



**EIGHTH JUDICIAL DISTRICT COURT
CLERK OF THE COURT**

REGIONAL JUSTICE CENTER
200 LEWIS AVENUE, 3rd FL.
LAS VEGAS, NEVADA 89155-1160
(702) 671-4554

Electronically Filed
Jan 05 2016 08:15 a.m.
Tracie K. Lindeman
Clerk of Supreme Court

Steven D. Grierson
Clerk of the Court

Brandi J. Wendel
Court Division Administrator

January 4, 2016

Tracie Lindeman
Clerk of the Court
201 South Carson Street, Suite 201
Carson City, Nevada 89701-4702

RE: In the Matter of the Trust of: THE BEATRICE DAVIS HERITAGE TRUST
S.C. CASE: 68542 c/w 68948
D.C. CASE: P083867

Dear Ms. Lindeman:

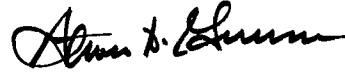
Pursuant to your Order, dated December 9, 2015, enclosed is a certified copy of the Order Granting Motion to Amend May 19, 2015 Order and Denying Petition for Reconsideration filed December 31, 2015 and the Notice of Entry of Order filed December 31, 2015 in the above referenced case. If you have any questions regarding this matter, please do not hesitate to contact me at (702) 671-0512.

Sincerely,
STEVEN D. GRIERSON, CLERK OF THE COURT

A handwritten signature in black ink that reads "Heather Ungermann".

Heather Ungermann, Deputy Clerk

1 **ORDR**
2 Mark A. Solomon, Esq.
3 Nevada Bar No. 418
4 msolomon@sdfnvlaw.com
5 Joshua M. Hood, Esq.
6 Nevada Bar No. 12777
7 jhood@sdfnvlaw.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



CLERK OF THE COURT

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

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

20 **ORDER GRANTING MOTION TO AMEND MAY 19, 2015 ORDER AND DENYING**
21 **PETITION FOR RECONSIDERATION**

22 This matter initially came on for hearing on April 22, 2015 on Caroline D. Davis' *Petition*
23 *To Assume Jurisdiction Over The Beatrice B. Davis Family Heritage Trust, Dated July 28, 2000,*
24 *As Amended On February 24, 2014; To Assume Jurisdiction Over Christopher D. Davis As*
25 *Investment Trust Advisor And Stephen K. Lehnardt As Distribution Trust Advisor; To Confirm*
26 *Dunham Trust As Directed Trustee; And For Immediate Disclosure Of Documents And*
27 *Information From Christopher D. Davis (the "Petition To Assume Jurisdiction") and Christopher*
28 *D. Davis' Motion To Dismiss Pursuant to NRCP 12(b) And NRCP 19 (the "Motion To Dismiss").*
Counsel for Caroline D. Davis, Mark A. Solomon, Esq. and Joshua M. Hood, Esq.; counsel for
Christopher D. Davis, Anthony L. Barney, Esq. and Harriet H. Roland, Esq.; counsel for Dunham
Trust Company, Charlene N. Renwick, Esq., and counsel for Stephen K. Lehnardt, Jonathan W.
Barlow, Esq., were present at the April 22, hearing.

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

SOLOMON
DWIGGINS & FREER
TRUST AND ESTATE ATTORNEYS


1 This matter subsequently came on for hearing on September 2, 2015 on Christopher D.
2 Davis' *Petition For Reconsideration Of The Order Dated May 19, 2015 Re: Petition To Assume*
3 *Jurisdiction Over Beatrice B. Davis Family Heritage Trust, Dated July 28, 2000, As Amended On*
4 *February 24, 2014; To Assume Jurisdiction Over Christopher D. Davis As Investment Trust*
5 *Advisor And Stephen K. Lehnardt As Distribution Trust Advisor; To Confirm Dunham Trust As*
6 *Directed Trustee; And For Immediate Disclosure Of Documents And Information From*
7 *Christopher D. Davis* (the "Petition For Reconsideration") and Caroline D. Davis' *Motion To*
8 *Amend Or Modify Order Pursuant to NRCP 60(b)(3)* (the "Motion To Amend May 19, 2015
9 Order"). Counsel for Caroline D. Davis, Mark A. Solomon, Esq. and Joshua M. Hood, Esq.;
10 counsel for Christopher D. Davis, Anthony L. Barney, Esq. and Harriet H. Roland, Esq.; and
11 counsel for Dunham Trust Company, Charlene N. Renwick, Esq. were present at the September 2,
12 2015 hearing.

13 The Court having reviewed the pleadings, examined the evidence, and heard the
14 arguments of counsel, and for good cause appearing makes the following Findings and Orders:

15 **FINDINGS**

16 1. Due and legal notice of the time and place of the aforementioned hearings has been
17 given in this matter as required by law.

18 2. On April 22, 2015, a hearing was held in the Eighth Judicial District Court (the
19 "District Court") on Caroline D. Davis' *Petition To Assume Jurisdiction*, filed on February 10,
20 2015, and Christopher D. Davis' *Motion To Dismiss*, filed on March 3, 2015.

