

EXHIBIT 1

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13 EIGHTH JUDICIAL DISTRICT COURT
14 CLARK COUNTY, NEVADA

15
16 In the matter of:

Case No.: P-15-083867-T

17 The BEATRICE B. DAVIS FAMILY HERITAGE
18 TRUST, dated July 28, 2000, as amended on
19 February 24, 2014.

Dept. No.: 26

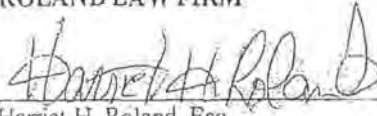
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23 CHRISTOPHER D. DAVIS' REPLY TO CAROLINE DAVIS' OPPOSITION TO HIS
24 MOTION TO DISMISS PURSUANT TO NRCP (12)(b) AND NRCP 19

25 CHRISTOPHER D. DAVIS ("Christopher"), by and through his attorneys HARRIET H.
26 ROLAND, Esq., of the ROLAND LAW FIRM and ANTHONY L. BARNEY, Esq., of the law
27 office of ANTHONY L. BARNEY, LTD., and hereby submits his reply to Caroline Davis'
28 ("Caroline") opposition to his motion to dismiss the Petition of Caroline Davis ("Caroline")

1 pursuant to Nevada Rules of Civil Procedure 12(b) and for failure to join an indispensable party
2 under NRCP 19. This pleading is based on the Memorandum of Points and Authorities attached
3 hereto, any exhibits attached hereto, and any oral argument that will be heard in this matter.
4

5 DATED this 17th day of April, 2015.

6 Respectfully Submitted,
7 ROLAND LAW FIRM

8 
9 Harriet H. Roland, Esq.
10 Attorney for Christopher D. Davis
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MEMORANDUM OF POINTS AND AUTHORITIES

I. FACTS PRESENTED

Christopher Davis hereby incorporates the Facts Presented in his Motion to Dismiss Pursuant to NRCP 12(b) and NRCP 19 ("Original Motion") as if set forth fully herein. By way of summary, he alleges:

Christopher's mother, Beatrice B. Davis ("Beatrice"), a life-long resident of Missouri, created several trusts and did extensive, sophisticated estate planning after her husband Ilius W. Davis died. Her long-time attorney was the Missouri firm of Lehnhardt & Lehnardt. She created the Beatrice B. Davis Revocable Trust, in Missouri, on April 4, 1990, (the Revocable Trust) and the Beatrice B. Davis Family Heritage Trust (the "FHT"), in Missouri, on July 28, 2000. She participated in the Davis Family Office, a Missouri limited liability company, formed on November 3, 1999. None of these entities had any Nevada contacts until the purported appointment of Dunham Trust Company on February 24, 2014.

Christopher Davis ("Christopher") and his wife Tarja are residents of Missouri. Caroline Davis is a resident of Washington. (Caroline and Christopher serve as co-trustees of the Revocable Trust which is administered under Missouri law, in Missouri.) Winfield Davis and his son Ace Davis are residents of Japan, but citizens of the United States. Stephen Lehnardt, the Trust Protector, is a resident of Missouri. Alaska Trust Company and its successor in interest, Alaska USA Trust Company, do business in Alaska and, upon information and belief, have no Nevada contacts. Among all the entities and assets, the only contact with Nevada is Dunham Trust Company, ("Dunham") which is alleged to be currently acting as directed trustee of the FHT. Even the Ashley Cooper insurance policy (the product of a tax-free exchange from the

1 year 2000), which is the primary asset of the trust and the subject matter of Caroline's petition,
2 is not administered in Nevada. It is administered under a custodian domiciled in Puerto Rico,
3 and its investment advisor is a Canadian broker-dealer.

4
5 Dunham created FHT Holdings, LLC, ("FHT Holdings") on March 28, 2014, and
6 transferred the insurance policy to it. Dunham is the 100% owner/member of FHT Holdings.
7 Christopher is the manager, and Dunham purportedly acts as "directed trustee" pursuant to the
8 purported First Amendment to the FHT dated February 24, 2014. Upon information and belief,
9 the directed trustee and LLC structure was put into place by Dunham in an attempt to shield
10 itself from the fiduciary liability inherent in holding large assets without diversification.

11
12 Christopher Davis, as manager of FHT Holdings, has no power over the Ashley Cooper
13 policy, or over the Puerto Rico custodian, or over the Canadian broker-dealer investment
14 adviser. Upon information and belief, the sole purpose of his appointment and the formation of
15 FHT Holdings, LLC, was to shield Dunham from fiduciary liability for its action or inaction.
16 Christopher receives no compensation or benefit in his position as manager of FHT Holdings.

18 II. LEGAL AUTHORITY AND ARGUMENT

19 A. Lack of Subject Matter Jurisdiction Invalidates Nevada's Jurisdiction Due To 20 Absence of Conditions Precedent to Change of Situs from Alaska to Nevada.

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22 The entirety of Caroline's petition and her opposition to the motion to dismiss, and her
23 request for the Nevada court to assert jurisdiction over Christopher and the Revocable Family
24 Trust, rests defectively upon the presumed validity of the change of situs of the Beatrice B.
25 Davis Family Heritage Trust dated July 28, 2000 (the "FHT") from Alaska to Nevada,
26 purportedly accomplished by the February 24, 2014 First Amendment.

1 It is important to note that the question of the validity of the change of situs is different
2 than the question of the validity of the First Amendment. Although Caroline asserts that the
3 purported First Amendment is "presumed to be valid unless proven otherwise", all the facts and
4 evidence prove the change of situs (a condition precedent to the amendment) was invalid and
5 not allowed under the terms of the FHT. The validity of the change of situs of the FHT (and
6 presumably the amendment purporting to accomplish it) must be determined under the express
7 mandate of Article 14, Section 6 of the FHT.

8
9 Section 6, Paragraph 1, of the FHT provides the requirements for a change of situs as:

10
11 Except as expressly provided herein, the situs of this agreement or any subtrust
12 established hereunder may be changed by the unanimous consent of all of the
13 beneficiaries then eligible to receive mandatory or discretionary distributions of net
14 income under this agreement or such subtrust, with the consent of any then-acting
Protector and the Trustee thereof, which shall be given only after Trustee has obtained
advice from counsel as to the tax and other consequences of a change in situs.¹

15 The conditions precedent to the change of situs require that all of the beneficiaries then eligible
16 to receive mandatory or discretionary distributions must consent to the change of the situs. In
17 addition, both the FHT Trust Protector and Trustee must consent to the change of situs after the
18 Trustee has been able to meet with an attorney to discuss the tax and other consequences of a
19 change in situs, and after all the current income beneficiaries of the FHT have consented. These
20 conditions did not occur. Therefore the situs of the FHT remains in Alaska until the conditions
21 are performed.

22
23 Caroline recognizes that Tarja Davis is a discretionary beneficiary of the FHT. This is
24 immediately clear by a simple review of the terms of the FHT² and by a simple review of the
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28 ¹ See Article 14, Section 4, Page 14-7, attached as Exhibit 1 to Caroline Davis's Original Petition (emphasis added).

² See Trust, Article Three, Section 1, Page 3-1; See also Article Eight, Section 3.d., Page 8-4, See also Article 8-
4.b.1-2, Pages 8-12 and 8-13 attached as Exhibit 1 to Caroline Davis' Original Petition.

1 certificate of service filed by Caroline.³ Furthermore, Caroline asserts and provides written
2 proof that Alaska USA Trust Company ("Alaska USA") resigned as Trustee on December 5,
3 2013. The resignation of Alaska USA as Trustee occurred almost three months prior to the
4 execution of the purported first amendment on February 24, 2014 and the appointment of
5 Dunham Trust Company ("Dunham") as successor Trustee.
6

7 There is no evidence that anyone or any entity assumed the office of Trustee and was in
8 authority to act and provide consent of the Trustee during the period between the resignation of
9 Alaska USA in December 2013 and the purported first amendment attempting the change of
10 situs and appointing Dunham almost three months later. In contravention of the terms of the
11 FHT, there was a purported change in situs made while there was no acting Trustee to provide
12 informed consent to the change in situs. Further, it appears everyone overlooked the necessity
13 of obtaining the consent Christopher's wife, Tarja, who was and is a beneficiary entitled to
14 discretionary distributions. Tarja did not consent to the change in situs, and her signature cannot
15 be found on any of the documents purporting to achieve the change in situs to Nevada and
16 Dunham's appointment as successor trustee.
17

18 The law of Alaska, as the situs and place of administration of the FHT before the
19 attempted change of situs, and the place of residence of Alaska USA Trust Company, the then
20 Trustee, governs the validity of the First Amendment's change of situs to Nevada, the
21 appointment of Dunham, and the other terms of the First Amendment, as well as the validity of
22 the Trust and the First Amendment itself.
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28 ³ See Certification of Service for Opposition to Christopher D. Davis' Motion to Dismiss Pursuant to NRCP (12)(b) and NRCP 19 dated April 13, 2015 (This correction was made by Caroline Davis after Christopher Davis filed his Motion to Dismiss alerting the parties as to the defectiveness of both the service of process and the defective nature of the purported first amendment).

1 Article 12, Section 3 of the FHT requires "Any proceedings to seek judicial instructions
2 or a judicial determination shall be initiated by my Trustee in the appropriate state court having
3 original jurisdiction of those matters relating to the construction and administration of trusts.
4 Because under the terms of the FHT, questions of validity must be determined under Alaska
5 law, and Alaska is the venue which has original jurisdiction of the FHT until the attempted
6 change of situs is accomplished, and an Alaska court must determine whether the change of
7 situs and the First Amendment were valid. Only then should the Nevada court take jurisdiction
8 over the FHT, and only if jurisdiction is then appropriate.
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10 Alaska law allows for modification of an irrevocable trust upon consent, but by court
11 approval. AS 13.36.360 Modification or Termination of Irrevocable Trust By Consent, reads:
12

13 (a) Except as otherwise provided by this section, on petition by a trustee,
14 settlor, or beneficiary, a court may modify or terminate an irrevocable trust if all of the
15 beneficiaries consent and if continuation of the trust on the existing terms of the trust is
16 not necessary to further a material purpose of the trust. However, the court, in its
17 discretion, may determine that the reason for modifying or terminating the trust under
18 the circumstances outweighs the interest in accomplishing the material purposes of the
19 trust. The inclusion of a restriction on the voluntary or involuntary transfer of trust
20 interests under AS 34.40.110 may constitute a material purpose of the trust under this
21 subsection, but is not presumed to constitute a material purpose of the trust under this
22 subsection.
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25 (b) Unless otherwise provided in the trust instrument, an irrevocable trust
26 may not be modified or terminated under this section while a settlor is also a
27 discretionary beneficiary of the trust.
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1 (c) If a beneficiary other than a qualified beneficiary does not consent to a
2 modification or termination of an irrevocable trust that is proposed by the trustee, settlor,
3 or other beneficiaries, a court may approve the proposed modification or termination if
4 the court determines
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6 (1) if all the beneficiaries had consented, the trust could have been
7 modified or terminated under this section; and
8

9 (2) the rights of a beneficiary who does not consent will be adequately
10 protected or not significantly impaired.

11 (d) In (c) of this section, "qualified beneficiary" means a beneficiary who

12 (1) on the date the beneficiary's qualification is determined, is entitled or
13 eligible to receive a distribution of trust income or principal; or

14 (2) would be entitled to receive a distribution of trust income or principal
15 if the event causing the trust's termination occurs.
16

17 It is well settled that a trust may only be modified in accordance with its specific terms.⁴

18 Where a trust instrument requires the consent of specific parties in order for an amendment to be
19 valid, the lack of consent will invalidate a purported amendment.⁵ This required consent
20 demonstrates the importance of having Alaska USA Trust Company ("Alaska USA") or their
21 successor-in-interest (and predecessor trustee) Alaska Trust Company demonstrate authority and
22 consent to change the situs of the FHT from Alaska to Nevada, because unless this evidence of
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26 ⁴ *Dallinger v. Abel*, 199 Ill. App. 3d 1057, 1059-1060 (Ill. App. Ct. 1990) citing *Parish v. Parish* (1963), 29 Ill. 2d
27 141, 149, 193 N.E.2d 761, 766. (It is elementary that if the method of exercising a power of modification is
described in the trust instrument, the power can be asserted only in that manner.)

28 ⁵ *Williams v. Springfield Marine Bank*, 131 Ill. App. 3d 417, 475 N.E.2d 1122 (1985) (This rule was applied where
the trust instrument permitted amendment by the settlors, the appellate court holding that an attempted amendment
by only one settlor, after the other had died, was invalid.); See also Restatement (Second) of Trusts § 331,
Explanatory Notes, comment e, at 144 (1959) ("If the settlor reserves a power to modify the trust only with the

1 consent is provided, the FHT situs cannot be changed. The consents of some of the beneficiaries
2 and the FHT Trust Protector was not enough to meet the strict requirements of the condition
3 precedent (i.e. change of situs) for the purported First Amendment.
4

5 Caroline has provided no evidence of any written or even oral consent of any trustee
6 authorizing the FHT's change in situs prior to Alaska USA's resignation on December 5, 2013.
7 She has not provided any evidence of Tarja having consented to the change of situs. She has not
8 provided any evidence of the unanimous agreement of Beatrice Davis's children to appoint a
9 successor trustee in the event the Trust Protector fails to appoint a Successor Trustee within
10 thirty (30) days after Alaska USA resigned,⁶ and even if they had, the successor trustee and
11 Tarja would have had to consent to the change of situs. Therefore, the change of situs under the
12 purported First Amendment must be presumed invalid until such evidence of an acting Trustee's
13 consent can be produced and evidence of the Trustee's and all beneficiaries' consent of the
14 change in situs can be obtained. Further and most importantly, such a dispute, which includes
15 the validity of the First Amendment, must be brought in Alaska, as the original situs of the FHT
16 before the purported First Amendment and the attempted change of situs.
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19 Christopher asserts that the change of situs is invalid because of the lack of consent of all
20 beneficiaries and the absence of action by an Alaska Trustee. The determination of the validity
21 of the purported First Amendment and the change of situs (as well as its other provisions) is a
22 condition precedent to the Nevada court taking jurisdiction over the FHT. That determination
23 must be made under Alaska law before the Nevada court can assert jurisdiction over the FHT.
24 Caroline alleges that the FHT Trust Protector validly appointed Dunham as successor Trustee on
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28 consent of one or more of the beneficiaries, or of the trustee, or of a third person, he cannot modify the trust without
such consent.").

⁶ See Trust, Article Eleven, Section 3(c), Page 11-3, attached as Exhibit I to Caroline Davis's Original Petition.

1 February 24, 2014, citing the second paragraph of Article 14, Section 6 as his authority to do so,
2 however as noted herein, she omitted the preceding paragraph relating to the change of situs
3 which is the condition precedent before an amendment can be authorized. Although the FHT
4 authorizes the Trust Protector and/or the beneficiaries to appoint a successor trustee in certain
5 circumstances, the change of situs could only be authorized upon consent by all beneficiaries,
6 and approval by a trustee in the original situs of Alaska
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8 When the terms of a trust are not followed, the resulting actions based upon such
9 deviation may be invalidated.⁷ Under the terms of the FHT, discussed above, it was not
10 Dunham's consent that was required to change the situs. The timing of the purported First
11 Amendment and Dunham's consent put the cart before the horse. In order to move the situs of
12 the FHT from Alaska to Nevada or any other jurisdiction, all the beneficiaries had to consent,
13 the "then acting Trust Protector" had to consent, and the Alaska trustee had to consent only after
14 obtaining the requisite legal advice. Only then could a change in situs occur. (This is a
15 different and more demanding standard than merely changing the trustee to another Alaska
16 trustee.) Another Alaska Trustee could have been appointed, and the consent of all the
17 beneficiaries could have been obtained; then upon agreement by the Trustee, all beneficiaries,
18 and the Trust Protector, the situs could have been validly changed. However, the FHT's
19 purported First Amendment attempts to change the FHT's situs while concurrently appointing
20 Dunham as a "directed trustee". Again, Dunham's valid appointment as a Trustee, and its
21 consent to serve, could have been achieved only after the situs of the FHT was changed from
22 Alaska to Nevada. Had all of the beneficiaries consented, the decision to change the situs may
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28 ⁷ *Northwestern University v. McLoraine*, 108 Ill. App. 3d 310, 438 N.E.2d 1369 (1982) (This rule was applied where the settlor had neglected to follow the terms of the trust which required for an amendment only that the settlor put the amendment in writing, sign it, and deliver it to the trustees during the settlor's lifetime.)

1 have found a more stable legal basis had Dunham been doing business in Alaska. But as a
2 Nevada trustee, Dunham would have had to already be in tenure as trustee, procured advice
3 from legal counsel about the tax and other consequences of moving the FHT situs, and then
4 authorized the actual change in FHT's situs from Alaska. The requisite consent of an authorized
5 Alaska trustee and all the beneficiaries does not appear in the purported First Amendment or in
6 any other document, and Caroline Davis does not provide any other evidence of a Trustee's
7 consent between December 2013 and February 2014. The condition precedent of all the
8 beneficiaries' consents and the Alaska trustee's consent was not met in order to provide
9 authority to then acting Trust Protector, Stephen Lehnardt, to change the situs of the FHT
10 without the consent of an Alaska Trustee as required by the terms of the FHT. The FHT's
11 purported First Amendment's change of situs is, therefore, invalid.

14 Establishing the validity of the FHT's purported First Amendment under NRS 164.010
15 without invoking Alaska jurisdiction is Caroline's "attempted foothold" in her urging for this
16 Court to take improper *in rem* jurisdiction over the FHT, FHT Holdings, and personal
17 jurisdiction over Dunham, but more importantly it is the defective basis upon which she urges
18 this Court to assume jurisdiction over Christopher in all his capacities within any family entity,
19 foreign or domestic, including the Revocable Trust and the Davis Family Office which are
20 residents of Missouri. Even assuming *arguendo* that jurisdiction is proper through the untenable
21 theory that the the First Amendment is valid, this court could only obtain jurisdiction over the
22 FHT. Thus, Caroline is more than willing to overlook the FHT's requirements for change of
23 situs and the jurisdictional prerequisites, and arrive at the erroneous conclusion that somehow
24 Christopher and Mr. Lenhardt "consented to the jurisdiction of this Court by operation of law."
25 Noticeably, Caroline cites NRS 163.5555 as authority for this statement but ignores the
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1 requirement that the FHT be subject to the laws of Alaska, which, is clearly in dispute precisely
2 because of the invalidity of the purported First Amendment's change of the FHT's situs to
3 Nevada.

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5 It is clear that even during the life of Beatrice B. Davis, the situs of the FHT could not be
6 changed unless her Alaska trustee had obtained an opinion of legal counsel to the effect that the
7 change in situs would not impact adversely on the spendthrift provisions of the FHT.⁸ The
8 express purpose of the FHT was to support and protect Beatrice's family for generations to
9 come, through the protection for the shares allocated to each beneficiary, so that no situation
10 would be created that could expose any of the beneficiary's shares to the claims of creditors
11 including amongst any beneficiary acting as a creditor to another.⁹ The attempted appointment
12 as Dunham as a directed trustee shedding all its liability onto Christopher clearly contravened
13 her intent.
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16 Beatrice Davis, the trustmaker, was very clear that even if a power was granted to her
17 Trustee by applicable state and federal statutes, it would be strictly limited to any express
18 limitations or contrary directions in the FHT.¹⁰ Any amendment to change the situs of the FHT
19 would require the opinion of legal counsel as to its effect and be curtailed, if applicable, by the
20 terms of the FHT. This protection is implicit in the requirement that the advice of legal counsel
21 be sought by the Trustee prior to a change in situs of the FHT.¹¹ There is simply no evidence to
22 suggest that such an opinion was obtained by the Alaska Trustee prior to the purported change
23 in FHT situs.
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27 ⁸ See Trust, Article Fourteen, Section 6, Page 14-7 and 14-8.

28 ⁹ See Trust, Article 8, Section 3 (b), Page 8-3.

¹⁰ See Trust, Article Thirteen, Section 3.z, Page 13-19.

¹¹ See Trust, Article Fourteen, Section 6, Page 14-7 and 14-8.

1 Because of the lack of evidence of the required consent by the Alaska trustee and all the
2 beneficiaries, and because the Alaska trustees initiated and completed all the transactions for
3 which Caroline is demanding an account, the presence of the predecessor Alaska trustees acting
4 prior to February 24, 2014 (the date of the purported First Amendment) is indispensable to this
5 matter, in order to determine the validity and consent issues discussed herein. Without the
6 indispensable party(ies) being joined, including Alaska Trust, the predecessor trustee and
7 successor in interest of Alaska USA, and/or another Alaskan successor after December 5, 2013,
8 the matter cannot properly adjudicated.
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11 **B. Indispensible Parties to this Action and Caroline's Failure to Provide Notice or**
12 **Service**

13 Caroline alleges that "During their tenure as Trustee, both Alaska¹² and Alaska USA
14 distributed approximately \$2,164,744.68, from loans taken against the Ashley Cooper Life
15 Insurance Policy, to Chrstioher individually, and as a co-trustee with Caroline of the Beatrice B.
16 Davis Revocable Living Trust, dated April 4, 1990, as amended (the "Revocable Trust"), and as
17 Manager of the Davis Family Office, a Missouri limited liability company (the "Davis Office").
18 Caroline apparently believes that the Alaska trustees which allegedly procured more than two
19 million dollars in policy loans from Ashley Cooper Life Insurance Policy for various FHT
20 purposes, including making loans to Beatrice and paying their own fees, are not indispensable
21 parties, simply because she alleges that, Mr. Davis, in his individual capacity, and in capacity as
22 Trustee of the Revocable Trust, and as Manager of the Davis Office, was the only individual to
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¹² Alaska Trust Company was the predecessor trustee of the Beatrice B. Davis Family Heritage Trust dated July 28, 2000 prior to Alaska USA Trust Company.

1 receive distributions as a result of such loans and the only one privy to the information sought
2 by Ms. Davis,...¹³ Her allegation is misplaced.

3 Caroline apparently believes that neither Beatrice, nor the Alaska trustees, nor any other
4 entity, were the recipients of any of the FHT funds borrowed, distributed, or otherwise disbursed
5 from the Ashley Cooper Life Insurance Policy, which based upon the administration expenses
6 by Alaska and/or Alaska USA or the Trust Protector is improbable at best. Under Alaska law
7 and almost every other jurisdiction in the United States, a trustee is entitled to fees, and the
8 mandate of an accounting for trust assets is directed to the trustee that actually administered the
9 trust funds or assets, not to a beneficiary or other creditor or debtor of the trust.¹⁴ In this case,
10 those trustees required to account would be Alaska Trust and Alaska USA (now merged into
11 Alaska USA) and they are the only ones who could account for these transactions, and whether
12 or not they received any of those funds including but not limited to their administration costs or
13 other investment expenses, as well as for what purposes the loans, distributions, or
14 disbursements were made. Because only they would have such information, they are a
15 necessary and indispensable party. Caroline's request would greatly prejudice and unduly
16 burden Christopher to attempt secure information from and in the possession of the prior
17 trustees in Alaska for documentation that Caroline desires through a proceeding in Nevada,
18 during the time that she had co-equal status with him as a beneficiary. Alaska and/or Alaska
19 USA would be the proper parties from whom to request her desired information.

20 Notably, Caroline alleges that Dunham Trust Company is an indispensable party, having
21 allegedly received a mere \$25,000 of the total amount of policy loans (presumably for its fees
22 and expenses) while Alaska and Alaska USA are not indispensable parties after having
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¹³ See Opposition at 7:20-22.

1 allegedly received and distributed \$2,164,744.68 as well as allegedly transferring all the assets
2 of the FHT to Dunham. Interestingly, the information Caroline Davis is requesting would be in
3 the possession of the two Alaska trustees that she claims are not indispensable, which is an
4 unreasonable argument. It is unclear if Caroline even bothered to request an accounting from
5 either Alaska Trust or Alaska USA concerning their alleged receipt and distribution of
6 \$2,164,744.68, or from Dunham regarding the \$25,000 that was allegedly loaned during
7 Dunham Trust Company's alleged trusteeship before rushing to this court for a remedy. As a
8 beneficiary, she could have easily requested this information from these trustees without filing
9 the present court action.
10

11
12 Because of her rush to court without apparently requesting these documents from the
13 trustees, Caroline now attempts twice to indicate that she is "not now objecting to the loans and
14 distributions being made or claiming any breach of fiduciary duty..." or she "is not now
15 claiming any willful misconduct or gross negligence by Alaska or Alaska USA."¹⁵ However,
16 she has asked this court to assume jurisdiction over the Nevada trustee, the FHT, the Trust
17 Protector and trust adviser, and if she succeeds, she will file any future action in this same
18 Nevada case. Therefore, her allegation that "Alaska and Alaska USA have no interest in the
19 outcome of the relief being sought by Ms. Davis in her Petition" is incorrect. Alaska and Alaska
20 USA would have every interest in the outcome of this action because they were trustees of the
21 Trust who made the trust loans which are the subject of Caroline's concerns, and over which she
22 has asked this Court to exercise *in rem* jurisdiction. Furthermore, they were trustees for the time
23 periods in which Caroline seeks all information and, therefore, logically any information and/or
24 claims arising from the information in Alaska and Alaska USA's possession is relevant to them.
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¹⁴ See Alaska Statute 13.36.080; See also NRS 164.015 and NRS 153.031(1)(h).

1 Relying on the purported validity of the First Amendment to the FHT, Caroline comes to
2 the misleading conclusion that, "[because] Dunham Trust lacked the authority to act, the transfer
3 of the Ashley Cooper Life Insurance Policy must have been done at the direction of Mr. Davis,
4 as Investment Trust Advisor." Noticeably, Caroline removes any reference to the Alaska or
5 Alaska USA Trustees who would have the information or approved any alleged transfers and
6 have the information pertaining thereto. Caroline freely omits information to wrongfully obtain
7 the information she seeks. She further ignores that the manager of an LLC wholly owned by
8 the Trustee who is a beneficiary of the trust would not have the authority to transfer the policy
9 to itself. Caroline leaps to her finger-pointing apparently without bothering to request the
10 transfer documents either from Dunham or the Puerto Rico custodian.
11

13 Caroline is simply attempting to gain access to records that she could request from the
14 parties that she claims are not indispensable, and to delve into Christopher's personal affairs.
15 She has asked for an accounting from him as to the use of all the loan proceeds, disbursements
16 or distributions from the FHT, without regard to the entity or person who in fact was the
17 borrower or recipient. It is a question for the Alaska trustee as to whether the loans or
18 distributions were made in accordance with the provisions of the FHT. With 20/20 hindsight,
19 Caroline may regret that she did not borrow funds, request distributions, or demand an
20 accounting from the Alaska trustees while she was able to do so. Now she is asking this Court
21 to turn a blind eye and "look beyond"¹⁵ her failure to even make any appropriate request on the
22 proper parties or serve the proper parties that would have the information that she is seeking.
23 Christopher respectfully requests that this Court grant his motion to dismiss and deny Caroline's
24 claims in their entirety.
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¹⁵ See Page 7, lines 24-25 and Page 8, lines 17-18 of Caroline Davis's Objection.

1 C. Individual Parties or Entities Were Not Properly Served for the Court to Exercise
2 Jurisdiction, and FHT Holdings' Corporate Form May Not Be Disregarded
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4 In an effort to buttress her argument regarding their lack of proper service upon FHT
5 Holdings, LLC, Caroline cites to inapplicable case law from Surrogate's Court of New York,
6 New York County, which does not address the necessity of providing proper service to a
7 corporation. In similar fashion to her omission of the language of the FHT as it related to the
8 condition precedent to any future amendment, she even withheld the pertinent language for the
9 cited case which actually held that, "It is sometimes said that where an estate or trust owns all or
10 substantially all of the shares of a corporation, the corporate form may be disregarded and the
11 situation viewed just as if the fiduciaries held title to the corporate assets. This would appear to
12 be an oversimplification of the matter. It is not so much a matter of disregarding the corporate
13 form, but rather of giving paramount consideration to the testamentary plan and scheme, and
14 effectuating it in the manner prescribed by the testator. (citation omitted) Sometimes, due
15 consideration of the testamentary plan demands that the corporate form be respected. This is
16 particularly true where the testator directed the formation of a corporation or the continuance of
17 one formed during his lifetime. (citation omitted).¹⁷

18 Under the facts of this case, Beatrice, as Trustmaker, did not form FHT Holdings, LLC,
19 and did not specify that FHT Holdings be given consideration as part of her testamentary plan
20 and scheme. Based upon the definition of the case cited by Caroline, she is attempting to
21 oversimplify this matter, which cannot be done with regard to the facts presented in this matter.
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28 ¹⁶ Petition at 7:5-6.

¹⁷ In the Matter of Schnur, 39 Misc. 2d 880, 887, 242 N.Y.S.2d, at 132 (1963).

1 Furthermore, in *Swensen v. Sheppard*, our Nevada Supreme Court recognized that NRS
2 164.010(1) and NRS 164.015(6) do not give the court jurisdiction to impose personal
3 judgments.¹⁸ Likewise, it found that it could not impose personal liability on individuals or
4 entities which "required the court to acquire 'personal jurisdiction over [them as] part[ies],
5 normally through appropriate process based on contacts with the jurisdiction or through [their]
6 general appearance therein to defend on the merits."¹⁹

8 In her Opposition, however, Caroline attempts to request this court take exception to the
9 requirements for proper service and notice, which is entirely improper. Caroline is attempting
10 to use the relaxed standards of statutory *in rem* jurisdiction for the more stringent requirements
11 necessary to obtain the necessary personal jurisdiction over Christopher Davis, individually or
12 upon FHT Holdings, LLC. Again, this is improper and contrary to due process requirements.
13 Proper notice and service are required for personal jurisdiction over a party especially when
14 requesting the court to exercise power and authority over an individual party or upon a business
15 entity.
16

18 Furthermore, when assets are transferred with proper authority to a business entity, then
19 the property becomes part of the business entity and not the trust.²⁰ Thus, a district court's *in*
20 *rem* jurisdiction under NRS 164.010(1) and NRS 164.015(6) over the trust assets do not extend
21 to assets transferred from the trust to a business entity or to a third party from that business
22 entity.²¹ Therefore, even if the Court were to obtain jurisdiction over the insurance policy
23 administered by a Puerto Rico insurer with the advice of the Canadian broker-dealer investment
24

26 ¹⁸ *Swensen v. Sheppard (In re Aboud)*, 314 P.3d 941, 946 (Nev. 2013)

27 ¹⁹ *Id.*, citing Restatement (Second) of Judgments § 30(2) cmt. c; see *Young v. Nev. Title Co.*, 103 Nev. 436, 442,
744 P.2d 902, 905 (1987) ("A court does not have jurisdiction to enter judgment for or against one who is not a
28 party to the action.")

²⁰ *Swensen v. Sheppard (In re Aboud)*, 314 P.3d 941, 945-946 (Nev. 2013)

²¹ *Id.*

1 advisor, Caroline would also have to seek personal jurisdiction over Christopher, individually,
2 or FHT Holdings, LLC to obtain any relief she seeks. She did not do so.

3 Therefore, the due process rights of the entities must be respected, and service properly
4 administered in order to obtain jurisdiction over Christopher, individually, and FHT Holdings,
5 LLC. Therefore, Caroline's Original Petition should be dismissed.
6

7 **D. Additional Indispensable Parties Named in Opposition Were Not Served; therefore,**
8 **Jurisdiction is Improper over Them.**

9 Caroline admittedly did not include additional parties in her Original Petition that she
10 now alleges were recipients of FHT funds and loans from the insurance policy. Caroline alleges
11 that, "During their tenure as Trustee, both Alaska and Alaska USA distributed approximately
12 \$2,164,744.68, from loans taken against the Ashley Cooper Life Insurance Policy, to Mr. Davis
13 individually, as co-Trustee (with her) of the Beatrice B. Davis Revocable Living Trust, dated
14 April 4, 1990, as amended (the "Revocable Trust"), and as Manager of the Davis Family Office,
15 a Missouri limited liability company (the "Davis Office"). In order to allegedly distribute loans,
16 Alaska and Alaska USA must have been recipients of FHT funds. In order to make a loan of
17 FHT funds to Alaska and Alaska, the custodian of the Ashley Cooper Life Insurance Policy
18 must have been in receipt of FHT funds. If, as alleged, FHT funds were received by
19 Christopher, the Revocable Trust, and the Davis Family Office from Alaska and Alaska USA,
20 all three would have been recipients of those funds. Of the prior six alleged recipients, none of
21 them was afforded proper notice or service in this matter. Therefore, this court lacks
22 jurisdiction over these parties. Particularly, Nevada law does not allow for this Court to take
23 jurisdiction over the Revocable Trust and the Davis Family Office, which are Missouri entities,
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1. without examining the requirements necessary for jurisdiction over foreign entities holding only
2. personal property.

3. Caroline, in effect, argues 1) the entity authorized to make the policy loan is not an
4. indispensable party, 2) that the party making the loans or distributions does not even need to be
5. noticed or served concerning the policy loans, 3) the only individual alleged as a recipient does
6. not need to be served pursuant to NRCP 4; and 4) that notice or service either under NRCP 4 or
7. NRS 155.010 does not need to be provided to the remaining alleged distributees and recipients
8. of FHT funds. These four arguments violate all constitutionally protected due process rights
9. and related laws existent in Nevada, and likely every other jurisdiction in the United States.
10. Proper parties should be included in lawsuits affecting their rights or responsibilities and proper
11. personal and subject matter jurisdiction should be obtained over all parties in such lawsuits.

