGAN, Esquire, and MICHAEL D. LUM, Esquire, of the law  
22 firm of JEFFREY BURR, LTD., hereby appeals to the Supreme Court of Nevada the Order: Re  
23  
24  
25  
26  
27  
28

1 Pending Motions and Scheduling entered in this action on July 7, 2014.

2 DATED: July 31, 2014.

3 JEFFREY BURR, LTD.

4  
5 By: 

6 JOHN R. MUGAN, ESQUIRE

7 Nevada Bar No. 10690

8 MICHAEL D. LUM, ESQUIRE

9 Nevada Bar No. 12997

10 2600 Pasco Verde Parkway, Suite 200

11 Henderson, Nevada 89074

12 Attorneys for Trustee ELEANOR CONNELL  
13 HARTMAN AHERN

14 **CERTIFICATE OF MAILING AND ELECTRONIC DELIVERY**

15 I hereby certify that on the 31 day of July, 2014, I served a true and correct copy of the  
16 above and foregoing **NOTICE OF APPEAL** upon all counsel of record by electronically serving  
17 the document, to each person as indicated below, and by placing a true and correct copy thereof,  
18 enclosed in a sealed envelope, in the United States Mail at Henderson, Nevada, with first class  
19 postage thereon prepaid, addressed as follows:

20 JOSEPH J. POWELL, Esquire  
21 The Rushforth Firm. Ltd.  
22 P.O. Box 371655  
23 Las Vegas, NV 89137  
24 joey@rushforth.net

25 WHITNEY WARNICK, Esquire  
26 Albright, Stoddard, Warnick and Albright  
27 801 S. Rancho Dr., #D-4  
28 Las Vegas, NV 89106  
wbw@albrightstoddard.com

  
An employee of JEFFREY BURR, LTD.

  
CLERK OF THE COURT

1 **ASTA**  
2 JOHN R. MUGAN, Esquire  
3 Nevada Bar No. 10690  
4 john@jeffreyburr.com  
5 MICHAEL D. LUM, Esquire  
6 Nevada Bar No. 12997  
7 michael@jeffreyburr.com  
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12 Facsimile: (702) 451-1853  
13 Attorneys for Trustee ELEANOR CONNELL HARTMAN AHERN

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

11 In the Matter of

12 THE W. N. CONNELL AND MARJORIE T. CONNELL  
13 LIVING TRUST,  
14 Dated May 18, 1972

Case No. P-09-066425-T  
Dept. 26

15 An Inter Vivos Irrevocable Trust.

16  
17 **CASE APPEAL STATEMENT**

18 1. Name of Appellant filing this case appeal statement: ELEANOR C. AHERN, a/k/a  
19 ELEANOR CONNELL HARTMAN AHERN ("ELEANOR").

20 2. Identify the judge issuing the decision, judgment, or order appealed from: Eighth  
21 Judicial District Court Judge Gloria Sturman.

22 3. Identify each Appellant and the name and address of counsel for each Appellant:

23 Appellant: ELEANOR C. AHERN

24  
25 Counsel for Appellant: JOHN R. MUGAN, ESQUIRE  
26 Nevada Bar No. 10690  
27 MICHAEL D. LUM, ESQUIRE  
28 Nevada Bar No. 12997  
JEFFREY BURR, LTD.  
2600 Paseo Verde Parkway, Suite 200  
Henderson, Nevada 89074

1           4.       Identify each Respondent and the name and address of appellate counsel, if known,  
2 for each Respondent (if the name of a respondent's appellate counsel is unknown, indicate as much  
3 and provide the name and address of that respondent's trial counsel):

4                   Respondent: JACQUELINE M. MONTOYA

5                   Appellate counsel: JOSEPH J. POWELL, ESQ.  
6 Nevada Bar No. 08875  
7 THE RUSHFORTH FIRM, LTD.  
8 9505 Hillwood Drive, Suite 100  
Las Vegas, Nevada 89134

9                   Respondent: KATHRYN A. BOUVIER

10                  Appellate counsel: WHITNEY B. WARNICK, ESQ.  
11 Nevada Bar No. 01573  
12 ALBRIGHT, STODDARD, WARNICK & ALBRIGHT  
13 801 South Rancho Drive, Suite D-4  
Las Vegas, Nevada 89106

14           5.       Indicate whether any attorney identified above in response to question 3 or 4 is not  
15 licensed to practice law in Nevada and, if so, whether the district court granted that attorney  
16 permission to appear under SCR 42 (attach a copy of any district court order granting such  
17 permission): None.

18           6.       Indicate whether Appellant was represented by appointed or retained counsel in the  
19 district court: Yes, Appellant was represented by retained counsel in the district court.

20           7.       Indicate whether Appellant is represented by appointed or retained counsel on  
21 appeal: Yes, Appellant is represented by retained counsel on appeal.

22           8.       Indicate whether Appellant was granted leave to proceed in forma pauperis, and the  
23 date of entry of the district court order granting such leave: No.

24           9.       Indicate the date the proceedings commenced in the district court (e.g. date  
25 complaint, indictment, information, or petition was filed): A Petition To Assume Jurisdiction Over  
26 Trust; Confirm Trustee; And Construe And Reform Trust was originally filed herein on August 17,  
27  
28

1 2009. Respondent filed her Petition For Declaratory Judgment Regarding Limited Interest Of Trust  
2 Assets Pursuant To NRS 30.040, NRS 153.031(1)(E), And NRS 164.033(1)(A) on September 27,  
3 2013. The subject of this appeal concerns Respondent's Petition To Compel Trustee To Distribute  
4 Accrued Income And Future Income Received From Oil, Gas, And Mineral Leases And Declaration  
5 Of The Applicability Of The Doctrine Of Laches originally filed on December 3, 2013 and renewed  
6 on March 6, 2014.

8 10. Provide a brief description of the nature of the action and result in the district court,  
9 including the type of judgment or order being appealed and the relief granted by the district court:

10 **Nature of the Action:**

11 This action concerns a dispute between ELEANOR and her daughters, JACQUELINE M.  
12 MONTOYA and KATHRYN A. BOUVIER, over the present beneficial interest of sixty-five  
13 percent (65%) of the income generated by the oil, gas and mineral interests on and under certain real  
14 estate and severed oil, gas and mineral interest in other acreage all located in Upton County, Texas  
15 (the "Upton County, Texas, Oil rights") that were the sole and separate property of ELEANOR's  
16 father, W.N. CONNELL.  
17

18 **Result Being Appealed:**

19 On December 3, 2013, JACQUELINE M. MONTOYA filed her Petition To Compel Trustee  
20 To Distribute Accrued Income And Future Income Received From Oil, Gas, And Mineral Lease  
21 And Declaration Of The Applicability Of the Doctrine Of Laches (the "First Petition"). This First  
22 Petition sought "injunctive relief"; namely, an affirmative injunction compelling ELEANOR, as  
23 Trustee of the W.N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST dated May 18,  
24 1972 (owner of the Upton County, Texas, Oil rights) to distribute sixty-five percent (65%) of the  
25 Upton County, Texas, Oil right income to JACQUELINE M. MONTOYA and her sister,  
26 KATHRYN A. BOUVIER. To obtain injunctive relief, a person must prove (1) that irreparable  
27  
28

1 harm will result if an injunction is not issued, (2) that compensatory damages is not an adequate  
2 remedy for such irreparable harm, and (3) a reasonable probability of success on the merits in the  
3 action that the person is seeking the injunction. *Sobel v. Capital Management Consultants, Inc.*,  
4 102 Nev. 444, 446, 726 P.2d 335, 337 (1986) citing *Number One Rent-A-Car v. Ramada Inns*, 94  
5 Nev. 779, 780, 587 P.2d 1329, 1330.  
6

7 The district court heard the First Petition on January 14, 2014, and at such hearing the  
8 district court aptly reasoned that compensatory damages are adequate and denied the First Petition  
9 without prejudice. At the January 14, 2014 hearing, the following exchange occurred:  
10

11 “MR. MUGAN: ... **We’re talking about dollars here.**

12 THE COURT: **Right.**

13 MR. MUGAN: **That’s adequate compensation.** We’re not talking about blowing up a  
14 building that can’t be replaced, or the sale of real estate that’s irreplaceable. We’re talking  
15 about dollars. **That’s adequate compensation.**

16 THE COURT: **And since it’s not even like an asset that would fluctuate like in the stock  
17 market. It’s oil lease money. It’s –**

18 MR. MUGAN: Yeah, it’s oil.

19 THE COURT: **It’s revenue from oil leases.**

20 MR. MUGAN: Right.

21 THE COURT: **It’s cash coming in.”** (emphasis added)

22 District Court Judge Gloria Sturman set the date for trial in this case for February 18, 2014;  
23 however, the trial was continued on February 18, 2014 and has since been set for a calendar call on  
24 December 4, 2014.

25 On March 6, 2014, JACQUELINE M. MONTOYA renewed her Petition To Compel Trustee  
26 To Distribute Accrued Income And Future Income Received From Oil, Gas, And Mineral Lease  
27 And Declaration Of The Applicability Of the Doctrine Of Laches by filing a petition identical to her  
28 First Petition accompanied by an Addendum (“Second Petition”). Again, in her Second Petition,  
JACQUELINE M. MONTOYA sought “injunctive relief” without satisfying the requirements

1 thereof. Particularly, JACQUELINE M. MONTOYA failed to controvert the idea that  
2 compensatory damages are sufficient in this case.

3 Notwithstanding JACQUELINE M. MONTOYA's failure to carry her burden of proof, the  
4 district court entered and filed an Order: Re Pending Motions And Scheduling ("Order") on July 7,  
5 2014 granting the Second Petition. A Notice of Entry Of Order: Re Pending Motions And  
6 Scheduling was entered and filed on July 8, 2014. As indicated in the Order, the district court  
7 premised its decision to grant the Second Petition on "changed circumstances, namely the delay in  
8 going forward in these proceedings in order to first resolve the dispute in the pending Will Contest  
9 in Case No. P-14-080595-E (a related case)." Without satisfying the requirements for injunctive  
10 relief, "changed circumstances" is insufficient justification for granting JACQUELINE M.  
11 MONTOYA's Second Petition, and it is this decision that ELEANOR now appeals.  
12  
13

14 11. Indicate whether the case has previously been the subject of an appeal to or original  
15 writ proceeding in the Supreme Court and, if so, the caption and Supreme Court docket number of  
16 the prior proceeding: No.

17 12. Indicate whether this appeal involves child custody or visitation: No.

18 13. If this is a civil case, indicate whether this appeal involves the possibility of  
19 settlement: No.  
20

21 DATED this 22 day of July, 2014.

22 JEFFREY BURR, LTD.

23 By: 

24 JOHN R. MUGAN, ESQUIRE

25 Nevada Bar No. 10690

26 MICHAEL D. LUM, ESQUIRE

27 Nevada Bar No. 12997

28 2600 Paseo Verde Parkway, Suite 200

Henderson, Nevada 89074

Attorneys for Trustee ELEANOR CONNELL  
HARTMAN AHERN

1                                    **CERTIFICATE OF MAILING AND ELECTRONIC DELIVERY**

2                    I hereby certify that on the 31 day of July, 2014, I served a true and correct copy of the  
3 above and foregoing **CASE APPEAL STATEMENT** upon all counsel of record by electronically  
4 serving the document, to each person as indicated below, and by placing a true and correct copy  
5 thereof, enclosed in a sealed envelope, in the United States Mail at Henderson, Nevada, with first  
6 class postage thereon prepaid, addressed as follows:  
7

8       JOSEPH J. POWELL, Esquire  
9       The Rushforth Firm. Ltd.  
10      P.O. Box 371655  
11      Las Vegas, NV 89137  
12      [jocy@rushforth.net](mailto:jocy@rushforth.net)

13      WHITNEY WARNICK, Esquire  
14      Albright, Stoddard, Warnick and Albright  
15      801 S. Rancho Dr., #D-4  
16      Las Vegas, NV 89106  
17      [wbw@albrightstoddard.com](mailto:wbw@albrightstoddard.com)

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28

  
An employee of JEFFREY BURR, LTD.



