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3 **IN THE SUPREME COURT OF THE STATE OF NEVADA**

4 CHRISTOPHER D. DAVIS,

5 Appellant,

6 v.

7 CAROLINE DAVIS,

8
9 Respondent.

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Tracie K. Lindeman
Eighth Judicial District Court
Case No.: P-15-083867-1 (In re
the Beatrice B. Davis Family Heritage
Trust, dated July 28, 2000)

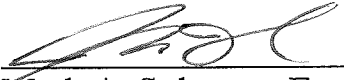
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11 **RESPONDENT'S ANSWERING BRIEF**

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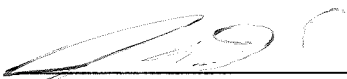
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1 **ATTORNEY'S CERTIFICATE PURSUANT TO NRAP 28.2**

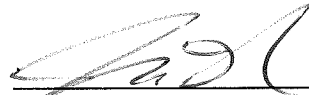
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- 6 unnecessary delay or needless increase in the cost of litigation.
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- 9 including the requirement of Rule 28(e) that every assertion in the briefs regarding
- 10 matter in the record to be supported by a reference to the page and volume number,
- 11 if any, of the appendix where the matter relied on is to be found.
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- 13 4. The brief complies with the formatting requirements of Rule 32(a)(4)-(6),
- 14 and either the page or type volume limitations stated in Rule 32(a)(7).
- 15

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STATEMENT OF THE CASE

This is a trust action commenced in the Eighth Judicial District Court, Probate Division (the “DC”) involving the Beatrice B. Davis Family Heritage Trust, dated July 28, 2000 (the “Trust”) and the First Amendment To The Beatrice B. Davis Family Heritage Trust, dated February 24, 2014 (the “First Amendment”). The First Amendment, *inter alia*, transferred the Trust’s situs from Alaska to Nevada, appointed Dunham Trust Company of Reno, Nevada (“Dunham”) as Directed Trustee, and appointed Christopher D. Davis (“Christopher”) as “Investment Trust Advisor” pursuant to NRS 163.5543 and designated him a “Fiduciary” under NRS 163.554.

Prior to filing the instant action with the DC, Caroline D. Davis (“Ms. Davis”), who is the primary beneficiary of fifty-percent (50%) of the Trust, sought information and documentation regarding the Trust, the assets thereof, and Christopher’s management of the assets and investments as Investment Trust Advisor. Ms. Davis requested the information from Christopher as he was designated as the Investment Trust Advisor, charged with the sole authority to manage the Trust’s investments, and is otherwise in possession of all current and historical information related to the Trust’s investments.

Christopher, however, failed to comply with Ms. Davis’ request and refused to disclose the information and documentation to which Ms. Davis is

1 entitled. Interestingly, after Ms. Davis filed her Original Petition, Christopher,
2 who: (1) acknowledged and consented to the First Amendment; (2) accepted to
3 serve as Investment Trust Advisor; and (3) submitted to the jurisdiction of the
4 State of Nevada pursuant to NRS 163.5555, began a course of action with the
5 ultimate purpose of delaying or avoiding disclosure. Notwithstanding
6 Christopher's integral role in transferring the situs of the Trust from Alaska to
7 Nevada and his appointment as Investment Trust Advisor, Christopher claims the
8 DC lacks subject matter jurisdiction, alleging that the First Amendment – and
9 consequently the transfer of situs and his appointment as Investment Trust
10 Advisor – was invalid, and that the DC lacks *in personam* jurisdiction over
11 Christopher and, therefore, the DC may not compel him to disclose the
12 information and documentation that Ms. Davis seeks.

17 Since the inception of this matter, Ms. Davis has had one goal: to obtain
18 the information and documentation to which she is entitled, and which must be
19 disclosed by Christopher as Investment Trust Advisor, who is a Fiduciary of the
20 Trust. Contrary to Christopher's assertions, Ms. Davis has not sought an
21 accounting, nor has she requested that Christopher perform any other acts other
22 than the disclosure of documents related to the Trust and its assets and
23 investments. Christopher, the Investment Trust Advisor, is charged with
24 managing all trust assets and investments, and has all of the requested
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1 information and documentation in his possession, custody, or control. Pursuant
2 to his fiduciary obligations, Christopher must disclose the same.

3
4 Notwithstanding Christopher's persistent attempts to divest the DC of any
5 and all jurisdiction, throughout the duration of this matter, the DC correctly
6 found: (1) the Trust's situs has been properly transferred from Alaska to Nevada;
7
8 (2) the DC has *in rem* jurisdiction over the Trust; (3) the DC has *in personam*
9 jurisdiction over Christopher, as the Investment Trust Advisor; and (4) the DC
10 may compel Christopher to disclose the information and documentation to which
11 Ms. Davis is entitled. As such, the relief Christopher seeks in his Writ of
12 Prohibition and/or Mandamus,¹ Opening Brief, and Supplemental Opening Brief
13 should be denied.
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16 **STATEMENT OF FACTS**

17 Beatrice B. Davis ("Beatrice") created the Trust on July 28, 2000, and
18 designated Alaska Trust Company ("ATC") to serve as the initial Trustee.² On
19 August 2, 2011, Stephen K. Lehnardt ("Mr. Lehnardt"), the Trust Protector,
20 removed ATC, and appointed Alaska USA Trust Company ("AUTC") to serve as
21 Trustee.³ Beatrice died on January 5, 2012,⁴ survived by her daughter, Ms.
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25 ¹ Emergency Writ Under NRAP 27(e) Petition For Writ Of Prohibition And/Or
26 Mandamus, filed with this Court on October 8, 2015 (the "Writ")

27 ² See, Appellant's Appendix ("Appendix") I: 3, ¶¶ 1, 6; *see also*, Appendix I: 16,
28 at § 1.

³ See, Appendix I: 3, ¶ 7; *see also*, Appendix I: 131.

1 Davis; her son, Christopher; and her grandson (Christopher's son), Winfield
2 Davis ("Winfield").⁵
3

4 The Trust was initially funded with an Ashley Cooper Life Insurance
5 Policy (the "Policy") with a face cover value of \$35,000,000.00.⁶ Section 10 of
6 the Policy permitted the owner thereof (i.e. AUTC) to obtain one (1) or more
7 policy loans, which AUTC did on September 2, 2011, when it entered into a
8 Policy Loan Revolving Line of Credit with Ashley Cooper (the "Policy Loan").⁷
9 Thereafter, AUTC took draws on the Policy Loan, and subsequently made loans
10 from the Trust to Christopher: (1) in his individual capacity; (2) in his capacity as
11 Trustee of the Beatrice B. Davis Revocable Trust, dated April 4, 1990, as
12 amended (the "Revocable Trust"); and (3) in his capacity as Manager of the
13 Davis Family Office, LLC, a Missouri limited liability company (the "DFO").⁸
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17 On February 24, 2014, Mr. Lehnardt, as Trust Protector, executed the First
18 Amendment for the purpose of "effectuat[ing] a change in situs, applicable state
19 law, trustee, capital and surplus requirements, and trust administration necessary
20 to accomplish the foregoing".⁹ In addition to changing the situs of the Trust from
21 Alaska to Nevada, the First Amendment effectively: (1) appointed Dunham to
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25 ⁴ See, Appendix I: 3, ¶ 2; Appendix I: 128-129.

26 ⁵ See, Appendix II: 286, lines 14-18.

27 ⁶ See, Appendix I: 5, ¶¶ 15, 16; *see also*, Appendix I: 148.

28 ⁷ See, Appendix I: 5-6 at ¶¶ 18, 19; Appendix I: 163, 179-180.

⁸ See, Appendix I: 6-7, ¶¶ 20-21.

⁹ See, Appendix I: 4, ¶ 9; *see also*, Appendix I: 135.

1 serve as Directed Trustee; and (2) appointed Christopher to serve as Investment
2 Trust Advisor pursuant to NRS 163.5543 and designated him as a “Fiduciary”
3 under NRS 163.554, “with the full power to manage the investments and
4 reinvestments of the trust...”¹⁰ It is important to note that all of the Trust’s
5 beneficiaries, including Christopher, acknowledged and consented to the terms
6 and provisions of the First Amendment.¹¹ Indeed, it was only pursuant to the
7 First Amendment that Christopher was appointed and became Investment Trust
8 Advisor of the Trust.¹² In addition to serving as Investment Trust Advisor,
9 Christopher also serves as the sole Manager of FHT Holdings, LLC, a Nevada
10 limited liability company wholly owned by the Trust, and which currently owns
11 the Trust’s primary asset (i.e. the Policy).¹³
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16 Prior to filing the instant action, Ms. Davis, by and through her counsel,
17 sent letters to Christopher and his counsel requesting information and
18 documentation related to the Trust, the Policy Loans, and the loans distributed
19 from the Trust.¹⁴ Based upon Christopher’s refusal to provide the information
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23 ¹⁰ See, Appendix I: 4, at ¶ 12; *see also*, Appendix I: 136-137.

24 ¹¹ See, Appendix I: 142, 143; Appendix II: 287, lines 8-9; *see also*, Respondent’s
25 Appendix, at RAPP 8.

26 ¹² See, Appendix I: 142, 143; Appendix II: 287, lines 8-9; *see also*, Respondent’s
27 Appendix, at RAPP 98.

28 ¹³ See, Appendix V: 729-739, specifically § 5.1; and 778-779.

¹⁴ See, Appendix IX: 1422: 17-20; *see also*, Respondent’s Appendix, at RAPP 15
– RAPP 21.