21 3. In his Reply to Caroline D. Davis' *Opposition to the Motion To Dismiss*, which
22 was filed only two (2) days before the April 22, 2015 hearing, Christopher D. Davis first raised
23 the following issues:

24 (a) Tarja Davis, Christopher D. Davis' wife, was a beneficiary of the Beatrice B.
25 Davis Family Heritage Trust, dated July 28, 2000 (the "Trust") and did not consent
26 to the execution of the First Amendment or the transfer in situs;

27 (b) Alaska USA Trust Company, the prior trustee, resigned prior to the execution of
28 the First Amendment to the Trust, dated February 24, 2014 (the "First



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

Amendment”), and did not provide its consent to execution of the First Amendment or the transfer in situs; and

(c) No advice of counsel was obtained for Alaska USA Trust Company prior to the execution of the First Amendment.

4. The District Court, at the April 22, 2015 Hearing, assumed jurisdiction over the Trust under the theory of “constructive trust”, more accurately called a “*de facto trust*”, because:

(a) Stephen K. Lehnardt, the Trust Protector; Dunham Trust Company, located in Reno, Nevada (“Dunham”); and the Trust’s beneficiaries, namely, (i) Christopher D. Davis; (ii) Caroline D. Davis; (iii) and Winfield B. Davis, all consented to the execution of the First Amendment and to the transfer of the Trust’s situs from Alaska to Nevada;

(b) Based upon a good faith reliance of the validity of the First Amendment, Dunham accepted tenure as Directed Trustee of the Trust and Alaska USA Trust Company resigned as Trustee;

(c) Based upon such good faith reliance of the validity of the First Amendment, Dunham had been administering the Trust in Nevada for more than one (1) year;

(d) Based upon a good faith reliance of the validity of the First Amendment, Christopher D. Davis accepted his appointment as Investment Trust Advisor pursuant to NRS 163.5543;

(e) Based upon a good faith reliance of the validity of the First Amendment, Stephen K. Lehnardt accepted his appointment as Distribution Trust Advisor pursuant to NRS 163.5537;

(f) Dunham thereafter created FHT Holdings, LLC, a Nevada limited liability company wholly owned by the Trust, and appointed Christopher D. Davis as the sole Manager thereof;

(g) Christopher D. Davis has been acting as Investment Trust Advisor since his acceptance of such position;

- 1 (h) Christopher D. Davis has been acting as sole Manager of FHT Holdings, LLC
2 since his appointment of such position;
- 3 (i) There is no trustee in Alaska now serving, but rather, Dunham is currently serving
4 as Directed Trustee in Nevada; and
- 5 (j) The Court had no evidence before it, namely an affidavit of any other purported
6 beneficiary, that any other beneficiary was entitled to take under the Trust, and,
7 therefore entitled to notice or that such beneficiary's consent was required to
8 Transfer of the Trust's situs from Alaska to Nevada.

9 5. The District Court noted that it was appropriate to assume jurisdiction over the
10 Trust and its fiduciaries, Dunham and Christopher D. Davis, as all parties consented to the
11 execution of the First Amendment and to the transfer of the Trust's situs from Alaska to Nevada,
12 and all parties before the Court acted upon a good faith reliance with respect to the validity of the
13 First Amendment.

14 6. The District Court's Order, dated May 19, 2015, which was subsequently filed on
15 June 24, 2015 (the "May 19, 2015 Order"), assumed jurisdiction over the Trust to ensure that the
16 Trust was properly within a competent jurisdiction, and further to ensure that the Trust was not
17 adrift in that it would be left without a trustee.

18 7. The May 19, 2015 Order confirmed Christopher D. Davis as Investment Trust
19 Advisor and further required the production of all information in his possession, custody or
20 control in his role as Investment Trust Advisor, and in his role as Manager of FHT Holdings,
21 LLC, a Nevada limited liability company wholly owned by the Trust.

22 8. The District Court has now been presented with evidence in the form of a
23 Declaration of Tarja Davis, Christopher D. Davis' wife, indicating that Tarja Davis was married
24 to Christopher D. Davis on February 22, 2012, and that they were married on February 24, 2014,
25 that date the First Amendment was executed.