FAMILY DOMESTIC  
**CASE SUMMARY**  
CASE NO. P-09-066425-T

In the Matter of the Trust of:  
**The W.N. Connell and Marjorie T. Connell Living Trust,**  
dtd May 18, 1972

§  
§  
§  
§  
§

Location: **Family Domestic**  
Judicial Officer: **Judge Sturman, Probate**  
Hearing Master: **Yamashita, Wesley**  
Filed on: **08/17/2009**  
Case Number History:  
Cross-Reference Case Number: **P066425**

CASE INFORMATION

Case Type: **Probate - Trust/Conservatorships**  
Subtype: **Individual Trustee**  
Case Flags: **Appealed to the Nevada Supreme Court**

DATE

CASE ASSIGNMENT

**Current Case Assignment**

Case Number	P-09-066425-T
Court	Family Domestic
Date Assigned	12/03/2012
Judicial Officer	Judge Sturman, Probate
Hearing Master	Yamashita, Wesley






PARTY INFORMATION

<b>Petitioner</b>	<b>Ahern, Eleanor C</b>	<i>Lead Attorneys</i> <b>Mugan, John R.</b> <i>Retained</i> 7024334455(W)
<b>Trust</b>	<b>The W.N. Connell and Marjorie T. Connell Living Trust, dtd May 18, 1972</b>	

DATE











EVENTS & ORDERS OF THE COURT

INDEX

08/17/2009	 Petition to Assume Jurisdiction of Trust Filed by: Petitioner Ahern, Eleanor C <i>* Confirm Trustee; and Construe and Reform Trust</i>	
08/17/2009	 Notice of Hearing Filed by: Petitioner Ahern, Eleanor C	
08/17/2009	 Certificate of Mailing Filed by: Petitioner Ahern, Eleanor C For: Other Parties Receiving Notice <i>PETITION TO ASSUME</i>	
09/04/2009	<b>Hearing (9:30 AM)</b> (Judicial Officer: Yamashita, Wesley) Events: 08/17/2009 Notice of Hearing <i>Hrg on Pet to Assume Jurisdiction Over Trust; Confirm Trustee; and Construe and Reform Trust</i>	
09/04/2009	 Order Filed by: Petitioner Ahern, Eleanor C <i>Assuming Jurisdiction over Trust; Confirm Trustee; and for Construction of an Reform of Trust instrument</i>	
09/08/2009	 Notice of Entry of Order	

FAMILY DOMESTIC  
**CASE SUMMARY**  
**CASE NO. P-09-066425-T**

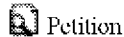
Filed by: Petitioner Ahern, Eleanor C

09/27/2013	 <b>Petition</b> Filed by: Other Montoya, Jacqueline M <i>Petition for Declaratory Judgment Regarding Limited Interest of Trust Assets Pursuant to NRS 30.040, NRS 163.031(1)(E), and NRS 164.033(1)(A)</i>
09/27/2013	 <b>Verilication</b> Filed by: Other Montoya, Jacqueline M <i>Verification for Petition for Declaratory Judgment Regarding Limited Interest of Trust Assets Pursuant to NRS 30.040, NRS 153.031(1)(E), and NRS 164.033(1)(A)</i>
09/27/2013	 <b>Notice of Hearing</b> Filed by: Other Montoya, Jacqueline M <i>Notice of Hearing on Petition for Declaratory Judgment Regarding Limited Interest of Trust Assets Pursuant to NRS 30.040, NRS 153.031(1)(E), and NRS 164.033(1)(A)</i>
09/27/2013	 <b>Certificate of Mailing</b> Filed by: Other Parties Receiving Notice <i>Certificate of Mailing</i>
10/11/2013	 <b>Petition (9:30 AM)</b> (Judicial Officer: Sturman, Gloria) <b>10/11/2013, 11/12/2013</b> Events: 09/27/2013 Notice of Hearing <i>Hearing on Petition for Declaratory judgment Regarding Limited Interest of Trust Assets Pursuant to NRS. 30.040, NRS 153.031(1)(E), and NRS 164.033(1)(A)</i>
11/04/2013	 <b>Motion</b> Filed by: Petitioner Ahern, Eleanor C <i>Motion to Refer Contested Probate Matter to Master-Probate Commissioner Per EDCR 4.16</i>
11/07/2013	 <b>Response</b> Filed by: Other Montoya, Jacqueline M <i>Response to Motion to Refer Contested Probate Matter to Master-Probate Commissioner per EDCR 4.16</i>
11/08/2013	 <b>Receipt of Copy</b> Filed by: Other Montoya, Jacqueline M <i>Receipt of Copy</i>
11/08/2013	 <b>Errata</b> Filed by: Other Montoya, Jacqueline M <i>Errata to Response to Motion to Refer Contested Probate Matter to Master-Probate Commissioner per EDCR 4.16</i>
11/11/2013	 <b>Reply</b> Filed by: Petitioner Ahern, Eleanor C <i>Reply of Eleanor C. Ahern to Response of Jacqueline M. Montoya to Motion to Refer Contested Probate Matter to Master-Probate Commissioner Per EDCR 4.16</i>
11/18/2013	 <b>Order</b> <i>Order Setting Bench Trial</i>
11/26/2013	 <b>Motion</b> Filed by: Petitioner Ahern, Eleanor C

FAMILY DOMESTIC  
**CASE SUMMARY**  
**CASE NO. P-09-066425-T**

*Motion to Dismiss Petition for Declaratory Judgment Regarding Limited Interest of Trust Assets Pursuant to NRS 30.040, NRS 153.031(1)(E), and NRS 164.033(1)(A) for Failure to State a Claim Upon Which Relief can be Granted Per NRCP 12(b)(5)*

12/03/2013



Petition

Filed by: Other Montoya, Jacqueline M  
*Petition to Compel Trustee to Distribute Accrued Income and Future Income Received from Oil, Gas, and Mineral Leases and Declaration of the Applicability of the Doctrine of Laches*

12/03/2013



Verification

Filed by: Other Montoya, Jacqueline M  
*Verification for Petition to Compel Trustee to Distribute Accrued Income and Future Income Received from Oil, Gas, and Mineral Leases and Declaration of the Applicability of the Doctrine of Laches*

12/03/2013



Certificate of Mailing

Filed by: Other Montoya, Jacqueline M  
*Certificate of Mailing*

12/04/2013



Notice of Hearing

Filed by: Other Montoya, Jacqueline M  
*Notice of Hearing on Petition to Compel Trustee to Distribute Accrued Income and Future Income Received from Oil, Gas, and Mineral Leases and Declaration of the Applicability of the Doctrine of Laches*

12/04/2013



Certificate of Mailing

Filed by: Other Montoya, Jacqueline M  
*Certificate of Mailing*

12/04/2013



Notice

*Notice of Resetting Hearing*

12/06/2013



Recorders Transcript of Hearing

*Transcript of Proceedings*

12/11/2013



Objection

Filed by: Other Montoya, Jacqueline M  
*Objection to Motion to Dismiss Petition for Declaratory Judgment Regarding Limited Interest of Trust Assets Pursuant to NRS 30.040, NRS 153.031(1)(E), and NRS 164.033(1)(A) for Failure to State a Claim Upon Which Relief Can Be Granted Per NRCP 12(B)(5)*

12/11/2013



Certificate of Mailing

Filed by: Other Montoya, Jacqueline M  
*Certificate of Mailing*

12/13/2013

**CANCELED Motion** (9:30 AM)

*Vacated  
Hearing on Motion to Dismiss Petition for Declaratory Judgment Regarding Limited Interest of Trust Assets Pursuant to NRS 30.040, NRS 153.031(1)(E), and NRS 164.033(1)(A) for Failure to State a Claim Upon Which Relief Can be Granted Per NRCP 12(b)(5)*












01/03/2014

















Objection

Filed by: Petitioner Ahern, Eleanor C  
*Objection of Trustee Eleanor C. Ahern to Jacqueline M. Montoya's Petition to Compel Trustee to Distribute Accrued Income and Future Income Received from Oil, Gas, and Mineral Leases and Declaration of the Applicability of the Doctrine of Laches*

FAMILY DOMESTIC  
**CASE SUMMARY**  
**CASE NO. P-09-066425-T**

01/06/2014	 <b>Order Denying</b> Filed by: Petitioner Ahern, Eleanor C <i>Order Denying Motion to Refer Contested Probate Matter to Master-Probate Commissioner Per EDCR 4.16; Directing Payment of all Oil, Gas, Mineral and Interest Royalties and Rent to Eleanor C. Hartman, also known as Eleanor C. Ahern, as Trustee of Trust No. 2 of the W.N. Connell and Marjorie T. Connell Living Trust dated May 18, 1972; and Setting Calendar Call and Hearing</i>
01/09/2014	 <b>Response</b> Filed by: Other Montoya, Jacqueline M <i>Response to Objection of Trustee Eleanor C. Ahern to Jacqueline M. Montoya's Petition to Compel Trustee to Distribute Accrued Income and Future Income Received from Oil, Gas, and Minerals and Declaration of the Applicability of the Doctrine of Laches</i>
01/14/2014	<b>Motion (9:00 AM)</b> (Judicial Officer: Sturman, Gloria) Events: 11/26/2013 Motion <i>Hearing on Motion to Dismiss Petition for Declaratory Judgment Regarding Limited Interest of Trust Assets Pursuant to NRS 30.040, NRS 153.031(1)(E), and NRS 164.033(1)(A) for Failure to State a Claim Upon Which Relief Can be Granted Per NRCP 12(b)(5)</i>
01/14/2014	<b>Petition - HM (9:00 AM)</b> (Judicial Officer: Sturman, Gloria) Events: 12/04/2013 Notice of Hearing <i>Hearing on Petition to Compel Trustee to Distribute Accrued Income and Future Income Received from Oil, Gas, and Mineral Leases and Declaration of the Applicability of the Doctrine of Laches</i>
01/14/2014	 <b>All Pending Motions (9:00 AM)</b> (Judicial Officer: Sturman, Gloria)
01/14/2014	 <b>Receipt of Copy</b> Filed by: Other Montoya, Jacqueline M <i>Receipt of Copy</i>
01/24/2014	 <b>Calendar Call (11:00 AM)</b> (Judicial Officer: Sturman, Gloria)
01/24/2014	 <b>Recorders Transcript of Hearing</b> Party: Petitioner Ahern, Eleanor C <i>Recorder's Transcript Motions Hearing Tuesday January 14 2014</i>
01/27/2014	 <b>Notice of Taking Deposition</b> Filed by: Petitioner Ahern, Eleanor C <i>Notice of Taking Videotaped Deposition of Curtis Baggett</i>
01/27/2014	 <b>Notice of Deposition</b> Filed by: Petitioner Ahern, Eleanor C <i>Notice of Taking Videotaped Deposition of Stanley E. Crawford, Jr.</i>
01/27/2014	 <b>Notice of Taking Deposition</b> Filed by: Petitioner Ahern, Eleanor C <i>Notice of Taking Videotaped Deposition of J. Randall Turner</i>
02/04/2014	 <b>Recorders Transcript of Hearing</b> Party: Petitioner Ahern, Eleanor C <i>Recorder's Transcript of Proceeding: All Pending Motions &amp; Calendar Call, Friday, January 24, 2014</i>
02/04/2014	 <b>Amended Notice</b>

FAMILY DOMESTIC  
**CASE SUMMARY**  
**CASE NO. P-09-066425-T**

	Filed by: Petitioner Ahern, Eleanor C <i>Amended Notice of Taking Videotaped Deposition of Curtis Baggett</i>
02/05/2014	 Notice of Vacating Deposition Filed by: Petitioner Ahern, Eleanor C <i>Notice of Vacating Deposition of Stanley E. Crawford, Jr.</i>
02/06/2014	 Notice of Vacating Deposition Filed by: Petitioner Ahern, Eleanor C <i>Notice of Vacating Deposition of J. Randall Turner</i>
02/07/2014	 Notice of Vacating Deposition Filed by: Petitioner Ahern, Eleanor C <i>Notice of Vacating Deposition of Curtis Baggett</i>
02/10/2014	 Answer - Other Domestic/Guardianship/Probate Filed by: Petitioner Ahern, Eleanor C <i>Answer of Trustee Eleanor C. Ahern to Jacqueline M. Montoya's Petition for Declaratory Judgment Regarding Limited Interest of Trust Assets Pursuant to NRS 30.040, NRS 153.031(1)(e), and NRS 164.033(1)(a) and Counterclaims Against Jacqueline M. Montoya</i>
02/11/2014	 Pre-trial Memorandum Filed by: Petitioner Ahern, Eleanor C <i>Pre-Trial Memorandum</i>
02/11/2014	 Trial Subpoena Filed by: Petitioner Ahern, Eleanor C <i>Trial Subpoena</i>
02/11/2014	 Acceptance of Service Filed by: Other Montoya, Jacqueline M <i>Acceptance of Service</i>
02/12/2014	 Pre-trial Memorandum Filed by: Other Montoya, Jacqueline M <i>Jacqueline Montoya's Trial Memorandum Pursuant to E.D.C.R. 7.27</i>
02/12/2014	 <b>Pre Trial Conference</b> (11:00 AM) (Judicial Officer: Sturman, Gloria)
02/14/2014	 Motion Filed by: Other Montoya, Jacqueline M <i>Motion to Dismiss and Motion to Strike Counterclaims Raised by Eleanor C. Ahern Pursuant to NRCP 16 and NRCP 12(B)</i>
02/18/2014	 <b>Bench Trial</b> (10:00 AM) (Judicial Officer: Sturman, Gloria)
02/20/2014	 Demand for Jury Trial Filed by: Petitioner Ahern, Eleanor C <i>Demand for Jury Trial</i>
02/21/2014	 Order Setting Civil Non-Jury Trial <i>Order Resetting Bench Trial</i>
02/26/2014	 Recorders Transcript of Hearing