1 and documentation,¹⁵ Ms. Davis filed her Original Petition on February 10,
2 2015.¹⁶ Ms. Davis requested, *inter alia*, the DC to: (1) assume jurisdiction over
3 the Trust; (2) assume jurisdiction over Christopher, as Investment Trust Advisor;
4 (3) to confirm Dunham as Directed Trustee; and (4) to require Christopher to
5 disclose the information and documentation concerning the assets and
6 investments of the Trust, including the Policy Loan, the loans from the trust, the
7 recipients of such loans, the purpose, the repayment, and the collateral used to
8 obtain such loans.¹⁷

11
12 Upon filing her Original Petition, Ms. Davis served notice to all interested
13 parties as required by NRS 155.010.¹⁸ Christopher, who admittedly received
14 notice of the Original Petition,¹⁹ subsequently filed his Motion To Dismiss,
15 alleging that Ms. Davis failed to join indispensable parties; the DC lacked
16 jurisdiction over Christopher individually and as Investment Trust Advisor, lack
17 of proper service; and the failure to abide by the terms of the Trust in transferring
18 situs from Alaska to Nevada.²⁰

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24 ¹⁵ See, Respondent's Appendix, at RAPP 22 – RAPP 23

25 ¹⁶ See, Appendix I: 2-11.

26 ¹⁷ See, Appendix I: 10.

27 ¹⁸ See, Respondent's Appendix, at RAPP 24 – RAPP 38.

28 ¹⁹ See, Writ, at p. 4:7.

²⁰ See, Appendix II: 284-308; *see also*, Appellant's Opening Brief, at page 5, lines 5-15

1 Indeed, throughout the duration of this matter, Christopher has frivolously
2 argued that the DC lacks jurisdiction over the Trust and him because: (1) there is
3 an absence of subject matter jurisdiction due to the omission of certain conditions
4 precedent to the transfer of the Trust's situs;²¹ (2) Ms. Davis failed to add
5 indispensable parties;²² and (3) Ms. Davis failed to provide notice and/or service
6 to the parties.²³

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9 In support of his contention that the DC lacked subject matter jurisdiction
10 over the Trust, Christopher argues that the provisions setting forth the procedure
11 to transfer the situs "did not occur", and "the situs of the [Trust] remain[s]
12 Alaska".²⁴ Article Fourteen, Section 6 of the Trust, entitled "Changing the Trust
13 Situs", permits the Trust's situs to be changed upon: (1) "the unanimous consent
14 of all beneficiaries then eligible to receive mandatory or discretionary
15 distributions..."; (2) the consent of the Trust Protector and the Trustee; and (3)
16 the Trustee receiving an opinion of counsel regarding tax and other consequences
17 concerning the change in situs.²⁵

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25 ²¹ See, Appendix III: 452, lines 19-20.

26 ²² See, Appendix III: 461, lines 17-18

27 ²³ See, Appendix III: 461, lines 17-18, and 465, lines 11-12.

28 ²⁴ See, Appendix III: 453, lines 24-25.

²⁵ See, Appendix I: 110.

1 Notwithstanding Christopher's admission that the current beneficiaries of
2 the Trust are Ms. Davis, himself, and his son, Winfield,²⁶ Christopher asserted for
3 the first time in his Reply to Ms. Davis Opposition to the Motion To Dismiss that
4 the First Amendment is invalid because his wife, Tarja Davis ("Tarja"), did not
5 consent to the First Amendment.²⁷ Christopher also claimed that "there was no
6 acting Trustee" to consent to the transfer of the Trust's situs,²⁸ and that an
7 opinion of counsel regarding the tax and other consequences was never
8 obtained.²⁹

9 With respect to Christopher's contention that Tarja's consent was
10 necessary to effectively transfer the Trust's situs, the DC properly found that,
11 Tarja was not a beneficiary of the Trust because she did not qualify as a "spouse"
12 under Article 14, Section 1(j)³⁰ thereof (i.e. she has not been married to
13 Christopher for the required 10 consecutive years),³¹ and, therefore, her consent
14 was not required.³²

26 See, Appendix II: 286, lines 14-18.

27 See, Appendix III: 356, lines 13-18.

28 See, Appendix III: 356, lines 7-13.

29 See, Appendix III: 362, lines 22-24.

30 See, Appendix I: 107, (providing that a person who enters into a marital union with a child of the Settlor's, "may qualify as a 'spouse' if that if the (sic) marital union exists continuously for a period of ten years.")

31 See, Appendix III: 479-483.

32 See, Appendix IX: 1404, lines 10-24, and 1405, lines 8-9.

1 Contrary to Christopher's assertion that there was no acting Trustee to
2 provide consent, Ms. Davis pointed out to the DC that one of the documents
3 presented by Christopher contradicted this exact assertion.³³ Specifically, Ms.
4 Davis pointed out that the Resignation, Release, Acknowledgment, Consent and
5 Indemnification Agreement, attached as Exhibit 1 to Christopher's Motion To
6 Dismiss,³⁴ expressly provides that AUTC was the then-serving Trustee of the
7 Trust on February 24, 2014, the date which the situs was transferred, and that
8 AUTC, as Trustee, expressly consented to the same.³⁵

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12 In regard to Christopher's contention that advice of counsel was never
13 received, Ms. Davis provided to the DC an opinion letter from Dennis Brislawn,
14 Esq. ("Mr. Brislawn").³⁶ Specifically, the opinion letter provides that, "Nevada,
15 in [Mr. Brislawn's] opinion, meets the requirements of an appropriate jurisdiction
16 for [the Trust]. [Mr. Brislawn] reviewed documentation provided by the Trust
17 Protector, and the documents provided are in order to make this change in situs,
18 to provide required and appropriate notice, and to effectuate the change and to
19 comply with the law of the new situs."³⁷ Christopher attempts to convince the
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24 ³³ See, Appendix V: 801, lines 11-20.

25 ³⁴ See, Appendix II: 301-308.

26 ³⁵ See, Appendix II: 302-303 (providing that "AUTC is the currently serving
27 trustee of the Trust" and "AUTC and the Protector hereby consent to changing
the situs of the Trust from Alaska to Nevada.")

28 ³⁶ See, Appendix VIII: 1315-1319.

³⁷ See, Appendix VIII: 1318, fourth paragraph of opinion letter.

1 DC and this Court that AUTC was required to obtain an opinion letter from its
2 own independent counsel, as opposed to the counsel located for it by the Trust
3 Protector.³⁸ Article Fourteen, Section 6, however, does **not** require AUTC to
4 obtain an opinion of from “independent counsel” retained by AUTC.³⁹ After
5 receiving all of the above referenced information, the DC stated that it was “more
6 convinced than ever that this is where the jurisdiction is because [the DC]
7 believe[s] that the trust was properly changed to a Nevada trust with full notice to
8 the people who were entitled to get it...”⁴⁰

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12 Based upon the evidence presented to the DC by Ms. Davis throughout this
13 matter, and pursuant to this Court’s December 9, 2015 Order granting Ms. Davis’
14 Motion For Remand,⁴¹ the DC executed an Amended Order, which was filed in
15 the DC December 31, 2015 and filed with this Court on January 5, 2016.⁴² The
16 Amended Order amended the DC’s initial Order entered on July 1, 2015 (the
17 “Initial Order”),⁴³ which assumed jurisdiction over the Trust under the theory of
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23 ³⁸ See, Appendix IX: 1395, line 25 through 1396, lines 1-2; 1396, lines 11-14 *see*
24 *also*, Writ, at p. 4:1-2; and Appellant’s Opening Brief, at p. 4:11-14.

25 ³⁹ See, Appendix I: 110 (Section 6 of the Trust providing, in relevant part, that
26 consent of the Protector and Trustee may be given, “only after the Trustee has
27 obtained advice from counsel...”).

28 ⁴⁰ See, Appendix IX: 1451, lines 4-8.

⁴¹ See, Respondent’s Appendix, at RAPP 39 – RAPP 43.

⁴² See, Respondent’s Appendix, at RAPP 44 – RAPP 52.

⁴³ See, Appendix III: 441-445.

1 constructive trust, or more accurately described as a *de facto* trust.⁴⁴ The DC,
2 through its Amended Order, further found that “the First Amendment, and
3 consequently the transfer of the Trust’s situs, was valid”,⁴⁵ and assumed
4 jurisdiction over the Trust, as amended, as a proceeding *in rem* pursuant to NRS
5 164.010.⁴⁶

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8 While Christopher filed his Appeal and Case Appeal Statement pursuant to
9 NRS 155.190(1)(h), appealing the DC’s Initial Order, on July 30, 2015,⁴⁷ a stay
10 was not ordered by this Court until October 22, 2015.⁴⁸ Until such time as the
11 stay was implemented by this Court, Ms. Davis continued with discovery and
12 sought to enforce the DC’s Initial Order requiring Christopher to produce Trust
13 related documents in an effort to obtain the documents and information to which
14 she is entitled.⁴⁹ Contrary to Christopher’s assertion, Ms. Davis has consistently
15 sought only the non-privileged information concerning the Trust and the assets
16 and investments thereof⁵⁰ and not Christopher’s personal financial information
17 unrelated to the Trust.⁵¹

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23 ⁴⁴ See, Respondent’s Appendix, at RAPP 47, at ¶ 4.

24 ⁴⁵ See, Respondent’s Appendix, at RAPP 49, at ¶ 11.

25 ⁴⁶ See, Respondent’s Appendix, at RAPP 51, lines 25-27.

26 ⁴⁷ See, Appendix V: 680-683, and 685-700.

27 ⁴⁸ See, Respondent’s Appendix, at RAPP 106 – RAPP 108.

28 ⁴⁹ See, Appendix VI: 872-896, and 898-976; *see also*, Respondent’s Appendix, at RAPP 66 – RAPP 67; and RAPP 109 – RAPP 111.