26 9. In response to the issues raised by Christopher D. Davis' in his Reply and the
27 Petition For Reconsideration, Caroline D. Davis submitted the following to the District Court:

28

- 1 (a) Article 14, Section 1(j) of the Trust, which specifically defines the term “spouse”,
2 requiring the marital union of a beneficiary and his or her spouse, if entered into
3 following the signing date of the Trust, to exist continuously for a period of ten
4 (10) years before such beneficiary’s spouse can qualify as a “spouse” under the
5 Trust;
- 6 (b) The Declaration Of Tarja Davis indicating that Tarja Davis and Christopher were
7 married following the signing date of the Trust, and have not been married for ten
8 (10) continuous years;
- 9 (c) A Resignation, Release, Acknowledgement, Consent And Indemnification, dated
10 February 24, 2014, with “RECITALS” providing that Alaska USA Trust Company
11 was the currently serving Trustee on the date the First Amendment was executed
12 and that Alaska USA Trust Company, as the Trustee, expressly consented to the
13 transfer of situs from Alaska to Nevada, which RECITAL is conclusively
14 presumed true under NRS 47.240(2);
- 15 (d) An Email from Dennis Brislawn, Esq. to: (i) Ms. Davis’ counsel, Joshua M. Hood,
16 Esq.; (ii) Shanna Corressel, Trust Office for Dunham; (iii) Stephen K. Lehnardt,
17 Trust Protector and Distribution Trust Advisor; and (iv) Ms. Davis, beneficiary of
18 the Trust, indicating that he had communicated with both Alaska USA Trust
19 Company and Dunham and provided an opinion of counsel; and
- 20 (e) An opinion of counsel drafted by Dennis Brislawn, Esq. pursuant Article 14,
21 Section 6 of the Trust, indicating that Nevada met the requirements of an
22 appropriate jurisdiction for the Trust, and that Nevada was, in fact, the superior
23 state for jurisdiction at the time.

24 10. Christopher D. Davis did not present sufficient new evidence or legal basis to
25 reconsider the May 19, 2015 Order.

26 11. Sufficient evidence has been submitted to the District Court that the First
27 Amendment, and consequently the transfer of the Trust’s situs, was valid.

1 12. Upon submission of Caroline D. Davis' showing regarding the validity of the First
2 Amendment and the proper transfer of the Trust's situs giving rise to the District Court's authority
3 to assume jurisdiction, the burden shifted to Christopher D. Davis to prove the invalidity of the
4 First Amendment and the transfer of situs.

5 13. Christopher D. Davis has not presented any evidence to support his contentions
6 regarding the invalidity of the First Amendment raised in his Reply and in his Petition For
7 Reconsideration.

8 14. Because Christopher D. Davis did not provide sufficient cause, the Petition For
9 Reconsideration should be denied.

10 15. *In personam* jurisdiction over Christopher D. Davis, as Manager of FHT Holdings,
11 LLC, was also proper under Fulbright & Jaworski v. Eighth Jud. Dist. Ct., 342 P.3d 997 (Nev.
12 2015) and Viega GmbH v. Eighth Jud. Dist. Ct., 328 P.3d 1152 (Nev. 2014), as he is the current
13 sole Manager of FHT Holdings, LLC, a Nevada limited liability company, doing business in
14 Clark County, Nevada, whose membership interest is wholly owned by the Trust and under
15 management by Christopher D. Davis, as Investment Trust Advisor.

16 16. The Court clarified the interlineations contained in the May 19, 2015 Order, and
17 the provision containing such interlineations should read as follows: "IT IS FURTHER
18 ORDERED, ADJUDGED AND DECREED that the Petition for Immediate Disclosure of
19 Documents and Information From Christopher D. Davis is granted as to all information in his
20 possession, custody, or control in his role as Investment Trust Advisor, and in his role as Manager
21 of FHT Holdings, LLC."

22 17. On July 30, 2015, Christopher D. Davis filed his Notice Of Appeal and Case
23 Statement, divesting the District Court of jurisdiction to further entertain any motions.
24 Notwithstanding, the District Court retains limited jurisdiction to entertain a party's motion to
25 alter, vacate or modify an order, hold a hearing on any such motions, and to certify its intent to
26 grant such requested relief if the matter is subsequently remanded pursuant to Huneycutt v.
27 Huneycutt, 94 Nev. 79, 575 P.2d 585 (1978) and Foster v. Dingwall, 126 Nev. 49, 228 P.3d 453
28 (2010).



1 18. Because sufficient evidence supporting the validity of the First Amendment, as
2 well as the proper transfer of the Trust's situs from Alaska to Nevada has been submitted, the
3 District Court certified its intent to assume jurisdiction over the Trust as a proceeding *in rem*
4 pursuant to NRS 164.010 should the matter be remanded from the Supreme Court back to the
5 District Court.

6 19. The District Court executed its Certification Of Intent To Amend Order on
7 October 14, 2015, which was subsequently filed with the District Court on October 23, 2015.

8 20. On October 19, 2015 Caroline D. Davis filed her Motion For Remand To The
9 Eighth Judicial District Court (the "Motion For Remand").

10 21. On December, 9, 2015, the Nevada Supreme Court filed an Order (the "December
11 9, 2015 Order") granting the Motion For Remand for the limited purpose of allowing the District
12 Court to enter its Amended Order.