FAMILY DOMESTIC  
**CASE SUMMARY**  
**CASE NO. P-09-066425-T**

Party: Petitioner Ahern, Eleanor C

*RECORDER'S TRANSCRIPT OF PROCEEDING: CIVIL BENCH TRIAL -- DAY 1 TUESDAY,  
FEBRUARY 18, 2014*

03/06/2014



Petition

Filed by: Other Montoya, Jacqueline M

*Petition to Compel Trustee to Distribute Accrued Income and Future Income Received from  
Oil, Gas, and Mineral Leases and Declaration of the Applicability of the Doctrine of Laches  
and Addendum to said Petition*

03/06/2014



Addendum

Filed by: Other Montoya, Jacqueline M

*Addendum to Petition to Compel Trustee to Distribute Accrued Income and Future Income  
Received from Oil, Gas, and Mineral Leases and Declaration of the Applicability of the  
Doctrine of Laches*

03/06/2014



Certificate of Mailing

Filed by: Petitioner Ahern, Eleanor C

*Certificate of Mailing*

03/11/2014



Stipulation and Order

Filed by: Other Montoya, Jacqueline M

*Stipulation and Order to Extend Time to Reply or Otherwise Plead to Counterclaims Asserted  
by Eleanor C. Ahern*

03/12/2014



Notice of Entry of Order

Filed by: Other Montoya, Jacqueline M

*Notice of Entry of Stipulation and Order to Extend Time to Reply or Otherwise Plead to  
Counterclaims Asserted by Eleanor C. Ahern*

03/13/2014



Certificate of Mailing

Filed by: Other Montoya, Jacqueline M

*Certificate of Mailing*

03/13/2014



Objection

Filed by: Petitioner Ahern, Eleanor C

*Objection of Trustee Eleanor C. Ahern to Jacqueline M. Montoya's Petition and Addendum to  
Petition to Compel Trustee to Distribute Accrued Income and Future Income Received from  
Oil, Gas, and Mineral Leases and Declaration of the Applicability of the Doctrine of Laches*

03/13/2014



Affidavit of Mailing

Filed by: Petitioner Ahern, Eleanor C

*Affidavit of Mailing*

03/13/2014



Recorders Transcript of Hearing

Party: Petitioner Ahern, Eleanor C

*RECORDER'S TRANSCRIPT PRETRIAL CONFERENCE WEDNESDAY, FEBRUARY 12,  
2014*

03/14/2014



Certificate of Mailing

Filed by: Petitioner Ahern, Eleanor C

*Certificate of Mailing*

03/18/2014



Motion to Dismiss

Filed by: Other Montoya, Jacqueline M

*Motion to Dismiss Counterclaims of Eleanor C. Ahern*

FAMILY DOMESTIC  
**CASE SUMMARY**  
**CASE NO. P-09-066425-T**

03/20/2014	 Amended Certificate of Mailing Party: Other Montoya, Jacqueline M <i>Amended Certificate of Mailing</i>
03/20/2014	 Certificate of Mailing Filed by: Other Montoya, Jacqueline M <i>Certificate of Mailing</i>
03/20/2014	 Amended Notice Filed by: Other Montoya, Jacqueline M <i>Amended Notice of Hearing on Petition to Compel Trustee to Distribute Accrued Income and Future Income Received from Oil, Gas, and Mineral Leases and Declaration of the Applicability of the Doctrine of Laches and Addendum to Said Petition</i>
03/25/2014	 Ex Parte Application Filed by: Other Montoya, Jacqueline M <i>Ex Parte Application for Order Shortening Time</i>
03/26/2014	 Petition Filed by: Other Montoya, Jacqueline M <i>Petition for Construction and Effect of Probate Court Order</i>
03/26/2014	 Verification Filed by: Other Montoya, Jacqueline M <i>Verification for Petition for Construction and Effect of Probate Court Order</i>
03/26/2014	 Notice of Hearing Filed by: Other Montoya, Jacqueline M <i>Notice of Hearing on Petition for Construction and Effect of Probate Court Order</i>
03/26/2014	 Notice of Entry Filed by: Other Montoya, Jacqueline M <i>Notice of Entry of Ex Parte Application for Order Shortening Time</i>
03/27/2014	 Petition Filed by: Other Montoya, Jacqueline M <i>Petition for Determination of Construction and Interpretation of Language Relating to Trust No. 2</i>
03/27/2014	 Verification Filed by: Other Montoya, Jacqueline M <i>Verification for Petition for Determination of Construction and Interpretation of Language Relating to Trust No. 2</i>
03/27/2014	 Notice of Hearing Filed by: Other Montoya, Jacqueline M <i>Notice of Hearing on Petition for Determination of Construction and Interpretation of Language Relating to Trust No. 2</i>
03/28/2014	 Certificate of Mailing Filed by: Other Montoya, Jacqueline M <i>Certificate of Mailing</i>
03/31/2014	

FAMILY DOMESTIC  
**CASE SUMMARY**  
**CASE NO. P-09-066425-T**

	 Certificate of Mailing Filed by: Other Montoya, Jacqueline M <i>Certificate of Mailing</i>
04/10/2014	 Ex Parte Petition Filed by: Petitioner Ahern, Eleanor C <i>Ex Parte Petition for Order Shortening Time Regarding Petition for Release of Trust Funds for the Payment of Administrative Expenses, Insurance Premiums and Taxes Attributable to Trust Property</i>
04/10/2014	 Petition Filed by: Petitioner Ahern, Eleanor C <i>Petition for Release of Trust Funds for the Payment of Administrative Expenses, Insurance Premiums and Taxes Attributable to Trust Property</i>
04/10/2014	 Order Shortening Time Filed by: Petitioner Ahern, Eleanor C <i>Order Shortening Time Regarding Petition for Release of Trust Funds for the Payment of Administrative Expenses, Insurance Premiums and Taxes Attributable to Trust Property</i>
04/10/2014	 Certificate of Mailing Filed by: Petitioner Ahern, Eleanor C <i>Certificate of Mailing Regarding Petition for Release of Trust Funds for the Payment of Administrative Expenses, Insurance Premiums and Taxes Attributable to Trust Property</i>
04/18/2014	 Objection Filed by: Other Montoya, Jacqueline M <i>Objection, in Part, to Petition for Release of Trust Funds for the Payment of Administrative Expenses, Insurance Premiums and Taxes Attributable to Trust Property</i>
04/22/2014	 <b>Petition (9:00 AM)</b> (Judicial Officer: Sturman, Gloria) Events: 04/10/2014 Order Shortening Time <i>Hearing on Petition for Release of Trust Funds for the Payment of Administrative Expenses, Insurance Premiums and Taxes Attributable to Trust Property</i>
04/28/2014	 Recorders Transcript of Hearing Party: Trust The W.N. Connell and Marjorie T. Connell Living Trust, dtd May 18, 1972 <i>RECORDER'S TRANSCRIPT OF PROCEEDINGS: PETITION TUESDAY, APRIL 22, 2014</i>
05/07/2014	 Errata Filed by: Petitioner Ahern, Eleanor C <i>Errata to Objection to Trustee Eleanor C. Ahern to Jacqueline M. Montoya's Petition and Addendum to Petition to Compel Trustee to Distribute Accrued Income and Future Income Received from Oil, Gas, and Mineral Leases and Declaration of the Applicability of the Doctrine of Laches</i>
05/07/2014	 Opposition Filed by: Petitioner Ahern, Eleanor C <i>Opposition of Eleanor C. Ahern to Motion to Dismiss Counterclaims of Eleanor C. Ahern</i>
05/08/2014	 Ex Parte Petition Filed by: Petitioner Ahern, Eleanor C <i>Ex Parte Petition for Order Shortening Time Regarding Motion to Continue Jacqueline M. Montoya's Petition for Construction and Effect of Probate Court Order</i>
05/08/2014	 Order Shortening Time



FAMILY DOMESTIC  
**CASE SUMMARY**  
**CASE NO. P-09-066425-T**



	Filed by: Petitioner Ahern, Eleanor C <i>Order Shortening Time Regarding Motion to Continue Jacqueline M. Montoya's Petition for Construction and Effect of Probate Court Order</i>
05/08/2014	 Motion Filed by: Petitioner Ahern, Eleanor C <i>Motion of Eleanor C. Ahern to Continue May 13, 2014 Hearing on Petition for Construction and Effect of Probate Court Order of Jacqueline M. Montoya</i>
05/08/2014	 Certificate of Mailing Filed by: Petitioner Ahern, Eleanor C <i>Certificate of Mailing Regarding Motion of Eleanor C. Ahern to Continue May 13, 2014 Hearing on Petition for Construction and Effect of Probate Court Order of Jacqueline M. Montoya</i>
05/08/2014	 Certificate of Mailing Filed by: Other Montoya, Jacqueline M <i>Certificate of Mailing</i>
05/08/2014	 Response Filed by: Other Montoya, Jacqueline M <i>Response to Objection of Eleanor C. Ahern to Jacqueline M. Montoya's Petition and Addendum to Petition to Compel Trustee to Distribute Accrued Income and Future Income Received from Oil, Gas, and Mineral Leases and Declaration of the Applicability of the Doctrine of Laches</i>
05/12/2014	 Opposition Filed by: Petitioner Ahern, Eleanor C <i>Opposition of Eleanor C. Ahern to Jacqueline M. Montoya's Petition for Construction and Effect of Probate Court Order</i>
05/12/2014	 Certificate of Mailing Filed by: Petitioner Ahern, Eleanor C <i>Certificate of Mailing Regarding Opposition of Eleanor C. Ahern to Jacqueline M. Montoya's Petition for Construction and Effect of Probate Court Order</i>
05/12/2014	 Reply Filed by: Petitioner Ahern, Eleanor C <i>Reply to Trustee Eleanor C. Ahern to Response of Jacqueline M. Montoya to Objection of Trustee Eleanor C. Ahern to Jacqueline M. Montoya's Petition and Addendum to Petition to Compel Trustee to Distribute Accrued Income and Future Income Received from Oil, Gas, and Mineral Leases and Declaration of the Applicability of the Doctrine of Laches</i>
05/13/2014	<b>Motion</b> (9:00 AM) (Judicial Officer: Sturman, Gloria) Events: 03/18/2014 Motion to Dismiss <i>Motion to Dismiss Counterclaims of Eleanor C. Ahern</i>
05/13/2014	<b>Motion</b> (9:00 AM) (Judicial Officer: Sturman, Gloria) Events: 03/20/2014 Amended Notice <i>Jacqueline M. Montoya's Amended Notice of Hearing on Petition to Compel Trustee to Distribute Accrued Income and Future Income Received From Oil, Gas, and Mineral Leases and Declaration of the Applicability of the Doctrine of Laches and Addendum to Said Petition</i>
05/13/2014	<b>Hearing</b> (9:00 AM) (Judicial Officer: Sturman, Gloria) Events: 03/26/2014 Notice of Hearing <i>Hearing on Petition for Construction and Effect of Probate Court Order</i>
05/13/2014	<b>Motion</b> (9:00 AM) (Judicial Officer: Sturman, Gloria)

FAMILY DOMESTIC  
**CASE SUMMARY**  
**CASE NO. P-09-066425-T**

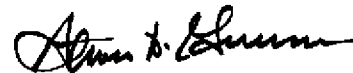
Events: 05/08/2014 Order Shortening Time  
*Motion of Eleanor c. Ahern to Continue May 13, 2014 Hearing on Petition for Constructive and Effect of Probate Court Order of Jacqueline M. Montoya*

05/13/2014	 <b>All Pending Motions (9:00 AM) (Judicial Officer: Sturman, Gloria)</b>
05/16/2014	 Order Filed by: Petitioner Ahern, Eleanor C <i>Order Granting Petition for Release of Trust Funds for the Payment of Administrative Expenses, Insurance Premiums and Taxes Attributable to Trust Property</i>
05/19/2014	 Notice of Entry of Order Filed by: Petitioner Ahern, Eleanor C <i>Notice of Entry of Order</i>
05/20/2014	 Recorders Transcript of Hearing Party: Petitioner Ahern, Eleanor C <i>Transcript RE: All Pending Motions</i>
05/27/2014	<b>CANCELED Petition - HM (9:00 AM) (Judicial Officer: Sturman, Gloria)</b> <i>Vacated</i> <i>Hearing on Petition for Determination of Construction and Interpretation of Language Relating to Trust No. 2</i>
06/09/2014	 Notice Filed by: Other Bouvier, Kathryn A <i>Notice of Appearance</i>
07/07/2014	 Order Filed by: Other Bouvier, Kathryn A <i>Order: Re Pending Motions and Scheduling</i>
07/07/2014	 Order Filed by: Petitioner Ahern, Eleanor C <i>Order: Re Pending Motions and Scheduling</i>
07/08/2014	 Notice of Entry of Order Filed by: Other Montoya, Jacqueline M <i>Notice of Entry of Order: Re Pending Motions and Scheduling</i>
07/17/2014	 Motion to Compel Filed by: Petitioner Ahern, Eleanor C <i>Motion to Compel Responses to Eleanor C. Ahern's First Set of Interrogatories and First Request for Production of Documents to Jacqueline M. Montoya</i>
07/17/2014	 Certificate of Mailing Filed by: Petitioner Ahern, Eleanor C <i>Certificate of Mailing</i>
07/17/2014	<b>CANCELED Calendar Call (11:00 AM) (Judicial Officer: Sturman, Gloria)</b> <i>Vacated</i>
07/22/2014	 Subpoena Duces Tecum Filed by: Petitioner Ahern, Eleanor C <i>Subpoena Duces Tecum for Business Records</i>