⁵⁰ See, Appendix I: 10, ¶ 5; *see also*, Appendix VI: 872-878, VI: 898-976.

⁵¹ See, Appellant’s Opening Brief, at p. 1:9-11.

1 In response to Ms. Davis' continued discovery, Christopher and his
2 counsel filed objections, Petition to Stay Discovery, and Petition for Protective
3 Order from the subpoenas issued by Ms. Davis.⁵² At the September 16, 2015
4 hearing on Christopher's Petition to Stay Discovery, the DC granted, in part,
5 Christopher's counsel's objections, and limited the disclosure of documents
6 requested by Ms. Davis to those documents that are specifically related to the
7 Trust and the assets and investments thereof in order to ensure there would be no
8 intrusion into Christopher's personal documents.⁵³ At the September 30, 2015
9 hearing on Ms. Davis' motion to compel and contempt for failure to abide by the
10 Initial Order, the DC noted that Christopher was "directed to make disclosures"
11 and that he is "absolutely refusing to comply with any discovery" even though a
12 stay had not been ordered at that time.⁵⁴ Rather than hold Christopher in
13 contempt, the DC ordered the parties to establish a scheduling order⁵⁵ and
14 provide their initial disclosures by a date certain.⁵⁶

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20 Notwithstanding the fact that: (1) the DC specifically assumed jurisdiction
21 over Christopher in his role as Investment Trust Advisor;⁵⁷ (2) the DC found it
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24 ⁵² See, Appendix VII: 1120-1138 and 1140-1183; *see also*, Appendix V: 838-870.

25 ⁵³ See, Appendix IX: 1587, lines 23-25; 1589:9-14; 1590, lines 11-13 and lines
26 18-19; 1591, lines 2-3, lines 7-10, and lines 23-24.

27 ⁵⁴ See, Appendix X: 1639, lines 20-25 through 1640, line 1.

28 ⁵⁵ See, Appendix X: 1642, lines 16-19.

⁵⁶ See, Appendix X: 1646, lines 8-11; 1648, lines 9-10.

⁵⁷ See, Appendix III: 443, 22-24.

1 had jurisdiction over Christopher as the sole Manager of FHT Holdings, LLC, a
2 Nevada limited liability company wholly owned by the Trust;⁵⁸ and (3) the stay
3 from this Court had not been entered until October 22, 2015,⁵⁹ Christopher did
4 not produce the required documents pursuant to the Initial Order or DC's
5 direction and has intentionally failed to appear for his noticed deposition.⁶⁰
6

7
8 With respect to the Amended Order filed by the DC with this Court on
9 January 5, 2016,⁶¹ Christopher asserts that it contains erroneous findings of fact
10 and is, in and of itself, improper.⁶² The relevant facts related to the Amended
11 Order are as follows:
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13 On September 2, 2015, the DC heard oral arguments on Ms. Davis' Motion
14 To Amend and Christopher's Petition For Reconsideration.⁶³ Because the matter
15 was on appeal at that time, the DC did not grant any of the motions before it;
16 however, the DC did certify its intent that, if remanded, it would assume
17 jurisdiction over the Trust⁶⁴ and over Christopher, as Investment Trust Advisor.⁶⁵
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19 Based upon the Court's certification of its intent, on September 9, 2015, Ms.
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22 ⁵⁸ See, Appendix IX: 1468, at lines 12-17.

23 ⁵⁹ See, Respondent's Appendix, at RAPP 106 – RAPP 108.

24 ⁶⁰ See, Appendix VIII: 1359-1363.

25 ⁶¹ See, Respondent's Appendix, at RAPP 44 – RAPP 52.

26 ⁶² See, Appellant's Supplemental Opening Brief, p. 5:7-11; and p. 8:22-23.

27 ⁶³ See, Appendix IX: 1392-1476.

28 ⁶⁴ See, Appendix IX: 1457, lines 16-20 and 1458, lines 6-7.

⁶⁵ See, Appendix IX: 1460, lines 2-5 (indicating that it was "pretty clear [to the DC] to assume jurisdiction over Christopher Davis as investment trust advisor.").

1 Davis' counsel sent correspondence and a proposed draft of a Certification Of
2 Intent To Amend Order ("Certification Of Intent") to the DC for its review and
3 signature.⁶⁶
4

5 Having not received a response regarding the same, Ms. Davis' counsel
6 contacted a DC Law Clerk to determine the status of the DC's receipt and review
7 of the Certification Of Intent, to which Ms. Davis counsel was directed to provide
8 a copy of the Certification Of Intent to the DC in word format, which Ms. Davis'
9 counsel did.⁶⁷ The DC revised the Certification Of Intent, which was thereafter
10 provided to this Court on October 29, 2015.⁶⁸ The Certification Of Intent
11 submitted to this Court expressly provided that the DC would assume jurisdiction
12 over the Trust and grant any and all additional relief it deems proper.⁶⁹ Pursuant
13 to the Certification Of Intent and this Court's instruction to "ensure that this
14 [C]ourt has the [DC's] most updated explanation for its decisions",⁷⁰ the DC filed
15 its Amended Order on December 31, 2015, which was thereafter filed with this
16 Court on January 5, 2016.⁷¹
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21 STATEMENT OF THE ISSUES

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25 ⁶⁶ See, Respondent's Appendix: RAPP 68 – RAPP 83.

26 ⁶⁷ See, Respondent's Appendix: RAPP 84.

27 ⁶⁸ See, Respondent's Appendix: RAPP 85 – RAPP 105.

28 ⁶⁹ See, Respondent's Appendix: RAPP 93, lines 9-9.

⁷⁰ See, Respondent's Appendix: RAPP 40.

⁷¹ See, Respondent's Appendix: RAPP 44 – RAPP 55.

1. Does Christopher, as Investment Trust Advisor of a Nevada trust, have standing to appeal the DC's Initial Order under NRS 155.190(1)(h) or NRAP 3A(a)?

2. Did the DC err when it assumed *in personam* jurisdiction over Christopher, who acknowledged and consented to serve as Investment Trust Advisor of a Nevada trust under NRS 163.5543(a designated Fiduciary under NRS 163.554), and who submitted to the jurisdiction of the State of Nevada under NRS 163.5555?

3. Did the DC err in granting and filing the Amended Order, which, *inter alia*, assumed jurisdiction over the Trust as a proceeding *in rem* pursuant to NRS 164.010, and confirmed Christopher as the Investment Trust Advisor?

SUMMARY OF THE ARGUMENT

1. Christopher lacks standing to appeal the DC's Initial Order as NRS 155.190(1)(h) is expressly limited to the appeal of orders "instructing or appointing a trustee". Christopher, who is the Investment Trust Advisor of the Trust, is not the "trustee". Additionally, Christopher lacks standing to appeal the DC's Initial Order under NRAP 3A(a) as he is not an "aggrieved" party. Indeed, Christopher was integrally involved with the creation and implementation of the First Amendment, acknowledged and consented to serve as Investment Trust Advisor under NRS 163.5543, and expressly assumed the fiduciary duties that accompanied such capacity upon his acceptance to serve. Contrary to

1 Christopher's assertions, Ms. Davis has not sought any personal financial
2 information from Christopher unrelated to the Trust and his capacity as a
3 fiduciary thereof. Rather, Ms. Davis has consistently sought information and
4 documentation related to the Trust and the assets and investment thereof – the
5 assets that Christopher is charged with managing as Investment Trust Advisor,
6 and the information and documentation which he is required to disclose pursuant
7 to his fiduciary obligations.
8

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10 2. The DC did not err when it assumed *in persona* jurisdiction over
11 Christopher, as Investment Trust Advisor of a Nevada trust, as Christopher: (1)
12 submitted to the jurisdiction of the State of Nevada under NRS 163.5555; (2)
13 maintained systematic and continuous contact in the State of Nevada by virtue of
14 his tenure as Investment Trust Advisor of a Nevada trust and as sole Manager of
15 FHT Holdings, LLC, a Nevada limited liability company wholly owned by the
16 Trust, and enjoys the benefits and protections of the laws of the State of Nevada;
17 and (3) received sufficient notice as provided by Nevada law of the matter
18 reasonably calculated to apprise him of the same, and which notice also provided
19 him with sufficient time to appear and defend.
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23 3. The DC did not err in granting and filing the Amended Order. The DC
24 based its findings and orders on the pleadings, the evidence presented, and the
25 oral arguments of the parties' counsel throughout the duration of this matter.
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1 Indeed, the findings presented in the Amended Order are supported by the record,
2 and the orders contained therein are consistent with the same.

3 4 ARGUMENTS

5 **I. Christopher Lacks Standing To Appeal Under NRS 155.190(1)(h) And** 6 **Under NRAP 3A(a) & (b).**

7 **A. *Christopher Is Not A “Trustee” Entitled To Appeal The DC’s*** 8 ***Order Pursuant To NRS 155.190(1)(h).***

9 NRS 155.190, entitled “Appealable orders”, in relevant part, provides that
10 “an appeal may be taken to the appellate court of competent jurisdiction pursuant
11 to the rules fixed by the Supreme Court pursuant to Section 4 of Article 6 of the
12 Nevada constitution within 30 days after the notice of entry of an
13 order...instructing or appointing a trustee.” NRS 155.190(1)(h). It is important
14 to note that Christopher is the Investment Trust Advisor, and not the Trustee.
15

16 Although Christopher argues that DC “is, in effect, treating Christopher as
17 a trustee”,⁷² the DC has never made a finding or order that Christopher is
18 anything other than the Investment Trust Advisor.⁷³ Other than this misplaced
19 argument, Christopher has not cited any authority giving him, the Investment
20 Trust Advisor, the right to appeal under a statute specifically referencing a
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27 ⁷² See, Appellant’s Supplemental Opening Brief, at p. 29:4-5.