13 **ORDER**

14 As the Nevada Supreme Court has now remanded this matter back to the District Court for
15 the purpose of allowing the District Court to amend the May 19, 2015 Order, the District Court
16 hereby, grants the Motion To Amend May 19, 2015 Order, and amends the May 19, 2015 Order
17 as follows:

18 **IT IS HEREBY ORDERED** that Christopher D. Davis' *Petition for Reconsideration of*
19 *the Order Dated May 19, 2015 Re: Petition to Assume Jurisdiction over the Beatrice B Davis*
20 *Family Heritage Trust Dated July 28, 2000, as Amended on February 24, 2014, to Assume*
21 *Jurisdiction over Christopher D Davis as Investment Trust Advisor, Stephen K. Lehnardt as*
22 *Distribution Trust Advisor, to Confirm Dunham Trust Company as Directed Trustee, and for*
23 *Immediate Disclosure of Documents and Information from Christopher D Davis* is **DENIED** in
24 its entirety.

25 **IT IS HEREBY FURTHER ORDERED** that the Court assumes jurisdiction over the
26 Beatrice B. Davis Family Heritage Trust, dated July 28, 2000, as Amended on February 24, 2014,
27 as a proceeding *in rem* pursuant to NRS 164.010.
28

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 **IT IS HEREBY FURTHER ORDERED** that Dunham Trust Company is confirmed as
2 the Directed Trustee.

3 **IT IS HEREBY FURTHER ORDERED** that Christopher D. Davis is confirmed as the
4 Investment Trust Advisor.

5 **IT IS HEREBY FURTHER ORDERED** that the Court shall abstain from assuming
6 jurisdiction over Stephen K. Lehnardt, in his capacity as Distribution Trust Advisor, until such
7 time that Caroline D. Davis provides a more definite statement or otherwise asserts a demand or
8 claim for relief against Stephen K. Lehnardt, in his capacity as Distribution Trust Advisor, at
9 which time this Court may assume personal jurisdiction over him.

10 **IT IS HEREBY FURTHER ORDERED** that the Christopher D. Davis shall forthwith
11 produce to Caroline D. Davis' counsel any and all information in his possession, custody, or
12 control in his role as Investment Trust Advisor, and in his role as Manager of FHT Holdings,
13 LLC.

14 **IT IS HEREBY FURTHER ORDERED** that this Order shall amend the Court's Order
15 of May 19, 2015 consistent herewith.

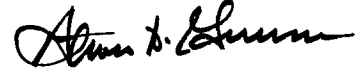
16 Dated this 29th day of December, 2015.

17
18 
19 _____
20 DISTRICT COURT JUDGE

21 **Prepared and submitted by:**
22 SOLOMON DWIGGINS & FREER, LTD.

23 
24 _____
25 Mark A. Solomon, Esq. (Bar No. 0418)
26 Joshua M. Hood, Esq. (Bar No. 12777)
27 9060 West Cheyenne Avenue
28 Las Vegas, Nevada 89129
Telephone: (702) 853-5483
Facsimile: (702) 853-5485
Attorneys for Caroline D. Davis

1 **NEO**
2 Mark A. Solomon, Esq., Bar No. 418
3 msolomon@sdfnvlaw.com
4 Joshua M. Hood, Esq. Bar No. 12777
5 jhood@sdfnvlaw.com
6 SOLOMON DWIGGINS & FREER, LTD.
7 9060 West Cheyenne Avenue
8 Las Vegas, Nevada 89129
9 Telephone: 702.853.5483
10 Facsimile: 702.853.5485



CLERK OF THE COURT

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.: 26

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


18 **NOTICE OF ENTRY OF ORDER**

19 TO ALL INTERESTED PARTIES:

20 YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE, that an ORDER
21 GRANTING MOTION TO AMEND MAY 19, 2015 ORDER AND DENYING PETITION FOR
22 RECONSIDERATION was entered this 31st day of December, 2015, a copy of which is attached
23 hereto.

24 DATED this 31st day of December, 2015.

25 SOLOMON DWIGGINS & FREER, LTD.

26 By 
27 Mark A. Solomon, Esq., Bar No. 0418
28 Joshua M. Hood, Esq., Bar No. 12777
9060 West Cheyenne Avenue
Las Vegas, Nevada 89129
Attorneys for Caroline Davis

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



CERTIFICATE OF SERVICE

I hereby certify that on the 31st day of December, 2015, I mailed a true and correct copy of the above and foregoing NOTICE OF ENTRY OF ORDER (Granting Motion to Amend May 19, 2015 Order and Denying Petition for Reconsideration 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

///

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



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

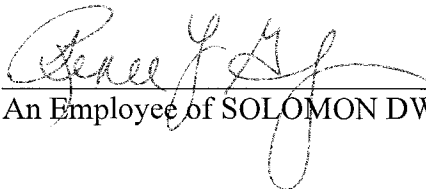
SOLOMON
DWIGGINS & FREER
TRUST AND ESTATE ATTORNEYS



1 HARRIET ROLAND, ESQ.,
2 ROLAND LAW FIRM
3 2470 E. Saint Rose Pkwy., Suite 105
4 Henderson, NV 89074
5 hroland@rolandlawfirm.com
6 Attorneys for Christopher D. Davis
7 ANTHONY L. BARNEY, ESQ.
8 ANTHONY L. BARNEY, LTD.
9 3317 West Charleston Blvd., Suite B
10 Las Vegas, Nevada 89102
11 abarney@anthonybarney.com
12 Attorneys for Christopher D. Davis