FAMILY DOMESTIC  
**CASE SUMMARY**  
CASE NO. P-09-066425-T

07/31/2014	 Case Appeal Statement Filed by: Petitioner Ahern, Eleanor C <i>Case Appeal Statement</i>
07/31/2014	 Notice of Appeal Filed by: Petitioner Ahern, Eleanor C <i>Notice of Appeal</i>
08/11/2014	<b>CANCELED Bench Trial</b> (9:00 AM) (Judicial Officer: Sturman, Gloria) <i>Vacated</i>
08/22/2014	<b>Motion to Compel</b> (1:30 PM) (Judicial Officer: Beecroft, Chris A, Jr.) <i>Motion to Compel Responses to Eleanor C. Ahern's First Set of Interrogatories and First Request for Production of Documents to Jacqueline M. Montoya</i>
12/04/2014	<b>Status Check: Settlement/Trial Setting</b> (11:00 AM) (Judicial Officer: Sturman, Gloria)
12/04/2014	<b>Status Check</b> (11:00 AM) (Judicial Officer: Sturman, Gloria) <i>Petition for Determination of Construction and Interpretation of Language Relating to Trust No. 2</i>
12/04/2014	<b>Status Check</b> (11:00 AM) (Judicial Officer: Sturman, Gloria) <i>Motion to Dismiss Counterclaims of Eleanor C. Ahern</i>
12/04/2014	<b>Status Check</b> (11:00 AM) (Judicial Officer: Sturman, Gloria) <i>Petition for Construction and Effect of Probate Court Order</i>
12/04/2014	<b>Calendar Call</b> (11:00 AM) (Judicial Officer: Sturman, Gloria)
DATE	FINANCIAL INFORMATION

<b>Attorney</b> Steadman, Brian K, ESQ	
Total Charges	150.00
Total Payments and Credits	150.00
<b>Balance Due as of 8/4/2014</b>	<b>0.00</b>
<b>Other</b> Montoya, Jacqueline M	
Total Charges	223.00
Total Payments and Credits	223.00
<b>Balance Due as of 8/4/2014</b>	<b>0.00</b>
<b>Petitioner</b> Ahern, Eleanor C	
Total Charges	666.00
Total Payments and Credits	666.00
<b>Balance Due as of 8/4/2014</b>	<b>0.00</b>



CLERK OF THE COURT

**ORDR**

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Nevada Bar No. 008875

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*Attorneys for Kathryn A. Bouvier*

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

In the Matter of  
THE W. N. CONNELL AND MARJORIE  
T. CONNELL LIVING TRUST, Dated  
May 18, 1972,

CASE NO. P-09-066425  
DEPT NO. XXVI (26)

Date of Hearing: May 13, 2014  
Time of Hearing: 9:30a.m.

An Inter Vivos Irrevocable Trust.

**ORDER: RE PENDING MOTIONS  
AND SCHEDULING**

The following Motions and Petitions came on for hearing before the Court on  
May 13, 2014:

1. The Motion, filed herein on or about May 6, 2014, of Eleanor C. Ahern  
in her capacity as the trustee of the W.N. Connell and Marjorie T. Connell Living  
Trust, dated May 18, 1972, to Continue May 13, 2014 Hearing on Petition for  
Construction and Effect of Probate Court Order of Jacqueline M. Montoya (hereinafter  
referred to as the "Motion to Continue");

2. The Petition, which was originally filed herein on December 3, 2013, and renewed with the filing on March 6, 2014, of Jacqueline M. Montoya in her capacity as the trustee and a beneficiary of the MTC Living Trust, dated December 6, 1995, to Compel Trustee to Distribute Accrued Income and Future Income Received from Oil, Gas, and Mineral Leases and Declaration of the Applicability of the Doctrine of Laches (hereinafter referred to as the "Petition to Compel");

3. The Motion, filed herein on March 18, 2014, of Jacqueline M. Montoya, in her capacity as the trustee and a beneficiary of the MTC Living Trust, dated December 6, 1995, to Dismiss the Counterclaims of Eleanor C. Ahern (hereinafter referred to as the "Motion to Dismiss"); and

4. The Petition, filed herein on March 26, 2014, of Jacqueline M. Montoya in her capacity as the trustee and a beneficiary of the MTC Living Trust, dated December 6, 1995, for Construction and Effect of Probate Court Order (hereinafter referred to as the "Petition for Construction").

Present at the hearing on behalf of Eleanor C. Ahern (hereinafter "Eleanor") were her counsel, John R. Mugan, Esq., and Michael D. Lum, Esq. Present at the hearing on behalf of Jacqueline M. Montoya (hereinafter "Jacqueline") were her counsel, Joseph J. Powell, Esq., and Whitney B. Warnick, Esq.

The Court, after having reviewed the Motions, Petitions and Oppositions thereto of the parties, and after having considered the argument of counsel at the hearing, finds and orders as follows:

### **FINDINGS OF FACT**

The Court considered first Eleanor's Motion to Continue wherein she requested that the hearings on the pending Motion and Petitions before the Court, together with consideration of Jacqueline's underlying Petition, filed herein on September 27, 2013, for Declaratory Judgment Regarding Limited Interest of Trust Assets Pursuant to NRS 30.040, NRS 153.031(1)(E), and NRS 164.033(1)(A) (hereinafter referred to as the "Petition for Declaratory Relief"), and her Petition, filed herein on March 27, 2014, for

1 Determination of Construction and Interpretation of Language Relating to Trust No.  
2 2 (hereinafter referred to as the "Petition for Determination"), all be postponed and  
3 continued until after the hearing and resolution of the pending Will Contest between  
4 the parties in this Court in Case No. P-14-080595-E.

5 Eleanor asserted that the resolution of the pending Will Contest Case could  
6 resolve completely all the other pending actions in this Case, and therefore as a matter  
7 of judicial economy, and to avoid unnecessary litigation expenses, it would be prudent  
8 to postpone and continue the other pending matters in this Case until the Court  
9 rendered its decision in the Will Contest Case. Jacqueline asserted that while it may  
10 be prudent that her other Motion and Petitions pending in this Case be continued until  
11 the resolution of the pending Will Contest Case, the Court should address the relief  
12 requested in her Motion to Compel at this time, in order to provide to Jacqueline and  
13 her sister, Kathryn A. Bouvier (hereinafter "Kathryn"), income they depended upon  
14 from the W.N. Connell and Marjorie T. Connell Living Trust, dated May 18, 1972 (the  
15 "Trust"). The Trust owns income producing real property located in Upton County  
16 Texas, together with oil, mineral, and gas rights related to such real property.  
17 Approximately a 65% share of income from this property had historically been paid or  
18 distributed to Marjorie T. Connell, while she was alive, and then to Jacqueline and  
19 Kathryn, until the dispute over entitlement to the income arose in these proceedings.

20 The Court finds that the pending Will Contest in Case No. P-14-080595-E  
21 should be resolved first before addressing the pending Motion to Dismiss, Petition for  
22 Construction, Petition for Declaratory Relief, and Petition for Determination in these  
23 proceedings. Therefore, the Motion to Continue should be granted with respect to those  
24 matters. However, the Court finds that the Motion to Compel should be addressed at  
25 this hearing on May 13, 2014.

26 Because of a change in circumstances, namely the delay in going forward in  
27 these proceedings in order to first resolve the dispute in the pending Will Contest in  
28 Case No. P-14-080595-E, the Court finds that it is now appropriate that the Motion to

1 Compel should be granted, providing to Jacqueline and Kathryn, as beneficiaries of the  
2 MTC Living Trust, dated December 6, 1995 (the "MTC Trust"), the right to receive the  
3 approximate 65% share of accruing income from the Trust, effective with the month  
4 of May, 2014. However, payment to them of this share of the accruing income should  
5 be conditioned upon their posting a bond or other acceptable security facilitating, if  
6 necessary, the repayment and return of the income distributed to them back to Eleanor  
7 in the event it is determined in these proceedings or in Case No. P-14-080595-E that  
8 Eleanor is entitled to such income. The bond or other security posted should be in the  
9 amount of the anticipated income to be distributed to Jacqueline and Eleanor from  
10 May, 2014, until January, 2015. The amount of anticipated income should be based  
11 upon past income payments received from the Trust to the extent they are actually  
12 indicative of what the anticipated income will be, and any dispute over the amount in  
13 question must be settled by the Court. If the parties can agree on the bond or other  
14 security to be posted, they may submit a Stipulation and Order to the Court for approval  
15 of their arrangement. If they cannot reach an agreement regarding the bond or other  
16 security to be posted, including the terms, the amount and the nature thereof, then  
17 Jacqueline must file a Petition with the Court requesting approval of the bond or other  
18 security proposed; Eleanor may then oppose the same; and, after a hearing thereon, the  
19 Court will determine the matter, including whether or not the bond or other security  
20 proposed is acceptable, the amount required for the bond or other security, and any  
21 other terms desired and appropriate to protect the interests of the parties.

22 The Court further finds that while this proceeding and the Will Contest in Case  
23 No. P-14-080595-E are interrelated, they should not be consolidated. However, any  
24 discovery and evidence gathered in one Case should be usable in the other Case, and  
25 therefore discovery proceedings and efforts of the parties for both Cases should be  
26 coordinated to provide economy in and expeditious handling of these matters.

27 The Court further finds that the trial in this proceeding scheduled on the Court's  
28 hearing Stack beginning August 11, 2014, and the Calendar Call, Pre-Trial Conference

1 and other deadlines relating thereto as previously ordered, should be taken off calendar  
2 at this time pending the resolution of the Will Contest Case. However, although  
3 Motions and Petitions mentioned above relating to this case are also being postponed  
4 and continued pending the resolution of the Will Contest Case, this should not preclude  
5 a party from filing in this proceeding hereafter a motion, petition, or other request for  
6 relief, the granting of which is not dependent upon or would otherwise be resolved by  
7 the Court's decision as to the merits of the parties' positions in the Will Contest Case.

8 **ORDER**

9 Based upon these findings, and good cause appearing:

10 IT IS HEREBY ORDERED as follows:

11 1. The Motion, filed herein on or about May 6, 2014, of Eleanor C. Ahern  
12 in her capacity as the trustee of the W.N. Connell and Marjorie T. Connell Living  
13 Trust, dated May 18, 1972, to Continue May 13, 2014 Hearing on Petition for  
14 Construction and Effect of Probate Court Order of Jacqueline M. Montoya, is granted  
15 as hereinafter further ordered.

16 2. The hearing or other consideration by the Court of Jacqueline's Petition,  
17 filed herein on September 27, 2013, for Declaratory Judgment Regarding Limited  
18 Interest of Trust Assets Pursuant to NRS 30.040, NRS 153.031(1)(E), and NRS  
19 164.033(1)(A), is hereby continued for a status hearing before the Court on December  
20 4, 2014, at which time its further consideration will be addressed and scheduled as  
21 necessary.

22 3. The hearing or other consideration by the Court of the Motion, filed herein  
23 on March 18, 2014, of Jacqueline M. Montoya, in her capacity as the trustee and a  
24 beneficiary of the MTC Living Trust, dated December 6, 1995, to Dismiss the  
25 Counterclaims of Eleanor C. Ahern, is hereby continued for a status hearing before the  
26 Court on December 4, 2014, at which time its further consideration will be addressed  
27 and scheduled as necessary.

28 4. The hearing or other consideration by the Court of the Petition, filed



1 herein on March 26, 2014, of Jacqueline M. Montoya, in her capacity as the trustee and  
2 a beneficiary of the MTC Living Trust, dated December 6, 1995, for Construction and  
3 Effect of Probate Court Order, is hereby continued for a status hearing before the Court  
4 on December 4, 2014, at which time its further consideration will be addressed and  
5 scheduled as necessary.

6 5. The hearing or other consideration by the Court of the Petition, filed  
7 herein on March 27, 2014, of Jacqueline M. Montoya, in her capacity as the trustee and  
8 a beneficiary of the MTC Living Trust, dated December 6, 1995, for Determination of  
9 Construction and Interpretation of Language Relating to Trust No. 2, is hereby  
10 continued for a status hearing before the Court on December 4, 2014, at which time its  
11 further consideration will be addressed and scheduled as necessary.