12. Caroline admittedly understands the importance of obtaining *in rem* jurisdiction over a
13. trustee of a trust pursuant to NRS 164.010, because she asks this Court to assume jurisdiction of
14. the FHT pursuant to this statutory authority. Notwithstanding this admission, she seeks
15. jurisdiction over Christopher Davis, individually, as trustee of the Revocable Trust, and as
16. manager of FHT Holdings without even bothering to serve notice under NRS 155.010 or
17. pursuant to NRCP 4. Furthermore, Caroline failed to serve the custodian of the Ashley Cooper
18. Life Insurance Policy of which she claims provided the loans to the FHT.

19. Admittedly, all of these parties were admittedly never even served by Caroline, and
20. therefore her Petition must be dismissed for lack of proper jurisdiction over these parties.

21. Notice and service of process were never given to these parties, and the Court is without
22. jurisdiction over them. Therefore, Caroline's claims in her Original Petition must be dismissed.

1 E. The Alaska Trustees are Indispensible Parties and Meet NRCP 19 Requirements;

2 therefore, without a Joinder of these Parties, this Matter Must be Dismissed.

3 In Reply to the NRCP 19 factors discussed by Caroline in her Opposition, it is evident
4 that Caroline belies her own statements. Caroline indicates on the one hand that Alaska and
5 Alaska USA would not be "placed in a position in which they would need to protect any
6 interest"²² while on the other indicating that Caroline is "not now claiming any willful
7 misconduct or gross negligence by Alaska or Alaska USA" suggesting that when she obtains
8 any of Alaska or Alaska USA documents that possible claims are likely to follow.²³ Alaska or
9 Alaska USA must be allowed to defend themselves if necessary or protect themselves from
10 liability in the accuracy of information that may be provided during their tenure as Trustees of
11 the FHT to avoid claims of willful misconduct or gross negligence by Caroline.

12 Furthermore, Christopher will be subjected to double or multiple or otherwise
13 inconsistent obligations in possibly many jurisdictions as a result of Caroline's claims without
14 the necessary parties, Alaska and Alaska USA, joined to the present matter. Caroline seems to
15 ignore the fact that she has now named multiple Defendants in this matter whose interests must
16 all be considered, especially in light of the fact that proper service has not been effectuated on
17 them for an order or judgment to be rendered against them in this matter.

18 Curiously, Caroline then requests the Court to seek relief from Christopher individually
19 if the Court does find that Alaska and Alaska USA are indispensable parties. She wrongfully
20 asks the court to order Christopher to provide the documents that are in Alaska and Alaska
21 USA's possession without gaining proper jurisdiction over him individually. She wrongfully
22 alleges that such a request would allegedly not be prejudicial to Christopher and allegedly
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²² See Caroline's Opposition, Page 8, lines 21-22.

1 would be an adequate remedy, although the requested documents would be in the Trustee's
2 possession.

3 She also falsely alleges that Alaska cannot allegedly assume jurisdiction over
4 Christopher, erroneously citing NRCP 19(b) for this proposition.²⁴ With proper service to
5 Christopher, Caroline could obtain jurisdiction over Christopher in Alaska if Alaska has
6 jurisdiction over the FHT.²⁵

7 Joinder of Alaska and Alaska USA, Inc., is necessary as previously explained in
8 Christopher's Original Motion to Dismiss and herein. If their joinder is not feasible, then this
9 matter must be dismissed, because they are necessary and indispensable parties to this matter.
10

11 III. CONCLUSION

12 For the foregoing reasons, Christopher respectfully requests the Court do the following,
13

- 14 1. Deny Caroline's Original Petition in its entirety;
- 15 2. Deny Caroline's Opposition in its entirety; and
- 16 3. Grant the relief requested in Christopher's Original Motion to Dismiss and all further
17 requests made in his Reply to Caroline's Opposition to his Original Motion to Dismiss;
- 18 4. Deny jurisdiction over the FHT Trust as a proceeding *in rem* until an Alaska court
19 determines the validity of the change in situs, and/or the First Amendment;
20
21

22
23 ²³ See Caroline's Opposition, Page 8, lines 17-18 (emphasis added).

24 ²⁴ See Caroline's Opposition, Page 9, lines 14-15 and fn 24.

25 ²⁵ See AS 13.36.375. Trustee Advisor: (a) A trust instrument may provide for the appointment of a person to act as
26 an advisor to the trustee with regard to all or some of the matters relating to the property of the trust. (b) Unless the
27 terms of the trust instrument provide otherwise, if an advisor is appointed under (a) of this section, the property and
28 management of the trust and the exercise of all powers and discretionary acts exercisable by the trustee remain
vested in the trustee as fully and effectively as if an advisor were not appointed, the trustee is not required to follow
the advice of the advisor, and the advisor is not liable as or considered to be a trustee of the trust or a fiduciary
when acting as an advisor to the trust.; See also AS 13.36.035 (a) The court has exclusive jurisdiction of
proceedings initiated by interested parties concerning the internal affairs of trusts, including trusts covered by (c) of
this section. Except as provided in (c) and (d) of this section, proceedings that may be maintained under this section
are those concerning the administration and distribution of trusts, the declaration of rights, and the determination of
other matters involving trustees and beneficiaries of trusts.

1 5. Deny jurisdiction over the Revocable Trust and the Davis Family office;

2 6. Deny jurisdiction over Christopher Davis personally;

3 DATED this 17th day of April, 2015.

4 Respectfully Submitted,
5 ROLAND LAW FIRM

6 
7

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13 Facsimile: (702) 920-8903

14 hroland@rolandlawfirm.com

15 *Attorney for Christopher D. Davis*

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Anthony L. Barney, Ltd., and not a party to this action. I further certify that except as otherwise noted on April 20, 2015, I served the foregoing CHRISTOPHER D. DAVIS' REPLY TO CAROLINE DAVIS' OPPOSITION TO HIS MOTION TO DISMISS PURSUANT TO NRCP (12)(b) AND NRCP 19 by first class US mail, postage prepaid, upon the following persons or entities:

Tarja Davis
514 West 26th Street, #3E
Kansas City, Missouri 64108

Ace Davis
c/o Winfield B. Davis
366-6 Habu Aridagawa Arida
Wakayama 643-0025
JAPAN

Christopher D. Davis
514 West 26th Street, #3E
Kansas City, Missouri 64108

Registered Agent Solutions, Inc.
Registered Agent for FHT Holdings, LLC, a Nevada Limited Liability Company
4625 West Nevso Drive, Suite 2
Las Vegas, Nevada 89103

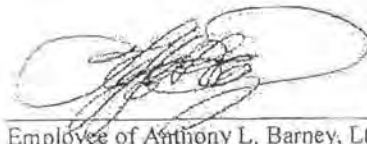
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Stephen@lehnardt.com

Winfield B. Davis
366-6 Habu Aridagawa Arida
Wakayama 643-0025
JAPAN

Mark Solomon, Esq.
Joshua Hood, Esq.
SOLOMON DWIGGINS & FREER, LTD.
9060 W. Cheyenne Ave.
Las Vegas, NV 89129
Attorney for Petitioner Caroline Davis

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Charlene Renwick, Esq.
Lee, Hernandez, Landrum & Garofalo
7575 Vegas Drive, #150
Las Vegas, Nevada 89128
Attorney for Dunham Trust Company



Employee of Anthony L. Barney, Ltd.

EXHIBIT 2

EXHIBIT 2

1 opposition to --

2 MR. SOLOMON: I don't think he --

3 MR. HOOD: -- our petition.

4 MR. SOLOMON: Counsel alluded to a Reply. I
5 haven't seen a Reply.

6 THE COURT: I saw your Reply.

7 MR. SOLOMON: Yes. But I have not seen a Reply by
8 Mr. Barney --

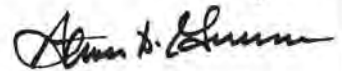
9 THE COURT: I have no Reply from Mr. Baney.

10 MR. SOLOMON: -- but he alluded in his argument
11 that, you know, they specified the grounds for invalidity
12 in this motion and then reinforced them in the Reply. They
13 didn't. All they said is: We have the burden to prove the
14 validity of the first amendment before we could move
15 forward and our response was: Well, take a look at NRS
16 47.250 subsection 18(c). There's a rebuttal for resumption
17 that it's valid. And then we said: Nobody has suggested
18 any particular grounds of invalidity.

19 And then I pointed out that Chris, who is the only
20 person challenging it, expressly consented to it. Not
21 once, but twice in two different documents you just looked
22 at. So how can he raise it? I don't think he can even
23 raise this issue he's now trying to raise with respect to
24 some other party, especially when he consented to it and
25 then he took repeated actions.



EXHIBIT 34



CLERK OF THE COURT

1 HARRIET H. ROLAND, ESQ.

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7 Nevada Bar No. 8366

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Nevada Bar No. 9754

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12 Facsimile: (702) 259-1116

office@anthonybarney.com

13 *Attorneys for Christopher D. Davis*

14 **EIGHTH JUDICIAL DISTRICT COURT**

15 **CLARK COUNTY, NEVADA**

16 In the matter of:

Case No.: P-15-083867-T

17
18 The BEATRICE B. DAVIS FAMILY HERITAGE
19 TRUST, dated July 28, 2000, as amended on
20 February 24, 2014.

Dept. No.: 26

21
22
23 NOTICE OF NON-APPEARANCE OF CHRISTOPHER D. DAVIS

24 TO: CAROLINE DAVIS, Petitioner, by and through her attorneys, MARK SOLOMON,
25 ESQ., and JOSHUA HOOD, ESQ., of SOLOMON DWIGGINS & FREER, LTD.

26
27 TO: DUNHAM TRUST, by and through its attorney, CHARLENE RENWICK, ESQ., of
28 LEE HERNANDEZ LANDRUM & GAROFALO

1 TO: STEPHEN LENHARDT by and through his attorney, JONATHAN W. BARLOW,
2 ESQ., of CLEAR COUNSEL LAW GROUP

3 TO: FHT HOLDINGS LLC. A Nevada Limited Liability Company, Respondent through
4 Registered Agent Solutions, Inc.

5
6 TO: WIN B. DAVIS

7 TO: ACE DAVIS

8 TO: CHERYL DAVIS

9 TO: TARJA DAVIS

10
11 Please be on notice that Christopher D. Davis hereby files his notice of non-appearance
12 at the deposition scheduled for 10:00 a.m. on September 3, 2015 at the law office of Solomon,
13 Dwiggins & Freer for the following reasons: 1) pursuant to the order signed on May 19, 2015,
14 wherein this court allegedly took jurisdiction, there is a jurisdictional defect such that the court
15 has asserted its jurisdiction under a theory of constructive trust, which requires in personam
16 jurisdiction before a constructive trust can be established against a party; 2) the court has not
17 obtained *in personam* or personal jurisdiction over Christopher D. Davis in any capacity before
18 it allegedly took jurisdiction as a constructive trust; 3) Caroline Davis admits in her pleadings
19 that she has not sought *in personam* jurisdiction over Christopher D. Davis individually; and 4)
20 as a non-party witness, Christopher D. Davis lives more 100 miles outside of this jurisdiction
21 and Solomon, Dwiggins and Freer have not made reasonable accommodations to lessen the
22 hardship and undue burden upon Christopher D. Davis to appear in this jurisdiction for a
23 deposition.

24
25
26 The order signed on May 19, 2015 is currently on appeal before the Nevada appellate
27 courts. The jurisdictional defects remain and continue to be disputed. As such, Christopher D.
28

1 Davis does not concede to the jurisdiction of this court, and he will not so concede by appearing
2 for a deposition.

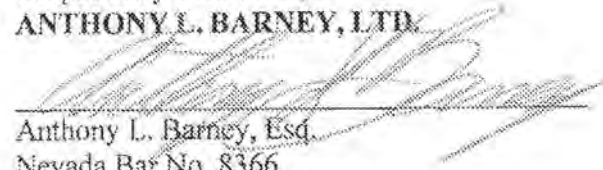
3 To mitigate the unnecessary accrual of attorney fees and costs and court reporter fees
4 and costs, Christopher D. Davis provided written correspondence to the law office of Solomon,
5 Dwiggins and Freer on September 2, 2015 and provided notice that he would not be appearing
6 for the deposition based upon these jurisdictional defects. The law office of Anthony L. Barney,
7 Ltd., verified that this correspondence was received on September 2, 2015 with the law office of
8 Solomon, Dwiggins and Freer by facsimile transmission and telephone correspondence.
9 Furthermore, neither the Roland Law Firm nor Anthony L. Barney, Ltd. will be appearing on
10 behalf of CHRISTOPHER B. DAVIS for the scheduled deposition on September 3, 2015.
11
12

13 Dated this 3rd day of September.

14 Respectfully Submitted,
15 **ROLAND LAW FIRM**

16 
17 Harriet H. Roland, Esq.
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20 Henderson, NV 89074
21 Telephone: (702) 452-1500
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23 hroland@rolandlawfirm.com

24 Respectfully Submitted,
25 **ANTHONY L. BARNEY, LTD.**

26 
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office@anthonybarney.com
Attorney for Christopher D. Davis

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Anthony L. Barney, Ltd., and not a party to this action. I further certify that except as otherwise noted on September 3, 2015, I served the NOTICE OF NON-APPEARANCE OF CHRISTOPHER D. DAVIS foregoing by first class US mail, postage prepaid, upon the following persons or entities:

Cheryl Davis
5403 West 134 Terrace, Unit 1525
Overland Park, KS 66209

Tarja Davis
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And
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Ace Davis
c/o Winfield B. Davis
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Registered Agent for FHT Holdings, LLC, a Nevada Limited Liability Company
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Attorneys for Stephen K. Lenhardt

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Joshua Hood, Esq.
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Attorney for Petitioner Caroline Davis

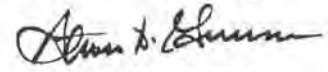
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SHANNA CORESSAL, CTFA
c/o Charlene Renwick, Esq.
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Las Vegas, Nevada 89128



Employee of Anthony L. Barney, Ltd.



EXHIBIT 35


CLERK OF THE COURT

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Nevada Bar No. 9754
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Telephone: (702) 438-7878
Facsimile: (702) 259-1116
Attorneys for Christopher D. Davis

EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY, NEVADA

In the matter of:

Case No.: P-15-083867-T

The BEATRICE B. DAVIS FAMILY
HERITAGE TRUST, dated July 28, 2000, as
amended on February 24, 2014.

Dept. No.: 26

NOTICE OF PARTIAL WITHDRAWAL OF PETITION AND
PARTIAL WITHDRAWAL OF PETITION TO STAY DISCOVERY
UNTIL THE AUGUST 19, 2015 HEARING ON
MOTION FOR RECONSIDERATION
OR IN THE ALTERNATIVE, PETITION FOR PROTECTIVE ORDER
FROM DISCOVERY BY SUBPOENA

Date of hearing: September 16, 2015

Time of hearing: 9:00 a.m.

TO: *Caroline Davis, through her attorneys Mark Solomon, Esq. and Joshua
Hood Esq. of Solomon Dwiggins & Freer, Ltd.*

1 *TO: Dunham Trust Company, through its attorney Charlene Renwick,*
2 *Esq., of the law firm of Lee, Hernandez, Landrum & Garofalo, Attorneys at*
3 *Law*

4 *TO: Stephen Lehnardt, through his attorney Jonathan Barlow, of Clear*
5 *Counsel Law Group*
6

7 PLEASE TAKE NOTICE that the foregoing Petition is scheduled for hearing
8 before the Honorable Judge Sturman in Dept. 26 of the Eighth Judicial District
9 Court, located at 200 Lewis Avenue, Las Vegas, NV 89155, on the 16th day of
10 September, 2015, at 9:00 a.m. of said day, or as soon thereafter as counsel may be
11 heard
12

13 Christopher D. Davis, by and through his attorneys HARRIET H. ROLAND,
14 Esq., of the ROLAND LAW FIRM and ANTHONY L. BARNEY, Esq., of the law
15 office of ANTHONY L. BARNEY, LTD. hereby withdraw the portion of his Petition
16 requesting this Court to stay discovery until the August 19, 2015 hearing on Motion
17 for Reconsideration, as the Court calendared the instant Petition to be heard after
18 the August 19, 2015 hearing on the Motion for Reconsideration. He also hereby
19 withdraws the portion of his Petition that requests attorney fees and costs or other
20 relief from this court outlined in lines 20-21 of Page 17 and lines 1-2 of Page 18.
21
22

23 The remainder of the Petition, requesting the Court to deny discovery based
24 upon the subpoena and to enter a protective order from the discovery by subpoena
25 made upon the ROLAND LAW FIRM by subpoena duces tecum issued by Caroline
26
27
28

ROLAND LAW FIRM
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Henderson, NV 89074
(702) 452-1500

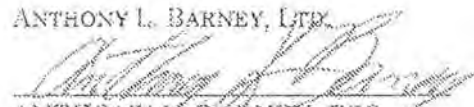
Davis, remains to be heard in this matter as scheduled and on calendar on October 16, 2016 at 9:00 a.m.

DATED this 14th day of September, 2015.

Respectfully Submitted,
ROLAND LAW FIRM


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Attorneys for Christopher D. Davis

CERTIFICATE OF SERVICE

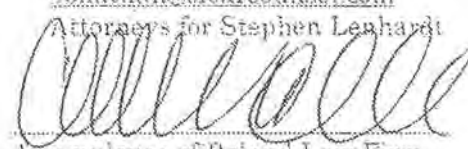
I HEREBY CERTIFY that on September 14, 2015, I did via email and via the Court's electronic system, WizNet, pursuant to Rule 9 of NEFCR at the email address noted to the following:

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ANTHONY L. BARNEY, LTD.
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LEE HERNANDEZ LANDRUM &
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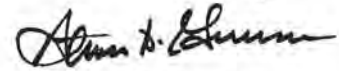
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jonathan@clearcounsel.com
Attorneys for Stephen Lenhardt


An employee of Roland Law Firm

3 of 3



EXHIBIT 36



CLERK OF THE COURT

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12 Nevada Bar No. 9754
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18 office@anthonybarney.com
19 *Attorneys for Christopher D. Davis*

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EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY, NEVADA

In the matter of:

Case No.: P-15-083867-T

The BEATRICE B. DAVIS FAMILY HERITAGE
TRUST, dated July 28, 2000, as amended on
February 24, 2014.

Dept. No.: 26


ERRATA TO CHRISTOPHER D. DAVIS' PETITION TO STAY DISCOVERY UNTIL
THE AUGUST 19, 2015 HEARING ON MOTION FOR RECONSIDERATION OR IN
THE ALTERNATIVE, PETITION FOR PROTECTIVE ORDER FROM DISCOVERY
BY SUBPOENA

COMES NOW, CHRISTOPHER D. DAVIS ("Christopher"), by and through his
attorneys HARRIET H. ROLAND, Esq., of the ROLAND LAW FIRM and ANTHONY L.

1 BARNEY, Esq., of the law office of ANTHONY L. BARNEY, LTD., hereby submits this errata
2 to his petition to stay discovery until the August 19, 2015 hearing on motion for reconsideration
3 or in the alternative, petition for protective order from discovery by subpoena ("Petition"),
4 which hereby removes and deletes the statement on Page 15, lines 21-24 of said Petition which
5 states, "While Caroline may characterize Christopher's and his attorneys' production of
6 documents as 'only a few pieces of correspondence', the fact is that Christopher has produced
7 hundreds of pages of documents both before the Court's order was issued and in compliance
8 with the Court's order." and replaces it with the following statement, "While Caroline may
9 characterize Christopher's and his attorneys' production of documents as 'only a few pieces of
10 correspondence', the fact is that Christopher has produced hundreds of pages of documents to
11 Caroline in an effort to resolve this matter."

14 DATED this 15th day of September, 2015.

15 Respectfully Submitted,

16 
17 Anthony L. Barney, Esq.
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hroland@rolandlawfirm.com

Attorneys for Christopher D. Davis

1 CERTIFICATE OF SERVICE

2 I hereby certify that I am an employee of Anthony L. Barney, Ltd., and not a party to
3 this action. I further certify that on September 15, 2015 I served the foregoing ERRATA TO
4 CHRISTOPHER D. DAVIS' PETITION TO STAY DISCOVERY UNTIL THE AUGUST
5 19, 2015 HEARING ON MOTION FOR RECONSIDERATION OR IN THE
6 ALTERNATIVE, PETITION FOR PROTECTIVE ORDER FROM DISCOVERY BY
7 SUBPOENA by first class US mail, postage prepaid, upon the following persons or entities:
8

9 Cheryl Davis
10 5403 West 134 Terrace, Unit 1525
11 Overland Park, KS 66209

12 Tarja Davis
13 3005 North Beverly Glen Circle
14 Las Angeles, California 90077

15 And
16 514 West 26th Street, #3E
17 Kansas City, Missouri 64108

18 Winfield B. Davis
19 Skyline Terrace Apts.
20 930 Figueroa Terr. Apt. 529
21 Los Angeles, California 90012-3072

22 Ace Davis
23 c/o Winfield B. Davis
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27 Christopher D. Davis
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Los Angeles, California 90077

And
514 West 26th Street, #3E
Kansas City, Missouri 64108

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2 Registered Agent for TRUST Holdings, LLC, a Nevada Limited Liability Company
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Las Vegas, Nevada 89103

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8 Jonathan@clearcounsel.com
9 *Attorneys for Stephen K. Lehnardt*

10 Mark Solomon, Esq.
11 Joshua Hood, Esq.
12 **SOLOMON DWIGGINS & FREER, LTD.**
13 9060 W. Cheyenne Ave.
14 Las Vegas, NV 89129
15 *Attorney for Petitioner Caroline Davis*

ALSO VIA FACSIMILE 702-853-5485

16 DUNHAM TRUST
17 SHANNA CORESSAL, CTFA
18 c/o Charlene Renwick, Esq.
19 Lee, Hernandez, Landrum & Garofalo
20 7575 Vegas Drive, #150
21 Las Vegas, Nevada 89128

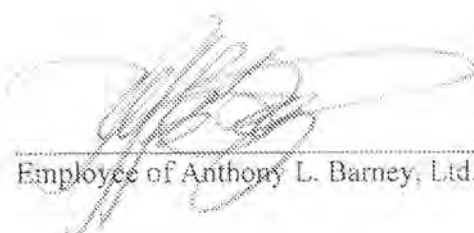
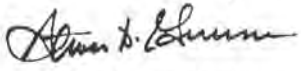

Employee of Anthony L. Barney, Ltd.



EXHIBIT 37

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19 Attorneys for Christopher D. Davis

20 EIGHTH JUDICIAL DISTRICT COURT
21 CLARK COUNTY, NEVADA

22 In the matter of:

Case No.: P-15-083867-T

23 The BEATRICE B. DAVIS FAMILY HERITAGE
24 TRUST, dated July 28, 2000, as amended on
25 February 24, 2014.

Dept. No.: 26

26 CHRISTOPHER D. DAVIS' OPPOSITION TO CAROLINE DAVIS' MOTION TO
27 STRIKE CHRISTOPHER D. DAVIS' ARGUMENTS AND REQUESTS FOR RELIEF
28 IN HIS REPLY TO CAROLINE D. DAVIS' OBJECTION TO PETITION FOR
RECONSIDERATION IN EXCESS OF THIRTY (30) PAGES AS THE REPLY
VIOLATES EDCR 2.20


AND

COUNTERMOTION FOR LEAVE TO FILE REPLY IN EXCESS OF THIRTY (30)
PAGES


1 CHRISTOPHER D. DAVIS, by and through his attorneys HARRIET H. ROLAND,
2 Esq., of the ROLAND LAW FIRM and ANTHONY L. BARNEY, Esq., of the law office of
3 ANTHONY L. BARNEY, LTD., and hereby submits his opposition to Caroline Davis'
4 ("Caroline") motion to strike his arguments requests for relief in his reply to Caroline's
5 objection to petition for reconsideration in excess of thirty (30) pages as the reply violates
6 EDCR 2.20 ("Motion to Strike"). He additionally files his countermotion for leave to file his
7 reply in excess of thirty (30) pages, if it is necessary. This pleading is based on the
8 Memorandum of Points and Authorities attached hereto, any exhibits attached hereto, and any
9 oral argument that will be heard in this matter.
10
11

12 DATED this 16th day of September, 2015.

13 Respectfully Submitted,
14 ROLAND LAW FIRM

15 
16 Harriet H. Roland, Esq.
17 Attorney for Christopher D. Davis

18 Respectfully Submitted,
19 ANTHONY L. BARNEY, LTD.

20 
21 Anthony L. Barney, Esq.
22 Attorney for Christopher D. Davis
23
24
25

26 [remainder of page intentionally left blank]
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MEMORANDUM OF POINTS AND AUTHORITIES

I. FACTS PRESENTED

On May 19, 2015, this court signed an order ("May 19th Order"), which was entered on April 24, 2015, that allegedly took jurisdiction over the Beatrice B. Davis Family Heritage Trust, dated July 28, 2000 ("FHT"). As noted in the Petition for Reconsideration of the May 19, 2015 Order filed on July 14, 2015 and implied in the Motion to Amend the May 19th Order filed on August 10, 2015, there are jurisdictional defects with taking jurisdiction of FHT under a theory of constructive trust as well as extending personal jurisdiction to persons allegedly involved with the FHT under this theory.

Caroline filed an Objection to the Petition for Reconsideration on July 31, 2015 ("Caroline's Objection"). In Caroline's Objection, she raised new claims, argument and proffered new evidence. She asserted that Tarja was not allegedly deemed a spouse and thus not a beneficiary of FHT, that the Alaska Trustees allegedly had duties after their resignation, that an attorney's opinion was allegedly obtained for the change in situs, that Christopher was estopped from challenging the change in situs, and that jurisdiction over Christopher could be obtained through an alter ego theory of liability, among other arguments. These claims, arguments and evidence were first raised in Caroline's Objection.

Additionally, she misrepresented the facts on record as well as statements that were made at the court hearing. Therefore, the record needed to be corrected, which also necessitated a response.

Thus, Christopher filed his Reply to Caroline's Objection ("Christopher's Reply") to respond to all of Caroline's new claims, evidence, and arguments. To be able to respond

1 sufficiently to the newly raised arguments in Caroline's Objection, a Reply of over thirty pages
2 long was necessary.

3 On September 14, 2015, Christopher's counsel requested by written correspondence that
4 Caroline vacate this motion from the court's calendar to save attorney's fees and costs for all
5 parties and this Court's time, because counsel believed the motion lacked merit.¹ Caroline
6 refused to do so;² necessitating the filing of this Opposition and Counter-motion. Christopher
7 respectfully requests that the Court deny Caroline's Motion to Strike in its entirety; or, if
8 necessary, Christopher requests leave to file a Reply and Objection to the Motion to Strike
9 exceeding thirty pages in length, to the extent that this Court has jurisdictional authority to do
10 so.
11

12 13 II. LEGAL AUTHORITY AND ARGUMENT

14 A. Caroline's Motion to Strike should be denied in its entirety.

15 EDCR 2.20 mandates that a pretrial or post-trial brief is limited to thirty pages. Herein,
16 a trial has not been requested, set, nor has a trial been had. Christopher's Reply to Caroline's
17 Objection to the Petition for Reconsideration is not a pretrial or post-trial brief and, therefore,
18 would not be limited to thirty pages.
19

20 By analogy, the Nevada District Court Local Rule 7.4 distinguishes between a pretrial
21 brief, post-trial brief, motion, response, and reply.³ It establishes different page limits for these
22
23

24
25 ¹ See Letter dated September 11, 2015 to Solomon, Dwiggin& Freer, attached hereto and incorporated herein as Exhibit A.

26 ² See Letter dated September 15, 2015 from Solomon Dwiggin & Freer, attached hereto and incorporated herein as Exhibit B.

27 ³ L-R 7.4 states, "Unless otherwise ordered by the Court, pretrial and post-trial briefs and points and authorities in support of, or in response to, motions shall be limited to thirty (30) pages including the motion but excluding exhibits. Reply briefs and points and authorities shall be limited to twenty (20) pages, excluding exhibits. Where the Court enters an order permitting a longer brief or points and authorities, the papers shall include a table of contents and table of authorities."
28

1 pleadings.⁴ Clearly, to the federal court, a pretrial brief and post-trial brief is different from a
2 reply and these documents have different page limits as a result.⁵

3 Furthermore, this Court indicated that it had read the Reply in its entirety at the
4 September 2nd hearing.⁶ The Reply was considered in its entirety by the Court. The Court also
5 appears to base its findings on the Reply.⁷ Thus, to strike the Reply is inappropriate; otherwise,
6 modifications or alterations would need to be made to this Court's findings on September 2,
7 2015.
8

9 Christopher's counsel also explained to this Court that the Reply included an Objection
10 as well as dealing with issues of misrepresentations made by opposing counsel at the hearing,
11 which were subsequently withdrawn at counsel's request concerning a Rule 11 Motion.⁸
12 Caroline's counsel corrected these various misstatements in their Objection by filing an
13 Addendum and Withdrawal of these statements on September 1, 2015 after they were requested
14 to do so under NRCP 11.⁹ Notably, Objection to Caroline's Counter-Petition for Sanctions
15 included in the Reply was approximately nine pages in length. This document could have been
16 filed separately, but it was included with the Reply.
17

18 Additionally, new arguments were raised by Caroline in her Objection to the Petition for
19 Reconsideration, which required a Reply. First, Caroline raised new evidence and arguments
20 relating to the Alaska Trustees regarding the alleged retention of fiduciary duties pursuant to
21
22
23
24

25 ⁴ Id.

26 ⁵ Id.

27 ⁶ "So I read the 63 pages..." Page 56, line 9 of Transcript of Proceedings dated Wednesday, September 2, 2015
("September 2nd Transcript").

28 ⁷ See Court Minutes dated September 2, 2015.

⁸ September 2nd Transcript 56:14-25, 57:1.

⁹ See Document Filed on September 1, 2015 or the Addendum to and Withdrawal of Certain Statements in the
Caroline's Objection to the Petition for Reconsideration.

1 Alaska Statute after they had resigned. Therefore, a discussion of Alaska law was necessary and
2 warranted.

3 Second, Caroline raised an estoppel argument against Christopher – a claim that could
4 only be raised if this Court had in personam jurisdiction over Christopher, which Caroline
5 admittedly claims she did not seek.¹⁰ A rebuttal to this claim was necessary.

7 Third, Caroline raised an alter ego theory of liability to attempt to have this Court take
8 jurisdiction over Christopher through FHT Holdings, LLC. Because Christopher is only an
9 officer of FHT Holdings, LLC, an explanation to this Court was necessary to provide to this
10 Court with evidence that it could not take jurisdiction over Christopher under this theory
11 because of the lack of personal service and lack of in personam jurisdiction over Christopher.

13 Fourth, Caroline proffered email correspondence from the counsel for the trust protector
14 that an alleged opinion had been obtained from the FHT Trustee agreeing to the change in situs.
15 This new evidence was clearly not from counsel for the Trustee of FHT, which then had to be
16 brought to this Court's attention in the Reply.

18 Fifth, Caroline had only made cursory mention of a provision of the FHT regarding
19 spouses to assert that Tarja Davis was allegedly not a beneficiary under FHT to benefit her
20 argument by such a narrow reading.¹¹ A proper review of the FHT and all its various provisions
21 relating to beneficiaries and spouses was necessary. As this Court knows, the FHT is complex
22 and warrants extensive explanation to understand its complexities. This analysis and
23 explanation took fifteen pages of a trust that is approximately 110 pages long, besides all of the
24 other arguments that necessitated a response, including responding to the newly raised claims,
25 and correcting the record on the various misrepresentations offered to the Court from Caroline's
26
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28

¹⁰ Caroline's Objection filed July 31, 2015 at Page 17:15-17.

1 counsel as mentioned above. Thus, Christopher's Reply was more than thirty pages to properly
2 respond to the misrepresentations, the new evidence, claims and arguments raised by Caroline in
3 the Objection and should not be stricken from the court record.

4
5 Lastly, this Court should make a finding that Caroline brought and maintained the
6 Motion to Strike without reasonable ground or to harass. Given the fact that Christopher
7 requested that this motion be vacated by written correspondence and Caroline refused to do so
8 based upon a rule header,¹² there is sufficient evidence that the motion was brought and
9 maintained without reasonable ground. Therefore, the Court should make this finding.

10
11 Because the Reply was not a pretrial or post-trial brief pursuant to EDCR 2.20, the Reply
12 was read and considered by this Court, and the Reply responded to the newly raised evidence,
13 claims and arguments in Caroline's Objection, its response of over thirty (30) pages was
14 necessary and warranted in this matter. To the extent that this Court has any jurisdiction,
15 Christopher respectfully requests the Court deny the Motion to Strike in its entirety and make a
16 finding that this motion was brought frivolously by Caroline.

17
18 **B. If necessary, Christopher requests this Court grant his counter-motion for leave to**
19 **file a Reply in excess of thirty pages.**

20 Christopher hereby incorporates all facts, legal authority and argument presented above
21 as if set forth fully herein. Although Christopher's Reply would not be limited by a number of
22 pages and would not be considered a pretrial or post-trial brief subject to the page limits in
23 EDCR 2.20(a) as requested by Caroline, in the event that the Court should grant the Motion to
24 Strike, Christopher must be given an opportunity to file his Reply in excess of thirty pages and
25 allow the currently filed Reply to remain on file with this Court as part of the court record.
26

27
28 ¹¹ See Page 8-9 of Caroline's Objection to the Petition for Reconsideration filed on July 31, 2015.