13 CHARLENE RENWICK, ESQ.
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

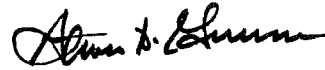
19 JONATHAN W. BARLOW, ESQ.
20 Clear Counsel Law Group
21 50 Stephanie Street, Suite 101
22 Henderson, Nevada 89012
23 jonathan@clearcounsel.com
24 Attorneys for Stephen Lenhardt

25
26
27
28

An Employee of SOLOMON DWIGGINS & FREER, LTD

Electronically Filed
12/31/2015 09:42:34 AM

1 **ORDER**

2 Mark A. Solomon, Esq.
3 Nevada Bar No. 418
4 msolomon@sdfnvlaw.com
5 Joshua M. Hood, Esq.
6 Nevada Bar No. 12777
7 jhood@sdfnvlaw.com



CLERK OF THE COURT

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

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

20 **ORDER GRANTING MOTION TO AMEND MAY 19, 2015 ORDER AND DENYING**
21 **PETITION FOR RECONSIDERATION**

22 This matter initially came on for hearing on April 22, 2015 on Caroline D. Davis' *Petition*
23 *To Assume Jurisdiction Over The Beatrice B. Davis Family Heritage Trust, Dated July 28, 2000,*
24 *As Amended On February 24, 2014; To Assume Jurisdiction Over Christopher D. Davis As*
25 *Investment Trust Advisor And Stephen K. Lehnardt As Distribution Trust Advisor; To Confirm*
26 *Dunham Trust As Directed Trustee; And For Immediate Disclosure Of Documents And*
27 *Information From Christopher D. Davis (the "Petition To Assume Jurisdiction") and Christopher*
28 *D. Davis' Motion To Dismiss Pursuant to NRCP 12(b) And NRCP 19 (the "Motion To Dismiss").*
Counsel for Caroline D. Davis, Mark A. Solomon, Esq. and Joshua M. Hood, Esq.; counsel for
Christopher D. Davis, Anthony L. Barney, Esq. and Harriet H. Roland, Esq.; counsel for Dunham
Trust Company, Charlene N. Renwick, Esq., and counsel for Stephen K. Lehnardt, Jonathan W.
Barlow, Esq., were present at the April 22, hearing.

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

SOLOMON
DWIGGINS & FREER
TRUST AND ESTATE ATTORNEYS





1 This matter subsequently came on for hearing on September 2, 2015 on Christopher D.
2 Davis' *Petition For Reconsideration Of The Order Dated May 19, 2015 Re: Petition To Assume*
3 *Jurisdiction Over Beatrice B. Davis Family Heritage Trust, Dated July 28, 2000, As Amended On*
4 *February 24, 2014; To Assume Jurisdiction Over Christopher D. Davis As Investment Trust*
5 *Advisor And Stephen K. Lehnardt As Distribution Trust Advisor; To Confirm Dunham Trust As*
6 *Directed Trustee; And For Immediate Disclosure Of Documents And Information From*
7 *Christopher D. Davis* (the "Petition For Reconsideration") and Caroline D. Davis' *Motion To*
8 *Amend Or Modify Order Pursuant to NRCP 60(b)(3)* (the "Motion To Amend May 19, 2015
9 Order"). Counsel for Caroline D. Davis, Mark A. Solomon, Esq. and Joshua M. Hood, Esq.;
10 counsel for Christopher D. Davis, Anthony L. Barney, Esq. and Harriet H. Roland, Esq.; and
11 counsel for Dunham Trust Company, Charlene N. Renwick, Esq. were present at the September 2,
12 2015 hearing.

13 The Court having reviewed the pleadings, examined the evidence, and heard the
14 arguments of counsel, and for good cause appearing makes the following Findings and Orders:

15 FINDINGS

16 1. Due and legal notice of the time and place of the aforementioned hearings has been
17 given in this matter as required by law.

18 2. On April 22, 2015, a hearing was held in the Eighth Judicial District Court (the
19 "District Court") on Caroline D. Davis' *Petition To Assume Jurisdiction*, filed on February 10,
20 2015, and Christopher D. Davis' *Motion To Dismiss*, filed on March 3, 2015.

21 3. In his Reply to Caroline D. Davis' *Opposition to the Motion To Dismiss*, which
22 was filed only two (2) days before the April 22, 2015 hearing, Christopher D. Davis first raised
23 the following issues:

24 (a) Tarja Davis, Christopher D. Davis' wife, was a beneficiary of the Beatrice B.
25 Davis Family Heritage Trust, dated July 28, 2000 (the "Trust") and did not consent
26 to the execution of the First Amendment or the transfer in situs;

27 (b) Alaska USA Trust Company, the prior trustee, resigned prior to the execution of
28 the First Amendment to the Trust, dated February 24, 2014 (the "First

9060 WEST CHEYENNE AVENUE
LAS VEGAS, NEVADA 89129
TELEPHONE (702) 863-5483
FACSIMILE (702) 863-5485
WWW.SDFNLAW.COM

SOLOMON
DWIGGINS & FREER
TRUST AND ESTATE ATTORNEYS



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

Amendment”), and did not provide its consent to execution of the First Amendment or the transfer in situs; and

(c) No advice of counsel was obtained for Alaska USA Trust Company prior to the execution of the First Amendment.