12 6. The Petition, which was originally filed herein on December 3, 2013, and  
13 renewed with the filing on March 6, 2014, of Jacqueline M. Montoya, in her capacity  
14 as the trustee and a beneficiary of the MTC Living Trust, dated December 6, 1995, to  
15 Compel Trustee to Distribute Accrued Income and Future Income Received from Oil,  
16 Gas, and Mineral Leases and Declaration of the Applicability of the Doctrine of  
17 Laches, is granted in part as follows:

18 a. Beginning with the income paid to the Trust for the month of May,  
19 2014, the approximate 65% share of the income from the Trust's ownership of income  
20 producing real property located in Upton County Texas, together with oil, mineral, and  
21 gas rights related to such real property, which income share had historically been paid  
22 or distributed to Marjorie T. Connell, while she was alive, and then to Jacqueline and  
23 Kathryn, until the dispute over entitlement thereto arose in these proceedings, shall be  
24 paid to Jacqueline as trustee of the MTC Trust for further distribution thereunder in  
25 equal shares to Jacqueline and Kathryn.

26 b. Payment of this approximate 65% share of the income shall be  
27 conditioned upon Jacqueline and Kathryn posting a bond or other acceptable security  
28 facilitating the repayment and return of the income distributed to them back to Eleanor,

1 in the event it is determined in these proceedings or in Case No. P-14-080595-E that  
2 Eleanor is entitled to such income. The bond or other security posted shall be in the  
3 estimated amount of the anticipated income to be distributed to Jacqueline and Eleanor  
4 from May, 2014, until January, 2015. The amount of anticipated income shall be based  
5 upon past income payments received from the Trust to the extent they are actually  
6 indicative of what the anticipated income will be, and any dispute over the amount in  
7 question must be settled by the Court. If the parties can agree on the bond or other  
8 security to be posted, they may submit a Stipulation and Order to the Court for approval  
9 of their arrangement. If they cannot reach an agreement regarding the bond or other  
10 security to be posted, including the terms, the amount and the nature thereof, then  
11 Jacqueline must file a Petition with the Court requesting approval of the bond or other  
12 security proposed; Eleanor may then oppose the same; and, after a hearing thereon, the  
13 Court will determine the matter, including whether or not the bond or other security  
14 proposed is acceptable, the amount required for the bond or other security, and any  
15 other terms desired and appropriate to protect the interests of the parties.

16 7. While this proceeding and the Will Contest in Case No. P-14-080595-E  
17 are interrelated, they shall not be consolidated. However, any discovery and evidence  
18 gathered in one Case shall be usable in the other Case, and therefore discovery  
19 proceedings and efforts of the parties for both Cases shall be coordinated to provide  
20 economy in and expeditious handling of these matters.

21 8. The trial in this proceeding scheduled on the Court's hearing Stack  
22 beginning August 11, 2014, and the Calendar Call, Pre-Trial Conference and other  
23 deadlines relating thereto as previously ordered, are taken off calendar at this time  
24 pending the resolution of the Will Contest Case. However, although the Motions and  
25 Petitions mentioned above relating to this case are also being postponed and continued  
26 pending the resolution of the Will Contest Case, this shall not preclude a party from  
27 filing in this proceeding hereafter a motion, petition, or other request for relief the  
28 granting of which is not dependent upon or would otherwise be resolved by the Court's

1 decision as to the merits of the parties' positions in the Will Contest Case.

2 So ORDERED this 2<sup>nd</sup> day of July, 2014.

3  
4 DISTRICT COURT JUDGE 

5 Submitted by:

6 ALBRIGHT, STODDARD,  
7 WARNICK & ALBRIGHT

Submitted by:

8 THE RUSHFORTH FIRM, LTD.

By: 

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By: 

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11 *Attorneys for Jacqueline M. Montoya and Kathryn A. Bouvier*

12  
13 Approved as to form only by:

14 JEFFREY BURR, LTD.

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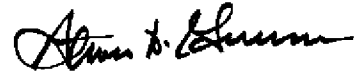
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11 [gma@albrightstoddard.com](mailto:gma@albrightstoddard.com)12 [wbw@albrightstoddard.com](mailto:wbw@albrightstoddard.com)13 *Attorneys for Jacqueline M. Montoya*14 *and Kathryn A. Bouvier*

Electronically Filed

07/08/2014 09:07:36 AM



CLERK OF THE COURT

11 **DISTRICT COURT**12 **CLARK COUNTY, NEVADA**13 In the Matter of the Estate of:  
14 THE W. N. CONNELL AND MARJORIE T.  
15 CONNELL LIVING TRUST, Dated May 18,  
16 1972,

17 An Inter Vivos Irrevocable Trust

CASE NO. P-09-066425

Dept. XXVI (26)

18 **NOTICE OF ENTRY OF**  
19 **ORDER: RE PENDING MOTIONS AND**  
20 **SCHEDULING**21 PLEASE TAKE NOTICE that an **ORDER: RE PENDING MOTIONS AND**  
22 **SCHEDULING** was entered with this Court on July 7, 2014.

23 A copy of said Order is attached hereto.

24 DATED this 14 day of July, 2014.25 **ALBRIGHT, STODDARD, WARNICK**  
26 **& ALBRIGHT**27 By 28 **G. MARK ALBRIGHT, ESQ.**

Nevada Bar No. 001394

**WHITNEY B. WARNICK, ESQ.**

Nevada Bar No. 001573

801 South Rancho Drive, Suite D-4

Las Vegas, Nevada 89106

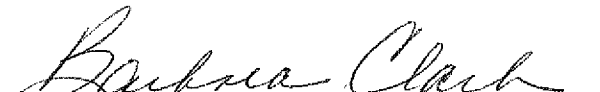
*Attorneys for Jacqueline M. Montoya*

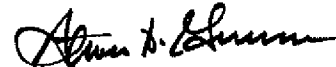
**CERTIFICATE OF SERVICE**

Pursuant to NRCP 5(b), I certify that I am an employee of Albright, Stoddard, Warnick & Albright and that on this 7 day of July, 2014, I served a true and correct copy of the foregoing **NOTICE OF ENTRY OF ORDER: RE PENDING MOTIONS AND SCHEDULING** upon all counsel of record by electronically serving the document using the Court's electronic filing system, and by placing a true and correct copy thereof, enclosed in a sealed envelope, in the United States Mail at Las Vegas, Nevada, with first class postage thereon prepaid, addressed to the following:

John R. Mugan, Esq.  
Jeffrey Burr Ltd.  
Suite 200  
2600 Paseo Verde Parkway  
Henderson, Nevada 89074  
Attorneys for Eleanor C. Ahern

Joseph J. Powell, Esq.  
The Rushforth Law Firm, Ltd.  
Suite 100  
9505 Hillwood Drive  
Las Vegas, Nevada 89134  
Attorneys for Jacqueline M. Montoya and  
Kathryn A. Bouvier

  
An employee of Albright, Stoddard, Warnick  
& Albright



CLERK OF THE COURT

**ORDER**

JOSEPH J. POWELL, ESQ.  
Nevada Bar No. 008875  
THE RUSHFORTH FIRM, LTD.  
9505 Hillwood Drive, Suite 100  
Las Vegas, Nevada 89134  
Tel: (702) 255-4552  
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[gma@albrightstoddard.com](mailto:gma@albrightstoddard.com)  
*Attorneys for Kathryn A. Bouvier*

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

In the Matter of  
THE W. N. CONNELL AND MARJORIE  
T. CONNELL LIVING TRUST, Dated  
May 18, 1972,

CASE NO. P-09-066425  
DEPT NO. XXVI (26)

Date of Hearing: May 13, 2014  
Time of Hearing: 9:30a.m.

An Inter Vivos Irrevocable Trust.

**ORDER: RE PENDING MOTIONS  
AND SCHEDULING**

The following Motions and Petitions came on for hearing before the Court on  
May 13, 2014:

1. The Motion, filed herein on or about May 6, 2014, of Eleanor C. Ahern  
in her capacity as the trustee of the W.N. Connell and Marjorie T. Connell Living  
Trust, dated May 18, 1972, to Continue May 13, 2014 Hearing on Petition for  
Construction and Effect of Probate Court Order of Jacqueline M. Montoya (hereinafter  
referred to as the "Motion to Continue");

2. The Petition, which was originally filed herein on December 3, 2013, and renewed with the filing on March 6, 2014, of Jacqueline M. Montoya in her capacity as the trustee and a beneficiary of the MTC Living Trust, dated December 6, 1995, to Compel Trustee to Distribute Accrued Income and Future Income Received from Oil, Gas, and Mineral Leases and Declaration of the Applicability of the Doctrine of Laches (hereinafter referred to as the "Petition to Compel");

3. The Motion, filed herein on March 18, 2014, of Jacqueline M. Montoya, in her capacity as the trustee and a beneficiary of the MTC Living Trust, dated December 6, 1995, to Dismiss the Counterclaims of Eleanor C. Ahern (hereinafter referred to as the "Motion to Dismiss"); and

4. The Petition, filed herein on March 26, 2014, of Jacqueline M. Montoya in her capacity as the trustee and a beneficiary of the MTC Living Trust, dated December 6, 1995, for Construction and Effect of Probate Court Order (hereinafter referred to as the "Petition for Construction").

Present at the hearing on behalf of Eleanor C. Ahern (hereinafter "Eleanor") were her counsel, John R. Mugan, Esq., and Michael D. Lum, Esq. Present at the hearing on behalf of Jacqueline M. Montoya (hereinafter "Jacqueline") were her counsel, Joseph J. Powell, Esq., and Whitney B. Warnick, Esq.

The Court, after having reviewed the Motions, Petitions and Oppositions thereto of the parties, and after having considered the argument of counsel at the hearing, finds and orders as follows:

#### **FINDINGS OF FACT**

The Court considered first Eleanor's Motion to Continue wherein she requested that the hearings on the pending Motion and Petitions before the Court, together with consideration of Jacqueline's underlying Petition, filed herein on September 27, 2013, for Declaratory Judgment Regarding Limited Interest of Trust Assets Pursuant to NRS 30.040, NRS 153.031(1)(E), and NRS 164.033(1)(A) (hereinafter referred to as the "Petition for Declaratory Relief"), and her Petition, filed herein on March 27, 2014, for

1 Determination of Construction and Interpretation of Language Relating to Trust No.  
2 2 (hereinafter referred to as the "Petition for Determination"), all be postponed and  
3 continued until after the hearing and resolution of the pending Will Contest between  
4 the parties in this Court in Case No. P-14-080595-E.

5 Eleanor asserted that the resolution of the pending Will Contest Case could  
6 resolve completely all the other pending actions in this Case, and therefore as a matter  
7 of judicial economy, and to avoid unnecessary litigation expenses, it would be prudent  
8 to postpone and continue the other pending matters in this Case until the Court  
9 rendered its decision in the Will Contest Case. Jacqueline asserted that while it may  
10 be prudent that her other Motion and Petitions pending in this Case be continued until  
11 the resolution of the pending Will Contest Case, the Court should address the relief  
12 requested in her Motion to Compel at this time, in order to provide to Jacqueline and  
13 her sister, Kathryn A. Bouvier (hereinafter "Kathryn"), income they depended upon  
14 from the W.N. Connell and Marjorie T. Connell Living Trust, dated May 18, 1972 (the  
15 "Trust"). The Trust owns income producing real property located in Upton County  
16 Texas, together with oil, mineral, and gas rights related to such real property.  
17 Approximately a 65% share of income from this property had historically been paid or  
18 distributed to Marjorie T. Connell, while she was alive, and then to Jacqueline and  
19 Kathryn, until the dispute over entitlement to the income arose in these proceedings.

20 The Court finds that the pending Will Contest in Case No. P-14-080595-E  
21 should be resolved first before addressing the pending Motion to Dismiss, Petition for  
22 Construction, Petition for Declaratory Relief, and Petition for Determination in these  
23 proceedings. Therefore, the Motion to Continue should be granted with respect to those  
24 matters. However, the Court finds that the Motion to Compel should be addressed at  
25 this hearing on May 13, 2014.

26 Because of a change in circumstances, namely the delay in going forward in  
27 these proceedings in order to first resolve the dispute in the pending Will Contest in  
28 Case No. P-14-080595-E, the Court finds that it is now appropriate that the Motion to



1 Compel should be granted, providing to Jacqueline and Kathryn, as beneficiaries of the  
2 MTC Living Trust, dated December 6, 1995 (the "MTC Trust"), the right to receive the  
3 approximate 65% share of accruing income from the Trust, effective with the month  
4 of May, 2014. However, payment to them of this share of the accruing income should  
5 be conditioned upon their posting a bond or other acceptable security facilitating, if  
6 necessary, the repayment and return of the income distributed to them back to Eleanor  
7 in the event it is determined in these proceedings or in Case No. P-14-080595-E that  
8 Eleanor is entitled to such income. The bond or other security posted should be in the  
9 amount of the anticipated income to be distributed to Jacqueline and Eleanor from  
10 May, 2014, until January, 2015. The amount of anticipated income should be based  
11 upon past income payments received from the Trust to the extent they are actually  
12 indicative of what the anticipated income will be, and any dispute over the amount in  
13 question must be settled by the Court. If the parties can agree on the bond or other  
14 security to be posted, they may submit a Stipulation and Order to the Court for approval  
15 of their arrangement. If they cannot reach an agreement regarding the bond or other  
16 security to be posted, including the terms, the amount and the nature thereof, then  
17 Jacqueline must file a Petition with the Court requesting approval of the bond or other  
18 security proposed; Eleanor may then oppose the same; and, after a hearing thereon, the  
19 Court will determine the matter, including whether or not the bond or other security  
20 proposed is acceptable, the amount required for the bond or other security, and any  
21 other terms desired and appropriate to protect the interests of the parties.