28 ⁷³ See, Appendix: III: 443, lines 22-24; see also, Respondent’s Appendix: RAPP
47, lines 17-19; RAPP 48, lines 18-19; RAPP 52, lines 3-4.

1 “trustee”. As such, Christopher lacks standing to appeal under NRS
2 155.190(1)(h).
3

4 ***B. The DC’s Initial Order And Amended Order Are Not Final,***
5 ***Appealable Orders Under NRAP 3A(b), And Christopher Is Not***
6 ***An “Aggrieved Party” Entitled To Appeal Under NRAP 3A(a).***

7 NRAP 3A(b), sets forth a list of specific determinations made in a civil
8 action that may be appealed. Nothing in NRAP 3A(b) authorizes Christopher, as
9 an Investment Trust Advisor, to appeal the Initial Order or the Amended Order.
10 Indeed, pursuant to NRAP 3A(b), only specific “orders” may be appealed.⁷⁴
11

12 As this Court has recognized, it is a “court of limited appellate jurisdiction.
13 Specifically, this court has jurisdiction to entertain an appeal only where an
14 appeal is authorized by statute or court rule.”⁷⁵ Although this Court has generally
15 “looked past labels in interpreting NRAP 3A(b)(1)”,⁷⁶ the Initial Order and
16 Amended Order are not final, appealable orders. Indeed, this Court has held that
17 “a final, appealable judgment [or order] is one that disposes of the issues
18 presented in the case [] and leaves nothing for the future consideration of the
19 court.”⁷⁷ The Initial Order and Amended Order are not “final” orders as they do
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25 ⁷⁴ See, NRAP 3A(b)

26 ⁷⁵ Valley Bank of Nevada v. Ginsburg, 110 Nev. 440, 444, 874 P.2d 729, 732
27 (Nev. 1994).

28 ⁷⁶ *Id.*, at 445, 874 P.2d, at 733.

⁷⁷ *Id.* (internal quotations omitted) (internal citations omitted).

1 not resolve the matters before the DC and “leave nothing for future
2 consideration” or are otherwise not “final judgments.”

3
4 Assuming arguendo that the Initial Order and/or the Amended Order is/are
5 substantively appealable under NRAP 3A(b), this Court has recognized that
6 “NRAP 3A(a) limits the rights of appeal to ‘part[ies] aggrieved’ by a district
7 court’s decision.”⁷⁸ “A party is ‘aggrieved’ within the meaning of NRAP 3A(a)
8 ‘when either a personal right or right of property is adversely and substantially
9 affected’ by the district court’s ruling.”⁷⁹ Christopher has no “personal rights” or
10 “rights of property” that stand to be adversely affected by the DC’s Initial Order
11 or Amended Order. Although Christopher has consistently misrepresented that
12 Ms. Davis is seeking his personal documents,⁸⁰ Ms. Davis has only ever sought
13 information related to the Trust and the assets and investments thereof,⁸¹ which
14 includes information in the Investment Trust Advisor’s records from entities
15 other than the Trust that concern or relate to any business transaction with the
16 Trust.⁸² Christopher, as Investment Trust Advisor, and a Fiduciary of the Trust,
17 cannot be said to be an “aggrieved” party when he expressly consented to act as
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23 ⁷⁸ *Id.*, at 446, 874 P.2d, at 734.

24 ⁷⁹ *Id.* (quoting Estate of Hughes v. First Nat’l Bank, 96 Nev. 178, 180, 605 P.2d
25 1146, 1150 (1980) (emphasis added).

26 ⁸⁰ See, Appellant’s Opening Brief, at p. 6:5; p. 20:20-21, p. 23:14-15; see also,
27 Appellant’s Supplemental Opening Brief, at p. 19:16; and p. 28:7-8.

28 ⁸¹ See, Appendix I: 10, ¶ 5.

⁸² See, Appendix: VI: 912-915 (subpoena requesting all non-privileged records
believed to be related to or concerning the Trust).

1 Investment Trust Advisor and assumed the fiduciary obligations accompanying
2 such position – i.e. the obligation of full disclosure.
3

4 Moreover, Christopher was integrally involved with the implementation of
5 the First Amendment and had full knowledge of the facts and circumstances⁸³
6 regarding: (1) his designation as a Fiduciary under NRS 163.554; (2) his
7 acceptance to serve as Investment Trust Advisor under NRS 163.5543; (3) his
8 submission to the jurisdiction of the State of Nevada under NRS 163.5555; and
9 (4) his consent to serve as the sole Manager of FHT Holdings, LLC, a Nevada
10 limited liability company wholly owned by the Trust. Being keenly aware of the
11 same, Christopher cannot, in good conscience, argue that he is an “aggrieved”
12 party when compelled to disclose documents relating to a trust of which he is a
13 Fiduciary. This, coupled with the fact that Ms. Davis is not seeking
14 Christopher’s personal financial information, refutes any contention that
15 Christopher is an “aggrieved” party within the meaning of NRAP 3A(a);
16 therefore, he lacks standing to appeal thereunder.
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21 **II. The DC Properly Assumed *In Personam* Jurisdiction Over**
22 **Christopher, As Investment Trust Advisor Of The Trust.**

23 In the event that this Court is inclined to entertain Christopher’s appeal
24 and/or his Writ, Christopher’s relief should nonetheless be denied as the DC
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27 ⁸³ See, Appendix V: 810, lines 10-20, and 811, lines 1-9; *see also*, Appendix V:
28 830-836.

properly assumed *in personam* jurisdiction over him, as Investment Trust Advisor.

A. Christopher Submitted To The Jurisdiction Of The State Of Nevada Upon His Acceptance To Serve As Investment Trust Advisor Of A Nevada Trust.

As fully set forth above, the First Amendment was validly executed and not only effectively transferred situs of the Trust from Alaska to Nevada,⁸⁴ but also appointed Christopher as “Investment Trust Advisor” under NRS 163.5543.⁸⁵ According to the First Amendment, Christopher was simultaneously designated as a “Fiduciary” of the Trust under NRS 163.554,⁸⁶ which includes the assumption of the fiduciary obligations accompanying such position.⁸⁷

Upon his acceptance to serve as Investment Trust Advisor, Christopher submitted to the jurisdiction of the State of Nevada under NRS 163.5555. NRS 163.5555 provides as follows:

“If a person accepts an appointment to serve as a trust protector or a trust adviser of a trust subject to the laws of this State, the person submits to the jurisdiction of the courts of this State,

⁸⁴ See, Appendix IX: 1451, lines 5-8; *see also*, Respondent’s Appendix: RAPP 49, at ¶ 11.

⁸⁵ See, Appendix I: 136-137.

⁸⁶ See, Appendix I: 136-137.

⁸⁷ “Once someone assumes a duty they would not otherwise have, either by contract or conduct, he or she may be held liable in tort if an injury results from a negligent performance of the assumed duty.” Robert T. McLean Irrevocable Trust v. Patrick Davis, P.C., 283 S.W.3d 786, 794 (Mo. Ct. App. 2009) (citing Bowan ex rel. Bowan v. Express Medical Transporters, Inc., 135 S.W.3d, 452, 457-458 (Mo. Ct. App. 2004).

1 regardless of any term to the contrary in an agreement or
2 instrument. A trust protector or a trust adviser may be made a party
3 to an action or proceeding arising out of a decision or action of the
4 trust protector or trust adviser.” (emphasis added).

5 Christopher’s acceptance to serve as Investment Trust Advisor, therefore,
6 satisfies his submission to the jurisdiction of the State of Nevada, and
7 consequently to the DC. Although Christopher has asserted that the DC never
8 made any findings that Christopher performed any “acts” which would permit
9 Ms. Davis to add Christopher as a party to this matter under NRS 163.5555,⁸⁸ the
10 Initial Order, drafted by Christopher’s counsel, specifically states that “IT IS
11 FOUND that since the first amendment, Christopher has been directing the trust
12 in Nevada...”⁸⁹ Moreover, Christopher did act in Nevada in April, 2014 when he
13 acted to obtain additional loans from the Trust to: (1) the Revocable Trust in the
14 amount of \$59,000.00; (2) the DFO in the amount of \$231,000.00; and (3)
15 himself in the amount of \$199,000.00, after the Trust was moved to Nevada.⁹⁰
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21 ⁸⁸ See, Writ, p. 5:13-14.

22 ⁸⁹ See, Appendix III: 443, lines 13-14.

23 ⁹⁰ See, Appendix V: 773-774 (April 9, 2014 email from Shanna Coressel,
24 Dunham Trust Officer, stating “Chris, I think you can take the proverbial ‘bull
25 by the horns’ and move forward with the funding you need.”); and Appendix
26 V: 776 (April 29, 2014 Email from Mr. Lehnardt to Shanna Coressel and
27 Christopher stating “Following is the amount of the interim draw request:
28 \$489,500. The allocation for existing FHT loan purposes is among:

Beatrice RLT \$59,000

LLC [DFO] \$231,000

1 Based upon the foregoing, Christopher expressly submitted to the jurisdiction of
2 the State of Nevada and to the jurisdiction of the DC.