4. The District Court, at the April 22, 2015 Hearing, assumed jurisdiction over the Trust under the theory of “constructive trust”, more accurately called a “*de facto trust*”, because:

- (a) Stephen K. Lehnardt, the Trust Protector; Dunham Trust Company, located in Reno, Nevada (“Dunham”); and the Trust’s beneficiaries, namely, (i) Christopher D. Davis; (ii) Caroline D. Davis; (iii) and Winfield B. Davis, all consented to the execution of the First Amendment and to the transfer of the Trust’s situs from Alaska to Nevada;
- (b) Based upon a good faith reliance of the validity of the First Amendment, Dunham accepted tenure as Directed Trustee of the Trust and Alaska USA Trust Company resigned as Trustee;
- (c) Based upon such good faith reliance of the validity of the First Amendment, Dunham had been administering the Trust in Nevada for more than one (1) year;
- (d) Based upon a good faith reliance of the validity of the First Amendment, Christopher D. Davis accepted his appointment as Investment Trust Advisor pursuant to NRS 163.5543;
- (e) Based upon a good faith reliance of the validity of the First Amendment, Stephen K. Lehnardt accepted his appointment as Distribution Trust Advisor pursuant to NRS 163.5537;
- (f) Dunham thereafter created FHT Holdings, LLC, a Nevada limited liability company wholly owned by the Trust, and appointed Christopher D. Davis as the sole Manager thereof;
- (g) Christopher D. Davis has been acting as Investment Trust Advisor since his acceptance of such position;



- 1 (h) Christopher D. Davis has been acting as sole Manager of FHT Holdings, LLC
2 since his appointment of such position;
3 (i) There is no trustee in Alaska now serving, but rather, Dunham is currently serving
4 as Directed Trustee in Nevada; and
5 (j) The Court had no evidence before it, namely an affidavit of any other purported
6 beneficiary, that any other beneficiary was entitled to take under the Trust, and,
7 therefore entitled to notice or that such beneficiary's consent was required to
8 Transfer of the Trust's situs from Alaska to Nevada.

9 5. The District Court noted that it was appropriate to assume jurisdiction over the
10 Trust and its fiduciaries, Dunham and Christopher D. Davis, as all parties consented to the
11 execution of the First Amendment and to the transfer of the Trust's situs from Alaska to Nevada,
12 and all parties before the Court acted upon a good faith reliance with respect to the validity of the
13 First Amendment.

14 6. The District Court's Order, dated May 19, 2015, which was subsequently filed on
15 June 24, 2015 (the "May 19, 2015 Order"), assumed jurisdiction over the Trust to ensure that the
16 Trust was properly within a competent jurisdiction, and further to ensure that the Trust was not
17 adrift in that it would be left without a trustee.

18 7. The May 19, 2015 Order confirmed Christopher D. Davis as Investment Trust
19 Advisor and further required the production of all information in his possession, custody or
20 control in his role as Investment Trust Advisor, and in his role as Manager of FHT Holdings,
21 LLC, a Nevada limited liability company wholly owned by the Trust.

22 8. The District Court has now been presented with evidence in the form of a
23 Declaration of Tarja Davis, Christopher D. Davis' wife, indicating that Tarja Davis was married
24 to Christopher D. Davis on February 22, 2012, and that they were married on February 24, 2014,
25 that date the First Amendment was executed.

26 9. In response to the issues raised by Christopher D. Davis' in his Reply and the
27 Petition For Reconsideration, Caroline D. Davis submitted the following to the District Court:
28