22 The Court further finds that while this proceeding and the Will Contest in Case  
23 No. P-14-080595-E are interrelated, they should not be consolidated. However, any  
24 discovery and evidence gathered in one Case should be usable in the other Case, and  
25 therefore discovery proceedings and efforts of the parties for both Cases should be  
26 coordinated to provide economy in and expeditious handling of these matters.

27 The Court further finds that the trial in this proceeding scheduled on the Court's  
28 hearing Stack beginning August 11, 2014, and the Calendar Call, Pre-Trial Conference

1 and other deadlines relating thereto as previously ordered, should be taken off calendar  
2 at this time pending the resolution of the Will Contest Case. However, although  
3 Motions and Petitions mentioned above relating to this case are also being postponed  
4 and continued pending the resolution of the Will Contest Case, this should not preclude  
5 a party from filing in this proceeding hereafter a motion, petition, or other request for  
6 relief, the granting of which is not dependent upon or would otherwise be resolved by  
7 the Court's decision as to the merits of the parties' positions in the Will Contest Case.

8 **ORDER**

9 Based upon these findings, and good cause appearing:

10 IT IS HEREBY ORDERED as follows:

11 1. The Motion, filed herein on or about May 6, 2014, of Eleanor C. Ahern  
12 in her capacity as the trustee of the W.N. Connell and Marjorie T. Connell Living  
13 Trust, dated May 18, 1972, to Continue May 13, 2014 Hearing on Petition for  
14 Construction and Effect of Probate Court Order of Jacqueline M. Montoya, is granted  
15 as hereinafter further ordered.

16 2. The hearing or other consideration by the Court of Jacqueline's Petition,  
17 filed herein on September 27, 2013, for Declaratory Judgment Regarding Limited  
18 Interest of Trust Assets Pursuant to NRS 30.040, NRS 153.031(1)(E), and NRS  
19 164.033(1)(A), is hereby continued for a status hearing before the Court on December  
20 4, 2014, at which time its further consideration will be addressed and scheduled as  
21 necessary.

22 3. The hearing or other consideration by the Court of the Motion, filed herein  
23 on March 18, 2014, of Jacqueline M. Montoya, in her capacity as the trustee and a  
24 beneficiary of the MTC Living Trust, dated December 6, 1995, to Dismiss the  
25 Counterclaims of Eleanor C. Ahern, is hereby continued for a status hearing before the  
26 Court on December 4, 2014, at which time its further consideration will be addressed  
27 and scheduled as necessary.

28 4. The hearing or other consideration by the Court of the Petition, filed

1 herein on March 26, 2014, of Jacqueline M. Montoya, in her capacity as the trustee and  
2 a beneficiary of the MTC Living Trust, dated December 6, 1995, for Construction and  
3 Effect of Probate Court Order, is hereby continued for a status hearing before the Court  
4 on December 4, 2014, at which time its further consideration will be addressed and  
5 scheduled as necessary.

6 5. The hearing or other consideration by the Court of the Petition, filed  
7 herein on March 27, 2014, of Jacqueline M. Montoya, in her capacity as the trustee and  
8 a beneficiary of the MTC Living Trust, dated December 6, 1995, for Determination of  
9 Construction and Interpretation of Language Relating to Trust No. 2, is hereby  
10 continued for a status hearing before the Court on December 4, 2014, at which time its  
11 further consideration will be addressed and scheduled as necessary.

12 6. The Petition, which was originally filed herein on December 3, 2013, and  
13 renewed with the filing on March 6, 2014, of Jacqueline M. Montoya, in her capacity  
14 as the trustee and a beneficiary of the MTC Living Trust, dated December 6, 1995, to  
15 Compel Trustee to Distribute Accrued Income and Future Income Received from Oil,  
16 Gas, and Mineral Leases and Declaration of the Applicability of the Doctrine of  
17 Laches, is granted in part as follows:

18 a. Beginning with the income paid to the Trust for the month of May,  
19 2014, the approximate 65% share of the income from the Trust's ownership of income  
20 producing real property located in Upton County Texas, together with oil, mineral, and  
21 gas rights related to such real property, which income share had historically been paid  
22 or distributed to Marjorie T. Connell, while she was alive, and then to Jacqueline and  
23 Kathryn, until the dispute over entitlement thereto arose in these proceedings, shall be  
24 paid to Jacqueline as trustee of the MTC Trust for further distribution thereunder in  
25 equal shares to Jacqueline and Kathryn.

26 b. Payment of this approximate 65% share of the income shall be  
27 conditioned upon Jacqueline and Kathryn posting a bond or other acceptable security  
28 facilitating the repayment and return of the income distributed to them back to Eleanor,

1 in the event it is determined in these proceedings or in Case No. P-14-080595-E that  
2 Eleanor is entitled to such income. The bond or other security posted shall be in the  
3 estimated amount of the anticipated income to be distributed to Jacqueline and Eleanor  
4 from May, 2014, until January, 2015. The amount of anticipated income shall be based  
5 upon past income payments received from the Trust to the extent they are actually  
6 indicative of what the anticipated income will be, and any dispute over the amount in  
7 question must be settled by the Court. If the parties can agree on the bond or other  
8 security to be posted, they may submit a Stipulation and Order to the Court for approval  
9 of their arrangement. If they cannot reach an agreement regarding the bond or other  
10 security to be posted, including the terms, the amount and the nature thereof, then  
11 Jacqueline must file a Petition with the Court requesting approval of the bond or other  
12 security proposed; Eleanor may then oppose the same; and, after a hearing thereon, the  
13 Court will determine the matter, including whether or not the bond or other security  
14 proposed is acceptable, the amount required for the bond or other security, and any  
15 other terms desired and appropriate to protect the interests of the parties.

16 7. While this proceeding and the Will Contest in Case No. P-14-080595-E  
17 are interrelated, they shall not be consolidated. However, any discovery and evidence  
18 gathered in one Case shall be usable in the other Case, and therefore discovery  
19 proceedings and efforts of the parties for both Cases shall be coordinated to provide  
20 economy in and expeditious handling of these matters.

21 8. The trial in this proceeding scheduled on the Court's hearing Stack  
22 beginning August 11, 2014, and the Calendar Call, Pre-Trial Conference and other  
23 deadlines relating thereto as previously ordered, are taken off calendar at this time  
24 pending the resolution of the Will Contest Case. However, although the Motions and  
25 Petitions mentioned above relating to this case are also being postponed and continued  
26 pending the resolution of the Will Contest Case, this shall not preclude a party from  
27 filing in this proceeding hereafter a motion, petition, or other request for relief the  
28 granting of which is not dependent upon or would otherwise be resolved by the Court's

1 decision as to the merits of the parties' positions in the Will Contest Case.

2 So ORDERED this 2<sup>nd</sup> day of July, 2014.

3  
4   
DISTRICT COURT JUDGE

5 Submitted by:

6 ALBRIGHT, STODDARD,  
7 WARNICK & ALBRIGHT

Submitted by:

8 THE RUSHFORTH FIRM, LTD.

9 By: 

10 WHITNEY B. WARNICK, ESQ.  
11 Nevada Bar No. 001573  
12 801 South Rancho Drive, Suite D-4  
13 Las Vegas, Nevada 89106  
14 Tel: (702) 384-7111

By: 

15 JOSEPH J. POWELL, ESQ.  
16 Nevada Bar No. 00875  
17 P.O. Box 371655  
18 Las Vegas, NV 89137-1655  
19 Tel: (702) 255-4552

20 *Attorneys for Jacqueline M. Montoya and Kathryn A. Bouvier*

21 Approved as to form only by:

22 JEFFREY BURR, LTD.

23 By: 

24 JOHN R. MUGAN, ESQ.  
25 Nevada Bar No. 10690  
26 2600 Pasco Verde Parkway, Suite 200  
27 Henderson, Nevada 89074  
28 Tel: (702) 433-4455

*Attorneys for Eleanor Connell Hartman Ahern*

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Probate -  
Trust/Conservatorships**

**COURT MINUTES**

September 04, 2009

---

P-09-066425-T      In the Matter of the Trust of:  
The W.N. Connell and Marjorie T. Connell Living Trust, dtd May 18, 1972

---

**September 04,      9:30 AM      Hearing  
2009**

**HEARD BY:** Yamashita, Wesley

**COURTROOM:** Courtroom 09

**COURT CLERK:** Melissa Swinn

**PARTIES:**

Eleanor Ahern, Petitioner, not present	John Mugan, Attorney, not present
Jacqueline Montoya, Other, not present	Joseph Powell, Attorney, not present
Kathryn Bouvier, Other, not present	Whitney Warnick, Attorney, not present
Parties Receiving Notice, Other, not present	
The W.N. Connell and Marjorie T. Connell	
Living Trust, dtd May 18, 1972, Trust, not	
present	

<b>JOURNAL ENTRIES</b>
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- Matter being on the Approved List and there being no objection, COMMISSIONER RECOMMENDED, Petition GRANTED.

**INTERIM CONDITIONS:**

**FUTURE HEARINGS:**

*Canceled: December 13, 2013 9:30 AM Motion  
Reason: Canceled as the result of a hearing cancel, Hearing Canceled Reason: Vacated  
Courtroom 09  
Yamashita, Wesley*

*Canceled: May 27, 2014 9:00 AM Petition - HM  
Reason: Canceled as the result of a hearing cancel, Hearing Canceled Reason: Vacated*

Denman, Linda  
Sturman, Gloria  
Esparza, Kerry  
RJC Courtroom 03H

*Canceled: July 17, 2014 11:00 AM*  
*Reason: Canceled as the result of a hearing cancel, Hearing Canceled Reason: Vacated*  
Denman, Linda  
Sturman, Gloria  
RJC Courtroom 03H  
Esparza, Kerry  
Knight, Marwanda

*Canceled: July 18, 2014 11:00 AM*

*Canceled: August 11, 2014 9:00 AM*  
*Reason: Canceled as the result of a hearing cancel, Hearing Canceled Reason: Vacated*  
Denman, Linda  
Sturman, Gloria  
RJC Courtroom 03H  
Esparza, Kerry

August 22, 2014 1:30 PM Motion to Compel  
Courtroom 24  
Beecroft, Chris A. Jr.  
Beecroft, Chris A. Jr.

December 04, 2014 11:00 AM  
Denman, Linda  
Sturman, Gloria  
RJC Courtroom 03H  
Esparza, Kerry

December 04, 2014 11:00 AM Status Check  
Denman, Linda  
Sturman, Gloria  
RJC Courtroom 03H  
Esparza, Kerry

December 04, 2014 11:00 AM Status Check  
Denman, Linda  
Sturman, Gloria  
RJC Courtroom 03H  
Esparza, Kerry

December 04, 2014 11:00 AM Status Check  
Denman, Linda  
Sturman, Gloria  
RJC Courtroom 03H  
Esparza, Kerry

December 04, 2014 11:00 AM  
Denman, Linda  
Sturman, Gloria  
RJC Courtroom 03H  
Esparza, Kerry





**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Probate -  
Trust/Conservatorships**

**COURT MINUTES**

October 11, 2013

---

P-09-066425-T      In the Matter of the Trust of:  
The W.N. Connell and Marjorie T. Connell Living Trust, dtd May 18, 1972

---

**October 11, 2013      9:30 AM      Petition**

**HEARD BY:**    Yamashita, Wesley

**COURTROOM:**   Courtroom 09

**COURT CLERK:**   Carol Foley

**PARTIES:**

Eleanor Ahern, Petitioner, not present	John Mugan, Attorney, not present
Jacqueline Montoya, Other, not present	Joseph Powell, Attorney, present
Kathryn Bouvier, Other, not present	Whitney Warnick, Attorney, not present
Parties Receiving Notice, Other, not present	
The W.N. Connell and Marjorie T. Connell	
Living Trust, dtd May 18, 1972, Trust, not	
present	

<b>JOURNAL ENTRIES</b>
------------------------

- PETITION FOR DECLARATORY JUDGMENT REGARDING LIMITED INTEREST OF TRUST ASSETS PURSUANT TO NRS. 30.040, NRS 153.031(1)(E), AND NRS 164.033(1)(A)

John Mugan, Esq. present on behalf of Eleanor Connell Ahern.