¹² See Exhibits A and B.


1 IV. CONCLUSION

2 For the foregoing reasons, Christopher respectfully requests that to the extent there is
3 jurisdictional authority to do so, the Court do the following,
4


- 5 1. Deny Caroline's Motion to Strike in its entirety;
6 2. Find that Caroline brought and maintained the Motion to Strike without reasonable
7 ground or to harass; and
8 3. If necessary, grant leave to allow Christopher his right to file his Reply in excess of
9 thirty pages.
10

11 DATED this 16th day of September, 2015.

12 Respectfully Submitted,
13 ROLAND LAW FIRM

14 
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Attorney for Christopher D. Davis

1 CERTIFICATE OF SERVICE

2 I hereby certify that I am an employee of Anthony L. Barney, Ltd., and not a party to
3 this action. I further certify that except as otherwise noted on September 16, 2015, I served the
4 foregoing CHRISTOPHER D. DAVIS' OPPOSITION TO CAROLINE DAVIS' MOTION
5 TO STRIKE CHRISTOPHER D. DAVIS' ARGUMENTS AND REQUESTS FOR
6 RELIEF IN HIS REPLY TO CAROLINE D. DAVIS' OBJECTION TO PETITION FOR
7 RECONSIDERATION IN EXCESS OF THIRTY (30) PAGES AS THE REPLY
8 VIOLATES EDCR 2.20 AND COUNTERMOTION FOR LEAVE TO FILE REPLY IN
9 EXCESS OF THIRTY (30) PAGES by first class US mail, postage prepaid, upon the
10 following persons or entities:
11

12 Cheryl Davis
13 5403 West 134 Terrace, Unit 1525
14 Overland Park, KS 66209
15

16 Tarja Davis
17 3005 North Beverly Glen Circle
18 Las Angeles, California 90077
19 And

20 514 West 26th Street, #3E
21 Kansas City, Missouri 64108
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23 Winfield B. Davis
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25 930 Figueroa Terr. Apt. 529
26 Los Angeles, California 90012-3072

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14 Joshua Hood, Esq.
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18 *Attorney for Petitioner Caroline Davis*

19 DUNHAM TRUST
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24 Las Vegas, Nevada 89128

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Employee of Anthony L. Barney, Ltd.

Exhibit A

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Licensed in Nevada and Idaho

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Attorney at Law
Licensed in Nevada

Mary L. Martelli, J.D.
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Neva Liebe
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FACSIMILE TRANSMITTAL SHEET

TO: JOSHUA HOOD, ESQ. AND MARK SOLOMON, ESQ. DATE: SEPTEMBER 14, 2015

FROM: NEVA LIEBE
ADMINISTRATIVE ASSISTANT

FAX NUMBER: 702-853-5485

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SENDER'S E-MAIL:
office@anthonbarney.com

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ACCOMPANYING DOCUMENTS:

Letter from Anthony L. Barney Esq. and Harriet
Roland, Esq. dated Sept. 14, 2015

NOTES/COMMENTS:

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Licensed in Nevada and Idaho

Tiffany S. Barney, J.D.
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September 11, 2015

Joshua M. Hood, Esq.
Mark A. Solomon, Esq.
Solomon Diggins Freer, Ltd.
9060 West Cheyenne Avenue
Las Vegas, Nevada 89129

SENT VIA FACSIMILE AND US MAIL

Re: The Beatrice B. Davis Family Heritage Trust ("Trust");
Case No. P-15-083867-T
Our Client: Christopher D. Davis

Dear Mr. Hood and Mr. Solomon,

We are aware that you have filed a Motion to Strike Christopher D. Davis's Reply to your client's Objection to the Petition for Reconsideration pursuant to EDCR 2.20 ("Motion to Strike"). As you well know, the page limit enumerated in EDCR 2.20(a) applies to pretrial and post-trial briefs. Because no trial has been set and no trial has occurred in this matter, Christopher D. Davis's Reply to your client's Objection to his Petition for Reconsideration is neither a pretrial nor post-trial brief and subject to the page limit. As such, the Court, at the September 2, 2015 hearing, considered the Reply, indicating that it had read its entire contents.

We strongly believe that your Motion to Strike lacks any merit. Therefore, in an effort to avoid the further expense to both our clients of unnecessary attorney fees and costs to appear on this frivolous motion, we are formally requesting that you vacate the Motion to Strike. We are requesting that you do so by Tuesday, September 15, 2015, before our client's opposition is due.

///

///

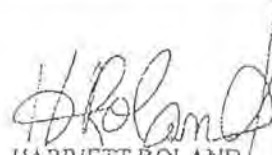
Letter to Joshua M. Hood and Mark A. Solomon, Esq.
September 11, 2015
Page 2 of 2

Please feel free to contact either one of our offices with any comments, questions or concerns, as we look forward to resolving these issues with you. We can be reached at the numbers or email addresses contained in this correspondence.

Sincerely,



ANTHONY L. BARNEY
Attorney at Law
anthony@anthonybarney.com



HARRIETT ROLAND
Attorney at Law
ROLAND LAW FIRM

cc: Via U.S. Mail:
Client
Harriet Roland, Esq.
Charlene Renwick, Esq.
Jonathan Barlow, Esq.

 *** TX REPORT ***

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Exhibit B

Sep. 15, 2015 10:18AM

Nr. 0834 P. 2



SOLOMON | DWIGGINS | FREER ^{LLP}
TRUST AND ESTATE ATTORNEYS

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Brenda A. Dwiggin
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Ross E. Evans
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Direct Dial (702) 589-3885
Email: jhood@sdflaw.com

September 15, 2015

Via facsimile to: 702-259-1116

Anthony L. Barney, Esq.
Anthony L. Barney, Ltd.
3317 W. Charleston Blvd., Suite B
Las Vegas, Nevada 89102

Re: The Beatrice B. Davis Family Heritage Trust

Dear Mr. Barney:

I am in receipt of your correspondence, dated September 11, 2015 (sent via facsimile on September 14, 2015), wherein you requested that the Motion To Strike pursuant to EDCR 2.20 be vacated. With all due respect, it cannot possibly be contended EDCR 2.20, entitled "Motions; contents; responses and replies; calendaring a fully briefed matter" does not apply to Christopher D. Davis' Reply to Caroline D. Davis' Objection to the Petition For Reconsideration simply because a trial has not been set or occurred in this matter. As such, the Motion To Strike will not be vacated.

Sincerely,



Joshua M. Hood.

cc: Client.

1 requirements of NRCP Rule 26 (b)(1) that the materials she seeks under the subpoena
2 are "relevant to the subject matter involved in the pending action."

3 First, it is obvious that the documents and records sought by Caroline have no
4 bearing on the question that is presently before this Court in the immediate
5 proceeding: whether this Court was correct in concluding in its Order of May 19, 2015
6 that it has jurisdiction in this matter "as a constructive trust because action on behalf
7 of the trust has been taken in Nevada." No item in the subpoena relates to the
8 jurisdictional or constructive trust issue. Instead, as described above, Caroline,
9 without any degree of specificity, seeks the production of any document or record in
10 the possession of Christopher D. Davis that has any connection, regardless of how
11 tangential, to the (1) Family Heritage Trust or to entities owned by the Trust (Items
12 to be Produced ¶¶ 1 and 6); to the Beatrice B. Davis Revocable Living Trust and
13 entities owned by it (¶¶ 2 and 7); to Davis Family Office, LLC (¶ 4); to FHT Holdings,
14 LLC (¶ 5). Caroline seeks any record possessed by Christopher D. Davis related to
15 any entity owned or managed by Christopher Davis concerning any business or
16 financial relationship between the entity and the Family Heritage Trust or the
17 Beatrice B. Davis Revocable Living Trust (¶ 8) and all records possessed by Mr. Davis
18 related to the loans obtained from the Ashley Cooper Life Insurance Policy (¶ 9). If
19 these requested groups of items are to be established as "relevant to the . . . pending
20 action," the nature of the pending action must be determined. As summarized above,
21 at ¶ 24 of the Petition to Assume Jurisdiction, Caroline alleges without foundation
22 that the disbursements made from the \$1,300,689.00 to the Revocable Living Trust,
23 Davis Family Office and to Christopher D. Davis individually were made
24 at Christopher's insistence or direction in either his individual capacity,
25 his capacity as the sole acting Trustee of the Revocable Living Trust,
26 and his capacity as the sole Manager of the DFO.

27 Interestingly, in the introductory paragraph of the Petition (page 1),
28 Caroline cites N.R.S. § 163.115 as one of the provisions under which the Petition has
been filed. The first part of the heading of that provision is "Breach of trust by

trustee" and the provision reads:

If a trustee commits or threatens to commit a breach of trust, a beneficiary or cotrustee" has an assortment of actions available, including a proceeding to compel the trustee to perform his duties or to redress the breach.

But Caroline cannot be implicitly alleging a breach of trust by Christopher since he is not the Trustee of the Family Heritage Trust (the Trustee during the period of the loans and distributions were Alaska Trust Company or Alaska USA Trust Company).

Further, at pages 7-8 of her Opposition to Christopher D. Davis' Motion to Dismiss . . . she denies any claim of breach of trust:

Ms. Davis is not now objecting to the loans and distributions being made or claiming any breach of fiduciary duty on Alaska or Alaska USA's part. Rather, Ms. Davis is simply requesting from Mr. Davis information related to who received and/or benefited from the loans, the purpose of the loans, the circumstances surrounding the distribution and use of the loan proceeds, the repayment of such loans, the collateral, and any other relevant information.

This admission confirms an important point: given that the items requested under the subpoena do not relate to the Petitioner's request that this Court assume jurisdiction over the Family Heritage Trust, Christopher D. Davis and Stephen K. Lehnardt. The pending action here, for purposes of the subpoena, has only one object: the acquisition from Christopher of the groups of documents and records listed on the document attached to the subpoena, Items to be Produced. Therefore, it must be concluded that this is essentially an action to enforce a subpoena without establishing that the subpoena is relevant to a pending action other than the very proceeding of acquiring the items listed on the subpoena. In other words the subpoena is strictly *self-referential* and therefore cannot be regarded as relevant to a pending action since the subpoena constitutes the action itself. This fatal defect in the subpoena does not even take into consideration that, even if there were a pending action to which the subpoena could be attached so as to establish relevancy under N.R.C.P. Rule 26 (b), there is the additional defect that the descriptions of the records requested on the

1 subpoena fail, as summarized above in regard to the failure to relate the items
2 requested to the Petitioner's interest in the Family Heritage Trust, to provide any
3 focus as to the Petitioner's purpose in requesting the documents. To repeat a portion
4 of the excerpt set forth above from the Supreme Court of Nevada's opinion in
5 *Schlatter v. Eighth Jud. Dist. Ct. In and For Clark County*, the court found that
6 court's order enforcing the subpoena was overly broad in that it

7 permitted carte blanche discovery of all information contained in these
8 materials without regard to relevancy. Our discovery rules provide no
9 basis for such an invasion into a litigant's private affairs merely because
10 redress is sought for personal injury. Respondent court therefore
11 exceeded its jurisdiction by ordering disclosure of information neither
12 relevant to the tendered issues nor leading to discovery of admissible
13 evidence.

14 93 Nev. at 192, 561 P.2d at 1343-44. In the present case, Caroline did not (and could
15 not) provide any specificity as to the purpose and relevancy of the requested materials
16 because, as discussed, there is no underlying, pending action to which the test of
17 relevancy of the requests can be applied. To the contrary, the subpoena constitutes
18 an attempt to get at Christopher's personal and financial records under the
19 subterfuge that such action is necessary to safeguard the Petitioner's rights under
20 the Family Heritage Trust and to protect the integrity of the Trust itself.

21 Caroline Davis is not requesting the production of records in broad terms in
22 order to use such records as an aid in formulating future requests, focusing on specific
23 documents. To the contrary, the Petitioner clearly intends the present subpoena to
24 serve as a one-time request in the broadest terms possible.

25 **E. Individual Parties or Entities Have Not Been Properly Served, and Discovery
26 Should Not be Taken Until They Are.** Caroline is using her subpoena to
27 circumvent due process.

28 In *Swensen v. Sheppard*, *Swensen v. Sheppard (In re Aboud)*, 314 P.3d 941,
946 (Nev. 2013) the Nevada Supreme Court found that it could not impose personal
liability on individuals or entities which "required the court to acquire 'personal
jurisdiction over [them as] part[ies], normally through appropriate process based on

1 contacts with the jurisdiction or through [their] general appearance therein to
2 defend on the merits."

3 Caroline takes exception to the requirements for proper service and notice, or
4 the necessity of stating a claim against Christopher or any Trustee, making an end
5 run around due process safeguards, using her subpoena power to interfere with
6 Christopher's privacy, apparently in order to obtain information to use personally or
7 in the Missouri litigation which she has brought against Christopher as her co-trustee
8 of their mother's revocable trust. This is entirely improper; it is an abuse of process,
9 a waste of this court's resources, and if allowed by this Court, it accomplishes her
10 objective of delving into her brother's personal life and personal financial affairs for
11 her own purposes and without ever bringing an action against him.

12 In Christopher's jurisdictional objection in his Petition for Reconsideration, he
13 alleges Caroline is attempting to use the relaxed standards of statutory *in rem*
14 jurisdiction for the more stringent requirements necessary to obtain the necessary
15 personal jurisdiction over Christopher Davis, individually or upon FHT Holdings,
16 LLC. Proper notice and service are required for personal jurisdiction over a party
17 especially when requesting the court to exercise power and authority over an
18 individual party or upon a business entity. Before any discovery demanded by the
19 subpoena is allowed, this Court should require the due process rights of the
20 corporation must be respected, and service properly administered in order to obtain
21 jurisdiction over Christopher, individually, and as manager of FHT Holdings, LLC.
22 The Court should further require Caroline to request from the creator of FHT
23 Holdings, LLC, not from Christopher, any documents relating to the entity's creation
24 and governance. As a mere beneficiary, co-equal with Caroline, Christopher had no
25 power, authority or ability to act as trustee and create an entity solely owned by the
26 Family Heritage Trust.

1 F. Christopher and his attorney in good faith have produced the documents
2 required under the June 24, 2015 Court Order. He should not be required
3 to bear Caroline's discovery costs.

4 While Caroline may characterize Christopher's and his attorneys' production
5 of documents as "only a few pieces of correspondence", the fact is that Christopher
6 and his attorney have produced hundreds of pages of documents, both before the
7 Court's order was issued, and in compliance with the Court's A letter from Attorney
8 Barney dated May 26, 2015 to Caroline's attorneys detailed approximately 25
9 documents which had been produced prior to the subpoena. That letter is attached
10 as Exhibit "2". Christopher further allowed his attorney to produce approximately
11 850 pages of documents in response to the discovery request. Caroline in her opening
12 petition attached approximately 280 pages as exhibits, and since then has attached
13 another 80 pages, excluding court-filed documents. Caroline now demands that
14 Christopher or his attorneys hunt down and produce more documents, at least some
15 of which Caroline has already obtained from Dunham Trust Company and/or other
16 persons, possibly so that she can complain when he or his attorneys don't produce
17 something she thinks should be in his or their possession but isn't. If any loans,
18 disbursements, or distributions have been authorized or made during Dunham Trust
19 Company as purported Trustee, it is the Trustee's responsibility, not Christopher's,
20 to account for them.

21 G. The subpoena issued to the Custodian of Records at Roland Law Firm demands
22 confidential client information which cannot be produced under NRPC 1.6, and
23 which are privileged under NRS 49.095.

24 Rule 1.6. Confidentiality of Information.

25 (a) A lawyer shall not reveal information relating to representation of a
26 client unless the client gives informed consent, the disclosure is impliedly authorized
in order to carry out the representation, or the disclosure is permitted by paragraphs
(b) and (d).

27 NRS 49.095 sets forth the General rule of privilege:
28

1) A client has a privilege to refuse to disclose, and to prevent any other person from disclosing, confidential communications 1) Between the client or the client's representative and the client's lawyer...

2) []

3) Made for the purpose of facilitating the rendition of professional legal services to the client...

All the information and documents transmitted by Christopher Davis to Roland Law Firm and/or to the law firm of Anthony L. Barney Ltd. were given in the course of legal representation, without any implied authority to disclose them to opposing counsel or opposing parties. The attorneys are not able to produce the privileged, confidential and work product information required by the subpoenas; to do so would violate the NRPC 1.6. The subpoena should have been directed to the appropriate parties – i.e. the trustees of the trusts, the custodian of records for FHT Holdings, LLC, and to any other persons in possession of documents; but not to the attorneys for Christopher Davis.

The State Bar of Nevada, Standing Committee on Ethics and Professional Responsibility, in Formal Opinion No. 31 issued on June 24, 2009, provided a simple answer to the question of "What types of information about a client does Rule 1.6 restrict the lawyer from revealing?" "ANSWER [:] ALL information relating to the representation of the client. Christopher has not consented to the carte blanche release of his client file; therefore the attorney is prohibited from releasing it." The detailed Opinion is attached in its entirety as Exhibit "3".

Caroline has other ways to obtain this information than attempting to obtain privileged and confidential documents from Christopher's attorney's file. These include service of a proper subpoena duces tecum to the appropriate parties who are in possession of originals and who can authenticate the documents.

SUMMARY AND CONCLUSION

Once again, at great cost and undue burden to Christopher, Caroline is simply attempting to gain access to records that she could request from the parties that she has always claimed are not indispensable, and she is additionally attempting to delve into Christopher's personal affairs. Without ever having stated any claim for relief, or alleging any wrongdoing whatsoever by Christopher or any trustee, and without contesting any of the provisions of the trust, she demands an accounting from him as to the use of all the loan proceeds which he or any person or entity received from the Alaska trustees, before there was any action attempting to move the trust to Nevada and invest him with fiduciary powers. She further demands all information regarding virtually all activities of the Family Heritage Trust and the Beatrice B. Davis Revocable Trust from its inception forward, although she has the same power and authority to obtain the information that Christopher has, and in fact she already appears to have the relevant documentation.

The loans to beneficiaries and other persons or entities clearly were allowed under the trust, and even if they were not, it is a question for the Alaska trustee as to whether the loans or distributions were properly made to any beneficiary or entity. When an individual borrows funds for personal or investment use from a bank, the bank does not inquire into how the funds were spent; it looks only to the borrower's credit or the sufficiency of the collateral in making the loan. Presumably the Alaska trustees who made the loans did their due diligence. There has been no allegation by any party to the contrary.

The Roland Law Firm, which is the subject of the subpoena, did not represent Christopher in his capacity as beneficiary during the tenure of the Alaska trustees, nor did it represent him in his purported capacity as Investment Advisor to the trust up until September 2014 when Caroline made her demands. The Roland Law Firm is not the appropriate party to serve with the subpoena.

1 Based upon the foregoing, Christopher D. Davis respectfully requests:

2 1) This Court quash the subpoena duces tecum issued to Roland Law Firm
3 in all respects; and

4 2) That it deny all discovery based upon the subpoena; and

5 3) That it find that documents provided to Roland Law Firm by
6 Christopher D. Davis are confidential, that they include attorney work
7 product, and that they are subject to the attorney-client privilege which has
8 not been released or waived by the client;

9 4) In the alternative, if discovery is ordered from the Roland Law Firm, the
10 Court order that the production of privileged or work-product protected
11 documents, electronically stored information ("ESI") or information, whether
12 inadvertent or otherwise, is not a waiver of the privilege or protection from
13 discovery in this case or in any other federal or state proceeding; and that
14 nothing limits the right of Christopher D. Davis to conduct a review of
15 documents, ESI or other information (including metadata) for relevance,
16 responsiveness and/or segregation of privileged and/or protected information
17 before production.

18 5) And for any other relief this Court deems appropriate in the
19 circumstances.

20 DATED this ____ day of August, 2015.

21 Respectfully Submitted,

22 ROLAND LAW FIRM

23 
24 HARRIET H. ROLAND, ESQ.

25 NV Bar No. 5471

26 2470 E. St. Rose Pkwy, Ste. 105

27 Henderson, NV 89074

28 Telephone: (702) 452-1500

Facsimile: (702) 920-8903

hroland@rolandlawfirm.com

Attorney for Christopher D. Davis

CERTIFICATION OF HARRIET H. ROLAND, ESQ.
IN SUPPORT OF CHRISTOPHER DAVIS's OPPOSITION TO CAROLINE DAVIS'
MOTION COMPEL HARRIET ROLAND, ESQ. TO PRODUCE DOCUMENTS
RESPONSIVE TO SUBPOENA DUCES TECUM; COUNTER-MOTION TO QUASH

I, Harriet H. Roland, hereby certify, declare and say as follows:

1. I am an attorney in the above entitled action.

2. I attempted in good faith to confer with the Petitioner Caroline Davis's attorneys regarding their actions of attempting to obtain and obtaining irrelevant personal and confidential information from Christopher Davis, and from Roland Law Firm.

3. I attempted to resolve the dispute without court action before filing the present opposition and counter motion.

4. On or around June 8, 2010, I received a subpoena duces tecum from Petitioner directed toward Roland Law Firm as custodian of records.

5. On June 24, the Court's order was entered directing Christopher Davis to release information.

6. There were several emails and correspondence between Roland Law Firm, Anthony Barney, Ltd., and Solomon Dwiggins Freer regarding the propriety and form of the subpoena, and the scope of discovery.

7. On July 27, I transmitted numerous electronic documents and a privilege log to Petitioner.

8. On July 31, 2015, I received a phone call from Attorney Mark Solomon and Attorney Joshua Hood informing me that the production of documents consisted of "only a few pieces of correspondence" and that they would proceed to move for sanctions. We discussed our disagreement regarding the scope of discovery but were not able to resolve the disagreement.

9. I informed Petitioner their request to Roland Law Firm as custodian of records was a request for privileged and confidential records, and it was outside the scope of

1 the court's order regarding production of documents.

2 10. Further, I explained that many documents had been released, and that
3 Petitioner already had procured many if not all of the documents from other sources
4 available to her, including the trustees of the Family Heritage Trust, the Trust
5 Protector, and other persons.

6 11. Nonetheless, Petitioner has pursued by subpoena the obtaining of information
7 already in Petitioner's hands.

8 12. I requested Petitioner agree to stipulate to the production of all documents in
9 the possession or control of Christopher D. Davis relating to the Family Heritage
10 Trust from the date of February 24, 2014 forward, which is the date of the purported
11 transfer of the Trust from Alaska to Nevada, and the date of the purported
12 appointment of Christopher D. Davis as Investment Advisor for the Trust. Petitioner
13 did not agree to my request for stipulation under these terms.

14 13. In good faith I have attempted to confer with counsel, but was unable to reach
15 a resolution of this matter.

16
17 
18 Harriet H. Roland, Esq.

CERTIFICATE OF SERVICE

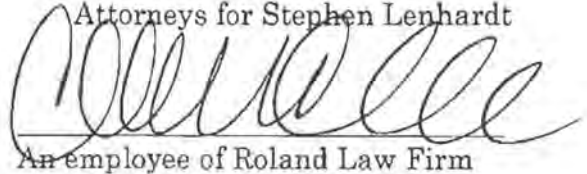
I HEREBY CERTIFY that on August 31, 2015, via the Court's electronic system, WizNet pursuant to Rule 9 of NEFCR at the email address noted to the following:

ANTHONY L. BARNEY, ESQ.
ANTHONY L. BARNEY, LTD.
3317 W. Charleston Boulevard, Suite B
Las Vegas, NV 89102-1835
abarney@anthonybarney.com
Attorneys for Christopher Davis

MARK A. SOLOMON, ESQ.
Solomon Dwiggins & Freer, Ltd.
9060 West Cheyenne Avenue
Las Vegas, NV 89129
msolomon@sdfnvlaw.com
jhood@sdfnvlaw.com
Attorneys for Caroline Davis

CHARLENE RENWICK, ESQ.
LEE HERNANDEZ LANDRUM &
GAROFALO
7575 Vegas Drive #150
Las Vegas, Nevada 89128
Crenwick@lee-lawfirm.com
Attorneys for Dunham Trust

JONATHAN W. BARLOW, ESQ.
CLEAR COUNSEL LAW GROUP
50 Stephanie Street, Suite 101
Henderson, Nevada 89012
Jonathan@clearcounsel.com
Attorneys for Stephen Lenhardt



An employee of Roland Law Firm

Exhibit “1”

NOTC

Mark A. Solomon, Esq.
Nevada Bar No. 0418
E-mail: msolomon@sdfnlaw.com
Joshua M. Hood, Esq.
Nevada Bar No. 12777
E-mail: jhood@sdfnlaw.com
SOLOMON DWIGGINS & FREER, LTD.
9060 West Cheyenne Avenue
Las Vegas, Nevada 89129
Telephone: 702.853.5483
Facsimile: 702.853.5485

Attorneys for Caroline Davis, Petitioner

**DISTRICT COURT
CLARK COUNTY, NEVADA**

In the Matter of

Case No.: P-15-083867
Dept.: Probate (26)

The BEATRICE B. DAVIS FAMILY
HERITAGE TRUST, dated July 28, 2000, as
amended on February 24, 2014.

**NOTICE OF ISSUANCE OF
SUBPOENA DUCES TECUM**
(No Appearance Required)

PLEASE TAKE NOTICE that CAROLINE DAVIS, by and through her counsel of,
Mark A. Solomon, Esq. and Joshua M. Hood, Esq., of the law firm of Solomon Dwiggins &
Freer, Ltd., has issued a Subpoena Duces Tecum for Records ("Subpoena") to ROLAND LAW
FIRM. ("ROLAND"). Pursuant to the Subpoena, attached hereto as Exhibit 1, ROLAND is
required to respond by delivering a true, legible, and durable copy of the

///

///

///

9060 WEST CHEYENNE AVENUE
LAS VEGAS, NEVADA 89129
TELEPHONE (702) 853-5483
FACSIMILE (702) 853-5485
WWW.SDFNLAW.COM

SOLOMON
DWIGGINS & FREER
TRUST AND ESTATE ATTORNEYS

1 requested records to the offices of Solomon Dwiggins & Freer, Ltd., 9060 West Cheyenne
2 Avenue, Las Vegas, Nevada 89129, no later than June 25, 2015.

3 DATED this 8th day of June, 2015.

4 SOLOMON DWIGGINS & FREER, LTD.

5
6 By: 

MARK A. SOLOMON, ESQ.
Nevada Bar No. 0418
E-mail: msolomon@sdfnlaw.com
JOSHUA M. HOOD, ESQ.
Nevada Bar No. 12777
E-mail: jhood@sdfnlaw.com
Cheyenne West Professional Center
9060 West Cheyenne Avenue
Las Vegas, Nevada 89129
Telephone (702) 853-5483
Facsimile (702) 853-5485

11 Attorneys for CAROLINE DAVIS

12
13 **CERTIFICATE OF SERVICE**

14 I HEREBY CERTIFY that on June 8, 2015, pursuant to NRCP 5(b)(2)(B), I placed a true
15 and correct copy of the following NOTICE OF ISSUANCE OF SUBPOENA DUCES TECUM
16 FOR RECORDS, in the United States Mail, with first-class postage prepaid, addressed to the
17 following, at their last known address, and, pursuant to Rule 9 of N.E.F.C.R., caused an electronic
18 copy to be served via Odyssey, to the email address noted below:

19 Mail only:

20 Tarja Davis
21 3005 North Beverly Glen Circle
22 Los Angeles, California 90077
23 and
24 514 West 26th Street, #3E
25 Kansas City, Missouri 64108

26 Ace Davis
27 c/o WINFIELD B. DAVIS
28 366-6 Habu Aridagawa Arida
Wakayama 643-0025
JAPAN

1 And did mail via US Mail and email Via the Court's electronic system, WizNet pursuant to Rule
2 9 of NEFCR at the email address noted to the following:

3 HARRIET ROLAND, ESQ.,
4 ROLAND LAW FIRM
5 2470 E. St. Rose Parkway, #105
6 Henderson, NV 89052
7 hroland@rolandlawfirm.com
8 Attorneys for Christopher D. Davis

9 ANTHONY L. BARNEY, ESQ.
10 ANTHONY L. BARNEY, LTD.
11 3317 West Charleston Boulevard, Suite B
12 Las Vegas Nevada 89102
13 abarney@anthonybarney.com
14 Attorneys for Christopher D. Davis

15 CHARLENE RENWICK, ESQ.
16 LEE HERNANDEZ LANDRUM & GAROFALO
17 7575 Vegas Drive #150
18 Las Vegas, Nevada 89128
19 crenwick@lee-lawfirm.com
20 Attorneys for Dunham Trust

21 JONATHAN W. BARLOW, ESQ.
22 Clear Counsel Law Group
23 50 Stephanie Street, Suite 101
24 Henderson, Nevada 89012
25 jonathan@clearcounsel.com
26 Attorneys for Stephen Lenhardt

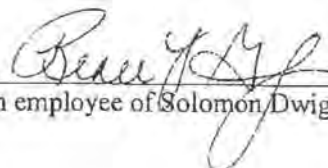
27
28

An employee of Solomon Dwiggin & Freer, Ltd.

EXHIBIT 1

EXHIBIT 1

9060 WEST CHEYENNE AVENUE
LAS VEGAS, NEVADA 89129
TELEPHONE (702) 853-5483
FACSIMILE (702) 853-5485
WWW.SDFNLAW.COM

SOLOMON
DWIGGINS & FREER
TRUST AND ESTATE ATTORNEYS



1 CC03
2 Mark A. Solomon, Esq.
3 Nevada Bar No. 0418
4 E-mail: msolomon@sdfnlaw.com
5 Joshua M. Hood, Esq.
6 Nevada Bar No. 12777
7 E-mail: jhood@sdfnlaw.com
8 SOLOMON DWIGGINS & FREER, LTD.
9 9060 West Cheyenne Avenue
10 Las Vegas, Nevada 89129
11 Telephone: 702.853.5483
12 Facsimile: 702.853.5485
13 Attorneys for Caroline Davis, Petitioner

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DISTRICT COURT
CLARK COUNTY, NEVADA

In the Matter of
The BEATRICE B. DAVIS FAMILY
HERITAGE TRUST, dated July 28, 2000, as
amended on February 24, 2014.

Case No.: P-15-083867-T
Dept.: Probate (26)

SUBPOENA DUCES TECUM
(No Appearance Required)

THE STATE OF NEVADA SENDS GREETINGS TO:

The Custodian of Record or Other Qualified Person at

ROLAND LAW FIRM.
2470 East Saint Rose Parkway, Suite 105.
Henderson, Nevada 89074

YOU ARE ORDERED, pursuant to Nevada Rule of Civil Procedure ("NRCP") 45, to
produce and permit inspection and copying of the books, documents, or tangible things
("records") set forth below that are in your possession, custody, or control, by one of the
following methods:

[] Making the original records described below available for inspection at your
business address by the attorney's representative or party appearing in proper person and

9060 WEST CHEYENNE AVENUE
LAS VEGAS, NEVADA 89129
TELEPHONE (702) 853-5483
FACSIMILE (702) 853-5485
WWW.SDFNLAW.COM

SOLOMON
DWIGGINS & FREER
TRUST AND ESTATE ATTORNEYS



1 permitting copying at your business address under reasonable conditions during normal business
2 hours.

3 [X] Delivering a true, legible, and durable copy of the financial records described
4 below to the requesting attorney or party appearing in proper person, by United States mail or
5 similar delivery system, no later than May 18, 2015 at the following address:

6
7 Solomon Dwiggins & Freer, Ltd.
8 9060 West Cheyenne Avenue
9 Las Vegas, Nevada 89129
10 jhood@sdfnlaw.com

11 All documents shall be produced as they are kept in the usual course of business or shall be
12 organized and labeled to correspond with the categories listed below (NRCPC 45(d)(1)).

13 **YOU ARE FURTHER ORDERED** to authenticate the business records produced,
14 pursuant to Nevada Revised Statute ("NRS") 52.260, and to provide with your production a
15 completed Certificate of Custodian of Records in substantially the form attached as Exhibit "B."

16 **CONTEMPT:** Failure by any person without adequate excuse to obey the Subpoena
17 served upon that person may be deemed contempt of the court. (NRCPC 45(e)). If you fail to obey,
18 you may be liable to pay \$100, plus all damages caused by such failure. (NRS 50.195).

19 Please see Exhibit "A" attached hereto for information regarding the rights of the person
20 subject to this Subpoena.

21 Dated this 8th day of June, 2015.

22 SOLOMON DWIGGINS & FREER, LTD.

23 By: 
24 Mark A. Solomon, ESQ. (Bar No. 0)418
25 E-mail: msolomon@sdfnlaw.com
26 JOSHUA M. HOOD, ESQ. (Bar No. 12777)
27 E-mail: jhood@sdfnlaw.com
28 9060 West Cheyenne Avenue
Las Vegas, Nevada 89129
Phone: (702) 853-5483
Facsimile: (702) 853-5485
Attorneys for Caroline Davis, Petitioner

ITEMS TO BE PRODUCED

1. Any and all non-privileged records in your possession, custody, or control related to the Beatrice B. Davis Family Heritage Trust, dated July 28, 2000, as amended.

2. Any and all non-privileged records in your possession, custody, or control related to the Beatrice B. Davis Revocable Living Trust, dated April 4, 1990, as amended.

3. Any and all non-privileged records in your possession, custody, or control related to Ashley Cooper Life Insurance Policy, Policy Number ACLI 1105-8007 PC, formerly known as Policy Number ALIP 008-1031.

4. Any and all non-privileged records in your possession, custody, or control related to the Davis Family Office, Limited Liability Company.