- 1 (a) Article 14, Section 1(j) of the Trust, which specifically defines the term “spouse”,
2 requiring the marital union of a beneficiary and his or her spouse, if entered into
3 following the signing date of the Trust, to exist continuously for a period of ten
4 (10) years before such beneficiary’s spouse can qualify as a “spouse” under the
5 Trust;
- 6 (b) The Declaration Of Tarja Davis indicating that Tarja Davis and Christopher were
7 married following the signing date of the Trust, and have not been married for ten
8 (10) continuous years;
- 9 (c) A Resignation, Release, Acknowledgement, Consent And Indemnification, dated
10 February 24, 2014, with “RECITALS” providing that Alaska USA Trust Company
11 was the currently serving Trustee on the date the First Amendment was executed
12 and that Alaska USA Trust Company, as the Trustee, expressly consented to the
13 transfer of situs from Alaska to Nevada, which RECITAL is conclusively
14 presumed true under NRS 47.240(2);
- 15 (d) An Email from Dennis Brislawn, Esq. to: (i) Ms. Davis’ counsel, Joshua M. Hood,
16 Esq.; (ii) Shanna Corressel, Trust Office for Dunham; (iii) Stephen K. Lehnardt,
17 Trust Protector and Distribution Trust Advisor; and (iv) Ms. Davis, beneficiary of
18 the Trust, indicating that he had communicated with both Alaska USA Trust
19 Company and Dunham and provided an opinion of counsel; and
- 20 (e) An opinion of counsel drafted by Dennis Brislawn, Esq. pursuant Article 14,
21 Section 6 of the Trust, indicating that Nevada met the requirements of an
22 appropriate jurisdiction for the Trust, and that Nevada was, in fact, the superior
23 state for jurisdiction at the time.
- 24 10. Christopher D. Davis did not present sufficient new evidence or legal basis to
25 reconsider the May 19, 2015 Order.
- 26 11. Sufficient evidence has been submitted to the District Court that the First
27 Amendment, and consequently the transfer of the Trust’s situs, was valid.
- 28



1 12. Upon submission of Caroline D. Davis' showing regarding the validity of the First
2 Amendment and the proper transfer of the Trust's situs giving rise to the District Court's authority
3 to assume jurisdiction, the burden shifted to Christopher D. Davis to prove the invalidity of the
4 First Amendment and the transfer of situs.

5 13. Christopher D. Davis has not presented any evidence to support his contentions
6 regarding the invalidity of the First Amendment raised in his Reply and in his Petition For
7 Reconsideration.

8 14. Because Christopher D. Davis did not provide sufficient cause, the Petition For
9 Reconsideration should be denied.

10 15. *In personam* jurisdiction over Christopher D. Davis, as Manager of FHT Holdings,
11 LLC, was also proper under Fulbright & Jaworski v. Eighth Jud. Dist. Ct., 342 P.3d 997 (Nev.
12 2015) and Viega GmbH v. Eighth Jud. Dist. Ct., 328 P.3d 1152 (Nev. 2014), as he is the current
13 sole Manager of FHT Holdings, LLC, a Nevada limited liability company, doing business in
14 Clark County, Nevada, whose membership interest is wholly owned by the Trust and under
15 management by Christopher D. Davis, as Investment Trust Advisor.

16 16. The Court clarified the interlineations contained in the May 19, 2015 Order, and
17 the provision containing such interlineations should read as follows: "IT IS FURTHER
18 ORDERED, ADJUDGED AND DECREED that the Petition for Immediate Disclosure of
19 Documents and Information From Christopher D. Davis is granted as to all information in his
20 possession, custody, or control in his role as Investment Trust Advisor, and in his role as Manager
21 of FHT Holdings, LLC."

22 17. On July 30, 2015, Christopher D. Davis filed his Notice Of Appeal and Case
23 Statement, divesting the District Court of jurisdiction to further entertain any motions.
24 Notwithstanding, the District Court retains limited jurisdiction to entertain a party's motion to
25 alter, vacate or modify an order, hold a hearing on any such motions, and to certify its intent to
26 grant such requested relief if the matter is subsequently remanded pursuant to Huneycutt v.
27 Huneycutt, 94 Nev. 79, 575 P.2d 585 (1978) and Foster v. Dingwall, 126 Nev. 49, 228 P.3d 453
28 (2010).

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

SOLOMON
DWIGGINS & FREER
TRUST AND ESTATE ATTORNEYS

1 18. Because sufficient evidence supporting the validity of the First Amendment, as
2 well as the proper transfer of the Trust's situs from Alaska to Nevada has been submitted, the
3 District Court certified its intent to assume jurisdiction over the Trust as a proceeding *in rem*
4 pursuant to NRS 164.010 should the matter be remanded from the Supreme Court back to the
5 District Court.

6 19. The District Court executed its Certification Of Intent To Amend Order on
7 October 14, 2015, which was subsequently filed with the District Court on October 23, 2015.

8 20. On October 19, 2015 Caroline D. Davis filed her Motion For Remand To The
9 Eighth Judicial District Court (the "Motion For Remand").

10 21. On December, 9, 2015, the Nevada Supreme Court filed an Order (the "December
11 9, 2015 Order") granting the Motion For Remand for the limited purpose of allowing the District
12 Court to enter its Amended Order.

13 **ORDER**

14 As the Nevada Supreme Court has now remanded this matter back to the District Court for
15 the purpose of allowing the District Court to amend the May 19, 2015 Order, the District Court
16 hereby, grants the Motion To Amend May 19, 2015 Order, and amends the May 19, 2015 Order
17 as follows:

18 **IT IS HEREBY ORDERED** that Christopher D. Davis' *Petition for Reconsideration of*
19 *the Order Dated May 19, 2015 Re: Petition to Assume Jurisdiction over the Beatrice B Davis*
20 *Family Heritage Trust Dated July 28, 2000, as Amended on February 24, 2014, to Assume*
21 *Jurisdiction over Christopher D Davis as Investment Trust Advisor, Stephen K. Lehnardt as*
22 *Distribution Trust Advisor, to Confirm Dunham Trust Company as Directed Trustee, and for*
23 *Immediate Disclosure of Documents and Information from Christopher D Davis* is **DENIED** in
24 its entirety.