3
4 ***B. Christopher Maintained Systematic And Continuous Contact***
5 ***With The State Of Nevada, Thereby Giving The DC Both General***
6 ***And Specific Personal Jurisdiction Over Him.***

7 Christopher has been serving as the Investment Trust Advisor of a Nevada
8 trust since February 24, 2014.⁹¹ Additionally, since March 28, 2014,
9 Christopher has been serving as the sole Manager of FHT Holdings, LLC, a
10 Nevada limited liability company that is wholly owned by the Trust.⁹² Indeed,
11 FHT Holdings, LLC, is the current owner of the Trust's primary asset (i.e. the
12 Policy).⁹³ As manager of FHT Holdings, Christopher has presumably filed
13 federal tax returns on behalf of said entity. Additionally, Christopher's service
14 as sole Manager of FHT Holdings, LLC vests in him the authority to: (1)
15 terminate the Policy;⁹⁴ (2) change the beneficiary;⁹⁵ and (3) make additional
16 loans from the Policy.⁹⁶ Christopher's continued service as Investment Trust
17 Advisor and sole Manager of FHT Holdings, LLC for over two (2) years thereby
18 constitutes substantial and minimum contacts with Nevada. As such,
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24 Chris (\$199,500").

25 ⁹¹ See, Appendix I: 135-144.

26 ⁹² See, Appendix V: 729-739 and 778-779.

27 ⁹³ See, Appendix V: 771.

28 ⁹⁴ See, Appendix I: 152, at § 2.2(d).

⁹⁵ See, Appendix I: 154, at § 2.10.

⁹⁶ See, Appendix I: 163, at § 10.2.

1 Christopher is subject DC's jurisdiction, and assumption of *in personam*
2 jurisdiction over him will not "offend traditional notions of fair play and
3 justice."⁹⁷
4

5 Christopher's two (2) year, continuous contacts with the State of Nevada
6 authorized the DC to assume general personal jurisdiction over him, as
7 Investment Trust Advisor. This Court has stated that "general personal
8 jurisdiction exists when the defendant's forum state activities are so substantial
9 or **continuous and systematic** that it is considered present in that forum and
10 thus subject to suit there, even though the suit's claims are unrelated to that
11 forum."⁹⁸ As such, Christopher's continued service as Investment Trust Advisor
12 of a Nevada trust and as sole Manager of a Nevada limited liability company
13 satisfies the requirements for general personal jurisdiction, even though the
14 information and documentation sought by Ms. Davis was generated outside of
15 the State of Nevada. To find otherwise would allow Christopher to be afforded
16 the protections of Nevada laws while skirting accountability for his actions.
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21 Additionally, the DC also has specific personal jurisdiction over
22 Christopher as the Investment Trust Advisor. As this Court has stated, "specific
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25 ⁹⁷ Fulbright & Jaworski v. Eighth Jud. Dist. Ct., 131 Nev. Adv. Op. 5, 342 P.3d
26 997 (Nev. 2015) (internal quotations omitted) (internal citations omitted)
27 (emphasis added).

28 ⁹⁸ Arbella Mut. Ins. Co. v. Eighth Judicial Dist. Court, 122 Nev. 509, 513, 134
P.3d 710, 712 (2006).

1 jurisdiction is proper only where the cause of action arises from the defendant's
2 contact with the forum.”⁹⁹ “In other words, in order to exercise specific personal
3 jurisdiction over a nonresident, the defendant must purposefully avail himself of
4 the privilege of acting in the forum state or of causing important consequences in
5 that state. The cause of action must arise from the consequences in the forum
6 state of the defendant's activities, and those activities, or the consequences
7 thereof, must have substantial enough connection with the forum state to make
8 the exercise of jurisdiction over the defendant reasonable.”¹⁰⁰

11
12 The requisites for specific personal jurisdiction over Christopher, as
13 Investment Trust Advisor, are satisfied in this matter. Christopher is the
14 Investment Trust Advisor and a Fiduciary¹⁰¹ of a Nevada trust, and has
15 purposefully availed himself of the privilege of serving in such capacity in the
16 State of Nevada.¹⁰² Indeed, it was Christopher's failure to provide the

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21 ⁹⁹ Fulbright, 342 P.3d, at 1002. (internal quotations omitted) (internal citations
22 omitted).

23 ¹⁰⁰ Fulbright, 342 P.3d, at 1002. (internal quotations omitted) (internal citations
24 omitted).

25 ¹⁰¹ NRS 163.554 defines a “Fiduciary” as “a trustee or custodian under any
26 instrument, or an executor, administrator or personal representative of a
27 decedent's estate or any other person, **including an investment trust adviser**,
28 trust protector or a trust committee which is acting in a fiduciary capacity for
any person, trust or estate.” (emphasis added).

¹⁰² *See*, Appendix I: 142 (Christopher's acknowledgment and consent to the First
Amendment and its terms, including designation of Christopher as Investment
Trust Advisor)

1 information and documentation of a Nevada trust that precipitated the instant
2 action in this State.

3
4 As a Fiduciary of this Nevada trust, Christopher also has fiduciary
5 obligations to the Trust and the beneficiaries thereof (i.e. Ms. Davis). According
6 to Black's Law Dictionary, a "fiduciary duty" is "[a] **duty to act** for someone
7 else's benefit, while subordinating one's personal interests to that of the other
8 person. It is the highest standard of duty implied by law (e.g. trustee,
9 guardian).¹⁰³

10
11
12 Although an investment trust advisor is not a "trustee", an investment
13 trust advisor's duties, including its fiduciary duties, "partake the nature of the
14 status and duties of a trustee..."¹⁰⁴ Christopher attempts to downplay the
15 importance of his role as Investment Trust Advisor by stating that "NRS §
16 163.5557(2) limits an investment trust adviser's powers..."¹⁰⁵ Christopher
17 conveniently omits the entirety of NRS 163.5557(2), which provides as follows:
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19

20 **"An investment trust adviser may exercise the powers provided to**
21 **the investment trust adviser in the instrument** in the best interests
22 **of the trust. The powers exercised by an investment trust adviser**
23 **are at the sole discretion of the investment trust adviser and are**
24 **binding on all other persons.** The powers granted to an investment
25 trust adviser may include, **without limitation**, the power to:

26 ¹⁰³ Black's Law Dictionary 625 (6th ed. 1990) (emphasis added).

27 ¹⁰⁴ Gathright's Trustee v. Gait, 276 Ky. 562, 562, 124 S.W.2d 782, 783 (Ky.
1939).

28 ¹⁰⁵ See, Appellant's Supplemental Opening Brief, at p. 21:4-5.

1 (a) Direct the trustee with respect to the retention, purchase, sale or
2 encumbrance of trust property and the investment and reinvestment of
principal and income of the trust.

3 (b) Vote proxies for securities held in trust.

4 (c) Select one or more investment advisers, managers or counselors,
5 including the trustee, and delegate to such persons any of the powers
of the investment trust adviser.”¹⁰⁶

6 The First Amendment expressly vests Christopher “with the full power to
7 manage the investments and reinvestments of the trust.”¹⁰⁷ Additionally, nothing
8 in NRS 163.5557 limits Christopher’s powers as specifically designated in the
9 First Amendment. Christopher, as the Investment Trust Advisor is vested with
10 the authority to direct a trustee, and approve or disapprove of the trustee’s actions
11 and must “conduct himself as a fiduciary” in such capacity.¹⁰⁸ As such,
12 Christopher, as a Fiduciary,¹⁰⁹ has a duty to fully disclose the documentation
13 within his possession, custody, or control related to the administration of the
14 Trust and all matters affecting Ms. Davis’ interest therein.¹¹⁰ Christopher’s
15 failure to disclose such information and documentation is what gives rise to the
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22 ¹⁰⁶ NRS 163.5557(2) (emphasis added).

23 ¹⁰⁷ See, Appendix I: 4, at ¶ 12; *see also*, Appendix I: 136-137.

24 ¹⁰⁸ Wilmington Trust Co. v. Stuart, 1983 WL 18030, *11 (Dec. Ch. 1983)
(recognizing that when an advisor has the authority to approve or disprove
25 actions of the trustee, the advisor is considered a fiduciary).

26 ¹⁰⁹ See, Appendix I: 136-137.

27 ¹¹⁰ Lasky, Haas, Cohler & Munter v. Superior Court, 172 Cal.App. 3d 264, 280,
218 Cal.Rptr. 205, 214 (Cal. Ct. App. 1985) (recognizing that fiduciary duties
28 of full disclosure extend to all trust records regarding the administration of the
trust).

1 cause of action in this State, and, therefore, satisfies specific personal jurisdiction
2 over Christopher.

3
4 In sum, both general and specific personal jurisdiction over Christopher are
5 appropriate because: (1) his service as Investment Trust Advisor of a Nevada
6 trust and sole Manager of a Nevada limited liability company wholly owned by
7 the trust for over two years is sufficient to satisfy minimum contacts with the
8 State of Nevada; (2) upon accepting to serve as Investment Trust Advisor,
9 Christopher purposefully availed himself of acting in such capacity in the State of
10 Nevada; and (3) Christopher's failure to fulfill his fiduciary obligations with
11 respect to a Nevada trust gave rise to the cause of action here in Nevada.
12
13

14 Indeed, no other jurisdiction exists, except for Nevada, in which to exert
15 specific or general jurisdiction over Christopher with respect to the information
16 and documentation requested by Ms. Davis.¹¹¹ This Court, as well as the United
17 Supreme Court have stated that "questions involving personal jurisdiction
18 mandate an inquiry into whether it is 'reasonable...to require [a party] to defend
19 the particular suit which is brought there.'"¹¹² The factors relevant to such inquiry
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24 ¹¹¹ See, Appendix IX: 1408, lines 1-2 (wherein the DC questions Christopher's
25 counsel "what's the jurisdiction of the [Alaska] Court over them there?
26 **None.**") (emphasis added).; *see also*, Appendix III: 423, lines 5-6, 8-10.

27 ¹¹² Trump v. Eighth Judicial Dist. Court of Nev. In and For County of Clark, 109
28 Nev. 687, 700, 857 P.2d 740, 748-749 (Nev. 1993) (quoting World-Wide Volkswagen Corp., 444 U.S. at 292, 100 S.Ct. at 564 (quoting International Shoe Co. v. Washington, 326 U.S. 310, 317, 66 S.Ct. 154, 158, 90 L.Ed. 95

1 are: “(1) the interstate judicial system’s interest in obtaining the most efficient
2 resolution of controversies; (2) the forum state’s interest in adjudicating the
3 dispute; (3) the plaintiff’s interest in obtaining convenient and effective relief;
4 and (4) the interest of the several states in furthering substantive social
5 policies.”¹¹³
6

7
8 Because the Trust is a Nevada trust, and Christopher, as Investment Trust
9 Advisor, is a Fiduciary of a Nevada trust, neither Alaska, Washington, Missouri,
10 nor any other jurisdiction, has an interest in adjudicating this proceeding, Nevada
11 is obviously the most efficient forum with a substantial interest in doing so. The
12 Trust is domiciled in Nevada and its fiduciaries are here (i.e. Dunham) or have
13 submitted to this State’s jurisdiction and maintained continuous and systematic
14 contacts (i.e. Christopher). Based upon the foregoing, the DC has both specific
15 and general personal jurisdiction over Christopher, as Investment Trust Advisor.
16 As such, Christopher’s contentions that the DC lacked *in personam* jurisdiction
17 should be denied.
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21 ***C. Christopher Received Adequate, Sufficient, And Timely Notice Of***
22 ***The Original Petition And His Due Process Rights Have Not***
23 ***Been Violated.***
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27 (1945)); *see also*, MGM Grand, Inc. v. District Court, 107 Nev. 65, 67, 807
28 P.2d 201, 202 (1991)).

¹¹³ Trump, 109 Nev., at 701, 857 P.2d, at 748-749 (citations omitted).

1 Christopher argues that before the DC could assume *in personam*
2 jurisdiction over Christopher, Ms. Davis must have personally served him rather
3 than comply with the notice requires set forth in NRS 155.010.¹¹⁴ In support of
4 such position, Christopher compares Ms. Davis' request for information and
5 documentation to that of a demand for an accounting from a trustee, which
6 requires service of a citation pursuant to NRS 153.041 and NRS 155.050.
7 Christopher's contention, however, is misplaced. While NRS 153.041 requires
8 personal service of a citation to compel a trustee to render an accounting, NRS
9 153.010 through NRS 153.130 are completely devoid of any requirement for
10 personal service to compel the disclosure of documents to which a beneficiary is
11 entitled.
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16 NRS 153.031(1), which is incorporated by NRS 164.005 and 164.015,
17 permits Ms. Davis to petition the DC to "compel compliance with the trust or
18 *other applicable law*"¹¹⁵ (i.e. to compel Christopher, as Investment Trust
19 Advisor, to comply with his fiduciary duty of full disclosure). NRS 153.031(2)
20 provides that Ms. Davis is required to give Christopher notice of the Original
21 Petition "in the manner provided in NRS 155.010."¹¹⁶ NRS 153.031(2) further
22 provides that "[t]he court *may* order such further notice to be given as may be
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27 ¹¹⁴ See, Appellant's Supplemental Opening Brief, at p. 17:1-12.

28 ¹¹⁵ See, NRS 153.031(1)(q) (emphasis added).

¹¹⁶ See, NRS 153.031(2).

1 proper.” The DC properly did not require Ms. Davis to provide any further
2 notice.

3
4 NRS 155.010(1), in relevant part, provides as follows:

5 “[e]xcept as otherwise provided in a *specific statute* relating to the
6 kind of notice required or *otherwise ordered by the court* in a
7 particular instance, a petitioner shall cause notice of the time and
8 place of the hearing of a petition to be given to each interested
9 person...[b]y mailing a copy thereof at least 10 days before the time
set for the hearing by certified, registered or ordinary first-class
mail...”¹¹⁷

10 Ms. Davis mailed notice of the Original Petition to Christopher at his Los
11 Angeles, California address and his Kansas City, Missouri addresses well in
12 advance of the hearing on the Original Petition.¹¹⁸ Indeed, Christopher
13 admittedly received such notice.¹¹⁹ Again, nothing in NRS 153.031 through NRS
14 153.130 require personal service of the Original Petition. In fact, NRS
15 153.031(2) simply requires that the Original Petition be mailed in accordance
16 with NRS 155.010, which it was. Indeed, Christopher has failed to cite any
17 applicable statutory authority or case law requiring any other type of service.
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21 “The fundamental requisite of due process is the opportunity to be
22 heard.”¹²⁰ It is undisputed that the notice provided to Christopher pursuant to
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26 ¹¹⁷ See, NRS 155.010(1)(a).

27 ¹¹⁸ See, Respondent’s Appendix: RAPP 24 – RAPP 38.

28 ¹¹⁹ See, Writ, at p. 4:7.

¹²⁰ See, Browning v. Dixon 114 Nev. 213, 217, 954 P.2d 741, 743 (Nev. 1998).

1 NRS 155.010 was reasonably calculated to apprise Christopher of the matter as
2 Christopher admitted to receiving such notice.¹²¹
3

4 The United States Supreme Court has recognized the sufficiency of service
5 of process on an out-of-state party by mail when done in conformity with a state
6 statute authorizing such service, and has held that such service complies with the
7 Due Process Clause of the Fourteenth Amendment. In McGee v. International
8 Life Ins. Co., 355 U.S. 220, 78 S.Ct. 199, 2 L.Ed.2d 223 (1957), the Supreme
9 Court found that a California statute authorizing service by mail provided the
10 “petitioner with a [] forum to enforce whatever substantive rights she might have
11 against the respondent. At the same time, respondent was given a reasonable
12 time to appear and defend on the merits after being notified of the suit.” *Id.*, at
13 224, 78 S.Ct., at 202.
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17 The United States Supreme Court has further held that, when a party
18 purposefully avails himself of the laws and protections of a state and maintains
19 sufficient minimum contact with such state, such purposeful availment “may give
20 rise to obligations; and, so far as those obligations arise out of or are connected
21 with the activities within the state, a procedure which requires the [party] to
22 respond to a suit brought to enforce them can, in most instances, hardly be said to
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28 ¹²¹ See, Writ, at p. 4:7.

1 be undue.”¹²² By accepting to serve as Investment Trust Advisor of a Nevada
2 trust, Christopher availed himself of the laws of the State of Nevada, including,
3 but not limited to, the notice requirements set forth in NRS 155.010, which are
4 reasonably calculated to apprise Christopher of the instant matter.¹²³
5

6 Indeed, this Court has recognized that service by mail “is reasonably
7 calculated...to apprise interested parties of the pendency of the action and afford
8 them an opportunity to present their objections.”¹²⁴ As such, upon accepting to
9 serve as Investment Trust Advisor of the Trust, Christopher also accepted to
10 receive notice pursuant to NRS 155.010. Notwithstanding the fact that
11 Christopher admittedly received Ms. Davis’ notice of the Original Petition,
12 Christopher has not cited to any applicable statutory authority or case law
13 mandating personal service in order for the DC to require him to disclose Trust
14 related information and documentation to which Ms. Davis is entitled. As such,
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20 ¹²²International Shoe Co. v. State of Wash., Office of Unemployment
21 Compensation and Placement, 320 U.S. 310, 319, 66 S.Ct. 154, 160, 90 L.Ed.
22 95 (1945).

23 ¹²³*See, Id.*, at 320, 66 S.Ct., at 160 (citations omitted) (the Supreme Court stating
24 that “[n]or can we say that the mailing of notice of suit to appellant by
25 registered mail at its home office was not reasonably calculated to apprise
26 appellant of the suit.”).

27 ¹²⁴Clint Hurt & Associates, Inc. v. Silver State Oil and Gas Co., Inc., 111 Nev.
28 1086, 1088, 901 P.2d 703, 705 (Nev. 1995) (citing Mullane v. Central Hanover
Tr. Co., 339 U.S. 306, 314, 70 S.Ct. 652, 657, 94 L.Ed. 865 (1950)); *see also*,
Swartz v. Adams, 93 Nev. 240, 243, 563 P.2d 74, 76 (Nev. 1977 (recognizing
that mailing notice of the sale of real property is an “effective way of ensuring
actual notice.”)).

1 Christopher's contention that since he was not personally served is without merit
2 and must be denied.
3

4 **III. Because The Amended Order Was Based Upon The Pleadings,**
5 **Evidence, Oral Arguments Of The Parties' Respective Counsel, Is**
6 **Supported By The Record, And Does Not Grant Any Additional**
7 **Relief, The DC Did Not Err In Granting The Amended Order.**

8 Subsequent to Christopher filing his Appeal, Ms. Davis filed her Motion
9 To Amend pursuant to NRCP 60(b) and Foster v. Dingwall.¹²⁵ NRCP 60(b), in
10 relevant part, provides that "[o]n motion and upon such terms as are just, the
11 court may relieve a party...from a final judgment, order, or proceeding for the
12 following reasons...(3) fraud (whether heretofore denominated as intrinsic or
13 extrinsic, misrepresentation or other misconduct of an adverse party." In her
14 Motion To Amend, Ms. Davis asserted that Christopher fraudulently
15 misrepresented the facts and circumstances regarding: (1) Tarja's status as a
16 beneficiary;¹²⁶ (2) the absence of an acting trustee to consent to the change of the
17 Trust's situs;¹²⁷ and (3) that an opinion of counsel was never obtained.¹²⁸

18 Because Christopher was integrally involved in the implementation and
19 execution of the First Amendment, and was fully aware of the facts and
20 circumstances regarding the same, Ms. Davis asserted that Christopher's
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26 ¹²⁵ 228 P.3d 453 (Nev. 2010).

27 ¹²⁶ See, Appendix V: 805, lines 21-22.

28 ¹²⁷ See, Appendix V: 807, lines 14-16.

¹²⁸ See, Appendix V: 809, lines 19-20.

1 assertions that the First Amendment was invalid were patently false.¹²⁹

2 Consequently, Ms. Davis requested that the DC certify its intent to grant Ms.

3 Davis' relief should the matter be remanded to the DC.¹³⁰

4
5 As a point of clarification for this Court, Christopher's repeated assertions
6 that Ms. Davis was "forced to acknowledge" that she was incorrect in asserting
7 that Christopher made fraudulent misrepresentations¹³¹ is misleading. The
8 withdrawn statements related to Ms. Davis' belief that Christopher raised new
9 arguments during the April 22, 2015 hearing,¹³² when in fact Ms. Davis
10 subsequently learned that they were raised in a reply brief that had not been seen
11 by Ms. Davis' counsel at the time of the hearing.¹³³ Indeed, the DC also
12 indicated that it did not receive Christopher's Reply.¹³⁴ Despite such fact,
13 because Christopher technically filed his Reply in accordance with the Nevada
14 Electronic Filing And Conversion Rules, Ms. Davis' counsel withdrew any
15 statements made in prior pleadings that related to newly raised arguments at the
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22 ¹²⁹ See, Appendix V: 803, lines 14-15; 810, lines 14-20; 811, lines 1-9; and 830-
23 836.

24 ¹³⁰ See, Appendix V: 813, ¶ 2; *see also*, Appendix IX: 1458, lines 6-7 (wherein
the DC stated "If it's remanded, we can take complete jurisdiction.").

25 ¹³¹ See, Writ, at p. 8:22 through p.9:1-4 Appellant's Opening Brief, at p. 7:14-17;
and Appellant's Supplemental Opening Brief, at p. 9:7-10.

26 ¹³² See, Appendix VIII: 1323-1357, generally.

27 ¹³³ See, Appendix VIII: 1325, lines 1-5.

28 ¹³⁴ See, Appendix VIII: 1325, lines 19-22; and 1357, line 9 (wherein the DC
stated "I have no Reply from Mr. Baney (sic).").

1 April 22, 2015 hearing and Christopher's failure to serve his Reply.¹³⁵ Ms. Davis
2 did not, however, withdraw any assertions that Christopher fraudulently
3 misrepresented the fact and circumstances regarding the execution and
4 implementation of the First Amendment.
5

6 Christopher also claims that the Certification Of Intent signed by the DC
7 was submitted to the DC ex parte.¹³⁶ As mentioned above, the DC indicated at
8 the September 2, 2015 hearing that it would certify its intent to amend the Initial
9 Order if the matter were remanded back to the DC.¹³⁷ Ms. Davis therefore
10 submitted a draft Certification Of Intent to the DC, which was
11 contemporaneously submitted to Christopher's counsel.¹³⁸ Upon Ms. Davis'
12 counsel requesting a status of the same from the DC Law clerk, the DC instructed
13 Ms. Davis' counsel to provide a copy of the same in word format so that it may
14 make the changes it deemed necessary.¹³⁹ The DC, on its own accord, revised
15 and executed the Certification Of Intent, a filed copy of which was attached to
16 Ms. Davis' Supplement to the Motion For Remand.¹⁴⁰
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21 Notwithstanding, on December 9, 2015, this Court entered an Order that
22 provided as follows: "In order to ensure that this court has before it the district
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25 ¹³⁵ See, Appendix VIII: 1326, lines 13-26.

26 ¹³⁶ See, Appellant's Supplemental Brief, at p. 4:8-12.

27 ¹³⁷ See, Appendix IX: 1457, lines 16-20 and 1458, lines 6-7.

28 ¹³⁸ See, Respondent's Appendix: RAPP 68 – RAPP 83.

¹³⁹ See, Respondent's Appendix: RAPP 84.

¹⁴⁰ See, Respondent's Appendix: RAPP 85 – RAPP 105, at Ex. 4.

1 court's most updated explanation for its decision, we grant the motion and
2 remand the matter to the district court pursuant to its certification for the limited
3 purpose of allowing the district court to enter its amended order."¹⁴¹ Based upon
4 this Court's express instruction for the DC to provide a detailed explanation of
5 the decisions it made, Ms. Davis' counsel drafted a detailed Amended Order and
6 submitted it to the DC.¹⁴² Upon the DC's review and acceptance of the terms of
7 the Amended Order, which were based upon the pleadings, evidence, and oral
8 arguments of the parties, the DC filed the Amended Order with this Court on
9 January 5, 2016.¹⁴³

13 Indeed, a closer look at the "Findings" presented in the Amended Order
14 illustrate that such findings were made and based upon the record. Without going
15 through each and every detail of the findings, below are examples of the findings
16 supported by the record (*see* footnotes referencing the record upon which the
17 findings are based):

20 *****

- 21 3. In his Reply to Caroline D. Davis' Opposition to the Motion To
22 Dismiss, which was filed only two (2) days before the April 22,
23 2015 hearing,¹⁴⁴ Christopher D. Davis first raised the following
24 issues:

26 ¹⁴¹ *See*, Respondent's Appendix: RAPP 40.

27 ¹⁴² *See*, Respondent's Appendix: RAPP 112 – RAPP 132.

28 ¹⁴³ *See*, Respondent's Appendix: RAPP 44 – RAPP 52.

¹⁴⁴ *See*, Appendix III: 351

1 (a) Tarja Davis, Christopher D. Davis' wife, was a
2 beneficiary of the Beatrice B. Davis Family Heritage
3 Trust, dated July 28, 2000 (the "Trust") and did not
4 consent to the execution of the First Amendment or the
transfer in situs;¹⁴⁵

5 (b) Alaska USA Trust Company, the prior trustee, resigned
6 prior to the execution of the First Amendment to the
7 Trust, dated February 24, 2014 (the "First Amendment"),
8 and did not provide its consent to execution of the First
Amendment or the transfer in situs;¹⁴⁶ and

9 (c) No advice of counsel was obtained for Alaska USA Trust
10 Company prior to the execution of the First
11 Amendment.¹⁴⁷

12 4. The District Court, at the April 22, 2015 Hearing, assumed
13 jurisdiction over the Trust under the theory of "constructive
14 trust"¹⁴⁸ more accurately called a "*de facto trust*", because:

15 (a) Stephen K. Lehnardt, the Trust Protector; Dunham Trust
16 Company, located in Reno, Nevada ("Dunham"); and the
17 Trust's beneficiaries, namely, (i) Christopher D. Davis;
18 (ii) Caroline D. Davis; (iii) and Winfield B. Davis, all
19 consented to the execution of the First Amendment and
to the transfer of the Trust's situs from Alaska to
Nevada;¹⁴⁹

20 (b) Based upon a good faith reliance of the validity of the
21 First Amendment, Dunham accepted tenure as Directed
22
23
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25 ¹⁴⁵ See, Appendix III: 356, lines 13-18.

26 ¹⁴⁶ See, Appendix III: 356, lines 7-13.

27 ¹⁴⁷ See, Appendix III: 362, lines 22-24.

28 ¹⁴⁸ See, Appendix III: 443, lines 18-19.

¹⁴⁹ See, Respondent's Appendix: RAPP 6 – RAPP 11; *see also*, Appendix II: 302-308.

1 Trustee of the Trust and Alaska USA Trust Company
2 resigned as Trustee;¹⁵⁰

3 (c) Based upon such good faith reliance of the validity of the
4 First Amendment, Dunham had been administering the
5 Trust in Nevada for more than one (1) year;¹⁵¹

6 (d) Based upon a good faith reliance of the validity of the
7 First Amendment, Christopher D. Davis accepted his
8 appointment as Investment Trust Advisor pursuant to
9 NRS 163.5543;¹⁵²

10 *****

11 (f) Dunham thereafter created FHT Holdings, LLC, a
12 Nevada limited liability company wholly owned by the
13 Trust, and appointed Christopher D. Davis as the sole
14 Manager thereof;¹⁵³

15 (g) Christopher D. Davis has been acting as Investment Trust
16 Advisor since his acceptance of such position;¹⁵⁴

17 (h) Christopher D. Davis has been acting as sole Manager of
18 FHT Holdings, LLC since his appointment of such
19 position;¹⁵⁵

20 (i) There is no trustee in Alaska now serving, but rather,
21 Dunham is currently serving as Directed Trustee in
22 Nevada;¹⁵⁶

23 ¹⁵⁰ See, Appendix III: 414, lines 14-18; 415, lines 18, 20-21; 418:10-14; and 419,
24 lines 8-12.

25 ¹⁵¹ See, Appendix III: 418: 11-14.

26 ¹⁵² See, Appendix III: 425, lines 17-25 through 426, line 1.

27 ¹⁵³ See, Appendix III: 354, lines 5-6; *see also*, Appendix V: 778-779.

28 ¹⁵⁴ See, Appendix III: 425, lines 21-23; 426, lines 18-24; 427, lines 24-25

¹⁵⁵ See, Appendix III: 354, lines 5-6; Appendix V: 778-779; Appendix V: 773-
774; and Appendix V: 776.

¹⁵⁶ See, Appendix III: 423, lines 8-10.

(j) The Court had no evidence before it, namely an affidavit of any other purported beneficiary, that any other beneficiary was entitled to take under the Trust, and, therefore entitled to notice or that such beneficiary's consent was required to Transfer of the Trust's situs from Alaska to Nevada.¹⁵⁷

5. The District Court noted that it was appropriate to assume jurisdiction over the Trust and its fiduciaries, Dunham and Christopher D. Davis,¹⁵⁸ as all parties consented to the execution of the First Amendment and to the transfer of the Trust's situs from Alaska to Nevada,¹⁵⁹ and all parties before the Court acted upon a good faith reliance with respect to the validity of the First Amendment.¹⁶⁰

6. The District Court's Order, dated May 19, 2015, which was subsequently filed on June 24, 2015 (the "May 19, 2015 Order"), assumed jurisdiction over the Trust to ensure that the Trust was properly within a competent jurisdiction, and further to ensure that the Trust was not adrift in that it would be left without a trustee.¹⁶¹

7. The May 19, 2015 Order confirmed Christopher D. Davis as Investment Trust Advisor and further required the production of all information in his possession, custody or control in his role as Investment Trust Advisor, and in his role as Manager of FHT Holdings, LLC, a Nevada limited liability company wholly owned by the Trust.¹⁶²

8. The District Court has now been presented with evidence in the form of a Declaration of Tarja Davis, Christopher D. Davis'

¹⁵⁷ See, Appendix III: 409, lines 14-15, line 19; 419, lines 5-8; and 432, lines 4-6.

¹⁵⁸ See, Appendix IX: 1459, lines 7-8; 1450, lines 12-14.

¹⁵⁹ See, Respondent's Appendix: RAPP 2 – RAPP 3, § SECOND; *see also*, Appendix II: 302-308

¹⁶⁰ See, Appendix III: 418, lines 10-14.

¹⁶¹ See, Appendix IX: 1405, lines 24-25 through 1406, lines 1-18; 1436, lines 11-12; and 1448, lines 20-25 through 1449, lines 1-10.

¹⁶² See, Appendix III: 443, lines 22-24; and 444, lines 4-7.

1 wife, indicating that Tarja Davis was married to Christopher D.
2 Davis on February 22, 2012, and that they were married on
3 February 24, 2014, that date the First Amendment was
executed.¹⁶³

4
5 9. In response to the issues raised by Christopher D. Davis' in his
6 Reply and the Petition For Reconsideration, Caroline D. Davis
submitted the following to the District Court:

7 (a) Article 14, Section 1(j) of the Trust, which specifically
8 defines the term "spouse", requiring the marital union of
9 a beneficiary and his or her spouse, if entered into
10 following the signing date of the Trust, to exist
11 continuously for a period of ten (10) years before such
beneficiary's spouse can qualify as a "spouse" under the
Trust;¹⁶⁴

12 (b) The Declaration Of Tarja Davis indicating that Tarja
13 Davis and Christopher were married following the
14 signing date of the Trust, and have not been married for
15 ten (10) continuous years;¹⁶⁵

16 (c) A Resignation, Release, Acknowledgement, Consent
17 And Indemnification, dated February 24, 2014, with
18 "RECITALS" providing that Alaska USA Trust
19 Company was the currently serving Trustee on the date
20 the First Amendment was executed and that Alaska USA
21 Trust Company, as the Trustee, expressly consented to
the transfer of situs from Alaska to Nevada, which
RECITAL is conclusively presumed true under NRS
47.240(2)¹⁶⁶

22 (d) An Email from Dennis Brislawn, Esq. to: (i) Ms. Davis'
23 counsel, Joshua M. Hood, Esq.; (ii) Shanna Corressel,
24

25 ¹⁶³ See, Appendix III: 479-480; *see also*, Appendix IX: 1445, lines 24-25 through
26 1446, line 1.

27 ¹⁶⁴ See, Appendix I: 107 (Section 14(1)(j) of the Trust).

28 ¹⁶⁵ See, Appendix III: 479-480; *see also*, Appendix IX: 1452, lines 1-3.

¹⁶⁶ See, Appendix II: 302-308; *see also*, Appendix V: 808, lines 12-16.

1 Trust Office for Dunham; (iii) Stephen K. Lehnardt,
2 Trust Protector and Distribution Trust Advisor; and (iv)
3 Ms. Davis, beneficiary of the Trust, indicating that he
4 had communicated with both Alaska USA Trust
5 Company and Dunham and provided an opinion of
6 counsel;¹⁶⁷ and

7 (e) An opinion of counsel drafted by Dennis Brislawn, Esq.
8 pursuant Article 14, Section 6 of the Trust, indicating that
9 Nevada met the requirements of an appropriate
10 jurisdiction for the Trust, and that Nevada was, in fact,
11 the superior state for jurisdiction at the time.¹⁶⁸

12 10. Christopher D. Davis did not present sufficient new evidence or
13 legal basis to reconsider the May 19, 2015 Order.¹⁶⁹

14 11. Sufficient evidence has been submitted to the District Court that
15 the First Amendment, and consequently the transfer of the
16 Trust's situs, was valid.¹⁷⁰

17 *****

18 17. On July 30, 2015, Christopher D. Davis filed his Notice Of
19 Appeal and Case Statement,¹⁷¹ divesting the District Court of
20 jurisdiction to further entertain any motions.¹⁷²
21 Notwithstanding, the District Court retains limited jurisdiction
22 to entertain a party's motion to alter, vacate or modify an order,
23 hold a hearing on any such motions, and to certify its intent to
24 grant such requested relief if the matter is subsequently
25 remanded pursuant to Huneycutt v. Huneycutt, 94 Nev. 79, 575
26 P.2d 585 (1978) and Foster v. Dingwall, 126 Nev. 49, 228 P.3d
27 453 (2010).

28 ¹⁶⁷ See, Appendix V: 803, lines 11-13; and 828.

¹⁶⁸ See, Appendix: VIII: 1318-1319 (the opinion letter from Mr. Brislawn).

¹⁶⁹ See, Appendix IX: 1449, lines 22-25 through 1450, line 1.

¹⁷⁰ See, Appendix IX: 1451, lines 4-10.

¹⁷¹ See, Appendix V: 679-683, and 684-700.

¹⁷² See, Appendix IX: 1449, lines 20-21.

1 18. Because sufficient evidence supporting the validity of the First
2 Amendment, as well as the proper transfer of the Trust's situs
3 from Alaska to Nevada has been submitted, the District Court
4 certified its intent to assume jurisdiction over the Trust as a
5 proceeding *in rem* pursuant to NRS 164.010 should the matter
be remanded from the Supreme Court back to the District
Court.¹⁷³

6 19. The District Court executed its Certification Of Intent To
7 Amend Order on October 14, 2015, which was subsequently
8 filed with the District Court on October 23, 2015.¹⁷⁴

9 As fully set forth above, and as reflected in the record, the findings set forth in
10 the Amended Order are consistent with the record and provide a detailed
11 explanation of the DC's decisions in this matter.
12

13 Christopher claims that the Amended Order, however, "should mirror, as
14 closely as possible, the certified intent of the court contained in the motion for
15 remand..."¹⁷⁵ What Christopher fails to acknowledge is the fact that this Court
16 directed the DC to provide it with a detailed explanation of the reason for its
17 decisions.¹⁷⁶ Indeed, the Amended Order could not have provided the detailed
18 explanation that this Court required if it simply mirrored the Certification of
19 Intent.
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25 ¹⁷³ See, Appendix IX 1458, lines 5-7 (wherein the DC stated "So I think we are
26 done. I think there's jurisdiction here. If it's remanded, we can take complete
jurisdiction.").

27 ¹⁷⁴ See, Respondent's Appendix: RAPP 85 – RAPP 105, at Ex. 4.

28 ¹⁷⁵ See, Appellant's Supplemental Opening Brief, at p. 12:18-19.

¹⁷⁶ See, Respondent's Appendix: RAPP 40.

1 Christopher also claims that the Amended Order exposes him to “a new
2 and entirely different source of damages.”¹⁷⁷ Christopher, however, has not
3 identified any new or different source of damages. The Amended Order does
4 nothing more than to accurately reflect the record, and properly assume
5 jurisdiction over the Trust and confirm the fiduciaries thereto.¹⁷⁸ Indeed, much
6 like the Initial Order, the Amended Order simply requires Christopher to disclose
7 the information in his possession, custody, and control as Investment Trust
8 Advisor and Manager of FHT Holdings, LLC, the Nevada limited liability
9 company which Christopher is the sole manager of, and which is wholly owned
10 by the Trust.¹⁷⁹

14 The Amended Order is consistent with this Court’s directive, and is based
15 upon the pleadings, evidence, and oral arguments presented to the DC throughout
16 this matter. The Amended Order simply sets forth a detailed explanation of the
17 DC’s findings on which it based its decisions, assumes jurisdiction over the Trust
18 in its entirety under NRS 164.010, confirms the Trust’s fiduciaries, and reiterates
19 Christopher’s duty to disclose the documents to which Ms. Davis is entitled to
20 receive. As such, the DC did not err in granting and filing the Amended Order.

24 **CONCLUSION**

26 ¹⁷⁷ See, Appellant’s Supplemental Opening Brief, at p. 10:1-2.

27 ¹⁷⁸ See, Respondent’s Appendix: RAPP 44 – RAPP 52.

28 ¹⁷⁹ Compare, Appendix III: 444, lines 4-7 Respondent’s Appendix: RAPP 52,
lines 10-13.

1 For the foregoing reasons, Ms. Davis respectfully requests that this Court
2 deny any and all claims for relief that Christopher has requested in his Writ, his
3 Opening Brief, and his Supplemental Opening Brief. Additionally, Ms. Davis
4 requests that this Court remand the matter back to the DC so that the DC may
5 adjudicate this matter as it deems proper and just.
6

7
8 Dated this 7th day of March, 2016.

9 Respectfully submitted by:

10 SOLOMON DWIGGINS & FREER, LTD.
11

12 

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