5. Any and all non-privileged records in your possession, custody, or control related to the FHT Holdings, Limited Liability Company.

6. Any and all non-privileged records in your possession, custody, or control related to any and all entities of which Beatrice B. Davis Family Heritage Trust, dated July 28, 2000, as amended, owns, in whole or in part, an interest therein.

7. Any and all non-privileged records in your possession, custody, or control related to any and all entities of which the Beatrice B. Davis Revocable Living Trust, dated April 4, 1990, as amended, owns, in whole or in part, an interest therein.

8. Any and all non-privileged records in your possession, custody, or control related to any and all entities of which Christopher D. Davis is the owner, manager, director, or officer of such entity, which records concern any business or financial relationship between such entity or entities and the Beatrice B. Davis Family Heritage Trust, dated July 28, 2000 and/or the Beatrice B. Davis Revocable Living Trust, dated April 4, 1990, as amended.

9. Any and all non-privileged records in your possession, custody, or control related to: (1) Promissory Note, dated September 1, 2011; (2) Promissory Note (With Revolving Line of

1 Credit), dated April 4, 2013; and (3) Promissory Note (With Revolving Line of Credit), dated
2 March 25, 2013 (collectively, the "Loans"), including, but not limited to: (i) the identity of any
3 entity, trust, or individual who has received and/or benefited from any and all distributions
4 pursuant to any of the Loans; (ii) the purpose of such Loans; (iii) the circumstances surrounding
5 the distribution and use of the funds pursuant to any of the Loans; (iv) the repayment of any of the
6 Loans; (v) the collateral for such Loans; and any and all other information related to the Loans.

7 10. Any and all non-privileged records in your possession, custody, or control related
8 to any additional loans, lines of credit, or obligations currently held by the Beatrice B. Davis
9 Family Heritage Trust, dated July 28, 2000, as amended.

10 11. For any records withheld on the basis of privilege, please provide a privilege log in
11 compliance with NRCp 26(b)(5).
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9060 WEST CHEYENNE AVENUE
LAS VEGAS, NEVADA 89129
TELEPHONE (702) 853-5483
FACSIMILE (702) 853-5485
WWW.SDFNLAW.COM

SOLOMON
DWIGGINS & FREER
TRUST AND ESTATE ATTORNEYS



AFFIDAVIT/DECLARATION OF SERVICE

STATE OF NEVADA)
) ss.
COUNTY OF CLARK)

I, _____, being duly sworn, or under penalty of perjury, state that at all times herein I was and am over 18 years of age and not a party to or interested in the proceedings in which this Affidavit/Declaration is made; that I received a copy of the SUBPOEAN DUCES TECUM on _____, 20____; and that I served the same on _____, 20____, by delivering and leaving a copy with _____ at _____.

Dated this ____ day of June, 2015.

By _____
Signature of Affiant/Declarant

SIGNED and SWORN to before me
this ____ day of June, 2015.

Notary Public

EXHIBIT "A"
NEVADA RULES OF CIVIL PROCEDURE

Rule 45

(c) Protection of Persons Subject to Subpoena

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2) (A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3) (A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it:

- (i) fails to allow reasonable time for compliance;
- (ii) requires a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts business in person, except that such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held, or
- (iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or
- (iv) subjects a person to undue burden.

(B) If a subpoena

- (i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or
- (ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) Duties in Responding to Subpoena.

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

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SOLOMON
DWIGGS & FREER
TRUST AND ESTATE ATTORNEYS



EXHIBIT "B"
CERTIFICATE OF CUSTODIAN OF RECORDS

STATE OF NEVADA)
COUNTY OF CLARK)

Case No.: P-15-084094-T

NOW COMES _____, (*name of custodian of records*) who after first being duly sworn deposes and says:

1. That the deponent is the _____ (*position or title*) of _____ (*name of employer*) and in his or her capacity as _____ (*position or title*) is a custodian of the records of _____ (*name of employer*).

2. That _____ (*name of employer*) is licensed to do business as a _____ in the State of _____.

3. That on the ____ day of the month of _____ of the year _____, the deponent was served with a subpoena in connection with the above-entitled cause, calling for the production of records pertaining to _____

4. That the deponent has examined the original of those records and has made or caused to be made a true and exact copy of them and that the reproduction of them attached hereto is true and complete.

5. That the original of those records was made at or near the time of the act, event, condition, opinion or diagnosis recited therein by or from information transmitted by a person with knowledge, in the course of a regularly conducted activity of the deponent or _____ (*name of employer*).

Executed on: _____
(Date)

(Signature of Custodian of Records)

SUBSCRIBED AND SWORN to
before me this ____ day of June, 2015.

Notary Public

Exhibit “2”

Anthony L. Barney, M.S., J.D., LL.M.
Attorney at Law
Licensed in Nevada and Idaho

Tiffany S. Barney, J.D.
Attorney at Law
Licensed in Nevada

Mary L. Martell, J.D.
Law Clerk

ANTHONY L. BARNEY, LTD.
A Nevada Professional Law
Corporation

3317 W. Charleston Boulevard, Suite B
Las Vegas, Nevada 89102-1835
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Neva Liebe
Administrative Assistant

Website Address
www.anthonybarney.com

E-mail Address
office@anthonybarney.com

May 26, 2015

Joshua M. Hood, Esq.
Solomon Dwiggin Freer, Ltd.
9060 West Cheyenne Avenue
Las Vegas, Nevada 89129

Re: The Beatrice B. Davis Family Heritage Trust

SENT VIA US MAIL AND FACSIMILE at 702-853-5485

Dear Mr. Hood,

I am writing in response to your correspondence dated May 20, 2015. I have attached an extensive list of documents which you have received regarding the Family Heritage Trust ("FHT"), as well as a list of the documents which were attached to your opening petition. While I was disappointed with your firm's misrepresentation to the Court that you were "stonewalled" regarding loan information, collateral agreements and promissory notes, the list of previously provided to you with this letter clearly demonstrates that you have these documents already in your possession.

As you are fully aware, the loans of which you inquire were made to the Alaska Trustee, and therefore I would respectfully direct you to them for any further information that you desire. According to your recent petition, a mere \$25,000 of the total amount of policy loans was provided to Dunham Trust Company ("Dunham"), while Alaska and Alaska USA allegedly received and distributed \$2,164,744.68 as well as allegedly transferring all the assets of the FHT to Dunham. The contact information that I have for the Trustees is as follows:

Alaska USA Trust Company
P.O. Box 196757
Anchorage, Alaska 99519-6757
Phone: (907) 562-6544
Facsimile: (907) 929-6867
E-mail: www.alaskausatrust.com

Dunham Trust Company

c/o CHARLENE RENWICK, ESQ.
LEE, HERNANDEZ, LANDRUM,
GARFOFALO, ATTORNEYS AT LAW
7575 Vegas Drive, Suite 150
Las Vegas, Nevada 89128
Telephone: (702) 880-9750
Facsimile: (702) 314-1210

You may also consider writing directly to the custodian of the Ashley Cooper life insurance policy, which contact information was provided in your most recent petition to the Court.

In light of the clear divergence of views regarding your proposed order, I had hoped you would get back with me prior to your court submission to enable us to work out our differences. After I provided you with the Court's transcript, I was not informed of the submission of your proposed order until the day after it had been submitted to the Court with additional arguments and newly proposed case law. I am still hopeful that we are able to work in a more constructive manner in the future, and that you provide me with the same courtesies that I have extended to you.

If you have any questions, please do not hesitate to contact me.

Sincerely,



ANTHONY L. BARNEY
Attorney at Law

cc: Mark A. Solomon, Esq. via e-mail at msolomon@sdfnvlaw.com & Joshua M. Hood, Esq. via e-mail at jhood@sdfnvlaw.com.

DOCUMENT PRODUCTION: FAMILY HERITAGE TRUST:

Documents produced by Christopher Davis, Dunham Trust Company, and Mary Vance Esq.:

- Beatrice B. Davis Family Heritage Trust ("Family Heritage Trust")
- First Amendment to the Beatrice B. Davis Family Heritage Trust
- 1035 exchange forms dated 4/28/2011
- 1035 exchange forms dated 5/02/2011
- Original Security Agreement dated 04/01/2004 (including Exhibit A) securing payment on the three promissory notes of same date as well as the subsequent note dated 09/01/2011.
- Policy related statements for the original ACLI policy for quarters ending:
06/30/2011 - 09/30/2011 - 12/31/2011
03/31/2012 - 06/30/2012 - 09/30/2012 - 12/31/2012
03/31/2013 - 06/30/2013 - 09/30/2013 - 12/31/2013
- Ashley Cooper Life International Insurer, SPC Policy ACLI 1105 8007 PC
Endorsement No. 1 dated 8/12/2011
Endorsement No. 2 dated 8/12/2011
Policy Loan Request and Agreement dated 9/2/2011 relating to ACLI policy
Collateral Assignment dated 9/2/2011 relating to ACLI policy
- Email from Paul Fordham dated 8/18/2011 with attachments showing policy loan schedules under both old and new policies
- Alaska USA Trust Company Statements of Accounts
03/31/2014
03/31/2013 - 06/30/2013 - 09/30/2013 - 12/31/2013
03/31/2012 - 06/30/2012 - 09/30/2012 - 12/31/2012
12/31/2011
- Policy Loan Request and Agreement (dated 9/1/11) relating to ACLI policy
- FHT Promissory Notes owed to the Trust:
Originals of three prior notes dated 04/01/2004 for \$500,000, \$500,000 and \$1,000,000 were rolled into the note dated 09/01/2011:
Promissory Note dated September 1, 2011 for loan to Revocable Trust (\$802,775.00)
Promissory Note dated April 1, 2004 for loan to Beatrice Davis (\$500,000.00)
Promissory Note dated April 1, 2004 for loan to Beatrice Davis (\$1,500,000.00)
- Promissory Note dated March 26, 2013 for loan to Christopher D. Davis (\$75,391.20)
Promissory Note dated April 4, 2013 for loan to Davis Family Office, LLC (\$20,000.00)
Correspondence from Ashley Cooper verifying the existence of outstanding loans.
- Security Agreement dated April 1, 2004

➤ Documents which were attached as Exhibits to Caroline Davis's opening petition:

- 1 Family Heritage Trust 07/28/00
- 2 Jackson Co., Mo - Beatrice Davis Statement as to Death & Presentment of Instrument
in Writing for Probate 05/18/12
- 3 Alaska USA Trust Company - Acceptance as Trustee 08/02/11
- 4 Alaska USA Trust Company - Resignation as Trustee 10/30/13
- 5 First Amendment to the Beatrice B. Davis Family Heritage Trust 02/28/14
- 6 Ashley Cooper Life International Insurer, SPC Policy ACLI 1105-8007 PC 07/28/00
- 7 Absolute Assignment to Effect A Section 1035 Exchange 05/02/11
- 8 Ashley Cooper Life International Insurer, SPC Policy ACLI 1105-8007 PC - Policy Loan
Request & Agreement 09/02/11
- 9 Promissory Note - Beatrice B. Davis Revocable Trust to Alaska USA Trust Co.
09/01/11
- 10 Promissory Note - Davis Family Office, LLC to Alaska USA Trust Co 04/04/13
- 11 Promissory Note - Christopher D. Davis to Alaska USA Trust Co 03/26/13
- 12 ACLI Policy 1105-8007 Quarterly Statement of Transactions 09/30/11
- 13 Alaska USA Trust Co. Statement of Account for Acct 15501938 - January 1, 2011
through December 31, 2011 12/31/11
- 14 ACLI Policy 1105-8007 Quarterly Statement of Transactions 12/31/11
- 15 ACLI Policy 1105-8007 Quarterly Statement of Transactions 03/31/12
- 16 Alaska USA Trust Co. Statement of Account for Acct 15501938
January 1, 2012 through December 31, 2012 12/31/12
- 17 ACLI Policy 1105-8007 Quarterly Statement of Transactions 03/31/13
- 18 Alaska USA Trust Co. Statement of Account for Acct 15501938 -
January 1, 2013 through December 31, 2013 12/31/13
- 19 ACLI Policy 1105-8007 Quarterly Statement of Transactions 06/30/13
- 20 ACLI Policy 1105-8007 Quarterly Statement of Transactions 12/31/13
- 21 ACLI Policy 1105-8007 Quarterly Statement of Transactions 06/30/14
- 22-23 (did not relate to FHT)
- 24 Delegation of Authority 03/22/07
- 25 Revocation of Delegation of Authority 9/23/14
- 26 Acknowledgement of Outstanding Pledged Loans from ACLP 1105-8007
By Dunham Trust Company 04/11/14

Exhibit “3”

STATE BAR OF NEVADA

STANDING COMMITTEE ON ETHICS AND
PROFESSIONAL RESPONSIBILITY

Formal Opinion No. 41¹

Issued on June 24, 2009

QUESTION

Confidentiality – What types of information about a client does Rule 1.6 restrict the lawyer from revealing?

ANSWER

ALL information relating to the representation of the client.

DISCUSSION

It is well known by both lawyers and clients that the rules of ethics governing lawyers prohibits a lawyer from revealing confidential client information without the consent of the client. This "confidentiality rule" is at the heart of the lawyer-client relationship² and has been embodied in the written rules of ethics since 1908.³ The current Nevada rule is Rule 1.6 of the Nevada Rules of Professional Conduct. The general rule of confidentiality is contained in Rule 1.6(a):

Rule 1.6. Confidentiality of Information.

(a) A lawyer shall not reveal information relating to representation of a client unless the client gives informed consent, the disclosure is impliedly authorized in order to carry out the representation, or the disclosure is permitted by paragraphs (b) and (c).

¹This opinion is issued by the Standing Committee on Ethics and Professional Responsibility of the State Bar of Nevada, pursuant to S.C.R. 225. It is advisory only. It is not binding upon the courts, the State Bar of Nevada, its board of governors, any persons or tribunals charged with regulatory responsibilities, or any member of the State Bar.

²GEOFFREY C. HAZARD & W. WILLIAM HODES, *THE LAW GOVERNING LAWYERS*, §9.2 (3d ed. 2005).

³1908 ABA Canons of Ethics, Canon 6; 1969 ABA Model Code, DR 4-101; and 1983 ABA Model Rules of Professional Conduct, Rule 1.6.

Rule 1.6(a) imposes a duty on all lawyers not to reveal information relating to the representation of their clients to anyone unless there is an applicable exception.⁴

The information protected by the lawyer's ethical confidentiality duty under Rule 1.6 is much broader than privileged information protected by the attorney-client privilege under NRS 49.185.⁵ Comment [3] to ABA Model Rule 1.6 provides:

*The principle of client-lawyer confidentiality is given effect by related bodies of law: the attorney-client privilege, the work product doctrine and the rule of confidentiality established in professional ethics. The attorney-client privilege and work-product doctrine apply in judicial and other proceedings in which a lawyer may be called as a witness or otherwise required to produce evidence concerning a client. The rule of client-lawyer confidentiality applies in situations other than those where evidence is sought from the lawyer through compulsion of law.*⁶

Rule 1.6 prohibits a lawyer from volunteering any information relating to representation of a client; the attorney-client privilege prohibits a lawyer from being compelled to reveal confidential communications between a lawyer and a client.⁷

In contrast to predecessor Rule DR 4-101⁸, the language of Rule 1.6(a) has three remarkable omissions from the historical rule of confidentiality.

The first is the omission of the qualifier "confidential" between "reveal" and

⁴*McKay v. Bd. of Co. Comm'rs*, 103 Nev. 490, 746 P.2d 124 (1987); *Todd v. State*, 113 Nev. 18, 931 P.2d 721 (1977).

⁵*Eighth Judicial Dist. Court v. County of Clark*, 116 Nev. 1200, 14 P.3d 1266 (2000)(Agosti, Shearing, Leavitt dissent).

⁶Cited approvingly by *McKay v. Bd. of Co. Comm'rs*, 103 Nev. 490, 746 P.2d 124 (1987).

⁷GEOFFREY C. HAZARD & W. WILLIAM HODES, *THE LAW GOVERNING LAWYERS*, §9.2 (3d ed. 2005).

⁸This Rule was in effect in Nevada until 1986.

"information".⁹ As a result, all information relating to the representation of the client is thereby made confidential.¹⁰ Rule DR 4-101 protected the client from the lawyer's disclosure of "secrets", defined as: (1) information that the client "has requested to be held inviolate"; and (2) information that would be "embarrassing" or "likely to be detrimental" if revealed.¹¹

The second remarkable aspect of Rule 1.6(a) is that the confidential information need not be information that is "adverse" to the client. Rule DR 4-101(B)(3) did not prohibit the disclosure of nonadverse client information.¹²

The final remarkable omission from Rule 1.6 is an exception for information already generally known or public. This element is contained in the Restatement's definition of "confidential client information", but omitted from Rule 1.6.¹³

Thus, the language of Rule 1.6(a) is so broad that it is – at least on its face – without limitation. Rule 1.6(a) requires that ALL information relating to the representation of a client is confidential and protected from disclosure. Even the mere identity of a client is protected by Rule 1.6.¹⁴ The Rule applies:

1. Even if the client has not requested that the information be held in confidence or does not consider it confidential. Thus, it operates automatically;¹⁵
2. Even though the information is not protected by the attorney-client

⁹*Lawyer Disciplinary Bd. v. McGraw*, 461 S.E.2d 850 (W. Va. 1995).

¹⁰GEOFFREY C. HAZARD & W. WILLIAM HODES, *THE LAW GOVERNING LAWYERS*, §9.15 (3d ed. 2005).

¹¹GEOFFREY C. HAZARD & W. WILLIAM HODES, *THE LAW GOVERNING LAWYERS*, §9.15 (3d ed. 2005). In fact, the Washington State Bar revised Model Rule 1.6 so that its Rule 1.6 reads: "A lawyer shall not reveal confidences or secrets relating to representation of a client..." *In re Disciplinary Proceedings Against Schafer*, 66 P.3d 1036 (2003).

¹²CHARLES W. WOLFRAM, *MODERN LEGAL ETHICS* §6.7.6, n. 92 (1986).

¹³RESTATEMENT (THIRD) OF THE LAW GOVERNING LAWYERS § 59 (2001).

¹⁴*In re Advisory Opinion No. 544 of the New Jersey Supreme Court*, 511 A.2d 609 (1986).

¹⁵GEOFFREY C. HAZARD & W. WILLIAM HODES, *THE LAW GOVERNING LAWYERS*, §9.15 (3d ed. 2005); *In re Advisory Opinion No. 544 of the New Jersey Supreme Court*, 511 A.2d 609 (1986).

privilege;¹⁶

3. Regardless of when the lawyer learned of the information – even before or after the representation;¹⁷
4. Even if the information is not embarrassing or detrimental to client;¹⁸
5. Whatever the source of the information; *i.e.*, whether the lawyer acquired the information in a confidential communication from the client or from a third person or accidentally;¹⁹ and
6. (In contrast to the attorney-client privilege) even if the information is already generally known – or even public information.²⁰

By a literal reading of Rule 1.6, even a laudatory comment about a client or the client's achievement may violate the letter of the Rule. However, the Committee believes that the absolute wording of Rule 1.6 is not literally meant to make every disclosure of the most innocuous bit of client information an ethical violation; but rather it is intended to strongly caution the lawyer to give consideration to the rule of client confidentiality – and whether the informed consent of the client should be obtained – whenever the lawyer makes any verbal, written or electronic communication relating to the client.²¹ For example, a lawyer advising his or her spouse that the lawyer will be traveling overnight to a distant city to defend the deposition of Client A in case A vs. B, is technically the revelation of “information relating to representation of a client” without client consent.²² The Committee suggests that common sense should be a part of Rule 1.6 and the lawyer

¹⁶See *Eighth Judicial Dist. Court v. County of Clark*, 116 Nev. 1200, 14 P.3d 1266 (2000)(Agosti, Shearing, Leavitt dissent)

¹⁷CHARLES W. WOLFRAM, MODERN LEGAL ETHICS §6.7.2, at 298 (1986).

¹⁸CHARLES W. WOLFRAM, MODERN LEGAL ETHICS §6.7.2, at 298 and §6.7.3, at 305 (1986); *In re Advisory Opinion No. 544 of the New Jersey Supreme Court*, 511 A.2d 609 (1986).

¹⁹Comment [3] to ABA Model 1.6; Restatement 3rd. The Law Governing Lawyers, §59 Cmt b; *In re Advisory Opinion No. 544 of the New Jersey Supreme Court*, 511 A.2d 609 (1986).

²⁰GEOFFREY C. HAZARD & W. WILLIAM HODES, THE LAW GOVERNING LAWYERS, §9.15 (3d ed. 2005); *Lawyer Disciplinary Bd. v. McGraw*, 461 S.E.2d 850 (W. Va. 1995); Ariz. Ethics Op. 2000-11 (2000).

²¹See GEOFFREY C. HAZARD & W. WILLIAM HODES, THE LAW GOVERNING LAWYERS, §9.15 (3d ed. 2005).

²²CHARLES W. WOLFRAM, MODERN LEGAL ETHICS §6.7.3, at 301 (1986).

should not be disciplined for a harmless disclosure.

The following are examples of common situations which raise issues under Rule 1.6(a) in the absence of client consent. They are offered – not as examples of Rule 1.6 violations *per se* – but as “food for thought” for all lawyers before communicating any information related to the representation of a client:

1. Phoning a client when the client is not at home and leaving a message about the representation on client's answering machine or discussing the matter with the roommate, or spouse of the client;²³
2. Submitting a copy of the lawyer's client billing statements in support of an application for fees, such as a post-judgment motion or at the end of a probate;²⁴
3. Submitting a client list (revealing the identity of the client) to a bank to support the lawyer's loan application;²⁵
4. Listing some clients in a law firm brochure (revealing the identity of the clients);²⁶
5. Processing a credit card payment (revealing the identity of the client) to the credit card company;²⁷
6. Telling a story to friends about a recent trial without revealing the identity of the client or any other fact not contained in the public record of the case;²⁸

²³*People v. Hohertz*, 102 P.3d 1019 (Colo. 2004).

²⁴There are generally two types of lawyer billing statements: (1) general “for services rendered” invoices that do not reveal the detail of the work performed; and (2) itemized statements that give a detailed description of all work performed by the lawyer on a date-by-date basis. For purposes of Rule 1.6, the difference does not matter. Even a general balance due invoice contains “information relating to representation of a client”, including the fact that the client is a client, the client's address, the previous balance due to the lawyer, the amount of payments made by the client to the lawyer and the total billed to the client for the billing period.

²⁵Ill. Ethics Op. 97-1 (1997).

²⁶Iowa Ethics Op. 97-4 (1997).

²⁷Utah Ethics Op. 97-06 (1997).

²⁸GEOFFREY C. HAZARD & W. WILLIAM HODES, *THE LAW GOVERNING LAWYERS*, §9.15 (3d ed. 2005).

7. A lawyer taking a client file or batch of discovery documents to the local photocopy shop for copying;²⁹
8. A law firm employing an outside computer tech support person to trouble shoot the firm's computer system;³⁰
9. The auditing of insurance defense attorney billing statements by an insurance company auditor;³¹
10. A request for attorney billing statements by a homeowner to the lawyer for the homeowner's association;
11. A request for attorney billing statements by a disgruntled shareholder of a corporation represented by the lawyer in litigation;
12. A request for attorney billing statements under the Open Records Act³² to a public entity represented by outside counsel;³³ and
13. The law firm's listing of its "best" clients in Martindale-Hubbell.

²⁹ ABA Formal Opinion 08-451 (2008).

³⁰ ABA Formal Opinion 08-451 (2008).

³¹ D.C. Bar Ethics Op. 290 (1999); Amy S. Moats, *A Bermuda Triangle in Tripartite Relationship: Ethical Dilemmas Raised by Insurers' Billing and Litigation Management Guidelines*, 105 W. Va. L. Rev. 525 n.58 (Winter 2003).

³² Chapter 239 of NRS.

³³ Nevada's Open Records Act allows any person to inspect all public records which are not declared by law to be confidential. NRS 239.010. Where a request is made to a public body under the Nevada Open Records Act for inspection or copies of the billing statements of the public body's outside counsel, there is no question that mere invoices by the lawyer to the public body – without detailed descriptions of the work performed – contain "information relating to representation of a client". On the one hand, the lawyer may not allow an Open Records act inspection of the lawyer's billing statements. On the other hand, the public body is not governed by the Nevada Rules of Professional Responsibility. The public body must allow inspection of the lawyer's billing statements except to the extent that they are privileged under Nevada's attorney-client privilege statutes. NRS 49.035 – 49.115.

CONCLUSION

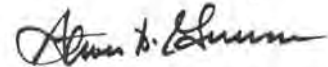
In view of the unrestricted language of Rule 1.6, all lawyers should pause and think before revealing any information relating to the representation of a client unless the client has given informed consent.

Ethics Opinion on Rule 1.6 Confidentiality 11-23-08.wpd

July 16, 2009



EXHIBIT 29



CLERK OF THE COURT

Mark A. Solomon, Esq., Bar No. 418
msolomon@sdfnlaw.com
Joshua M. Hood, Esq. Bar No. 12777
jhood@sdfnlaw.com
SOLOMON DWIGGINS & FREER, LTD.
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Facsimile: 702.853.5485

Attorneys for Caroline Davis, Petitioner

DISTRICT COURT

CLARK COUNTY, NEVADA

In the Matter of:

Case No.: P-15-083867-T
Dept.: Probate (26)

The BEATRICE B. DAVIS FAMILY
HERITAGE TRUST, dated July 28, 2000, as
amended on February 24, 2014

Hearing Date: September 2, 2015
Hearing Time: 9:00 A.M.

**OPPOSITION TO CHRISTOPHER D. DAVIS' MOTION FOR A PROTECTIVE ORDER
AND TO QUASH OR MODIFY SUBPOENA**

Caroline D. Davis, as beneficiary of the Beatrice B. Davis Family Heritage Trust, dated July 28, 2000, as amended February 24, 2014, by and through her counsel, the law firm of Solomon Dwiggins & Freer, Ltd., hereby files her Objection To Christopher D. Davis' Motion For A Protective Order And To Quash Or Modify The Subpoena (the "Objection"). This Objection is made and based on the pleadings and papers on file in this action, the attached Memorandum Of Points And Authorities, all attached exhibits, and any oral argument that this honorable Court may entertain at the time of hearing. This Objection is being filed on the date indicated below as the Order Shortening Time for Christopher D. Davis' Motion For A Protective Order And To Quash Or Modify The Subpoena was just recently filed on August 28, 2015, granting his request to have the instant motion heard on September 2, 2015.

MEMORANDUM OF POINTS AND AUTHORITIES

I. Statement of Relevant Facts

This matter was initiated by Caroline D. Davis ("Ms. Davis") on February 10, 2015 when Ms. Davis filed her Petition To Assume Jurisdiction Over The Beatrice B. Davis Family Heritage

Trust, dated July 28, 2000, as amended on February 24, 2014; To Assume Jurisdiction Over Christopher D. Davis as Investment Trust Advisor and Stephen K. Lehnardt as Distribution Trust Advisor; To Confirm Dunham Trust Company As Directed Trustee; and For Immediate Disclosure of Documents and Information From Christopher D. Davis (the "Petition"). On April 22, 2015, this Court heard oral arguments on Ms. Davis' Petition and Christopher D. Davis' Motion To Dismiss Pursuant To NRCP (12)(b) And NRCP 19, which was filed on March 3, 2015 (the "Motion To Dismiss").

The Order¹ entered as a result of the April 22, 2015, in relevant part, provides as follows:

"IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Petition for Immediate Disclosure of Documents and Information from Christopher D. Davis is granted as to all information in his possession, custody or control, in his role as Investment Trust Advisor, and in his role as Manager of FHT Holdings."²

On June 8, 2015, Ms. Davis' counsel served a Subpoena Duces Tecum on Christopher D. Davis' ("Christopher") counsel, Anthony L. Barney, Esq. ("Mr. Barney") and Harriet H. Roland, Esq. ("Ms. Roland").³ Due to a scrivener's error in the June 8, 2015 Subpoena Duces Tecum (the "June 8, 2015 Subpoena"), at Ms. Roland's request,⁴ the June 8, 2015 Subpoena was reissued on June 25, 2015 (the "June 25, 2015 Subpoena").⁵ After Ms. Roland raised concerns regarding the deadline by which the documents pursuant to the June 25, 2015 Subpoena were to be produced,⁶ Ms. Davis' counsel, extended the deadline to July 27, 2015.⁷

¹ See, Motion To Compel Harriet Roland, Esq. To Produce Documents Responsive To Subpoena Duces Tecum; and For Attorneys' Fees And Costs, filed on August 17, 2015 (the "Motion To Compel"), at Ex. 8 & 9.

² *Id.*, at Ex. 8, p. 2:3-5.

³ *Id.*, at Ex. 1.

⁴ *Id.*, at Ex. 2.

⁵ *Id.*, at Ex. 4.

⁶ *Id.*, at Ex. 6.

⁷ *Id.*, at Ex. 7.

On July 27, 2015, Ms. Roland produced certain documents that did not comply with the June 25, 2015 Subpoena. As set forth in the Motion To Compel, Ms. Roland has only provided Ms. Davis' counsel with:

- (1) Correspondences between Christopher; Stephen K. Lehnardt ("Mr. Lehnardt"), the Trust Protector and Distribution Trust Advisor; Janet K. Tempel, Alaska USA Trust Company; Shanna Coressel, Dunham Trust Company, etc.;
- (2) Promissory Notes, which Ms. Davis was already in possession of;
- (3) Loan tracking spreadsheets, which Ms. Davis was already in possession of;
- (4) Documents attached to Ms. Davis' prior pleadings; and
- (5) Financial statements from Ashely Cooper and Dunham Trust Company, which Ms. Davis was already in possession of.⁸

Due to Ms. Roland's failure to comply with the June 25, 2015 Subpoena, counsel for Ms. Davis, Mark A. Solomon, Esq. ("Mr. Solomon") and Joshua M. Hood, Esq. ("Mr. Hood"), conducted an EDCR 2.34 conference with Ms. Roland on July 31, 2015.⁹ Although Mr. Solomon informed Ms. Roland that the documents provided by her in response to the June 25, 2015 Subpoena were insufficient, Ms. Roland did not cure such defect by providing additional documentation. As such, Ms. Davis, by and through her counsel, filed her Motion To Compel, requesting, *inter alia*, that this Court: (1) Compel Harriet H. Roland, Esq. produce any and all non-privileged documents in her possession, custody, and control responsive to the June 24, 2015-Roland Subpoena; and (2) Compel Harriet H. Roland, Esq. to produce the documents referenced in this Motion, as listed on the Privilege Log for Production to SDF, dated July 27, 2014, as the "attorney-client" privilege is in applicable to such documents.¹⁰

Notwithstanding the clear direction of the June 25, 2015 Subpoena and the Order requiring Christopher to produce the requisite documents, Ms. Davis has been unsuccessful in her

⁸ *Id.*, at p. 4:15-22.

⁹ *Id.*, at Ex. 11.

¹⁰ *Id.*, at p. 13:5-9.

1 efforts to obtain information that she is expressly entitled to.¹¹ As such, and in an effort to obtain
2 information directly from Christopher himself, Ms. Davis served a Notice Of Taking Deposition
3 Of Christopher D. Davis on August 6, 2015 (the "Deposition Notice").¹² Pursuant to the Notice
4 Of Deposition, Christopher's deposition is currently scheduled for September 3, 2015, at the law
5 offices of Solomon Dwiggin & Freer, Ltd. (9060 West Cheyenne Avenue, Las Vegas, Nevada,
6 89129), at 10:00 a.m.

7 Christopher, by and through his counsel, subsequently served Ms. Davis with his Motion
8 For Protective Order And to Quash Or Modify The Subpoena on August 28, 2015 ("Motion For
9 Protective Order"). Essentially, the Motion For Protective Order asserts that, since Christopher
10 and Ms. Davis are both "contesting the proper jurisdictional basis upon which this court asserted
11 jurisdiction",¹³ that Christopher cannot be compelled to obey the subpoena. As fully set forth
12 below, Ms. Davis is not contesting the jurisdiction of this Court and Christopher must be
13 compelled to attend the deposition scheduled for September 3, 2015.

14 **II. Legal Argument**

15 **A. Ms. Davis Is Not Contesting That This Court Has Jurisdiction Over**
16 **The Trust.**

17 On April 22, 2015, this Court assumed jurisdiction over the Beatrice B. Davis Family
18 Heritage Trust, dated July 28, 2000, as amended on February 24, 2014 (the "Trust") under the
19 theory of constructive Trust, which was confirmed in the Order filed on June 24, 2015. The
20 reason the Court assumed jurisdiction under such theory was due to the misrepresentations made
21 to this Court by Christopher concerning the validity of the First Amendment to the Trust, dated
22 February 24, 2014 (the "First Amendment"), which effectively transferred the situs from Alaska
23 to Nevada. Based upon such misrepresentations made by Christopher and the Court's assumption
24 of jurisdiction under the theory of constructive trust, Ms. Davis filed a Motion To Amend Or

25 ¹¹ See, Petition, at Ex. 1, at Art. 12, § 4 (providing that "[t]he trust's books and records along with all trust
26 documentation shall be available and open at all reasonable times to the inspection of the trust beneficiaries and
their representatives." (Emphasis added).

27 ¹² See, Deposition Notice, a true and correct copy of which is attached hereto as **Exhibit A**.

28 ¹³ See, Motion For Protective Order, at p. 5:3-4.

1 Modify Order Pursuant To NRCP 60(b)(3) on August 10, 2015 (the "Motion To Amend").
2 Nowhere within the Motion To Amend does Ms. Davis object to this Court having jurisdiction
3 over the Trust in any manner whatsoever. Rather, Ms. Davis filed her Motion To Amend in order
4 to set straight the facts and circumstances, as well as the validity of, the First Amendment and to
5 further inform this Court that it, in fact, has jurisdiction over the Trust as a proceeding *in rem*
6 pursuant to NRS 164.010.¹⁴

7 Whether this Court assumed jurisdiction under the theory of a *de jure* trust or *de facto*
8 trust is irrelevant as this Court ultimately assumed jurisdiction over the Trust in one way, shape,
9 or form. As such, the Trust is properly before a court of competent jurisdiction, and, therefore,
10 the parties to this action are subject to this Court's jurisdiction and orders. Notwithstanding
11 Christopher's continued misrepresentations regarding the First Amendment and the validity
12 thereof, this Court has jurisdiction over the Trust and Ms. Davis has not asserted otherwise.

13 **B. Christopher Is A Party To This Action And Has Submitted To The**
14 **Jurisdiction Of This Court Pursuant To NRS 163.5555.**

15 The First Amendment to the Trust, which Christopher expressly consented to, provides
16 that Christopher "shall be treated as an 'Investment Trust Advisor' under NRS 163.5543 and as a
17 'Fiduciary' under NRS 163.554." ¹⁵ NRS 163.5555, in relevant part, provides as follows:

18 "If a person accepts an appointment to serve as a trust protector or a **trust adviser**
19 of a trust subject to the laws of this State, **the person submits to the jurisdiction**
20 **of the courts of this State**, regardless of any term to the contrary in an agreement
or instrument." (Emphasis added).

21 As such, upon Christopher's appointment and acceptance of tenure as Investment Trust
22 Advisor, he expressly submitted to *in personam* jurisdiction in the State of Nevada. Additionally,
23 Christopher, as Investment Trust Advisor, is a party to this action. Indeed, the Court granted Ms.
24 Davis request to assume jurisdiction over Christopher as Investment Trust Advisor.¹⁶ As such,

25
26 ¹⁴ See, Motion To Amend, at p. 17:13-15.

27 ¹⁵ See, Petition, at Ex. 5, at Art. Thirteen, Second.

28 ¹⁶ See, Order, at p. 2:22-24.

1 Christopher is a party to this action and has expressly submitted to *in personam* jurisdiction of
2 Nevada.

3 Even in the unlikely event this Court determines that Christopher's appointment as
4 Investment Trust Advisor was improper, Christopher is still serving as the sole Manager of a
5 Nevada limited liability company (FHT Holdings, LLC), which is: (1) wholly owned by the
6 Trust; (2) the current owner of the Trust's primary asset (the Ashley Cooper Policy), and (3)
7 who's registered agent is located in Clark County, Nevada. As such, requiring Christopher to
8 attend the September 3, 2015 deposition to be deposed in such capacity is proper.

9 **C. The Notice Of Deposition Is Proper Under NRCP 26 And NRCP 30,**
10 **And, Therefore, A Protective Order Is Improper.**

11 As fully set forth above, and in Ms. Davis' prior pleadings, this Court has jurisdiction over
12 the Trust in this matter. Additionally, Christopher is a party to this matter and has expressly
13 consented to *in personam* jurisdiction in the State of Nevada pursuant to NRS 163.5555.
14 Christopher is serving as the Investment Trust Advisor of the Trust, and as the sole Manager of
15 FHT Holdings, LLC, an entity wholly owned by the Trust. As such, Christopher has within his
16 possession, custody and control all of the relevant information that Ms. Davis initially sought to
17 obtain in her Petition filed on February 10, 2015. Notwithstanding the clear direction of the Trust
18 to make all documents and information available to beneficiaries of the Trust, Christopher has
19 consistently stonewalled Ms. Davis' attempts to obtain such documentation and information.

20 Contrary to Christopher's assertions, Ms. Davis' Notice Of Deposition is not intended to
21 "annoy, embarrass, oppress, [or] cause undue burden or expense" to Mr. Davis.¹⁷ Rather, Ms.
22 Davis' intends to depose Christopher in order to obtain information she is entitled to and
23 information that is discoverable pursuant to NRCP 26(b)(1). NRCP 26(b)(1), in relevant part,
24 provides that:

25 "[p]arties may obtain discovery regarding any matter, not privileged, which is
26 relevant to the subject matter involved in the pending action, whether it relates to
27 the claim or defense of the party seeking discovery or to the claim or defense of
any other party, including the existence, description, nature, custody, condition

28 ¹⁷ See, Motion For Protective Order, at p. 8:20-21.

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 **SOLOMON**
DWIGGINS & FREER
TRUST AND ESTATE ATTORNEYS

1 and location of any books, documents, or other tangible things and the identity
2 and location of persons having knowledge of any discoverable matter. It is not
3 ground for objection that the information sought will be inadmissible at the
4 trial if the information sought appears reasonably calculated to lead to the
5 discovery of admissible evidence." (Emphasis added).

6 Christopher's reliance on NRCP 45(c) is also misplaced. NRCP 45(c)(3)(A)(ii) allows for
7 a court to quash or modify a subpoena if it "requires a person who is not a party or an officer of
8 a party to travel to a place more than 100 miles from the place where that person resides..."
9 (Emphasis added). As set forth above, Christopher is a party to this matter and has expressly
10 submitted to *in personam* jurisdiction in the State of Nevada pursuant to NRS 163.5555. As such,
11 he can be, and must be, compelled to attend a deposition that is properly noticed. Indeed, Ms.
12 Davis noticed Christopher's deposition on August 8, 2015. Ms. Davis has provided Christopher
13 adequate time to prepare for and attend the deposition scheduled on September 3, 2015. As such,
14 Christopher must be compelled to attend the deposition on September 3, 2015.

15 **WHEREFORE**, Caroline D. Davis respectfully request that this Court deny Christopher
16 D. Davis' Motion For Protective Order And To Quash Or Modify The Subpoena in its entirety.

17 Dated this 11th day of September, 2015.

SOLOMON DWIGGINS & FREER, LTD


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Joshua M. Hood, Esq. (Bar No. 12777)
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Las Vegas, Nevada
Telephone: (702) 853-5483
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Attorneys for Caroline D. Davis

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TRUST AND ESTATE ATTORNEYS

CERTIFICATE OF SERVICE

I hereby certify that on the 1st day of September 2015, I mailed a true and correct copy of the above and foregoing OPPOSITION TO CHRISTOPHER D. DAVIS' MOTION FOR A PROTECTIVE ORDER AND TO QUASH OR MODIFY SUBPOENA to the following persons at their last known address, by depositing a copy of the same in the United States Mail, addressed as follows and further did eserve via the Court's electronic system to those listed on the service page of the Wiznet System pursuant to EDCR 8.05(a), 8.05(f) and Rule 9 of NEFCR:

Tarja Davis
3005 North Beverly Glen Circle
Los Angeles, California 90077
and
514 West 26th Street, ##F
Kansas City, Missouri 64108

Cheryl Davis
5403 West 134 Terrace, Unit 1525
Overland Park, KS 66209

WINFIELD B. DAVIS
Skyland Terrace Apts.
930 Figueroa Terr. Apt. 529
Los Angeles, California 90012-3072
winsane@gmail.com

ACE DAVIS c/o
WINFIELD B. DAVIS
Skyland Terrace Apts.
930 Figueroa Terr. Apt. 529
Los Angeles, California 90012-3072

Registered Agent Solutions, Inc
Registered Agent for FHT Holdings, LLC,
A Nevada Limited Liability Company
4625 W. Nevso Drive, Suite 2
Las Vegas, Nevada 89103

///

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3 2470 E. Saint Rose Pkwy., Suite 105
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5 hroland@rolandlawfirm.com
6 Attorneys for Christopher D. Davis

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8 ANTHONY L. BARNEY, LTD.
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11 abarney@anthonybarney.com
12 Attorneys for Christopher D. Davis

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14 LEE HERNANDEZ LANDRUM & GAROFALO
15 7575 Vegas Drive, #150
16 Las Vegas, Nevada 89128
17 crenwick@lee-lawfirm.com
18 Attorneys for Dunham Trust

19 JONATHAN W. BARLOW, ESQ.
20 Clear Counsel Law Group
21 50 Stephanie Street, Suite 101
22 Henderson, Nevada 89012
23 jonathan@clearcounsel.com
24 Attorneys for Stephen Lenhardt

25
26
27
28

An Employee of SOLOMON DWIGGINS & FREER, LTD.

Exhibit A

Exhibit A

1 **NOTC**

2 Mark A. Solomon, Esq.
3 Nevada Bar No. 0418
4 E-mail: msolomon@sdfnlaw.com
5 Joshua M. Hood, Esq.
6 Nevada Bar No. 12777
7 E-mail: jhood@sdfnlaw.com
8 SOLOMON DWIGGINS & FREER, LTD.
9 9060 West Cheyenne Avenue
10 Las Vegas, Nevada 89129
11 Telephone: 702.853.5483
12 Facsimile: 702.853.5485

13 *Attorneys for Caroline Davis, Petitioner*

14 **DISTRICT COURT**

15 **CLARK COUNTY, NEVADA**

16 In the Matter of

Case No.: P-15-083867-T
Dept.: Probate (26)

17 The BEATRICE B. DAVIS FAMILY
18 HERITAGE TRUST, dated July 28, 2000, as
19 amended on February 24, 2014.

20 **NOTICE OF TAKING DEPOSITION OF CHRISTOPHER D. DAVIS**

21 PLEASE TAKE NOTICE that CAROLINE DAVIS, by and through her attorneys, the law
22 offices of SOLOMON DWIGGINS & FREER, LTD., will take the deposition of
23 CHRISTOPHER DAVIS, Investment Trust Advisor and Manager of FHT Holdings, LLC, on the
24 3rd day of September, 2015, beginning at 10:00 a.m., at the law office of SOLOMON DWIGGINS
25 & FREER, LTD., 9060 West Cheyenne Avenue, Las Vegas, Nevada 89129. The deposition will
26
27
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7060 WEST CHEYENNE AVENUE
LAS VEGAS, NEVADA 89129
TELEPHONE (702) 853-5483
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1 take place upon oral examination pursuant to Rules 26 and 30 of the Nevada Rules of Civil
2 Procedure, before a Notary Public or before some other officer authorized by law to administer
3 oaths and by videographer.

4 You are invited to attend and cross examine.

5 DATED this 6th day of August, 2015.

6 SOLOMON DWIGGINS & FREER, LTD.

7 By: 

8 Mark A. Solomon, Esq.
9 Nevada Bar No. 0418
10 E-mail: msolomon@sdfnlaw.com
11 Joshua M. Hood, Esq.
12 Nevada Bar No. 12777
13 E-mail: jhood@sdfnlaw.com
14 9060 West Cheyenne Avenue
15 Las Vegas, Nevada 89129
16 Telephone: 702.853.5483
17 Facsimile: 702.853.5485

18 *Attorneys for Caroline Davis, Petitioner*

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TRUST AND ESTATE ATTORNEYS

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on August 6th 2015, pursuant to NRCP 5(b)(2)(B), I placed a true and correct copy of the following NOTICE OF TAKING DEPOSITION OF CHRISTOPHER D. DAVIS, in the United States Mail, with first-class postage prepaid, addressed to the following, at their last known address, and, pursuant to Rule 9 of N.E.F.C.R., caused an electronic copy to be served via Odyssey, to the email address noted below:

Mail only:

Tarja Davis
3005 North Beverly Glen Circle
Los Angeles, California 90077

Ace Davis
c/o WINFIELD B. DAVIS
366-6 Habu Aridagawa Arida
Wakayama 643-0025
JAPAN

and

514 West 26th Street, #3E
Kansas City, Missouri 64108

Winfield B. Davis
366-6 Habu Aridagawa Arida
Wakayama 643-0025
JAPAN

And did mail via US Mail and email Via the Court's electronic system, WizNet pursuant to Rule 9 of NEFCR at the email address noted to the following:

Harriet Roland, Esq.
ROLAND LAW FIRM
2470 E. St. Rose Parkway, #105
Henderson, NV 89052
hroland@rolandlawfirm.com
Attorneys for Christopher D. Davis

Anthony L. Barney, Esq.
ANTHONY L. BARNEY, LTD.
3317 West Charleston Boulevard, Suite B
Las Vegas Nevada 89102
abarney@anthonybarney.com
Attorneys for Christopher D. Davis

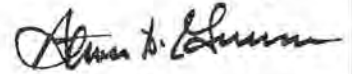
Jonathan W. Barlow, Esq.
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Attorneys for Stephen Lenhardt

Charlene Renwick, Esq.
LEE HERNANDEZ LANDRUM &
GAROFALO
7575 Vegas Drive #150
Las Vegas, Nevada 89128
crenwick@lee-lawfirm.com
Attorneys for Dunham Trust


An employee of Solomon Dwiggin & Freer, Ltd.



EXHIBIT 30


CLERK OF THE COURT

Mark A. Solomon, Esq., Bar No. 418
msolomon@sdfnlaw.com
Joshua M. Hood, Esq. Bar No. 12777
jhood@sdfnlaw.com
SOLOMON DWIGGINS & FREER, LTD.
9060 West Cheyenne Avenue
Las Vegas, Nevada 89129
Telephone: 702.853.5483
Facsimile: 702.853.5485

Attorneys for Caroline Davis, Petitioner

DISTRICT COURT
CLARK COUNTY, NEVADA

In the Matter of:

Case No.: P-15-083867-T
Dept.: Probate (26)

The BEATRICE B. DAVIS FAMILY
HERITAGE TRUST, dated July 28, 2000, as
amended on February 24, 2014

Hearing Date: September 2, 2015
Hearing Time: 9:00 A.M.

**MOTION TO STRIKE CHRISTOPHER D. DAVIS' ARGUMENTS AND REQUESTS
FOR RELIEF IN HIS REPLY TO CAROLINE D. DAVIS' OBJECTION TO PETITION
FOR RECONSIDERATION IN EXCESS OF THIRTY (30) PAGES AS THE REPLY
VIOLATES EDCR 2.20**

Caroline D. Davis, as beneficiary of the Beatrice B. Davis Family Heritage Trust, dated July 28, 2000, as amended February 24, 2014, by and through her counsel, the law firm of Solomon Dwiggins & Freer, Ltd., hereby files her Motion To Strike Christopher D. Davis' Arguments And Requests For Relief In His Reply To Caroline D. Davis' Objection To Petition For Reconsideration In Excess Of Thirty (30) Pages As The Reply Violates EDCR 2.20 (the "Motion"). This Motion is made and based on the pleadings and papers on file in this action, the attached Memorandum Of Points And Authorities, all attached exhibits, and any oral argument that this honorable Court may entertain at the time of hearing.

NOTICE OF MOTION

TO: ALL PARTIES IN THIS MATTER

You and each of you will please take notice that this matter has been set for hearing on the
7 day of October, 2015, at the hour of 9:00 am in Department 26, Courtroom 3H at
the Regional Justice Center, 200 Lewis Avenue, Las Vegas, Nevada 89155.

SOLOMON DWIGGINS & FREER, LTD


Mark A. Solomon, Esq. (Bar No. 418)
Joshua M. Hood, Esq. (Bar No. 12777)
9060 Cheyenne Avenue
Las Vegas, Nevada
Telephone: (702) 853-5483
Facsimile: (702) 853-5485
Attorneys for Caroline D. Davis

MEMORANDUM OF POINTS AND AUTHORITIES

I. Statement of Facts

On July 14, 2015, Christopher D. Davis ("Christopher") filed his Petition For Reconsideration Of The Order Dated May 19, 2015 Re: Petition To Assume Jurisdiction Over The Beatrice B. Davis Family Heritage Trust Dated July 28, 2000, As Amended On February 24, 2104, To Assume Jurisdiction Over Christopher D. Davis As Investment Trust Advisor, Stephen K. Lehnardt As Distribution Trust Advisor, To Confirm Dunham Trust Company As Directed Trustee, And For Immediate Disclosure Of Documents And Information From Christopher D. Davis (the "Petition For Reconsideration").

Caroline D. Davis ("Ms. Davis") filed her Objection¹ to the Petition For Reconsideration on July 31, 2015. On August 27, 2015, Christopher filed his Reply² to Ms. Davis' Objection to

¹ See, Objection To Petition For Reconsideration Of The Order Dated May 19, 2015 Re: Petition To Assume Jurisdiction Over The Beatrice B. Davis Family Heritage Trust Dated July 28, 2000, As Amended On February 24, 2104, To Assume Jurisdiction Over Christopher D. Davis As Investment Trust Advisor, Stephen K. Lehnardt As Distribution Trust Advisor, To Confirm Dunham Trust Company As Directed Trustee, And For Immediate Disclosure Of Documents And Information From Christopher D. Davis (the "Objection").

² See, Christopher D. Davis' Reply To Caroline D. Davis' Objection To Petition For Reconsideration Of The Order Dated May 19, 2015 Re: Petition To Assume Jurisdiction Over The Beatrice B. Davis Family Heritage Trust Dated July 28, 2000, As Amended On February 24, 2104, To Assume Jurisdiction Over Christopher D. Davis As Investment Trust Advisor, Stephen K. Lehnardt As Distribution Trust Advisor, To Confirm Dunham Trust Company

Christopher's Petition For Reconsideration. The Reply, excluding the Certificate of Service and Exhibits totals Sixty-Seven (67). *See*, Reply.

II. LEGAL ARGUMENT

A. Legal Authority

Eighth Judicial District Court Rule 2.20(a) provides that "[u]nless otherwise ordered by the court, papers submitted in support of pretrial and post-trial briefs shall be limited to 30 pages, excluding exhibits. Where the court enters an order permitting a longer brief or points and authorities, the papers shall include a table of contents and table of authorities." (Emphasis added).

B. Any Arguments And Requests For Relief Set Forth In Christopher's Reply Brief, In Excess Of Thirty (30) Pages, Should Be Stricken As Such Reply Violates EDCR 2.20.

EDCR 2.20 is clear and unambiguous in that it limits a party's briefs to thirty (30) pages, unless permission is first obtained from the Court to exceed such page limit. Christopher did not obtain an order from this Court permitting his Reply to exceed the requisite thirty (30) pages. Instead, Christopher, in direct contravention of the applicable rules, filed a sixty-seven (67) page Reply to Ms. Davis' Objection.

As Christopher did not obtain an order from this Court permitting his Reply to exceed the page limit set forth in EDCR 2.20, Ms. Davis respectfully request that this Court strike any and all arguments and requests for relief presented in Christopher's Reply from page thirty-one (31) to page sixty-seven (67).

WHEREFORE, Caroline D. Davis respectfully request that this Court:

(1) Strike any and all arguments and requests for relief set forth in Christopher D. Davis' Reply to the Objection to Petition For Reconsideration in excess of thirty (30) pages as the Reply violates EDCR 2.20.

(2)

As Directed Trustee, And For Immediate Disclosure Of Documents And Information From Christopher D. Davis (the "Reply").

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LAS VEGAS, NEVADA 89129
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FACSIMILE (702) 853-5485
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1 Dated this 1 day of September, 2015.

SOLOMON DWIGGINS & FREER, LTD

Mark A. Solomon, Esq. (Bar No. 418)

Joshua M. Hood, Esq. (Bar No. 12777)

9060 Cheyenne Avenue

Las Vegas, Nevada

Telephone: (702) 853-5483

Facsimile: (702) 853-5485

Attorneys for Caroline D. Davis

CERTIFICATE OF SERVICE

I hereby certify that on the 1st day of September 2015, I mailed a true and correct copy of the above and foregoing MOTION TO STRIKE CHRISTOPHER D. DAVIS' ARGUMENTS AND REQUESTS FOR RELIEF IN HIS REPLY TO CAROLINE D. DAVIS' OBJECTION TO PETITION FOR RECONSIDERATION IN EXCESS OF THIRTY (30) PAGES AS THE REPLY VIOLATES EDCR 2.20 to the following persons at their last known address, by depositing a copy of the same in the United States Mail, addressed as follows and further did eserve via the Court's electronic system to those listed on the service page of the Wiznet System pursuant to EDCR 8.05(a), 8.05(f) and Rule 9 of NEFCR:

Tarja Davis
3005 North Beverly Glen Circle
Los Angeles, California 90077
and
514 West 26th Street, ##F
Kansas City, Missouri 64108

Cheryl Davis
5403 West 134 Terrace, Unit 1525
Overland Park, KS 66209

WINFIELD B. DAVIS
Skyland Terrace Apts.
930 Figueroa Terr. Apt. 529
Los Angeles, California 90012-3072
winsane@gmail.com

ACE DAVIS c/o
WINFIELD B. DAVIS
Skyland Terrace Apts.
930 Figueroa Terr. Apt. 529
Los Angeles, California 90012-3072

Registered Agent Solutions, Inc
Registered Agent for FHT Holdings, LLC,
A Nevada Limited Liability Company
4625 W. Nevso Drive, Suite 2
Las Vegas, Nevada 89103



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HARRIET ROLAND, ESQ.,
ROLAND LAW FIRM
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Attorneys for Christopher D. Davis

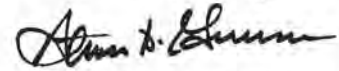
CHARLENE RENWICK, ESQ.
LEE HERNANDEZ LANDRUM & GAROFALO
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Las Vegas, Nevada 89128
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Attorneys for Dunham Trust

JONATHAN W. BARLOW, ESQ.
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Henderson, Nevada 89012
jonathan@clearcounsel.com
Attorneys for Stephen Lenhardt

An Employee of SOLOMON DWIGGINS & FREER, LTD.



EXHIBIT 31



CLERK OF THE COURT

1 HARRIET H. ROLAND, ESQ.
2 NV Bar No. 5471

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18 *Attorneys for Christopher D. Davis*

19 **EIGHTH JUDICIAL DISTRICT COURT**

20 **CLARK COUNTY, NEVADA**

21 In the matter of:

Case No.: P-15-083867-T

22 The BEATRICE B. DAVIS FAMILY HERITAGE
23 TRUST, dated July 28, 2000, as amended on
24 February 24, 2014.

Dept. No.: 26


25 **CHRISTOPHER D. DAVIS' REPLY TO CAROLINE DAVIS' OPPOSITION TO HIS**
26 **MOTION FOR PROTECTIVE ORDER AND TO QUASH OR MODIFY THE**
27 **SUBPOENA**

28 CHRISTOPHER D. DAVIS ("Christopher"), by and through his attorneys HARRIET H.
ROLAND, Esq., of the ROLAND LAW FIRM and ANTHONY L. BARNEY, Esq., of the law
office of ANTHONY L. BARNEY, LTD., and hereby submits his reply to Caroline Davis'

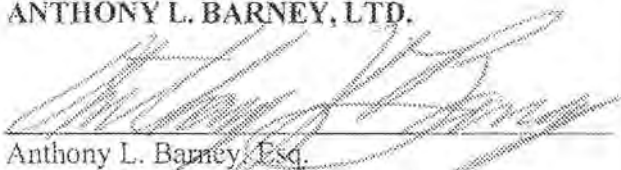
1 ("Caroline") opposition to his motion for protective order and to quash or modify the subpoena.
2 This pleading is based on the Memorandum of Points and Authorities attached hereto, any
3 exhibits attached hereto, and any oral argument that will be heard in this matter.
4

5 DATED this 1st day of September, 2015.

6 Respectfully Submitted,
7 **ROLAND LAW FIRM**

8 
9 Harriet H. Roland, Esq.
10 Attorney for Christopher D. Davis

11 Respectfully Submitted,
12 **ANTHONY L. BARNEY, LTD.**

13 
14 Anthony L. Barney, Esq.
15 Attorney for Christopher D. Davis

16
17 **MEMORANDUM OF POINTS AND AUTHORITIES**

18 **I. FACTS PRESENTED**

19 Christopher Davis hereby incorporates the Facts Presented in his Motion for Protective
20 Order and to Quash and Modify the Subpoena ("Original Motion") as if set forth fully herein.
21 Notably, Caroline has alleged in her Statement of Relevant Facts that "Ms. Davis **is not**
22 **contesting the jurisdiction of this Court** and Christopher must be compelled to attend the
23 deposition scheduled for September 3, 2015."¹ In prior pleadings, she has also conceded that
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28 ¹ See Caroline's Opposition to Original Motion, Page 5: lines 5-6 (Emphasis added).

1 she "has not requested this Court to assume jurisdiction over Christopher, **individually**, or as
2 Trustee of the Revocable Trust."²

3 **II. LEGAL AUTHORITY AND ARGUMENT**

4 Christopher Davis hereby incorporates the Legal Authority and Argument in his Original
5 Motion as if set forth fully herein. Indeed, in Caroline's Opposition to the Original Motion, she
6 brings to the forefront the issue for which Christopher is seeking the motion for a protective
7 order. She concedes that "she is not contesting the jurisdiction of this Court"³, which, at this
8 time, is pursuant to a constructive trust theory.⁴ Because Christopher has not been personally
9 served, Caroline has admittedly not sought personal jurisdiction over Christopher, and this
10 Court has not taken *in personam* over Christopher. Christopher cannot be compelled to appear
11 for a deposition in this Court's jurisdiction under a theory of constructive trust in any purported
12 role, such as a purported investment trust adviser or manager of FHT Holdings, LLC.⁵

13 Unless and until this Court can assume proper jurisdiction over the Trust pursuant to
14 NRS 164.010 or over an alleged trust investment adviser pursuant to NRS 163.5555, if it is even
15 able to do so, this Court has no jurisdiction over Christopher. He cannot be made to appear for a
16 deposition or otherwise pursuant to this Court's present jurisdiction, which is not being
17 contested by Caroline. Thus, this court must grant a protective order against being forced to
18 appear in a foreign jurisdiction and quash the subpoena requiring him to appear.

19 **III. CONCLUSION**

20 For the foregoing reasons, Christopher respectfully requests the Court do the following,

- 21 1. Deny and all requests in Caroline's Opposition to the Original Motion in its entirety;

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28 ² See Objection to Petition for Reconsideration 17:15-17.

³ See May 19, 2015 Order.

⁴ See Pages 24-28 of Petition for Reconsideration of the Court's May 19, 2015 Order filed on July 14, 2015

- 1 2. Make the requisite findings as requested in the Original Motion; and
2 3. Grant the relief requested in the Original Motion, including, but not limited to, a
3 protective order and to quash or modify the subpoena.
4

5 DATED this 1st day of September, 2015.

6 Respectfully Submitted,
7 **ROLAND LAW FIRM**

8 
9 Harriet H. Roland, Esq.
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16 Attorney for Christopher D. Davis

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24 Facsimile: (702) 259-1116
25 office@anthonybarney.com
26 Attorney for Christopher D. Davis
27
28

⁵ Id.

1 CERTIFICATE OF SERVICE

2 I hereby certify that I am an employee of Anthony L. Barney, Ltd., and not a party to
3 this action. I further certify that except as otherwise noted, on September 1, 2015, I served the
4 foregoing CHRISTOPHER D. DAVIS' REPLY TO CAROLINE DAVIS' MOTION FOR
5 A PROTECTIVE ORDER AND TO QUASH OR MODIFY THE SUBPOENA by first
6 class US mail, postage prepaid, upon the following persons or entities:
7

8
9 Cheryl Davis
10 5403 West 134 Terrace, Unit 1525
11 Overland Park, KS 66209

12 Tarja Davis
13 3005 North Beverly Glen Circle
14 Las Angeles, California 90077
15 And
16 514 West 26th Street, #3E
17 Kansas City, Missouri 64108

18 Winfield B. Davis
19 Skyline Terrace Apts.
20 930 Figueroa Terr. Apt. 529
21 Los Angeles, California 90012-3072

22 Ace Davis
23 c/o Winfield B. Davis
24 Skyline Terrace Apts.
25 930 Figueroa Terr. Apt. 529
26 Los Angeles, California 90012-3072

27 Christopher D. Davis
28 3005 North Beverly Glen Circle
Los Angeles, California 90077
And
514 West 26th Street, #3E
Kansas City, Missouri 64108

1 Registered Agent Solutions, Inc.
2 Registered Agent for FHT Holdings, LLC, a Nevada Limited Liability Company
3 4625 West Nevso Drive, Suite 2
Las Vegas, Nevada 89103

4 JONATHAN W. BARLOW, ESQ.
5 CLEAR COUNSEL LAW GROUP
6 50 Stephanie Street, Suite 101
7 Henderson, Nevada 89012
8 Jonathan@clearcounsel.com
9 Attorneys for Stephen K. Lenhardt

VIA FACSIMILE: 702-924-0709

10 Mark Solomon, Esq.
11 Joshua Hood, Esq.
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14 Las Vegas, NV 89129
15 *Attorney for Petitioner Caroline Davis*

VIA FACSIMILE: 702-853-5485

16 DUNHAM TRUST
17 SHANNA CORESSAL, CTFA
18 Charlene Renwick, Esq.
19 Lee, Hernandez, Landrum & Garofalo
20 7575 Vegas Drive, #150
21 Las Vegas, Nevada 89128

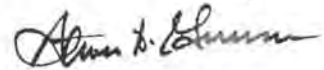
VIA FACSIMILE: 702-314-1210

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25
26
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28


Employee of Anthony L. Barney, Ltd.



EXHIBIT 32



CLERK OF THE COURT

1 SUPP

2 Mark A. Solomon, Esq., Bar No. 418

3 msolomon@sdfnlaw.com

4 Joshua M. Hood, Esq. Bar No. 12777

5 jhood@sdfnlaw.com

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9 Telephone: 702.853.5483

10 Facsimile: 702.853.5485

11 *Attorneys for Caroline Davis, Petitioner*

12 **DISTRICT COURT**

13 **CLARK COUNTY, NEVADA**

14 In the Matter of:

Case No.: P-15-083867-T

Dept.: Probate (26)

15 The BEATRICE B. DAVIS FAMILY
16 HERITAGE TRUST, dated July 28, 2000, as
17 amended on February 24, 2014

Hearing Date: September 2, 2015

Hearing Time: 9:00 A.M.

18 **SUPPLEMENT TO OBJECTION TO PETITION FOR RECONSIDERATION OF THE**
19 **ORDER DATED MAY 19, 2015 RE: PETITION TO ASSUME JURISDICTION OVER**
20 **THE BEATRICE B. DAVIS FAMILY HERITAGE TRUST DATED JULY 28, 2000, AS**
21 **AMENDED ON FEBRUARY 24, 2014, TO ASSUME JURISDICTION OVER**
22 **CHRISTOPHER D. DAVIS AS INVESTMENT TRUST ADVISOR, STEPHEN K.**
23 **LEHNARDT AS DISTRIBUTION TRUST ADVISOR, TO CONFIRM DUNHAM TRUST**
24 **COMPANY AS DIRECTED TRUSTEE, AND FOR IMMEDIATE DISCLOSURE OF**
25 **DOCUMENTS AND INFORMATION FROM CHRISTOPHER D. DAVIS AND**
26 **COUNTER PETITION FOR SANCTIONS**

27 Caroline D. Davis, as beneficiary of the Beatrice B. Davis Family Heritage Trust, dated
28 July 28, 2000, as amended February 24, 2014, by and through her counsel, the law firm of
Solomon Dwiggins & Freer, Ltd., hereby files her Supplement to the above referenced Objection,
being an Opinion Letter, designated as "Exhibit 12", to be considered with the Memorandum Of
Points And Authorities, all other attached exhibits, and any oral argument that this honorable

///

///

///

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Court may entertain at the time of hearing.

Dated this 1st day of September, 2015.

SOLOMON DWIGGINS & FREER, LTD

Mark A. Solomon, Esq. (Bar No. 418)

Joshua M. Hood, Esq. (Bar No. 12777)

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Las Vegas, Nevada

Telephone: (702) 853-5483

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Attorneys for Caroline D. Davis

Exhibit 12

Exhibit 12

OSERAN, HAHN, SPRING, STRAIGHT & WATTS, P.S.

*C. Dennis Brislawn, Jr.
James H. Clark
Gerald M. Hahn
Thomas M. Hansen
William C. Hsu
Laura S. LeMaster
Thomas D. Loflon
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*Paul A. Spencer
M. Edward Spring
Matthew B. Straight
David M. Tall
Charles E. Watts

Of Counsel:
David M. Barron
Michel P. Stern*

February 24, 2014

Lehnardt & Lehnardt, LLC
Stephen Lehnardt, Attorney
20 Westwoods Drive
Liberty, MO 64068

Re: Change of Trust Situs

To All Applicable Parties, Greetings.

Ladies and gentlemen, I am an independent attorney licensed to practice in Washington, Oregon, Alaska, and to appear before the IRS and the federal bar. I am not licensed to practice law elsewhere.

I am very familiar with Nevada law and the law of various favored jurisdictions both domestic and international offering superior asset protection and dynasty tax planning. I was asked to review the Beatrice B. Davis Family Heritage Trust ("FHT") and to make certain comments thereon.

FHT requires "advice from counsel as to the tax and other consequences of a change in situs" (Art 14, Sec.6). There are no pertinent differences between the jurisdictions considered here, and significant authority to the effect that Nevada is the superior choice at present. Nevada has a perpetuities period of up to 365 years, no state income tax, and cutting edge domestic asset protection provisions for trusts and LLCs.

Nevada, in my opinion, meets the requirements of an appropriate jurisdiction for FHT. I reviewed documentation provided by the Trust Protector, and the documents provided are in order to make this change in situs, to provide required and appropriate notice, and to effectuate the change and to comply with the law of the new situs.

The opinions expressed herein are given as of the date hereof, and we undertake no duty to update any of these opinions or the facts on which they are based. This opinion may be relied upon by the law firm of Lehnardt & Lehnardt, LLC and the trustee of the

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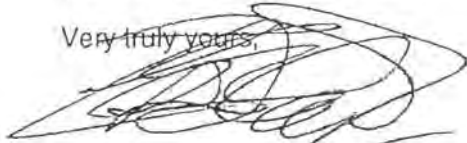
February 24, 2014

Page 2

FHT Trust but may not otherwise be relied upon by anyone without our express written consent, including but not limited to beneficiaries of FHT.

Should any questions arise, please feel free to bring them to my attention. It has been a pleasure to assist in this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read "C. Dennis Brislawn, Jr.", written over a horizontal line.

C. DENNIS BRISLAWN, JR.
OSERAN, HAHN, SPRING, STRAIGHT & WATTS, P.S.

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 SOLOMON
DWIGANS & FREER
TRUST AND ESTATE ATTORNEYS

CERTIFICATE OF SERVICE

I hereby certify that on the 1st day of September 2015, I mailed a true and correct copy of the above and foregoing SUPPLEMENT TO OBJECTION FOR RECONSIDERATION OF THE ORDER DATED MAY 19, 2015, RE: PETITION TO ASSUME JURISDICTION OVER THE BEATRICE B. DAVIS FAMILY HERITAGE TRUST DATED JULY 28, 2000, AS AMENDED ON FEBRUARY 24, 2014, TO ASSUME JURISDICTION OVER CHRISTOPHER D. DAVIS AS INVESTMENT TRUST ADVISOR , STEPHEN K. LEHNARDT AS DISTRIBUTION TRUST ADVISOR, TO CONFIRM DUNHAM TRUST COMPANY AS DIRECTED TRUSTEE, AND FOR IMMEDIATE DISCLOSURE OF DOCUMENTS AND INFORMATION FROM CHRISTOPHER D. DAVIS AND COUNTER PETITION FOR SANCTIONS to the following persons at their last known address, by depositing a copy of the same in the United States Mail, addressed as follows and further did eserve via the Court's electronic system to those listed on the service page of the Wiznet System pursuant to EDCR 8.05(a), 8.05(f) and Rule 9 of NEFCR:

Tarja Davis
3005 North Beverly Glen Circle
Los Angeles, California 90077
and
514 West 26th Street, ##F
Kansas City, Missouri 64108

Cheryl Davis
5403 West 134 Terrace, Unit 1525
Overland Park, KS 66209

WINFIELD B. DAVIS
Skyland Terrace Apts.
930 Figueroa Terr. Apt. 529
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winsane@gmail.com

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5 Los Angeles, California 90012-3072

6 Registered Agent Solutions, Inc
7 Registered Agent for FHT Holdings, LLC,
8 A Nevada Limited Liability Company
9 4625 W. Nevso Drive, Suite 2
10 Las Vegas, Nevada 89103

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12 ROLAND LAW FIRM
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14 Henderson, NV 89074
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16 Attorneys for Christopher D. Davis

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22 Attorneys for Christopher D. Davis

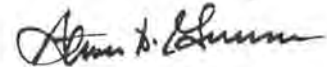
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25 7575 Vegas Drive, #150
26 Las Vegas, Nevada 89128
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28 Attorneys for Dunham Trust

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Attorneys for Stephen Lenhardt


An Employee of SOLOMON DWIGGINS & FREER, LTD.



EXHIBIT 33


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Joshua M. Hood, Esq.
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Facsimile: 702.853.5485

Attorneys for Caroline Davis, Petitioner

DISTRICT COURT

CLARK COUNTY, NEVADA

In the Matter of:

Case No.: P-15-083867-T
Dept.: Probate (26)

The BEATRICE B. DAVIS FAMILY
HERITAGE TRUST, dated July 28, 2000, as
amended on February 24, 2014

Hearing Date: April 22, 2015
Hearing Time: 9:00 A.M.

**ADDENDUM TO AND WITHDRAWAL OF CERTAIN STATEMENTS REFERENCED
IN THE:**

- (1) **OBJECTION TO PETITION FOR RECONSIDERATION OF THE ORDER
DATED MAY 19, 2015 RE: PETITION TO ASSUME JURISDICTION OVER THE
BEATRICE B. DAVIS FAMILY HERITAGE TRUST DATED JULY 28, 2000, AS
AMENDED ON FEBRUARY 24, 2014, TO ASSUME JURISDICTION OVER
CHRISTOPHER D. DAVIS AS INVESTMENT TRUST ADVISOR, STEPHEN K.
LEHNARDT AS DISTRIBUTION TRUST ADVISOR, TO CONFIRM DUNHAM
TRUST COMPANY AS DIRECTED TRUSTEE, AND FOR IMMEDIATE
DISCLOSURE OF DOCUMENTS AND INFORMATION FROM CHRISTOPHER
D. DAVIS; AND COUNTERPETITION FOR SANCTIONS;**
- (2) **AMENDMENT AND SUPPLEMENT TO COUNTERPETITION FOR
SANCTIONS; AND**
- (3) **MOTION TO AMEND OR MODIFY ORDER PURSUANT TO NRCP 60(b)(3)**

Mark A. Solomon, Esq. ("Mr. Solomon") and Joshua M. Hood, Esq. ("Mr. Hood"), of the
law firm of Solomon Dwiggin & Freer, Ltd. hereby submit the following Addendum To: (1)
Objection To Petition For Reconsideration Of The Order Dated May 19, 2015 Re: Petition To
Assume Jurisdiction Over The Beatrice B. Davis Family Heritage Trust, Dated July 28, 2000, As

Amended On February 24, 2014, To Assume Jurisdiction Over Christopher D. Davis As Investment Trust Advisor, Stephen K. Lehnardt As Distribution Trust Advisor, To Confirm Dunham Trust Company As Directed Trustee, And For Immediate Disclosure Of Documents And Information From Christopher D. Davis; And Counterpetition For Sanctions; (2) Amendment And Supplement To Counterpetition For Sanctions; And (3) Motion To Amend Or Modify Order Pursuant To NRCP 60(b)(3) (the "Addendum"). This Addendum is based on the Memorandum Of Points And Authorities, any exhibits attached hereto, and any oral argument that will be heard in this matter.

MEMORANDUM OF POINTS AND AUTHORITIES

I. Procedural History

Caroline D. Davis ("Ms. Davis") filed her Petition To Assume Jurisdiction Over The Beatrice B. Davis Family Heritage Trust, Dated July 28, 2000, As Amended On February 24, 2014; To Assume Jurisdiction Over Christopher D. Davis As Investment Trust Advisor And Stephen K. Lehnardt As Distribution Trust Advisor; To Confirm Dunham Trust Company As Directed Trustee; And For Immediate Disclosure Of Documents And Information From Christopher D. Davis, filed with this Court on February 10, 2015 (the "Petition"). Pursuant to the Second Amended Notice Of Hearing on the Petition, filed with this Court on March 5, 2015, the hearing was scheduled to be heard on April 22, 2015, at 9:00 a.m.

Christopher D. Davis ("Christopher") subsequently filed his Motion To Dismiss¹ on March 3, 2015. Pursuant to Christopher's Notice on the Motion To Dismiss, filed on March 23, 2015, the hearing on Christopher's Motion To Dismiss was also scheduled to be heard before this Court on April 22, 2015, at 9:00 a.m. In response, Ms. Davis filed her Opposition to Christopher's Motion To Dismiss on April 13, 2015.²

¹ Christopher D. Davis' Motion To Dismiss Pursuant To NRCP 12(b) And NRCP 19 (the "Motion To Dismiss").

² Opposition To Christopher D. Davis' Motion To Dismiss Pursuant To NRCP 12(b) and NRCP 19 (the "Opposition").

Christopher thereafter filed a Reply³ to Ms. Davis' Opposition on April 20, 2015. Although the Reply was technically filed in accordance with the Nevada Electronic Filing And Conversion Rules, both Mr. Solomon and Mr. Hood were not aware of the Reply until after the April 22, 2015 Hearing, when it was received by the law office of Solomon Dwiggins & Freer, Ltd. on April 24, 2015, via U.S. Mail. Indeed, the Reply that was received via U.S. Mail on April 24, 2015 does not contain any designation or notification that the Reply was electronically filed. See, Reply received via U.S. Mail on April 24, 2015, a true and correct copy of which is attached hereto as **Exhibit 1**. Additionally, page 24 of the Reply, entitled "**CERTIFICATE OF SERVICE**", does not indicate that the Reply was electronically filed pursuant to the appropriate rule. Rather, page 24 provides as follows:

"I hereby certify that I am an employee of Anthony L. Barney, Esq., and not a party to this action. I further certify that except as otherwise noted on April 20, 2015, I served the foregoing **CHRISTOPHER D. DAVIS' REPLY TO CAROLINE DAVIS' OPPOSITION TO HIS MOTION TO DISMISS PURSUANT TO NRCP (12)(b) AND NRCP 19** by *first class US mail*, postage prepaid, upon the following persons or entities:"⁴

Consequently, Mr. Solomon's statement during the April 22, 2015 Hearing regarding that being the first date and time he had been made aware of any arguments related to Christopher's wife, Tarja Davis ("Tarja"), being a purported beneficiary the Beatrice B. Davis Family Heritage Trust, dated July 28, 2000, as Amended on February 24, 2014 (the "Trust") were not intentional, material misrepresentations to this Court. Indeed, the Court itself noted at page twenty-four (24) of the transcript from the April 22, 2015, Hearing that "I have no Reply from Mr. Baney (sic)". See, April 22, 2015, Hearing Transcript, p. 24, a true and correct copy of which is attached hereto as **Exhibit 2**. Additionally, any statements made by Mr. Solomon and/or Mr. Hood in any pleadings before this Court that it was not until the April 22, 2015, Hearing that Christopher, at the April 22, 2015, Hearing first made his arguments that there was not an acting Alaska Trustee serving to provide the requisite consent to transfer the Trust's situs were made by Mr. Solomon

³ Christopher D. Davis' Reply To Caroline Davis' Opposition To His Motion To Dismiss Pursuant To NRCP (12)(b) And NRCP 19 (the "Reply").

⁴ See, Ex. 1, at pp. 24-25. (Emphasis added at: "*first class US mail*").

1 and Mr. Hood without actual knowledge of the electronic filing of the Christopher's Reply brief.
2 Indeed, it was not until the Reply, sent via U.S. Mail, was received on April 24, 2015 (two (2)
3 days after the April 22, 2015 Hearing) that Mr. Solomon or Mr. Hood were aware of any
4 arguments raised in Christopher's Reply related to Tarja or the lack of an Alaska Trustee.

5 Based upon the fact that: (1) Mr. Solomon and Mr. Hood were unaware of the electronic
6 filing of the Reply on April 20, 2015; and (2) the Reply received via U.S. Mail, **which contained**
7 **no indication that it was electronically filed**, was not physically received by the law office of
8 Solomon Dwiggin & Freer, Ltd. until April 24, 2015, Mr. Solomon and Mr. Hood continued to
9 reiterate that Christopher failed to raise any arguments related to Tarja being a purported
10 beneficiary of the Trust or that there was no acting Alaska Trustee until the April 22, 2015
11 Hearing.

12 II. Addendum And Withdrawal Of Certain Statements.

13 Although Mr. Solomon and Mr. Hood did not intentionally misrepresent the facts and
14 statements made in: (1) Objection To Petition For Reconsideration Of The Order Dated May 19,
15 2015 Re: Petition To Assume Jurisdiction Over The Beatrice B. Davis Family Heritage Trust,
16 Dated July 28, 2000, As Amended On February 24, 2014, To Assume Jurisdiction Over
17 Christopher D. Davis As Investment Trust Advisor, Stephen K. Lehnardt As Distribution Trust
18 Advisor, To Confirm Dunham Trust Company As Directed Trustee, And For Immediate
19 Disclosure Of Documents And Information From Christopher D. Davis; And Counterpetition For
20 Sanctions; (2) Amendment And Supplement To Counterpetition For Sanctions; And (3) Motion
21 To Amend Or Modify Order Pursuant To NRCP 60(b)(3) (collectively, the "Pleadings"), Mr.
22 Solomon and Mr. Hood hereby withdrawal from said Pleadings any reference that: (1) service of
23 the Reply was not received prior to the April 22, 2015 Hearing; (2) that the arguments related to
24 Tarja being a purported beneficiary of the Trust were not received prior to the April 22, 2015
25 Hearing; and (3) that there was not an acting Alaska Trustee serving to provide consent to the
26 transfer of situs of the Trust from Alaska to Nevada.

27 However, it is nevertheless noted that it was entirely improper for Christopher to raise his
28 new factual assertions and arguments in his Reply brief. Indeed, Christopher's introduction of


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1 new factual assertions and arguments is procedurally improper as it well exceeds the scope and
2 purpose of a reply brief and prejudiced Ms. Davis by depriving her of the opportunity to
3 adequately respond to the issues and evidence raised therein. *See, e.g., Baugh v. City of*
4 *Milwaukee*, 823 F. Supp. 1452, 1457 (E.D. Wis. 1993), *aff'd*, 431 F.3d 1510 (7th Cir. 1994)
5 (“Where new evidence is presented in either a party’s reply brief or affidavit in further
6 support...the district court should not permit the nonmoving party to respond to the new matters
7 prior to disposition of the motion or else strike that new evidence.”); *White v. Kent Med. Ctr.,*
8 *Inc. P.S.*, 810 P.2d 4, 8 (Wash.App. 1991) (“Allowing the moving party to raise new issues in its
9 rebuttal material is improper because the nonmoving party has not opportunity to respond. It is
10 for this reason that, in the analogous area of appellate review, the rule is well settled that the court
11 will not consider issues raised for the first time in a reply brief.”); *see generally, Weaver v. State,*
12 *Dep’t of Motor Vehicles*, 121 Nev. 494, 502, 117 P.3d, 198-99 (Nev. 2005) (stating that this court
13 need not consider issues raised for the first time in an appellant’s reply brief).

14 Respectfully submitted by:

15 SOLOMON DWIGGINS & FREER, LTD

16 

17 Mark A. Solomon, Esq. (Bar No. 418)

18 9060 Cheyenne Avenue

19 Las Vegas, Nevada

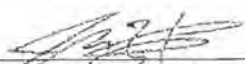
20 Telephone: (702) 853-5483

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22 *Attorneys for Caroline D. Davis*

23 And

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CERTIFICATE OF SERVICE

I hereby certify that on the 1st day of September 2015, I mailed a true and correct copy of the above and foregoing ADDENDUM TO AND WITHDRAWAL OF CERTAIN STATEMENTS REFERENCED IN THE: (1) OBJECTION TO PETITION FOR RECONSIDERATION OF THE ORDER DATED MAY 19, 2015 RE: PETITION TO ASSUME JURISDICTION OVER THE BEATRICE B. DAVIS FAMILY HERITAGE TRUST DATED JULY 28, 200, AS AMENDED ON FEBRUARY 24, 2014, TO ASSUME JURISDICTION OVER CHRISTOPHER D. DAVIS AS INVESTMENT TRUST ADVISOR, STEPHEN K. LEHNARDT AS DISTRIBUTION TRUST ADVISOR, TO CONFIRM DUNHAM TRUST COMPANY AS DIRECTED TRUSTEE AND FOR IMMEDIATE DISCLOSURE OF DOCUMENTS AND INFORMATION FROM CHRISTOPHER D. DAVIS AND COUNTERPETITION FOR SANCTIONS; (2) AMENDMENT AND SUPPLEMENT TO COUNTERPETITION FOR SANCTIONS; AND (3) MOTION TO AMEND OR MODIFY ORDER PURSUANT TO NRC 60(b)(3) to the following persons at their last known address, by depositing a copy of the same in the United States Mail, addressed as follows and further did eserve via the Court's electronic system to those listed on the service page of the Wiznet System pursuant to EDCR 8.05(a), 8.05(f) and Rule 9 of NEFCR:

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1
2 **IN THE SUPREME COURT OF THE STATE OF NEVADA**

Electronically Filed
Dec 02 2015 01:16 p.m.
Tracie K. Lindeman
Clerk of Supreme Court

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4 CHRISTOPHER D. DAVIS,

Case No.: 68542

6 Appellant,

7 vs.

Eighth Judicial District Court
Case No.: P-15-083867-T (In re
the Beatrice B. Davis Family
Heritage Trust, dated July 28,
2000)

8
9 CAROLINE DAVIS,

Respondent.

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12 **APPELLANT'S APPENDIX**
13 **VOLUME VIII**
14

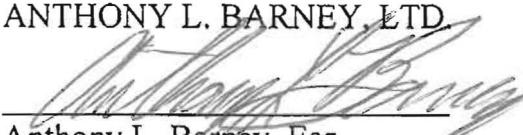
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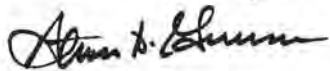
15 DUNHAM TRUST COMPANY First Class US Mail
16 SHANNA CORESSAL, CTFA
17 c/o Charlene Renwick, Esq.
18 Lee, Hernandez, Landrum & Garofalo
19 7575 Vegas Drive, #150
Las Vegas, Nevada 89128

20 Honorable Judge Sturman First Class US Mail
21 Dept. 26, Eighth Judicial Dist. Court
22 Regional Justice Center
23 200 Lewis Ave.
Las Vegas, NV 89101

24
25
26
27 
Employee of Anthony L. Barney, Ltd.
28



EXHIBIT 26



CLERK OF THE COURT

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17 Facsimile: (702) 259-1116
18 office@anthonybarney.com
19 *Attorneys for Christopher D. Davis*

20 **EIGHTH JUDICIAL DISTRICT COURT**

21 **CLARK COUNTY, NEVADA**

22 In the matter of:

Case No.: P-15-083867-T

23 The BEATRICE B. DAVIS FAMILY HERITAGE
24 TRUST, dated July 28, 2000, as amended on
25 February 24, 2014.

Dept. No.: 26


26 **CHRISTOPHER D. DAVIS' MOTION FOR A PROTECTIVE ORDER AND TO**
27 **QUASH OR MODIFY THE SUBPOENA**

28 CHRISTOPHER D. DAVIS ("Christopher"), by and through his attorneys HARRIET H.
ROLAND, Esq., of the ROLAND LAW FIRM and ANTHONY L. BARNEY, Esq., of the law
office of ANTHONY L. BARNEY, LTD., and hereby files his motion for a protective order, for


1 the court to quash or modify the subpoena, and for the court to award attorney fees and costs
2 pursuant to NRCp 37(a)(4). This pleading is based on the Memorandum of Points and
3 Authorities attached hereto, any exhibits attached hereto, and any oral argument that will be
4 heard in this matter.

5
6 DATED this 28th day of August, 2015.

7 Respectfully Submitted,
8 **ROLAND LAW FIRM**

9 
10 Harriet H. Roland, Esq.
11 Attorney for Christopher D. Davis

12 Respectfully Submitted,
13 **ANTHONY L. BARNEY, LTD.**

14 
15 Anthony L. Barney, Esq.
16 Attorney for Christopher D. Davis

17
18 **NOTICE OF MOTION**


19 TO: CAROLINE DAVIS, Petitioner, by and through her attorneys, MARK SOLOMON,
20 ESQ., and JOSHUA HOOD, ESQ., of SOLOMON DWIGGINS & FREER, LTD.
21
22 TO: DUNHAM TRUST, by and through its attorney, CHARLENE RENWICK, ESQ., of
23 LEE HERNANDEZ LANDRUM & GAROFALO
24
25 TO: STEPHEN LENHARDT by and through his attorney, JONATHAN W. BARLOW,
26 ESQ., of CLEAR COUNSEL LAW GROUP
27
28 TO: FHT HOLDINGS LLC. A Nevada Limited Liability Company, Respondent through
Registered Agent Solutions, Inc.

1 TO: WIN B. DAVIS
2 TO: ACE DAVIS
3 TO: CHERYL DAVIS
4

5 PLEASE TAKE NOTICE that the above-entitled court will hear CHRISTOPHER D.
6 DAVIS' MOTION FOR A PROTECTIVE ORDER AND TO QUASH OR MODIFY THE
7 SUBPOENA at the following date and time: September 30, 2015 @ 9:00AM

8 Date:

9 Time:
10

11
12 
13 Anthony L. Barney, Esq.
14 ANTHONY L. BARNEY, LTD.
15 3317 W. Charleston Blvd., Suite B
16 Las Vegas, NV 89102
17 Attorneys for Christopher D. Davis

18 **MEMORANDUM OF POINTS AND AUTHORITIES**

19 **I. FACTS PRESENTED**

20 As this court is aware, Christopher D. Davis has sought reconsideration of this Court's
21 order because jurisdiction was improperly taken by this Court over the Beatrice B. Davis Family
22 Heritage Trust dated July 28, 2000 (hereinafter "FHT" and "Trust") based on an improper
23 change of situs and that there are indispensable parties that have not been joined by Caroline,
24 and if they cannot be joined, then the proceeding must be dismissed. He filed his Petition for
25 Reconsideration of the Order Dated May 19, 2015 re: Petition to Assume Jurisdiction over the
26 Beatrice B. Davis Family Heritage Trust Dated July 28, 2000, as Amended on February 24,
27
28

1 2014, to Assume Jurisdiction over Christopher D. Davis as Investment Trust Advisor, Stephen
2 K. Lehnardt as Distribution Trust Advisor, to Confirm Dunham Trust Company as Directed
3 Trustee, and for Immediate Disclosure of Documents and Information from Christopher D.
4 Davis ("Petition for Reconsideration") on July 14, 2015. All facts presented in his Petition for
5 Reconsideration are incorporated herein as if set forth fully herein. Caroline Davis ("Caroline")
6 then noticed Christopher D. Davis ("Christopher") for a deposition to be taken on September 3,
7 2015 at 10:00 a.m. in his alleged role as Investment Trust Advisor and Manager of FHT
8 Holdings, LLC.
9

10
11 Just as Christopher is disputing the alleged jurisdiction of the Court taken under the May
12 19, 2015 Order, Caroline herself is contesting the jurisdiction of the Court by the filing of her
13 Motion to Amend or Modify Order Pursuant to NRCP 60(b)(3) ("Motion to Amend"). She
14 recognizes that taking jurisdiction over the Trust as a constructive trust is clearly erroneous.¹ A
15 constructive trust is a remedy for equitable relief and the court must first take in personam
16 jurisdiction to award a constructive trust.² With Caroline's recognition of the incorrect
17 jurisdiction taken by this Court in its May 19, 2015 Order, the Court clearly does not have
18 proper jurisdiction over the Trust, alleged Trust Protector, or alleged Trust Investment Advisor.
19 Without proper jurisdiction and in personam jurisdiction over his person, Christopher is clearly
20 not required to obey a subpoena or submit to the deposition scheduled for September 3, 2015.
21
22

23 Furthermore, both the Petition for Reconsideration and Motion to Amend will be heard
24 one day before Caroline has noticed Christopher for his deposition. Therefore, even if this court
25

26
27
28 ¹ See Petition for Reconsideration, Page 24-28.

² Id.

1 does assert jurisdiction over the Trust, clearly the fifteen day period required by NRCP 45
2 would be violated unless and until proper jurisdiction, if any, was ordered by this Court.

3 Both Caroline and Christopher are contesting the proper jurisdictional basis upon
4 which this court asserted jurisdiction. It is clear that a subpoena upon a party over whom this
5 court does not have personal jurisdiction or as argued, even in his role as an investment trust
6 advisor (which is currently on reconsideration and over which there is an appeal), is in clear
7 need of modification and in need of a protective order.

8
9 In an effort to save attorney fees and costs, Christopher reached out to Caroline's
10 counsel to postpone the deposition until a time fifteen days after the notice of the entry of the
11 court's order regarding its further clarification and/or assertion of jurisdiction.³ On August 27,
12 2015, Caroline's counsel notified Christopher's counsel by telephone that they were denying
13 Christopher's request. On August 27, 2015, Christopher's counsel again, in good faith,
14 requested that Caroline counsel's reconsider their decision;⁴ however, Caroline's counsel denied
15 Christopher's request.⁵ Therefore, Christopher was forced to file this motion for a protective
16 order.
17

18 19 II. LEGAL AUTHORITY AND ARGUMENT

20 NRCP 26(c) indicates that a protective order may be sought in which justice requires to
21 protect a party or person from annoyance, embarrassment, oppression, or undue burden or
22 expense, including one or more of the following situations:
23

- 24 (1) that the discovery not be had;
25 (2) that the discovery may be had only on specified terms and conditions, including a
26 designation of the time or place;

27 ³ See Letter from Anthony L. Barney dated August 26, 2015 faxed to Solomon, Dwiggins & Freer, Ltd on August
28 26, 2015, attached hereto and incorporated herein as Exhibit A.

⁴ See letter dated August 27, 2015 from Anthony L. Barney, Esq. faxed to Solomon, Dwiggins & Freer, Ltd on
August 27, 2015, attached hereto and incorporated herein as Exhibit B.

⁵ See Email from Joshua Hood dated August 28, 2015, attached hereto and incorporated herein as Exhibit C.

- (3) that the discovery may be had only by a method of discovery other than that selected by the party seeking discovery;
- (4) that certain matters not be inquired into, or that the scope of the discovery be limited to certain matters;
- (5) that discovery be conducted with no one present except persons designated by the court;
- (6) that a deposition after being sealed be opened only by order of the court;
- (7) that a trade secret or other confidential research, development, or commercial information not be revealed or be revealed only in a designated way;
- (8) that the parties simultaneously file specified documents or information enclosed in sealed envelopes to be opened as directed by the court.

NRCP 45(c) imposes responsibilities upon the parties or attorneys responsible for issuing and serving subpoenas as follows:

- (1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

Additionally, pursuant to NRCP 45(c)(3)(A), the witness upon whom the party is imposing the undue burden or expense, may seek to quash or modify a subpoena if the party or attorney:

- (i) fails to allow reasonable time for compliance;
- (ii) requires a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts business in person, except that such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held, or
- (iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or
- (iv) subjects a person to undue burden.

Addressing the Federal counterparts to NRCP 26 and NRCP 45 the 9th circuit held that "Rule 26(c) and Rule 45(c)(3) give ample discretion to district courts to quash or modify subpoenas causing "undue burden." The Federal Rules also afford nonparties special protection

1 against the time and expense of complying with subpoenas.”⁶ Additionally, non-party status is s
2 significant factor when determining whether a subpoena places an undue burden upon a party.⁷

3
4 In order to obtain *in personam* jurisdiction over a non-resident party the court must
5 comply with Nevada’s long arm statute found in NRS 14.065. NRS 14.065 requires personal
6 service of a summons in accordance with NRCP 4, and adherence to the requirements of federal
7 due process. Due process limitations on the jurisdiction of the court serve two important
8 functions. “It protects the defendant against the burdens of litigating in a distant or inconvenient
9 forum. And it acts to ensure that the States, through their courts, do not reach out beyond the
10 limits imposed on them by their status as coequal sovereigns in a federal system.”⁸ Due process
11 requires at a minimum personal service of process and sufficient minimum contacts with the
12 forum state.⁹ Finally, “a judgment rendered in violation of due process is void in the rendering
13 State and is not entitled to full faith and credit elsewhere.”¹⁰

14
15
16 Herein, proper jurisdiction over the Trust has not been obtained as conceded by both
17 Caroline and Christopher.¹¹ Caroline concedes that the Court does not have jurisdiction as a
18 constructive trust in her Motion to Amend and she requests the Court take *in rem* jurisdiction.¹²
19 Christopher disputes that the Court has jurisdiction as a constructive trust because the court has
20 not taken *in personam* jurisdiction over him to allow for a constructive trust remedy to be
21 ordered.¹³ Indeed, Caroline concedes in her Objection to the Petition for Reconsideration that
22 she “has not requested this Court to assume jurisdiction over Christopher, individually, or as
23
24

25
26 ⁶ *Exxon Shipping Co. v. United States Dep’t of Interior*, 34 F.3d 774, 779, (9th Cir. Alaska 1994)

⁷ *Guy Chemical Co. v. Romaco AG*, 243 F.R.D. 310, 313 (N.D. Ind. 2007)

⁸ *World-Wide Volkswagen Corp. v. Woodson*, 444 U.S. 286, 292, (U.S. 1980)

⁹ *Omni Capital Int’l v. Rudolf Wolff & Co.*, 484 U.S. 97, 105, (U.S. 1987)

¹⁰ *World-Wide Volkswagen Corp. v. Woodson*, 444 U.S. 286, 291, (U.S. 1980)

¹¹ See Petition for Reconsideration filed July 14, 2015 and Motion to Amend filed August 10, 2015.

¹² See Motion to Amend, Page 17:23-24.

¹³ See Petition for Reconsideration, Pages 24-28.

1 Trustee of the Revocable Trust.”¹⁴ Therefore, there is no constructive trust over which this
2 Court has jurisdiction.

3 Since the May 19, 2015 Order does not invoke proper jurisdiction, it is void; and this
4 court has no jurisdiction over Christopher in any capacity to require him to appear as a witness
5 in this proceeding. Therefore, a protective order is required to protect Christopher from
6 oppression, undue burden and expense.

7
8 As a non-party, Christopher has, in good faith, requested that Caroline postpone the
9 deposition until fifteen days after the Court makes any order of jurisdiction in this matter,¹⁵ but
10 she and her attorneys have failed to allow a reasonable time for compliance pursuant to NRCP
11 45(c)(3)(A)(i). Additionally, knowing that Christopher lives well over 100 miles away from
12 Clark County, they are forcing Christopher to expend travel time, expenses, and expose him to
13 lost earnings and extra attorney fees in traveling to Clark County, Nevada in violation of NRCP
14 45(c)(3)(A)(ii). Neither Caroline nor her counsel have made any concessions to travel to
15 Christopher and take his deposition where he is located or compensate him for this travel time
16 and expenses.¹⁶ This certainly subjects him to an undue burden in violation of NRCP
17 45(c)(3)(A)(iv). Christopher respectfully requests that the Court make each of these findings.

18
19 Caroline and her attorney’s actions are solely to annoy, embarrass, oppress, and cause
20 undue burden or expense to Plaintiff. Therefore, an order of protection is warranted pursuant to
21 NRCP 26(c) to prevent him from being required to appear for the September 3, 2015 deposition.
22 Christopher requests this Court grant this order of protection and requests this Court quash or
23 modify the subpoena which currently requires him to appear for his deposition on September 3,
24
25
26
27

28

¹⁴ See Objection to Petition for Reconsideration 17:15-17.

¹⁵ See Exhibit A and B.

1 2015. Unless and until there is an order of this Court with proper jurisdiction, then there is no
2 legal or lawful requirement for Christopher to appear as a witness given the undue burden
3 placed upon him while this Court does not have proper jurisdiction over him.
4

5 **III. CONCLUSION**

6 Christopher respectfully requests the Court do the following:

- 7 1. Make the requisite findings as requested herein; and
8 2. Grant this motion in its entirety
9

10 DATED this 28th day of August, 2015.

11 Respectfully Submitted,
12 **ROLAND LAW FIRM**

13 
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Attorney for Christopher D. Davis

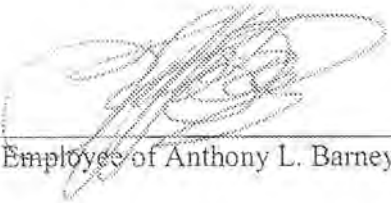
16 See attachment to Exhibit C, where Caroline is forcing Christopher to appear at her attorney's law office in Las Vegas, Nevada.

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2 Resgistered Agent for FHT Holdings, LLC, a Nevada Limited Liability Company
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8 Mark Solomon, Esq.
9 Joshua Hood, Esq.
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13 *Attorney for Petitioner Caroline Davis*

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Employee of Anthony L. Barney, Ltd.

Exhibit A

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Mary L. Martell, J.D.
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FACSIMILE TRANSMITTAL SHEET

TO: JOSHUA M. HOOD, ESQ.

DATE: AUGUST 26, 2015

FROM: NEVA LIEBE
ADMINISTRATIVE ASSISTANT

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ACCOMPANYING DOCUMENTS:

Letter from Anthony L. Barney dated August 26, 2015

NOTES/COMMENTS:

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Licensed in Nevada and Idaho

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August 26, 2015

Joshua M. Hood, Esq.
Solomon Dwiggin Freer, Ltd.
9060 West Cheyenne Avenue
Las Vegas, Nevada 89129

Re: The Beatrice B. Davis Family Heritage Trust ("Trust");
Case No. P-15-083867-T
Our Client: Christopher D. Davis

SENT VIA FACSIMILE AND US MAIL

Dear Mr. Hood,

My office is in receipt of Caroline's notice of deposition of Christopher D. Davis in the above-entitled matter. First, we are requesting that you postpone the deposition until fifteen days after the order is entered on the petition for reconsideration. As you are well aware, we are disputing that the Eighth Judicial District Court has jurisdiction over the Trust and, likewise, Christopher D. Davis as alleged Trust Investment Adviser. We will be forced to file a motion for a protective order alerting the court of this fact, considering your deposition is scheduled the day after the Petition for Reconsideration is to be heard. In order to save all parties time and money, we are requesting that you agree to the postponement. Please let us know by **tomorrow by 3:00 p.m.** if you will agree to postpone the deposition as requested; otherwise we will file the motion on an order shortening time.

Second, please be on notice that Christopher D. Davis ("Mr. Davis") is located over one hundred miles outside of Clark County, Nevada. Therefore, we will request the court quash or modify the subpoena, to require you to take the deposition where Mr. Davis resides or otherwise pay for his travel expenses to travel to Clark County, Nevada. Given the current facts and lack of jurisdiction over the Trust or him, Mr. Davis is not required to travel to Clark County, Nevada for a deposition.

Time is of the essence. Please feel free to contact my office with any comments, questions or concerns, as I look forward to resolving these issues with you. I can be reached at the numbers above or the email address below.

Sincerely,

A handwritten signature in black ink, appearing to read "Anthony L. Barney". The signature is fluid and cursive, with a large, stylized initial "A".

ANTHONY L. BARNEY

Attorney at Law

anthony@anthonybarney.com

cc: Via U.S. Mail:

Client

Harriet Roland, Esq.

Charlene Renwick, Esq.

Jonathan Barlow, Esq.

 *** TX REPORT ***

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ACCOMPANYING DOCUMENTS:

Letter from Anthony L. Barney dated August 26,
 2015

APPELL001201

Exhibit B

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Attorney at Law
Licensed in Nevada and Idaho

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FACSIMILE TRANSMITTAL SHEET

TO: JOSHUA M. HOOD, ESQ.

DATE: AUGUST 27, 2015

FROM: NEVA LIEBE
ADMINISTRATIVE ASSISTANT

FAX NUMBER: 702-853-5485

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ACCOMPANYING DOCUMENTS:

Letter from Anthony L. Barney dated August 27, 2015 and Christopher D. Davis Motion for a Protective Order, to Quash or Modify the Subpoena, and for Attorney Fees and Costs Pursuant to NRCP 37 (a)(4)

NOTES/COMMENTS:

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Attorney at Law
Licensed in Nevada and Idaho

Tiffany S. Barney, J.D.
Attorney at Law
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August 27, 2015

SENT VIA FACSIMILE AND US MAIL

Joshua M. Hood, Esq.
Solomon Diggins Freer, Ltd.
9060 West Cheyenne Avenue
Las Vegas, Nevada 89129

Re: The Beatrice B. Davis Family Heritage Trust ("Trust");
Case No. P-15-083867-T
Our Client: Christopher D. Davis

Dear Mr. Hood,

This afternoon, we received telephonic confirmation from you that you were denying our good faith request to postpone the deposition of our client, Christopher D. Davis, until fifteen days after the entry of this Court's order asserting proper jurisdiction over the Trust. You indicated that you would be providing fax confirmation of the same. As of 4:30 p.m., we have not received this fax confirmation.

Therefore, in one last attempt to resolve this matter out of court and before we request our attorney fees pursuant to NRCP 37(A)(4), we are renewing our request for you to postpone Christopher's deposition until fifteen days after the entry of this Court's order outlining proper assertion of jurisdiction over the Trust. Please let us know **10:00 a.m. tomorrow morning**, if you will agree to postpone the deposition as requested; otherwise we will file the attached motion and request an order shortening time to hear this motion.

Time is of the essence. Please feel free to contact my office with any comments, questions or concerns, as I look forward to resolving these issues with you. I can be reached at the numbers above or the email address below.

Sincerely,



ANTHONY L. BARNEY
Attorney at Law
anthony@anthonymbarney.com

Attachment: Christopher D. Davis' Motion for a Protective Order, to Quash or Modify the Subpoena, and for Attorney Fees and Costs Pursuant to NRCP 37(a)(4)

cc: Via U.S. Mail:

Client

Harriet Roland, Esq.

Charlene Renwick, Esq.

Jonathan Barlow, Esq.

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Attorneys for Christopher D. Davis

14 **EIGHTH JUDICIAL DISTRICT COURT**

15 **CLARK COUNTY, NEVADA**

16 In the matter of:

Case No.: P-15-083867-T

17
18 The BEATRICE B. DAVIS FAMILY HERITAGE
19 TRUST, dated July 28, 2000, as amended on
20 February 24, 2014.

Dept. No.: 26

21
22
23 **CHRISTOPHER D. DAVIS' MOTION FOR A PROTECTIVE ORDER, TO QUASH OR**
24 **MODIFY THE SUBPOENA, AND FOR ATTORNEY FEES AND COSTS PURSUANT**
25 **TO NRCP 37(a)(4)**

26 CHRISTOPHER D. DAVIS ("Christopher"), by and through his attorneys HARRIET H.
27 ROLAND, Esq., of the ROLAND LAW FIRM and ANTHONY L. BARNEY, Esq., of the law
28 office of ANTHONY L. BARNEY, LTD., and hereby files his motion for a protective order, for

1 the court to quash or modify the subpoena, and for the court to award attorney fees and costs
2 pursuant to NRCp 37(a)(4). This pleading is based on the Memorandum of Points and
3 Authorities attached hereto, any exhibits attached hereto, and any oral argument that will be
4 heard in this matter.
5

6 DATED this 27th day of August, 2015.

7 Respectfully Submitted,
8 **ROLAND LAW FIRM**

9
10 _____
11 Harriet H. Roland, Esq.
12 *Attorney for Christopher D. Davis*

13 Respectfully Submitted,
14 **ANTHONY L. BARNEY, LTD.**

15 _____
16 Anthony L. Barney, Esq.
17 *Attorney for Christopher D. Davis*

18
19
20
21 *[remainder of page intentionally left blank]*
22
23
24
25
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28

1
2 **MEMORANDUM OF POINTS AND AUTHORITIES**

3 **I. FACTS PRESENTED**

4 As this court is aware, Christopher D. Davis has sought reconsideration of this Court's
5 order because jurisdiction was improperly taken by this Court over the Beatrice B. Davis Family
6 Heritage Trust dated July 28, 2000 (hereinafter "Trust") based on an improper change of situs
7 and that there are indispensable parties that have not been joined by Caroline, and if they cannot
8 be joined, then the proceeding must be dismissed. He filed his Petition for Reconsideration of
9 the Order Dated May 19, 2015 re: Petition to Assume Jurisdiction over the Beatrice B. Davis
10 Family Heritage Trust Dated July 28, 2000, as Amended on February 24, 2014, to Assume
11 Jurisdiction over Christopher D. Davis as Investment Trust Advisor, Stephen K. Lehnardt as
12 Distribution Trust Advisor, to Confirm Dunham Trust Company as Directed Trustee, and for
13 Immediate Disclosure of Documents and Information from Christopher D. Davis ("Petition for
14 Reconsideration") on July 14, 2015. All facts presented in his Petition for Reconsideration are
15 incorporated herein as if set forth fully herein. Caroline Davis ("Caroline") then noticed
16 Christopher D. Davis ("Christopher") was noticed for a deposition to be taken on September 3,
17 2015 at 10:00 a.m. in his alleged role as Investment Trust Advisor and Manager of FHT
18 Holdings, LLC.
19

20
21
22 Just as Christopher is disputing the alleged jurisdiction of the Court taken under the May
23 19, 2015 Order, Caroline herself is contesting the jurisdiction of the Court by the filing of her
24 Motion to Amend or Modify Order Pursuant to NRCP 60(b)(3) ("Motion to Amend"). She
25 recognizes that taking jurisdiction over the Trust as a constructive trust is clearly erroneous.¹ A
26
27

28

¹ See Petition for Reconsideration, Page 24-28.

1 a constructive trust is a remedy for equitable relief and the court must first take in personam
2 jurisdiction to award a constructive trust.² With Caroline's recognition of the incorrect
3 jurisdiction taken by this Court in its May 19, 2015 Order, the Court clearly does not have
4 proper jurisdiction over the Trust, alleged Trust Protector, alleged Trust Investment Advisor.
5 Without proper jurisdiction and in personam jurisdiction over his person, Christopher is clearly
6 not required to obey a subpoena or submit to the deposition scheduled for September 3, 2015.
7

8 Furthermore, both the Petition for Reconsideration and Motion to Amend will be heard
9 one day before Caroline has noticed Christopher for his deposition. Therefore, even if this court
10 does assert assert jurisdiction over the Trust, clearly the fifteen day period required by NRCP 45
11 would be violated unless and until proper jurisdiction, if any, was ordered by this Court.
12

13 Because both sides are contesting proper jurisdiction before this Court, then it is clear
14 that a subpoena upon a party over whom this court does not have personal jurisdiction or
15 possibly jurisdiction even in his role as an investment trust advisor, which is currently on
16 reconsideration and over which there is an appeal, is in clear need of modification and in need
17 of a protective order.
18

19 In an effort to save attorney fees and costs, Christopher reached out to Caroline's
20 counsel to postpone the deposition until a time fifteen days after the notice of the entry of the
21 court's order regarding jurisdiction.³ On August 27, 2015, Caroline's counsel notified
22 Christopher's counsel by telephone that they were denying Christopher's request. On August
23 27, 2015, Christopher's counsel again, in good faith, requested that Caroline counsel's
24
25
26

27 ² Id.

28 ³ See Letter from Anthony L. Barney dated August 26, 2015 faxed to Solomon, Dwiggin & Freer, Ltd on August 26, 2015, attached hereto and incorporated herein as Exhibit A.

1 reconsider their decision; however, Caroline's counsel denied Christopher's request.⁴
2 Therefore, Christopher was forced to file this motion for a protective order.

3 **II. LEGAL AUTHORITY AND ARGUMENT**

4 **A. A protective order and quashing or modification of the subpoena are warranted** 5 **pursuant to NRCP 26 and NCRP 45.**

6 NRCP 26(c) indicates that a protective order may be sought in which justice requires to
7 protect a party or person from annoyance, embarrassment, oppression, or undue burden or
8 expense, including one or more of the following situations:
9

- 10 (1) that the discovery not be had;
- 11 (2) that the discovery may be had only on specified terms and conditions, including a
- 12 designation of the time or place;
- 13 (3) that the discovery may be had only by a method of discovery other than that selected
- 14 by the party seeking discovery;
- 15 (4) that certain matters not be inquired into, or that the scope of the discovery be limited
- 16 to certain matters;
- 17 (5) that discovery be conducted with no one present except persons designated by the
- 18 court;
- 19 (6) that a deposition after being sealed be opened only by order of the court;
- 20 (7) that a trade secret or other confidential research, development, or commercial
- 21 information not be revealed or be revealed only in a designated way;
- 22 (8) that the parties simultaneously file specified documents or information enclosed in
- 23 sealed envelopes to be opened as directed by the court.

24 NRCP 45(c) imposes responsibilities upon the parties or attorneys responsible for issuing and
25 serving subpoenas as follows:

- 26 (1) A party or an attorney responsible for the issuance and service of a subpoena shall take
- 27 reasonable steps to avoid imposing undue burden or expense on a person subject to that
- 28 subpoena. The court on behalf of which the subpoena was issued shall enforce this duty
- and impose upon the party or attorney in breach of this duty an appropriate sanction,
- which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

⁴ See letter dated August 27, 2015 from Anthony L. Barney, Esq. faxed to Solomon, Dwiggins & Freer, Ltd on August 27, 2015, attached hereto and incorporated herein as Exhibit B.

1 Additionally, pursuant to NRCP 45(c)(3)(A), the witness upon whom the party is imposing the
2 undue burden or expense, may seek to quash or modify a subpoena if the party or attorney:

- 3 (i) fails to allow reasonable time for compliance;
4 (ii) requires a person who is not a party or an officer of a party to travel to a place more
5 than 100 miles from the place where that person resides, is employed or regularly
6 transacts business in person, except that such a person may in order to attend trial be
7 commanded to travel from any such place within the state in which the trial is held, or
8 (iii) requires disclosure of privileged or other protected matter and no exception or
9 waiver applies, or
10 (iv) subjects a person to undue burden.

11 Herein, Plaintiff proper jurisdiction over the Trust is being disputed by both Caroline
12 and Christopher. Caroline concedes that the Court does not have does not have jurisdiction as a
13 constructive trust in her Motion to Amend and she requests the Court take *in rem* jurisdiction.⁵
14 Christopher disputes that the Court has jurisdiction as a constructive trust because the court has
15 not taken in personam jurisdiction over him to allow for a constructive trust remedy to be
16 ordered.⁶ Indeed, Caroline concedes in her Objection to the Petition for Reconsideration that
17 she "has not requested this Court to assume jurisdiction over Christopher, individually, or as
18 Trustee of the Revocable Trust."⁷

19 Therefore, this court has no jurisdiction over Christopher in any capacity to require him
20 to appear as a witness in this proceeding. Therefore, a protective order is required to protect
21 Christopher from oppression, undue burden and expense.

22 As a non-party, Christopher has, in good faith, requested that Caroline postpone the
23 deposition until fifteen days after the Court makes any order of jurisdiction in this matter,⁸ but
24 she and her attorneys have failed to allow a reasonable time for compliance pursuant to NRCP
25

26
27 ⁵ See Motion to Amend, Page 17:23-24.

28 ⁶ See Petition for Reconsideration, Pages 24-28.

⁷ See Objection to Petition for Reconsideration 17:15-17.

⁸ See Exhibit A and B.

1 45(c)(3)(A)(i). Additionally, knowing that Christopher lives well over 100 miles away from
2 Clark County, they are forcing Christopher to expend travel time, expenses, and expose him to
3 lost earnings and extra attorney fees in traveling to Clark County, Nevada in violation of NRCP
4 45(c)(3)(A)(ii). Neither Caroline nor her counsel have made any concessions to travel to
5 Christopher and take his deposition where he is located or compensate him for this travel time
6 and expenses. This certainly subjects him to an undue burden in violation of NRCP
7 45(c)(3)(A)(iv). Christopher respectfully requests that the Court make each of these findings.
8

9 Caroline and her attorney's actions are solely to annoy, embarrass, oppress, and cause
10 undue burden or expense to Plaintiff. Therefore, an order of protection is warranted pursuant to
11 NRCP 26(c) and the court should quash or modify the subpoena requiring Christopher's
12 presence for his deposition on September 3, 2015. Unless and until there is an order of this
13 Court with proper jurisdiction, then there is no legal or lawful requirement for Christopher to
14 appear as a witness given the undue burden.
15

16
17 **B. NRCP Rule 37(4)(a) provides for the award of attorney fees after a good faith effort**
18 **has been made, thus Christopher is entitled to his attorney fees after his good faith**
19 **effort.**

20 NRCP 26(c) indicates that NRCP 37(4)(a) applies to the award of expenses incurred in
21 relation to a motion for a protective order. NRCP 37(4)(a) provides the following:
22

23 If the motion is granted or if the disclosure or requested discovery is provided after the
24 motion was filed, the court shall, after affording an opportunity to be heard, require the
25 party or deponent whose conduct necessitated the motion or the party or attorney
26 advising such conduct or both of them to pay to the moving party the reasonable
27 expenses incurred in making the motion, including attorney's fees, unless the court finds
28 that the motion was filed without the movant's first making a good faith effort to obtain
the disclosure or discovery without court action, or that the opposing party's
nondisclosure, response or objection was substantially justified, or that other
circumstances make an award of expenses unjust.

1 Herein, Christopher attempted to resolve this matter with Defendants outside of court by
2 agreeing to postpone the deposition to time fifteen days after the entry of the order of this Court
3 taking proper jurisdiction over the Trust.⁹ On August 27, 2015, Caroline's counsel called and
4 indicated to Christopher's counsel that he was denying this request without explanation.
5 Therefore, the protection order and motion to quash and/or modify the subpoena are necessary.
6

7 If Plaintiff's motion is granted, Plaintiff requests attorney fees and costs in the amount of
8 \$2,000.00 for the necessity of filing this motion. To be clear, Christopher is not submitting to
9 the jurisdiction of the court for this award of attorney fees and costs, but is requesting such an
10 award as a non-party for being forced to file this motion after having made good faith efforts
11 pursuant to NRCP 37(A)(4) to resolve this matter outside of court.
12

13 **III. CONCLUSION**

14 Christopher respectfully requests the Court do the following:

- 15 1. Make the requisite findings as requested herein;
- 16 2. Grant this motion in its entirety; and

17 ///

18 ///

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ⁹ See Exhibit A and B.

1 3. Award attorney fees and costs in the amount of \$2,000.00 from Caroline and/or
2 Caroline's counsel.

3 DATED this 27th day of August, 2015.

4
5 Respectfully Submitted,
6 **ROLAND LAW FIRM**

7
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26 office@anthonybarney.com

27 *Attorney for Christopher D. Davis*
28

1 CERTIFICATE OF SERVICE

2 I hereby certify that I am an employee of Anthony L. Barney, Ltd., and not a party to this action.

3 I further certify that except as otherwise noted on August 27, 2015, I served the foregoing

4 CHRISTOPHER D. DAVIS' MOTION FOR A PROTECTIVE ORDER, TO QUASH OR

5 MODIFY THE SUBPOENA, AND FOR ATTORNEY FEES AND COSTS PURSUANT

6 TO NRCP 37(a)(4)

7 by first class US mail, postage prepaid, upon the following persons or entities:

8
9
10 Cheryl Davis
11 5403 West 134 Terrace, Unit 1525
12 Overland Park, KS 66209

13 Tarja Davis
14 3005 North Beverly Glen Circle
15 Las Angeles, California 90077

16 And
17 514 West 26th Street, #3E
18 Kansas City, Missouri 64108

19 Winfield B. Davis
20 Skyline Terrace Apts.
21 930 Figueroa Terr. Apt. 529
22 Los Angeles, California 90012-3072

23 Ace Davis
24 c/o Winfield B. Davis
25 Skyline Terrace Apts.
26 930 Figueroa Terr. Apt. 529
27 Los Angeles, California 90012-3072

28 Christopher D. Davis
3005 North Beverly Glen Circle
Los Angeles, California 90077

And
514 West 26th Street, #3E
Kansas City, Missouri 64108

1 Registered Agent Solutions, Inc.
2 Registered Agent for FHT Holdings, LLC, a Nevada Limited Liability Company
3 4625 West Nevso Drive, Suite 2
4 Las Vegas, Nevada 89103

5 JONATHAN W. BARLOW, ESQ.
6 CLEAR COUNSEL LAW GROUP
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8 Henderson, Nevada 89012
9 Jonathan@clearcounsel.com
10 Attorneys for Stephen K. Lenhardt

11 Mark Solomon, Esq.
12 Joshua Hood, Esq.
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14 9060 W. Cheyenne Ave.
15 Las Vegas, NV 89129
16 *Attorney for Petitioner Caroline Davis*

17 DUNHAM TRUST
18 SHANNA CORESSAL, CTFA
19 Charlene Renwick, Esq.
20 Lee, Hernandez, Landrum & Garofalo
21 7575 Vegas Drive, #150
22 Las Vegas, Nevada 89128

23
24
25
26
27
28

Employee of Anthony L. Barney, Ltd.

*** TX REPORT ***

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Attorney at Law
Licensed in Nevada and Idaho

Tiffany S. Barney, J.D.
Attorney at Law
Licensed in Nevada

Mary L. Martell, J.D.
Law Clerk

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Neva Liebe
Administrative Assistant

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FACSIMILE TRANSMITTAL SHEET

TO: JOSHUA M. HOOD, ESQ.

DATE: AUGUST 27, 2015

FROM: NEVA LIEBE
ADMINISTRATIVE ASSISTANT

FAX NUMBER: 702-853-5485

TOTAL NUMBER NO. OF
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(INCLUDING COVER):

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702-259-1116

SENDER'S PHONE NUMBER:
702-438-7878

SENDER'S E-MAIL:
office@anthonybarney.com

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ACCOMPANYING DOCUMENTS:

Letter from Anthony L. Barney dated August 27,
2015 and Christopher D. Davis Motion for

APPELL001217

Exhibit C

Tiffany Barney

From: Joshua M. Hood <jhood@sdfnlaw.com>
Sent: Friday, August 28, 2015 9:28 AM
To: 'Harriet Roland' (harrietroland@gmail.com); Anthony L. Barney (anthony@anthonybarney.com); office@anthonybarney.com
Cc: Mark Solomon; Renee Guastaferro
Subject: Christopher D. Davis Deposition
Attachments: 2015-08-27 ltr to A Barney w fax confirmation.pdf

Ms. Roland and Mr. Barney:

I received a fax from Mr. Barney this morning regarding our declination to postpone the deposition of Christopher Davis. Although a letter formally declining the request was faxed to the correct fax number, as indicated on Mr. Barney's letterhead, and the fax confirmation sheet indicates it was received by Mr. Barney's office at 2:07 p.m. (see attached SDF fax confirmation sheet and letter), Mr. Barney claims that the fax was not received. In an effort to avoid any issues, I am sending this email, as well as the letter that was to Mr. Barney's office, to both of you, as Christopher's counsel.

Please be advised that the request to postpone Christopher Davis' deposition is denied.

Should you have any additional questions or concerns, please do not hesitate to contact me.

Sincerely,

Joshua M. Hood

SOLOMON DWIGGINS & FREER, LTD.
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 www.linkedin.com/company/solomon-dwiggins-&-freer-ltd-



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* * * Communication Result Report (Aug. 27. 2015 2:07PM) * * *

33

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FROM: JOSHUA M. HOND, ESQ.

Date: August 27, 2015

TOTAL NUMBER OF PAGES: 2, including cover sheet

FILE NUMBER/NAME: In the Matter of the Britton Davis Heritage Trust
SDF File #1414-0001

TO THE FOLLOWING:

NAME	FIRM/COMPANY	FAX NO.
Anthony L. Henry, Esq.	Anthony L. Henry Ltd	702-259-1116

COMMUNICATION MESSAGE

Please find attached correspondence of today's date from Mr. Hond

If there is a problem with this transmission, please call KUNER (703) 589-1524.

THIS MESSAGE IS INTENDED ONLY FOR THE USE OF THE ADDRESSEES AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED AND CONFIDENTIAL. IF YOU ARE NOT THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE.



SOLOMON DWIGGINS : FREER - PC
TRUST AND ESTATE ATTORNEYS

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Eana A. Dwiggins
Alan D. Freer
Brian K. Sreadman
Steven B. Hollingworth
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Ross E. Evans
Jordanna L. Evans
Joshua M. Hood
*Christopher J. Fowler

*Licensed only in Florida.

Direct Dial (702) 589-3506
Email jhood@sdfnvlaw.com

August 27, 2015

Via facsimile to: 702-259-1116

Anthony L. Barney, Esq.
Anthony L. Barney, Ltd.
3317 W. Charleston Blvd., Suite B
Las Vegas, Nevada 89102

Re: The Beatrice B. Davis Family Heritage Trust

Dear Mr. Barney:

I am in receipt of your correspondence, dated August 26, 2015, wherein you requested the deposition of Christopher D. Davis, currently scheduled for September 3, 2015, be "postponed until fifteen days after the order is entered on the petition for reconsideration." Please accept this letter as a denial of such request. Additionally, be please be advised that the deposition date, time and location (September 3, 2015, 10:00 a.m. at the Law offices of Solomon Dwiggins & Freer, Ltd.) has been confirmed and a court reporter will be present.

Sincerely,

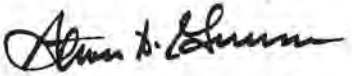


Joshua M. Hood.

Cc: Client



EXHIBIT 27


CLERK OF THE COURT

1 Mark A. Solomon, Esq., Bar No. 418
msolomon@sdfnlaw.com
2 Joshua M. Hood, Esq. Bar No. 12777
jhood@sdfnlaw.com
3 SOLOMON DWIGGINS & FREER, LTD.
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6 *Attorneys for Caroline Davis, Petitioner*

7 **DISTRICT COURT**
8 **CLARK COUNTY, NEVADA**

9 In the Matter of:

Case No.: P-15-083867-T
Dept.: Probate (26)

10 The BEATRICE B. DAVIS FAMILY
11 HERITAGE TRUST, dated July 28, 2000, as
amended on February 24, 2014

Hearing Date: September 2, 2015
Hearing Time: 9:00 A.M.

12
13 **OBJECTION TO PETITION TO STAY DISCOVERY UNTIL THE AUGUST 19, 2015**
14 **HEARING ON MOTION FOR RECONSIDERATION OR IN THE ALTERNATIVE,**
15 **PETITION FOR PROTECTIVE ORDER FROM DISCOVERY BY SUBPOENA**

16 Caroline D. Davis, as beneficiary of the Beatrice B. Davis Family Heritage Trust, dated
17 July 28, 2000, as amended February 24, 2014, by and through her counsel, the law firm of
18 Solomon Dwiggins & Freer, Ltd., hereby files her Objection To Petition To Stay Discovery Until
19 The August 19, 2015 Hearing on Motion For Reconsideration Or In The Alternative, Petition For
20 Protective Order From Discovery By Subpoena (the "Objection"). This Objection is made and
21 based on the pleadings and papers on file in this action, the attached Memorandum Of Points And
22 Authorities, all attached exhibits, and any oral argument that this honorable Court may entertain
at the time of hearing.

23 **MEMORANDUM OF POINTS AND AUTHORITIES**

24 **I. Statement of Relevant Facts**

25 This matter was initiated by Caroline D. Davis ("Ms. Davis") on February 10, 2015 when
26 Ms. Davis filed her Petition To Assume Jurisdiction Over The Beatrice B. Davis Family Heritage
27 Trust, dated July 28, 2000, as amended on February 24, 2014; To Assume Jurisdiction Over
28

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TELEPHONE (702) 853-5483
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SOLOMON
DWIGGINS & FREER
TRUST AND ESTATE ATTORNEYS

Christopher D. Davis as Investment Trust Advisor and Stephen K. Lehnardt as Distribution Trust Advisor; To Confirm Dunham Trust Company As Directed Trustee; and For Immediate Disclosure of Documents and Information From Christopher D. Davis (the "Petition"). On April 22, 2015, this Court heard oral arguments on Ms. Davis' Petition and Christopher D. Davis' Motion To Dismiss Pursuant To NRCP (12)(b) And NRCP 19, which was filed on March 3, 2015 (the "Motion To Dismiss").

The Order¹ entered as a result of the April 22, 2015, in relevant part, provides as follows:

"IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Petition for Immediate Disclosure of Documents and Information from Christopher D. Davis is granted as to all information in his possession, custody or control, in his role as Investment Trust Advisor, and in his role as Manager of FHT Holdings."²

On June 8, 2015, Ms. Davis' counsel served a Subpoena Duces Tecum on Christopher D. Davis' ("Christopher") counsel, Anthony L. Barney, Esq. ("Mr. Barney") and Harriet H. Roland, Esq. ("Ms. Roland").³ Due to a scrivener's error in the June 8, 2015 Subpoena Duces Tecum (the "June 8, 2015 Subpoena"), at Ms. Roland's request,⁴ the June 8, 2015 Subpoena was reissued on June 25, 2015 (the "June 25, 2015 Subpoena").⁵ After Ms. Roland raised concerns regarding the deadline by which the documents pursuant to the June 25, 2015 Subpoena were to be produced,⁶ Ms. Davis' counsel, extended the deadline to July 27, 2015.⁷

On July 27, 2015, Ms. Roland produced certain documents that did not comply with the June 25, 2015 Subpoena. As set forth in the Motion To Compel, Ms. Roland has only provided Ms. Davis' counsel with:

¹ See, Motion To Compel Harriet Roland, Esq. To Produce Documents Responsive To Subpoena Duces Tecum; and For Attorneys' Fees And Costs, filed on August 17, 2015 (the "Motion To Compel"), at Ex. 8 & 9.

² *Id.*, at Ex. 8, p. 2:3-5.

³ *Id.*, at Ex. 1.

⁴ *Id.*, at Ex. 2.

⁵ *Id.*, at Ex. 4.

⁶ *Id.*, at Ex. 6.

⁷ *Id.*, at Ex. 7.

- (1) Correspondences between Christopher; Stephen K. Lehnardt ("Mr. Lehnardt"), the Trust Protector and Distribution Trust Advisor; Janet K. Tempel, Alaska USA Trust Company; Shanna Coressel, Dunham Trust Company, etc.;
- (2) Promissory Notes, which Ms. Davis was already in possession of;
- (3) Loan tracking spreadsheets, which Ms. Davis was already in possession of;
- (4) Documents attached to Ms. Davis' prior pleadings; and
- (5) Financial statements from Ashely Cooper and Dunham Trust Company, which Ms. Davis was already in possession of.⁸

Due to Ms. Roland's failure to comply with the June 25, 2015 Subpoena, counsel for Ms. Davis, Mark A. Solomon, Esq. ("Mr. Solomon") and Joshua M. Hood, Esq. ("Mr. Hood"), conducted an EDCR 2.34 conference with Ms. Roland on July 31, 2015.⁹ Although Mr. Solomon informed Ms. Roland that the documents provided by her in response to the June 25, 2015 Subpoena were insufficient, Ms. Roland did not cure such defect by providing additional documentation. As such, Ms. Davis, by and through her counsel, filed her Motion To Compel, requesting, *inter alia*, that this Court: (1) Compel Harriet H. Roland, Esq. produce any and all non-privileged documents in her possession, custody, and control responsive to the June 24, 2015-Roland Subpoena; and (2) Compel Harriet H. Roland, Esq. to produce the documents referenced in this Motion, as listed on the Privilege Log for Production to SDF, dated July 27, 2014, as the "attorney-client" privilege is in applicable to such documents.¹⁰

Christopher, by and through his counsel, subsequently served her Petition To Stay Discovery Until The August 19, 2015 Hearing on Motion For Reconsideration Or In The Alternative, Petition For Protective Order From Discovery By Subpoena on August 14, 2015 (the "Motion To Stay"). Essentially, Christopher argues that the June 25, 2015 Subpoena "far exceeds the scope of the Court's order for production of documents; it requests copies of documents that

⁸ *Id.*, at p. 4:15-22.

⁹ *Id.*, at Ex. 11.

¹⁰ *Id.*, at p. 13:5-9.

1 are irrelevant, privileged, more easily obtained from other source if they do in fact exist; [is]
2 burdensome; and all of which were provided by Christopher to his attorneys in anticipation of
3 litigation and with the expectation of privilege and confidentiality.”¹¹

4 Although it is unclear from the Petition To Stay, it appears that Christopher is also
5 claiming that since he has filed a Petition For Reconsideration¹² and a Notice Of Appeal,¹³ that
6 discovery is improper. As fully set forth below, Christopher’s Petition To Stay should be denied
7 in its entirety.

8 II. Legal Argument

9 A. The June 25, 2015 Subpoena Is Proper Under NRCP 26 And NRCP 10 45, And, Therefore, A Protective Order Is Improper.

11 Christopher is serving as the Investment Trust Advisor of the Beatrice B. Davis Family
12 Heritage Trust, dated July 28, 2000, as amended on February 24, 2014 (the “Trust”), and as the
13 sole Manager of FHT Holdings, LLC, and entity wholly owned by the Trust. As such,
14 Christopher has within his possession, custody and control all of the relevant information that Ms.
15 Davis initially sought to obtain in her Petition filed on February 10, 2015. Notwithstanding,
16 Christopher claims that Ms. Davis should be forced to obtain the information that he has, or
17 should have, from entities located in Canada, the Cayman Islands, and Alaska.

18 What makes Christopher’s position even more perplexing is his admission that there are
19 entities which may have information that may not even exist. Specifically, Christopher claims
20 that the documents requested pursuant to the June 25, 2015 Subpoena can be “more easily
21 obtained from other sources if they do in fact exist.” See, Petition To Stay, at p. 3:24-25.
22 (Emphasis added). The fact that Christopher admits that “other sources if they do in fact exist”
23 possess the relevant information begs the question – how is Caroline to know what entities, if they

24 ¹¹ See, Petition To Stay, at p. 21:22-26.

25 ¹² See, Petition For Reconsideration Of The Order Dated May 19, 2015 Re: Petition To Assume Jurisdiction
26 Over The Beatrice B. Davis Family Heritage Trust, Dated July 28, 2000, As Amended On February 24, 2014, To
27 Assume Jurisdiction Over Christopher D. Davis As Investment Trust Advisor, Stephen K. Lehnardt As Distribution
28 Trust Advisor, To Confirm Dunham Trust Company As Directed Trustee, And For Immediate Disclosure Of
Documents And Information From Christopher D. Davis, filed on July 14, 2015 (the “Petition For Reconsideration”).

¹³ See, Notice Of Appeal, filed on July 30, 2015.

1 exist, possess the relevant information and documentation if Christopher does not provide full and
2 complete disclosure of the information he has in his possession, custody and control?

3 Christopher's counsel, Ms. Roland, has acknowledged to both Mr. Solomon and Mr. Hood
4 that Christopher has provided her with numerous documents responsive to the June 25, 2015
5 Subpoena.¹⁴ Since Christopher failed to produce the documents required by the June 24, 2015
6 Order, Ms. Davis' counsel issued the June 25, 2015 Subpoena to Ms. Roland. Notwithstanding
7 Christopher's misrepresentation that the "subpoena... requests documents that are []
8 privileged"¹⁵, each request contained within the June 25, 2015 Subpoena specifically requested
9 "[a]ny and all non-privileged records..."¹⁶ Additionally, Ms. Davis is not seeking any
10 documents protected by the attorney-client privilege or work-product doctrine.

11 The documents requested in the June 25, 2015 Subpoena are discoverable as they are
12 likely reasonably calculated to lead to the discovery of admissible evidence. NRCP 26(b)(1), in
13 relevant part, provides that:

14 "[p]arties may obtain discovery regarding any matter, not privileged, which is
15 relevant to the subject matter involved in the pending action, whether it relates to
16 the claim or defense of the party seeking discovery or to the claim or defense of
17 any other party, including the existence, description, nature, custody, condition
18 and location of any books, documents, or other tangible things and the identity
19 and location of persons having knowledge of any discoverable matter. It is not
ground for objection that the information sought will be inadmissible at the
trial if the information sought appears reasonably calculated to lead to the
discovery of admissible evidence." (Emphasis added).

20 Christopher asserts that a protective order pursuant NRCP 26(c) is appropriate to protect
21 him or Ms. Roland from "annoyance, embarrassment, oppression, or undue burden or expense."¹⁷
22 Such assertion, however, is misplaced. Again, Ms. Roland has acknowledged to Ms. Davis'
23 counsel that she was provided numerous documents by Christopher, and that is the reason Ms.
24 Davis' counsel served the June 25, 2015 Subpoena on her. Indeed, it would be extremely
25

26 ¹⁴ See, Motion To Compel, at Ex. 11, ¶¶ 16-17.

27 ¹⁵ See, Petition To Stay, at p. 3:24.

28 ¹⁶ See, Motion To Compel, at Ex. 4, at pp. 3-4, ¶¶ 1-10. (Emphasis added).

¹⁷ See, Motion To Stay, at p. 4:8-9.

1 oppressive and unduly burdensome to require Ms. Davis to request the relevant documents from
2 third parties scattered all over the world, or from third parties, which may not even exist.

3 Christopher's reliance on NRCP 45(c) is also misplaced. While NRCP 45(c) permits a
4 court to protect a person subject to a subpoena by quashing or modifying such subpoena, the
5 person to whom the subpoena was issued must provide a written objection within fourteen (14)
6 days after service. NRCP 45(c)(2)(B), in relevant part, provides that "a person commanded to
7 produce and permit inspection and copying may, within 14 days after service of the subpoena
8 or before the time specified for compliance if such time is less than 14 days after service, serve
9 upon the party or attorney designated in the subpoena written objection to inspection or copying
10 of any or all of the designated materials or of the premises." (Emphasis added).

11 The June 25, 2015 Subpoena was issued on June 25, 2015. Christopher's Petition To
12 Stay, however, was not served on Ms. Davis' counsel until August 14, 2015, forty-nine (49) days
13 after the service of the June 25, 2015 Subpoena. Therefore, an objection or protective order
14 pursuant to NRCP 45(c) is improper as he waived any objection that he could raise pursuant to
15 NRCP 45 by failing to timely raise such objection.

16 The June 25, 2015 Subpoena is proper under NRCP 26(a) and NRCP 45. It would be
17 oppressive and unduly burdensome for Ms. Davis to seek the documents from third parties, which
18 may not even exist, thereby rendering NRCP 26(c) inapplicable. Additionally, Christopher's
19 request for a protective order pursuant to NRCP 45(c) is untimely. As such, Christopher's request
20 for a protective order must be denied.

21 **B. The Documents Requested By Caroline Are Relevant To The Subject**
22 **Matter As The Policy Loans Directly Affect The Trust And Ms. Davis'**
23 **Beneficial Interest Therein.**

24 Notwithstanding the fact that the Trust expressly provides that the "trust's books and
25 records along with all trust documentation shall be available and open at all reasonable times
26 to inspection of the trust beneficiaries and their representatives",¹⁸ all of the information

27
28 ¹⁸ See, Petition, at Ex. 1, Art. 12, § 4.

1 requested by Ms. Davis is “relevant to the subject matter involved in the pending action” pursuant
2 to NRCP 26(b). Indeed, each of the requests for documentation within the June 25, 2015
3 Subpoena are relevant as they relate to: (1) the Beatrice B. Davis Revocable Living Trust, dated
4 April 4, 1990, as amended (the “Revocable Trust”); (2) the Davis Family Office, LLC, a Missouri
5 limited liability company (the “Davis Family Office”); (3) FHT Holdings, LLC; and (4) entities of
6 which Christopher is an owner, manager, director or officer of which concern any business or
7 financial relationship between such entity and the Trust and Revocable Trust, as such entities are,
8 or may be, associated with the Trust or one or more of the Policy loans.

9 Indeed, promissory notes, which allow for additional advances from the Ashley Cooper
10 Policy (the “Policy”),¹⁹ have been executed on behalf of both the Revocable Trust and the Davis
11 Family Office. Ms. Davis is a fifty percent (50%) beneficiary of the Revocable Trust, and, based
12 upon information and belief, the Davis Family Office is owned by the Revocable Trust.
13 Therefore, in order to determine the status of such notes, the solvency of the borrowers, and
14 whether or not the Trust has any additional outstanding liabilities that may be in default, the
15 documents relating to the Revocable Trust and the Davis Family Office are relevant.

16 With specific reference to FHT Holding, LLC, that documentation is not only required to
17 be disclosed pursuant to Article 12, Section 4 of the Trust, but is highly relevant as FHT
18 Holdings, LLC is the current owner of the Policy. As Christopher has not provided any
19 documentation, it is unknown if any additional loans from the Policy have been made, whether
20 such loans are pursuant to a promissory note, whether any collateral has been pledged, etc.
21 Therefore, the request for documents provided in the June 25, 2015 Subpoena related to FHT
22 Holdings, LLC are relevant to the subject matter, and such request was proper.

23 Since Christopher has not provided a single document and has stonewalled every attempt
24 to access information and documentation made by Ms. Davis, the request made for documents
25 related to any entities of which Christopher is an owner, manager, director or officer that concern
26 any business or financial relationship between such entity and the Trust and Revocable Trust is

27
28 ¹⁹ *Id.*, at Ex. 9 & 10.

1 also relevant. Indeed, as Christopher is the sole Manager of FHT Holdings, LLC, and the only
2 person permitted to make additional loans from the Policy, it is imperative that documents related
3 to entities of which Christopher is an owner, manager, director or officer of be produced in order
4 to determine if any additional loans have been made to such entities and the facts and
5 circumstances surrounding such loans.

6 Contrary to Christopher's misrepresentation to this Court that Ms. Davis has not "arranged
7 to take [Christopher's] deposition",²⁰ in addition to issuing the June 25, 2015 Subpoena, Ms.
8 Davis' counsel served a Notice Of Taking Deposition Of Christopher D. Davis on August 6, 2015
9 (the "Notice Of Deposition"), a true and correct copy of which is attached hereto as **Exhibit 1**.
10 Interestingly, Christopher's misrepresentation concerning the Notice Of Deposition in his Petition
11 To Stay, filed on August 14, 2015, **was made eight (8) days after the Notice Of Deposition was**
12 **served**. As such, Christopher was well aware of the Notice Of Deposition and Ms. Davis' intent
13 to depose him before the Petition To Stay was filed. Indeed, much like the June 24, 2015
14 Subpoena, Ms. Davis' intent behind deposing Christopher is to obtain relevant information
15 concerning the Trust, the Policy loans, FHT Holdings, LLC, etc., all of which affect the Trust and
16 her beneficial interest therein.

17 Article 8, Section 1 of the Trust, in relevant part, provides that, upon Beatrice B. Davis'
18 death, the Trust was to be divided into "equal share(s) for each of [her] then living children."²¹
19 As the Trust's primary asset is/was the Policy, division of the Trust into equal shares was not
20 possible. However, when the Policy (which has a face over value of \$35,000,000.00) terminates,
21 and division of the Trust is made possible, it is unknown whether the outstanding loans will come
22 off the top, thereby decreasing Ms. Davis' beneficial interest. Because the Trust has not been
23 divided yet, any and all information related to the Policy loans, including the borrowers, the terms
24 of the promissory notes, collateral, etc. are highly relevant. Ms. Davis' counsel drafted the June
25 25, 2015 Subpoena for the purpose of receiving any and all information related to the Policy loans
26

27 ²⁰ See, Petition To Stay, at p. 5:8.

28 ²¹ *Id.*, at Ex. 1, Art 8, § 1.

1 that, if not paid, will directly impact Ms. Davis' beneficial interest in the Trust. Therefore, Ms.
2 Davis requests are not outside of the scope of the current litigation and are relevant to the subject
3 matter herein.

4 **C. The Documents Requested Directly Relate To Relief Sought By Ms.**
5 **Davis In Her Petition Filed On February 10, 2015.**

6 Christopher intentionally misrepresents yet another fact to this Court in his Petition To
7 Stay, wherein he claims that "the items requested under the subpoena do not relate to the
8 Petitioner's request that this Court assume jurisdiction over the Family Heritage Trust."²²
9 Christopher intentionally omits the fact that Ms. Davis, in her Petition, specifically requested that
10 this Court:

11 "require Christopher D. Davis, as the Investment Trust Advisor of the Beatrice B.
12 Davis Family Heritage Trust, dated July 28, 2000, as amended, and as the sole
13 Member of FHT Holdings, LLC, to disclose any and all documentation and
14 information related to: (a) the Policy loans, including, but not limited to, the
15 identity of any entity, trust or individual who has received and/or benefited from
16 such loans, the purpose of such loans, the circumstances surrounding the
17 distribution and use of such loans, the repayment of such loans (if any), the
18 collateral for such loans, executed promissory notes, etc.; and, (b) FHT Holdings,
19 LLC."²³

20 The June 25, 2015 Subpoena is directly related to the aforementioned request by Ms.
21 Davis. Indeed, based such request in Ms. Davis' Petition, Christopher, as Investment Trust
22 Advisor and Manager of FHT Holdings, LLC was thereafter **Ordered by this Court to produce**
23 **documents in his possession, custody, or control.**²⁴ Christopher's claim that there is "no
24 underlying, pending action to which the test of relevancy can be applied",²⁵ is yet another
25 example of Christopher's lack of candor to this Court.

26 ///

27 ///

28 ²² *Id.*, at p. 13:6-7.

²³ *See*, Petition, at p. 10, ¶ 5.

²⁴ *See*, Motion To Compel, at Ex. 8 & 9.

²⁵ *See*, Petition To Stay, at p. 14:4-4.

9060 WEST CHEYENNE AVENUE
LAS VEGAS, NEVADA 89129
TELEPHONE (702) 853-5483
FACSIMILE (702) 853-5485
WWW.SDNVLAW.COM

Christopher's counsel has not provided any evidence whatsoever that Christopher will suffer irreparable harm if discovery is permitted. Indeed, Christopher's counsel has failed to cite any authority to support his proposition that discovery be stayed because of the pendency of the Petition For Reconsideration or the Notice of Appeal. As such, his request that discovery be stayed must be denied.

SOLOMON DWIGGINS & FREER
TRUST AND ESTATE ATTORNEYS

SOLOMON DWIGGINS & FREER, LTD



10 of 10

EXHIBIT I

EXHIBIT I

NOTC

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Nevada Bar No. 0418
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Joshua M. Hood, Esq.
Nevada Bar No. 12777
E-mail: jhood@sdfnlaw.com
SOLOMON DWIGGINS & FREER, LTD.
9060 West Cheyenne Avenue
Las Vegas, Nevada 89129
Telephone: 702.853.5483
Facsimile: 702.853.5485

Attorneys for Caroline Davis, Petitioner

DISTRICT COURT

CLARK COUNTY, NEVADA

In the Matter of

The BEATRICE B. DAVIS FAMILY
HERITAGE TRUST, dated July 28, 2000, as
amended on February 24, 2014.

Case No.: P-15-083867-T
Dept.: Probate (26)

NOTICE OF TAKING DEPOSITION OF CHRISTOPHER D. DAVIS

PLEASE TAKE NOTICE that CAROLINE DAVIS, by and through her attorneys, the law
offices of SOLOMON DWIGGINS & FREER, LTD., will take the deposition of
CHRISTOPHER DAVIS, Investment Trust Advisor and Manager of FHT Holdings, LLC, on the
3rd day of September, 2015, beginning at 10:00 a.m., at the law office of SOLOMON DWIGGINS
& FREER, LTD., 9060 West Cheyenne Avenue, Las Vegas, Nevada 89129. The deposition will

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1 take place upon oral examination pursuant to Rules 26 and 30 of the Nevada Rules of Civil
2 Procedure, before a Notary Public or before some other officer authorized by law to administer
3 oaths and by videographer.

4 You are invited to attend and cross examine.

5 DATED this 6th day of August, 2015.

7 SOLOMON DWIGGINS & FREER, LTD.

8
9 By: 

10 Mark A. Solomon, Esq.
11 Nevada Bar No. 0418
12 E-mail: msolomon@sdfnlaw.com
13 Joshua M. Hood, Esq.
14 Nevada Bar No. 12777
15 E-mail: jhood@sdfnlaw.com
16 9060 West Cheyenne Avenue
17 Las Vegas, Nevada 89129
18 Telephone: 702.853.5483
19 Facsimile: 702.853.5485

20 *Attorneys for Caroline Davis, Petitioner*
21
22
23
24
25
26
27
28

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on August 6th, 2015, pursuant to NRCP 5(b)(2)(B), I placed a true and correct copy of the following NOTICE OF TAKING DEPOSITION OF CHRISTOPHER D. DAVIS, in the United States Mail, with first-class postage prepaid, addressed to the following, at their last known address, and, pursuant to Rule 9 of N.E.F.C.R., caused an electronic copy to be served via Odyssey, to the email address noted below:

Mail only:

Tarja Davis
3005 North Beverly Glen Circle
Los Angeles, California 90077

Ace Davis
c/o WINFIELD B. DAVIS
366-6 Habu Aridagawa Arida
Wakayama 643-0025
JAPAN

and

514 West 26th Street, #3E
Kansas City, Missouri 64108

Winfield B. Davis
366-6 Habu Aridagawa Arida
Wakayama 643-0025
JAPAN

And did mail via US Mail and email Via the Court's electronic system, WizNet pursuant to Rule 9 of NEFCR at the email address noted to the following:

Harriet Roland, Esq.
ROLAND LAW FIRM
2470 E. St. Rose Parkway, #105
Henderson, NV 89052
hroland@rolandlawfirm.com
Attorneys for Christopher D. Davis

Anthony L. Barney, Esq.
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Attorneys for Christopher D. Davis

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Attorneys for Stephen Lenhardt

Charlene Renwick, Esq.
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GAROFALO
7575 Vegas Drive #150
Las Vegas, Nevada 89128
crenwick@lee-lawfirm.com
Attorneys for Dunham Trust


An employee of Solomon Dwiggins & Freer, Ltd.

CERTIFICATE OF SERVICE

I hereby certify that on the 28th day of August 2015, I mailed a true and correct copy of the above and foregoing OBJECTION TO PETITION TO STAY DISCOVERY UNTIL THE AUGUST 19, 2015 HEARING ON MOTION FOR RECONSIDERATION OR IN THE ALTERNATIVE, PETITION FOR PROTECTIVE ORDER FROM DISCOVERY BY SUBPOENA to the following persons at their last known address, by depositing a copy of the same in the United States Mail, addressed as follows and further did eserve via the Court's electronic system to those listed on the service page of the Wiznet System pursuant to EDCR 8.05(a), 8.05(f) and Rule 9 of NEFCR:

Tarja Davis
3005 North Beverly Glen Circle
Los Angeles, California 90077
and
514 West 26th Street, ##F
Kansas City, Missouri 64108

Cheryl Davis
5403 West 134 Terrace, Unit 1525
Overland Park, KS 66209

WINFIELD B. DAVIS
Skyland Terrace Apts.
930 Figueroa Terr. Apt. 529
Los Angeles, California 90012-3072
winsane@gmail.com

ACE DAVIS c/o
WINFIELD B. DAVIS
Skyland Terrace Apts.
930 Figueroa Terr. Apt. 529
Los Angeles, California 90012-3072

Registered Agent Solutions, Inc
Registered Agent for FHT Holdings, LLC,
A Nevada Limited Liability Company
4625 W. Nevso Drive, Suite 2
Las Vegas, Nevada 89103



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ROLAND LAW FIRM
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Attorneys for Christopher D. Davis

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3317 West Charleston Blvd., Suite B
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Attorneys for Christopher D. Davis

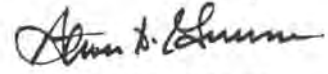
CHARLENE RENWICK, ESQ.
LEE HERNANDEZ LANDRUM & GAROFALO
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Attorneys for Dunham Trust

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Attorneys for Stephen Lenhardt


An Employee of SOLOMON DWIGGINS & FREER, LTD.



EXHIBIT 28


CLERK OF THE COURT

HARRIET H. ROLAND, ESQ.
NV Bar No. 5471
ROLAND LAW FIRM
2470 E. St. Rose Pkwy, Ste. 105
Henderson, NV 89074
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hroland@rolandlawfirm.com
Attorney for Christopher D. Davis

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Nevada Bar No. 8366
TIFFANY S. BARNEY, ESQ.
Nevada Bar No. 9754
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3317 W. Charleston Blvd., Suite B
Las Vegas, NV 89102
Telephone: (702) 438-7878
Facsimile: (702) 259-1116
Attorneys for Christopher D. Davis

EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY, NEVADA

In the matter of:

Case No.: P-15-083867-T

The BEATRICE B. DAVIS FAMILY
HERITAGE TRUST, dated July 28, 2000, as
amended on February 24, 2014.

Dept. No.: 26

**OPPOSITION TO CAROLINE DAVIS' MOTION COMPEL HARRIET ROLAND, ESQ.
TO PRODUCE DOCUMENTS RESPONSIVE TO SUBPOENA DUCES TECUM;
COUNTER-MOTION TO QUASH**

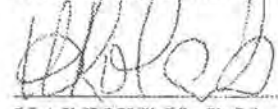
Date of Hearing: September 30, 2015
Time of Hearing: 9:00 a.m.

Christopher D. Davis, by and through his attorneys HARRIET H. ROLAND, Esq., of the ROLAND LAW FIRM hereby submits the Opposition to Caroline Davis' Motion to Compel Harriet Roland, Esq. to Produce Documents Responsive to Subpoena Duces Tecum, and requests the Court to enter its protective order from the discovery by subpoena made upon the ROLAND LAW FIRM, and to quash the

1 subpoena for reasons of confidentiality, privilege, and relevance, and which subpoena
2 far exceeds the Court's order for production of documents by Christopher Davis in the
3 case. This pleading is based on the Memorandum of Points and Authorities attached
4 hereto, any exhibits attached hereto, and any oral argument that will be heard in this
5 matter.

6 DATED this 31 day of August, 2015.

Respectfully Submitted:
ROLAND LAW FIRM



HARRIET H. ROLAND
Nevada Bar No.: 5471

MEMORANDUM OF POINTS AND AUTHORITIES

I. FACTS PRESENTED

12 Christopher D. Davis ("Christopher") hereby incorporates the facts presented
13 in his Motion to Dismiss Pursuant to NRCP 12(b) and NRCP 19 filed on March 4,
14 2015, his Reply to Opposition filed April 20, 2015, and his Petition for Reconsideration
15 of the Order dated May 19, 2015, as if set forth fully herein. He further alleges:

17 This matter commenced on February 10, 2015 when Christopher's sister
18 Caroline Davis ("Caroline") filed her

19 Petition To Assume Jurisdiction Over The Beatrice B. Davis Family
20 Trust, To Assume Jurisdiction Over Christopher D. Davis As Investment
21 Trust Advisor And Stephen K. Lehnardt As Distribution Trust Advisor;
22 To Confirm Dunham Trust Company As Directed Trustee; And For
23 Immediate Disclosure Of Documents And Information From Christopher
24 D. Davis.

25 A hearing on the matter was held April 22, 2015. In its Order signed May 19,
26 2015 and entered June 24, 2015, this Court found that "the Court has jurisdiction as
27 a constructive trust because action on behalf of the trust has been taken in Nevada."
28 Based on this finding that jurisdiction was proper, this Court assumed Jurisdiction
over Christopher D. Davis and granted immediate disclosure of "all information in

1 his possession, custody and control in his role as Investment Trust Advisor and or his
2 role as manager of FHT Holdings."

3 On June 8, 2015, a subpoena duces tecum was issued at the behest of the law
4 firm of Solomon Dwiggin Freer, Ltd. and served upon the custodian of records for
5 the Roland Law Firm (not upon Christopher Davis). It is attached as Exhibit "1". The
6 subpoena far exceeds the scope of the Court's order for production of documents; it
7 requests copies of documents that are irrelevant, privileged, more easily obtained
8 from other sources if they do in fact exist, unduly burdensome, and all of which were
9 provided by Christopher to his attorneys in anticipation of litigation and with the
10 expectation and mandate of privilege and confidentiality.

11 On July 14, 2015, Christopher Davis filed and noticed his Motion for
12 Reconsideration, which comes on for hearing on September 2, 2015. On July 30, 2015,
13 he filed his Notice of Appeal. Both of these actions are based upon jurisdictional
14 challenges and due process claims of insufficient service of process.

15 **II. LEGAL AUTHORITY AND ARGUMENT**

16 **A. NRCP 26(c) allows for a protective order.**

17 NRCP 26(c) indicates that a protective order may be sought in which justice
18 requires to protect a party or person from annoyance, embarrassment, oppression, or
19 undue burden or expense, including one or more of the following:

- 20 (1) that the discovery not be had;
21 (2) that the discovery may be had only on specified terms and
22 conditions, including a designation of the time or place;
23 (3) that the discovery may be had only by a method of discovery other
24 than that selected by the party seeking discovery;
25 (4) that certain matters not be inquired into, or that the scope of the
26 discovery be limited to certain matters;
27 (5) that discovery be conducted with no one present except persons
28 designated by the court;
(6) that a deposition after being sealed be opened only by order of the
court;
(7) that a trade secret or other confidential research, development, or
commercial information not be revealed or be revealed only in a

designated way;

(8) that the parties simultaneously file specified documents or information enclosed in sealed envelopes to be opened as directed by the court.

B. NRCP Rule 45 allows this court to quash or modify a subpoena.

NRCP 45 (c) Protection of Persons Subject to Subpoena provides in pertinent part:

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

C. Caroline is using her subpoena as an end run around this Court's June 24, 2015 Order for production of documents and well outside its scope, and outside the scope of permitted discovery.

Caroline is attempting to circumvent this Court's order of production of documents and gain access to Christopher's attorneys' files, all of which were provided by Christopher to the attorneys with the expectation of attorney/client privilege and in anticipation of litigation. Caroline has not caused a subpoena duces tecum to be issued to Christopher personally, even though she has set his deposition. In good faith, the Roland Law Firm, the subject of the subpoena, on behalf of Christopher, has provided the correspondence and documentation regarding the Family Heritage Trust since the purported amendment was instituted on February 24, 2014. This Court did not order the production of documents concerning any of Christopher's private activities prior to the time he was purportedly appointed Investment Advisor to the trust.

The basic guideline as to the permissible scope of discovery under Nevada law is provided by NRCP Rule 26 (b): Discovery Scope and Limits. Unless otherwise limited by order of the court in accordance with these rules, the scope of discovery is as follows:

(1) In General. *Parties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action*, whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of any other party, including the existence, description, nature, custody, condition and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of any discoverable matter. It is not ground for objection that the information sought will be inadmissible at the trial if the information sought appears reasonably calculated to lead to the discovery of admissible evidence[.] (Emphasis added.)

N.R.C.P. Rule 34 includes the following:

(b) Procedure.

(1) Contents of the Request. The request:

(A) *must describe with reasonable particularity each item or category of items to be inspected*[.] (Emphasis added.)

The Supreme Court of Nevada dealt with the scope of discovery under N.R.C.P. Rule 26 in *Schlatter v. Eighth Jud. Dist. Ct. In and For Clark County*, 93 Nev. 189, 561 P.2d 1342 (Nev. 1977). In applying the phrase in Rule 26(b)(1), "which is relevant to the subject matter involved in the pending action," the court, in a personal injury action against a hotel, stated that where, as in the case before it, a party's physical condition was in issue, it was proper for a court to "order discovery of medical records containing information relevant to the injury complained of or any pre-existing injury related thereto." 93 Nev. at 192, 561 P.2d at 1343. The court found that the discovery order issued by the court below was proper to the extent that it required the production of the petitioner's tax returns and medical records relating to the issues raised by the action (the court below was itself the respondent in a mandamus action brought by the petitioner in challenging the discovery order) but that the order was overly broad:

[R]espondent's order went beyond this and permitted carte blanche discovery of all information contained in these materials without regard to relevancy. Our discovery rules provide no basis for such an invasion into a litigant's private affairs merely because redress is sought for personal injury. Respondent court therefore exceeded its jurisdiction by

ordering disclosure of information neither relevant to the tendered issues nor leading to discovery of admissible evidence.

Id., 561 P.2d at 1343-44.

D. Caroline's subpoena is over-broad and not relevant to her interest in the Trust.

To assess the relevancy of the items requested in Caroline's subpoena "to the subject matter involved in the pending action," it is necessary to review the Petition, starting, in slightly abbreviated form, with its heading:

PETITION TO ASSUME JURISDICTION OVER THE BEATRICE B. DAVIS FAMILY TRUST, . . . OVER CHRISTOPHER D. DAVIS AS INVESTMENT TRUST ADVISOR AND STEPHEN K. LEHNHARDT AS DISTRIBUTION TRUST ADVISOR; TO CONFIRM DUNHAM TRUST COMPANY AS DIRECTED TRUSTEE; AND FOR IMMEDIATE DISCLOSURE OF DOCUMENTS AND INFORMATION FROM CHRISTOPHER D. DAVIS.

After reviewing a number of actions that have affected the Family Heritage Trust from the time of its creation on July 28, 2000 (primarily changes in the identity of the trustee, with Dunham Trust Company of Reno, Nevada purportedly now serving as Successor Trustee and as Directed Trustee (Petition ¶¶ 6-8, 11), and a First Amendment to the Trust, purportedly changing the situs of the Trust from Alaska to Nevada (¶¶ 9-10), Caroline commences the heart of her pleading with the heading:

PETITION FOR THE IMMEDIATE DISCLOSURE OF DOCUMENTS AND INFORMATION FROM CHRISTOPHER D. DAVIS

Caroline recounts that on May 9, 2011, the Trust became the owner and beneficiary of an Ashley Cooper Life Insurance Policy (Policy Number ACLI 1105-8007 PC; the "Policy"), with a face value of \$35,000,000 and Cheryl Davis (Christopher's ex-wife) as the insured. (Petition ¶¶ 15-17.) Section 10 of the Policy permits the owner (the Trust) to obtain loans from the Policy. (¶ 18.) The original Trustee, Alaska Trust Company, and its successor, Alaska USA Trust Company (¶¶ 19-20) borrowed funds from the Policy, paid administrative expenses of the trust and

1 also made loans from the borrowed funds.

2 At ¶ 24 of the Petition, it is alleged that the Trust distributed a total of
3 \$1,300,689.00 in Policy loans to a separate trust created by Beatrice B. Davis on April
4 4, 1990 (the Beatrice B. Davis Revocable Living Trust), Davis Family Office LLC
5 ("DFO") and Christopher D. Davis, individually, all of which loans and distributions
6 were allegedly made "at Christopher's insistence or direction in either his individual
7 capacity, his capacity as the sole acting Trustee of the Revocable Living Trust, and
8 his capacity as the sole manager of DFO. Caroline's basis for seeking the production
9 of the documents as per the subpoena is set forth in the following two paragraphs of
10 the Petition:

11
12 25. As Caroline is a current beneficiary of the Trust and the loans are
13 current assets held within the Trust, Caroline is entitled to complete
14 documentation and information related to the Policy loans, including
15 but not limited to, the identity of any entity, trust or individual who has
16 received and/or benefitted from such loans, the purpose of such loans,
the circumstances surrounding the distribution and use of such loans,
the repayment of such loans (if any), the collateral for such loans,
executed promissory notes, etc.

17 26. Further, the Trust is the one-hundred percent (100%) owner of FHT
18 Holdings, LLC, a Nevada limited liability company ("FHT Holdings"), of
19 which Christopher serves as the sole Manager. As FHT Holdings is an
20 asset of the Trust, Caroline is entitled to information related to the
assets held by FHT Holdings, including but not limited to the principal,
income, and liabilities of the LLC.

21 (Footnotes omitted.)

22 In addition to Caroline's contention in ¶ 24 that, because she is a beneficiary
23 of the Trust and because the Policy is an asset of the Trust, she is entitled to review
24 every possible document or record that in any way relates to the loans made by the
25 Trustees, she also cites the following subsections of Nev. Rev. Stat. § 153.031 "Petition
26 by trustee or beneficiary concerning affairs of trust: Purposes of petition; contents;
27 notice and hearing; additional relief":

1 1. A trustee or beneficiary may petition the court regarding any aspect
2 of the affairs of the trust, including:

3

4 (e) Ascertaining beneficiaries and determining to whom property is to
5 pass or be delivered upon final or partial termination of the trust, to the
6 extent not provided in the trust instrument;

7 (f) Settling the accounts and reviewing the acts of the trustee,
8 including the exercise of discretionary powers;

9

10 (h) *Compelling the trustee to report information about the trust or*
11 *account, to the beneficiary;*

12

13 (q) Compelling compliance with the terms of the trust or other applicable
14 law[.]

15 (Emphasis added; this is the version of §153.031 prior to amendment by 2015 Nevada
16 Laws Ch. 524 (S.B. 484), but subsection (h) was not changed.)

17 Subsection (h) by its very wording points out a fatal flaw in Caroline's view of
18 her rights to the documents and records that she is seeking: very simply, Christopher
19 D. Davis is not the trustee of the Family Heritage Trust and therefore is not the
20 individual or entity to whom subsection (h) applies. Subsection (h) also suggests the
21 need to determine the limits of a beneficiary's rights to information concerning the
22 trust. This question has been addressed by N.R.S. §165.137 "Duties of trustee with
23 regard to providing account; circumstances when account deemed approved by
24 beneficiary," which provides in part:

25 1. The following provisions apply to the extent that the trust instrument
26 does not expressly provide otherwise:

27 (a) The trustee shall provide an account to each current beneficiary and
28 to each remainder beneficiary upon request but is not required to
provide an account to a remote beneficiary;

(b) A trustee is not required to provide an account more than once in any
calendar year unless ordered by a court to do so upon good cause shown;

. . . .

.

1 (j) *A trustee is not required to provide to a beneficiary information that*
2 *does not affect the beneficiary's interest in the trust[.]*

3 (Emphasis added.)

4 This provision has been repealed, but a trustee's duty to account and provide
5 information to beneficiaries is covered by 2015 Nevada Laws Ch. 524 (S.B. 484) § 73,
6 which provides in part:

7 1. To the extent that the trust instrument does not provide otherwise,
8 the trustee of a nontestamentary trust shall satisfy the duty to account
9 for the nontestamentary trust estate by delivery of an account which
10 conforms with the requirements of NRS 165.135, and pursuant to the
following:

11 (a) Except as otherwise limited by paragraph (b), the trustee shall
12 deliver an account, upon demand pursuant to NRS 165.141, to each
13 current beneficiary, and to each remainder beneficiary of the trust. A
trustee is not required to provide an account to a remote beneficiary
14 pursuant to this section.

15 (b) Notwithstanding paragraph (a), a trustee may satisfy the duty to
16 account in accordance with subparagraphs (1) to (6), inclusive, where
applicable:

17 ...

18 (4) *The trustee is not required to provide an account of any portion of*
19 *the trust estate to a beneficiary that does not affect the beneficiary's*
20 *interest in the trust, and the trustee may redact the account as to such*
21 *portions that do not affect the beneficiary's interest. (Emphasis added.)*

22 Therefore, even without considering whether Caroline's request for documents
23 and records under her subpoena satisfies the N.R.C.P. Rule 26(b)(1) requirement of
24 relevancy to the pending action, there are two additional obstacles standing in her
25 way: (1) Christopher D. Davis is not the Trustee of the Family Heritage Trust and
26 therefore his attorney is not the proper party to be served with a subpoena seeking
27 trust-related documents and records, and (2) even in the absence of the first obstacle,
28 Caroline, as a beneficiary, has the burden of showing that her request for each item
is justified as affecting her beneficial interest. Caroline makes no attempt in the

1 Items to be Produced (attached to the subpoena) to explain, even in a general way,
2 how the requests or groups of requests relate to the protection of her beneficial
3 interest in the Trust.

4 Instead, her requests blanket full groups of records presumably possessed by
5 Christopher's attorney: all of his records in his possession, custody or control
6 concerning the Family Heritage Trust (§ 1), the Beatrice B. Davis Revocable Living
7 Trust (§ 2), Davis Family Office, (§ 4), and FHT Holdings, LLC (§ 5). These are not
8 documents that would reflect Christopher's investment decisions as to Trust assets
9 in his purported capacity as Investment Trust Advisor, even if he did have any control
10 over them, or documents that could, arguably, have a bearing on the value of the
11 Petitioner's beneficial interest. Notably, it includes documents over which Caroline
12 has control also, in her capacities as Co-Trustee and beneficiary.

13 It is difficult to see how records pertaining to the Revocable Living Trust, Davis
14 Family Office and FHT Holdings LLC have anything bearing on Caroline's interest
15 in the policy. Similarly, there is no indication of any bearing on Caroline's interest in
16 the Family Heritage Trust, or of a connection between Christopher's purported status
17 as owner, manager, director or officer of "any and all entities", and the Family
18 Heritage Trust or the Revocable Living Trust (§ 8). This request constitutes a fishing
19 expedition into Christopher's financial affairs. Even if Ashley Cooper Life Insurance
20 Policy is the sole asset of the Family Heritage Trust, it is difficult to see how any
21 records concerning the Policy itself (§ 2) have a bearing on Caroline's interest. As
22 discussed below, she is not complaining about the Trust's acquisition of the Policy,
23 because she consented to it. The only relevance of the disbursements made from the
24 loan proceeds to Caroline's interest in the Trust is if the loans to Christopher are not
25 repaid, they should not be charged against her interest in the proceeds should she
26 survive him.

27 Even if Caroline clears the foregoing obstacles, she must still face the statutory
28