Mr. Mugan advised he was recently retained and Mr. Powell agreed to give him additional time to file a responsive pleading. Mr. Powell asked Court to refer matter to Judge Sturman. Following discussion, COMMISSIONER RECOMMENDED, matter referred to Judge Sturman and CONTINUED to 11/12/13 at 9:00 a.m.

**INTERIM CONDITIONS:**

PRINT DATE:	08/04/2014	Page 4 of 27	Minutes Date:	September 04, 2009
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**FUTURE HEARINGS:**

*Canceled: December 13, 2013 9:30 AM Motion*  
*Reason: Canceled as the result of a hearing cancel, Hearing Canceled Reason: Vacated*  
*Courtroom 09*  
*Yamashita, Wesley*

*Canceled: May 27, 2014 9:00 AM Petition - HM*  
*Reason: Canceled as the result of a hearing cancel, Hearing Canceled Reason: Vacated*  
*Denman, Linda*  
*Sturman, Gloria*  
*Esparza, Kerry*  
*RJC Courtroom 03H*

*Canceled: July 17, 2014 11:00 AM*  
*Reason: Canceled as the result of a hearing cancel, Hearing Canceled Reason: Vacated*  
*Denman, Linda*  
*Sturman, Gloria*  
*RJC Courtroom 03H*  
*Esparza, Kerry*  
*Knight, Marwanda*

*Canceled: July 18, 2014 11:00 AM*

*Canceled: August 11, 2014 9:00 AM*  
*Reason: Canceled as the result of a hearing cancel, Hearing Canceled Reason: Vacated*  
*Denman, Linda*  
*Sturman, Gloria*  
*RJC Courtroom 03H*  
*Esparza, Kerry*

August 22, 2014 1:30 PM Motion to Compel  
Courtroom 24  
Beecroft, Chris A. Jr.  
Beecroft, Chris A. Jr.

December 04, 2014 11:00 AM  
Denman, Linda  
Sturman, Gloria  
RJC Courtroom 03H  
Esparza, Kerry

December 04, 2014 11:00 AM Status Check  
Denman, Linda  
Sturman, Gloria  
RJC Courtroom 03H  
Esparza, Kerry

December 04, 2014 11:00 AM Status Check  
Denman, Linda  
Sturman, Gloria  
RJC Courtroom 03H  
Esparza, Kerry

December 04, 2014 11:00 AM Status Check  
Denman, Linda

Sturman, Gloria  
RJC Courtroom 03H  
Esparza, Kerry

December 04, 2014 11:00 AM  
Denman, Linda  
Sturman, Gloria  
RJC Courtroom 03H  
Esparza, Kerry

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Probate -  
Trust/Conservatorships**

**COURT MINUTES**

November 12, 2013

P-09-066425-T

In the Matter of the Trust of:

The W.N. Connell and Marjorie T. Connell Living Trust, dtd May 18, 1972

**November 12,  
2013**

**9:00 AM**

**Petition**

**HEARD BY:** Sturman, Gloria

**COURTROOM:** RJC Courtroom 03H

**COURT CLERK:** Linda Denman

**PARTIES:**

Eleanor Ahern, Petitioner, not present  
Jacqueline Montoya, Other, not present  
Kathryn Bouvier, Other, not present  
Parties Receiving Notice, Other, not present  
The W.N. Connell and Marjorie T. Connell  
Living Trust, dtd May 18, 1972, Trust, not  
present

John Mugan, Attorney, present  
Joseph Powell, Attorney, present  
Whitney Warnick, Attorney, not present

<b>JOURNAL ENTRIES</b>
------------------------

- Argument by counsel on PETITION FOR DECLARATORY JUDGMENT REGARDING LIMITED INTEREST OF TRUST ASSETS PURSUANT TO NRS. 30.040, NRS 153.031(1)(E), and NRS 164.033(1)(A). Colloquy on petitioner's unnoticed MOTION TO REFER CONTESTED PROBATE MATTER TO MASTER-PROBATE COMMISSIONER PER EDCR 4.16. Court and Counsel agreed to consider petitioner's Motion as an opposition to the Petition. Mr. Mugan argued that the granddaughters, Jacqueline Montoya, trustee of the MTC Living Trust, and Kathryn Bouvier, were attempting to reform and reconstruct the prior confirmation of the trust by changing the terms of the allocation of the oil and gas proceeds between the parties. Mr. Powell argued that the percentage allocation has been the same for the past 33 years and he urged the Court to issue a declaratory judgment either stating that the granddaughters 65% and the petitioner's 35% was accurate or to at least go back to the status quo until the situation can be brought before the Court because his clients rely upon the proceeds for their income. Counsel stated that an attorney in Texas informed the oil and gas companies that there is a dispute as to the terms of the pay-out and they have ceased

distribution of any proceeds into the Trust at all according to either common practice or Texas law.

Following further argument, COURT STATED ITS FINDINGS that the W.N. Connell and Marjorie T. Connell Living Trust, dated May 18, 1972, is under this Court's jurisdiction. COURT ORDERED all proceeds from the Texas oil and gas leases are to be resumed immediately and deposited with the trust; the trustee and beneficiary, Eleanor C. Ahern, is entitled to receive her undisputed 35% share; the 65% disputed portion is to be held in the Trust until this Court makes a determination as to its proper distribution. COURT FURTHER ORDERED matter SET for EVIDENTIARY HEARING on the February trial stack and understands that Mr. Powell is reserving his petition for fees, costs, and damages.

Mr. Powell to prepare proposed Order; Mr. Mugan to review as to form and content.

CALENDAR CALL: 1/24/2014 at 11:00AM

TRIAL STACK: 2/18/2014 AT 9:00AM

#### **INTERIM CONDITIONS:**

#### **FUTURE HEARINGS:**

*Canceled: December 13, 2013 9:30 AM Motion*

*Reason: Canceled as the result of a hearing cancel, Hearing Canceled Reason: Vacated  
Courtroom 09  
Yamashita, Wesley*

*Canceled: May 27, 2014 9:00 AM Petition - HM*

*Reason: Canceled as the result of a hearing cancel, Hearing Canceled Reason: Vacated  
Denman, Linda  
Sturman, Gloria  
Esparza, Kerry  
RJC Courtroom 03H*

*Canceled: July 17, 2014 11:00 AM*

*Reason: Canceled as the result of a hearing cancel, Hearing Canceled Reason: Vacated  
Denman, Linda  
Sturman, Gloria  
RJC Courtroom 03H  
Esparza, Kerry  
Knight, Marwanda*

*Canceled: July 18, 2014 11:00 AM*

*Canceled: August 11, 2014 9:00 AM*

*Reason: Canceled as the result of a hearing cancel, Hearing Canceled Reason: Vacated  
Denman, Linda  
Sturman, Gloria  
RJC Courtroom 03H  
Esparza, Kerry*

August 22, 2014 1:30 PM Motion to Compel

Courtroom 24  
Beecroft, Chris A, Jr.  
Beecroft, Chris A, Jr.

December 04, 2014 11:00 AM  
Denman, Linda  
Sturman, Gloria  
RJC Courtroom 03H  
Esparza, Kerry

December 04, 2014 11:00 AM Status Check  
Denman, Linda  
Sturman, Gloria  
RJC Courtroom 03H  
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Esparza, Kerry

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

## Probate - Trust/Conservatorships

## COURT MINUTES

January 14, 2014

P-09-066425-T      In the Matter of the Trust of:  
The W.N. Connell and Marjorie T. Connell Living Trust, dtd May 18, 1972

**January 14, 2014      9:00 AM      All Pending Motions**

HEARD BY: Sturman, Gloria

COURTROOM: RJC Courtroom 03H

**COURT CLERK:** Linda Denman

**PARTIES:**

Eleanor Ahern, Petitioner, not present	John Mugan, Attorney, present
Jacqueline Montoya, Other, not present	Joseph Powell, Attorney, present
Kathryn Bouvier, Other, not present	Whitney Warnick, Attorney, not present
Parties Receiving Notice, Other, not present	
The W.N. Connell and Marjorie T. Connell Living Trust, dtd May 18, 1972, Trust, not present	

## JOURNAL ENTRIES

- HEARING ON MOTION TO DISMISS PETITION FOR DECLARATORY JUDGMENT REGARDING LIMITED INTEREST OF TRUST ASSETS PURSUANT TO NRS 30.040, NRS 153.031(1)(e), and NRS 164.033(1)(A) FOR FAILURE TO STATE A CLAIM UPON WHICH RELIEF CAN BE GRANTED PER NRCP 12(B)(5) . . . . . Argument by counsel as to claims preclusion and whether the elements had been met since the matter was brought before the Court in 2009 on a reformation and clarification as to the beneficiaries in the event of petitioner's death. COURT STATED ITS FINDINGS that the elements for claim preclusion have not been met since there is no way to anticipate that four years later the trustee would change the distribution for those issues to have been raised in 2009. COURT ORDERED Motion to Dismiss DENIED.

HEARING ON PETITION TO COMPEL TRUSTEE TO DISTRIBUTE ACCRUED INCOME AND FUTURE INCOME RECEIVED FROM OIL, GAS, AND MINERAL LEASES AND DECLARATION OF THE APPLICABILITY OF THE DOCTRINE OF LACHES . . . . Counsel argued the Court's previous ruling that granted Trustee Ahern the 35% income from the Texas oil and gas leases and the

65% income in dispute to be held until a hearing could be held, the effect of spoliation and Doctrine of Laches on Trustee Ahern's change of distribution, and irreparable harm/success on the merits as to all parties. Upon inquiry of the Court as to bringing this petition now, Mr. Powell stated he felt the issues raised could be dealt with today which would make the upcoming evidentiary hearing unnecessary. COURT STATED ITS FINDINGS that sworn testimony needed to be heard since the facts of distribution from the original trust are in dispute and to decide if Laches is applicable. COURT ORDERED Petition to Compel DENIED WITHOUT PREJUDICE.

#### INTERIM CONDITIONS:

#### FUTURE HEARINGS:

*Canceled: May 27, 2014 9:00 AM Petition - HM*  
*Reason: Canceled as the result of a hearing cancel, Hearing Canceled Reason: Vacated*  
*Denman, Linda*  
*Sturman, Gloria*  
*Esparza, Kerry*  
*RJC Courtroom 03H*

*Canceled: July 17, 2014 11:00 AM*  
*Reason: Canceled as the result of a hearing cancel, Hearing Canceled Reason: Vacated*  
*Denman, Linda*  
*Sturman, Gloria*  
*RJC Courtroom 03H*  
*Esparza, Kerry*  
*Knight, Marwanda*

*Canceled: July 18, 2014 11:00 AM*

*Canceled: August 11, 2014 9:00 AM*  
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**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Probate -  
Trust/Conservatorships**

**COURT MINUTES**

January 24, 2014

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P-09-066425-T      In the Matter of the Trust of:  
The W.N. Connell and Marjorie T. Connell Living Trust, dtd May 18, 1972

---

**January 24, 2014      11:00 AM**

**HEARD BY:**    Sturman, Gloria

**COURTROOM:**    RJC Courtroom 03H

**COURT CLERK:**    Linda Denman

**PARTIES:**

Eleanor Ahern, Petitioner, not present	John Mugan, Attorney, present
Jacqueline Montoya, Other, not present	Joseph Powell, Attorney, present
Kathryn Bouvier, Other, not present	Whitney Warnick, Attorney, not present
Parties Receiving Notice, Other, not present	
The W.N. Connell and Marjorie T. Connell	
Living Trust, dtd May 18, 1972, Trust, not	
present	

<b>JOURNAL ENTRIES</b>
------------------------

- At CALENDAR CALL, counsel announced ready to proceed. Mr. Mugan advised the Court of one potential problem dealing with the Texas probate matter. He stated the matter was stayed due to the health problems of the expert witness, a witness he also intended use, and didn't know the effect of the stay on this case but wanted to bring the Court's attention to this problem. Mr. Powell disagreed saying the Will doesn't need to be probated and this is another delaying tactic against his clients who have not been receiving any distribution since the stay was imposed. Court stated the bench trial will proceed unless and until a motion is filed requesting a continuance.

**Bench Trial Dates:**

Tuesday,      2.18.14 at 9:00AM  
Wednesday,    2.19.14 at 1:30PM  
Thursday,      2.20.14 at 9:00AM  
Friday,        2.21.14 at 1:30PM

Pre-Trial Conference: Wednesday, 2.12.14 at 11:00AM

**INTERIM CONDITIONS:**

**FUTURE HEARINGS:**

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**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Probate -  
Trust/Conservatorships**

**COURT MINUTES**

February 12, 2014

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P-09-066425-T      In the Matter of the Trust of:  
The W.N. Connell and Marjorie T. Connell Living Trust, dtd May 18, 1972

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**February 12, 2014    11:00 AM            Pre Trial Conference**

**HEARD BY:**    Sturman, Gloria

**COURTROOM:**    RJC Courtroom 03H

**COURT CLERK:**    Linda Denman

**PARTIES:**

Eleanor Ahern, Petitioner, not present	John Mugan, Attorney, present
Jacqueline Montoya, Other, not present	Joseph Powell, Attorney, present
Kathryn Bouvier, Other, not present	Whitney Warnick, Attorney, not present
Parties Receiving Notice, Other, not present	
The W.N. Connell and Marjorie T. Connell	
Living Trust, dtd May 18, 1972, Trust, not	
present	

<b>JOURNAL ENTRIES</b>
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- At PRE TRIAL CONFERENCE, counsel appeared and announced they were ready for trial. Counsel agreed to start the trial at 10:00am to accommodate the plaintiff's first witness. Trial exhibits, trial briefs, and findings of fact were submitted along with electronic versions for the Court's use. Mr. Powell mentioned he was putting together a printed power point presentation and would make sure opposing counsel was provided a copy before trial. Mr. Mugan also listed a few accommodations that would be needed from the Court due to his client's health and Court was happy to oblige.