25 **IT IS HEREBY FURTHER ORDERED** that the Court assumes jurisdiction over the
26 Beatrice B. Davis Family Heritage Trust, dated July 28, 2000, as Amended on February 24, 2014,
27 as a proceeding *in rem* pursuant to NRS 164.010.
28

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

SOLOMON
DWIGGINS & FREER
TRUST AND ESTATE ATTORNEYS



1 **IT IS HEREBY FURTHER ORDERED** that Dunham Trust Company is confirmed as
2 the Directed Trustee.

3 **IT IS HEREBY FURTHER ORDERED** that Christopher D. Davis is confirmed as the
4 Investment Trust Advisor.

5 **IT IS HEREBY FURTHER ORDERED** that the Court shall abstain from assuming
6 jurisdiction over Stephen K. Lehnardt, in his capacity as Distribution Trust Advisor, until such
7 time that Caroline D. Davis provides a more definite statement or otherwise asserts a demand or
8 claim for relief against Stephen K. Lehnardt, in his capacity as Distribution Trust Advisor, at
9 which time this Court may assume personal jurisdiction over him.

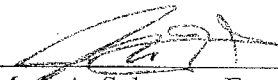
10 **IT IS HEREBY FURTHER ORDERED** that the Christopher D. Davis shall forthwith
11 produce to Caroline D. Davis' counsel any and all information in his possession, custody, or
12 control in his role as Investment Trust Advisor, and in his role as Manager of FHT Holdings,
13 LLC.

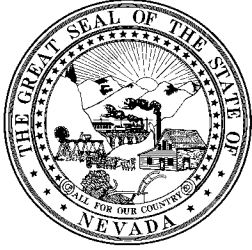
14 **IT IS HEREBY FURTHER ORDERED** that this Order shall amend the Court's Order
15 of May 19, 2015 consistent herewith.

16 Dated this 29th day of December, 2015.


DISTRICT COURT JUDGE

21 **Prepared and submitted by:**
22 **SOLOMON DWIGGINS & FREER, LTD.**

23 
24 _____
25 Mark A. Solomon, Esq. (Bar No. 0418)
26 Joshua M. Hood, Esq. (Bar No. 12777)
27 9060 West Cheyenne Avenue
28 Las Vegas, Nevada 89129
Telephone: (702) 853-5483
Facsimile: (702) 853-5485
Attorneys for Caroline D. Davis



Clerk of the Courts
Steven D. Grierson

200 Lewis Avenue
Las Vegas, NV 89155-1160
(702) 671-4554

January 4, 2016

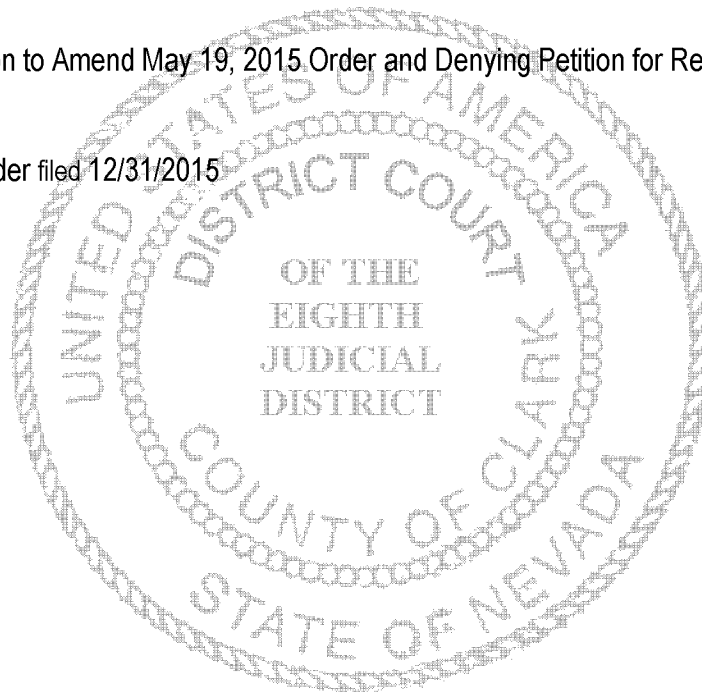
Case No.: P083867

CERTIFICATION OF COPY

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

Order Granting Motion to Amend May 19, 2015 Order and Denying Petition for Reconsideration filed
12/31/2015

Notice of Entry of Order filed 12/31/2015



now on file and of

In witness whereof, I have hereunto set my hand and affixed the seal of the Eighth Judicial District Court at my office, Las Vegas, Nevada, at 12:44 PM on January 4, 2016.



STEVEN D. GRIERSON, CLERK OF THE COURT