**INTERIM CONDITIONS:**

**FUTURE HEARINGS:**

*Canceled: May 27, 2014 9:00 AM Petition - HM  
Reason: Canceled as the result of a hearing cancel, Hearing Canceled Reason: Vacated*

PRINT DATE:	08/04/2014	Page 16 of 27	Minutes Date:	September 04, 2009
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Denman, Linda  
Sturman, Gloria  
Esparza, Kerry  
RJC Courtroom 03H

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RJC Courtroom 03H  
Esparza, Kerry  
Knight, Marwanda

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**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Probate -  
Trust/Conservatorships**

**COURT MINUTES**

February 18, 2014

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P-09-066425-T      In the Matter of the Trust of:  
The W.N. Connell and Marjorie T. Connell Living Trust, dtd May 18, 1972

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**February 18, 2014    10:00 AM**

**HEARD BY:**    Sturman, Gloria

**COURTROOM:**    RJC Courtroom 03H

**COURT CLERK:**    Linda Denman

**PARTIES:**

Eleanor Ahern, Petitioner, present	John Mugan, Attorney, present
Jacqueline Montoya, Other, present	Joseph Powell, Attorney, present
Kathryn Bouvier, Other, not present	Whitney Warnick, Attorney, not present
Parties Receiving Notice, Other, not present	
The W.N. Connell and Marjorie T. Connell	
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<b>JOURNAL ENTRIES</b>
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**- BENCH TRIAL - DAY**

Mr. Powell raised concerns about the counter-claims included in Respondent's Answer filed last week, specifically the no-contest clause and the tortious interference with a contract and asked that they be dismissed for lack of notice. Colloquy as to whether the trial could proceed on the petition or whether all issues had to be litigated at one time. Following the discussion, COURT STATES ITS FINDINGS that the counter-claims are valid affirmative defenses arising from the same occurrence. Counsel requested a break to discuss options with their clients.

Court resumed and counsel stated they were in agreement to continue the trial and a new trial date was given for the August stack. Court mentioned they might also want to bifurcate the tort issue if Discovery could not be completed. Mr. Powell requested fees and costs for preparing for today's trial and Court directed him to prepare an Affidavit. He also requested the matter be returned to status quo in which the trust was distributed 65/35 for the last 33 years. Court requested the request be put



in writing. Court returned all exhibits to counsel and stated an amended trial order would be sent.

**INTERIM CONDITIONS:**

**FUTURE HEARINGS:**

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*Knight, Marwanda*

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**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Probate -  
Trust/Conservatorships**

**COURT MINUTES**

April 22, 2014

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P-09-066425-T	In the Matter of the Trust of: The W.N. Connell and Marjorie T. Connell Living Trust, dtd May 18, 1972
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**April 22, 2014            9:00 AM            Petition**

**HEARD BY:**    Sturman, Gloria

**COURTROOM:**    RJC Courtroom 03H

**COURT CLERK:**    Linda Denman

**PARTIES:**

Eleanor Ahern, Petitioner, not present	John Mugan, Attorney, present
Jacqueline Montoya, Other, not present	Joseph Powell, Attorney, present
Kathryn Bouvier, Other, not present	Whitney Warnick, Attorney, not present
Parties Receiving Notice, Other, not present	
The W.N. Connell and Marjorie T. Connell	
Living Trust, dtd May 18, 1972, Trust, not	
present	

<b>JOURNAL ENTRIES</b>
------------------------

- Discussion by counsel on PETITION FOR RELEASE OF TRUST FUNDS FOR THE PAYMENT OF ADMINISTRATIVE EXPENSES, INSURANCE PREMIUMS AND TAXES ATTRIBUTABLE TO TRUST PROPERTY on Mr. Mugan's statement that the objections raised involved misunderstandings as to the petition's intent. He explained that Ms. Ahern had paid the October Ad Valorem taxes out of her share since the 65% was temporarily blocked pending trial and this Petition was to reimburse her now that the trial has been delayed. Also, the Petition is not requesting attorney fees and accounting fees are not being assessed against work done on behalf of Ms. Ahern personally. Mr. Powell agreed Ms. Montoya had no objections with the clarification presented by Mr. Mugan as long as there was full transparency for the administrative expenses. Counsel also discussed the selection of Gamett & King) as the accounting firm for the Trust and there was no objection.

Mr. Mugan to prepare order; Mr. Powell to review as to form and content.

**INTERIM CONDITIONS:**

**FUTURE HEARINGS:**

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Esparza, Kerry  
RJC Courtroom 03H

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RJC Courtroom 03H  
Esparza, Kerry  
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Denman, Linda  
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RJC Courtroom 03H  
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August 22, 2014 1:30 PM Motion to Compel  
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Sturman, Gloria

RJC Courtroom 03H

Esparza, Kerry

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Probate -  
Trust/Conservatorships**

**COURT MINUTES**

May 13, 2014

P-09-066425-T

In the Matter of the Trust of:

The W.N. Connell and Marjorie T. Connell Living Trust, dtd May 18, 1972

**May 13, 2014**

**9:00 AM**

**All Pending Motions**

**HEARD BY:** Sturman, Gloria

**COURTROOM:** RJC Courtroom 03H

**COURT CLERK:** Linda Denman

**PARTIES:**

Eleanor Ahern, Petitioner, not present  
Jacqueline Montoya, Other, not present  
Kathryn Bouvier, Other, not present  
Parties Receiving Notice, Other, not present  
The W.N. Connell and Marjorie T. Connell  
Living Trust, dtd May 18, 1972, Trust, not  
present

John Mugan, Attorney, present  
Joseph Powell, Attorney, present  
Whitney Warnick, Attorney, not present

<b>JOURNAL ENTRIES</b>
------------------------

- HEARING ON PETITION FOR CONSTRUCTION AND EFFECT OF PROBATE COURT ORDER . . . . MOTION OF ELEANOR C. AHERN TO CONTINUE MAY 13, 2014 HEARING ON PETITIONER FOR CONSTRUCTIVE AND EFFECT OF PROBATE COURT ORDER OF JACQUELINE M. MONTOYA . . . . Argument by counsel on the effect of the Probate Commissioner's ruling in P080595-E finding a will contest and the Demand for Jury Trial and whether this case should proceed on the declaratory relief sought. Following argument, COURT STATED ITS FINDINGS that the declaratory motions and the bench trial set on the August trial stack in this case could be mooted depending on the outcome of the will contest. COURT ORDERED Motion to Continue GRANTED; all declaratory motions in both the trust case and the probate case will be continued as status checks; bench trial VACATED and RESET AS STATUS CHECK; and jury trial SET for will contest. COURT FURTHER ORDERED P-09-066425-T and P- -14-080595-E COORDINATED FOR DISCOVERY PURPOSES ONLY.

12/04/2014 AT 11:00AM P-09-066425-T; STATUS CHECK for Petition for Construction and Effect of

PRINT DATE:	08/04/2014	Page 25 of 27	Minutes Date:	September 04, 2009
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Probate Court Order . . . . . STATUS CHECK for Motion to Dismiss Counterclaims of Eleanor C. Ahern . . . . . STATUS CHECK for Petition for Determination of Construction and Interpretation of Language Relating to Trust No. 2 . . . . . STATUS CHECK for Bench Trial/Jury Trial Resetting

12/04/2014 AT 11:00AM P-14-080595-E; CALENDAR CALL

1/12/2015 AT 9:00AM TRIAL STACK

Mr. Mugan to prepare proposed Order; opposing counsel to review as to form and content.

JACQUELINE M. MONTOYA'S AMENDED NOTICE OF HEARING ON PETITION TO COMPEL TRUSTEE TO DISTRIBUTE ACCRUED INCOME AND FUTURE INCOME RECEIVED FROM OIL, GAS, AND MINERAL LEASES, AND DECLARATION OF THE APPLICABILITY OF THE DOCTRINE OF LACHES AND ADDENDUM TO SAID PETITION. . . . . Argument by counsel as to whether or not the 65% lease income should be paid to beneficiaries of Marjorie T. Connell's Living Trust or continued to be sequestered now that the trial has been moved to the first of next year. Counsel argued resulting repercussions to either party depending on whether Mrs. Connell's will is found to be or not be valid. Following the Court's indication the Court was to allow distribution, counsel then argued about the posting of a bond or other personal security. COURT ORDERED Motion to Compel Distribution GRANTED IN PART; distribution to begin as of this month with the June check; bond or alternate security posted upon motion as parties agree. Upon further argument, COURT STATED NO FINDING was being made on burden of proof or any other issues raised by counsel not set for hearing.

Mr. Powell to prepare proposed Order; Mr. Mugan to review as to form and content.

**INTERIM CONDITIONS:**

**FUTURE HEARINGS:**

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*Sturman, Gloria*

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Esparza, Kerry





**EIGHTH JUDICIAL DISTRICT COURT CLERK'S OFFICE**  
**NOTICE OF DEFICIENCY**  
**ON APPEAL TO NEVADA SUPREME COURT**

**JOHN R. MUGAN, ESQ.**  
**2600 PASEO VERDE PKWY., SUITE 200**  
**HENDERSON, NV 89074**

**DATE: August 4, 2014**  
**CASE: P066425**

**RE CASE:** In the Matter of the Trust of:  
**THE W. N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST**, dated May 18, 1972

**NOTICE OF APPEAL FILED:** July 31, 2014

**YOUR APPEAL HAS BEEN SENT TO THE SUPREME COURT.**

**PLEASE NOTE: DOCUMENTS NOT TRANSMITTED HAVE BEEN MARKED:**

- ☒ \$250 – Supreme Court Filing Fee\*\*
  - If the \$250 Supreme Court Filing Fee was not submitted along with the original Notice of Appeal, it must be mailed directly to the Supreme Court. The Supreme Court Filing Fee will not be forwarded by this office if submitted after the Notice of Appeal has been filed.
- ☐ \$24 – District Court Filing Fee (Make Check Payable to the District Court)\*\*
- ☒ \$500 – Cost Bond on Appeal (Make Check Payable to the District Court)\*\*
  - NRAP 7: Bond For Costs On Appeal in Civil Cases
- ☐ Case Appeal Statement
  - NRAP 3 (a)(1), Form 2
- ☐ Order
- ☐ Notice of Entry of Order

---

**NEVADA RULES OF APPELLATE PROCEDURE 3 (a) (3) states:**

"The district court clerk must file appellant's notice of appeal despite perceived deficiencies in the notice, including the failure to pay the district court or Supreme Court filing fee. **The district court clerk shall apprise appellant of the deficiencies in writing**, and shall transmit the notice of appeal to the Supreme Court in accordance with subdivision (e) of this Rule with a notation to the clerk of the Supreme Court setting forth the deficiencies. Despite any deficiencies in the notice of appeal, the clerk of the Supreme Court shall docket the appeal in accordance with Rule 12."

*Please refer to Rule 3 for an explanation of any possible deficiencies.*

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**\*\*Per District Court Administrative Order 2012-01, in regards to civil litigants, "...all Orders to Appear in Forma Pauperis expire one year from the date of issuance." You must reapply for in Forma Pauperis status.**

# Certification of Copy

State of Nevada }  
County of Clark } SS:

I, Steven D. Grierson, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, does hereby certify that the foregoing is a true, full and correct copy of the hereinafter stated original document(s):

NOTICE OF APPEAL; CASE APPEAL STATEMENT; DISTRICT COURT  
DOCKET ENTRIES; CIVIL COVER SHEET; ORDER: RE PENDING MOTIONS AND  
SCHEDULING; NOTICE OF ENTRY OF ORDER: RE PENDING MOTIONS AND SCHEDULING;  
DISTRICT COURT MINUTES; NOTICE OF DEFICIENCY

In the Matter of the Trust of:

THE W. N. CONNELL AND MARJORIE T.  
CONNELL LIVING TRUST, dated May 18,  
1972,

An Inter Vivos Irrevocable Trust,

Case No: P066425  
Dept No: FAMILY DOMESTIC

now on file and of record in this office.

IN WITNESS THEREOF, I have hereunto  
Set my hand and Affixed the seal of the  
Court at my office, Las Vegas, Nevada  
This 4 day of August 2014.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk