IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF THE W.N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST, DATED MAY 18, 1972,	Case No: P-09-066425-T Docket No: 73837
ELEANOR CONNELL HARTMAN AHERN, Appellant(s), vs. JACQUELINE M. MONTOYA; AND KATHRYN A. BOUVIER, Respondent(s),	

RECORD ON APPEAL
VOLUME
49

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32	07/31/2015	SUPPLEMENT TO MOTION FOR ASSESSMENT OF DAMAGES AGAINST ELEANOR AHERN; ENFORCEMENT OF NO CONTEST CLAUSE; AND SURCHARGE OF ELEANOR'S TRUST INCOME	6210 - 6258
21	01/20/2015	SUPPLEMENT TO MOTION TO AMEND PLEADINGS	4094 - 4118
20	01/12/2015	SUPPLEMENT TO REPLY IN SUPPORT OF COUNTERMOTION OF KATHRYN A. BOUVIER AND JACQUELINE M. MONTOYA	3987 - 4000

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21	01/12/2015	SUPPLEMENT TO REPLY IN SUPPORT OF COUNTERMOTION OF KATHRYN A. BOUVIER AND JACQUELINE M. MONTOYA FOR SUMMARY JUDGMENT ON PETITION FOR DECLARATORY JUDGMENT, FOR DAMAGES AND ASSESSMENT OF PENALTIES, AND FOR OTHER RELIEF; AND, OPPOSITION TO ELEANOR'S COUNTERMOTION FOR SUMMARY JUDGMENT (CONTINUATION)	4001 - 4032
35	11/02/2015	SUPPLEMENT TO REPLY IN SUPPORT OF MOTION FOR DISTRIBUTION OF TRUST INCOME	6809 - 6815
28	05/12/2015	SUR-REPLY TO MONTOYA AND BOUVIER'S REPLY IN SUPPORT OF MOTION FOR AWARD OF ATTORNEYS' FEES AND COSTS	5456 - 5460
34	10/12/2015	THIRD AMENDED NOTICE OF TAKING OUT-OF-STATE DEPOSITION OF JEFFREY JOHNSTON	6670 - 6672
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27	04/27/2015	TRANSCRIPT OF HEARING HELD ON APRIL 14, 2015	5365 - 5390
28	06/04/2015	TRANSCRIPT OF HEARING HELD ON APRIL 20, 2015	5535 - 5565
9	04/28/2014	TRANSCRIPT OF HEARING HELD ON APRIL 22, 2014	1640 - 1647
28	06/09/2015	TRANSCRIPT OF HEARING HELD ON APRIL 22, 2015 (CONTINUED)	5572 - 5600
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29	06/19/2015	TRANSCRIPT OF HEARING HELD ON FEBRUARY 18, 2015	5662 - 5668
38	03/29/2016	TRANSCRIPT OF HEARING HELD ON FEBRUARY 22, 2016 (CONTINUED)	7552 - 7600
39	03/29/2016	TRANSCRIPT OF HEARING HELD ON FEBRUARY 22, 2016 (CONTINUATION)	7601 - 7767
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29	07/06/2015	TRANSCRIPT OF HEARING HELD ON JANUARY 14, 2015 (CONTINUED)	5768 - 5800
30	07/06/2015	TRANSCRIPT OF HEARING HELD ON JANUARY 14, 2015 (CONTINUATION)	5801 - 5810
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3	12/06/2013	TRANSCRIPT OF HEARING HELD ON NOVEMBER 12, 2013 (CONTINUED)	564 - 600
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32	08/12/2015	TRUSTEE, FREDRICK P. WAID'S, PRODUCTION OF DOCUMENTS	6280 - 6282
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8	03/26/2014	VERIFICATION FOR PETITION FOR CONSTRUCTION AND EFFECT OF PROBATE COURT ORDER	1589 - 1590
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9	03/27/2014	VERIFICATION FOR PETITION FOR DETERMINATION OF CONSTRUCTION AND INTERPRETATION OF LANGUAGE RELATING TO TRUST NO. 2	1608 - 1609
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P-09-066425-T In the Matter of the Trust of:
The W.N. Connell and Marjorie T. Connell Living Trust, dtd May 18, 1972

I N D E X

VOL	DATE	PLEADING	PAGE NUMBER:
		DECLARATION OF THE APPLICABILITY OF THE DOCTRINE OF LACHES	

DISTRICT COURT
CLARK COUNTY, NEVADA

Probate - Trust/Conservatorships | **COURT MINUTES** | February 27, 2017

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

February 27, 2017 **10:55 AM** **Minute Order**

HEARD BY: Sturman, Gloria **COURTROOM:** RJC Courtroom 10D

COURT CLERK: Denise Duron

PARTIES:

David Mann, Other, not present	Pro Se
Eleanor Ahern, Petitioner, not present	Pro Se
Fredrick Waid, Trustee, not present	Todd Moody, Attorney, not present
Fredrick Waid, Trustee, not present	
Fredrick Waid, Trustee, not present	
Jacqueline Montoya, Other, Personal Representative, not present	Joseph Powell, Attorney, not present
Kathryn Bouvier, Other, not present	Joseph Powell, Attorney, not present
Kristin Woods, Guardian Ad Litem, not present	
Marquis Aurbach Coffing, Other, not present	Dale Hayes, Attorney, not present
Parties Receiving Notice, Other, not present	
The W.N. Connell and Marjorie T. Connell Living Trust, dtd May 18, 1972, Trust, not present	

JOURNAL ENTRIES

- Brownstein Hyatt Farber Schreck, LLP s Motion to Adjudicate Attorney s Lien came before the Court on February 22, 2017. Counsel presented their case and Court took the matter under advisement.

After carefully considering the papers submitted and hearing arguments, Court issued its Decision and Order this 23rd day of February, 2017. COURT ORDERED Motion for Attorney s Lien

Notice: Journal entries are prepared by the courtroom clerk and are not the official record of the Court.

GRANTED; fees are awarded in their entirety and costs are awarded upon receipt of supplement documentation in accordance with Cadle. See Court s Decision and Order for full content.

Mr. Lenhard is directed to provide prompt written Notice of Entry hereof.

CLERK'S NOTE: a copy of this minute order has been distributed to:

Barbara Clark, Legal Assistant bclark@albrightstoddard.com
G. Mark Albright, Esq. gma@albrightstoddard.com
Whitney B. Warnick wbw@albrightstoddard.com

Kirk B. Lenhard klenhard@bhfs.com

Todd Moody TMoody@hutchlegal.com

Fredrick P. Waid, Esq. fwaid@hutchlegal.com
Shaun L. Bruce sbruce@hutchlegal.com

Amber Anderson aanderson@hutchlegal.com
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John R. Mugan, Esquire john@jeffreyburr.com
Michael D. Lum, Esquire michael@jeffreyburr.com

Candice Renka crenka@marquisaurbach.com
Julia Rodionova jrodionova@maclaw.com

Probate probate@rushforthfirm.com

Joseph J. Powell probate@rushforthfirm.com

INTERIM CONDITIONS:

FUTURE HEARINGS:

DISTRICT COURT
CLARK COUNTY, NEVADA

Probate - Trust/Conservatorships | **COURT MINUTES** | March 13, 2017

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

March 13, 2017 **3:00 AM** **Minute Order**

HEARD BY: Sturman, Gloria **COURTROOM:** Chambers

COURT CLERK: ; Tena Jolley

PARTIES:

David Mann, Other, not present	Pro Se
Eleanor Ahern, Petitioner, not present	Pro Se
Fredrick Waid, Trustee, not present	Todd Moody, Attorney, not present
Fredrick Waid, Trustee, not present	
Fredrick Waid, Trustee, not present	
Jacqueline Montoya, Other, Personal Representative, not present	Joseph Powell, Attorney, not present
Kathryn Bouvier, Other, not present	Joseph Powell, Attorney, not present
Kristin Woods, Guardian Ad Litem, not present	
Marquis Aurbach Coffing, Other, not present	Dale Hayes, Attorney, not present
Parties Receiving Notice, Other, not present	
The W.N. Connell and Marjorie T. Connell Living Trust, dtd May 18, 1972, Trust, not present	

JOURNAL ENTRIES

- Various letters have been sent to the Court seeking to change the current status of distributions from the Trust. To the extent any party seeks to have the Court instruct the Trustee to take certain action a petition for instructions must be filed, served, and noticed for hearing in accordance with Nevada Revised Statutes Chapter 164. The Court cannot act upon informal requests.

Notice: Journal entries are prepared by the courtroom clerk and are not the official record of the Court.

INTERIM CONDITIONS:

FUTURE HEARINGS:

Notice: Journal entries are prepared by the courtroom clerk and are not the official record of the Court.

DISTRICT COURT
CLARK COUNTY, NEVADA

Probate - Trust/Conservatorships | **COURT MINUTES** | May 24, 2017

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

May 24, 2017 **10:30 AM** **Hearing**

HEARD BY: Sturman, Gloria **COURTROOM:** RJC Courtroom 10D

COURT CLERK: Lorna Shell

PARTIES:

David Mann, Other, not present	Pro Se
Eleanor Ahern, Petitioner, present	Pro Se
Fredrick Waid, Trustee, not present	Todd Moody, Attorney, not present
Fredrick Waid, Trustee, not present	
Fredrick Waid, Trustee, not present	
Jacqueline Montoya, Other, Personal Representative, not present	Joseph Powell, Attorney, present
Kathryn Bouvier, Other, not present	Joseph Powell, Attorney, present
Kristin Woods, Guardian Ad Litem, not present	
Marquis Aurbach Coffing, Other, not present	Dale Hayes, Attorney, not present
Parties Receiving Notice, Other, not present	
The W.N. Connell and Marjorie T. Connell Living Trust, dtd May 18, 1972, Trust, not present	

JOURNAL ENTRIES

- Upon inquiry by the court regarding her current address, Ms. Ahern stated it was 355 W. Mesquite Blvd. D30 #176, Mesquite NV 89027. Court reviewed Petitioner's request for forma pauperis with Ms. Ahern AND GRANTED; ORDER SIGNED IN OPEN COURT. Ms. Ahern requested a transcript of the current hearing and the hearings of February 9, 2017 and February 10, 2017, COURT SO ORDERED. Ms. Ahern requested additional funds from the trust to pay for dental surgery as the 2017 allotment was exhausted. Following colloquy with Mr. Waid, COURT FINDS Mr. Waid agreed

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to pay for the dental surgery from the trust providing Ms Ahern sign an agreement indicating the funds were not an income distribution, rather they would be a gift or accommodation to be backed up with invoices. Colloquy regarding the hearing aid expenses requested by Ms. Ahern. The parties STIPULATED there would be no hearing regarding the request for hearing aids providing both parties were to able to agree to the arrangements. Mr. Powell stated there was some confusion regarding the appeal Ms. Ahern filed against the order awarding fees to Brownstein Hyatt as it appeared to be an attempt to negate the order. Mr. Powell inquired if Ms. Ahern wanted Mr. Lenhard to remain as her attorney or if she was no pro se. Ms. Ahern stated he remained as her attorney. Mr. Powell stated he also received requests from Mont Tanner, Esq., who indicated he was her counsel of record; therefore Mr. Powell inquired if he was her attorney, upon which Ms. Ahern stated he was not. Court ADVISED Ms. Ahern to submit a request to the court for any payments to counsel and further noted it would be in the form of a petition for the trustee to submit funds on your behalf. Court further ADVISED any requests by Ms. Ahern must be noticed to all parties or they would be exparte and not considered.

INTERIM CONDITIONS:

FUTURE HEARINGS:

DISTRICT COURT
CLARK COUNTY, NEVADA

Probate - Trust/Conservatorships | **COURT MINUTES** | August 02, 2017

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

August 02, 2017 **11:00 AM** **Motion**

HEARD BY: Sturman, Gloria **COURTROOM:** RJC Courtroom 10D

COURT CLERK: Lorna Shell

PARTIES:

David Mann, Other, not present	Pro Se
Eleanor Ahern, Petitioner, present	Pro Se
Fredrick Waid, Trustee, present	Todd Moody, Attorney, present
Fredrick Waid, Trustee, not present	
Fredrick Waid, Trustee, not present	
Jacqueline Montoya, Other, Personal Representative, not present	Joseph Powell, Attorney, present
Kathryn Bouvier, Other, not present	Joseph Powell, Attorney, present
Kristin Woods, Guardian Ad Litem, not present	
Marquis Aurbach Coffing, Other, not present	Dale Hayes, Attorney, not present
Parties Receiving Notice, Other, not present	
The W.N. Connell and Marjorie T. Connell Living Trust, dtd May 18, 1972, Trust, not present	

JOURNAL ENTRIES

- Also present was Kirk Lenhard, Esq. and Emily Ellis, Esq. representing E. Ahern in the Supreme Court appeal of the trust.

Ms. Ahern requested a DVD and transcript of today's hearing, COURT SO ORDERED. Mr. Moody stated it was important for Ms. Ahern to appear in person today and that he'd made arrangements for a Bell Transfer, however she'd represented that she had her own transportation and yet she was

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appearing by video. Mr. Moody argued Ms. Ahern had top shelf representation to work out her settlements and now she was requesting for $100,000 from the trust to pay for another attorney. Mr. Moody stated he had not opposed; however he did not think it would be helpful and that it was his belief a guardian at Litem should be appointed. Mr. Powell agreed and further stated that Ms. Ahern had ample quality counsel to litigate her issues, that she had received a 65/35 split from the Supreme Court decision, and now it appeared she was seeking to re-litigate. Ms. Ahern argued that without an attorney she would be denied legal representation, that her current counsel was not representing her adequately, and that she needed protection from the lies and injustice her daughters had done to her. Court inquired what she needed an attorney to do for her at this time since the evidentiary hearing regarding damages resulted in the 65/35 split. Ms. Ahern stated her pleadings were sufficient. Mr. Moody stated today's pleadings did not appear to be prepared by the same person as they were hearing from today, that they were inflammatory, and that it appeared Ms. Ahern was surrounding herself with people who were taking advantage of her. Mr. Moody stated her age, sight, and hearing issues were additional reasons for a Guardian At Litem and noted Ms. Ahern also had looming Internal Revenue Service (IRS) issues. Mr. Moody stated Ms. Ahern sent a request for $170,000 for expenses in July and it appeared she needed assistance with a budget, someone to coordinate her medical care, and to make sure she wasn't taken advantage of. Court ADVISED Ms. Ahern regarding the duties of a guardian at Litem (GAL). Mr. Moody recommended Ms. Woods be appointed GAL and reviewed her credentials. Mr. Lenhard stated the trust settlement fell apart and he withdrew as counsel; however he'd stayed on in the appeal where her daughters were attempting to remove Ms. Ahern as a result of her misdeeds as trustee. Mr. Lenhard further stated that without his reply brief to protect her interest she would have been removed. Court ADVISED Ms. Ahern that Mr. Lenhard stayed on to represent her when her daughters where unhappy and wanted to disinherit her and now it appeared she was seeking to set aside this Court's decision to keep her in the trust and if they were to prevail, Ms. Ahern would be disinherited. Ms. Ahern argued she didn't need a GAL, she needed an attorney to protect her, that she took care of herself, and that poor hearing was not a crime. Ms. Ahern argued if a GAL was appointed she would be denied due process. Mr. Waid reviewed Ms. Ahern's expenses including the dental request and advised the Court of her significant IRS issues. Mr. Waid stated if Ms. Ahern were allowed to independently interact with the IRS without the advice of a GAL it would cause an undue burden on the trust. Mr. Waid further stated that based on Ms. Ahern's actions he would not release, without direction from the Court, confidential and sensitive financial business information to Ms. Ahern. COURT ORDERED, Kristin K. Woods APPOINTED as Temporary Guardian At Litem; Motion DENIED WITHOUT PREJUDICE. Mr. Waid requested the Countermotion regarding the return of property action be granted. Court ADVISED the GAL review and sign off on the motion AND FURTHER ORDERED, matter STAYED.

INTERIM CONDITIONS:

FUTURE HEARINGS:

Notice: Journal entries are prepared by the courtroom clerk and are not the official record of the Court.

Certification of Copy and Transmittal of Record

State of Nevada
County of Clark } **SS:**

Pursuant to the Supreme Court order dated September 7, 2017, I, Steven D. Grierson, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, do hereby certify that the foregoing is a true, full and correct copy of the complete trial court record for the case referenced below. The record comprises forty-nine volumes with pages numbered 1 through 9608.

In the Matter of the Trust of:

THE W.N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST, DATED MAY 18, 1972,

Case No: P-09-066425-T

Dept. No: FAMILY DOMESTIC

now on file and of record in this office.

IN WITNESS THEREOF, I have hereunto Set my hand and Affixed the seal of the Court at my office, Las Vegas, Nevada This 2 day of October 2017.

Steven D. Grierson, Clerk of the Court

Heather Ungermann, Deputy Clerk

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF THE W.N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST, DATED MAY 18, 1972,	Case No: P-09-066425-T Docket No: 73837
ELEANOR CONNELL HARTMAN AHERN, Appellant(s), vs. JACQUELINE M. MONTOYA; AND KATHRYN A. BOUVIER, Respondent(s),	

RECORD ON APPEAL
VOLUME
48

ATTORNEY FOR APPELLANT
ELEANOR C. AHERN, PROPER PERSON
355 W. MESQUITE BLVD., D30 #176
MESQUITE, NV 89027

ATTORNEY FOR RESPONDENT
JOSEPH J. POWELL
1707 VILLAGE CENTER CIR., STE. 150
LAS VEGAS, NV 89134

P-09-660425-T IN THE MATTER OF THE TRUST OF:
THE W.N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST, DTD MAY 18, 1972

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

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

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

I N D E X

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to speak[2].

A.14 After making such declaration, Ms. Ahern then made an oral request for the evidentiary hearing to be continued which the Court promptly denied[3].

A.15 At the evidentiary hearing commencing on February 9th, appearances and representations were as follows:

(a) The Movants were jointly represented by attorneys Joseph J. Powell and Daniel P. Kiefer of The Rushforth Firm, Ltd.;

(b) Ms. Ahern appeared *pro se*; and

(c) Mr. Waid, in his capacity as the acting trustee of the Trust, was represented by Todd L. Moody of Hutchison & Steffen, LLC.

A.16 The sole witness to provide testimony at the evidentiary hearing was Mr. Waid.

A.17 The issues to be determined at the evidentiary hearing were the determination of the compensatory damages owing to the Movants, via their beneficial interests in the MTC Trust, from Ms. Ahern and a determination as to whether exemplary damages would be awarded to the Movants based on Ms. Ahern's conduct and if appropriate the amount of such exemplary damages that was appropriate.

B. Findings Regarding Compensatory Damages

The Court makes the following findings and rulings in relation to compensatory damages:

B.1 Mr. Waid testified regarding the conclusions found in his Accounting and Report. As such, the Accounting and Report is accepted by the Court in its entirety and the findings and determinations therein relating to figures withheld from the MTC Trust beneficiaries, the Movants,

---

[2] MS. AHERN: Since I am not represented by counsel, I will not be speaking.

THE COURT: Okay. That's understood.

[3] MS. AHERN: I would like a continuance.

THE COURT: That's denied.

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by Ms. Ahern, are deemed accurate.

B.2 Specifically, between June of 2013 and the end of 2015 that the Movants, through distributions required to be given to the MTC Trust, were entitled to the sum of $3,956,550.

B.3 Further, for the period of June of 2013 through March 31, 2015, the Movants were entitled to the sum of $2,581,994.92.

B.4 Additionally, Mr. Waid made equitable adjustments of income, pursuant to guidance from the Court, after he became trustee in early April of 2015, thus reducing the amount owed to the Movants. As a result, the amount owed to Movants, through the MTC Trust, for the time period of June of 2013 through March 31, 2015, is $1,742,053.

B.5 Ms. Ahern offered no evidence to refute Mr. Waid's Accounting and Report nor his testimony regarding his thorough investigation and subsequent reporting of the findings regarding the same.

C. Findings Regarding Exemplary Damages

The Court makes the following findings and rulings in relation to exemplary damages:

C.1 The Movants have asked for this Court to award exemplary damages against Ms. Ahern based on her inappropriate conduct in this matter.

C.2 Based on all evidence received and reviewed at the various evidentiary hearings, including testimony of Mr. Waid, the Court finds that the imposition of punitive damages against Ms. Ahern based on her conduct are warranted.

C.3 Specifically, Ms. Ahern intentionally and fraudulently breached her fiduciary duties to the MTC Trust, and the Movants, as beneficiaries of the MTC Trust, and committed tortious acts in converting and embezzling Trust funds. Accordingly, the Court finds that Ms. Ahern acted with oppression, fraud, and malice.

C.4 Punitive damages are reserved for bad actors who deserve to be punished. *See Coughlin v. Hilton Hotels Corp.*, 879 F.Supp. 1047 (D. Nev. 1995) ("*punitive damages are not*

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designed to compensate the victim of a tortious act but rather to punish and deter oppressive, fraudulent or malicious conduct"). Ms. Ahern's actions deserve to be punished and rise to the level of her having acted with oppression, fraud, and malice.

C.5 This Court has the authority to award punitive damages "*in an action for the breach of an obligation not arising from contract, where it is proven by clear and convincing evidence that the defendant has been guilty of oppression, fraud, or malice.*" *See* NRS 42.005(1).

C.6 Once shown, a petitioner, "*in addition to the compensatory damages, may recover damages for the sake of example and by way of punishing the defendant ..... an amount equal to three times the amount of compensatory damages awarded to [Petitioner] if the amount of compensatory damages is $100,000 or more.*" *Id.*

C.7 The evidence presented at the various evidentiary hearings conclusively established that Ms. Ahern willfully and intentionally deceived this Court, and the Movants, by claiming, in a sworn declaration signed under oath, all funds that she was ordered (by the Court) to keep in trust during the pendency of the dispute were "intact and are presently being held in trust."

C.8 This Court previously held in its "Order Regarding Motion for Damages," that "*the account [Ms. Ahern] filed, under penalty of perjury on March 13, 2015, titled "Brief Regarding Accounting Fiduciary Duties, and Trust Administration" was incomplete and intentionally inaccurate.*"

C.9 In that same order, this Court determined that "*Ms. Ahern, as Trustee, did not comply with the Court order to protect the 65% share of the Trust that was to be segregated under the terms of the Trust for the Movants, Ms. Montoya and Ms. Bouvier.*"

C.10 Based on the evidence presented to this Court (i.e. the testimony of Mr. Waid at the hearings occurring on February 22, 2016 and February 9, 2017, together with the exhibits admitted at the same hearings, which include reports made by Mr. Waid), the Court finds that there is clear and convincing evidence that Ms. Ahern committed fraud, oppression, and malice.

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C.11 The following factual findings support the Court's findings of fraud, oppression, and malice:

1. Ms. Ahern filed, under penalty of perjury, an intentionally inaccurate accounting with the Court;

2. Ms. Ahern failed to keep funds which were in dispute—i.e. the income attributable to the MTC Trust's 65% share (the "Segregated Funds:)---- segregated despite Court order to do so (the "Segregation Order");

3. Ms. Ahern represented to the Court, under penalty of perjury, that she was complying with the Court's Segregation Order while she continuously (and secretly) removed large portions of the Segregated Funds from the Trust accounts;

4. Ms. Ahern claimed, under penalty of perjury, that $500,000 of the Segregated Funds were on deposit with Fidelity Capital Inc. The evidence and testimony in this matter demonstrate that this representation was and is false. There was never $500,000 on deposit with Fidelity Capital Inc.;

5. Ms. Ahern claimed, under penalty of perjury, that she rented office space for the Trust from Joseph's Properties at a cost of $1,750 per month pursuant to an alleged lease. The evidence and testimony in this matter demonstrate that this representation was and is false, and that Ms. Ahern never rented office space from Joseph's Properties;

6. While the Segregation Order was in place, Ms. Ahern paid $300,000 of Segregated Funds to Real Estate Services, a entity operated by Suzanne Nounna. Suzanne Nounna has no beneficial interest in the Trust or the MTC Trust;

7. Ms. Ahern withdrew a substantial amount of Segregated Funds from Trust

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accounts slightly before, on the day of, and shortly after her removal as trustee. Ms. Ahern made such withdrawals by use of cashier's checks. Mr. Waid testified that Ms. Ahern's use of cashier's checks was "severely reckless" and "troubling" because of such negotiable instrument's status as unprotected, uninsured, bearer paper;

8. Despite the Segregation Order, Ms. Ahern used Segregated Funds to pay hundreds of thousands of dollars in personal expenses;

9. On, or around, February 18, 2015, Ms. Ahern removed $1,287,580.85 of Segregated Funds held in a Wells Fargo Trust account by use of a cashier's check (the "February 2015 Cashier's Check").

10. After her removal as trustee of the Trust, Ms. Ahern attempted an "all cash" withdrawal of $100,000 from the Segregated Funds; and the Movant's share.

C.12 The Court and Mr. Waid provided Ms. Ahern ample opportunity to explain her actions described above and provide appropriate documentation to demonstrate any legitimate purpose for such actions. Ms. Ahern remained silent on these issues and failed to provide any financial documentation relevant to the above issues. More specifically, Ms. Ahern refused to cooperate with Mr. Waid's investigation into Trust assets that went missing during her tenure as trustee, and has willfully and intentionally obstructed and impeded the same.

C.13 The Court has no choice but to impose an adverse inference against Ms. Ahern pursuant to the standard set for by the Nevada Supreme Court in *Bass-Davis v. Davis*, 122 Nev. 442, 134 P.3d 103 (2006). Accordingly, the Court finds that any information and documentation which Ms. Ahern could have provided in relation to Mr. Waid's inquiry would have been adverse to her legal position. *See* id. at 451-52, 109.

C.14 In the absence of any evidence to the contrary, the Court finds that pursuant to NRS

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47.250(1) Ms. Ahern's unlawful acts of violating the Segregation Order by removing Segregated Funds "was done with an unlawful intent." Similarly, the Court must also find that pursuant to NRS 47.250(2) Ms. Ahern intended the "ordinary consequences" of her "voluntary acts" of repeatedly removing and withdrawing monies from the Segregated Funds----i.e. that she intended to disregard and violate the Segregation Order.

C.15 Based on the above, the Court hereby finds that Ms. Ahern's actions in relation to the Movants and the Segregated Funds were undertaken with an conscious disregard of the rights of the Movants and were clearly fraudulent.

C.16 Of the above described actions, the Court finds Ms. Ahern's actions in relation to the February 2015 Cashier's Check to be especially troubling and egregious. Although the funds associated with the February 2015 Cashier's Check were eventually recovered through diligent efforts of Mr. Waid, Ms. Ahern's use of this check was nonetheless reprehensible. Mr. Waid testified that such behavior was disturbing. The Court believes that such willful behavior and disregard of the Segregation Order needs to be discouraged, and clearly appears to have been intended to defraud the Trust and the Movants.

C.17 Having considered the totality of Ms. Ahern's wrongful acts, the adverse inference imposed against Ms. Ahern in accordance with *Bass-Davis v. Davis*, and the unrebutted presumptions set forth at NRS 47.250(1) and (2), the Court believes that the imposition of punitive damages in this matter is appropriate pursuant to NRS 42.005.

C.18 As the Court finds Ms. Ahern's actions in relations to the February 2015 Cashier's Check to be the most egregious and reprehensible of Ms. Ahern's conduct, the Court shall treble the amount of funds removed through the February 2015 Cashier's Check ($1,287,580.85) and award such as a punitive damage in favor of the Movants and against Ms. Ahern. Accordingly, the Court intends to award punitive damages against Ms. Ahern in the amount of ~~$3,862,742.55~~ (3 X ~~$1,287,580.85~~) $3,600,000

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C.19 The Court finds that the punitive damage award described above should be paid from and/or offset against Ms. Ahern's share of the Trust.

C.20 Given the anticipated compensatory damage award of $2,581,994.92, which would allow a possible punitive damages award in the amount of $7,745,984.76, the anticipated punitive damage award described above is well within the statutory bounds set forth in NRS 42.005(1)(a).

C.21 In accordance with, and in supplement to, the Order Regarding Motion for Damages, the Court finds that Ms. Ahern's share of the Trust shall remain in complete and entire suspension until all damages awarded herein (both compensatory and punitive damage awards), which shall include all relevant interest, fees, and costs, have been fully satisifed. Accordingly, the Movants shall receive all Trust income, with Mr. Waid calculating the relevant portion of Trust income which would otherwise be attributable to Ms. Ahern's 35% share, until such time as Ms. Ahern's debts and liabilities outlined herein are fully satisfied. The determination of whether Ms. Ahern's liabilities to the Movants has been fully satisfied by her 35% share of the Trust shall be made by Mr. Waid in his capacity as successor trustee of the Trust, except Ms. Ahern's GAL may petition the Court for distributions necessary for Ms Ahern's health, maintenance & welfare

D. FINDINGS REGARDING AWARD OF ATTORNEY'S FEES AND COSTS

The Court makes the following findings and rulings in relation to the Movants' request for an award of attorney's fees and costs:

D.1 An award of attorney's fees and costs is appropriate pursuant to NRS 153.031(3)(b) because:

1. The Movants' successfully moved the Court for relief "compelling redress of a breach of the trust" pursuant to NRS 153.031(1)(m); and
2. An award of fees and costs in this matter is necessary to "avoid an injustice" pursuant to NRS 153.031(3) because the Movants' relevant fees and costs are a direct and proximate result of Ms. Ahern's misconduct.

D.2 The Court shall entertain a motion for fees from the Movants which shall detail the

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reasonableness of the requested fees in accordance with the *Brunzell* factors; and

D.3 As the Court does not believe that the Movants' are entitled to an award of their fees and costs associated with the recently completed appeal in this matter, the motion for fees shall not include a request for such fees and costs.

E. JUDGMENT AGAINST ELEANOR CONNELL HARTMAN AHERN

E.1 Based on the above findings and rulings, the Court hereby ENTERS JUDGMENT FOR COMPENSATORY DAMAGES in favor of the MTC TRUST (of which JACQUELINE M. MONTOYA and KATHRYN A. BOUVIER are beneficiaries) and against ELEANOR CONNELL HARTMAN AHERN as follows:

1. Compensatory damages in the amount of $2,581,994.92;

2. A partial satisfaction of the above award shall be provided to ELEANOR CONNELL HARTMAN AHERN in the amount of $809,841.92 based on payments made by Mr. Waid in his role as successor trustee of the Trust to the MTC TRUST; accordingly, the current outstanding balance of the compensatory damages awarded above is $1,742,053;

3. In accordance with NRS 17.130(2) and NRS 99.040(1), pre-judgment and post-judgment interest shall accrue against this compensatory damage award at the statutory rate until fully satisfied;

4. In light of Mr. Waid's unique knowledge of the partial satisfaction described above, as well as his role as successor trustee, Mr. Waid shall determine and calculate the amount of relevant judgment interest associated with this compensatory damage award;

5. Ms. Ahern's share of the Trust shall remain in complete and entire suspension until all compensatory damages awarded herein have been fully satisfied; except for distributions allowed by the court upon petition by Ms Ahern's CEAL for her health maintenance & welfare.

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6. The MTC Trust shall receive all net Trust income, with Mr. Waid calculating the relevant portion of the Trust income which would otherwise be attributable to ELEANOR CONNELL HARTMAN AHERN's 35% share, until such time a this is fully satisfied; and

7. The determination of whether ELEANOR CONNELL HARTMAN AHERN's liability related to this compensatory damage award has been fully satisfied shall be made by Mr. Waid in his capacity as successor trustee of the Trust.

E.2 Based on the above findings and rulings, the Court hereby ENTERS JUDGMENT FOR PUNITIVE DAMAGES in favor of the MTC TRUST (of which JACQUELINE M. MONTOYA and KATHRYN A. BOUVIER are beneficiaries) and against ELEANOR CONNELL HARTMAN AHERN as follows:

1. Exemplary damages in the amount of $3,600,000 ~~862,742.55~~;

2. In accordance with NRS 17.130(2) and NRS 99.040(1), pre-judgment and post-judgment interest shall accrue against this exemplary damage award at the statutory rate until fully satisfied;

3. In light of Mr. Waid's unique role as successor trustee, Mr. Waid shall determine and calculate the amount of relevant judgment interest associated with this exemplary damage award;

4. Ms. Ahern's share of the Trust shall remain in complete and entire suspension until all compensatory damages awarded herein have been fully satisfied; save + except for allowed distributions upon petition of Ms Ahern's CAT;

5. The MTC Trust shall receive all Trust income, with Mr. Waid calculating the relevant portion of Trust income which would otherwise be attributable to ELEANOR CONNELL HARTMAN AHERN's 35% share, until such time as this is fully satisfied; and

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6. The determination of whether ELEANOR CONNELL HARTMAN AHERN's liability related to this exemplary damage award has been fully satisfied shall be made by Mr. Waid in his capacity as successor trustee of the Trust.

DISTRICT COURT JUDGE

August 4, 2017
Date

Submitted by:

THE RUSHFORTH FIRM, LTD.

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DISTRICT COURT

CLARK COUNTY, NEVADA

In the Matter of

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

A non-testamentary trust.

Case No. P-09-066425-T
Department: XXVI (Probate)

NOTICE OF ENTRY OF ORDER REGARDING MOTION FOR ASSESSMENT OF DAMAGES AGAINST ELEANOR AHERN

NOTICE IS HEREBY GIVEN THAT:

The "Order Regarding Motion for Assessment of Damages Against Eleanor Ahern" was filed on August 8, 2017, a copy of which is attached hereto.

Respectfully submitted by:

Joseph J. Powell
State Bar No. 8875

8/9/17
Date

RUSHFORTH LEE & KIEFER LLP TRUST AND ESTATE ATTORNEYS

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DISTRICT COURT

CLARK COUNTY, NEVADA

In the Matter of

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

A non-testamentary trust.

Case No. P-09-066425-T
Department: 26 (Probate)

Date of Hearing: February 9 -10, 2017

ORDER REGARDING MOTION FOR ASSESSMENT OF DAMAGES AGAINST ELEANOR AHERN

A. PROCEDURAL BACKGROUND/OVERVIEW

A.1 A "Motion for Assessment of Damages Against Eleanor Ahern; Enforcement of No Contest Clause; and Surcharge of Eleanor's Trust Income" ("the Motion") was filed on behalf of Jacqueline M. Montoya and Kathryn A. Bouvier ("Movants" or "Ms. Montoya and Ms. Bouvier") on June 3, 2015, and a Supplement to the Motion was filed on July 31, 2015. Ms. Montoya is the currently serving trustee of the MTC Living Trust, dated December 6, 1995, and subsequently restated in its entirety on October 3, 2000 ("MTC Trust"), and is also a beneficiary of the MTC Trust, while Ms. Bouvier is a beneficiary of the MTC Trust.

A.2 An opposition to the Motion was filed on behalf of Eleanor Connell Hartman Ahern

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("Ms. Ahern") on June 29, 2015, and a "Motion to Strike Supplement to Motion for Assessment of Damages Against Eleanor Ahern; Enforcement of No Contest Clause; and Surcharge of Eleanor's Trust Income" was filed on August 3, 2015.

A.3 An evidentiary hearing was held on February 22, 2016 and continued on March 3, 2016. On February 22, 2016 legal arguments were presented by all parties, and the testimony of two witnesses, Fredrick Waid and Jacqueline Montoya, was offered, and on March 3, 2016 closing arguments were made.

(a) Jacqueline M. Montoya and Kathryn A. Bouvier were jointly represented by attorneys Layne T. Rushforth, Joseph J. Powell, and Daniel P. Kiefer of The Rushforth Firm, Ltd.;

(b) Eleanor Connell Hartman Ahern ("Ms. Ahern") was represented by Tamara Beatty Peterson, Esq. and Kirk B. Lenhard, Esq., of Brownstein Hyatt Farber Schreck, LLP; and

(c) Fredrick P. Waid ("Mr. Waid"), in his capacity as the acting trustee of THE W.N. CONNELL and MARJORIE T. CONNELL LIVING TRUST, dated May 18, 1972 ("the Trust"), was represented by Todd L. Moody and Russel J. Geist of Hutchison & Steffen, LLC.

A.4 The result of the evidentiary hearing on February 22, 2016 and March 3, 2016 was the issuance of the "Order Regarding Motion for Assessment of Damages; Enforcement of No Contest Clause; and Surcharge of Trust Income", dated September 13, 2016 ("Order Regarding Motion for Damages").

A.5 The Order Regarding Motion for Damages included the following findings:

1. *Ms. Ahern, as Trustee, did not comply with the Court order to protect the 65% share of the Trust that was to be segregated under the terms of the Trust for the Movants, Ms. Montoya and Ms. Bouvier.*

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3. *Ms. Ahern's failure to comply with the Court's Order to protect the Movants' 65% share, however, resulted in a misapplication of the Trust income, which deprived the Movants of funds owed to them under the terms of the Trust. Ms. Ahern's misapplication of Trust funds warrants a surcharge against Ms. Ahern's 35% share of the Trust, to be paid to Movants, in a total amount to be determined at a future hearing to be set by this Court.*

4. *Additional briefing and argument is needed on the issues of punitive and treble damages. It is expected that the additional briefing on such damages, and the hearing on the total amount owed to Movants, will be scheduled after the Successor Trustee, Fredrick P. Waid ("Mr. Waid") finalizes his accounting for the Court.*

6. *In further violation of this Court's Orders, Ms. Ahern removed some funds from Trust accounts before turning those accounts over to the Successor Trustee, Mr. Waid. Some funds have since been turned over to the Successor Trustee, however, until such time as Mr. Waid can provide an Accounting the Court cannot rule on Ms. Ahern potential liability. The exact amount of any damages resulting from these serious breaches of fiduciary duty will be determined at a later evidentiary hearing.*

8. *Movant's seek punitive damages, which requires a finding of willful and malicious conduct. In the alternative, Movants seek treble damages for breach of fiduciary duty. Ms. Ahern's conduct was shocking and needs to be dealt with a serious fashion, but the final decision on whether punitive and/or treble damages should be awarded in addition to restitution will be made at the evidentiary hearing to be scheduled after Mr. Waid concludes*

discovery and prepares his report and accounting to the Court.

A.6 In the "Order" section of the Order Regarding Motion for Damages, it was stated that:

> *IT IS FURTHER ORDER ADJUDGED AND DECREED that Mr. Waid shall prepare a report and a trustee's account, and upon completion, a hearing on the amounts owed by Ms. Ahern, including any punitive and treble damages, shall be conducted, unless the parties stipulate otherwise.*

A.7 In compliance with this Court's Order Regarding Motion for Damages, on February 1, 2017, Mr. Waid filed his "Accounting and Report of Trust Activity from 2013 to 2015" ("Accounting and Report").

A.8 As it relates to his calculation of the amounts owed to the MTC Trust from Ms. Ahern, Mr. Waid made the following declarations and conclusions in his Accounting and Report:

> *Since the Appointment of the Successor Trustee in April 2015, this Court has issued numerous orders requiring Ms. Ahern to produce records, comply with deposition notices and cooperate with the Successor Trustee's efforts to prepare an accounting for time periods when she served as Trustee. In response to the Court's orders Ms. Ahern has produced, through her various counsel, only limited records primarily consisting of forwarded mail. She did not appear for any scheduled or ordered depositions notwithstanding the findings of the Court regarding fraud and other misconduct pursuant to hearings on the Motion to Enforce the Trust's No Contest Clause.*
>
> *Due to her failure to appear and cooperate as ordered, a significant portion of the transactional history that occurred during Ms. Ahern's tenure as trustee cannot be reconciled or explained. As such, and pursuant to Generally Accepted Accounting Principles (GAAP), the Successor Trustee is unable to this provide the*

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Court with definitive information or explain as to the greatly expanded Trust expenditures, either in dollars spent or to whom those dollars were paid, during the accounting period and Ms. Ahern's tenure as Trustee. [Pages 1- 2 of Accounting and Report]

****

Again, due to Ms. Ahern's failure to answer questions under oath, the rationale and basis for the expenditures remain unanswered and unclear. What is clear is that MTC did not receive a single distribution of royalty income from the Trust between June 2013 and April 2015. [Page 2 of Accounting and Report]

****

A significant number of expenses that were authorized by Ms. Ahern appear to have provided no benefit to the Trust and cannot be deemed appropriate, deductible business expenses as defined and permitted by the Internal Revenue Code. [Page 2 of Accounting and Report]

****

After reviewing available records from the Internal Revenue Service, various banks, oil and gas producers, common royalty recipients (i.e., the Miller family, which shares an equivalent 25% royalty interest as the Trust) and partial reconciliations completed by the accounting firm of Gamm et & King CP As, the Successor Trustee prepared the chart attached as Exhibit B, which sets forth the best available basis for calculation of royalties not paid to the MTC Trust, as required by the terms of the Trust and as determined by this Court's previous findings and orders.

MTC should have received royalty payments of $481,010 for 2013, $2,028,134 for2014 and $1,447,406 for 2015, totaling $3,956,550. MTC received

for the three (3) year period a total of $2,214,497, with $1,914,622 of the amount being paid after Ms. Ahern was removed as Trustee. The total undistributed royalties for the period is $1,742,053. [Page 2 - 3 of Accounting and Report]

A.9 On February 7, 2017, the Movants filed their Pre-Trial Memorandum, which set forth the amount of damages that the Movants were seeking to be awarded by the Court in light of Mr. Waid's computations and calculations as found in his Accounting and Report.

A.10 On or about February 8, 2017, Ms. Ahern submitted an *ex parte* request, via correspondence faxed to the Court, to have funds released by Mr. Waid from the Trust for the payment of her representation by Mr. Lawrence Semenza at the evidentiary hearing.

A.11 In response to Ms. Ahern's *ex parte* request for an order releasing funds, pursuant to a minute order issued on February 8, 2017, the Court granted Ms. Ahern's request for the release of funds directly to Attorney Semenza *"for his reasonable attorney's fees incurred for his representation of Ms. Ahern at the February 9th and 10th evidentiary hearing"*.

A.12 Prior to the start of the evidentiary hearing, Attorney Semenza indicated that he would be unable to represent Ms. Ahern under the circumstances and would have to respectfully decline to accept the representation despite the minute order issued by the Court[1].

A.13 Subsequent to Attorney Semenza making his decision, Ms. Ahern was informed by the Court of the situation and the fact that the evidentiary would proceed as scheduled. Ms. Ahern replied that because she would not be represented by counsel, she indicated that she was declining

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[1] MR. SEMENZA: I have not made an appearance, and I certainly cannot make an appearance under the terms that have been specified in the Court's order. Ms. Ahern, as you indicated last time, Your Honor, needs counsel, and apparently she does not have sufficient funds with which to engage counsel, whether it's me or someone else. And to me, for me to enter an appearance today and for tomorrow, assuming that the hearing were to continue that and then I don't know whether I would have to move the Court to withdraw since I --in for a pound, in for a penny, whatever. I cannot do that. It would be malpractice for me to step into this for a hearing this morning, Your Honor, and I cannot do so.

THE COURT: Okay. So you're respectfully declining to appear.

MR. SEMENZA: I am, Your Honor.

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to speak[2].

A.14 After making such declaration, Ms. Ahern then made an oral request for the evidentiary hearing to be continued which the Court promptly denied[3].

A.15 At the evidentiary hearing commencing on February 9th, appearances and representations were as follows:

(a) The Movants were jointly represented by attorneys Joseph J. Powell and Daniel P. Kiefer of The Rushforth Firm, Ltd.;

(b) Ms. Ahern appeared *pro se*; and

(c) Mr. Waid, in his capacity as the acting trustee of the Trust, was represented by Todd L. Moody of Hutchison & Steffen, LLC.

A.16 The sole witness to provide testimony at the evidentiary hearing was Mr. Waid.

A.17 The issues to be determined at the evidentiary hearing were the determination of the compensatory damages owing to the Movants, via their beneficial interests in the MTC Trust, from Ms. Ahern and a determination as to whether exemplary damages would be awarded to the Movants based on Ms. Ahern's conduct and if appropriate the amount of such exemplary damages that was appropriate.

B. Findings Regarding Compensatory Damages

The Court makes the following findings and rulings in relation to compensatory damages:

B.1 Mr. Waid testified regarding the conclusions found in his Accounting and Report. As such, the Accounting and Report is accepted by the Court in its entirety and the findings and determinations therein relating to figures withheld from the MTC Trust beneficiaries, the Movants,

---

[2] MS. AHERN: Since I am not represented by counsel, I will not be speaking.

THE COURT: Okay. That's understood.

[3] MS. AHERN: I would like a continuance.

THE COURT: That's denied.

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by Ms. Ahern, are deemed accurate.

B.2 Specifically, between June of 2013 and the end of 2015 that the Movants, through distributions required to be given to the MTC Trust, were entitled to the sum of $3,956,550.

B.3 Further, for the period of June of 2013 through March 31, 2015, the Movants were entitled to the sum of $2,581,994.92.

B.4 Additionally, Mr. Waid made equitable adjustments of income, pursuant to guidance from the Court, after he became trustee in early April of 2015, thus reducing the amount owed to the Movants. As a result, the amount owed to Movants, through the MTC Trust, for the time period of June of 2013 through March 31, 2015, is $1,742,053.

B.5 Ms. Ahern offered no evidence to refute Mr. Waid's Accounting and Report nor his testimony regarding his thorough investigation and subsequent reporting of the findings regarding the same.

C. Findings Regarding Exemplary Damages

The Court makes the following findings and rulings in relation to exemplary damages:

C.1 The Movants have asked for this Court to award exemplary damages against Ms. Ahern based on her inappropriate conduct in this matter.

C.2 Based on all evidence received and reviewed at the various evidentiary hearings, including testimony of Mr. Waid, the Court finds that the imposition of punitive damages against Ms. Ahern based on her conduct are warranted.

C.3 Specifically, Ms. Ahern intentionally and fraudulently breached her fiduciary duties to the MTC Trust, and the Movants, as beneficiaries of the MTC Trust, and committed tortious acts in converting and embezzling Trust funds. Accordingly, the Court finds that Ms. Ahern acted with oppression, fraud, and malice.

C.4 Punitive damages are reserved for bad actors who deserve to be punished. *See Coughlin v. Hilton Hotels Corp.*, 879 F.Supp. 1047 (D. Nev. 1995) ("*punitive damages are not*

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designed to compensate the victim of a tortious act but rather to punish and deter oppressive, fraudulent or malicious conduct"). Ms. Ahern's actions deserve to be punished and rise to the level of her having acted with oppression, fraud, and malice.

C.5 This Court has the authority to award punitive damages "*in an action for the breach of an obligation not arising from contract, where it is proven by clear and convincing evidence that the defendant has been guilty of oppression, fraud, or malice.*" *See* NRS 42.005(1).

C.6 Once shown, a petitioner, "*in addition to the compensatory damages, may recover damages for the sake of example and by way of punishing the defendant ..... an amount equal to three times the amount of compensatory damages awarded to [Petitioner] if the amount of compensatory damages is $100,000 or more.*" *Id.*

C.7 The evidence presented at the various evidentiary hearings conclusively established that Ms. Ahern willfully and intentionally deceived this Court, and the Movants, by claiming, in a sworn declaration signed under oath, all funds that she was ordered (by the Court) to keep in trust during the pendency of the dispute were "intact and are presently being held in trust."

C.8 This Court previously held in its "Order Regarding Motion for Damages," that "*the account [Ms. Ahern] filed, under penalty of perjury on March 13, 2015, titled "Brief Regarding Accounting Fiduciary Duties, and Trust Administration" was incomplete and intentionally inaccurate.*"

C.9 In that same order, this Court determined that "*Ms. Ahern, as Trustee, did not comply with the Court order to protect the 65% share of the Trust that was to be segregated under the terms of the Trust for the Movants, Ms. Montoya and Ms. Bouvier.*"

C.10 Based on the evidence presented to this Court (i.e. the testimony of Mr. Waid at the hearings occurring on February 22, 2016 and February 9, 2017, together with the exhibits admitted at the same hearings, which include reports made by Mr. Waid), the Court finds that there is clear and convincing evidence that Ms. Ahern committed fraud, oppression, and malice.

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C.11 The following factual findings support the Court's findings of fraud, oppression, and malice:

1. Ms. Ahern filed, under penalty of perjury, an intentionally inaccurate accounting with the Court;

2. Ms. Ahern failed to keep funds which were in dispute----i.e. the income attributable to the MTC Trust's 65% share (the "Segregated Funds:)---- segregated despite Court order to do so (the "Segregation Order");

3. Ms. Ahern represented to the Court, under penalty of perjury, that she was complying with the Court's Segregation Order while she continuously (and secretly) removed large portions of the Segregated Funds from the Trust accounts;

4. Ms. Ahern claimed, under penalty of perjury, that $500,000 of the Segregated Funds were on deposit with Fidelity Capital Inc. The evidence and testimony in this matter demonstrate that this representation was and is false. There was never $500,000 on deposit with Fidelity Capital Inc.;

5. Ms. Ahern claimed, under penalty of perjury, that she rented office space for the Trust from Joseph's Properties at a cost of $1,750 per month pursuant to an alleged lease. The evidence and testimony in this matter demonstrate that this representation was and is false, and that Ms. Ahern never rented office space from Joseph's Properties;

6. While the Segregation Order was in place, Ms. Ahern paid $300,000 of Segregated Funds to Real Estate Services, a entity operated by Suzanne Nounna. Suzanne Nounna has no beneficial interest in the Trust or the MTC Trust;

7. Ms. Ahern withdrew a substantial amount of Segregated Funds from Trust

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accounts slightly before, on the day of, and shortly after her removal as trustee. Ms. Ahern made such withdrawals by use of cashier's checks. Mr. Waid testified that Ms. Ahern's use of cashier's checks was "severely reckless" and "troubling" because of such negotiable instrument's status as unprotected, uninsured, bearer paper;

8. Despite the Segregation Order, Ms. Ahern used Segregated Funds to pay hundreds of thousands of dollars in personal expenses;

9. On, or around, February 18, 2015, Ms. Ahern removed $1,287,580.85 of Segregated Funds held in a Wells Fargo Trust account by use of a cashier's check (the "February 2015 Cashier's Check").

10. After her removal as trustee of the Trust, Ms. Ahern attempted an "all cash" withdrawal of $100,000 from the Segregated Funds; and the Movant's share.

C.12 The Court and Mr. Waid provided Ms. Ahern ample opportunity to explain her actions described above and provide appropriate documentation to demonstrate any legitimate purpose for such actions. Ms. Ahern remained silent on these issues and failed to provide any financial documentation relevant to the above issues. More specifically, Ms. Ahern refused to cooperate with Mr. Waid's investigation into Trust assets that went missing during her tenure as trustee, and has willfully and intentionally obstructed and impeded the same.

C.13 The Court has no choice but to impose an adverse inference against Ms. Ahern pursuant to the standard set for by the Nevada Supreme Court in *Bass-Davis v. Davis*, 122 Nev. 442, 134 P.3d 103 (2006). Accordingly, the Court finds that any information and documentation which Ms. Ahern could have provided in relation to Mr. Waid's inquiry would have been adverse to her legal position. *See* id. at 451-52, 109.

C.14 In the absence of any evidence to the contrary, the Court finds that pursuant to NRS

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47.250(1) Ms. Ahern's unlawful acts of violating the Segregation Order by removing Segregated Funds "was done with an unlawful intent." Similarly, the Court must also find that pursuant to NRS 47.250(2) Ms. Ahern intended the "ordinary consequences" of her "voluntary acts" of repeatedly removing and withdrawing monies from the Segregated Funds----i.e. that she intended to disregard and violate the Segregation Order.

C.15 Based on the above, the Court hereby finds that Ms. Ahern's actions in relation to the Movants and the Segregated Funds were undertaken with an conscious disregard of the rights of the Movants and were clearly fraudulent.

C.16 Of the above described actions, the Court finds Ms. Ahern's actions in relation to the February 2015 Cashier's Check to be especially troubling and egregious. Although the funds associated with the February 2015 Cashier's Check were eventually recovered through diligent efforts of Mr. Waid, Ms. Ahern's use of this check was nonetheless reprehensible. Mr. Waid testified that such behavior was disturbing. The Court believes that such willful behavior and disregard of the Segregation Order needs to be discouraged, and clearly appears to have been intended to defraud the Trust and the Movants.

C.17 Having considered the totality of Ms. Ahern's wrongful acts, the adverse inference imposed against Ms. Ahern in accordance with *Bass-Davis v. Davis*, and the unrebutted presumptions set forth at NRS 47.250(1) and (2), the Court believes that the imposition of punitive damages in this matter is appropriate pursuant to NRS 42.005.

C.18 As the Court finds Ms. Ahern's actions in relations to the February 2015 Cashier's Check to be the most egregious and reprehensible of Ms. Ahern's conduct, the Court shall treble the amount of funds removed through the February 2015 Cashier's Check ($1,287,580.85) and award such as a punitive damage in favor of the Movants and against Ms. Ahern. Accordingly, the Court intends to award punitive damages against Ms. Ahern in the amount of ~~$3,862,742.55~~ (3 X ~~$1,287,580.85~~) $3,600,000

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C.19 The Court finds that the punitive damage award described above should be paid from and/or offset against Ms. Ahern's share of the Trust.

C.20 Given the anticipated compensatory damage award of $2,581,994.92, which would allow a possible punitive damages award in the amount of $7,745,984.76, the anticipated punitive damage award described above is well within the statutory bounds set forth in NRS 42.005(1)(a).

C.21 In accordance with, and in supplement to, the Order Regarding Motion for Damages, the Court finds that Ms. Ahern's share of the Trust shall remain in complete and entire suspension until all damages awarded herein (both compensatory and punitive damage awards), which shall include all relevant interest, fees, and costs, have been fully satisifed. Accordingly, the Movants shall receive all Trust income, with Mr. Waid calculating the relevant portion of Trust income which would otherwise be attributable to Ms. Ahern's 35% share, until such time as Ms. Ahern's debts and liabilities outlined herein are fully satisfied. The determination of whether Ms. Ahern's liabilities to the Movants has been fully satisfied by her 35% share of the Trust shall be made by Mr. Waid in his capacity as successor trustee of the Trust, except Ms. Ahern's GPA may petition the Court for distributions necessary for Ms Ahern's health, maintenance & welfare

D. FINDINGS REGARDING AWARD OF ATTORNEY'S FEES AND COSTS

The Court makes the following findings and rulings in relation to the Movants' request for an award of attorney's fees and costs:

D.1 An award of attorney's fees and costs is appropriate pursuant to NRS 153.031(3)(b) because:

1. The Movants' successfully moved the Court for relief "compelling redress of a breach of the trust" pursuant to NRS 153.031(1)(m); and
2. An award of fees and costs in this matter is necessary to "avoid an injustice" pursuant to NRS 153.031(3) because the Movants' relevant fees and costs are a direct and proximate result of Ms. Ahern's misconduct.

D.2 The Court shall entertain a motion for fees from the Movants which shall detail the

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reasonableness of the requested fees in accordance with the *Brunzell* factors; and

D.3 As the Court does not believe that the Movants' are entitled to an award of their fees and costs associated with the recently completed appeal in this matter, the motion for fees shall not include a request for such fees and costs.

E. JUDGMENT AGAINST ELEANOR CONNELL HARTMAN AHERN

E.1 Based on the above findings and rulings, the Court hereby ENTERS JUDGMENT FOR COMPENSATORY DAMAGES in favor of the MTC TRUST (of which JACQUELINE M. MONTOYA and KATHRYN A. BOUVIER are beneficiaries) and against ELEANOR CONNELL HARTMAN AHERN as follows:

1. Compensatory damages in the amount of $2,581,994.92;
2. A partial satisfaction of the above award shall be provided to ELEANOR CONNELL HARTMAN AHERN in the amount of $809,841.92 based on payments made by Mr. Waid in his role as successor trustee of the Trust to the MTC TRUST; accordingly, the current outstanding balance of the compensatory damages awarded above is $1,742,053;
3. In accordance with NRS 17.130(2) and NRS 99.040(1), pre-judgment and post-judgment interest shall accrue against this compensatory damage award at the statutory rate until fully satisfied;
4. In light of Mr. Waid's unique knowledge of the partial satisfaction described above, as well as his role as successor trustee, Mr. Waid shall determine and calculate the amount of relevant judgment interest associated with this compensatory damage award;
5. Ms. Ahern's share of the Trust shall remain in complete and entire suspension until all compensatory damages awarded herein have been fully satisfied; except for distributions allowed by the court upon petition by Ms Ahern, ESQ for her health maintenance & welfare.

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6. The MTC Trust shall receive all net Trust income, with Mr. Waid calculating the relevant portion of the Trust income which would otherwise be attributable to ELEANOR CONNELL HARTMAN AHERN's 35% share, until such time a this is fully satisfied; and

7. The determination of whether ELEANOR CONNELL HARTMAN AHERN's liability related to this compensatory damage award has been fully satisfied shall be made by Mr. Waid in his capacity as successor trustee of the Trust.

E.2 Based on the above findings and rulings, the Court hereby ENTERS JUDGMENT FOR PUNITIVE DAMAGES in favor of the MTC TRUST (of which JACQUELINE M. MONTOYA and KATHRYN A. BOUVIER are beneficiaries) and against ELEANOR CONNELL HARTMAN AHERN as follows:

1. Exemplary damages in the amount of $3,~~862,742.55~~ 6,000,000;

2. In accordance with NRS 17.130(2) and NRS 99.040(1), pre-judgment and post-judgment interest shall accrue against this exemplary damage award at the 5 statutory rate until fully satisfied;

3. In light of Mr. Waid's unique role as successor trustee, Mr. Waid shall determine and calculate the amount of relevant judgment interest associated with this exemplary damage award;

4. Ms. Ahern's share of the Trust shall remain in complete and entire suspension until all compensatory damages awarded herein have been fully satisfied; save + except for allowed distributions upon petition of Ms Ahern's CAB;

5. The MTC Trust shall receive all Trust income, with Mr. Waid calculating the relevant portion of Trust income which would otherwise be attributable to ELEANOR CONNELL HARTMAN AHERN's 35% share, until such time as this is fully satisfied; and

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6. The determination of whether ELEANOR CONNELL HARTMAN AHERN's liability related to this exemplary damage award has been fully satisfied shall be made by Mr. Waid in his capacity as successor trustee of the Trust.

DISTRICT COURT JUDGE

August 4, 2017
Date

Submitted by:

THE RUSHFORTH FIRM, LTD.

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and Kathryn A. Bouvier

DISTRICT COURT
CLARK COUNTY, NEVADA

In the Matter of

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

A non-testamentary trust.

Case No. P-09-066425-T
Department: 26 (Probate)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of Rushforth Lee & Kiefer LLP, and pursuant to NCRP 5(b), EDCR 8.05, Administrative Order 14-2, and NEFCR 9, I caused a true and correct copy of the **NOTICE OF ENTRY OF ORDER REGARDING MOTION FOR ASSESSMENT OF DAMAGES AGAINST ELEANOR AHERN** to be submitted electronically for filing and service with the Eighth Judicial District Court via the Court's Electronic Filing System on the 9th day of August, 2017, to the following:

Todd Moody, Esq.
Hutchison & Steffen LLC
10080 W. Alta Drive #200
Las Vegas, Nevada 89145
Attorneys for Fredrick Waid
via Tmoody@hutchlegal.com

and I additionally sent a copy of the **NOTICE OF ENTRY OF ORDER REGARDING MOTION FOR ASSESSMENT OF DAMAGES AGAINST ELEANOR AHERN** to each person named below by first-

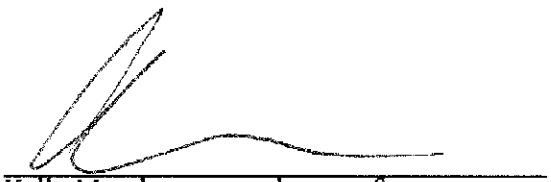
RUSHFORTH LEE & KIEFER LLP TRUST AND ESTATE ATTORNEYS

class mail, addressed as follows:

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Kelly Meade, an employee of
Rushforth Lee & Kiefer LLP

RUSHFORTH LEE & KIEFER LLP
TRUST AND ESTATE ATTORNEYS

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CLERK OF THE COURT

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DISTRICT COURT

CLARK COUNTY, NEVADA

In the Matter of the Trust of: The W.N. Connell and Marjorie T. Connell Living Trust, dtd May 18, 1972	CASE NO. P-09-066425-T DEPT. XXVI

BEFORE THE HONORABLE GLORIA STURMAN, DISTRICT COURT JUDGE

WEDNESDAY, AUGUST 2, 2017

RECORDER'S TRANSCRIPT OF PROCEEDING:
MOTION: MOTION FOR PETITION FOR HEARING TO REQUEST TEMPORARY TRUSTEE, FRED WAID, TO RELEASE TRUST FUNDS FOR ELEANOR AHERN TO PAY FOR APPROPRIATE LEGAL COUNSEL, LARRY SEMENZE, ESQ., AND TO BE NOTICED FOR HEARING ON ORDER SHORTENING TIME

APPEARANCES:

For the Petitioner:	ELEANOR C. AHERN, PRO SE
For Petitioner's Appeal:	EMILY A. ELLIS, ESQ. KIRK B. LENHARD, ESQ.
For the Trustee:	TODD MOODY, ESQ.
For the Others:	JOSEPH J. POWELL, ESQ.
Also Appearing:	FRED WAID, TRUSTEE

RECORDED BY: KERRY ESPARZA, COURT RECORDER

WEDNESDAY, AUGUST 2, 2017 AT 11:58 A.M.

THE COURT: We'll call the matter of the W.N. Connell and Marjorie T. Connell Living Trust case.

MS. AHERN: Oh, I'm sorry, it didn't – it says, "Please --

THE COURT: The Court's going to call –

MS. AHERN: -- enter –

THE COURT: Pardon?

MS. AHERN: -- a valid name.

THE COURT: What is she saying?

MS. AHERN: Please enter a valid –

THE COURT: What's a valid – is – she's getting some sort of a message on her –

MS. AHERN: Please enter a valid name. So let me –

THE COURT: No, that's not necessary. We're going to just proceed. We, we can see you if you can see us; we're fine. So we're going to proceed with the Petition for a Hearing to Request Temporary Trustee to Release Trust Funds in the W.N. Connell Marjorie Connell Living Trust, P-066425. This hearing is being conducted pursuant to Roman Numeral IV-B, subpart Rule 4, of the Supreme Court Rules of the State of Nevada governing appearance by simultaneous audio/visual transmission equipment.

So we'll proceed with the hearing. We'll have everybody here state appearances. First on the video link, let's take the appearance of the Petitioner. If you'll state your name for the record.

MS. AHERN: Did you just ask me to speak?

THE COURT: Yes. State your name for the record.

MS. AHERN: Eleanor Ahern. May I make a comment?

THE COURT: No, we're going to just take appearances now. So appearances of the parties who are here in Court.

MR. MOODY: Good morning, Your Honor, Todd Moody, Bar Number 54304 for the Court Appointed Temporary Trustee, Fred Waid, who is present with me.

THE COURT: Okay.

MR. POWELL: Good morning, Your Honor, Joey Powell, Bar Number 8875, appearing on behalf of Jacqueline Montoya and Kathryn Bouvier.

THE COURT: Okay. Mr. Lenhard.

MR. LENHARD: Good morning, Your Honor. Kirk Lenhard appearing on behalf of Ms. Ahern in the Supreme Court case. It's known as the appeal with the Trust, I guess easiest way to characterize it. With me is Emily Ellis. My Bar Number is 1437.

MS. ELLIS: Mine is 11956.

THE COURT: Okay. So we're here on Ms. Ahern's Petition for a Release of Funds. This was to pay for legal counsel, specifically Larry Semenza for the litigation. And then, I don't know if Mr. Lenhard, since he is here, I'm assuming is here on the appeal and fees to pay for filing the brief in the appeal. So Ms. Ahern, you're looking for, what relief? You are asking that this be – how – what – how much money are you looking for and specifically, what are you asking the Court to ask – to order be released to you?

MS. AHERN: Thank you, Your Honor.

THE COURT: Uh-huh.

MS. AHERN: I'm asking for a $100,000 retainer fee for Larry Semenza --

THE COURT: Uh-huh.

MS. AHERN: -- and as quickly as possible, and immediately, today.

THE COURT: Uh-huh. Okay. All right. And thank you. Mr. Lenhard, are – you're present in court. I don't know if you have something about this matter or if you're looking for something on another matter?

MR. LENHARD: Actually, no. And I'm not here applying for fees.

THE COURT: Okay.

MR. LENHARD: I've told the Court I would do the appeal on the Trust. That would be part of the fees that you've awarded on a separate order that is in the payment criteria with our payment order. [Computer sound heard on petitioner's end]. I'm here on the other aspect of this if there's potentially a guardian ad litem being appointed for purposes of these –

THE COURT: Uh-huh.

MR. LENHARD: -- various cases, because I need instructions on the appeal, which I will go forward with whenever you're ready.

THE COURT: Okay. All right. Thanks. So then, Mr. Moody and Mr. Powell, with respect to the request, specifically, the request is for $100,000 to be released to retain counsel for this litigation, not the appeal, that's different. This is for this litigation.

MR. MOODY: That's our understanding, Your Honor.

THE COURT: Yeah. Okay.

MS. AHERN: Judge, may I also say something?

THE COURT: Okay.

MS. AHERN: May I please have a transcript – and a DVD?

THE COURT: Yes. Certainly, we'll make note that you've requested a transcript.

MS. AHERN: And the DVD and the transcript? Also transcript needs to be in hard copy, not a flash drive.

THE COURT: Okay. Ms. Esparza –

COURT RECORDER: Uh-huh.

THE COURT: -- given the – I think there is a – is there an in forma pauperis on file?

COURT RECORDER: Yes, there is.

THE COURT: Uh-huh. And does – is that for both a transcript and a DVD or –

COURT RECORDER: You know what, I don't know if it's inclusive of a CD, Judge –

THE COURT: Okay.

COURT RECORDER: -- but I know it is for the transcript.

THE COURT: Okay. All right. So we'll have to see about the -- the transcript is included, authorized by the in forma pauperis, but we'll have to see if the in forma pauperis also orders – authorizes making a DVD. That's what the Recorder has to reread that order again, so okay.

MS. AHERN: Your Honor.

THE COURT: So noted.

MS. AHERN: Your Honor. Your Honor.

THE COURT: Uh-huh. Yeah.

MS. AHERN: Excuse me, please.

THE COURT: Yeah.

MS. AHERN: That was done last – on May 24th.

THE COURT: Okay.

MS. AHERN: I did receive both and I did not have to pay.

THE COURT: Okay. So we'll, we'll double check that if that's – if that's authorized then we'll, we'll double check. That should be in the order. Okay. So –

MS. AHERN: Thank you.

THE COURT: -- anything else? Okay. If not we'll proceed then. Specifically we're just talking based on the pleading filed, the request to release funds for counsel.

MR. MOODY: Okay. Thank you, Your Honor.

THE COURT: That's all we're going to talk about, initially, is just counsel. Okay.

MR. MOODY: Okay. Very good. First of all, I just want to say we had hoped that Ms. Ahern would be here this morning.

THE COURT: Uh-huh.

MR. MOODY: I want the Court to know that Mr. Waid thought this was an important enough hearing that he made arrangements for her and shared those arrangements on July 18th, even purchasing a trip from Mesquite, a round trip, through Bell Transportation.

THE COURT: Uh-huh.

MR. MOODY: We heard back from Ms. Ahern on July 21st declining that pick up, but saying that she had made alternate arrangements for someone by the name of Jack Sprostoff [phonetic] to drive her here.

THE COURT: Uh-huh.

MR. MOODY: We know that there have been complaints about what she's been able to hear and understand in these, and therefore, that's why we, we made those arrangements. Having said that, Your Honor –

MS. AHERN: But sir, I have to respond to that if I may, please, Your Honor.

THE COURT: No, no, no, no. You'll get your opportunity. We'll let Mr. Moody speak and then you'll have your opportunity to respond.

MS. AHERN: All right. Thank you.

MR. MOODY: Thank you, Your Honor. So, having said that and speaking specifically with regards to the request for $100,000 to be released from –

THE COURT: Uh-huh.

MR. MOODY: -- the Trust for purposes of her retaining Larry Semenza. This Court has said more than once that Ms. Ahern has had some of the best legal counsel that Southern Nevada has to offer. She has had access to Jeff Burr's office, Marquis Aurbach & Coffing, and Kirk Lenhard –

THE COURT: Uh-huh.

MR. MOODY: -- who is here today. At least two of those top shelf attorneys worked out settlements with Ms. Ahern that were extremely good settlements and important ones – only to end up having those turned around because of decisions that we think may have been influenced by others that are around Ms. Ahern.

Now, after all of that, having had access to the top attorneys, she's back in court asking for the same trust, from which she misappropriated funds, to pay for yet another attorney. We have not specifically opposed that, but I think you can tell from my tone that we don't believe that that would be most

helpful, and that's why the next segueway would be to the appointment of a guardian ad litem.

THE COURT: Okay.

MR. MOODY: And I will hold those remarks until the Court's ready.

THE COURT: All right. Mr. Powell, before we hear from Ms. Ahern on her request did -- on behalf of the other beneficiaries, did your clients take a position?

MR. POWELL: Yes, Your Honor.

THE COURT: Uh-huh.

MR. POWELL: Our position would be the same as Mr. Moody's position, which is that as, as he has said, Ms. Ahern has had ample counsel, effective counsel that have litigated all those issues. Our opinion is, those issues that she apparently – I – judging by what she's filed with this Court, seem to be wanting to relitigate issues that are already over with and done with. And one of which the 65/35 split has already been determined by the Supreme Court of Nevada, that is over. It is done.

So, therefore, without Ms. Ahern expressly declaring why it is that she needs Mr. Semenza in -- in this proceeding or any other counsel – our point is, again, that that needs to be denied. Because, again, it appears by all appearances that Ms. Ahern is simply seeking to want to relitigate matters --

THE COURT: Okay.

MR. POWELL: -- and we don't believe that's appropriate, especially in light of the fact of what this Court has already awarded to my clients, part of which is punitive damages, part of which is restitution to the Trust itself. So Ms. Ahern is not in a position to be making demands about taking more funds

from the Trust, which are, again, are already blocked –

THE COURT: Okay.

MR. POWELL: -- and supposed to be our money for our clients.

Thank you, Your Honor.

THE COURT: All right. Okay. Thank you.

So Ms. Ahern, if you can then address – respond to Counsel's comments. Essentially, I think the question that is left here is -- is, what is – what are you looking to retain Mr. Counsel – Mr. Semenza, as your counsel, for?

MS. AHERN: Well, I'd like first to say, Your Honor, without a lawyer I'm being denied the right of due process in law, both in procedure and substance.

THE COURT: Uh-huh.

MS. AHERN: Their countermotion is their attempt to avoid dealing with me, adequately.

THE COURT: Uh-huh.

MS. AHERN: I know I need attorney. I do not need a guardian.

THE COURT: Uh-huh.

MS. AHERN: Your Honor, may I have an order to pay Mr. Semenza $100,000 for a retainer, to be released immediately, to protect me from the lies, innuations [sic], and unjustice that this Court has done, and how so that these attorneys in this present office, of the daughters, have done to me.

THE COURT: Okay.

MS. AHERN: This is not a time that I – I – this is not the first time that they have not – they have taken advantage of me. I need a lawyer. I really need a lawyer.

THE COURT: Uh-huh. Okay. All right. So, again, I'm trying to understand what you would need an attorney to do at this point in time. As Mr. Lenhard indicated, there is one issue that remains on appeal, but as Mr. Powell indicated the, the primary issue has been litigated. That's the 65/35 split. We have an order from the Supreme Court on that. We had an evidentiary hearing which the Court awarded damages, so we've had a hearing on that. So I'm now trying to understand what we would have – what, what's left for the Court to, to be heard where you need counsel to represent you on it?

MS. AHERN: Your Honor, I have one other comment. My pleadings are sufficient.

THE COURT: Okay. Understood. Great. Okay. Thank you.

So then, Mr. Moody, you indicated that you had a counterpetition?

MR. MOODY: Yes, thank you, Your Honor. And this ties right back into to the initial request. So, I want to take the Court back to February when we saw and heard from Ms. Ahern during the evidentiary hearing.

THE COURT: Uh-huh.

MR. MOODY: There's been a lot of things that have happened since that hearing. There have been a lot of faxes sent. There have been a lot of pleadings filed. And we don't believe that we are hearing from the same person that we heard from back during that evidentiary hearing. These letters are inflammatory. They accuse both Mr. Waid and this Court, as well as Ms. Ahern's former attorneys, of misconduct and impropriety.

Mr. Waid believes that Ms. Ahern continues to be unduly influenced by the same people that were around her when she misspent trust funds and

ended up being removed as trustee. Mr. Waid believes that this person or these persons are in her home. They are eating with her and eating out with her. They're spending her money and are likely behind the increasing acrimony with this Court and with Mr. Waid.

Ms. Ahern's claimed vision problems and hearing problems, coupled with her age, provide further justification for our request and support of a guardian ad litem for her. Your Honor, I want the record to be crystal clear on, on this point, and I would be happy to hear if the Court feels differently. But, from the day that Mr. Waid was appointed as temporary trustee, he has done his very best to act in his fiduciary responsibilities, to obey court orders, to seek the court's permission, and to marshal trust assets and protect the trust.

But what Ms. Ahern continues to ask for now is well beyond what his responsibilities are –

THE COURT: Uh-huh.

MR. MOODY: -- to provide for her health, maintenance and welfare. And it comes at a time when her interest in the Trust has been suspended, not by Mr. Waid, but by this Court. Mr. Waid serves at the direction and discretion of this Court. If the Court wants Mr. Waid to pay for medical marijuana for $800 a month, for food, so she can eat out, for Donny and Marie tickets, he will do that, but not unless instructed by this Court to do so.

To be quite frank, Your Honor, he has grown tired of request after request and then being accused of not paying the things that he feels obligated, according to court orders, to do. He's been accused of having a personal agenda regarding Ms. Ahern and neglecting her. Your Honor, I'm happy that Mr. Lenhard is here this morning, because there may be no one in a better

position than him to weigh in on whether he thinks a guardian ad litem is necessary, or whether Mr. Waid is acting like a paranoid trustee.

I want to make it clear that we are also not just asking for a guardian ad litem. We're also seeking specific permission from this Court to file a Return of Property Action against Susan Noona [phonetic], and perhaps others. We would love the chance to recover, perhaps, as much as $400,000 that were paid from trust funds, to Ms. Noona, and to her real estate company.

And then finally, Your Honor, there are some sensitive and confidential issues really pertaining to looming issues with the IRS that I think Mr. Waid may be in a better position to address, if you would be so kind as to hear from him.

THE COURT: Okay. Before we proceed with that, I think that perhaps an explanation of the role of a guardian ad litem would be beneficial to have in the record.

MR. MOODY: Yeah, Your Honor, here's how we see it. We continue to receive requests time and time again. For example, the – the last one was a – this is my July invoice for expected expenses totaling $170,000. We believe that Ms. Ahern needs protection. Someone needs to look in on her and make sure she is no longer unduly influenced by people. She needs help in coming up with, with a budget, helping her figure out and coordinate her medical care. Those are all things that Mr. Waid has a responsibility to pay for, but not to make arrangements for it. That's tough to do from Las Vegas when Ms. Ahern lives all the way out in, in Mesquite.

THE COURT: Uh-huh.

MR. MOODY: So, primarily, that's what we're doing. We also believe

that a guardian ad litem would function well with this Court and with the attorneys to, to help coordinate, you know, things. And perhaps that guardian ad litem would come back and say, "I believe Ms. Ahern needs an attorney for the following reasons. Because she hasn't – she has not articulated those reasons, in my opinion. But if a guardian ad litem came back we'd certainly – it – it'd carry a whole lot more weight.

THE COURT: And the difference between a guardian ad litem and a trustee is, the trustee's appointed over the trust, has to represent – has a fiduciary obligation to the entire trust and all the beneficiaries; whereas, a guardian ad litem can advocate for Ms. Ahern's interest. That's the, the job of the guardian ad litem, which is – it's an entirely different role, not necessarily legal counsel. Were you anticipating it would be like a private professional guardian or –

MR. MOODY: We – we actually have someone in mind –

THE COURT: Uh-huh.

MR. MOODY: -- who is both an attorney and a professional private guardian --

THE COURT: Uh-huh.

MR. MOODY: -- and she lives in St. George. She works and covers Mesquite, and we think it would be a perfect fit for her to step in.

THE COURT: Uh-huh. And you're not looking to appoint this person, although she may have a legal degree, as counsel –

MR. MOODY: No.

THE COURT: -- for Ms. Ahern? But you are looking for somebody who can represent her interests and speak for her interests in –

MR. MOODY: And protect her interest.

THE COURT: -- and protect her interests in dealing with the Court --

MR. MOODY: That's correct.

THE COURT: -- and the, the Trust?

MR. MOODY: That, that's exactly right, Your Honor.

THE COURT: Okay. Understood. Got it. Okay. So with respect to the other parties, we'll hear further from Mr. Waid, I think, on the other issues you asked after we talk about this. So, Mr. Powell, do – on behalf of the other beneficiaries, do they take a position?

MR. POWELL: They do, Your Honor, and they would support Mr. Waid's petition for the same reasons that Mr. Moody mentioned. We –

THE COURT: Okay.

MR. POWELL: -- we believe that it would be very beneficial for all parties involved to have someone who can have complete clarity on all these issues that Ms. Ahern seems to be raising that are – seem very heavily disjointed and very much out of nowhere, occasionally, as to allegations being thrown around. I, I -- we believe it would be very beneficial to have a guardian ad litem appointed for Ms. Ahern –

THE COURT: Okay.

MR. POWELL: -- in this matter.

THE COURT: And, and that – that's not without costs? So I -- what's your clients' position with respect to the cost?

MR. POWELL: The cost would be fine, because we believe it would obviate, in the long run, many other unnecessary costs and make things much more concise and much more efficient.

THE COURT: Uh-huh.

MR. POWELL: So my clients completely support that, that cost coming from the Trust to do so.

THE COURT: Okay. Understood.

MR. POWELL: Thank you.

THE COURT: Thank you. And then, before we get to Ms. Ahern, I know, Mr. Lenhard if you wish to be heard on the guardian ad litem issue or you have other issues later.

MR. LENHARD: Only the guardian ad litem issue, Your Honor.

THE COURT: Okay.

MR. LENHARD: Can I be heard?

THE COURT: Certainly.

MR. LENHARD: Thank you. And as the Court's aware, when the settlement that I had worked out with Mr. Waid, and Mr. Powell, and his clients fell apart, I was compelled to withdraw.

THE COURT: Uh-huh.

MR. LENHARD: I stayed on to represent Ms. Ahern on the Trust Appeal that had been filed by the two sisters -- or the daughters --

THE COURT: Uh-huh.

MR. LENHARD: -- appealing your decision not to remove Ms. Ahern as a beneficiary of the Trust. When I took the case, it seems like a century ago, I had three goals in mind: One, keep her out of jail.

THE COURT: Uh-huh.

MR. LENHARD: Two, keep her in the Trust, and three, limit damages. Of course I was – withdrew before the damage trial. And I have no comment on

the damages. I appreciate Mr. Powell's agreement to agree to a guardian ad litem. For the record, I've dealt with Mr. Waid over the past few years. I've certainly found him to be ethical and honest, and trying to do the best he could for the Trust and all parties to the Trust.

THE COURT: But he's limited as a fiduciary.

MR. LENHARD: That's correct. He has to represent everybody.

THE COURT: Right.

MR. LENHARD: And he's done that, I think, effectively.

THE COURT: Okay.

MR. LENHARD: He worked out a settlement that, frankly, would have been an excellent result.

THE COURT: Uh-huh.

MR. LENHARD: Unfortunately, Ms. Ahern chose to back out of it which led to my withdrawal.

THE COURT: Okay.

MR. LENHARD: Here's my problem. I have prepared with Miss – actually Ms. Ellis has done the laboring work, I've just done the editing. We have prepared the Response or the Answering Brief to the – Opening Brief filed by Mr. Powell's firm.

THE COURT: Uh-huh.

MR. LENHARD: They've been very gracious in giving us additional time. In that Brief, we were compelled to go through the history of what is in the record concerning Undue Influence. We did that, because we thought it was important for the Court to get a flavor of what had occurred down here. Not aimed at this Court or anything else.

THE COURT: Uh-huh.

MR. LENHARD: So that the Court could understand what we were dealing with. It's our position in that Appellate Brief that A: She should not be removed as a – as a beneficiary's as a result of the actions of third parties.

THE COURT: Uh-huh.

MR. LENHARD: And secondly, based on your ruling, that her misdeeds were as a trustee; therefore, the No Contest Clause didn't apply.

THE COURT: Uh-huh.

MR. LENHARD: We are certain that when Ms. Ahern has forwarded a copy of the Brief we were going to hand it to her today --

THE COURT: Uh-huh.

MR. LENHARD: -- but she's not here. So when we email it to her or fax it to her or whatever – and that's a problem for me also because it's reviewed by third parties.

THE COURT: Uh-huh.

MR. LENHARD: And I have a privilege that I'm trying to protect. In any event, when we send that to her and we – the undue influence is reviewed by the third parties that are influencing her, they are going to have a fit. And they are probably going to terminate my services or fire me.

THE COURT: Uh-huh.

MR. LENHARD: As a result, I will not be able to file the Responsive Brief on Friday. If that occurs, she could very well be defaulted and no longer be a beneficiary of her Trust. This is a very serious situation. A guardian ad litem at least could give me the authority to file the Brief, get it on file, and protect her interests in the Trust. Let the Supreme Court decide whether you were right or

wrong.

THE COURT: Uh-huh. Okay. So with respect to the timing; however, since we're on a very short timeframe here.

MR. LENHARD: It's due Friday. Like I said I've – again, Mr. Powell's firm has been very gracious in giving us additional time, but I've got to get that thing on file.

THE COURT: Okay. Understood. Thanks. Okay.

So Ms. Ahern, this goes to the two issues: The one with respect to appointment of legal counsel. As Mr. Lenhard indicated, he stayed on to represent you in this issue where the – your daughters, the other beneficiaries aren't happy with me, because I did not disinherit you. And they believe that I was wrong in not disinheriting you and that you should be disinherited, and that there's no point in discussing whether you are entitled to anymore proceeds from this Trust, because you should be disinherited. That was a decision in your favor.

They are seeking to set it aside and if it – if my decision is set aside by not – not defending you in the Supreme Court, you stand to lose everything. And Mr. Lenhard has indicated, intends to continue to represent you as he has said he would. You're not here, and so, that's an issue because you aren't able to consult with, with your counsel on the appeal, because you didn't come to town; and that's your choice and the consequences are on you.

So I'm prepared to hear what you have to say about appointment of a guardian ad litem. I hope you understand the difference between a trustee and a guardian ad litem. The trustee's over the entire trust, has to be equal and fair to all beneficiaries. The point of a guardian ad litem is somebody to represent

your best interests. That's the – that's the definition of a guardian ad litem. They are only your guardian for this litigation. They're not your guardian for any of the rest of your affairs. They represent you only in your place with respect to decisions in the litigation.

And so, one of the reasons being you – as you've pointed out, you have vision and hearing issues. So there are reasons why somebody representing your interest should be appointed by the Court. So, I'm willing to hear from you on that issue.

MS. AHERN: Your Honor, I do not need a guardian. I am sound mind and very, very intelligent on every subject. I would like very, very much to let you know that I do not need a guardian, I need a lawyer.

THE COURT: Uh-huh.

MS. AHERN: Your Honor, I have, have an order for Larry Semenza to be able to protect me from all this that's happening to me right now. I can't address the three issues that Mr. Waid took, against me. I do not need a guardian. I do not want one. I self-live, I self-care. And hearing and eyesight is not a crime. I would like to have them taken care of by the Trust.

THE COURT: Uh-huh.

MS. AHERN: This is not a crime for them to take advantage of me, again. I need a lawyer.

THE COURT: Uh-huh. Okay. All right. Well, let's again review the role of the guardian ad litem because I, I appreciate that you – it's not a question of you not having all your faculties, and it's not a question of there being a crime. Nobody is accusing you of a crime. The point of a guardian ad litem is the trustee, because he has obligations to the overall trust and to the other, other

beneficiaries, cannot be your advocate.

The point of a guardian ad litem is, this is a person who is a third person, impartial, just coming in to represent you and to be the person who could be, not your counsel, but to be your advocate in dealing with a trustee. Because there are all these issues with respect to [bird sound heard], you know, what you need ongoing for your funds to be released for living expenses – those kinds of things.

That if you had a third party dealing directly with the trustee who can represent as an impartial person saying, "I'm up here, I've met with her. This what she needs for food. This is what she needs for, you know, whatever." You've got a third party who can do that and you're not putting Mr. Waid in the position of making those decisions based on just his view, but he gets input from a third party. Because, remember, he can't be your advocate.

That's the whole point here, is that, as a trustee, he needs to deal -- is asking to deal with a third person who can be the person to evaluate on the spot, be there to evaluate your request. You make your request to the guardian ad litem. The guardian ad litem reviews it and has a discussion with it about – with the trustee. Also, as I said, a guardian ad litem only represents your interest with respect to litigation not with any of the other aspects of your life. Nobody's asking to be appointed -- to have the Court appoint a guardian for you. Nobody is saying you can't handle your own financial affairs.

But with respect to this litigation there would be a – not just with the litigation -- because you're asking for an attorney. As I said, "The only thing that remains, as far as I know, is this appeal that Mr. Lenhard has taken –

agreed to continue to represent you on and is prepared to file a brief in your – on your behalf to, to oppose the request to have you be removed as a beneficiary. If you are removed as a beneficiary, it doesn't make any difference if I appoint you, counsel, because you'll have no right to counsel to be paid through this Trust. That's the whole point of what Mr. Lenhard is saying he needs to go forward with.

The question of whether there's a need for other counsel for any other action in this case that would justify the Court ordering a $100,000 retainer to counsel who – I mean, to do what, going forward? What's pending before – right now is this issue with the Supreme Court. Was I correct in not disinheriting you? I did not disinherit you. Your daughters oppose that and believe you should be disinherited. In other words, nothing. That's the risk. It's your risk.

And I understand that you may feel you don't need any assistance in this but my question to you is: What do you need other than that appeal? That's the only thing I know that's pending. What do you need counsel for other than that -- where you've already got the best attorney in town? Seriously.

MS. AHERN: Your Honor, I have no further comment. My tweeties/treaties are sufficient. They were detailed.

THE COURT: Uh-huh.

MS. AHERN: They were the truth and everyone needs to read them, and then you would not ask my question if you had read, totally, that – I would like you to read that part, briefly.

THE COURT: Yeah. I did, I've read it. So the – it appears to the Court

that while there may be the need for legal counsel, it's not been articulated as to what that legal counsel would do now. You already have legal counsel on the one remaining legal issue. The rest of this is all questions about whether funds should be distributed to you for your ongoing expenses? So that's what a guardian ad litem does.

And if a guardian ad litem, in that person's personal judgment, comes to the conclusion that you need legal counsel, they can make that recommendation. Because none of us – you're not here in town. We can't sit and meet with you, so we don't have any idea of whether this is really needed. I can't make a determination that you need legal counsel based on the record before me. I'm not saying you do, I'm not saying you don't. I'm saying, "I can't make a determination on this request as it sits before me today."

Because the only thing I know about that's currently being litigated is the appeal. Mr. Lenhard is your attorney in that appeal. He has every intention to continue to represent you to keep you in this Trust, as I have ordered you should remain. So the question is: If you're given a guardian ad litem and that person can deal with both your ongoing needs, your day to day needs, but also can take a look at this question of: Do you really need an attorney? Because the person would not be your attorney.

That person can say if I – they, they believe you need an attorney they can make a recommendation that I take another look at your petition. That's how I view it. I think that a guardian ad litem is in your best interest because that person, not representing you in any legal proceedings, but representing you as a fiduciary for you personally, can advocate for you in a way that the trustee can't, and can advocate for not only your ongoing

litigation – your ongoing living needs, but your ongoing litigation.

If that person thinks that an attorney should be appointed that -- that person can make their independent review and advise the Court, what are the reasons why you need an attorney? Because there's nothing – no legal proceeding pending right now. There's nothing for an attorney to do at this point other than keep you in the trust, which Mr. Lenhard's working to do.

So I believe that the --

MS. AHERN: Your Honor.

THE COURT: Yeah. Uh-huh.

MS. AHERN: Their countermotion is an attempt to a way of dealing with me adequately. I do need an attorney and I do not need a guardian. Please, Your Honor, I do not need a guardian, at all.

THE COURT: Okay. I, I – I understand that it is your position that you do not need an attorney. Beg your pardon, you don't need a guardian. That you would prefer to have an appointment of party.

MS. AHERN: I do, Judge -- do need an attorney because I've been taken advantage of since I entered your Court. And this advantage of is evil and unhappy, and I would like very much to have an attorney to stop them taking advantage of me.

THE COURT: Okay. Well, I understand that at this point, as a Pro Se litigant, you are representing yourself, and appreciate that you have a well prepared statement that you have read to the Court. So I, I appreciate the points that are made in there. I've reviewed your petition. As I've said, "Based on the Petition for Appointment of Counsel right now, there is no legal proceeding pending that an attorney should be appointed to handle."

Now what is pending right now, in the Supreme Court, is a review of the request by your daughters to have you disinherited. I denied that request. They are appealing it. That's what's currently pending. Mr. Lenhard is your counsel in that action. And he is prepared to continue to fight to keep you in this Trust. He has done that.

So, at this point, you don't need a – I see no legal proceeding pending that, that you need an accountant, an attorney for. I see the merit of a guardian ad litem because that person, in their individual judgment, can review this; and if they believe an attorney is warranted, ask to have this petition reconsidered. But in the meantime, they are able to advocate for you – hands on, where they can meet with you on a regular basis for your continuing health, maintenance and welfare.

And they are in –

MS. AHERN: It is on –

THE COURT: Pardon me? They're in a position as a fiduciary for you represented only – appointed only to represent you to advocate for you in a way that the trustee can't. The trustee has to keep in mind the benefit for the entire trust and the – and treating the other beneficiaries fairly as well. He can't be your advocate. And the point of a guardian ad litem is that person – is able as a -- representing you, not representing as legal counsel, but representing you, taking your place, to advocate for you and the needs that you have. Both – whether that's to continue litigation and hire an attorney or whether it's with respect to your health, maintenance, and welfare which you're entitled to continue to receive.

And this would give a third person who can take your position and

deal with these issues directly so that you're not having to deal with them. That Mister -- that the trustee knows that a third party has reviewed this and has come forward with these opinions. It gives you a person who is -- can be your advocate. So if you reject this person's assistance then, if you don't cooperate with them then I, I can't tell you. I can't give you legal advice. I can't tell you what that would mean to you. [Feedback heard].

But a guardian ad litem, again, takes your position in the case and represents your, your best interest in the litigation, and also can advocate for you with respect to your request for advancing the funds for health, maintenance, and welfare. I think it's in your best interest to have a guardian. I'm going to appoint a guardian ad litem. We have a recommendation for a guardian ad litem who serves in this capacity, who also have – unfortunately –

MS. AHERN: Your Honor.

THE COURT: -- has a legal degree but –

MS. AHERN: I do have to ask –

THE COURT: -- cannot be your attorney. Yeah. Yes.

MS. AHERN: I don't want these attorneys that have obviously hated me and wish to get rid of me, to do another person into my life --

THE COURT: Uh-huh.

MS. AHERN: -- that I have not interviewed. I have not appreciated --

THE COURT: Uh-huh.

MS. AHERN: -- and I have not asked her questions. I don't know how she reacts to me, how I react to her. I should have the option of being able to approve her or not to take them.

THE COURT: Okay. So your request is to have an opportunity to review,

to interview, and meet with your – with a proposed guardian ad litem? The attorneys for the trustee have somebody they would propose. The Court has in mind, also, an attorney. [Bird sound heard].

MS. AHERN: But, Your Honor, being without an attorney, to even talk to her, I am being denied my right to due process in law in both procedure and substance.

THE COURT: Okay.

MS. AHERN: This must not happen, just – they demand what I do.

THE COURT: Okay. All right. I think you're misunderstanding the whole point here. You're saying that you're being denied your due process rights and I, I have told you now three times, or four or five times, that's all that's pending right now is the appeal of my denial of disinheriting you. I denied that. That is on appeal. Mr. Lenhard is representing you on that. That's the only legal proceeding pending before the Court, that's it, and you have counsel for that. As I've said, "My personal opinion, the best attorney in town." If I'm going to go forward with this it's with respect only to –

MS. AHERN: I can't hear any of your words, Judge, it's – your blocking out.

THE COURT: Okay. There's, I think, a lot of noise, I believe that's your bird, so –

MS. AHERN: No, my bird's outside.

THE COURT: Okay. All right. So then it's just a bad connection. As I've said the – you, you claim that we're denying your due process. [Feedback heard]. There is no legal proceeding pending at this point for me to appoint an attorney. You do, however, have the right, since I refused to disinherit you, to

have your health, maintenance and welfare protected. And that's the whole point of having a guardian ad litem. They are not an attorney for you, they are your advocate and represent your needs and your interests, with respect to your ongoing health, maintenance, and welfare requests.

If they believe that as your representative in the litigation, that it would be appropriate to appoint an attorney as your representative in the litigation, they can request that. I'm not saying I'm denying it in its entirety, that I will never do it. I'm saying that, "I believe a guardian ad litem is the best person to evaluate this and make that recommendation to the Court, in addition to your health, maintenance, and welfare needs."

A professional person to do this is in your best interest. The trustee has a proposal of – I – earlier today, in a guardian just appearing, heard from another attorney in town who is developing a specialty in this role of being a guardian ad litem and she's very competent. Has a master's degree in tax and as well as being an attorney and wish to talk to these people, that may be a good idea for you to meet with them and understand what their role is. They would be tasked with representing you and they are not an attorney [squealing noise heard], although they may hold a law license.

A guardian ad litem may often hold a law license but they aren't representing you as counsel. I want to make that really clear. I under – I understand your request to interview this person. As I said I, I had somebody else that I know also does this very competently, so we'll be happy to hear from counsel further on, on that issue, because we will appoint a guardian ad litem.

MR. MOODY: Thank you, Your Honor. I just want to remind the Court

the urgency of this appointment in light of the appellate brief that has got to be filed.

MR. LENHARD: Friday.

MR. MOODY: So, you know, maybe we could – my suggestion would be. I think what's happening here, Your Honor, I think the microphone – the audio may be too loud on Ms. Ahern's end and we're getting feedback --

THE COURT: Uh-huh.

MR. MOODY: -- but I don't know. I –

MS. AHERN: Excuse me, I have to go to the bathroom. Could you put on hold – hold a moment, please.

THE COURT: Sure. All right. Yes.

[Ms. Ahern leaves the hearing for restroom break]

THE COURT: So we'll be off the record.

[Hearing paused at 12:39 p.m.]

[Hearing resumed at 12:40 p.m.]

MS. AHERN: I'm back.

THE COURT: Okay. All right. Thank you. We'll go back on the record. Ms. Ahern's returned, so we're going to go back on the record. Mr. Moody.

MR. MOODY: Yes, Your Honor, so with regard to the urgency. And our recommendation is for Kristin K. Woods out of St. George. Let me just briefly review some of, some of her qualifications. [Feedback heard]. Graduated valedictorian of her high school class, attended Brigham Young University, received a psychology degree. Attended University of Missouri Law School where she served on Law Review.

She's been working – she might -- what?

MS. AHERN: Could you repeat all those words, please, because I cannot hear them?

THE COURT: Okay. So Ms. A – I think Mr. Moody may need to stand here and talk into the microphone. We're getting a lot of feedback and I don't know if, if that's on your – are you hearing – having the same problem with feedback that we are?

MS. AHERN: I, I just can't hear your words. It's not the feedback that's the problem.

THE COURT: Okay.

MS. AHERN: I don't understand the feedback.

THE COURT: Okay. All right. So if you're not being – we are hearing a lot of feedback, if you're not, that's fine. Okay. So, Mr. Moody, maybe if you speak right into the microphone.

MR. MOODY: Yes. Thank you, Your Honor. Kristin K. Woods out of St. George, Utah, graduated valedictorian of her high school class --

THE COURT: Uh-huh.

MR. MOODY: -- Dixie High School in 2003. She obtained a psychology degree in 2005 from Brigham Young University, graduated from the University of Missouri Law School and graduated cum laude -- served on the law review there. She has publications, including one for the Utah Bar Journal entitled, "Guardianships: The Fine Line Between Protection and Exploitation." She – she has been a – she's practiced at various law firms and now is the managing attorney of Kristin K. Woods' PLLC. She's involved in the community. We just think this is a great fit for her.

My request, Your Honor, would be to allow Kristin K. Woods to be

appointed, at least temporarily –

THE COURT: Uh-huh.

MR. MOODY: -- so that Mr. Lenhard can review the, the appellate brief with her. If for some reason Ms. Ahern believes that Ms. Woods is not a good fit for her and would perhaps like to interview the individual that the Court has in mind, we don't have any problem with that. But someone has –

THE COURT: Uh-huh.

MR. MOODY: -- got to be appointed, immediately, at least on a temporary basis.

THE COURT: Uh-huh. Okay.

MR. MOODY: And at this point, Your Honor, I am going to ask that the Court hear from Mr. Waid --

THE COURT: Okay.

MR. MOODY: -- because of the – the also looming IRS issues.

THE COURT: Thank you. Yes.

MR. WAID: Thank, Your Honor, and I promise to be brief. The two issues that I want to be very clear. Shortly after my appointment it was reaffirmed that Ms. Ahern's interest was suspended, and therefore, I was prohibited, as trustee, from making any regular distributions while that matter was continually litigated.

From that time forward [feedback heard] this Court has made certain interim orders for distributions: attorney's fees and other personal expenses. There's been continual discussion [feedback heard]. I would add, all of those orders have been satisfied and paid accordingly. There's been numerous discussions about her health [squealing noise heard], maintenance,

and welfare needs.

THE COURT: Uh-huh.

MR. WAID: The only open court order is for a $20,000 allocation which provides, at my discretion, upon review of actual invoices and matters from physicians and other care providers. My discretion does not extend beyond that $20,000. So with respect to Ms. Ahern's multiple requests to exceed that amount, I just want the record to clearly reflect. I cannot do that, I will not do that unless the Court orders me to do so.

Further, with respect to the dental issue that she has been facing when requested recently with an amount that exceeded that. On my own accord, I went to the daughters and I said, "She has a need. I've spoken with the dentist. It is a valid legitimate need; however, it will exceed the amount of the current court order. Will you pay for this additional amount?" The daughters agreed to do so; however, we have yet, despite my visits to Ms. Ahern's home, my calls to her and requests for clarification, we're down to two choices [squealy noise heard]: One that exceeds $50,000 and one that exceeds just under $40,000.

One is over a period of time the other's, in essence, a one or two day event. The daughters have agreed to pay, but we can't seem to communicate properly with Ms. Ahern as to which course of action [feedback heard]. Other than that, once I pay those funds, I will have no additional funds to pay pursuant to the existing court order. I see –

THE COURT: The point is that she has a guardian ad litem. The guardian ad litem can evaluate ongoing needs and request an increase --

MS. AHERN: I cannot hear.

THE COURT: So my – the point that Mr. Waid is making is that, once we [Ms. Ahern stands up – out of picture view]. Once these [repeat heard] -- once these -- once these funds [repeat and squealy noise heard]. Once these funds are distributed [Ms. Ahern comes back into picture view but not sitting.] that would be for that – my understanding what Mr. Waid is telling the Court, is that upon [Ms. Ahern now seated] satisfaction of your pending dental procedure, there will be no more funds available.

And the point of a guardian ad litem would be, this person could evaluate your needs and plan a budget and go forward and present that to the Court so the Court can approve it and Mr. Waid can get further authority. And it's better to put a third person in between you and the Court and Mr. Waid to do that. That's in your interests. Okay, so Mr. Waid, proceed.

MR. WAID: Okay. And the second matter –

THE COURT: Uh-huh.

MR. WAID: -- Your Honor, I'm pleased to report that after multiple years of improper filings, lack of payments to the IRS [feedback noise heard], I have resolved all previous years' tax matters. All tax returns have been filed, amended. And we were fortunately successful in receiving a significant refund –

THE COURT: Great.

MR. WAID: -- of funds that were overpaid. That – with that matter now resolved regarding the Trust.

THE COURT: Uh-huh.

MR. WAID: The only issue that would be pending before the IRS are K1 distributions, which I have to give to the IRS relating to allocations approved by

this Court as to Ms. Ahern's income. Given her in pauperis status –

THE COURT: Uh-huh.

MR. WAID: -- which this Court has approved, and the fact that she could have very significant – not could have – she does have very significant liabilities owing to the IRS. My concern is this: The recent filing as of 11:47 last night where the case is re-litigated, allegations are made. If Ms. Ahern is independently allowed, without the assistance of a guardian ad litem –

THE COURT: Uh-huh.

MR. WAID: -- designated by court order, to interact in the same fashion with the IRS as she has with this Court, it will cause unnecessary and undue burden upon the Trust --

THE COURT: Uh-huh.

MR. WAID: -- hence, my last matter with respect to the accounting. The accounting is finished --

THE COURT: Uh-huh.

MR. WAID: -- but given Ms. Ahern's activity and her lack of appreciation for the inability at this juncture to re-litigate the case, I am hesitant and I will not do so without additional direction from the Court to release very confidential, sensitive, financial, proprietary business information --

THE COURT: Uh-huh.

MR. WAID: -- to Ms. Ahern at this juncture. I'm just simply not going to do it, Your Honor.

THE COURT: Right.

MR. WAID: I think it's against the business interests of the Trust. This has nothing to do with the beneficiary and the historical matters, but I have a

business judgment rule as well, which I must follow.

THE COURT: Okay. Understood.

MR. WAID: Thank you.

THE COURT: So the, the -- the recommendation has been made that on at least a temporary basis we appoint a – I – it sounds to me like the person you're suggesting is licensed in Utah [repeat heard] not in --

MR. POWELL: Nevada.

MR. MOODY: And Nevada.

THE COURT: Oh, and Nevada. Okay. She's licensed in Utah and Nevada, not as an attorney, but as a guardian ad litem to deal with the urgent issues that are pending that include income tax issues, the appeal – the appeal that's in your critical interest to [squealy noise heard] protect this Court's order that you not be disinherited -- must be on file by Friday or you are at great risk. That it's in your best interest to proceed with that and also to authorize – your guardian ad litem would also be authorized to request, if it's necessary for you to have counsel, to renew your request for counsel and – well, as well as those requests to file a new – to file for more funds to be distributed for your health, welfare and maintenance, because we're going to be over our $20,000. So we need that to be represented to us. It's in your best interest to have somebody temporarily. I'll appoint Christian [sic] Wood – Kristin K. Woods.

If the relationship is not one that Ms. Ahern finds tenable because she will have a guardian ad litem, the Court has, as I said earlier today, had an attorney under consideration for appointment as a guardian, not a guardian ad litem, but an actual guardian who had an interesting background, and that's Ms. Roland. I – counsel, if you know Harriet Roland, she has both a – she has – I

believe her, her MBA. It's not an LLM it's an MBA, in tax, and she might actually end up being a good choice; however, she is very expensive. It's $400.00 an hour.

So – but if Ms. Ahern would like to meet with her we could certainly ask Ms. Roland if she would consider meeting with Ms. Ahern and consider taking this on. But it may be that upon meeting Ms. Woods, that Ms. Ahern feels comfortable with her – we can't prejudge it. We have to give them an opportunity to see if they can develop that relationship, but if I – I find it critical for Ms. Ahern's best interest, not because I want to protect my decision that she should not be disinherited. This isn't about me, it's about that decision is critical to be maintained for her interests, because if it's not, she is disinherited and that would be not in her best interest.

She needs a guardian ad litem immediately, so on a temporary basis I will appoint Kristin K. Woods. As I said, "I am not interested in protecting my own decisions." I understand that as Ms. Ahern believes her best interests and her due process rights have been denied, but it's critical that the – her interests are protected in the appeal because that's, right now, the only thing that's pending. I have nothing else I can appoint an attorney for. So, you know, unless the guardian ad litem comes in and tells us here's an issue we need a guardian – an attorney for, and they very may well. I'm not saying that there's not a need for an attorney. I'm saying, "I can't make that determination on the record I have before me now, so I would just suggest that.

If there is an interest in having an alternative person as the guardian ad litem at some future date, we can put you in – suggest Ms. Roland reach out as a potential alternate guardian ad litem, but there will be a guardian ad litem,

one way or another. It is in Ms. Ahern's best interest to protect her critical and emergent need of having her rights in the appeal protected. And again, like I said, "I'm not interested in protecting my decision. I get overturned, I get sustained, we just go on. It's really about her and her interest is to have that decision upheld.

So in order for Mr. Lenhard to proceed, accordingly, it is urgent that we appoint somebody immediately. As I indicated, if in the future there's a request, and particularly because of the IRS issues, there is another person who handles this role who actually has a tax degree, and that might be more beneficial to her. But for the immediate need, Ms. Woods sounds like she has the appropriate background to deal with the current issues which are, as Mr. Waid pointed out, to request additional funds for ongoing maintenance.

So I will deny, without prejudice, the request to order funds for the retention of Lawrence Semenza. It is without prejudice. As I indicated, if the guardian ad litem who has a law degree, but is not acting as a lawyer, finds it necessary, they can petition again. I'm not saying there is no need. I'm just saying that the record I have before me did not demonstrate a current need. But I do understand the need for a guardian ad litem and that will be ordered immediately. Okay.

MR. MOODY: Your Honor, regarding the return of property action. The – we sought permission –

MS. AHERN: I can't hear him, at all, can he come to the microphone?

THE COURT: Okay.

MR. MOODY: Your Honor, regarding our countermotion which also included the commission for – to seek our return property action, is that

granted?

THE COURT: We have not discussed that yet so, so Ms. Ahern, the trustee has requested authorization to proceed with an action that the trustee believes to be in the best interest of the Trust. I don't know if – since we're appointing guardian ad litem, if you want the guardian ad litem to have an opportunity to review that.

MR. MOODY: That would be fine.

THE COURT: So I would authorize that, but not until the guardian ad litem has reviewed and signed off on it --

MR. MOODY: Okay.

THE COURT: -- as being in – also in Ms. Ahern's best interest as it would hopefully return funds to the Trust.

MR. MOODY: All right. So, would you like that stayed pending the appeal? [feedback heard].

THE COURT: Yeah.

MR. MOODY: Okay. And Your Honor, I'm going all the way back to the office and prepare the order.

THE COURT: Uh-huh.

MR. MOODY: If – can I bring that back --

THE COURT: Absolutely.

MR. MOODY: -- myself, this afternoon?

THE COURT: Absolutely. Yeah.

MR. MOODY: Okay. Thank you, Your –

THE COURT: So we'll sign it today. And unless there's anything further, Counsel. So, again, guardian ad litem's appointed.

MR. WAID: Thank you.

THE COURT: The current petition denied without prejudice. The guardian ad litem can review the matter and determine if we have legal issues that counsel are appropriate for, because the guardian ad litem, although an attorney, will not be acting as attorney, and will -- may determine that Ms. Ahern needs counsel.

So upon that review [feedback heard], they'll bring it back before us and you'll have an opportunity to comment.

MR. WAID: Thank you.

MR. MOODY: Thank you, Your Honor.

MR. LENHARD: Thank you, Your Honor.

THE COURT: Okay. Thanks very much. We are going to be in recess.

[Proceeding concluded at 12:56 p.m.]

ATTEST: I do hereby certify that I have truly and correctly transcribed the audio/visual recording in the above entitled case to the best of my ability.

Kerry Esparza, Court Recorder/Transcriber
District Court, Department XXVI

Electronically Filed
08/21/2017
CLERK OF THE COURT

Eleanor Ahern *IN FOR A PAUPERIS*
355 West Mesquite Blvd D30 #276
Mesquite, Nevada
Phone 702 345 3035
Fax 702 345 7909

DISTRICT COURT

CLARK COUNTY

IN THE MATTER OF THE W. N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST dated May 18, 1972 Defendant Eleanor Ahern 355 West Mesquite Blvd D30 #176 Mesquite, Nevada 89027	Case No.: P– 09 -066425 - T **APPEAL TO THE NOTICE OF ENTRY OF ORDER REGARDING MOTION FOR ASSESSMENT OF DAMAGES AGAINST ELEANOR AHERN** Office of Appeal

APPEAL TO THE NOTICE OF ENTRY OF ORDERREGARDING MOTION FOR ASSESSMENT OF DAMAGES AGAINST ELEANOR AHERN.

That defendant Eleanor Connell Hartman Ahern hereby appeals to the Supreme Court of Nevada from the order and judgement on defendant Eleanor Connell Hartman Ahern filed on August 8th 2017. Said Judgement setting forth with finality the provision of the judgement placed against said defendant as well as any and all other orders made final and/or otherwise applicable by the foregoing.

Eleanor Ahern
Eleanor Ahern *In Forma Pauperis*

RECEIVED
AUG 24 2017
CLERK OF THE COURT

I certify that on August 21, 2017, I mailed a true and correct copy of the foregoing **APPEAL** Re: NOTICE OF ENTRY OF ORDER REGARDING MOTION FOR ASSESSMENT OF DAMAGES AGAINST ELEANOR AHERN to those listed below:

Todd l. Moody (5430)
Russel J. Geist (9030)
The Hutchison &I Steffen Law Firm
10080 west Alta Drive, Suite 200
Las Vegas Nevada
702 385 2300 Phone
702 385 2086 Fax 7
Attorneys for Fred Waid

Joseph J. Powell, Esq
The Rushforth Firm
1701 Village Center Circle Ste 150
Las Vegas, Nevada 89134
Attorneys for Kathryn A. Bouvier
and Jacqueline M Montoya
702 255 3552 Phon
702 255 4677 Fax

Eleanor Ahern

Eleanor Ahern Proper Person
355 West Mesquite Blvd. D30 #176
Mesquite, Nevada 89017
Phone 702 345 3035
Fax 702 346 7909

Electronically Filed
8/23/2017 1:17 PM
Steven D. Grierson
CLERK OF THE COURT

ASTA

IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA IN AND FOR THE COUNTY OF CLARK

In the Matter of the Trust of: THE W.N. CONNELL and MARJORIE T. CONNELL LIVING TRUST, dated May 18, 1972,	Case No: P-09-066425-T Dept No: FAMILY DOMESTIC

CASE APPEAL STATEMENT

1. Appellant(s): Eleanor Ahern

2. Judge: Gloria J. Sturman

3. Appellant(s): Eleanor Ahern

Counsel:

Eleanor Ahern
355 W. Mesquite Blvd., D30 #276
Mesquite, NV 89027

4. Respondent (s): Jacqueline M. Montoya; Kathryn A. Bouvier

Counsel:

Joseph J. Powell
P.O. Box 371655
Las Vegas, NV 89137-1655

5. Appellant(s)'s Attorney Licensed in Nevada: N/A
Permission Granted: N/A

Respondent(s)'s Attorney Licensed in Nevada: Yes
Permission Granted: N/A

6. Appellant Represented by Appointed Counsel In District Court: No

7. Appellant Represented by Appointed Counsel On Appeal: N/A

8. Appellant Granted Leave to Proceed in Forma Pauperis**: Yes, May 25, 2017
**Expires 1 year from date filed*
Appellant Filed Application to Proceed in Forma Pauperis: N/A
Date Application(s) filed: N/A

9. Date Commenced in District Court: August 17, 2009

10. Brief Description of the Nature of the Action: Probate

Type of Judgment or Order Being Appealed: Judgment

11. Previous Appeal: Yes

Supreme Court Docket Number(s): 66231, 67782, 68046, 69737, 71577, 72766, 72897

12. Child Custody or Visitation: N/A

13. Possibility of Settlement: Unknown

Dated This 23 day of August 2017.

Steven D. Grierson, Clerk of the Court

/s/ Heather Ungermann
Heather Ungermann, Deputy Clerk
200 Lewis Ave
PO Box 551601
Las Vegas, Nevada 89155-1601
(702) 671-0512

cc: Eleanor Ahern

Electronically Filed
9/15/2017 3:00 PM
Steven D. Grierson
CLERK OF THE COURT

MRHR
Todd L. Moody (5430)
Russel J. Geist (9030)
HUTCHISON & STEFFEN, LLC
10080 West Alta Drive, Suite 200
Las Vegas, Nevada 89145
(702) 385-2500
(702) 385-2086 FAX
tmoody@hutchlegal.com
rgeist@hutchlegal.com

Attorneys for Fredrick P. Waid Court-appointed Trustee

DISTRICT COURT

CLARK COUNTY, NEVADA

In the matter of THE W.N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST Dated May 18, 1972, an Inter Vivos Irrevocable Trust.	Case No.: P-09-066425-T Dept. 26 Date of Hearing: Time of Hearing:

RENEWED MOTION TO PURSUE RETURN OF PROPERTY ACTION AGAINST SUZANNE NOUNNA

Fredrick P. Waid (Waid), Trustee of the W.N. Connell and Marjorie T. Connell Living Trust, dated May 18, 1972, (the "Trust"), by and through his attorneys of record, Hutchison & Steffen, PLLC, hereby renews his motion for the Court's permission to pursue a return of property action. This motion is made and based upon the pleadings and papers on file, the points and authorities below, and any oral argument the Court may entertain at the time of the hearing.

Dated this 15 day of September, 2017.

HUTCHISON & STEFFEN, PLLC

Todd L. Moody (5430)
Russel J. Geist (9030)
10080 West Alta Drive, Suite 200
Las Vegas, Nevada 89145

Attorneys for Fredrick P. Waid

NOTICE OF MOTION

Please take notice that the Renewed Motion to Pursue Return of Property Action will be heard on the 19 day of October, 2017, at the hour of 9:30 .m., in Department 26, in Courtroom 10D at the Regional Justice Center, 200 Lewis Avenue, Las Vegas, Nevada.

Dated this 15 day of September, 2017.

HUTCHISON & STEFFEN, PLLC

Todd L. Moody (5430)
Russel J. Geist (9030)
10080 West Alta Drive, Suite 200
Las Vegas, Nevada 89145

Attorneys for Fredrick P. Waid

MEMORANDUM OF POINTS AND AUTHORITIES

Responding to to Eleanor Ahern's petition to release $100,000 in trust funds for attorney's fees, Waid responded on July 20, 2017 (filed under seal) and countermoved, among other things, for instructions, specifically seeking leave of court to pursue a return of property action against Suzanne Nounna. At a hearing on August 2, 2017, this Court stayed Waid's request pending a recommendation from the newly appointed guardian ad litem.

Waid suspects Eleanor Ahern may be the victim of fraud and/or undue influence from her confidant and "spiritual advisor", Suzanne Nounna. There is evidence that Nounna convinced Ms. Ahern to withdraw large amounts of money from the Trust, and that Ms. Ahern used Trust funds to pay almost $400,000 to Real Estate Services Nationwide, a company owned and/or operated by Suzanne Nounna. Since Waid's request, he received additional information suggesting that in October-November 2014, Ms. Ahern and Suzanne Nounna moved from hotel to hotel every night to avoid "assassins" who were "after" Ms. Ahern. During the same time, David Mann, Esq. reported Suzanne Nounna to Clark County Elder Protective Services after bizarre behavior, including showing up for appointments at his office dressed in various disguises.

///

For these reasons, Waid sought leave of court to pursue a return of property action against Suzanne Nounna and any others that unduly influenced an almost 80 year old woman. Waid now has the support of Ms. Ahern's court-appointed guardian ad litem who, after reviewing the documentation in this matter, believes that a return of property action against Suzanne Nounna "would only be in Eleanor's best interests." (Ex. 1.)

Dated this 15 day of September, 2017.

HUTCHISON & STEFFEN, LLC

Todd L. Moody (5430)
Russel J. Geist (9030)
10080 West Alta Drive, Suite 200
Las Vegas, Nevada 89145

Attorneys for Fredrick P. Waid Court-appointed Trustee

HUTCHISON & STEFFEN
A PROFESSIONAL LLC
PECCOLE PROFESSIONAL PARK
10080 WEST ALTA DRIVE, SUITE 200
LAS VEGAS, NV 89145

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of HUTCHISON & STEFFEN and that on this 15 day of September, 2017, I caused a true and correct copy of the above and foregoing **RENEWED MOTION TO PURSUE RETURN OF PROPERTY ACTION AGAINST SUZANNE NOUNNA** to be served as follows:

[X] by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada; and/or

[X] pursuant to EDCR 8.05(a) and 8.05(f), to be electronically served through the Eighth Judicial District Court's electronic filing system, with the date and time of the electronic service substituted for the date and place of deposit in the mail; and/or

[ ] Pursuant to EDCR 7.26, to be sent via facsimile; and/or

[ ] to be hand-delivered;

to the persons listed below at the address and/or facsimile number indicated below:

Via Mail Only:

Eleanor Ahern
355 W. Mesquite Blvd., D30, #176
Mesquite, NV 89027

Via E-File/E-Serve Only:

Joseph J. Powell, Esq.
The Rushforth Firm
1707 Village Center Circle, Ste. 150
Las Vegas, NV 89134
Attorneys for Kathryn A. Bouvier and Jacqueline M. Montoya

An Employee of Hutchison & Steffen, LLC

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EXHIBIT PAGE ONLY

EXHIBIT 1

Fredrick P. Waid

From: Kristin Woods <katie@woodslawyer.com>
Sent: Wednesday, September 13, 2017 10:12 AM
To: Fredrick P. Waid
Subject: Re: FW: Interim Reports in Connell

I have no objection to the trust seeking recovery against Suzanne Nounna. After reviewing the documentation in this matter, I believe that would only be in Eleanor's best interests.

On Mon, Sep 11, 2017 at 2:40 PM, Fredrick P. Waid <FWaid@hutchlegal.com> wrote:

> Katie:
>
> Please give me a call to discuss. Also, I need an email reply from you consenting to or notifying me you have no objection to me seeking recovery against Suzanne Nounna, Eleanor's POA who received significant cash and other benefits improperly from the Trust. This would only reduce the judgment against Eleanor. Thanks.
>
> Fred
>
> Fredrick P. Waid
> Of Counsel
> HUTCHISON & STEFFEN, PLLC
> (702) 385-2500
> hutchlegal.com
>
> **Notice of Confidentiality:** The information transmitted is intended only for the person or entity to whom it is addressed and may contain confidential and/or privileged material. Any review, retransmission, dissemination or other use of, or taking any action in reliance upon, this information by anyone other than the intended recipient is not authorized.

--
Sincerely,

Kristin "Katie" Woods, J.D., N.C.G
214 East Tabernacle Street
St. George, UT 84770
Phone (435) 673-1882

Fax (435) 272-1716

Licensed in Utah, Nevada, Arizona, and Colorado
National Certified Guardian

www.woodslawyer.com

DISTRICT COURT
CLARK COUNTY, NEVADA

Probate - Trust/Conservatorships | **COURT MINUTES** | September 04, 2009

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

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

HEARD BY: Yamashita, Wesley **COURTROOM:** Courtroom 09

COURT CLERK: Melissa Swinn

PARTIES:

David Mann, Other, not present	Pro Se
Eleanor Ahern, Petitioner, not present	Pro Se
Fredrick Waid, Trustee, not present	Todd Moody, Attorney, not present
Fredrick Waid, Trustee, not present	
Fredrick Waid, Trustee, not present	
Jacqueline Montoya, Other, Personal Representative, not present	Joseph Powell, Attorney, not present
Kathryn Bouvier, Other, not present	Joseph Powell, Attorney, not present
Kristin Woods, Guardian Ad Litem, not present	
Marquis Aurbach Coffing, Other, not present	Dale Hayes, Attorney, not present
Parties Receiving Notice, Other, not present	
The W.N. Connell and Marjorie T. Connell Living Trust, dtd May 18, 1972, Trust, not present	

JOURNAL ENTRIES

- Matter being on the Approved List and there being no objection, COMMISSIONER RECOMMENDED, Petition GRANTED.

INTERIM CONDITIONS:

Notice: Journal entries are prepared by the courtroom clerk and are not the official record of the Court.

FUTURE HEARINGS:

Notice: Journal entries are prepared by the courtroom clerk and are not the official record of the Court.

DISTRICT COURT
CLARK COUNTY, NEVADA

Probate - Trust/Conservatorships | **COURT MINUTES** | October 11, 2013

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

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

HEARD BY: Yamashita, Wesley **COURTROOM:** Courtroom 09

COURT CLERK: Carol Foley

PARTIES:

David Mann, Other, not present	Pro Se
Eleanor Ahern, Petitioner, not present	Pro Se
Fredrick Waid, Trustee, not present	Todd Moody, Attorney, not present
Fredrick Waid, Trustee, not present	
Fredrick Waid, Trustee, not present	
Jacqueline Montoya, Other, Personal Representative, not present	Joseph Powell, Attorney, present
Kathryn Bouvier, Other, not present	Joseph Powell, Attorney, present
Kristin Woods, Guardian Ad Litem, not present	
Marquis Aurbach Coffing, Other, not present	Dale Hayes, Attorney, not present
Parties Receiving Notice, Other, not present	
The W.N. Connell and Marjorie T. Connell Living Trust, dtd May 18, 1972, Trust, not present	

JOURNAL ENTRIES

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

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

Mr. Mugan advised he was recently retained and Mr. Powell agreed to give him additional time to

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file a responsive pleading. Mr. Powell asked Court to refer matter to Judge Sturman. Following discussion, COMMISSIONER RECOMMENDED, matter referred to Judge Sturman and CONTINUED to 11/12/13 at 9:00 a.m.

INTERIM CONDITIONS:

FUTURE HEARINGS:

DISTRICT COURT
CLARK COUNTY, NEVADA

Probate - Trust/Conservatorships | **COURT MINUTES** | November 12, 2013

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

November 12, 2013 **9:00 AM** **Petition**

HEARD BY: Sturman, Gloria **COURTROOM:** RJC Courtroom 03H

COURT CLERK: Linda Denman

PARTIES:

David Mann, Other, not present	Pro Se
Eleanor Ahern, Petitioner, not present	Pro Se
Fredrick Waid, Trustee, not present	Todd Moody, Attorney, not present
Fredrick Waid, Trustee, not present	
Fredrick Waid, Trustee, not present	
Jacqueline Montoya, Other, Personal Representative, not present	Joseph Powell, Attorney, present
Kathryn Bouvier, Other, not present	Joseph Powell, Attorney, present
Kristin Woods, Guardian Ad Litem, not present	
Marquis Aurbach Coffing, Other, not present	Dale Hayes, Attorney, not present
Parties Receiving Notice, Other, not present	
The W.N. Connell and Marjorie T. Connell Living Trust, dtd May 18, 1972, Trust, not present	

JOURNAL ENTRIES

- Argument by counsel on PETITION FOR DECLARATORY JUDGMENT REGARDING LIMITED INTEREST OF TRUST ASSETS PURSUANT TO NRS. 30.040, NRS 153.031(1)(E), and NRS 164.033(1)(A). Colloquy on petitioner's unnoticed MOTION TO REFER CONTESTED PROBATE MATTER TO MASTER-PROBATE COMMISSIONER PER EDCR 4.16. Court and Counsel agreed to consider petitioner's Motion as an opposition to the Petition. Mr. Mugan argued that the

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granddaughters, Jacqueline Montoya, trustee of the MTC Living Trust, and Kathryn Bouvier, were attempting to reform and reconstruct the prior confirmation of the trust by changing the terms of the allocation of the oil and gas proceeds between the parties. Mr. Powell argued that the percentage allocation has been the same for the past 33 years and he urged the Court to issue a declaratory judgment either stating that the granddaughters 65% and the petitioner's 35% was accurate or to at least go back to the status quo until the situation can be brought before the Court because his clients rely upon the proceeds for their income. Counsel stated that an attorney in Texas informed the oil and gas companies that there is a dispute as to the terms of the pay-out and they have ceased distribution of any proceeds into the Trust at all according to either common practice or Texas law.

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

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

CALENDAR CALL: 1/24/2014 at 11:00AM
TRIAL STACK: 2/18/2014 AT 9:00AM

INTERIM CONDITIONS:

FUTURE HEARINGS: Nov 12, 2013 9:00AM Petition
Hearing on Petition for Declaratory judgment Regarding Limited Interest of Trust Assets Pursuant to NRS. 30.040, NRS 153.031(1)(E), and NRS 164.033(1)(A)
RJC Courtroom 03H Sturman, Gloria

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DISTRICT COURT
CLARK COUNTY, NEVADA

Probate - Trust/Conservatorships | **COURT MINUTES** | January 14, 2014

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

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

HEARD BY: Sturman, Gloria **COURTROOM:** RJC Courtroom 03H

COURT CLERK: Linda Denman

PARTIES:

David Mann, Other, not present	Pro Se
Eleanor Ahern, Petitioner, not present	Pro Se
Fredrick Waid, Trustee, not present	Todd Moody, Attorney, not present
Fredrick Waid, Trustee, not present	
Fredrick Waid, Trustee, not present	
Jacqueline Montoya, Other, Personal Representative, not present	Joseph Powell, Attorney, present
Kathryn Bouvier, Other, not present	Joseph Powell, Attorney, present
Kristin Woods, Guardian Ad Litem, not present	
Marquis Aurbach Coffing, Other, not present	Dale Hayes, Attorney, not present
Parties Receiving Notice, Other, not present	
The W.N. Connell and Marjorie T. Connell Living Trust, dtd May 18, 1972, Trust, not present	

JOURNAL ENTRIES

- HEARING ON MOTION TO DISMISS PETITION FOR DECLARATORY JUDGMENT REGARDING LIMITED INTEREST OF TRUST ASSETS PURSUANT TO NRS 30.040, NRS 153.031(1)(e), and NRS 164.033(1)(A) FOR FAILURE TO STATE A CLAIM UPON WHICH RELIEF CAN BE GRANTED PER NRCP 12(B)(5) . . . . . Argument by counsel as to claims preclusion and whether the elements had been met since the matter was brought before the Court in 2009 on a reformation and clarification as to the beneficiaries in the event of petitioner's death. COURT

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STATED ITS FINDINGS that the elements for claim preclusion have not been met since there is no way to anticipate that four years later the trustee would change the distribution for those issues to have been raised in 2009. COURT ORDERED Motion to Dismiss DENIED.

HEARING ON PETITION TO COMPEL TRUSTEE TO DISTRIBUTE ACCRUED INCOME AND FUTURE INCOME RECEIVED FROM OIL, GAS, AND MINERAL LEASES AND DECLARATION OF THE APPLICABILITY OF THE DOCTRINE OF LACHES . . . . .Counsel argued the Court's previous ruling that granted Trustee Ahern the 35% income from the Texas oil and gas leases and the 65% income in dispute to be held until a hearing could be held, the effect of spoliation and Doctrine of Laches on Trustee Ahern's change of distribution, and irreparable harm/success on the merits as to all parties. Upon inquiry of the Court as to bringing this petition now, Mr. Powell stated he felt the issues raised could be dealt with today which would make the upcoming evidentiary hearing unnecessary. COURT STATED ITS FINDINGS that sworn testimony needed to be heard since the facts of distribution from the original trust are in dispute and to decide if Laches is applicable. COURT ORDERED Petition to Compel DENIED WITHOUT PREJUDICE.

INTERIM CONDITIONS:

FUTURE HEARINGS:

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DISTRICT COURT
CLARK COUNTY, NEVADA

Probate - Trust/Conservatorships | **COURT MINUTES** | January 24, 2014

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

January 24, 2014 11:00 AM

HEARD BY: Sturman, Gloria **COURTROOM:** RJC Courtroom 03H

COURT CLERK: Linda Denman

PARTIES:

David Mann, Other, not present	Pro Se
Eleanor Ahern, Petitioner, not present	Pro Se
Fredrick Waid, Trustee, not present	Todd Moody, Attorney, not present
Fredrick Waid, Trustee, not present	
Fredrick Waid, Trustee, not present	
Jacqueline Montoya, Other, Personal Representative, not present	Joseph Powell, Attorney, present
Kathryn Bouvier, Other, not present	Joseph Powell, Attorney, present
Kristin Woods, Guardian Ad Litem, not present	
Marquis Aurbach Coffing, Other, not present	Dale Hayes, Attorney, not present
Parties Receiving Notice, Other, not present	
The W.N. Connell and Marjorie T. Connell Living Trust, dtd May 18, 1972, Trust, not present	

JOURNAL ENTRIES

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

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proceed unless and until a motion is filed requesting a continuance.

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

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

INTERIM CONDITIONS:

FUTURE HEARINGS:

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DISTRICT COURT
CLARK COUNTY, NEVADA

Probate - Trust/Conservatorships | **COURT MINUTES** | February 12, 2014

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

February 12, 2014 11:00 AM Pre Trial Conference

HEARD BY: Sturman, Gloria **COURTROOM:** RJC Courtroom 03H

COURT CLERK: Linda Denman

PARTIES:

David Mann, Other, not present	Pro Se
Eleanor Ahern, Petitioner, not present	Pro Se
Fredrick Waid, Trustee, not present	Todd Moody, Attorney, not present
Fredrick Waid, Trustee, not present	
Fredrick Waid, Trustee, not present	
Jacqueline Montoya, Other, Personal Representative, not present	Joseph Powell, Attorney, present
Kathryn Bouvier, Other, not present	Joseph Powell, Attorney, present
Kristin Woods, Guardian Ad Litem, not present	
Marquis Aurbach Coffing, Other, not present	Dale Hayes, Attorney, not present
Parties Receiving Notice, Other, not present	
The W.N. Connell and Marjorie T. Connell Living Trust, dtd May 18, 1972, Trust, not present	

JOURNAL ENTRIES

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

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happy to oblige.

INTERIM CONDITIONS:

FUTURE HEARINGS: Feb 12, 2014 11:00AM Pre Trial Conference
RJC Courtroom 03H Sturman, Gloria

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DISTRICT COURT
CLARK COUNTY, NEVADA

Probate - Trust/Conservatorships | **COURT MINUTES** | February 18, 2014

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

February 18, 2014 10:00 AM

HEARD BY: Sturman, Gloria **COURTROOM:** RJC Courtroom 03H

COURT CLERK: Linda Denman

PARTIES:

David Mann, Other, not present	Pro Se
Eleanor Ahern, Petitioner, present	Pro Se
Fredrick Waid, Trustee, not present	Todd Moody, Attorney, not present
Fredrick Waid, Trustee, not present	
Fredrick Waid, Trustee, not present	
Jacqueline Montoya, Other, present	Joseph Powell, Attorney, present
Kathryn Bouvier, Other, not present	Joseph Powell, Attorney, present
Kristin Woods, Guardian Ad Litem, not present	
Marquis Aurbach Coffing, Other, not present	Dale Hayes, Attorney, not present
Parties Receiving Notice, Other, not present	
The W.N. Connell and Marjorie T. Connell Living Trust, dtd May 18, 1972, Trust, not present	

JOURNAL ENTRIES

- BENCH TRIAL - DAY

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

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Counsel requested a break to discuss options with their clients.

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

INTERIM CONDITIONS:

FUTURE HEARINGS:

DISTRICT COURT
CLARK COUNTY, NEVADA

Probate - Trust/Conservatorships | **COURT MINUTES** | April 22, 2014

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

April 22, 2014 **9:00 AM** **Petition**

HEARD BY: Sturman, Gloria **COURTROOM:** RJC Courtroom 03H

COURT CLERK: Linda Denman

PARTIES:

David Mann, Other, not present	Pro Se
Eleanor Ahern, Petitioner, not present	Pro Se
Fredrick Waid, Trustee, not present	Todd Moody, Attorney, not present
Fredrick Waid, Trustee, not present	
Fredrick Waid, Trustee, not present	
Jacqueline Montoya, Other, Personal Representative, not present	Joseph Powell, Attorney, present
Kathryn Bouvier, Other, not present	Joseph Powell, Attorney, present
Kristin Woods, Guardian Ad Litem, not present	
Marquis Aurbach Coffing, Other, not present	Dale Hayes, Attorney, not present
Parties Receiving Notice, Other, not present	
The W.N. Connell and Marjorie T. Connell Living Trust, dtd May 18, 1972, Trust, not present	

JOURNAL ENTRIES

- Discussion by counsel on PETITION FOR RELEASE OF TRUST FUNDS FOR THE PAYMENT OF ADMINISTRATIVE EXPENSES, INSURANCE PREMIUMS AND TAXES ATTRIBUTABLE TO TRUST PROPERTY on Mr. Mugan's statement that the objections raised involved misunderstandings as to the petition's intent. He explained that Ms. Ahern had paid the October Ad Valorem taxes out of her share since the 65% was temporarily blocked pending trial and this Petition was to reimburse her now that the trial has been delayed. Also, the Petition is not requesting attorney fees and

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accounting fees are not being assessed against work done on behalf of Ms. Ahern personally. Mr. Powell agreed Ms. Montoya had no objections with the clarification presented by Mr. Mugan as long as there was full transparency for the administrative expenses. Counsel also discussed the selection of Gamett & King) as the accounting firm for the Trust and there was no objection.

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

INTERIM CONDITIONS:

FUTURE HEARINGS:

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DISTRICT COURT
CLARK COUNTY, NEVADA

Probate - Trust/Conservatorships | **COURT MINUTES** | May 13, 2014

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

May 13, 2014 **9:00 AM** **All Pending Motions**

HEARD BY: Sturman, Gloria **COURTROOM:** RJC Courtroom 03H

COURT CLERK: Linda Denman

PARTIES:

David Mann, Other, not present	Pro Se
Eleanor Ahern, Petitioner, not present	Pro Se
Fredrick Waid, Trustee, not present	Todd Moody, Attorney, not present
Fredrick Waid, Trustee, not present	
Fredrick Waid, Trustee, not present	
Jacqueline Montoya, Other, Personal Representative, not present	Joseph Powell, Attorney, present
Kathryn Bouvier, Other, not present	Joseph Powell, Attorney, present
Kristin Woods, Guardian Ad Litem, not present	
Marquis Aurbach Coffing, Other, not present	Dale Hayes, Attorney, not present
Parties Receiving Notice, Other, not present	
The W.N. Connell and Marjorie T. Connell Living Trust, dtd May 18, 1972, Trust, not present	

JOURNAL ENTRIES

- HEARING ON PETITION FOR CONSTRUCTION AND EFFECT OF PROBATE COURT ORDER . . . . . MOTION OF ELEANOR C. AHERN TO CONTINUE MAY 13, 2014 HEARING ON PETITIONER FOR CONSTRUCTIVE AND EFFECT OF PROBATE COURT ORDER OF JACQUELINE M. MONTOYA . . . . Argument by counsel on the effect of the Probate Commissioner's ruling in P080595-E finding a will contest and the Demand for Jury Trial and whether this case should proceed on the declaratory relief sought. Following argument, COURT STATED ITS FINDINGS that the

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declaratory motions and the bench trial set on the August trial stack in this case could be mooted depending on the outcome of the will contest. COURT ORDERED Motion to Continue GRANTED; all declaratory motions in both the trust case and the probate case will be continued as status checks; bench trial VACATED and RESET AS STATUS CHECK; and jury trial SET for will contest. COURT FURTHER ORDERED P-09-066425-T and P- -14-080595-E COORDINATED FOR DISCOVERY PURPOSES ONLY.

12/04/2014 AT 11:00AM P-09-066425-T; STATUS CHECK for Petition for Construction and Effect of Probate Court Order . . . . . STATUS CHECK for Motion to Dismiss Counterclaims of Eleanor C. Ahern . . . . . STATUS CHECK for Petition for Determination of Construction and Interpretation of Language Relating to Trust No. 2 . . . . . STATUS CHECK for Bench Trial/Jury Trial Resetting

12/04/2014 AT 11:00AM P-14-080595-E; CALENDAR CALL
1/12/2015 AT 9:00AM TRIAL STACK

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

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

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

INTERIM CONDITIONS:

FUTURE HEARINGS:

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DISTRICT COURT
CLARK COUNTY, NEVADA

Probate - Trust/Conservatorships | **COURT MINUTES** | September 03, 2014

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

September 03, 2014 **9:00 AM**

HEARD BY: Bulla, Bonnie **COURTROOM:** RJC Level 5 Hearing Room

COURT CLERK: Jennifer Lott

PARTIES:

David Mann, Other, not present	Pro Se
Eleanor Ahern, Petitioner, not present	Pro Se
Fredrick Waid, Trustee, not present	Todd Moody, Attorney, not present
Fredrick Waid, Trustee, not present	
Fredrick Waid, Trustee, not present	
Jacqueline Montoya, Other, Personal Representative, not present	Joseph Powell, Attorney, present
Kathryn Bouvier, Other, not present	Joseph Powell, Attorney, present
Kristin Woods, Guardian Ad Litem, not present	
Marquis Aurbach Coffing, Other, not present	Dale Hayes, Attorney, not present
Parties Receiving Notice, Other, not present	
The W.N. Connell and Marjorie T. Connell Living Trust, dtd May 18, 1972, Trust, not present	

JOURNAL ENTRIES

- If counsel are requesting an accounting of the Trust, they need to ask Judge Sturman. However, Commissioner does not believe counsel are there yet. Colloquy re: whether or not 65/35 split should have been inherited by the Granddaughters.

COMMISSIONER RECOMMENDED, as the Motion was presented today, it is DENIED WITHOUT

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PREJUDICE as this motion is premature; alternative relief discussed re: what should be turned over. Colloquy re: Form 706 estate tax return was produced but redacted. Arguments by counsel. Colloquy re: status of relationship of the parties. If Ms. Ahern wants to make a Motion an accounting at a later time, Commissioner will revisit the issue; however, it is highly unlikely that Commissioner would ever order production of financial documents, or distribution of the Trust that didn't involve 65/35 split.

Commissioner advised Mr. Lum to check what you have, and discuss information with Mr. Powell. Commissioner highly RECOMMENDED Ms. Ahern turn over information on the 35 percent so everyone knows what was reported from the oil leases.

COMMISSIONER RECOMMENDED, the Motion cannot be brought back to Commissioner's attention until the District Court Judge orders an accounting of the MTC Living Trust (include Caveat in Recommendation).

Mr. Powell to prepare the Report and Recommendations, and Mr. Lum to approve as to form and content. A proper report must be timely submitted within 10 days of the hearing. Otherwise, counsel will pay a contribution. Mr. Powell to appear at status check hearing to report on the Report and Recommendations.

10/10/14 11:00 a.m. Status Check: Compliance

INTERIM CONDITIONS:

FUTURE HEARINGS:

DISTRICT COURT
CLARK COUNTY, NEVADA

Probate - Trust/Conservatorships | **COURT MINUTES** | October 10, 2014

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

October 10, 2014 **11:00 AM** **Status Check**

HEARD BY: Bulla, Bonnie **COURTROOM:** RJC Level 5 Hearing Room

COURT CLERK: Alan Castle

PARTIES:

David Mann, Other, not present	Pro Se
Eleanor Ahern, Petitioner, not present	Pro Se
Fredrick Waid, Trustee, not present	Todd Moody, Attorney, not present
Fredrick Waid, Trustee, not present	
Fredrick Waid, Trustee, not present	
Jacqueline Montoya, Other, Personal Representative, not present	Joseph Powell, Attorney, not present
Kathryn Bouvier, Other, not present	Joseph Powell, Attorney, not present
Kristin Woods, Guardian Ad Litem, not present	
Marquis Aurbach Coffing, Other, not present	Dale Hayes, Attorney, not present
Parties Receiving Notice, Other, not present	
The W.N. Connell and Marjorie T. Connell Living Trust, dtd May 18, 1972, Trust, not present	

JOURNAL ENTRIES

- COMMISSIONER RECOMMENDED, Mr. Powell to make $100.00 CONTRIBUTION for Failing to Appear before the Discovery Commissioner; payment DUE to Clark County Pro Bono project (Legal Aid Center) 30 DAYS after Court signs the recommendation. Mr. Powell having failed to appear before the Discovery Commissioner and not having submitted a proper Report and Recommendations from the 9/03/14 hearing timely, COMMISSIONER RECOMMENDED, report is DUE Within ten (10) Days from this date. Counsel to submit proper DCRR by next status date or it

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will result in PROGRESSIVE SANCTIONS. FURTHER, Mr. Powell to make additional $100.00 CONTRIBUTION for his failure to provide a proper, timely Report and Recommendations. Contributions are due to Legal Aid Center of Southern Nevada (Pro Bono Project) thirty (30) DAYS after Court signs the recommendation, a proof of $200.00 payment must be submitted to the Discovery Commissioner. Status check set.

11/14/14 11:00 a.m. Status Check: Compliance/Progressive Sanctions

CLERK'S NOTE: The above minute order has been distributed to: Joseph Powell, Esq.(The Rushforth Firm. Ltd.), P.O. Box 371655, Las Vegas, NV 89137; joey@rushforth.net. ac/10/20/14.

INTERIM CONDITIONS:

FUTURE HEARINGS: Oct 10, 2014 11:00AM Status Check
RJC Level 5 Hearing Room Bulla, Bonnie

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DISTRICT COURT
CLARK COUNTY, NEVADA

Probate - Trust/Conservatorships | **COURT MINUTES** | November 14, 2014

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

November 14, 2014 **11:00 AM** **Status Check**

HEARD BY: Bulla, Bonnie **COURTROOM:** RJC Level 5 Hearing Room

COURT CLERK: Jennifer Lott

PARTIES:

David Mann, Other, not present	Pro Se
Eleanor Ahern, Petitioner, not present	Pro Se
Fredrick Waid, Trustee, not present	Todd Moody, Attorney, not present
Fredrick Waid, Trustee, not present	
Fredrick Waid, Trustee, not present	
Jacqueline Montoya, Other, Personal Representative, not present	Joseph Powell, Attorney, present
Kathryn Bouvier, Other, not present	Joseph Powell, Attorney, present
Kristin Woods, Guardian Ad Litem, not present	
Marquis Aurbach Coffing, Other, not present	Dale Hayes, Attorney, not present
Parties Receiving Notice, Other, not present	
The W.N. Connell and Marjorie T. Connell Living Trust, dtd May 18, 1972, Trust, not present	

JOURNAL ENTRIES

- Commissioner read both letters. Mr. Powell stated Mr. Lum is no longer involved.

COMMISSIONER RECOMMENDED, matter CONTINUED; as soon as possible, Mr. Powell to prepare the Report and Recommendation from Sept. 3, 2014; counsel is relieved from obtaining Mr. Lum's signature.

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Mr. Powell to prepare the Report and Recommendations, and submit it directly to Commissioner. A proper report must be timely submitted within 10 days of the hearing. Otherwise, counsel will pay a contribution. Mr. Powell to appear at status check hearing to report on the Report and Recommendations.

12/19/14 11:00 a.m. Status Check: Compliance

CLERK'S NOTE: Ms. Exley, Law Clerk to David Mann, appeared after court, and Commissioner provided the outcome.

INTERIM CONDITIONS:

FUTURE HEARINGS: Nov 14, 2014 11:00AM Status Check
Status Check: Compliance / Sanctions
RJC Level 5 Hearing Room Bulla, Bonnie

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DISTRICT COURT
CLARK COUNTY, NEVADA

Probate - Trust/Conservatorships | **COURT MINUTES** | December 04, 2014

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

December 04, 2014 10:30 AM **Motion**

HEARD BY: Sturman, Gloria **COURTROOM:** RJC Courtroom 03H

COURT CLERK: Linda Denman

PARTIES:

David Mann, Other, not present	Pro Se
Eleanor Ahern, Petitioner, not present	Pro Se
Fredrick Waid, Trustee, not present	Todd Moody, Attorney, not present
Fredrick Waid, Trustee, not present	
Fredrick Waid, Trustee, not present	
Jacqueline Montoya, Other, Personal Representative, not present	Joseph Powell, Attorney, present
Kathryn Bouvier, Other, not present	Joseph Powell, Attorney, present
Kristin Woods, Guardian Ad Litem, not present	
Marquis Aurbach Coffing, Other, not present	Dale Hayes, Attorney, not present
Parties Receiving Notice, Other, not present	
The W.N. Connell and Marjorie T. Connell Living Trust, dtd May 18, 1972, Trust, not present	

JOURNAL ENTRIES

- PETITION FOR DETERMINATION OF CONSTRUCTION AND INTERPRETATION OF LANGUAGE RELATING TO TRUST NO. 2 . . . . . MOTION TO DISMISS COUNTERCLAIMS OF ELEANOR C. AHERN . . . . PETITION FOR CONSTRUCTION AND EFFECT OF PROBATE COURT ORDER . . . . STATUS CHECK: SETTLEMENT/TRIAL SETTING

COURT ORDERED all motions CONTINUED.

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CONTINUED TO 1/14/2015 AT 10:00AM

INTERIM CONDITIONS:

FUTURE HEARINGS:

Notice: Journal entries are prepared by the courtroom clerk and are not the official record of the Court.

DISTRICT COURT
CLARK COUNTY, NEVADA

Probate - Trust/Conservatorships | **COURT MINUTES** | December 12, 2014

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

December 12, 2014 9:30 AM **Hearing - HM**

HEARD BY: Yamashita, Wesley **COURTROOM:** Courtroom 09

COURT CLERK: Carol Foley

PARTIES:

David Mann, Other, not present	Pro Se
Eleanor Ahern, Petitioner, not present	Pro Se
Fredrick Waid, Trustee, not present	Todd Moody, Attorney, not present
Fredrick Waid, Trustee, not present	
Fredrick Waid, Trustee, not present	
Jacqueline Montoya, Other, Personal Representative, not present	Joseph Powell, Attorney, not present
Kathryn Bouvier, Other, not present	Joseph Powell, Attorney, not present
Kristin Woods, Guardian Ad Litem, not present	
Marquis Aurbach Coffing, Other, not present	Dale Hayes, Attorney, not present
Parties Receiving Notice, Other, not present	
The W.N. Connell and Marjorie T. Connell Living Trust, dtd May 18, 1972, Trust, not present	

JOURNAL ENTRIES

- Prior to the time set for hearing, COMMISSIONER RECOMMENDED, matter taken OFF CALENDAR.

Notice: Journal entries are prepared by the courtroom clerk and are not the official record of the Court.

INTERIM CONDITIONS:

FUTURE HEARINGS:

Jan 14, 2015 9:00AM Status Check: Settlement/Trial Setting
10:00AM SESSION
RJC Courtroom 03H Sturman, Gloria

Jan 14, 2015 9:00AM Status Check
Petition for Determination of Construction and Interpretation of Lanuage Relating to Trust No. 2 (10:00AM)
RJC Courtroom 03H Sturman, Gloria

Jan 14, 2015 9:00AM Status Check
Motion to Dismiss Counterclaims of Eleanor C. Ahern (10:00AM)
RJC Courtroom 03H Sturman, Gloria

Jan 14, 2015 9:00AM Status Check
Petition for Construction and Effect of Probate Court Order (10:00AM)
RJC Courtroom 03H Sturman, Gloria

DISTRICT COURT
CLARK COUNTY, NEVADA

Probate - Trust/Conservatorships | **COURT MINUTES** | December 17, 2014

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

December 17, 2014 9:00 AM **Motion to Enforce**

HEARD BY: Sturman, Gloria **COURTROOM:** RJC Courtroom 03H

COURT CLERK: Linda Denman

PARTIES:

David Mann, Other, not present	Pro Se
Eleanor Ahern, Petitioner, not present	Pro Se
Fredrick Waid, Trustee, not present	Todd Moody, Attorney, not present
Fredrick Waid, Trustee, not present	
Fredrick Waid, Trustee, not present	
Jacqueline Montoya, Other, Personal Representative, not present	Joseph Powell, Attorney, present
Kathryn Bouvier, Other, present	Whitney Warnick, Attorney, present
Kristin Woods, Guardian Ad Litem, not present	
Marquis Aurbach Coffing, Other, not present	Dale Hayes, Attorney, not present
Parties Receiving Notice, Other, not present	
The W.N. Connell and Marjorie T. Connell Living Trust, dtd May 18, 1972, Trust, not present	

JOURNAL ENTRIES

- MOTION TO ENFORCE SETTLEMENT AGREEMENT

Mr. Warnick explained the events leading up to Oct. 22, which included a Nevada Supreme Court (NSC) settlement conference that did not resolve the dispute but counsel left agreeing to continue to try and resolve the issues. The arbitrator held off reporting to the NSC in hope the parties could reach a resolution. On Oct. 22, all parties and their counsel met at attorney Jeffrey Burr's offices to

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take Jacqueline Montoya's deposition. Instead, they began to settle the matter and caucused back and forth with the family members, who were in separate offices, and with all the attorneys. Finally, at the end of the day, the parties reached a settlement agreement and the terms were put on the record by the court reporter. The NSC arbitrator was notified and submitted a report showing the matter settled. However, six (6) days later, Ms. Ahern fired her counsel and refused to accept the settlement. Counsel requested the Court enforce the settlement.

Ms. Renka argued the settlement was a conversation among attorneys and was not reduced to writing, was not signed by Ms. Ahern, and was not entered into the Court's record. Additionally, Ms. Ahern was not in the room when the terms were read into the record and the agreement is deficient in resolving back payments, delayed payments, Texas attorney's fees, and there are no provisions for handling Federal taxes. Ms. Renka concluded there was clearly no meeting of the minds and asked the Court to deny the Motion to Enforce. Upon the Court's questioning as to counsel's reliance on attorneys ability to negotiate with and bind their clients, Ms. Renka advised that there is a rebuttal presumption and Ms. Ahern's is that she never agreed to vacate Jacqueline Montoya's deposition; she was never able to visit with her Texas Advisors; and she did not know the current cost of gas and the tax consequences.

COURT FINDS the fact that Ms. Ahern was not present in the room when the terms were being announced and did not verbally agree to the settlement. The Court did express concern that Ms. Ahern does not realize the full implications should the case not go her way; for example, she may be required to pay attorney fees for her daughters and all costs. Further, the advice she is receiving from her Texas counsel regarding oil and gas law may not be in her best interest as to Nevada's probate law. COURT ORDERED Motion to Enforce DENIED.

Ms. Renka to prepare proposed Order; opposing counsel to review as to form and content.

INTERIM CONDITIONS:

FUTURE HEARINGS:

DISTRICT COURT
CLARK COUNTY, NEVADA

Probate - Trust/Conservatorships | **COURT MINUTES** | December 19, 2014

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

December 19, 2014 11:00 AM **Status Check**

HEARD BY: Bulla, Bonnie **COURTROOM:** RJC Level 5 Hearing Room

COURT CLERK: Alan Castle

PARTIES:

David Mann, Other, not present	Pro Se
Eleanor Ahern, Petitioner, not present	Pro Se
Fredrick Waid, Trustee, not present	Todd Moody, Attorney, not present
Fredrick Waid, Trustee, not present	
Fredrick Waid, Trustee, not present	
Jacqueline Montoya, Other, Personal Representative, not present	Joseph Powell, Attorney, present
Kathryn Bouvier, Other, not present	Joseph Powell, Attorney, present
Kristin Woods, Guardian Ad Litem, not present	
Marquis Aurbach Coffing, Other, not present	Dale Hayes, Attorney, not present
Parties Receiving Notice, Other, not present	
The W.N. Connell and Marjorie T. Connell Living Trust, dtd May 18, 1972, Trust, not present	

JOURNAL ENTRIES

- Colloquy. Discovery Commissioner Finds the Respondent's counsel will prepare the Report and Recommendations regarding the 9/03/14 hearing; Discovery Commissioner agrees that only current counsel need sign off on that report and recommendation and that all prior counsel are relieved from that obligation. Discovery Commissioner directed Mr. Powell to submit a cover letter with the Recommendations explaining the same. Status check set.

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Ms. Wakayama advised the Court of difficulty in obtaining file from prior counsel. Counsel indicated Mr. Mann has not responded to transfer of file. Ms. Wakayama requested to file an emergency motion to compel Mr. Mann to produce the file to counsel. The Discovery Commissioner notes there is not sufficient time to hear the motion before the upcoming dispositive motions are due. Colloquy regarding actions taken by counsel and possibility of setting a phone conference. Counsel indicated she has contacted the State Bar. Colloquy regarding motion to enforce settlement. Discovery Commissioner directed Ms. Wakayama to see if counsel could get a phone conference set up for next week.

1/09/15 11:00 a.m. Status Check: Compliance

INTERIM CONDITIONS:

FUTURE HEARINGS:

DISTRICT COURT
CLARK COUNTY, NEVADA

Probate - Trust/Conservatorships | **COURT MINUTES** | January 09, 2015

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

January 09, 2015 11:00 AM

HEARD BY: Bulla, Bonnie **COURTROOM:** RJC Level 5 Hearing Room

COURT CLERK: Jennifer Lott

PARTIES:

David Mann, Other, not present	Pro Se
Eleanor Ahern, Petitioner, not present	Pro Se
Fredrick Waid, Trustee, not present	Todd Moody, Attorney, not present
Fredrick Waid, Trustee, not present	
Fredrick Waid, Trustee, not present	
Jacqueline Montoya, Other, Personal Representative, not present	Joseph Powell, Attorney, not present
Kathryn Bouvier, Other, not present	Joseph Powell, Attorney, not present
Kristin Woods, Guardian Ad Litem, not present	
Marquis Aurbach Coffing, Other, not present	Dale Hayes, Attorney, not present
Parties Receiving Notice, Other, not present	
The W.N. Connell and Marjorie T. Connell Living Trust, dtd May 18, 1972, Trust, not present	

JOURNAL ENTRIES

- Report and Recommendation was returned to counsel Dec. 2, 2014. Mr. Powell will resubmit Report and Rec. shortly. Colloquy re: the change in counsel. No Trial date.

COMMISSIONER RECOMMENDED, matter CONTINUED; Mr. Powell to prepare the Report and Recommendations. A proper report must be timely submitted within 10 days of the hearing. Otherwise, counsel will pay a contribution. Mr. Powell to appear at status check hearing to report on

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the Report and Recommendations.

2/20/15 11:00 a.m. Status Check: Compliance

INTERIM CONDITIONS:

FUTURE HEARINGS:

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DISTRICT COURT
CLARK COUNTY, NEVADA

Probate - Trust/Conservatorships | **COURT MINUTES** | January 14, 2015

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

January 14, 2015 **9:00 AM** **All Pending Motions**

HEARD BY: Sturman, Gloria **COURTROOM:** RJC Courtroom 03H

COURT CLERK: Linda Denman

PARTIES:

David Mann, Other, not present	Pro Se
Eleanor Ahern, Petitioner, not present	Pro Se
Fredrick Waid, Trustee, not present	Todd Moody, Attorney, not present
Fredrick Waid, Trustee, not present	
Fredrick Waid, Trustee, not present	
Jacqueline Montoya, Other, Personal Representative, not present	Joseph Powell, Attorney, present
Kathryn Bouvier, Other, not present	Joseph Powell, Attorney, present
Kristin Woods, Guardian Ad Litem, not present	
Marquis Aurbach Coffing, Other, not present	Dale Hayes, Attorney, not present
Parties Receiving Notice, Other, not present	
The W.N. Connell and Marjorie T. Connell Living Trust, dtd May 18, 1972, Trust, not present	

JOURNAL ENTRIES

- MOTION FOR LEAVE TO AMEND PLEADINGS OF JACQUELINE M. MONTOYA AND KATHRYN A. BOUVIER FOR CLAIMS, DEFENSES, DAMAGES AND ASSESSMENT OF PENALTIES, AND FOR OTHER RELIEF AGAINST ELEANOR CONNELL HARTMAN AHERN

OPPOSITION & COUNTERMOTION OF KATHRYN A. BOUVIER AND JACQUELINE M. MONTOYA FOR SUMMARY JUDGMENT OF PETITION FOR DECLARATION JUDGMENT, FOR

Notice: Journal entries are prepared by the courtroom clerk and are not the official record of the Court.

DAMAGES AND ASSESSMENT OF PENALTIES AND FOR OTHER RELIEF

STATUS CHECK: PETITION FOR DETERMINATION OF CONSTRUCTION AND INTERPRETATION OF LANGUAGE RELATING TO TRUST NO. 2

STATUS CHECK: MOTION TO DISMISS COUNTERCLAIMS OF ELEANOR C. AHERN

STATUS CHECK: PETITION FOR CONSTRUCTION AND EFFECT OF PROBATE COURT ORDER

Counsel confirmed that the Will contest in companion case P-080595-E, In the Matter of Marjorie Connell, Deceased has been dismissed with prejudice by stipulation and order and that case can be closed. COURT SO ORDERED.

As to the matters scheduled for today, Court and counsel agreed to reserve a special date for hearing all matters that were stayed in this case while the Will contest was pending. Parties expressed some confusion over what the Court was to hear today and the Court stated that courtesy copies had not been delivered on all pleadings. Counsel agreed to prepare an itemized list and to contact the law clerk to make sure all pleadings were available. Mr. Powell discussed certain pleadings that were dismissed with prejudice to be renewed later that he would like the Court to reconsider. Court requested he renotice and encourage the parties to work together to make sure that all matters were before the Court. COURT ORDERED hearing date SET.

CONTINUED TO 1/30/2015 AT 10:00AM

INTERIM CONDITIONS:

FUTURE HEARINGS: Jan 30, 2015 10:00AM Hearing
RJC Courtroom 03H Sturman, Gloria

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DISTRICT COURT
CLARK COUNTY, NEVADA

Probate - Trust/Conservatorships | **COURT MINUTES** | January 16, 2015

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

January 16, 2015 **9:30 AM** **Motion - HM**

HEARD BY: Yamashita, Wesley **COURTROOM:** Courtroom 09

COURT CLERK: Carol Foley

PARTIES:

David Mann, Other, not present	Pro Se
Eleanor Ahern, Petitioner, not present	Pro Se
Fredrick Waid, Trustee, not present	Todd Moody, Attorney, not present
Fredrick Waid, Trustee, not present	
Fredrick Waid, Trustee, not present	
Jacqueline Montoya, Other, Personal Representative, not present	Joseph Powell, Attorney, not present
Kathryn Bouvier, Other, not present	Joseph Powell, Attorney, not present
Kristin Woods, Guardian Ad Litem, not present	
Marquis Aurbach Coffing, Other, not present	Dale Hayes, Attorney, not present
Parties Receiving Notice, Other, not present	
The W.N. Connell and Marjorie T. Connell Living Trust, dtd May 18, 1972, Trust, not present	

JOURNAL ENTRIES

- Prior to the time set for hearing, COMMISSIONER RECOMMENDED, matter taken OFF CALENDAR.

INTERIM CONDITIONS:

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FUTURE HEARINGS: Jan 30, 2015 10:00AM Hearing
RJC Courtroom 03H Sturman, Gloria

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DISTRICT COURT
CLARK COUNTY, NEVADA

Probate - Trust/Conservatorships | **COURT MINUTES** | January 30, 2015

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

January 30, 2015 10:00 AM

HEARD BY: Sturman, Gloria **COURTROOM:** RJC Courtroom 03H

COURT CLERK: Linda Denman

PARTIES:

David Mann, Other, not present	Pro Se
Eleanor Ahern, Petitioner, not present	Pro Se
Fredrick Waid, Trustee, not present	Todd Moody, Attorney, not present
Fredrick Waid, Trustee, not present	
Fredrick Waid, Trustee, not present	
Jacqueline Montoya, Other, Personal Representative, present	Joseph Powell, Attorney, present
Kathryn Bouvier, Other, not present	Joseph Powell, Attorney, present
Kristin Woods, Guardian Ad Litem, not present	
Marquis Aurbach Coffing, Other, not present	Dale Hayes, Attorney, not present
Parties Receiving Notice, Other, not present	
The W.N. Connell and Marjorie T. Connell Living Trust, dtd May 18, 1972, Trust, not present	

JOURNAL ENTRIES

- EVIDENTIARY HEARING ON PENDING MOTIONS

Court and counsel discussed the outstanding Petitions and Motions that were stayed when the Will contest in the related probate case was set. Counsel agreed that certain responsive pleadings are subsumed in Countermotions for Summary Judgment and will be designated as moot. Counsel argued their respective positions. Ms. Wakayama showed a power point presentation during opening

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statements; a hard copy of which has been marked as Court Exhibit 1. Mr. Warnick and Mr. Powell prepared a notebook of all relevant information and that will be designed Court Exhibit 2.

COURT STATED ITS FINDINGS the record is replete with the fact that Eleanor received approximately 35% of the Texas oil and gas leases and Marjorie received approximately 65% for 30 years. Additionally, for four years following Marjorie's death, Eleanor continued to receive approximately 35% of the asset and Marjorie's heirs received her share. Eleanor did not assert any claim or right, and there is no mention in the record, that upon Marjorie's death she would receive 100% of the income from that asset. W.C.'s separate property changed between the initiation of the Trust and his death 7 years later and some property was conveyed directly to Eleanor. Additionally, the Trust terms that refer to separate property do not mean only the Texas oil and gas leases--that was the only separate property he had at the time of his death; all other separate property having been previously conveyed to Eleanor. Additionally, tax records do not support Eleanor s position as the percentage claimed by Marjorie was not reported as a gift. Court further notes that W.C. prepared a sound Trust document that kept this valuable income producing asset in his family, protected from taxes, and third party outsiders.

COURT ORDERED Opposition to Eleanor C. Ahern's Motion to Dismiss Petition for Declaratory Judgment for Failure to State a Claim Upon Which Relief Can Be Granted; and, Countermotion of Kathryn A. Bouvier and Jacqueline M. Montoya for Summary Judgment on Petition for Declaratory Judgment, for Damages and Assessment of Penalties, and for Other Relief GRANTED. Subsumed in this motion are the original Petition for Declaratory Judgment Regarding Limited Interest of Trust Assets filed 9/27/13; Petition for Construction and Effect of Probate Court Order, filed 3/26/14; Petition for Determination of Construction and Interpretation of Language Relating to Trust No. 2, filed 3/27/14, and Petition to Compel Trustee to Distribute Accrued Income and Future Income Received From Oil, Gas, and Mineral Leases and Declaration of the Applicability of the Doctrine of Laches, which will all be resulted as Granted. As to the claims asserted in Jacqueline and Kathryn's Motion for Summary, COURT FURTHER ORDERED Breach of Fiduciary Duty claim DENIED; Removal of Eleanor as Trustee RESERVED RULING for further briefing; and request for attorney's fees RESERVED RULING as this request is premature.

COURT FURTHER ORDERED Eleanor Ahern's Answer to Petition for Declaratory Judgment Regarding Limited Interest of Trust Assets and for Failure to State a Claim Upon Which Relief Can Be Granted and Counterclaims Against Jacqueline M. Montoya DENIED. Specifically, COURT FINDS neither side violated the No-Contest provisions as the Court was the property entity to deal with the complicated good faith disputes. COURT FURTHER FINDS Intentional Interference claim DENIED WITHOUT PREJUDICE. Additionally, Motion to Dismiss and Motion to Strike Counterclaims Raised by Eleanor C. Ahern Pursuant to NRCP 15 and NRCP 12(B) and Motion to Dismiss Counterclaims of Eleanor C. Ahern GRANTED.

COURT FURTHER ORDERED Eleanor's Omnibus Opposition to 1) Petition for Determination of Construction and Interest of Language Relating to Trust No. 2, and 2) Petition for Construction and Effect of Probate Court Order; and Countermotion for Summary Judgment, filed 1/2/15, DENIED.

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As a result of the rulings on the above-referenced Motions, Petitions, and Countermotions, COURT ORDERED oil and gas revenues held pending the resolution of this matter RELEASED and DISTRIBUTED to Jacqueline and Kathryn thirty (31) days after Notice of Entry of Order.

COURT FURTHER ORDERED Motion for Leave to Amend Pleadings of Jacqueline M. Montoya and Kathryn A. Bouvier for Claims, Defenses, Damages, and Assessment of Penalties, and for Other Relief Against Eleanor Connell Hartman Ahern MOOT. Ms. Renka raised an objection to the claims raised by Jacqueline and Kathryn stating they were not raised in the original Petition and never properly asserted in a mandatory responsive pleading. They never answered nor raised any affirmative defenses within the time allowed. Mr. Powell argued the claims were raised in various motions and petitions. COURT OVERRULED the objection, finding the stay imposed while the Will contest was underway left some responsive pleadings pending but the parties' agreement to subsume responsive motions renders this objection moot.

Court and counsel discussed the possibility of filing the final Order under seal in order to protect any confidential financial information. Both parties agreed they would abide by NSC Rule 3 and submit an Order.

COURT ORDERED hearing SET; further issues to finalize are accounting of the money from the time disbursements ceased to when the money was ordered held; removal of Eleanor as trustee; attorney fees; and the best way for the Trust to continue. Parties can submit briefs on the respective issues.

3/20/2015 AT 10:00AM HEARING

INTERIM CONDITIONS:

FUTURE HEARINGS: Feb 18, 2015 9:30AM Motion
Eleanor Connell Hartman Ahern, as Trustee and Individually Motion to Compel David Mann ESQ. to Turn over Documents
RJC Level 5 Hearing Room Bulla, Bonnie

Notice: Journal entries are prepared by the courtroom clerk and are not the official record of the Court.

DISTRICT COURT
CLARK COUNTY, NEVADA

Probate - Trust/Conservatorships | **COURT MINUTES** | February 18, 2015

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

February 18, 2015 9:30 AM Motion

HEARD BY: Bulla, Bonnie **COURTROOM:** RJC Level 5 Hearing Room

COURT CLERK: Jennifer Lott

PARTIES:

David Mann, Other, not present	Pro Se
Eleanor Ahern, Petitioner, not present	Pro Se
Fredrick Waid, Trustee, not present	Todd Moody, Attorney, not present
Fredrick Waid, Trustee, not present	
Fredrick Waid, Trustee, not present	
Jacqueline Montoya, Other, Personal Representative, not present	Joseph Powell, Attorney, not present
Kathryn Bouvier, Other, not present	Joseph Powell, Attorney, not present
Kristin Woods, Guardian Ad Litem, not present	
Marquis Aurbach Coffing, Other, not present	Dale Hayes, Attorney, not present
Parties Receiving Notice, Other, not present	
The W.N. Connell and Marjorie T. Connell Living Trust, dtd May 18, 1972, Trust, not present	

JOURNAL ENTRIES

- David Mann, Esquire, present.

Argument by Ms. Wakayama; statements in Reply should be stricken, and confidential information must be sealed and preserved. No objection by Mr. Mann as issue will be worked out at the State Bar level. Commissioner advised counsel bring a proper Motion to Strike Portions of Pleading to Judge Sturman as Commissioner does not have enough information to do so today.

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Commissioner advised counsel Summary Judgment was entered, the Will contest was Dismissed by Stipulation, and the issue is Moot. Ms. Wakayama stated a Hearing is set before Judge Sturman March 20th on Breach of Fiduciary Duty, and the other side requested Attorney Fees. Argument by Mr. Mann. Commissioner advised counsel a request can be made to Judge Sturman not to rule on Motion pending resolution of issues before the State Bar.

COMMISSIONER RECOMMENDED, motion is DENIED WITHOUT PREJUDICE.

Mr. Mann to prepare the Report and Recommendations, and Ms. Wakayama to approve as to form and content. A proper report must be timely submitted within 10 days of the hearing. Otherwise, counsel will pay a contribution. Mr. Mann to appear at status check hearing to report on the Report and Recommendations.

3/20/15 11:00 a.m. Status Check: Compliance

INTERIM CONDITIONS:

FUTURE HEARINGS:

Notice: Journal entries are prepared by the courtroom clerk and are not the official record of the Court.

DISTRICT COURT
CLARK COUNTY, NEVADA

Probate - Trust/Conservatorships | **COURT MINUTES** | March 20, 2015

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

March 20, 2015 **10:00 AM** **Hearing**

HEARD BY: Sturman, Gloria **COURTROOM:** RJC Courtroom 03H

COURT CLERK: Linda Denman

PARTIES:

David Mann, Other, not present	Pro Se
Eleanor Ahern, Petitioner, not present	Pro Se
Fredrick Waid, Trustee, not present	Todd Moody, Attorney, not present
Fredrick Waid, Trustee, not present	
Fredrick Waid, Trustee, not present	
Jacqueline Montoya, Other, Personal Representative, present	Joseph Powell, Attorney, present
Kathryn Bouvier, Other, not present	Joseph Powell, Attorney, present
Kristin Woods, Guardian Ad Litem, not present	
Marquis Aurbach Coffing, Other, not present	Dale Hayes, Attorney, not present
Parties Receiving Notice, Other, not present	
The W.N. Connell and Marjorie T. Connell Living Trust, dtd May 18, 1972, Trust, not present	

JOURNAL ENTRIES

- PROBATE HEARING

Court clarified the items to be discussed and resolve at today's hearing include finalizing accounting from time disbursements stopped to date when Court ordered money held; request to remove Eleanor Ahern as Trustee; request for attorney fees, and the future structure of the trust.

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As to the accounting, Counsel argued the scope of the Court's prior Order granting payment of Administrative Expenses, Insurance Premiums, and taxes paid on a pro rata basis. Mr. Warnick argued the 6% trustee fees were excessive, the overhead expenses were unnecessary, the deposit with Capital Fidelity Investment questionable, money deposited in Eleanor's personal Texas attorney's trust fund comingled, and money invested in a California firm for a foundation self-serving. Ms. Wakayama defended the accounting saying Ms. Ahern was personally involved in several transactions in Texas that resulted in $3.6 million for the Trust. It is an acceptable practice to reimburse a trustee for such costs as travel, computers, time, etc., and 6% is a common charge. The overhead charge includes office space for her and advisors who have been assisting her with tax problems and investment opportunities, and that she acted in good faith in assessing these reasonable expenses.

As to Eleanor's removal as trustee, Counsel argued whether she breached her fiduciary duties. Mr. Powell argued that Eleanor's actions in stopping beneficiary distributions without Court approval was self-dealing and she should have recused herself as Trustee and let a third-party neutral act while she sought to have herself named as the sole beneficiary. Ms. Wakayama pointed out that Eleanor had been co-trustee of Marjorie's trust since 1980 and the objectors were designated contingent beneficiaries. She simply asserted her rights to take the entire income. Following the Court's Order, Eleanor has made sure that $2 million is being held and once this situation is resolved the money will be distributed as ordered. She concluded that Eleanor has only taken her 35% of the income and the balance less 65% expenses is being held.

As to the future of the trust, Counsel stated they agreed that splitting the trust would cause unnecessary administrative expenses and could possible jeopardize dealings with oil companies.

As to attorney fees, Ms. Wakayma argued counsel did not analyze their request against the Brunzell standards.

As to the administrative fees in the accounting, COURT STATED ITS FINDINGS that while Eleanor may be entitled to be paid for her time, the amount she accounts for as her fee is excessive and unreasonable, being more in line with a corporate trustee, and that also charging overhead for staff and office space is not appropriate. Additionally, COURT FINDS that Capital Fidelity Investments does not satisfy the standards of the Uniform Prudent Investors Act. Finally, the Court also finds the $37,000 payment was already accounted for and should be credited to the 65% trust. COURT ORDERED accounting expenses AMENDED AND REDUCED by $218,000 for administrative expenses and $24,000 for double billing. COURT FURTHER ORDERED the $500,000 investment in Capital Fidelity withdrawn and immediately placed in a more appropriate, federally insured vehicle.

As to the removal of Eleanor as Trustee for breach of fiduciary duties, COURT FINDS a breach of fiduciary duties to the 65% trust beneficiaries since she acted without Court permission in stopping distribution without proper notice or Court approval. COURT ORDERED Eleanor Ahern REMOVED as Trustee as to the 65% trust.

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As to the future of the trust, COURT STATED ITS FINDINGS that ultimately the only resolution may be to split the trust and allow each party to manage their own money; however for the present, the trust needs to remain whole through this litigation. COURT ORDERED Eleanor Ahern TEMPORARILY REMOVED as Trustee over the 35% Trust; Court will APPOINT an independent third party as trustee over the entire trust. Counsel discussed either Premier Trust or Fred Waid and they will each provide the Court with their client's choice by Tuesday, March 24, 2015.

As to attorney fees, COURT ORDERED request GRANTED; counsel to file appropriate motion with redacted billing statements in ten (10) days including an analysis of the Brunzell factors; opposition due ten (10) days following; reply due five (5) days following. COURT FURTHER ORDERED hearing SET.

Mr. Warnick to prepare proposed Order; Ms. Wakayama to review as to form and content.

5/13/2015 at 9:00AM MOTION FOR ATTORNEY FEES AND COSTS

INTERIM CONDITIONS:

FUTURE HEARINGS: Mar 20, 2015 11:00AM Status Check: Compliance
RJC Level 5 Hearing Room Bulla, Bonnie

Notice: Journal entries are prepared by the courtroom clerk and are not the official record of the Court.

DISTRICT COURT
CLARK COUNTY, NEVADA

Probate - Trust/Conservatorships | **COURT MINUTES** | March 20, 2015

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

March 20, 2015 **11:00 AM**

HEARD BY: Bulla, Bonnie **COURTROOM:** RJC Level 5 Hearing Room

COURT CLERK: Jennifer Lott

PARTIES:

David Mann, Other, not present	Pro Se
Eleanor Ahern, Petitioner, not present	Pro Se
Fredrick Waid, Trustee, not present	Todd Moody, Attorney, not present
Fredrick Waid, Trustee, not present	
Fredrick Waid, Trustee, not present	
Jacqueline Montoya, Other, Personal Representative, not present	Joseph Powell, Attorney, not present
Kathryn Bouvier, Other, not present	Joseph Powell, Attorney, not present
Kristin Woods, Guardian Ad Litem, not present	
Marquis Aurbach Coffing, Other, not present	Dale Hayes, Attorney, not present
Parties Receiving Notice, Other, not present	
The W.N. Connell and Marjorie T. Connell Living Trust, dtd May 18, 1972, Trust, not present	

JOURNAL ENTRIES

- Dale Hayes, Esquire, and David Mann, Esquire, present.

Report and Recommendation was submitted, returned to counsel, and Mr. Mann will resubmit it shortly.

COMMISSIONER RECOMMENDED, matter CONTINUED; Mr. Mann to prepare the Report and

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Recommendations. A proper report must be timely submitted within 10 days of the hearing. Otherwise, counsel will pay a contribution. Mr. Mann to appear at status check hearing to report on the Report and Recommendations.

4/17/15 11:00 a.m. Status Check: Compliance

INTERIM CONDITIONS:

FUTURE HEARINGS:

Notice: Journal entries are prepared by the courtroom clerk and are not the official record of the Court.

DISTRICT COURT
CLARK COUNTY, NEVADA

Probate - Trust/Conservatorships | **COURT MINUTES** | March 26, 2015

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

March 26, 2015 **11:00 AM** **Telephonic Hearing**

HEARD BY: Sturman, Gloria **COURTROOM:** RJC Courtroom 03H

COURT CLERK: Linda Denman

PARTIES:

David Mann, Other, not present	Pro Se
Eleanor Ahern, Petitioner, not present	Pro Se
Fredrick Waid, Trustee, not present	Todd Moody, Attorney, not present
Fredrick Waid, Trustee, not present	
Fredrick Waid, Trustee, not present	
Jacqueline Montoya, Other, Personal Representative, not present	Joseph Powell, Attorney, present
Kathryn Bouvier, Other, not present	Joseph Powell, Attorney, present
Kristin Woods, Guardian Ad Litem, not present	
Marquis Aurbach Coffing, Other, not present	Dale Hayes, Attorney, not present
Parties Receiving Notice, Other, not present	
The W.N. Connell and Marjorie T. Connell Living Trust, dtd May 18, 1972, Trust, not present	

JOURNAL ENTRIES

- TELEPHONE CONFERENCE

Also present Dale Hayes, Esq. for Petitioner and Jeff Johnston, Esq., Texas counsel for Petitioner. Ms. Wakayama requested the Court's guidance on whether or not Mr. Johnston could proceed with negotiations regarding PSA's, Pioneer Easement, and Apache lease since the Court was going to assign a third party neutral as trustee while the matter is in litigation. She expressed concern that

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opposing counsel was reluctant to stipulate to the confidentiality aspect. Mr. Johnston advised that Texas law vests title to the property in the trustee. The leases in question are due for renewal the first part of April and he expressed concern that a new trustee would not be in place when the agreements needed to be executed.

COURT STATED Mr. Johnston's competency in representing the trust in these negotiations was not in question and appreciated the hard work he was doing on behalf of this family. COURT ORDERED Frederick Waid APPOINTED as trustee. As to the problems the parties raised, the COURT FURTHER ORDERED beneficiaries Montoya and Bouvier be kept informed of all negotiations; that Montoya and Bouvier be cautioned they cannot discuss or convey in any way confidential information told to them by their attorney to other family members; and that Mr. Johnston is to proceed in his negotiations and work with Mr. Waid once he is in place. Court clarified that if any agreements need to be signed prior to Mr. Waid's placement, whoever is so authorized at the time may sign.

Mr. Warnick to prepare Order appointing Frederick Waid as Trustee. Ms. Wakayama to prepare proposed Order regarding this hearing and/or the confidential agreement as discussed.

INTERIM CONDITIONS:

FUTURE HEARINGS: Mar 26, 2015 11:00AM Telephonic Hearing
RJC Courtroom 03H Sturman, Gloria

Notice: Journal entries are prepared by the courtroom clerk and are not the official record of the Court.

DISTRICT COURT
CLARK COUNTY, NEVADA

Probate - Trust/Conservatorships | **COURT MINUTES** | April 14, 2015

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

April 14, 2015 9:00 AM

HEARD BY: Sturman, Gloria **COURTROOM:** RJC Courtroom 03H

COURT CLERK: Linda Denman

PARTIES:

David Mann, Other, not present	Pro Se
Eleanor Ahern, Petitioner, not present	Pro Se
Fredrick Waid, Trustee, present	Todd Moody, Attorney, not present
Fredrick Waid, Trustee, not present	
Fredrick Waid, Trustee, not present	
Jacqueline Montoya, Other, Personal Representative, not present	Joseph Powell, Attorney, present
Kathryn Bouvier, Other, not present	Joseph Powell, Attorney, present
Kristin Woods, Guardian Ad Litem, not present	
Marquis Aurbach Coffing, Other, not present	Dale Hayes, Attorney, not present
Parties Receiving Notice, Other, not present	
The W.N. Connell and Marjorie T. Connell Living Trust, dtd May 18, 1972, Trust, not present	

JOURNAL ENTRIES

- TRUSTEE ELEANOR CONNELL-HARTMAN-AHERN'S MOTION TO STAY PENDING APPEAL ON OST

After the Court clarified its previous ruling that the newly appointed third-party trustee has full discretion to handle pending agreements in any way he believes best suits the trust, Ms. Renka withdrew her Motion to Stay. Mr. Waid advised he has discovered Ms. Ahern has deposited trust

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funds into a bank account with the assumption she will be given a line of credit to post a supersedeas bond. He asked the Court to issue an Order to Show Cause if all the monies he has traced thus far are not immediately returned to the trust. Ms. Renka advised she only learned of this situation prior to today's hearing.

Following discussion by counsel, COURT STATED ITS FINDINGS that Eleanor Ahern, as former trustee of the W. N. Connell and Marjorie T. Connell Living Trust, has not acted in good faith in complying with the Court's previous orders. Particularly, Ms. Ahern has not turned over all trust funds to the trustee, Fred Waid, and has not shown good faith in her representations to her counsel. COURT ORDERED former trustee, Eleanor Ahern, by close of business, Friday 17, 2015 to turn over all trust funds to trustee Fred Waid. FURTHER COURT ORDERED Ms. Ahern is to agree to a time within the next two weeks to be deposed by the trustee, as well as anyone she has designated as her power of attorney. Additionally, Ms. Ahern is to bring all records, accounts, and any other relevant material with her to the deposition. COURT FURTHER ORDERED an Order to Show Cause Hearing SET; if needed, in the event all trust funds are not given to the trustee by the Friday deadline.

Ms. Renka to prepare proposed Order withdrawing her motion; Mr. Moody to prepare proposed Order to Show Cause.

4/22/2015 at 10:30am ORDER TO SHOW CAUSE Why Eleanor Ahern Should Not Be Held in Contempt of Court for Failing to Following Court's Orders.

INTERIM CONDITIONS:

FUTURE HEARINGS:

Notice: Journal entries are prepared by the courtroom clerk and are not the official record of the Court.

DISTRICT COURT
CLARK COUNTY, NEVADA

Probate - Trust/Conservatorships | **COURT MINUTES** | April 14, 2015

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

April 14, 2015 **4:30 PM** **Telephonic Hearing**

HEARD BY: Sturman, Gloria; Judge Sturman, Probate **COURTROOM:**

COURT CLERK: Linda Denman

PARTIES:

David Mann, Other, not present	Pro Se
Eleanor Ahern, Petitioner, not present	Pro Se
Fredrick Waid, Trustee, present	Todd Moody, Attorney, not present
Fredrick Waid, Trustee, not present	
Fredrick Waid, Trustee, not present	
Jacqueline Montoya, Other, Personal Representative, not present	Joseph Powell, Attorney, present
Kathryn Bouvier, Other, not present	Joseph Powell, Attorney, present
Kristin Woods, Guardian Ad Litem, not present	
Marquis Aurbach Coffing, Other, not present	Dale Hayes, Attorney, not present
Parties Receiving Notice, Other, not present	
The W.N. Connell and Marjorie T. Connell Living Trust, dtd May 18, 1972, Trust, not present	

JOURNAL ENTRIES

- EMERGENCY TELEPHONIC CONFERENCE

Ms. Wakayama notified the Court of Marquis, Aurbach's decision to immediately withdraw as counsel for Eleanor Ahern. After reading the local rules, Court stated they needed to make a written motion and include all last known contact information for Ms. Ahern. Upon request of counsel, COURT ORDERED a time would be set aside for a hearing on their motion as long as their motion

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was delivered, signed and filed allowing one judicial day of notice. Mr. Waid also inquired as to whether he could try and contact Ms. Ahern directly and the Court advised he is her trustee as well and he can speak with her directly. Upon inquiry of Mr. Waid as to the trust file, Ms. Wakayama advised Mr. Mann was still holding the file but she would relay to him that instead of turning over the file to Ms. Ahern, he needed to give it to Mr. Waid.

4/20/2015 at 10:00am MARQUIS AURBACH'S MOTION TO WITHDRAW AS COUNSEL OF RECORD FOR ELEANOR AHERN (Time set aside).

INTERIM CONDITIONS:

FUTURE HEARINGS: Apr 22, 2015 10:30AM Order to Show Cause
RJC Courtroom 03H Sturman, Gloria

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DISTRICT COURT
CLARK COUNTY, NEVADA

Probate - Trust/Conservatorships | **COURT MINUTES** | April 20, 2015

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

April 20, 2015 **10:00 AM** **Motion for Withdrawal**

HEARD BY: Sturman, Gloria **COURTROOM:** RJC Courtroom 03H

COURT CLERK: Shelly Landwehr

PARTIES:

David Mann, Other, not present	Pro Se
Eleanor Ahern, Petitioner, not present	Pro Se
Fredrick Waid, Trustee, not present	Todd Moody, Attorney, not present
Fredrick Waid, Trustee, not present	
Fredrick Waid, Trustee, not present	
Jacqueline Montoya, Other, Personal Representative, present	Joseph Powell, Attorney, present
Kathryn Bouvier, Other, not present	Joseph Powell, Attorney, present
Kristin Woods, Guardian Ad Litem, not present	
Marquis Aurbach Coffing, Other, not present	Dale Hayes, Attorney, not present
Parties Receiving Notice, Other, not present	
The W.N. Connell and Marjorie T. Connell Living Trust, dtd May 18, 1972, Trust, not present	

JOURNAL ENTRIES

- Renka, Candice F. Attorney for Petitioner Eleanor Ahern
Hayes, Dale present for Petitioner Eleanor Ahern
Waid, Fredrick Trustee
Warnick, Whitney B. Attorney for Kathryn Bouvier
Guist, Russell Attorney for Trustee
Powell, Joseph J Attorney for Jacqueline Montoya

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Montoya, Jacqueline

Ms. Wakayama stated the law firm is everyday learning more and more information from the newly appointed trustee that was never known before and every day the law firm is placed into the most uncomfortable of circumstances and can no longer ethically represent Mrs. Ahern s interests and can no longer present evidence to this Court that it has no way of determining its accuracy. Ms. Wakayama invoked counsels rights and stated they are honoring their duty under Rule 1.16(a) to immediately withdraw as counsel.

Court noted received a written opposition from Mr. Waid and inquired of the other parties. Mr. Powell stated he did not have a position.

Mr. Guist argued regarding EDCR 7.40(c) and Rule 1.16 (b)(1) and stated there are deadlines forthcoming, and Mrs. Has a show cause hearing on 4/22/15 regarding the unreturned funds to the Trust. Lastly, this Court ordered a deposition of Mrs. Ahern to
be taken by 4/28, regarding the Trust funds. Mr. Guist stated he is prepared to take the deposition and stated his concern if Mrs. Ahern is left without counsel, she might act against her own best interests if she were to be deposed and if she were to appear at the show cause hearing, unrepresented. Mr. Guist further argued any delay in the upcoming deadlines would be adverse to the other beneficiaries of the Trust. Mr. Guist stated now is not the right time and argued there should be a substitution of counsel in place and argued for denial of the motion, pending substitution.

Court stated Marquis Aurbach Coffing s position is, their withdrawal is mandatory under the rules and inquired regarding the Court s options. Mr. Guist the motion did not need to be denied permanently and in the interim of substitution of counsel, Marquis Aurbach Coffing could facilitate the deposition without compromising what they believe to be representations to the Court. As to appearing for the hearing, although there would be some advocacy there, that advocacy would not necessitate making any representations that are false and haven t already been aware of. Lastly, Mr. Guist stated there is a possibility that funds from the Trust were possibly used to pay a retainer to Marquis Aurbach Coffing and there is a concern about not being able to investigate that.

Ms. Wakayama argued their ethical obligations trump any local rule. Further, Ms. Wakayama stated it does not believe this Court is in a position to force this law firm to continue to represent Mrs. Ahern and put the law firm in a position where it may be violating the ethical rules so that Mr. Waid can do his investigation. Ms. Wakayama stated Mrs. Ahern cannot be adequately defended due to the complete breakdown in communication and stated the law firm has done what they can to get Mrs. Ahern substitute counsel, and Mrs. Ahern has recently met with counsel. As for certain fees paid to the firm, Ms. Wakayama stated, again, that is brand new information and it is the law firm s position that they are a bona fide purchaser and had no knowledge of the source of this income.

Following further arguments of counsel regarding records for the Trust. Representations by Mr. Waid. Ms. Renka raised concerns regarding a former trustee appealing decisions of this Court and a

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new successor trustee appointed and the serious potential conflict as well as the concerns with jurisdictional issues. Mr. Guist argued this Court has jurisdiction over the Trust and all its records and over Mrs. Ahern as the former trustee and to compel her to turn over those records.

COURT ORDERED, Motion to Withdraw GRANTED.

COURT FURTHER SIGNED in OPEN COURT, Order Confirming Successor Trustee and Order Compelling Eleanor Ahern To Turn Over Trust Records To Acting Successor Trustee, SIGNED in OPEN COURT. COURT FURTHER ORDERED, with respect to any documents being held in the file Marquis Aurbach Coffing they are to be turned over in the form of any documents that should be in the possession of the trustee and any documents that counsel feels has an attorney/client privilege, should be noted in a privileged index.

Mr. Waid requested to be present via Court Call for the Order to Show Cause hearing, and requested the hearing be conducted under seal. COURT SO ORDERED.

INTERIM CONDITIONS:

FUTURE HEARINGS: Apr 22, 2015 10:30AM Order to Show Cause
RJC Courtroom 03H Sturman, Gloria

Notice: Journal entries are prepared by the courtroom clerk and are not the official record of the Court.

DISTRICT COURT
CLARK COUNTY, NEVADA

Probate - Trust/Conservatorships | **COURT MINUTES** | April 22, 2015

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

April 22, 2015 **10:30 AM** **Order to Show Cause**

HEARD BY: Sturman, Gloria **COURTROOM:** RJC Courtroom 03H

COURT CLERK: Linda Denman

PARTIES:

David Mann, Other, not present	Pro Se
Eleanor Ahern, Petitioner, present	Pro Se
Fredrick Waid, Trustee, present	Todd Moody, Attorney, not present
Fredrick Waid, Trustee, not present	
Fredrick Waid, Trustee, not present	
Jacqueline Montoya, Other, Personal Representative, present	Joseph Powell, Attorney, present
Kathryn Bouvier, Other, not present	Joseph Powell, Attorney, present
Kristin Woods, Guardian Ad Litem, not present	
Marquis Aurbach Coffing, Other, not present	Dale Hayes, Attorney, not present
Parties Receiving Notice, Other, not present	
The W.N. Connell and Marjorie T. Connell Living Trust, dtd May 18, 1972, Trust, not present	

JOURNAL ENTRIES

- ORDER TO SHOW CAUSE WHY ELEANOR AHERN SHOULD NOT BE HELD IN CONTEMPT OF COURT

Mr. Moody advised the Court that the former trustee, Eleanor Ahern, failed to deliver to the successor trustee the trust information and assets this Court ordered. He added Mr. Waid discovered she has given power of attorney to two individuals described as her spiritual advisors. Additionally,

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the money vested in Fidelity Capital was not returned to the trust and the Texas attorney handling the Trust's interests will not cooperate with Mr. Waid. In an effort to preserve the assets, the successor trustee is proposing a Guardian Ad Litem be appointed over Eleanor's estate. Mr. Waid stated that his investigation of the Texas attorney is ongoing but he has uncovered some potential problems with respect to the recent agreements entered into for leases and attorney fees.

Ms. Patterson explained her firm was retained yesterday to represent Mr. Ahern and she is authorized to release information Mr. Waid requests. Additionally, without a written motion to appoint a guardian ad litem, she requested the Court defer any further argument on that request. As to the Order to Show Cause and any possible criminal sanctions against Ms. Ahern, Ms. Patterson clarified that, since the contempt did not occur in the Court's presence, an affidavit is required and the matter heard by a different district court judge. She concluded that she intends to work with the trustee and counsel to resolve all concerns. Court acknowledged Ms. Patterson's understanding and explained the defiance their client has exhibited in her reaction to orders. The purpose of this hearing was to impress on Ms. Ahern the serious consequences of her oppositional behavior. The Court also stated that the consequences imposed come from the Court and not from her daughters or the successor trustee. COURT ORDERED oral motion for appointment of guardian ad litem DENIED; any such request needs to be put in writing with an Affidavit. Ms. Patterson and Mr. Waid agreed to meet on Friday, April 24 to go over the missing trust information and assets. If the meeting is not successfully resolved to Mr. Waid's satisfaction, he can pursue other avenues no earlier than May 4, 2015. Mr. Powell also stated that the beneficiaries are also retaining their rights to pursue action against Ms. Ahern if necessary.

INTERIM CONDITIONS:

FUTURE HEARINGS:

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DISTRICT COURT
CLARK COUNTY, NEVADA

Probate - Trust/Conservatorships | **COURT MINUTES** | May 13, 2015

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

May 13, 2015 **9:00 AM** **Motion for Attorney Fees**

HEARD BY: Sturman, Gloria **COURTROOM:** RJC Courtroom 03H

COURT CLERK: Linda Denman

PARTIES:

David Mann, Other, not present	Pro Se
Eleanor Ahern, Petitioner, not present	Pro Se
Fredrick Waid, Trustee, present	Todd Moody, Attorney, not present
Fredrick Waid, Trustee, not present	
Fredrick Waid, Trustee, not present	
Jacqueline Montoya, Other, Personal Representative, present	Joseph Powell, Attorney, present
Kathryn Bouvier, Other, not present	Joseph Powell, Attorney, present
Kristin Woods, Guardian Ad Litem, not present	
Marquis Aurbach Coffing, Other, not present	Dale Hayes, Attorney, not present
Parties Receiving Notice, Other, not present	
The W.N. Connell and Marjorie T. Connell Living Trust, dtd May 18, 1972, Trust, not present	

JOURNAL ENTRIES

- MOTION FOR ATTORNEY FEES

Court directed counsel to the recently published decision regarding costs and stated they must submit a memorandum of costs with attached receipts showing costs were reasonable, necessary, and actually incurred. COURT ORDERED attorney fees for Joey Powell GRANTED in the amount of $229,186, less costs; and attorney fees for Whitney Warnick in the amount of $127,633.70, less costs.

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As to the contempt of court claim against Ms. Ahern, COURT ORDERED hearing SET.

6/22/2015 AT 1:30pm EVIDENTIARY HEARING: CONTEMPT OF COURT

INTERIM CONDITIONS:

FUTURE HEARINGS:

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DISTRICT COURT
CLARK COUNTY, NEVADA

Probate - Trust/Conservatorships | **COURT MINUTES** | June 22, 2015

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

June 22, 2015 **1:30 PM** **Hearing**

HEARD BY: Sturman, Gloria **COURTROOM:** RJC Courtroom 03H

COURT CLERK: Linda Denman

PARTIES:

David Mann, Other, not present	Pro Se
Eleanor Ahern, Petitioner, present	Pro Se
Fredrick Waid, Trustee, not present	Todd Moody, Attorney, not present
Fredrick Waid, Trustee, not present	
Fredrick Waid, Trustee, not present	
Jacqueline Montoya, Other, Personal Representative, not present	Joseph Powell, Attorney, not present
Kathryn Bouvier, Other, not present	Joseph Powell, Attorney, not present
Kristin Woods, Guardian Ad Litem, not present	
Marquis Aurbach Coffing, Other, not present	Dale Hayes, Attorney, not present
Parties Receiving Notice, Other, not present	
The W.N. Connell and Marjorie T. Connell Living Trust, dtd May 18, 1972, Trust, not present	

JOURNAL ENTRIES

- HEARING ON ORDER TO SHOW CAUSE REGARDING CONTEMPT

Also present observing the proceedings: Eleanor Ahern, ex-trustee; Jacqueline Montoya and Katherine Bouvier, Petitioners, and Jody Powell, Esq. Court and counsel discussed the purpose and scope of today s hearing and decided not to take sworn testimony but to present argument. Exhibits offered and admitted as Court Exhibits per worksheets. Exhibits 1, 2, and 6 are FILED UNDER SEAL

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as are the original documents. Mr. Moody stressed that Mr. Waid filed his Affidavit in response to the Court s directive after discovering money missing from the trust account while Ms. Ahern was trustee. Court gave a brief history prior to Mr. Waid and Ms. Ahern s present counsels appearances. Court ordered Ms. Ahern to set aside 65% of the income from the Texas Oil and Gas leases until a final determination was made as to the rightful owner of that percentage. When Ms. Ahern was replaced as trustee, Mr. Waid discovered insufficient funds to cover the set aside and Court signed a second Order giving Ms. Ahern a time certain to recover the funds and place them in a segregated account. Ms. Ahern failed to abide by the Court s second order.

Mr. Lenhard objected to the trustee s Affidavit saying Ms. Ahern was not given proper notice and due process of her contempt. The first order to set aside 65% of the income was not mentioned and the second order of her contempt lacked specificity. Following argument, COURT FINDS sufficient cause exists to REFER matter to Civil Chief Judge Gonzalez for an evidentiary hearing regarding contempt. The referring Judge will determine whether notice and due process were met.

Mr. Moody to prepare proposed Order; Mr. Lenhard to review as to form and content.

Colloquy on the Motion currently scheduled for 7/22/15 continued to 8/05/15. COURT SO ORDERED and each side will take an additional week to oppose and reply.

INTERIM CONDITIONS:

FUTURE HEARINGS: Jun 22, 2015 1:30PM Evidentiary Hearing
Evidentiary Hearing: Contempt of Court
RJC Courtroom 03H Sturman, Gloria

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DISTRICT COURT
CLARK COUNTY, NEVADA

Probate - Trust/Conservatorships | **COURT MINUTES** | June 23, 2015

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

June 23, 2015 **11:30 AM**

HEARD BY: Gonzalez, Elizabeth **COURTROOM:** RJC Courtroom 14C

COURT CLERK: Dulce Romea

PARTIES:

David Mann, Other, not present	Pro Se
Eleanor Ahern, Petitioner, not present	Pro Se
Fredrick Waid, Trustee, present	Russel Geist, Attorney, present
Fredrick Waid, Trustee, not present	
Fredrick Waid, Trustee, not present	
Jacqueline Montoya, Other, Personal Representative, not present	Joseph Powell, Attorney, not present
Kathryn Bouvier, Other, not present	Joseph Powell, Attorney, not present
Kristin Woods, Guardian Ad Litem, not present	
Marquis Aurbach Coffing, Other, not present	Dale Hayes, Attorney, not present
Parties Receiving Notice, Other, not present	
The W.N. Connell and Marjorie T. Connell Living Trust, dtd May 18, 1972, Trust, not present	

JOURNAL ENTRIES

- Counsel confirmed they need a contempt hearing as well as motion practice. Mr. Geist advised from his perspective the hearing may last half a day. Mr. Lenhard noted he anticipates at least one day and there is a good chance it may be a day and a half or more. Upon Court's inquiry, Mr. Lenhard confirmed right now his client will permit him to do what he wants to do and that he is comfortable with this Court handling this. COURT ORDERED, Calendar Call SET on Thursday, June 25, 2015 at 8:45 AM, where a briefing schedule and dates will be discussed.

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INTERIM CONDITIONS:

FUTURE HEARINGS: Aug 05, 2015 10:00AM Motion
Jacqueline M. Montoya's and Kathryn A. Bouvier's Motion for Assessment of Damages Against Eleanor Ahern; Enforcement of No-Contest Clause; and Surcharge of Eleanor's Trust Income
RJC Courtroom 03H Sturman, Gloria

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DISTRICT COURT
CLARK COUNTY, NEVADA

Probate - Trust/Conservatorships | **COURT MINUTES** | June 25, 2015

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

June 25, 2015 **8:45 AM**

HEARD BY: Gonzalez, Elizabeth **COURTROOM:** RJC Courtroom 14C

COURT CLERK: Dulce Romea

PARTIES:

David Mann, Other, not present	Pro Se
Eleanor Ahern, Petitioner, not present	Pro Se
Fredrick Waid, Trustee, present	Russel Geist, Attorney, present
Fredrick Waid, Trustee, not present	
Fredrick Waid, Trustee, not present	
Jacqueline Montoya, Other, Personal Representative, not present	Joseph Powell, Attorney, not present
Kathryn Bouvier, Other, not present	Joseph Powell, Attorney, not present
Kristin Woods, Guardian Ad Litem, not present	
Marquis Aurbach Coffing, Other, not present	Dale Hayes, Attorney, not present
Parties Receiving Notice, Other, not present	
The W.N. Connell and Marjorie T. Connell Living Trust, dtd May 18, 1972, Trust, not present	

JOURNAL ENTRIES

- Mr. Geist advised Trustee agrees to have this Court handle their contempt hearing. Mr. Lenhard stated the hearing will take one day at the minimum and they will need to resolve an issue preliminarily; he intends to file a motion but is also waiting for a transcript of Judge Sturman's ruling, which he will not get until Monday; it does not matter when the motion will be set, as long as it is before the hearing because it is a significant jurisdictional issue. Mr. Geist advised the actions that give rise to the matter before this Court took place before his client was appointed; from his

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perspective, he does not think they are a prosecutor. Court noted it understands counsel's position but here it has a referral from Judge Sturman. Mr. Geist advised his client still has issues against Ms. Ahern. Court explained its procedure for show cause hearings. After hearing this, Mr. Geist stated they will cooperate and participate in whatever way necessary. Mr. Lenhard noted incarceration is being sought and he does take this matter very seriously. Mr. Geist inquired as to whether this Court will entertain appointing a special prosecutor. Mr. Lenhard objected. COURT ORDERED, it will handle the motion before setting the contempt hearing. Status Check on Mr. Lenhard's motion SET on July 17, 2015 in Chambers.

COURT FURTHER ORDERED, when the motion is heard, a date for the contempt hearing will be discussed. Court NOTED it is only handling the contempt issue and everything else is still before Judge Sturman.

7-17-15 CHAMBERS STATUS CHECK: DEFENDANT'S MOTION

INTERIM CONDITIONS:

FUTURE HEARINGS: Jun 25, 2015 8:45AM Calendar Call
RJC Courtroom 14C Gonzalez, Elizabeth

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DISTRICT COURT
CLARK COUNTY, NEVADA

Probate - Trust/Conservatorships | **COURT MINUTES** | July 17, 2015

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

July 17, 2015 **3:00 AM** **Status Check**

HEARD BY: Gonzalez, Elizabeth **COURTROOM:** RJC Courtroom 14C

COURT CLERK: Dulce Romea

PARTIES:

David Mann, Other, not present	Pro Se
Eleanor Ahern, Petitioner, not present	Pro Se
Fredrick Waid, Trustee, not present	Todd Moody, Attorney, not present
Fredrick Waid, Trustee, not present	
Fredrick Waid, Trustee, not present	
Jacqueline Montoya, Other, Personal Representative, not present	Joseph Powell, Attorney, not present
Kathryn Bouvier, Other, not present	Joseph Powell, Attorney, not present
Kristin Woods, Guardian Ad Litem, not present	
Marquis Aurbach Coffing, Other, not present	Dale Hayes, Attorney, not present
Parties Receiving Notice, Other, not present	
The W.N. Connell and Marjorie T. Connell Living Trust, dtd May 18, 1972, Trust, not present	

JOURNAL ENTRIES

- The court noted the motion has been filed and set for 8/18/15.

INTERIM CONDITIONS:

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FUTURE HEARINGS: Jul 17, 2015 3:00AM Status Check
Status Check: Defendant's Motion
RJC Courtroom 14C Gonzalez, Elizabeth

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DISTRICT COURT
CLARK COUNTY, NEVADA

Probate - Trust/Conservatorships | **COURT MINUTES** | August 05, 2015

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

August 05, 2015 **10:00 AM** **Motion**

HEARD BY: Sturman, Gloria **COURTROOM:** RJC Courtroom 03H

COURT CLERK: Linda Denman

PARTIES:

David Mann, Other, not present	Pro Se
Eleanor Ahern, Petitioner, present	Pro Se
Fredrick Waid, Trustee, present	Russel Geist, Attorney, present
Fredrick Waid, Trustee, not present	
Fredrick Waid, Trustee, not present	
Jacqueline Montoya, Other, Personal Representative, present	Joseph Powell, Attorney, present
Kathryn Bouvier, Other, present	Joseph Powell, Attorney, present
Kristin Woods, Guardian Ad Litem, not present	
Marquis Aurbach Coffing, Other, not present	Dale Hayes, Attorney, not present
Parties Receiving Notice, Other, not present	
The W.N. Connell and Marjorie T. Connell Living Trust, dtd May 18, 1972, Trust, not present	

JOURNAL ENTRIES

- JACQUELINE M. MONTOYA'S AND KATHRYN A. BOUVIER'S MOTION FOR ASSESSMENT OF DAMAGES AGAINST ELEANOR AHERN; ENFORCEMENT OF NO-CONTEST CLAUSE; AND SURCHARGE OF ELEANOR'S TRUST INCOME

Mr. Powell requested relief from the Court for this motion for damages; treble damages; punitive damages; enforcement of the no-contest clause in the trust; and to surcharge Eleanor Ahern's income

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if she is not disinherited. Mr. Lenhard argued there was no due process and advised the Court he had filed a Motion to Strike the supplement to this motion and his motion is set to be heard on August 19. Court stated this motion is premature as the contempt hearing against Ms. Ahern has not been held. Court also directed counsel to Rogler v Millard, a recently decided Nevada Supreme Court opinion upholding this Court's granting of a no-contest dispute on a Motion for Summary Judgment.

Mr. Waid advised he was still working on recovering trust assets but had IRS issues to resolve and could not depose Ms. Ahern until the criminal proceedings against her were finalized. COURT ORDERED matter SET for EVIDENTIARY HEARING on the issues of damages, punitive damages, surcharge, and no-contest clause; discovery deadline is October 16. COURT FURTHER ORDERED status check SET.

9/2/2015 AT 9:00AM STATUS CHECK: EVIDENTIARY HEARING STATUS

11/9/2015 AT 9:30AM EVIDENTIARY HEARING

CLERK'S NOTE: Please note the date of the Status Check is Wednesday, September 9th, 2015 at 9:00AM./ld

INTERIM CONDITIONS:

FUTURE HEARINGS: Aug 18, 2015 8:30AM Motion to Dismiss
Elenor Ahern's Motion to Dismiss Contempt Proceedings
RJC Courtroom 14C Gonzalez, Elizabeth

Notice: Journal entries are prepared by the courtroom clerk and are not the official record of the Court.

DISTRICT COURT
CLARK COUNTY, NEVADA

Probate - Trust/Conservatorships | **COURT MINUTES** | August 18, 2015

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

August 18, 2015 8:30 AM

HEARD BY: Gonzalez, Elizabeth **COURTROOM:** RJC Courtroom 14C

COURT CLERK: Tena Jolley

PARTIES:

David Mann, Other, not present	Pro Se
Eleanor Ahern, Petitioner, not present	Pro Se
Fredrick Waid, Trustee, present	Russel Geist, Attorney, not present
Fredrick Waid, Trustee, not present	
Fredrick Waid, Trustee, not present	
Jacqueline Montoya, Other, Personal Representative, not present	Joseph Powell, Attorney, not present
Kathryn Bouvier, Other, not present	Joseph Powell, Attorney, not present
Kristin Woods, Guardian Ad Litem, not present	
Marquis Aurbach Coffing, Other, not present	Dale Hayes, Attorney, not present
Parties Receiving Notice, Other, not present	
The W.N. Connell and Marjorie T. Connell Living Trust, dtd May 18, 1972, Trust, not present	

JOURNAL ENTRIES

- Following a BENCH CONFERENCE, Court made a disclosure to counsel that in reading the brief it appeared there might be someone with a similar name to one of the potential beneficiaries; however it was established it was not the same person based on their residence. Mr. Lenhard argued the two orders referenced in Mr. Waid's affidavit were orders from the Bench and not reduced to writing until a later date; refer to a transfer for funds and return of funds to the trust; and argued that an oral order cannot be the basis of a contempt citation. Furthermore, Judge Sturman indicated that the

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violating order was that Ms. Ahearn failed to keep in the Trust's possession 65% of the trust assets owed to the two daughters, which is contrary to the violations referenced in the Waid affidavit. Argued that it would be inappropriate to find Ms. Ahearn in contempt as the order was not clear and unambiguous. While Ms. Ahearn may have contemptible conduct by allowing a false affidavit/accounting to be filed, but that is not what is before the Court today. Mr. Lenhard argued that contempt is not appropriate; that the matter be remanded back to Judge Sturman and the Trustee proceed with the appropriate discovery they deem necessary. Mr. Moody stated that the affidavit filed by Mr. Waid at Judge Sturman's request was not intended to be a charging affidavit but rather in response to Judge Sturman's inquiry as to what Mr. Waid had discovered following his appointment as the Trustee. Mr. Moody indicated they were not advocating contempt of Ms. Ahearn, rather cooperation and accountability by Ms. Ahearn. Court stated its FINDNGS and ORDERED, Motion to Dismiss Contempt Proceedings, GRANTED WITHOUT PREJUDICE. Court directed Mr. Lenhard to prepare an order.

INTERIM CONDITIONS:

FUTURE HEARINGS:

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DISTRICT COURT
CLARK COUNTY, NEVADA

Probate - Trust/Conservatorships | **COURT MINUTES** | September 02, 2015

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

September 02, 2015 **9:00 AM** **Status Check**

HEARD BY: Sturman, Gloria **COURTROOM:** RJC Courtroom 03H

COURT CLERK: Linda Denman

PARTIES:

David Mann, Other, not present	Pro Se
Eleanor Ahern, Petitioner, not present	Pro Se
Fredrick Waid, Trustee, present	Russel Geist, Attorney, not present
Fredrick Waid, Trustee, not present	
Fredrick Waid, Trustee, not present	
Jacqueline Montoya, Other, Personal Representative, not present	Joseph Powell, Attorney, present
Kathryn Bouvier, Other, not present	Joseph Powell, Attorney, present
Kristin Woods, Guardian Ad Litem, not present	
Marquis Aurbach Coffing, Other, not present	Dale Hayes, Attorney, not present
Parties Receiving Notice, Other, not present	
The W.N. Connell and Marjorie T. Connell Living Trust, dtd May 18, 1972, Trust, not present	

JOURNAL ENTRIES

- STATUS CHECK: EVIDENTIARY HEARING . . . Court and counsel discussed the effect Judge Gonzalez's ruling dismissing finding Ms. Ahern in contempt of this Court's Orders. Counsel agreed they are ready to proceed with the evidentiary hearing. Mr. Moody clarified the Trustee will be in Texas taking three or four depositions but their understanding is that the evidentiary hearing is only to hear enforcement of the non-compete clause. Court state the evidentiary hearing concerns on all

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the issues but that may change depending on whether Mr. Waid receives all requested information timely. Upon Mr. Waid's inquiry as to whether he should file another Affidavit since he cannot account for the half a million dollars that went to Fidelity, Mr. Lenhard conceded that point and the Court stated another Affidavit was not required.

Counsel also discussed Mr. Ahern's upcoming deposition. Mr. Lenhard advised counsel agreed to supply questions that he and Ms. Peterson would go over with Ms. Ahern that would give everyone an outline for the deposition.

COURT ORDERED status check SET; which date will coincide with discovery cutoff.

10/14/2015 at 9:00am STATUS CHECK: EVIDENTIARY HEARING STATUS

INTERIM CONDITIONS:

FUTURE HEARINGS:

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DISTRICT COURT
CLARK COUNTY, NEVADA

Probate - Trust/Conservatorships | **COURT MINUTES** | September 16, 2015

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

September 16, 2015 **9:00 AM** **All Pending Motions**

HEARD BY: Sturman, Gloria **COURTROOM:** RJC Courtroom 03H

COURT CLERK: Linda Denman

PARTIES:

David Mann, Other, not present	Pro Se
Eleanor Ahern, Petitioner, not present	Pro Se
Fredrick Waid, Trustee, not present	Todd Moody, Attorney, present
Fredrick Waid, Trustee, not present	
Fredrick Waid, Trustee, not present	
Jacqueline Montoya, Other, Personal Representative, not present	Joseph Powell, Attorney, not present
Kathryn Bouvier, Other, not present	Joseph Powell, Attorney, not present
Kristin Woods, Guardian Ad Litem, not present	
Marquis Aurbach Coffing, Other, not present	Dale Hayes, Attorney, not present
Parties Receiving Notice, Other, not present	
The W.N. Connell and Marjorie T. Connell Living Trust, dtd May 18, 1972, Trust, not present	

JOURNAL ENTRIES

- FREDERICK WAID'S COUNTERMOTION TO UNSEAL RECORDS (FILED 8/12/15) . . . . . MOTION FOR ADJUDICATION OF ATTORNEY'S LIEN IN THE AMOUNT OF $30,937.50, REDUCTION TO JUDGMENT COLLECTIBLE BY ALL LAWFUL MEANS INCLUDING BUT NOT LIMITED TO LIEN ON ELEANOR AHERN'S BENEFITS IN THE W.N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST

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Also present James Shapiro, Esq. Mr. Shapiro advised the Court he represented Petitioner Ahern in another civil case filed by David Mann for a Breach of Contract over this same attorney fee. He requested the Court transfer these two motions over to Dept. 20. Mr. Moody objected saying Mr. Mann has nothing to collect until he has a lien. He also stated that countermotion to unseal records was the Trustee's attempt to secure the Trust file that Mr. Mann refuses to turn over until he is paid. Court noted that Mr. Mann has never come to this Court to explain his possession of the Trust file and his actions have hampered the Trustee and Ms. Ahern's counsel in resolving this case. Court also explained that she has no authority to unseal records in a case before another Judge. COURT STATED ITS FINDINGS that David Mann has failed to honor the subpoena for Trust records and is in contempt of this Court. To the extent the records are sealed, then Mr. Mann needs to take whatever steps he can to respond to the subpoena. Following discussion with counsel, Court concurred with Trustee's plan to file a Motion to Compel and give Mr. Mann ten (10) days to produce the requested documents or an Order to Show Cause will issue for Mr. Mann to appear before this Court in five (5) days . COURT ORDERED Countermotion to Unseal Records GRANTED IN THE ALTERNATIVE RELIEF; Motion for Adjudication of Attorney's Lien OFF CALENDAR since Mr. Mann chose to pursue this matter in a civil case.

Mr. Moody to prepare documents.

INTERIM CONDITIONS:

FUTURE HEARINGS:

DISTRICT COURT
CLARK COUNTY, NEVADA

Probate - Trust/Conservatorships | **COURT MINUTES** | October 14, 2015

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

October 14, 2015 **9:00 AM** **All Pending Motions**

HEARD BY: Sturman, Gloria **COURTROOM:** RJC Courtroom 03H

COURT CLERK: Linda Denman

PARTIES:

David Mann, Other, not present	Pro Se
Eleanor Ahern, Petitioner, present	Pro Se
Fredrick Waid, Trustee, present	Russel Geist, Attorney, present
Fredrick Waid, Trustee, not present	
Fredrick Waid, Trustee, not present	
Jacqueline Montoya, Other, Personal Representative, present	Joseph Powell, Attorney, present
Kathryn Bouvier, Other, not present	Joseph Powell, Attorney, present
Kristin Woods, Guardian Ad Litem, not present	
Marquis Aurbach Coffing, Other, not present	Dale Hayes, Attorney, not present
Parties Receiving Notice, Other, not present	
The W.N. Connell and Marjorie T. Connell Living Trust, dtd May 18, 1972, Trust, not present	

JOURNAL ENTRIES

- BROWNSTEIN, HYATT, FARBER & SCHRECK'S, LLC.'S MOTION TO WITHDRAW AS COUNSEL FOR ELEANOR AHERN ON OST

Ms. Peterson submitted the Motion to Withdraw. Court inquired about her alternate proposal to advance fees from the trust that would be charged against Ms. Ahern's interest. Ms. Peterson added that should would not want to have to defend a disgorgement of fees allegation if this alternative

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were selected. Mr. Moody made a statement as to the ongoing search for missing funds and some tax problems facing the trust. CONFERENCE AT THE BENCH. Following the CAB, Court noted that the Trustee is not in a position to assess the viability of the alternative proposal. Mr. Moody added that should funds be advanced, the Trustee wants Ms. Ahern to pledge collateral or security to cover the outlay and that the Trustee be allowed to evaluate the worth of the selection. COURT DIRECTED Ms. Ahern to provide the Court with her current residence address, email and telephone number if she intends to represent herself; to provide the release she drafted for the Texas tax attorney to the Trustee; and to understand that if she proceeds pro se she will not be provided with written questions at her deposition. COURT ORDERED matter CONTINUED for one week to allow Ms. Peterson to speak with her client about the Trustee's counter-proposal. COURT FURTHER ORDERED Order to Show Cause SET for Ms. Ahern to provide contact information for herself if she is to proceed in pro se.

Ms. Peterson to submit appropriate Order after discussing the situation with her client.

10/21/2016 AT 9:00AM ORDER TO SHOW CAUSE RE: ELEANOR AHERN

STATUS CHECK: EVIDENTIARY HEARING STATUS

Court and counsel all agreed the matter was not ready for the November evidentiary hearing. After discussing possible dates, all parties agreed to February 11 and 12, 2016. Additionally, counsel requested the Motion for Distribution of Trust Income be reset. COURT SO ORDERED.

11/4/2015 at 9:00am MOTION FOR DISTRIBUTION OF TRUST INCOME IN ACCORDANCE WITH THE COURT'S SUMMARY JUDGMENT DATED APRIL 16, 2015

2/11/2016 AT 9:00AM EVIDENTIARY HEARING
2/12/2016 AT 9:00AM EVIDENTIARY HEARING

INTERIM CONDITIONS:

FUTURE HEARINGS: Oct 21, 2015 9:00AM Order to Show Cause
Order to Show Cause
RJC Courtroom 03H Sturman, Gloria

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DISTRICT COURT
CLARK COUNTY, NEVADA

Probate - Trust/Conservatorships | **COURT MINUTES** | October 21, 2015

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

October 21, 2015 **9:00 AM** **Order to Show Cause**

HEARD BY: Sturman, Gloria **COURTROOM:** RJC Courtroom 03H

COURT CLERK: Linda Denman

PARTIES:

David Mann, Other, not present	Pro Se
Eleanor Ahern, Petitioner, present	Pro Se
Fredrick Waid, Trustee, not present	Todd Moody, Attorney, present
Fredrick Waid, Trustee, not present	
Fredrick Waid, Trustee, not present	
Jacqueline Montoya, Other, Personal Representative, not present	Joseph Powell, Attorney, not present
Kathryn Bouvier, Other, not present	Joseph Powell, Attorney, not present
Kristin Woods, Guardian Ad Litem, not present	
Marquis Aurbach Coffing, Other, not present	Dale Hayes, Attorney, not present
Parties Receiving Notice, Other, not present	
The W.N. Connell and Marjorie T. Connell Living Trust, dtd May 18, 1972, Trust, not present	

JOURNAL ENTRIES

- ORDER TO SHOW CAUSE

Court and counsel discussed the fact that Ms. Ahern needs representation in the upcoming evidentiary hearing in which she could lose all her interest in the trust. Mr. Moody advised that the Trustee was not willing to distribute trust funds to pay for Ms. Ahern's legal fees as long as money is still unaccounted for that belongs to the trust. Mr. Moody also requested that the deposition of Ms.

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Ahern be conducted at the courthouse and the Court agreed. Ms. Ahern requested that all questions be given to her in writing due to a hearing and comprehension problems. Court advised Mr. Moody to start the deposition and see what exact issues may arise.

11/19/2015 AT 10:00AM DEPOSITION OF ELEANOR AHERN

INTERIM CONDITIONS:

FUTURE HEARINGS: Oct 21, 2015 9:00AM Order to Show Cause
Order to Show Cause
RJC Courtroom 03H Sturman, Gloria

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DISTRICT COURT
CLARK COUNTY, NEVADA

Probate - Trust/Conservatorships | **COURT MINUTES** | November 04, 2015

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

November 04, 2015 **9:00 AM** **All Pending Motions**

HEARD BY: Sturman, Gloria **COURTROOM:** RJC Courtroom 03H

COURT CLERK: Linda Denman

PARTIES:

David Mann, Other, not present	Pro Se
Eleanor Ahern, Petitioner, present	Pro Se
Fredrick Waid, Trustee, present	Russel Geist, Attorney, not present
Fredrick Waid, Trustee, not present	
Fredrick Waid, Trustee, not present	
Jacqueline Montoya, Other, Personal Representative, present	Joseph Powell, Attorney, present
Kathryn Bouvier, Other, not present	Joseph Powell, Attorney, present
Kristin Woods, Guardian Ad Litem, not present	
Marquis Aurbach Coffing, Other, not present	Dale Hayes, Attorney, not present
Parties Receiving Notice, Other, not present	
The W.N. Connell and Marjorie T. Connell Living Trust, dtd May 18, 1972, Trust, not present	

JOURNAL ENTRIES

- FREDRICK P. WAID'S MOTION TO COMPEL ELEANOR AHERN'S AUTHORIZATION TO ALLOW TRUSTEE TO OBTAIN INFORMATION FOR ATTORNEYS AND OTHER PROFESSIONALS ON OST . . . Court stated that the State of Nevada acknowledges a fiduciary exception to attorney/client privilege and this Court has always upheld that exception to the extent that a trustee receives legal advice relevant to the trust. Court then addressed Mr. Moody explaining

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concerns regarding the phrase "individually and as trustee" in the current trustee's search for information. Mr. Moody explained that Texas law does not have a fiduciary exception and several protective orders have been filed to deny Mr. Waid access to trust records. After some discussion, Court and counsel agreed to substitute the overbroad phrase with "any information acquired by payments made from the trust funds; and/or anything having to do with Eleanor Ahern in her capacity as trustee." COURT ORDERED Motion to Compel GRANTED with this change.

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

ELEANOR CONNELL HARTMAN AHERN'S MOTION FOR DISTRIBUTION OF TRUST INCOME IN ACCORDANCE WITH THE COURT'S SUMMARY JUDGMENT DATED APRIL 16, 2015 ON OST . . . Counsel argued on the present day financial condition of Ms. Ahern of someone who shops at a food pantry and the Salvation Army to someone who flies in private jets and went on a world cruise. Counsel also argued whether Ms. Ahern should be entitled to pay legal fees from the trust given the Judgment she owes to her daughters. After hearing arguments from both sides and an explanation of the trust's current fiscal situation, COURT STATED ITS FINDINGS the main goal is to find out where the trust money has gone and, if possible, restore it to the trust. There is one person who has the information that will allow us to reach this goal but can she assist if she is without counsel. To that end, some compromise must be reached that will ultimately benefit all parties. COURT ORDERED Motion for Distribution of Trust Income GRANTED IN PART; Ms. Ahern will receive $5,000 per month for living expenses; counsel for Ms. Ahern will receive $10,000 per month for attorney fees; and counsel will be paid $30,000 in past fees, either as a lump sum or in installments, as the trustee decides. The trustee agreed to provide an interim accounting of the trust but emphasized that he was not ready to provide a final accounting. COURT FURTHER ORDERED these payments effective from this date through to the current trial date of February, 2016; subject to renewal at the attorney's written request. COURT CLARIFIED this money is to be paid back and colloquy over the exact wording whether this was an advancement, loan, distribution, etc. and Court left the exact wording to the trustee.

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

INTERIM CONDITIONS:

FUTURE HEARINGS:

DISTRICT COURT
CLARK COUNTY, NEVADA

Probate - Trust/Conservatorships | **COURT MINUTES** | January 06, 2016

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

January 06, 2016 **9:30 AM** **Motion for Order to Show Cause**

HEARD BY: Sturman, Gloria **COURTROOM:** RJC Courtroom 03H

COURT CLERK: Linda Denman

PARTIES:

David Mann, Other, not present	Pro Se
Eleanor Ahern, Petitioner, not present	Pro Se
Fredrick Waid, Trustee, present	Russel Geist, Attorney, not present
Fredrick Waid, Trustee, not present	
Fredrick Waid, Trustee, not present	
Jacqueline Montoya, Other, Personal Representative, present	Joseph Powell, Attorney, present
Kathryn Bouvier, Other, not present	Joseph Powell, Attorney, present
Kristin Woods, Guardian Ad Litem, not present	
Marquis Aurbach Coffing, Other, not present	Dale Hayes, Attorney, not present
Parties Receiving Notice, Other, not present	
The W.N. Connell and Marjorie T. Connell Living Trust, dtd May 18, 1972, Trust, not present	

JOURNAL ENTRIES

- MOTION FOR ORDER TO SHOW CAUSE, TO COMPEL DEPOSITION OF ELEANOR AHERN AND TO ANSWER QUESTIONS UNDER OATH RE: FIDELITY CAPITAL AND $500,000

Conference at the bench. Following the bench conference, Mr. Moody stated the terms agreed to by counsel with respect to the motion to compel deposition of Ms. Ahern. COURT ORDERED Motion to

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Compel Disposition CONTINUED; Ms. Ahern to undergo an independent medical evaluation (IME) and, based upon any referral from the physician, undergo a mental health evaluation. As to the Motion to Compel Ms. Ahern to sign the authorization to allow the Trustee to gather information and documents from legal and accounting professionals as needed, COURT ORDERED Trustee GRANTED FULL AUTHORIZATION to obtain any information that may be needed to carry out his fiduciary obligations.

Mr. Moody to prepare a proposed Order for the IME and a proposed Order of Authorization to the Trustee; Mr. Lenhard to review as to form and content.

1/27/2016 at 9:30AM Motion to Compel Deposition of Eleanor Ahern and to Answer Questions Under Oath Re: Fidelity Capital and $500,000

INTERIM CONDITIONS:

FUTURE HEARINGS:

DISTRICT COURT
CLARK COUNTY, NEVADA

Probate - Trust/Conservatorships | **COURT MINUTES** | January 27, 2016

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

January 27, 2016 **9:30 AM** **All Pending Motions**

HEARD BY: Sturman, Gloria **COURTROOM:** RJC Courtroom 03H

COURT CLERK: Linda Denman

PARTIES:

David Mann, Other, not present	Pro Se
Eleanor Ahern, Petitioner, not present	Pro Se
Fredrick Waid, Trustee, present	Russel Geist, Attorney, not present
Fredrick Waid, Trustee, not present	
Fredrick Waid, Trustee, not present	
Jacqueline Montoya, Other, Personal Representative, not present	Joseph Powell, Attorney, present
Kathryn Bouvier, Other, not present	Joseph Powell, Attorney, present
Kristin Woods, Guardian Ad Litem, not present	
Marquis Aurbach Coffing, Other, not present	Dale Hayes, Attorney, not present
Parties Receiving Notice, Other, not present	
The W.N. Connell and Marjorie T. Connell Living Trust, dtd May 18, 1972, Trust, not present	

JOURNAL ENTRIES

- Also present, Whitney Warnick, Esq., in an unbundled capacity for Katherine Bouvier.

JACQUELINE M. MONTOYA AND KATHRYN A. BOUVIER'S MOTION FOR RECONSIDERATION ON OST . . .Mr. Warnick asked the Court to reconsider its earlier Order giving living expenses and attorney fees to Ms. Ahern arguing she was getting more Social Security than she originally said; had never sworn to her current financial status; and was responsible for the loss of

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income in the trust. Mr. Lenhard argued this is the same as before and asked the Court if justice would be served in making this elderly lady face an evidentiary hearing that would deprive her of a decades-old income source. Following argument, COURT ORDERED Motion for Reconsideration DENIED.

JACQUELINE M. MONTOYA AND KATHRYN A. BOUVIER'S MOTION TO STAY EXECUTION OF ORDER PENDING THE HEARING OF THE MOTION FOR RECONSIDERATION ON OST . . . COURT ORDERED Motion to Stay MOOT.

MOTION TO COMPEL DEPOSITION OF ELEANOR AHERN . . . Mr. Moody outlined the four areas the Trustee still needs information on in order to complete his work. Mr. Lenhard explained he had not had the opportunity to discuss this with his client but offered to sign the order as having disapproved as to form and content. Court interlineated the two Orders with a disapproval for Mr. Lenhard to sign and stated that Court will not require the Orders be approved by opposing counsel. COURT ORDERED the following two Orders GRANTED. The first Order is to require Eleanor Ahern to submit to a physical exam and a mini-mental state exam to evaluate her ability to sit for a deposition. The second Order directed Jeffrey M. Johnston, Esq. and firm, Ryan Scharar, Esq., and firm, and Marquis Aurbach Coffin law firm to provide Trust information under the fiduciary exception to attorney-client privileges. Colloquy on the reasonableness of holding the evidentiary hearing on February 11 in light of these two Orders. COURT ORDERED evidentiary hearing VACATED and RESET.

Orders SIGNED IN OPEN COURT.

2/22/2016 at 10:00AM EVIDENTIARY HEARING: ENFORCEMENT OF NO CONTEST CLAUSE

INTERIM CONDITIONS:

FUTURE HEARINGS:

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DISTRICT COURT
CLARK COUNTY, NEVADA

Probate - Trust/Conservatorships | **COURT MINUTES** | February 22, 2016

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

February 22, 2016 10:00 AM All Pending Motions

HEARD BY: Sturman, Gloria **COURTROOM:** RJC Courtroom 03H

COURT CLERK: Billie Jo Craig

PARTIES:

David Mann, Other, not present	Pro Se
Eleanor Ahern, Petitioner, present	Pro Se
Fredrick Waid, Trustee, present	Russel Geist, Attorney, not present
Fredrick Waid, Trustee, not present	
Fredrick Waid, Trustee, not present	
Jacqueline Montoya, Other, Personal Representative, present	Joseph Powell, Attorney, present
Kathryn Bouvier, Other, present	Joseph Powell, Attorney, present
Kristin Woods, Guardian Ad Litem, not present	
Marquis Aurbach Coffing, Other, not present	Dale Hayes, Attorney, not present
Parties Receiving Notice, Other, not present	
The W.N. Connell and Marjorie T. Connell Living Trust, dtd May 18, 1972, Trust, not present	

JOURNAL ENTRIES

- EVIDENTIARY HEARING: ENFORCEMENT OF NO CONTEST CLAUSE...MOTION TO FILE UNDER SEAL TRIAL MEMORANDUM

Attorneys Dan Kiefer and Layne Rushforth also present.

COURT ORDERED, the Trial Memorandums filed by Mr. Lenhard and Mr. Powell are TO BE FILED

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UNDER SEAL. Court noted Mr. Waid was not comfortable in his efforts for a formal report. There is a request to take evidence regarding how to account for the income from the trust and request for a surcharge and enforce the no contest clause and deprive Ms. Ahern of the interest in the Trust altogether. Court wished to discuss what happened to the funds and what remains and is accounted for. Arguments by counsel whether Ms. Ahern was under undue influence or not. Mr. Keifer lodged a standing objection to that evidence.

There were subsequent arguments over one year ago information from Mr. Waid that might call that into question. Mr. Keifer insisted there was no undue influence on Ms. Ahern because the arguments from Ms. Montoya and Ms. Bouvier in June 2013 deviated from the discussed documents.

The Court did not want to discuss anything dealing with the IRS. Mr. Moody advised what Mr. Waid could testify to. An IME examination was taken but there is no report at this time. Court noted that may limit what is done today. Court noted Mr. Waid could not state definitively what the numbers are. The Court will use information from Mr. Waid to help it make a Decision on Mr. Powell's Motion that has been pending for several months. Colloquy regarding Mr. Waid being a Trustee which is a fiduciary for both sides and not an adverse party to either party. This Hearing is informational gathering to make a record for both sides. Mr. Moody advised of what Mr. Waid would testify to today. Power Point presentation marked and Admitted as Court's Exhibit 1. (See Worksheet.) Opening Statements by Mr. Rushforth. Opening Statements by Mr. Lenhard. COURT ORDERED, Petitioner's Exhibits A through H are ADMITTED as there were no objections. Exhibit G is TO BE SEALED. (See Worksheet.) The Trial Brief is to be FILED UNDER SEALED. Testimony and Exhibits presented. (See Worksheets.) Mr. Lenhard's Exhibits were marked as Respondent's Exhibits. COURT ORDERED, Respondent's Exhibits F and G marked and ADMITTED. Respondent's Exhibit G is TO BE SEALED. (See Worksheet.) Further testimony and Exhibits presented. (See Worksheets.) COURT ORDERED, page 9 ONLY of Respondent's Exhibit K is ADMITTED and TO BE SEALED. (See Worksheet.) Above matter CONTINUED. Counsel to determine after the IME report is received if Ms. Ahern will testify, whether Mr. Waid will testify further, or how they wish to proceed. Counsel estimate Closing Arguments will take one and one-half hours. Mr. Lenhard advised he would not call Ms. Bouvier as a witness.

Mr. Moody reminded the Court of the 65th day Rule which will run for the accounting which is due 3/4/16. Colloquy regarding when to hear this matter as Mr. Waid was awaiting instructions from the Court. A similar issue arose in 2014 where liability at the Trust level was fixed and Mr. Waid could not Amend that as to income distributions. Counsel requested to address the issue on 3/3/16.

CONTINUED TO: 3/3/16 10:00 AM ABOVE MATTERS

INTERIM CONDITIONS:

Notice: Journal entries are prepared by the courtroom clerk and are not the official record of the Court.

FUTURE HEARINGS:

Notice: Journal entries are prepared by the courtroom clerk and are not the official record of the Court.

DISTRICT COURT
CLARK COUNTY, NEVADA

Probate - Trust/Conservatorships | **COURT MINUTES** | March 03, 2016

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

March 03, 2016 **10:00 AM** **All Pending Motions**

HEARD BY: Sturman, Gloria **COURTROOM:** RJC Courtroom 03H

COURT CLERK: Linda Denman

PARTIES:

David Mann, Other, not present	Pro Se
Eleanor Ahern, Petitioner, present	Pro Se
Fredrick Waid, Trustee, present	Russel Geist, Attorney, present
Fredrick Waid, Trustee, not present	
Fredrick Waid, Trustee, not present	
Jacqueline Montoya, Other, Personal Representative, present	Joseph Powell, Attorney, present
Kathryn Bouvier, Other, present	Joseph Powell, Attorney, present
Kristin Woods, Guardian Ad Litem, not present	
Marquis Aurbach Coffing, Other, not present	Dale Hayes, Attorney, not present
Parties Receiving Notice, Other, not present	
The W.N. Connell and Marjorie T. Connell Living Trust, dtd May 18, 1972, Trust, not present	

JOURNAL ENTRIES

- MOTION FOR LEAVE TO FILE SEALED PLEADING IN CASE A-14-710467 . . . There being no opposition, COURT ORDERED Motion for Leave to File Sealed Pleading GRANTED; to the extent Eleanor Ahern's Trial Memorandum (Filed Under Seal) in this case may be filed in A-14-710467, being heard in Dept. 20, which entire case is sealed.

Mr. Moody to prepare proposed Order.

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MOTION TO SUBMIT DOCUMENTS IN CAMERA ON OST . . . Ms. Peterson reported Dr. Joseph Jeppson, D.O.'s, Independent Medical Evaluation (IME) of Eleanor Ahern, performed in response to a Motion to Compel, concludes that Ms. Ahern is physically able to sit for a deposition. Mr. Rushforth raised no objection as long as the IME was not being offered for evidence. Ms. Peterson stated that apart from her physical health, Dr. Jeppson made a recommendation for further evaluation. CONFERENCE AT THE BENCH. COURT ORDERED Motion to Submit Documents In Camera GRANTED; the Court reviewed the documents and RETURNED THE IME TO COUNSEL. Counsel was shown the final page of the IME regarding the physician's conclusion and future recommendation, which Ms. Peterson will file under seal. Mr. Moody stated the Trustee will proceed with Ms. Ahern's recommendation.

Ms. Peterson to prepare proposed Order.

STATUS CHECK: 65TH DAY RULE . . . Mr. Geist, on behalf of Trustee Waid, filed a PETITION FOR INSTRUCTIONS REGARDING ALLOCATION OF ELEANOR AHERN'S 2015 TRUST UNPAID DISTRIBUTIONS (Filed Under Seal.) The Petition offered four options for the Court to review and instruct the Trustee on allocation of unpaid revenue for tax purposes. Mr. Lenhard offered Respondent's option for Court's consideration. He also asked why the Trustee has not complied with the Court's Order filed 1/5/16 after being instructed to advance funds to Ms. Ahern for living expenses and to her counsel for fees. Mr. Geist stated the Trustee has not advanced funds due to the appeal on file as well as being unsure of the tax ramifications until all accounting information is provided. Court inquired as to the possibility of advancing funds as previously Ordered, crediting the balance to the MTC Trust as a payment on the Judgment owed by Ms. Ahern, at the least adverse tax consequences to all parties. CONFERENCE AT THE BENCH. Following the CAB, Mr. Geist clarified the instructions to the Trustee are for Mr. Waid to advance payments net of her income tax liabilities to Ms. Ahern for living expenses as previously ordered and pay the income tax; pay her attorney fees as an expense of the trust and credit that amount against any future distributions she may be entitled to receive. Mr. Rushforth lodged an objection that Ms. Ahern is not entitled to any payment until the Court has determined she is entitled to a share. COURT SO ORDERED as to Mr. Geist's understanding. Mr. Geist further clarified the balance of the funds on hand is suspended as to Ms. Ahern, the amount credited to and paid for the MTC Trust; the beneficiaries to account for that money and pay the tax. Further, whatever amount Eleanor Ahern is ultimately assessed, she should pay the tax liabilities.

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

EVIDENTIARY HEARING ON MOTION TO ENFORCE NO CONTEST CLAUSE . . . Mr. Lenhard advised he would not be calling any witness. Court directed counsel to proceed with closing arguments. Mr. Rushforth made closing argument on behalf of the Petitioners using a Power Point presentation marked and admitted as Court's Exhibit 2. Mr. Rushforth argued the no-contest clause of the Trust must carry out the intent of the settlor and that Eleanor Ahern's actions necessitated this litigation. He reminded the Court that she withdrew Trust assets after she was removed as Trustee,

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breaching her fiduciary duty. Alternatively, Mr. Rushforth requested if the Court finds Ms. Ahern not in contempt of the no-contest clause, to deny her receiving any further money until the beneficiaries and the Trust have been made whole. He also asked the Court apply treble damages and/or punitive damages. Mr. Lenhard made closing arguments on behalf of Ms. Ahern. He pointed out significant funds have been returned to the Trust. He also mentioned Petitioner's letters to the Trustee directing him to cease his efforts to locate Trust assets. Finally, Mr. Lenhard pointed out the undue influence exerted over Ms. Ahern and asked the Court to take that circumstance into consideration. He concluded by requesting the Court not remove Ms. Ahern from the Trust but surcharge her for the damages until such time as the money owed has been paid off in full. The Trustee took no position at the hearing and Mr. Rushforth made rebuttal arguments.

Following argument, COURT STATED ITS FINDINGS that Eleanor Ahern has shown for contempt of this Court and failed to properly apply her duty as Trustee. Further, due to the gross misuse of Trustee funds, this case is appropriate for a surcharge, with the imposition of treble damages and/or punitive damages. Counsel should brief and argue these additional monetary sanctions during the damages phase of this hearing. COURT ORDERED Eleanor Ahern be surcharged on her distributions beginning thirty (30) days from notice of entry of this Order; and clarified she will receive no further advances of living expenses beyond what was previously ordered.

Mr. Rushforth for prepare proposed Order; Mr. Lenhard to review as to form and content.

CLERK'S NOTE: Since a portion of the confidential record was read into the record, COURT FURTHER ORDERED transcript SEALED./ ld

INTERIM CONDITIONS:

FUTURE HEARINGS:

DISTRICT COURT
CLARK COUNTY, NEVADA

Probate - Trust/Conservatorships | **COURT MINUTES** | June 01, 2016

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

June 01, 2016 **9:30 AM** **Motion**

HEARD BY: Sturman, Gloria **COURTROOM:** RJC Courtroom 03H

COURT CLERK: Linda Denman

PARTIES:

David Mann, Other, not present	Pro Se
Eleanor Ahern, Petitioner, not present	Pro Se
Fredrick Waid, Trustee, present	Russel Geist, Attorney, present
Fredrick Waid, Trustee, not present	
Fredrick Waid, Trustee, not present	
Jacqueline Montoya, Other, Personal Representative, not present	Joseph Powell, Attorney, not present
Kathryn Bouvier, Other, not present	Joseph Powell, Attorney, not present
Kristin Woods, Guardian Ad Litem, not present	
Marquis Aurbach Coffing, Other, not present	Dale Hayes, Attorney, not present
Parties Receiving Notice, Other, not present	
The W.N. Connell and Marjorie T. Connell Living Trust, dtd May 18, 1972, Trust, not present	

JOURNAL ENTRIES

- MOTION FOR CITATION REQUIRING ELEANOR AHERN TO AUTHORIZE PRODUCTION OF RECORDS ON OST

Mr. Geist reported that he and Eleanor Ahern's counsel had worked together to draft a release form to allow them access to the information the Trustee needs to finalize tax returns. However; Eleanor Ahern refused to sign and he asked the Court to require her to appear and compel her to sign the

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release, pointing out she is still under the Court's jurisdiction. Counsel argued whether Texas counsel and the local firm of Marquis Aurback and Coffing (MAC) would provide any information as the result of a coerced release. Counsel also discussed the status of the trust accounting, the appeal, and Orders outstanding from this Court.

Following discussion of whether Ms. Ahern, in her individual capacity, has a duty to waive her privilege, Court and counsel discussed including in an Order from today's hearing with explicit findings that the Court found that Eleanor Ahern, in her capacity as Trustee, perpetuated a fraud upon the Court. Further finding, she does not hold a privilege to anything in her capacity as Trustee. Any attorney assisting her has a professional obligation to assist her in mitigating the fraud and help her when she is unable to help herself. Court and counsel decided a specific finding should require MAC and possibly Texas counsel to turn over all documents pertaining to and paid for by Trust funds and give the Court a privilege log for those matters that Ms. Ahern sought individual assistance. Following discussion, COURT ORDERED Motion for Citation CONTINUED to see if a Court Order including these specific findings resolves the issue.

Court and counsel discussed whether the Order regarding the 65-day rule should be sealed.

CONTINUED TO 8/3/2016 AT 9:30AM

Mr. Geist to prepare proposed Order.

INTERIM CONDITIONS:

FUTURE HEARINGS:

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DISTRICT COURT
CLARK COUNTY, NEVADA

Probate - Trust/Conservatorships | **COURT MINUTES** | August 03, 2016

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

August 03, 2016 **3:00 AM** **Motion - HM**

HEARD BY: Sturman, Gloria **COURTROOM:** RJC Courtroom 03H

COURT CLERK: Linda Denman

PARTIES:

David Mann, Other, not present	Pro Se
Eleanor Ahern, Petitioner, not present	Pro Se
Fredrick Waid, Trustee, not present	Todd Moody, Attorney, not present
Fredrick Waid, Trustee, not present	
Fredrick Waid, Trustee, not present	
Jacqueline Montoya, Other, Personal Representative, not present	Joseph Powell, Attorney, not present
Kathryn Bouvier, Other, not present	Joseph Powell, Attorney, not present
Kristin Woods, Guardian Ad Litem, not present	
Marquis Aurbach Coffing, Other, not present	Dale Hayes, Attorney, not present
Parties Receiving Notice, Other, not present	
The W.N. Connell and Marjorie T. Connell Living Trust, dtd May 18, 1972, Trust, not present	

JOURNAL ENTRIES

- MINUTE ORDER- ADVANCE DECISION

During a hearing on the Citation, Mr. Lenhard indicated the upcoming Motion to Withraw was filed by Tamara Peterson, who has left the firm. Counsel present indicated they had no objection to the Motion. There being no opposition, cause appearing, and pursuant to EDCR 2.23, COURT GRANTED Tamara Peterson, Esq.'s MOTION TO WITHDRAW as counsel of record for Petitioner

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Eleanor Ahern without oral argument and ORDERED the motion REMOVED from the September 5, 2016 probate calendar.

CLERK'S NOTE: A copy of this Advance Decision Minute Order was forwarded to Tamara Peterson, Esq. (PETERSON HOPE) at tpeterson@petersonhope.com./ ld 8/3/16

INTERIM CONDITIONS:

FUTURE HEARINGS:

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DISTRICT COURT
CLARK COUNTY, NEVADA

Probate - Trust/Conservatorships | **COURT MINUTES** | August 03, 2016

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

August 03, 2016 **9:30 AM** **Motion**

HEARD BY: Sturman, Gloria **COURTROOM:** RJC Courtroom 03H

COURT CLERK: Linda Denman

PARTIES:

David Mann, Other, not present	Pro Se
Eleanor Ahern, Petitioner, not present	Pro Se
Fredrick Waid, Trustee, not present	Todd Moody, Attorney, not present
Fredrick Waid, Trustee, not present	
Fredrick Waid, Trustee, not present	
Jacqueline Montoya, Other, Personal Representative, not present	Joseph Powell, Attorney, not present
Kathryn Bouvier, Other, not present	Joseph Powell, Attorney, not present
Kristin Woods, Guardian Ad Litem, not present	
Marquis Aurbach Coffing, Other, not present	Dale Hayes, Attorney, not present
Parties Receiving Notice, Other, not present	
The W.N. Connell and Marjorie T. Connell Living Trust, dtd May 18, 1972, Trust, not present	

JOURNAL ENTRIES

- MOTION FOR CITATION REQUIRING ELEANOR AHERN TO AUTHORIZE PRODUCTION OF RECORD

Counsel indicated this Motion was continued to see if the Court's Order would give the requisite authorization to get the Texas records before issuing a citation. The parties discussed the dueling Orders that were submitted along with lengthy, explanatory letters. Court advised she had not

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reached a decision on which Order was appropriate. COURT ORDERED Motion for Citation VACATED; counsel to renotice if the Order is not effective. COURT FURTHER ORDERED status check SET.

10/5/2016 at 9:30AM STATUS CHECK: TRUSTEE ACCOUNTING

INTERIM CONDITIONS:

FUTURE HEARINGS:

Sep 07, 2016 9:30AM Petition
Petition for Order Directing Transfer of Tenancy in Common Interest in Upton County, Texas Property to te MTC Living Trust
RJC Courtroom 03H Sturman, Gloria

Oct 05, 2016 9:30AM Status Check
Status Check: Trustee Accounting
RJC Courtroom 03H Sturman, Gloria

DISTRICT COURT
CLARK COUNTY, NEVADA

Probate - Trust/Conservatorships | **COURT MINUTES** | September 07, 2016

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

September 07, 2016 **9:30 AM** **All Pending Motions**

HEARD BY: Sturman, Gloria **COURTROOM:** RJC Courtroom 03H

COURT CLERK: Olivia Black;

PARTIES:

David Mann, Other, not present	Pro Se
Eleanor Ahern, Petitioner, not present	Pro Se
Fredrick Waid, Trustee, present	Russel Geist, Attorney, present
Fredrick Waid, Trustee, not present	
Fredrick Waid, Trustee, not present	
Jacqueline Montoya, Other, Personal Representative, not present	Joseph Powell, Attorney, present
Kathryn Bouvier, Other, not present	Joseph Powell, Attorney, present
Kristin Woods, Guardian Ad Litem, not present	
Marquis Aurbach Coffing, Other, not present	Dale Hayes, Attorney, not present
Parties Receiving Notice, Other, not present	
The W.N. Connell and Marjorie T. Connell Living Trust, dtd May 18, 1972, Trust, not present	

JOURNAL ENTRIES

- PETITION: PETITION FOR ORDER DIRECTING TRANSFER OF TENANCY IN COMMON INTEREST IN UPTON COUNTY, TEXAS PROPERTY TO TE MTC LIVING TRUST...MOTION: MOTION TO ADJUDICATE ATTORNEY'S LIEN

Candice Renka, Esq. appearing on behalf of Marquis Aurbach Coffing

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Arguments by counsel regarding the merits of the motion, COURT ORDERED Marquis Aurbach Coffing to produce unredacted billing records as Ms. Ahern and Mr. Waid are entitled to notice as to what legal fees they are obligated to pay. COURT clarified that unredacted billing records can be submitted under seal to Mr. Lenhard and Mr. Geist. COURT FURTHER ORDERED unredacted billing records produced within two weeks and matter continued to next hearing date, October 5, 2016. Exhibits presented (see worksheet).

Additional argument by counsel regarding the petition, COURT stated its findings and ORDERED Petition CONTINUED for testimony from Mr. Murray, Texas Oil & Gas Attorney, either in person or via video-conference. Colloquy on whether Mr. Waid can set-up the Texas, LLC as Trustee or if he needs to a Court Order.

CONTINUED TO: 10/05/16 9:30 AM

INTERIM CONDITIONS:

FUTURE HEARINGS:

DISTRICT COURT
CLARK COUNTY, NEVADA

Probate - Trust/Conservatorships | **COURT MINUTES** | October 05, 2016

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

October 05, 2016 **9:30 AM** **All Pending Motions**

HEARD BY: Sturman, Gloria **COURTROOM:** RJC Courtroom 03H

COURT CLERK: Melissa Murphy

PARTIES:

David Mann, Other, not present	Pro Se
Eleanor Ahern, Petitioner, not present	Pro Se
Fredrick Waid, Trustee, not present	Todd Moody, Attorney, present
Fredrick Waid, Trustee, not present	
Fredrick Waid, Trustee, not present	
Jacqueline Montoya, Other, Personal Representative, not present	Joseph Powell, Attorney, present
Kathryn Bouvier, Other, not present	Joseph Powell, Attorney, present
Kristin Woods, Guardian Ad Litem, not present	
Marquis Aurbach Coffing, Other, not present	Dale Hayes, Attorney, not present
Parties Receiving Notice, Other, not present	
The W.N. Connell and Marjorie T. Connell Living Trust, dtd May 18, 1972, Trust, not present	

JOURNAL ENTRIES

- STATUS CHECK: TRUSTEE ACCOUNTING.....PETITION FOR ORDER DIRECTING TRANSFER OF TENANCY IN COMMON INTEREST IN UPTON COUNTY, TEXAS PROPERTY TO THE MTC LIVING TRUST

Mr. Lenhard noted a proposal for potential resolution with Mr. Waid wherein Mr. Ahern would sit in for a deposition; however his client was ill with pneumonia and would be out for a period and will

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need to have a new date set. Further noted he had the e-mail with the diagnosis of Ms. Ahern's present condition and has not passed on to counsel for confidentiality reasons.

Discussion regarding whether Ms. Ahern is physically going to be able to take her deposition to resolve the matter and whether it will ever get done. Further discussion regarding independent numbers concerning the oil and gas companies and what has been paid; tax return deadlines to be completed and membership holding interests in Texas.

Mr. Waid explained creating limited partnerships in Texas and having structures in place before the close of the year. Mr. Waid noted language will be inserted honoring any Court orders.

Following representations by counsel, COURT ORDERED, Petition for Order Directing Transfer is MOOT and Ms. Ahern to complete her deposition by November 4th; then sanctions will issue. Court advised Mr. Waid will proceed with whatever information he has on November 30th to complete final reports. At the request of Mr. Coffing, COURT FURTHER ORDERED, Motion to Adjudicate set for 11/02/16 VACATED; can be re-noticed for a future date. Upon inquiry counsel, Court advised counsel can review the doctor's note.

Mr. Waid will prepare the Order concerning restructuring.

INTERIM CONDITIONS:

FUTURE HEARINGS:

DISTRICT COURT
CLARK COUNTY, NEVADA

Probate - Trust/Conservatorships | **COURT MINUTES** | November 09, 2016

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

November 09, 2016 **9:30 AM** **Status Check**

HEARD BY: Sturman, Gloria **COURTROOM:** RJC Courtroom 03H

COURT CLERK: Melissa Murphy

PARTIES:

David Mann, Other, not present	Pro Se
Eleanor Ahern, Petitioner, not present	Pro Se
Fredrick Waid, Trustee, present	Russel Geist, Attorney, not present
Fredrick Waid, Trustee, not present	
Fredrick Waid, Trustee, not present	
Jacqueline Montoya, Other, Personal Representative, not present	Joseph Powell, Attorney, present
Kathryn Bouvier, Other, not present	Joseph Powell, Attorney, present
Kristin Woods, Guardian Ad Litem, not present	
Marquis Aurbach Coffing, Other, not present	Dale Hayes, Attorney, not present
Parties Receiving Notice, Other, not present	
The W.N. Connell and Marjorie T. Connell Living Trust, dtd May 18, 1972, Trust, not present	

JOURNAL ENTRIES

- Mr. Lenhard noted about two weeks ago Mr. Waid came to him with a proposal for settlement. Upon discussion, he received acceptance wherein his clients deposition had to be taken and there was a meeting arranged to discuss concerns; however he received an e-mail yesterday from Ms. Ahern that she would not accept the settlement. Mr. Lenhard noted he advised his client he was going to move to withdraw immediately and did not want to be responsible for the deposition scheduled on

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November 29th. Additionally noted there was a meeting scheduled today; however there was another doctor's appointment which interfered with the meeting.

Mr. Moody requested an order establishing Ms. Ahern must appear for the deposition in light of the events today. Mr. Moody further noted in the event the deposition does not occur, Mr. Waid plans to file his report and accounting without Ms. Ahern's cooperation. Mr. Lenhard noted he has not signed off on the order and requested not to.

Mr. Coffing requested to set his motion to adjudicate lien at the same time as the motion to withdraw. COURT ORDERED, Motion to Adjudicate Attorney's Lien RESET. Court suggested counsel send the motion to withdraw on order shortening time to have the matter heard by November 23, 2016.

At the request by Mr. Powell, COURT FURTHER ORDERED, Evidentiary Hearing SET.

11/23/16 9:30 AM - MARQUIS AURBACH COFFING'S MOTION TO ADJUDICATE ATTORNEY'S LIEN

02/09/17-02/10/17 - EVIDENTIARY HEARING

INTERIM CONDITIONS:

FUTURE HEARINGS:

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DISTRICT COURT
CLARK COUNTY, NEVADA

Probate - Trust/Conservatorships | **COURT MINUTES** | November 23, 2016

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

November 23, 2016 **9:30 AM** **All Pending Motions**

HEARD BY: Sturman, Gloria **COURTROOM:** RJC Courtroom 03H

COURT CLERK: Melissa Murphy

PARTIES:

David Mann, Other, not present	Pro Se
Eleanor Ahern, Petitioner, not present	Pro Se
Fredrick Waid, Trustee, present	Russel Geist, Attorney, present
Fredrick Waid, Trustee, not present	
Fredrick Waid, Trustee, not present	
Jacqueline Montoya, Other, Personal Representative, not present	Joseph Powell, Attorney, not present
Kathryn Bouvier, Other, not present	Joseph Powell, Attorney, not present
Kristin Woods, Guardian Ad Litem, not present	
Marquis Aurbach Coffing, Other, not present	Dale Hayes, Attorney, not present
Parties Receiving Notice, Other, not present	
The W.N. Connell and Marjorie T. Connell Living Trust, dtd May 18, 1972, Trust, not present	

JOURNAL ENTRIES

- MARQUIS AURBACH COFFING'S MOTION TO ADJUDICATE ATTORNEY'S LIEN.....MOTION TO WITHDRAW AS COUNSEL ON ORDER SHORTENING TIME

Lawrence Semenza, Esq. specially appearing on behalf of Ms. Ahern.

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Court provided copies of correspondence faxed to chambers sent by Ms. Ahern requesting counsel, which was filed sealed with the courts record. Court advised it appreciates Ms. Ahern s concerns regarding counsel; however advised Ms. Ahern does not understand what has happened and that she is in contempt with this court.

Ms. Ellis stated a notice of lien was served to all parties. Mr. Semenza stated Ms. Ahern contacted him regarding possible representation and had concerns with the deposition scheduled for Tuesday as he is unfamiliar with the facts and circumstances. COURT ORDERED, Motion to Withdraw as Counsel GRANTED.

Mr. Coffing noted the opposition to his motion was primarily based upon the issue with redacted bills; however maybe resolved and requested a status check in a couple of weeks to provide the information to Mr. Waid. Mr. Coffing further requested to adjudicate the lien as it relates to Ms. Ahern subject to reduction upon review by Mr. Waid. Mr. Powell noted he was fine with the parameters with Mr. Waid making the determination as to what is related to the trust and what is related to the personal obligation of Ms. Ahern. COURT FURTHER ORDERED, Motion to Adjudicate GRANTED subject to a report from the Trustee regarding apportionment; Status Check SET. Mr. Coffing to prepare the Order and pass by counsel.

Mr. Waid stated concerns with whether new counsel would be coming in and requested a guardian ad litem be appointed to benefit all parties. Mr. Geist noted he will prepare a motion for the court. Court advised there was a limited budget for counsel therefore not inclined to change that at this time; however a request for new counsel will be considered in the future once proper motions are presented.

Mr. Geist noted he has no intentions of continuing the scheduled deposition of Mr. Ahern. COURT SO NOTED.

01/18/17 9:30 AM - STATUS CHECK

INTERIM CONDITIONS:

FUTURE HEARINGS: Jan 18, 2017 9:30AM Status Check
RJC Courtroom 10D Sturman, Gloria

Jan 18, 2017 9:30AM Status Check
RJC Courtroom 10D Sturman, Gloria

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DISTRICT COURT
CLARK COUNTY, NEVADA

Probate - Trust/Conservatorships | **COURT MINUTES** | December 07, 2016

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

December 07, 2016 9:30 AM **Motion**

HEARD BY: Sturman, Gloria **COURTROOM:** RJC Courtroom 03H

COURT CLERK: Melissa Murphy

PARTIES:

David Mann, Other, not present	Pro Se
Eleanor Ahern, Petitioner, not present	Pro Se
Fredrick Waid, Trustee, not present	Todd Moody, Attorney, not present
Fredrick Waid, Trustee, not present	
Fredrick Waid, Trustee, not present	
Jacqueline Montoya, Other, Personal Representative, not present	Joseph Powell, Attorney, not present
Kathryn Bouvier, Other, not present	Joseph Powell, Attorney, not present
Kristin Woods, Guardian Ad Litem, not present	
Marquis Aurbach Coffing, Other, not present	Dale Hayes, Attorney, not present
Parties Receiving Notice, Other, not present	
The W.N. Connell and Marjorie T. Connell Living Trust, dtd May 18, 1972, Trust, not present	

JOURNAL ENTRIES

- Court advised Ms. Ahern failed to appear and therefore ORDERED, Motion VACATED as MOOT.

INTERIM CONDITIONS:

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FUTURE HEARINGS: Jan 18, 2017 9:30AM Status Check
RJC Courtroom 10D Sturman, Gloria

Jan 18, 2017 9:30AM Status Check
RJC Courtroom 10D Sturman, Gloria

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DISTRICT COURT
CLARK COUNTY, NEVADA

Probate - Trust/Conservatorships | **COURT MINUTES** | January 18, 2017

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

January 18, 2017 **9:30 AM** **Status Check**

HEARD BY: Sturman, Gloria **COURTROOM:** RJC Courtroom 10D; RJC Courtroom 10D

COURT CLERK: ;

PARTIES:

David Mann, Other, not present	Pro Se
Eleanor Ahern, Petitioner, not present	Pro Se
Fredrick Waid, Trustee, not present	Todd Moody, Attorney, present
Fredrick Waid, Trustee, not present	
Fredrick Waid, Trustee, not present	
Jacqueline Montoya, Other, Personal Representative, not present	Joseph Powell, Attorney, present
Kathryn Bouvier, Other, not present	Joseph Powell, Attorney, present
Kristin Woods, Guardian Ad Litem, not present	
Marquis Aurbach Coffing, Other, not present	Dale Hayes, Attorney, not present
Parties Receiving Notice, Other, not present	
The W.N. Connell and Marjorie T. Connell Living Trust, dtd May 18, 1972, Trust, not present	

JOURNAL ENTRIES

- Court Clerk, Denise Husted present. Terry Coffee appearing.

Discussion among counsel regarding fees in the trust. Mr. Coffee stated that the work he performed at a minimum was a benefit to the trust. He asked that the Court take a look at that issue. Mr. Moody advised that the trust should not be responsible. He further stated that there has been no decision from J. Johnson. The Court stated that in that case, it needs an in camera review. Mr. Coffing advised

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he will produce the documents to the Court. Opposition by Mr. Powell. Mr. Moody informed the Court that Wade will take the stand regarding the report and accounting. He didn't show up for the deposition in December so he didn't want to file a motion regarding the bill. The Court informed the parties that the records for in-camera review won't be accessible to the public. Colloquy regarding billings and that Mr. Wade's position is that Elinor should be responsible for the fees incurred. Mr. Coffing stated he will provide the records to the Court this day. Mr. Moody requested that he be allowed to submit a letter from his office stating his objections. The Court said that will be allowed. Mr. Powell asked if there is any sort of brief that the Court requires for the Evidentiary Hearing. The Court informed him that he may provide a trial brief. COURT ORDERED, matter CONTINUED for a decision.

2/6/17 IN-CHAMBERS DECISION

INTERIM CONDITIONS:

FUTURE HEARINGS:

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DISTRICT COURT
CLARK COUNTY, NEVADA

Probate - Trust/Conservatorships | **COURT MINUTES** | February 06, 2017

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

February 06, 2017 **3:00 AM** **Decision**

HEARD BY: Sturman, Gloria **COURTROOM:** RJC Courtroom 10D

COURT CLERK:

PARTIES:

David Mann, Other, not present	Pro Se
Eleanor Ahern, Petitioner, not present	Pro Se
Fredrick Waid, Trustee, not present	Todd Moody, Attorney, not present
Fredrick Waid, Trustee, not present	
Fredrick Waid, Trustee, not present	
Jacqueline Montoya, Other, Personal Representative, not present	Joseph Powell, Attorney, not present
Kathryn Bouvier, Other, not present	Joseph Powell, Attorney, not present
Kristin Woods, Guardian Ad Litem, not present	
Marquis Aurbach Coffing, Other, not present	Dale Hayes, Attorney, not present
Parties Receiving Notice, Other, not present	
The W.N. Connell and Marjorie T. Connell Living Trust, dtd May 18, 1972, Trust, not present	

JOURNAL ENTRIES

- Court Clerk, Rebecca Foster

Marquis Aurbach Coffing's Motion to Adjudicate Attorney s Lien came before the Court on November 23, 2016. Counsel presented their case and Court took the matter under advisement.

After carefully considering the papers submitted and hearing arguments, Court issued its Decision

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and Order this 9th day of February, 2017. COURT ORDERED Motion for Attorney s Lien GRANTED; fees are awarded in their entirety and costs are awarded in accordance with Cadle. See Court s Decision and Order for full content.

Counsel from MAC is directed to provide prompt written Notice of Entry hereof.

INTERIM CONDITIONS:

FUTURE HEARINGS: Feb 06, 2017 3:00AM Decision
Decision Issued 2/9/17 Re: Motion to Adjudicate Attorney's Lien
RJC Courtroom 10D Sturman, Gloria

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DISTRICT COURT
CLARK COUNTY, NEVADA

Probate - Trust/Conservatorships | **COURT MINUTES** | February 08, 2017

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

February 08, 2017 3:10 PM Minute Order

HEARD BY: Sturman, Gloria **COURTROOM:** Chambers

COURT CLERK: Tena Jolley

PARTIES:

David Mann, Other, not present	Pro Se
Eleanor Ahern, Petitioner, not present	Pro Se
Fredrick Waid, Trustee, not present	Todd Moody, Attorney, not present
Fredrick Waid, Trustee, not present	
Fredrick Waid, Trustee, not present	
Jacqueline Montoya, Other, Personal Representative, not present	Joseph Powell, Attorney, not present
Kathryn Bouvier, Other, not present	Joseph Powell, Attorney, not present
Kristin Woods, Guardian Ad Litem, not present	
Marquis Aurbach Coffing, Other, not present	Dale Hayes, Attorney, not present
Parties Receiving Notice, Other, not present	
The W.N. Connell and Marjorie T. Connell Living Trust, dtd May 18, 1972, Trust, not present	

JOURNAL ENTRIES

- Pursuant to Eleanor Ahern's ex parte request for an order releasing funds, the Court hereby grants the request and orders that the Trustee, Fred Waid, shall release funds from Ms. Ahern's share of the Trust directly to attorney Lawrence Semenza, Esq., for his reasonable attorney's fees incurred for his representation of Ms. Ahern at the February 9th and 10th evidentiary hearing.

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INTERIM CONDITIONS:

FUTURE HEARINGS:

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DISTRICT COURT
CLARK COUNTY, NEVADA

Probate - Trust/Conservatorships | **COURT MINUTES** | February 09, 2017

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

February 09, 2017 10:00 AM Evidentiary Hearing

HEARD BY: Sturman, Gloria **COURTROOM:** RJC Courtroom 10D

COURT CLERK: Rebecca Foster

PARTIES:

David Mann, Other, not present	Pro Se
Eleanor Ahern, Petitioner, present	Pro Se
Fredrick Waid, Trustee, present	Russel Geist, Attorney, not present
Fredrick Waid, Trustee, not present	
Fredrick Waid, Trustee, not present	
Jacqueline Montoya, Other, Personal Representative, present	Joseph Powell, Attorney, present
Kathryn Bouvier, Other, present	Joseph Powell, Attorney, present
Kristin Woods, Guardian Ad Litem, not present	
Marquis Aurbach Coffing, Other, not present	Dale Hayes, Attorney, not present
Parties Receiving Notice, Other, not present	
The W.N. Connell and Marjorie T. Connell Living Trust, dtd May 18, 1972, Trust, not present	

JOURNAL ENTRIES

- Eleanor Ahern appeared by video conference.

Lawrence Semenza, Esq appeared and advised the Court he received copies of the Court's minute order regarding funds to be disbursed for legal counsel; he has not made any appearance on Ms. Ahern's behalf; and declined to make an appearance under the those terms. Mr. Semenza further stated Ms. Ahern needs counsel and does not have sufficient funds to retain him or any other

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counsel. Court noted Ms. Ahern is not linked by video at present time and she should be advised when she is present via video. Court stated the hearing will go forward; when Ms. Ahern requested counsel the Court did what it could do and was unaware of whether Ms. Ahern had talked with Mr. Semenza in advance; the funds were released for the hearing today and tomorrow; Ms. Ahern had requested funds for an attorney. Court stated the Court will advise Ms. Ahern that Mr. Semenza will not be representing her. Upon Mr. Semenza's inquiry, the Court stated he may remain in the courtroom for the hearing. Objection by Mr. Moody as to any discussion of confidential records. Court advised Mr. Semenza he would be asked to leave the courtroom during any discussion of confidential material and records.

Ms. Ahern now present by video conference. Court advised Ms. Ahern that the Court received her letter requesting counsel for today; court authorized funds for Mr. Semenza as Ms. Ahern could not travel from Mesquite for health and financial reasons; the Court granted Ms. Ahern's request for a video-conference; and funds were released for Mr. Semenza. Court further advised Ms. Ahern Mr. Semenza indicated he could not represent her as he has not had the opportunity to prepare for representation of her; he has not previously appeared in this case as her counsel; and declined to represent Ms. Ahern today. COURT ORDERED, Mr. Semenza will be excused and stated the Court appreciates his appearing to explain why he cannot take this case on short notice and with no file.

Ms. Ahern stated she is without counsel and will not be speaking and requested a continuance. COURT ORDERED, request is DENIED. Upon request of Mr. Moody, Ms. Ahern stated there is no other parties with her at the video-conference location. Court stated a DECISION regarding Marquis Aurback Coffings Motion to Adjudicate Attorney's Lien will be filed today. Court reviewed the decision with counsel.

Witness sworn and testified. Ms. Ahern requested a transcript and DVD. Mr. Waid stated the Trust will agree to pay for that. Ms. Ahern requested a copy of all the exhibits. Court advised Ms. Ahern that given the late request counsel was not able to be notified in time and due to deft not being present in the courtroom each exhibit that is offered and admitted will be sent to Ms. Ahern and she will receive a transcript as well. Mr. Waid stated Ms. Ahern has received all production of documents; and she can use the list of exhibits to find the documents that were provided to her by Mr. Lenhart. Mr. Waid further stated Mr. Lenhart was provided with written questons but Mr. Waid does not know if Mr. Lenhart provided them to Ms. Ahern. Exhibits offered and admitted. Court recessed for lunch.

1:30 PM: Court back in session

Ms. Ahern requested accounting. Court advised Ms. Ahern that the First Accounting for 2013-2015 was filed and mailed to her at two different addresses by Mr. Waid. Mr Powell stated his mailing did not get returned. Upon Court's inquiry, Mr. Moody stated the accounting has not been completed for 12-31-16 and they are awaiting the tax return. Upon Court's inquiry, Ms. Ahern stated her correct address is: 355 W. Mesquite Blvd., D30, Mesquite, NV 89027. Court DIRECTED the clerk to make sure this address is reflected in the official record. Court advised Ms. Ahern that a DVD and transcript will

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be sent to her and paid for by the Trust; and Mr. Moody will provide to her an interim report of expenditures and income information in the next 30 days and the full accounting report will follow once the tax return is completed.

Testimony continued. COURT ORDERED, witness excused and closing arguments to be heard tomorrow morning at 10:00 AM and all exhibits that were NOT admitted RETURNED TO COUNSEL.

INTERIM CONDITIONS:

FUTURE HEARINGS:

DISTRICT COURT
CLARK COUNTY, NEVADA

Probate - Trust/Conservatorships | **COURT MINUTES** | February 10, 2017

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

February 10, 2017 10:00 AM Evidentiary Hearing

HEARD BY: Sturman, Gloria **COURTROOM:** RJC Courtroom 10D

COURT CLERK: Tena Jolley

PARTIES:

David Mann, Other, not present	Pro Se
Eleanor Ahern, Petitioner, present	Pro Se
Fredrick Waid, Trustee, not present	Todd Moody, Attorney, present
Fredrick Waid, Trustee, not present	
Fredrick Waid, Trustee, not present	
Jacqueline Montoya, Other, Personal Representative, present	Joseph Powell, Attorney, present
Kathryn Bouvier, Other, present	Joseph Powell, Attorney, present
Kristin Woods, Guardian Ad Litem, not present	
Marquis Aurbach Coffing, Other, not present	Dale Hayes, Attorney, not present
Parties Receiving Notice, Other, not present	
The W.N. Connell and Marjorie T. Connell Living Trust, dtd May 18, 1972, Trust, not present	

JOURNAL ENTRIES

- CONTINUATION OF EVIDENTIARY HEARING

Ms. Ahern appearing via video conference. Upon Court's inquiry, counsel indicated there were no additional witnesses. Ms. Ahern requested that Larry Semenza's retainer of $50,000.00 be paid by the Trust. Additionally, she sent a copy of the invoice for her glasses at approximately $680.00 and requested that it be paid by the Trust. Court advised that Mr. Waid is not present today and that she

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would have to communicate directly with Mr. Waid as he has the authority to act. Regarding, Mr. Semenza, the Court did authorize the funds to be paid to allow Mr. Semenza to represent Ms. Ahern and that Mr. Semenza indicated he did not have adequate time to prepare and would not be entering an appearance for her at this time and that the Court had not seen a request for a $50,000.00 retainer and Mr. Waid would need to ask for that authority if he thinks it is appropriate. Mr. Moody reiterated what the court stated earlier that Mr. Semenza appeared but was not willing to enter an appearance; that Mr. Waid stands ready, willing and able to serve and meet Ms. Ahern's needs as directed by previous and future court orders as well as what is contained in the Trust documents themselves; that based on Mr. Waid's findings, he is reluctant to release any funds directly to Ms. Ahern. COURT ORDERED, Ms. Ahern is to have the providers contact Mr. Waid directly with their bill and anything not covered by Medicaid, the Trust stands ready to provide.

Mr. Moody indicated that it is Mr. Waid's position that there is no need to speak through counsel as to the complex tax issues and requested that Ms. Ahern communicate directly with Mr. Waid. COURT DIRECTED Ms. Ahern to speak with Mr. Waid and if he feels it appropriate, he can request the Court to authorize that counsel be appointed to represent her.

Closing argument by Mr. Kiefer. Court stated its findings and ORDERED $2,581,994.00 AWARDED in Compensatory Damages, a portion of which has been recovered and paid in the amount of $839,941.92, and should be deducted from that amount; that certain actions appear to warrant punitive damages intended to punish and discourage this kind of conduct and AWARDED $3,600,000.00 in Punitive Damages; and the remaining beneficiaries are entitled to their attorney's fees and costs for this hearing and the Court will entertain a motion for fees and costs.

INTERIM CONDITIONS:

FUTURE HEARINGS:

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DISTRICT COURT
CLARK COUNTY, NEVADA

Probate - Trust/Conservatorships | **COURT MINUTES** | February 22, 2017

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

February 22, 2017 9:30 AM Motion - HM

HEARD BY: Sturman, Gloria **COURTROOM:** RJC Courtroom 10D

COURT CLERK: Rebecca Foster

PARTIES:

David Mann, Other, not present	Pro Se
Eleanor Ahern, Petitioner, not present	Pro Se
Fredrick Waid, Trustee, present	Russel Geist, Attorney, present
Fredrick Waid, Trustee, not present	
Fredrick Waid, Trustee, not present	
Jacqueline Montoya, Other, Personal Representative, not present	Joseph Powell, Attorney, not present
Kathryn Bouvier, Other, not present	Joseph Powell, Attorney, not present
Kristin Woods, Guardian Ad Litem, not present	
Marquis Aurbach Coffing, Other, not present	Dale Hayes, Attorney, not present
Parties Receiving Notice, Other, not present	
The W.N. Connell and Marjorie T. Connell Living Trust, dtd May 18, 1972, Trust, not present	

JOURNAL ENTRIES

- Arguments by counsel. COURT ORDERED, APPROVED AND GRANTED for both sides; no rights are waived.

INTERIM CONDITIONS:

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FUTURE HEARINGS:

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PLEADING CONTINUES IN NEXT VOLUME

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF THE W.N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST, DATED MAY 18, 1972,	Case No: P-09-066425-T Docket No: 73837
ELEANOR CONNELL HARTMAN AHERN, Appellant(s), vs. JACQUELINE M. MONTOYA; AND KATHRYN A. BOUVIER, Respondent(s),	

RECORD ON APPEAL
VOLUME
47

ATTORNEY FOR APPELLANT
ELEANOR C. AHERN, PROPER PERSON
355 W. MESQUITE BLVD., D30 #176
MESQUITE, NV 89027

ATTORNEY FOR RESPONDENT
JOSEPH J. POWELL
1707 VILLAGE CENTER CIR., STE. 150
LAS VEGAS, NV 89134

P-09-660425-T IN THE MATTER OF THE TRUST OF:
THE W.N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST, DTD MAY 18, 1972

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

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5	02/11/2014	ACCEPTANCE OF SERVICE	999 - 999
44	02/01/2017	ACCOUNTING AND REPORT OF TRUST ACTIVITY FROM 2013 TO 2015	8610 - 8620
6	03/06/2014	ADDENDUM TO PETITION TO COMPEL TRUSTEE TO DISTRIBUTE ACCRUED INCOME AND FUTURE INCOME RECEIVED FROM OIL, GAS, AND MINERAL LEASES AND DECLARATION OF THE APPLICABILITY OF THE DOCTRINE OF LACHES	1142 - 1154
28	05/06/2015	AFFIDAVIT OF FREDRICK P. WAID, TRUSTEE	5417 - 5421
6	03/13/2014	AFFIDAVIT OF MAILING	1192 - 1193
21	01/13/2015	AFFIDAVIT OF SERVICE	4051 - 4052
28	06/03/2015	AFFIDAVIT OF SERVICE	5506 - 5510
31	07/20/2015	AFFIDAVIT OF SERVICE	6117 - 6117
31	07/21/2015	AFFIDAVIT OF SERVICE	6123 - 6123
31	07/21/2015	AFFIDAVIT OF SERVICE	6124 - 6124
32	08/03/2015	AFFIDAVIT OF SERVICE	6259 - 6259
12	08/13/2014	AFFIDAVIT OF SERVICE: CUSTODIAN OF RECORDS FOR CHRISTOPHER S. CRUZ, MD	2279 - 2280
12	08/13/2014	AFFIDAVIT OF SERVICE: CUSTODIAN OF RECORDS FOR DAVID A. STRAUS, ESQ.	2281 - 2282
12	08/12/2014	AFFIDAVIT OF SERVICE: CUSTODIAN OF RECORDS FOR UNIVERSITY MEDICAL CENTER	2277 - 2278
8	03/20/2014	AMENDED CERTIFICATE OF MAILING	1533 - 1534
31	07/29/2015	AMENDED NOTICE OF APPEAL	6171 - 6182
46	04/03/2017	AMENDED NOTICE OF APPEAL	9016 - 9018
21	01/16/2015	AMENDED NOTICE OF HEARING	4092 - 4093

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

I N D E X

VOL	DATE	PLEADING	PAGE NUMBER:
8	03/20/2014	AMENDED NOTICE OF HEARING ON PETITION TO COMPEL TRUSTEE TO DISTRIBUTE ACCRUED INCOME AND FUTURE INCOME RECEIVED FROM OIL, GAS, AND MINERAL LEASES AND DECLARATION OF THE APPLICABILITY OF THE DOCTRINE OF LACHES AND ADDENDUM TO SAID PETITION	1535 - 1536
30	07/07/2015	AMENDED NOTICE OF TAKING DEPOSITION	5811 - 5817
5	02/04/2014	AMENDED NOTICE OF TAKING VIDEOTAPED DEPOSITION OF CURTIS BAGGETT	954 - 956
43	12/01/2016	AMENDED ORDER RE: ELEANOR AHERN'S DEPOSITION	8530 - 8533
31	07/21/2015	AMENDED SUBPOENA DUCES TECUM TO CUSTODIAN OF RECORDS FOR WELLS FARGO BANK, N.A.	6118 - 6122
5	02/10/2014	ANSWER OF TRUSTEE ELEANOR C. AHERN TO JACQUELINE M. MONTOYA'S PETITION FOR DECLARATORY JUDGMENT REGARDING LIMITED INTEREST OF TRUST ASSETS PURSUANT TO NRS 30.040, NRS 153.031(1)(E), AND NRS 164.033(1)(A) AND COUNTERCLAIMS AGAINST JACQUELINE M. MONTOYA	977 - 995
48	08/21/2017	APPEAL TO THE NOTICE OF ENTRY OF ORDER REGARDING MOTION FOR ASSESSMENT OF DAMAGES AGAINST ELEANOR AHERN	9468 - 9469
33	08/25/2015	APPLICATION FOR THE ISSUANCE OF A COMMISSION TO TAKE OUT-OF-STATE DEPOSITION OF CURT BAGGETT	6443 - 6448
33	08/25/2015	APPLICATION FOR THE ISSUANCE OF A COMMISSION TO TAKE OUT-OF-STATE DEPOSITION OF FREDERICK BROWN	6437 - 6442
32	08/21/2015	APPLICATION FOR THE ISSUANCE OF A COMMISSION TO TAKE OUT-OF-STATE DEPOSITION OF JEFFREY JOHNSTON	6317 - 6319
32	08/21/2015	APPLICATION FOR THE ISSUANCE OF A COMMISSION TO TAKE OUT-OF-STATE DEPOSITION OF LAWRENCE PRUCKA	6332 - 6334
33	10/02/2015	APPLICATION FOR THE ISSUANCE OF A COMMISSION TO TAKE OUT-OF-STATE DEPOSITION OF RYAN E. SCHARAR (CONTINUED)	6597 - 6600

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

I N D E X

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34	10/02/2015	APPLICATION FOR THE ISSUANCE OF A COMMISSION TO TAKE OUT-OF-STATE DEPOSITION OF RYAN E. SCHARAR (CONTINUATION)	6601 - 6602
33	10/02/2015	APPLICATION FOR THE ISSUANCE OF A COMMISSION TO TAKE OUT-OF-STATE DEPOSITION OF THE CUSTODIAN OF RECORDS FOR THE OMNI FORT WORTH HOTEL	6591 - 6596
34	10/12/2015	APPLICATION FOR THE ISSUANCE OF A COMMISSION TO TAKE OUT-OF-STATE DEPOSITION OF THE CUSTODIAN OF RECORDS FOR OMNI HOTELS MANAGEMENT CORP.	6676 - 6678
32	08/21/2015	APPLICATION FOR THE ISSUANCE OF A COMMISSION TO TAKE OUT-OF-STATE DEPOSITION OF THE PERSON MOST KNOWLEDGEABLE FOR ANTHONY & MIDDLEBROOK, P.C.	6329 - 6331
46	05/10/2017	APPLICATION TO PROCEED INFORMA PAUPERIS (SEALED)	9037 - 9041
17	12/29/2014	ATTORNEY DAVID L. MANN, ESQ.'S MOTION TO QUASH SUBPOENAS AND FOR A PROTECTIVE ORDER	3211 - 3232
23	03/13/2015	BRIEF REGARDING ACCOUNTING, FIDUCIARY DUTIES, AND TRUST ADMINISTRATION (FILED UNDER SEAL) (CONTINUED)	4517 - 4600
24	03/13/2015	BRIEF REGARDING ACCOUNTING, FIDUCIARY DUTIES, AND TRUST ADMINISTRATION (FILED UNDER SEAL) (CONTINUATION)	4601 - 4782
23	03/12/2015	BRIEF REGARDING PENDING ISSUES (SEALED)	4481 - 4516
12	07/31/2014	CASE APPEAL STATEMENT	2228 - 2233
26	04/07/2015	CASE APPEAL STATEMENT	5171 - 5175
28	05/18/2015	CASE APPEAL STATEMENT	5496 - 5501
36	02/10/2016	CASE APPEAL STATEMENT	7108 - 7113
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46	04/03/2017	CASE APPEAL STATEMENT	9014 - 9015

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

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3	12/04/2013	CERTIFICATE OF MAILING	560 - 561
4	12/11/2013	CERTIFICATE OF MAILING	634 - 635
6	03/06/2014	CERTIFICATE OF MAILING	1117 - 1118
6	03/13/2014	CERTIFICATE OF MAILING	1190 - 1191
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10	05/08/2014	CERTIFICATE OF MAILING	1942 - 1943
12	07/17/2014	CERTIFICATE OF MAILING	2220 - 2221
12	08/19/2014	CERTIFICATE OF MAILING	2297 - 2298
14	11/25/2014	CERTIFICATE OF MAILING	2790 - 2790
21	01/13/2015	CERTIFICATE OF MAILING	4053 - 4054
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42	08/04/2016	CERTIFICATE OF MAILING OF MOTION TO ADJUDICATE ATTORNEY'S LIEN	8248 - 8249
10	05/08/2014	CERTIFICATE OF MAILING REGARDING MOTION OF ELEANOR C. AHERN TO CONTINUE MAY 13, 2014 HEARING ON PETITION FOR CONSTRUCTION AND EFFECT OF PROBATE COURT ORDER OF JACQUELINE M. MONTOYA	1940 - 1941
10	05/12/2014	CERTIFICATE OF MAILING REGARDING OPPOSITION OF ELEANOR C. AHERN TO JACQUELINE M. MONTOYA'S PETITION FOR CONSTRUCTION OF EFFECT OF PROBATE COURT ORDER	1987 - 1987
9	04/10/2014	CERTIFICATE OF MAILING REGARDING PETITION FOR RELEASE OF TRUST FUNDS FOR THE PAYMENT OF ADMINISTRATIVE EXPENSES, INSURANCE PREMIUMS AND TAXES ATTRIBUTABLE TO TRUST PROPERTY	1616 - 1617
31	07/30/2015	CERTIFICATE OF SERVICE	6183 - 6184
33	08/27/2015	CERTIFICATE OF SERVICE	6497 - 6498
44	02/07/2017	CERTIFICATE OF SERVICE	8639 - 8639
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46	04/11/2017	CERTIFICATE OF SERVICE	9019 - 9020
48	08/09/2017	CERTIFICATE OF SERVICE	9428 - 9429
34	10/06/2015	CERTIFICATE OF SERVICE OF MOTION TO WITHDRAW AS COUNSEL ON ORDER SHORTENING TIME	6618 - 6619
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P-09-066425-T In the Matter of the Trust of:
The W.N. Connell and Marjorie T. Connell Living Trust, dtd May 18, 1972

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I have not had new shoes since April 1, 2015. Fred Waid is gambling with my physical instability by walking with my old broken down uneven shoes. I only have one pair and they are not stable, they are worn unevenly. My probability of falling is my constant fear because the shoes do not support me and a fall could mean a broken bone. My once sturdy shoes are unstable now and the 2 inch built up sole is not evenly worn down. Good Orthopedic shoes stabilizes me to a point and when Captain is well and healthy I rely on him. Fred has delayed my requests to the point he states in his last exhibits for the Court Hearing May 24, 2017, that I can buy my shoes first and put the lifts in them first and then he *may consider* re-paying me. His words "will consider" really means he will or maybe he will not. (1) I do not have the money for new shoes or the buildup that was $100.00 it could be more now and (2) there is no guarantee Fred Waid will ever give me back the money if I were to have spent money on new shoes if I even had the money to spend. Which I do not. They are expensive. I do not have the money to pay for new shoes. With the abuse of not having good study orthopedic shoes the chances of me falling and breaking hip, a tibia or a femur are very real. Spending months in the hospitable is very real and dying in the hospital is very real. A fall is very dangerous for anyone especially at 79. Breaking a hip. femer or a tibia would land me in the hospital death could come in 3 months. Fred Waid would like this to happen so then he would not be blamed for killing me. It would not show that I died at their hands. Todd Moody, Geitz, Fred Waid and the Hutchison and Steffen Law Firm could show they were not responsible for my death but actually they all three and the law firm would be very responsible but I would be dead. But I did not die at their hands. Or did I? Fred Waid's delay, delay, delay not taking any action to help me medically or financially is certainly a one easy way to make death come quicker..

By the way Judge, it took Fred Waid all of April and all of May to the 1st of June to pay for a Prescription rinse by Dr. Marchant, my dentist. Does not sound like much but when you do not have it. It is a lot. As of June 12, 2017, he had not paid it and I have sent it by fax 4 or 5 times requesting him to pay me back. A check finally came several weeks after the May 24th Hearing. Three prescriptions were waiting at Smith Pharmacy for me to pick up and use but he prefers to ignore my requests. Because of my pre diabetes, I test my blood before and after every meal and before I go to bed to keep the blood sugar in control with food only. The last Doctor I saw recently said I must eliminate all Carbs and all sugars. This I have done. The other two prescriptions are for Diabetes stripes and needles. The check he sent me did finally pay for all three. To my knowledge, I had less than $2.500 spent on me up to May 24, 2017. Again where and to whom did the $20,000 go. Yes, more money is needed but it should be taken out of Fred's inapt hands and given to an accountant who is responsible to handle medical items and needs and living expenses. Fred has proven even with his three attorneys, he is not a capable and honest and caring trustee.

It is time for a Trustee with ethics and honesty and credibility and not one who is wanting 25% of my father's assets which are in the millions.

Tammy went with me to the D O found by Fred Waid. Again, Fred Waid is not my friend and this man he sent me to was not medically qualified. He said he gives drugs and since you do not take drugs he yelled "why are you here." The plaintiffs and the Temporary Trustee stacked the cards against me by telling lies. Lack of clothing, lack of good shoes, lack of good food. They played the delay game hoping that I would die.

I have always said that I would live to be 120 years young in good health. And I will.

Fred played the odds by delaying the cataracts operation for over 26 months. For those many months I had to cancel for non payment and reschedule only to cancel a total 20 times I received a letter from New Eyes Cataract Surgeons that I had canceled 20 times. They said they would give me one more chance if I could guarantee payment. I could NEVER guarantee what Fred Waid would do regarding payment. That is when Dr. Malik referred Dr. Todd Jackson to me.

I have bad eye sight as pro se using a 20 times magnifying glass for reading. I have a lot of reading and a lot of typing to do with very bad eyesight. And over those many months Fred Waid refused to help me medically. Yet in November of 2015 you authorized him to pay $20,000 for my medical and living expenses. It took him 26 months to pay for any medical. Serious dental and medical neglect could have led to my death. That is what Fred Waid has been trying to do since he became Temporary Trustee. Have you noticed, Judge, that when he writes of his job you appointed him to Fred has changed his title is to Successor Trustee not temporary trustee. Is this his new title he has bestowed upon himself? Or is he expecting me to die soon as he already has the title of successor trustee?

Fred, Todd and Geist played games by not keeping me informed. These three men knew I had Cataract Surgery at 9 a. m. the day of the last Hearing May 24, 2017 . Fred had to put down a credit card for the hotel stay that evening. I truly believe if they cared an ounce for me, they would have informed me by fax as they have been doing for months or by mail since they knew about this hearing since the 16th of May. They both knew that this last Hearing was going to be happening the same time as my cataract surgery. They even sent their response to me late so that it would arrive the day before the hearing. I had no time to respond. They planned for me to not be able to change the appointment so that I could be present. I was not prepared to object properly because I had no time to read what they sent to arrive the day before the Hearing. Judge, no matter how you look at their actions, their actions were on purpose to 1. Not let me have sufficient time to read what they sent me so I could respond in Court and 2. All of the three men know I had a surgery to remove the Cataract from my right eye at 9 am. They all made the choice to keep me ignorant of the Hearing that was scheduled two weeks earlier. I have to believe it was by design that the three of them did not let me know of the Hearing knowing full well I had Cataract surgery at 9am and I would not be able to be present for the 10:30 am hearing. Their actions were on purpose, maliciously designed to NOT have me at

the last Hearing.

Tammy Peterson and Kirk Lenhard were forced to take the approach of Fred Waid's breaking rules as there wasn't money for them to do anything about it. They could not fight Fred legally with no money and they could not protect me from him. This was my lawyers' position and Fred Waids' abuse of the rules put me in a continued one-down position even though you had provided $70,000 for them to protect me. It seems to me Fred Waid refused to pay the money to Kirk Lenhard so I could have not have the benefit of Kirk being my attorney. Judge, don't you think that the best time to have paid my attorney was when he had me to defend. Yet, this was done so I received no benefit from the money being paid. You tried, Judge, but again rules were broken to benefit Fred Waid. The $70,000 was paid to Kirk and the Brownstein Law Firm month after Kirk had to withdraw because of not getting paid the $70,000 you had authorized November 2015.

Fred now controls the money I have lived on since 1979. Just doesn't sound right to me. Does it to you, Judge?

The Depositions of my two daughters confirmed to me that my daughters have hated me from their young youth. Even though I gave them everything they wanted because I could afford it. Yet, it was not enough to prove my love for them. I was obviously too slow at rescuing them from their abusive Dad. As time went on, I would physically position myself to take the body beating he was dishing out to protect their bodies. When he asked for a divorce I demanded he leave our home. He left only to come back the next day crying. I knew my best girlfriend had not yet decided to leave her husband and four children. I took him back but that is when the mental and physical abuse he dished out to all of us got worse. I could not interrupt their Dad's abuse of drugs and alcohol that took their toll on their innocence. He finally left with his girlfriend and for over 10 years he was absence from his daughters' lives. If I had it to do over again, I would have done it all differently, I followed my cultural mores. It turned out to be bad advice. Kathryn Ann Hartman received months of psychological care. I paid for the Doctor and her care not her Dad. I thought of her to be the beautiful women I knew her to be. I understand from her Deposition, I was just a meal ticket all along. She never caught the love I was giving.

Both girls signed in triplicate the Solomon Dwiggins Document of 2009. I wanted them to have everything when I died. They signed knowing that I gave them remainderman status in the trust my father gave me. They signed the Solomon Dwiggins Document of 2009 knowing they would have to wait till I died for them to be in the flow of money.

By me giving many millions to them from 2009 to 2012 they got more and more greedy. My adopted mother did not have anything to give them. She had no power over Trust 2. Only I could give the oil royalty income away as I did to my adopted mother and to continue giving after she died to my daughters. My Adoptive mother

did not own any assets in Upton County Texas to give away. If she had power and authority she would have done so way before she died but she could not. Nothing was ever given from my father regarding the oil assets to her or to her MTC Trust. He gave all the oil royalty income and land to me according to his trust just as he received it from his parents so many years ago.

The depositions from both daughters confirm, affirm and reaffirm their statement that they were never to be in the flow of money until I died in both the Solomon Dwiggins Document and in their testimony in both of their depositions.

The best way to find out how much money I received is to call the Oil Companies and request duplicate checks and production runs. When I was trustee I signed Division Orders for over 100 new wells to be dug. None of the wells were on my land. The Connell Descendants participate in sharing equally in the Oil Royalty income over approximately 11,000 acres in the Oil and Gas Rich Premium Basin in Upton County a short distance from Midland, Texas. Because of the damage income from Roads, well sites, the sale of water and caliche Mozelle Miller has considerable more income than I do from her land. You cannot compare the two incomes because they are not the same incomes, as Fred Waid is trying to prove. With my current knowledge, I had no nor do I now have oil sites being dug on my land causing damage income. I am not selling any water nor caliche as Mozelle does. No roads were or are being made across my land. Fred Waid cannot compare the two incomes. Fred Waid has convoluted the truth to his benefit not to the benefit of a beneficiary which I am. I am my father's only child and he meant for me to enjoy all the money created by his sole and separate property he inherited from his mother and father. During my lifetime, I was to have it all and then my two daughters would receive all I had.

I had two large homes as rental income. They were under water as I like many other who bought just before the real estate collapse. I made the payments because the rental income was not sufficient to pay all the mortgage. I used my trust money since 2006 to make up the monthly lack. I do not understand how my daughters could condone Joey Powell putting a lien on my two rental houses. Both houses had long term renters. I guess they wanted to starve me into doing their bidding. Not going to happen. I could have done a Short Sale but Joey would not release the liens. He wanted to hurt me and he did. One home is now gone to foreclosure with a potential of a large tax lability. Fred Waid did nothing to protect me to avoid unnecessary foreclosure. Kid's didn't care. Now I have the potential of a tax liability and foreclosure on my credit. Fred Waid could have prevented this from ever happening. Somehow, I feel Fred Waid intestinally wants to destroy me. Kids knew I bought at $270,000 before the market dropped and the value dropped to $160,000 yet they must have given Joey permission to lien the property though the property was bought with my 35% and paid for monthly with my 35%. The homes should never have been part of this case expect for Joey Powell being mean and starving me into foreclosure and the you, Judge, freezing my 35%. I could not pay the mortgage seven with very good long-term tenants. I hired a lawyer to do a short

sale, the bank agreed, I had buyers and Joey still refused to release the liens. Fred Waid could have funded me. I only had my social security and I could not pay any of the mortgages.

Fred Waid, Temporary Trustee, said I was hiding money at a Culver City, California bank. I never had a bank account in California. I would like to see the proof. I know for a fact I never had a bank account in California. **Another reason why I need an attorney to make Fred Waid prove his bogus statements against me**

I was excluded from the normal proceedings by the Fred Waid and the Hutchison & Steffen Law Firm and Joey Powell and the Rushforth Law Firm. The both have excluded me in the normal course of business I should have been included in the normal course of business as a Pro Se. Ruthforth and Powel were asking the Judge to make decisions on items that have never been discussed in Court.

Fred Waid said it was hard to get documents and records from Apache. When I was Trustee, I could get years of documents. All it takes is a phone call to the Oil Companies. 90% of the documentation can come to Fred Waid from one source. Again Fred says it is hard. It is truly very easy. I choose never to use their online services that has up to the date information. It takes only a few hours to get documentation. This would be true documentation not using Mozelle Miller's land to deem to equal what I received. As far as I know my land has not been drilled on and her's has. This means that she has many more thousands of dollars coming in from Apache than I have as I have no damage money for each well site, and damage money for roads crossing her property nor do I sell any water nor caliche. This is like comparing apples to oranges. It cannot be proved out. **This is why I need an attorney who has my best interest at heart and who is paid properly** from my Trust.

Mr. Wilcox, Fred Waid's Trust CPA had been given nothing by Fred Waid when the two of them met with my CPA who did the trust accounting and Fred Waid has refused to pay him his approximately $20,000 for what he did for the Trust in early 2015. Fred Waid had a stranglehold on information. Very self-serving to Fred because of his Bogus allegations against me. He never has to prove his allegations. **This is another reason why I need an attorney who is paid properly to make Fred provide a certified accounting and make him prove his allegations against me.**

Find Fred Wrote Before February 9 and 10 2017 on page 9. Add as an attachment. Reminding Judge Sturman of all her prejudice remarks she has made against me.

Early 2015 when Liane W. was in front of the Judge Sturman she heard the Judge say just before she left the courtroom "I am going to make you regret you did not accept the Burr Settlement. "

The Brownstein case simple it was never properly funded from the Trust because of

Fred Waid would not release my money from the Trust to pay for my case

Fred Waid did nothing to protect me from avoiding unnecessary foreclosure of two homes I purchased in 2007 with my 35% and paid the monthly mortgages with my 35% income. I have lost one home to foreclosure and Fred Waid could have prevented that by making the mortgage payments. The kids did not care. They knew I was under water. I paid $270,000 and the homes were down to $160,000. Now I have a potential Tax liability and a Foreclosure on my credit. I hired a short sale lawyer who called Joey and tried to get him to release his liens. Joey refused. The Bank agreed to the sale, I had buyers who wanted both houses. It did not benefit him or my daughters to have the houses go to foreclosure. The houses had nothing to do with this case. Fred Waid could have funded the me and saved both houses as they both had long term paying tenants. If he had my beneficial interest at heart, it didn't have to be that way. It is pure meanness. If I had had an attorney who was paid, he or she would have protected me. **This is just another reason way need an attorney who is properly paid.**

Fred said I had a bank account in Culver City, Ca. I never had a bank account open in California. **Another reason for me to have a properly paid attorney to force Fred to tell the truth and show proof of what he says.**

I was excluded from normal proceedings because Fred and the plaintiff's attorney, Joey Powell excluded me from the normal course of business. I should have been included in the normal course of business as a *pro sa.*

Ruthforth and Powell asked the Judge to make decisions on items never discussed in court. **This is another reason why I need an attorney who is properly paid.**

Fred Waid has said it is too hard to get documentation from the Oil Companies. When I was Trustee, I could years of documents. It is very easy to get documents from all the Oil Companies. 90% of all documentation can come to Fred Waid from one source. Fred says it is hard. It is very easy all it takes is a phone call. I choise to never use their online service that has up to date information. It takes onl a few hours to get documentation.

Fred hired Mr. Wilcox, CPA. At the time of their meeting with a CPA who assisted me as Trustee, Mr. Wilcox has been given nothing by Fred yet Wilcox was the CPA for the Trust. He knew nothing as the CPA told me later. Fred had a stranglehold on information. This is a very self-servicing to Fred because of his bogus allegations against me. Fred produced no accounting this allows him to make unsubstituted allegations against me. **This is another reason why I need a properly paid attorney to protect me from Fred.**

Fred appears to regularly hire his friends and never tries to get the best price for the Trust. It appears as if he hires his friends without any consideration of market price or competitive bid.

In the beginning when I interviewed Fred Waid, he told me he had already had two meetings with Judge Sturman. These meetings were before anybody knew a Trustee would be replacing me. These meetings were approximately 3 weeks before the hearing to appoint a Trustee.

During the hearing of April 1, 2015, Fred Waid called in to the courtroom phone. The Judge asked how much he would charge, Fred said $250 a month. It would not take him any time at all to up the oil companies checks and deposit them. Why does Fred need to have two Las Vegas attorneys if not at times 3 and two are partners of the Hutchison & Steffen Law Firm. They are not cheap. Why does he need a Dallas attorney who is not cheap? And 2 Texas CPAs and two Nevada CPAs. Really, is all this necessary to put that financial burden upon the Trust. They are all his friends and to my knowledge he refuses to tell the Court and me how much they are getting paid.

I have had three law firms tell me Judge Sturman cannot follow the math. She has problems understanding the math.

MAC showed a complete and easy to follow slid show Lianne showed Judge Sturman.

Fred has hired 3 separate CPAs and two separate law firms. Yet I have no accounting. Fred Waid has immunity from Judge Sturman and the Court believes him without proof of what he is saying. Fred enjoys full immunity from Judge Sturman because he does not have to prove what he says. Judge Sturman never asks Fred Waod to prove what he says. He has never been asked by Judge Sturman to prove what he says. Judge Sturman does not ask for proof in writing for anything he says. **This is another reason why I need a properly paid attorney who can ask the hard questions of Fred to actually give proof by showing documents of what he says is true.**

A qualified Trustee would understand well-site damages, road damages, easement damages. Drilling a well and the road damages are extremely lucrative. The selling of water is very lucrative and so is the selling of caliche. There is no way my income would come close to what Mozelle has. I have no well sites on my property. I was negotiating to sell caliche and water when I was removed. I cannot believe he is a qualified Trustee and compares two property's income which are so far apart from reality.

When I first interviewed Fred Waid to be a trustee for the Trust, he informed me of his intention to sell this property and he did not care if it has been in the family for 5 generations, He was going to sell it MAC suggested I interview other Trustees around town. I did and they said Fred has a representation of taking people's stuff and selling it and he makes a commission. This is Fred Waid's MO Motive of Operation. I cannot fight Fred Waid. **This is another reason why I need an**

attorney to have the proper money to force Waid in Court to act correctly. Two different lawyers said Judge Sturman believes everything he says. Judge Sturman does not consider evidence of fact.

I made another call to Fred Waid. I told him I made appointments to make a smooth transaction from me as Trustee to him as the new Temporary Trustee to introduce him to the Banks I was with whom I was working and the oil companies I let him know when the appointments were and he agreed. He was a no call and a no show for all the appointments I had set up for him to meet those with whom I I was working. He did not return my calls for days. When he did call, he informed me he did not need my help to talk to any banks or any oil companies. Earlier he said he wanted to go over the taxes, again he changed his mind and called to say he did not need my help. He really did need my help as he got the taxes all wrong. **This is another reason why I need a properly paid Attorney who can protect me and protect my inheritance from Fred Waid.**

Many of the Law Firms I was working with prior to Fred Waid refused to fight Fred Waid because Judge Sturman favors Fred Waid. One Lawyer said Fred Waid is very manipulative as he does not have to give any accountability for his actions to Judge Sturman.

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Fred Waid ran up my bill with many attorneys I was working with and several CPA. I had no balance with them and now I have thousands of dollars because Fred Waid demanded so much of their time and of course they had to charge. I owe many because of Fred Waid's actions trying to get information against me when there was nothing to get. Because of Fred Waid I owe money when I did not owe any money before Fred Waid took action against me. Of course, I had to pay for those he attacked as he required so much of their time. In the end, he found nothing wrong.

I sold my free and clear car at a discount. My silver and gold coins that were worth tens of thousands but had to be sold to get cash and a hugh discount for Brownstein. I hocked all my diamonds and jewelry of extreme value for just a few thousands.

I personally met with Premier. They are a very good Trust Management company I liked Premier as a trustee. I liked their approach. Around town they have a very good reputation around town. They are well liked by everyone. Judge Sturman, my preponderance is I am the best Trustee. I brought more money in as a Trustee.

Fred Waid is just not a professional and I heard this from several lawyers. His method of operation is not ethical nor is he respected by his pers.

Fred Waid doesn't get it. Fred does not understand the dynamics, Volume Offsets Price Reduction.

The family wells remained shallow and few for years. Price of wells negotiate sources of income. That stopped because Fred Waid refused to interact with me. I

was unable to do an alternative source of income for the Trust. Fred Waid refused to value the fact I have done this for 50 years. I had increased the asset value by 10 times. That is provable. He did not allow me to transfer to him the plan of action I had started. To my knowledge he has not improved asset value.

He has artificially inflated lawyer's bills. I had a plan and I was working it. I was negotiating for new oil wells which would have gone into place in 4 to 6 months. In 2012 I signed Division Orders for 50 wells then I signed Division Orders for 17 more wells. I added all those laterals I began in 2014. It would have been 7imonths to complete. These would have been on line by early fall of 2015. Volume went up even if pricing went down. He refused to do more oil wells. There was a dynamic I was working. Fred Waid refused to have any conversation with me regarding what I had been doing in generating more oil well income for the Trust. He would not cooperate with me at all to learn what I was doing before he took over. I was calculating present and future value of the assets. 09 $750,000 depressed. 2012 and 2014 100% increase $100 million @ 10% inrwewar = $10 million a year $300,000/400/000 $400 million to 6000 million a year How big it is. And to think if I had signed the last settlement Fred would be getting 25%.

To my knowledge Fred Waid has not increased Trust income. He could have but he would not meet or cooperate with me. These additional opportunities have languished because of him.

The best Trustee is me. I have done it for 50 years. I know what and whom to negotiate.

He has clearly demonstrated how to waste Trust resources. He could have confirmed with me my plan of action to increase income. He did not. He just did not care to learn from me. The best person to learn from was me. Not other persons. It is possible Fred Waid thought he could learn from the Plaintiffs The record shows forged signature cards of my mother's and my signatures. And signing contracts that should have only been signed by the Trustee, me. There is copious amount of evidence that Jacqueline Montoya forged my signature and represented herself as Trustee in contract. An expert Document Examiner found over 400 forged documents forging checks and bank signature cards.
This is just another reason why I need a lawyer

My daughters have no legal right to my money until I am dead.

An objective trustee would have allowed me to teach him to learn what I have known for 50 years.

I was willing to transition in a professional manor. Fred Waid was not interested in a professional transition. He had an alternative mode of operation. Get the stuff in his name and sell it. And get a commission.

If my attorneys could not protect me from Fred, how can I do so by my self. I need an attorney to protect me who is paid for his hourly skills against a very strategic and modulative Trustee. Tammy Peterson and Kirk Lenhard were forced to take the approach of Fred Waid's breaking rules as there wasn't money for them to do anything about it. They could not fight Fred legally with no money and they could not protect me from him. This was my lawyers' position and Fred Waids abuse of the rules put me in a continued one-down position ,Even though you had provided $70,000 for them to protect me. It seems to me that Fred Waid paid the money to Lenhard so I could have not have the benefit of Kurt being my attorney. Judge, don't you think that the best time to pay my attorney was when he had me to defend. Yet this was done so I received no benefit from the money being paid. You tried, Judge, but again rules were broken to benefit Fred Waid.
I need an attorney to stop Fred from running up my bills when I do get an attorney.
I reviewed Brownstein bills and more than 50% of the bills were being generated by Fred Waid. What a great way to run up a bill I was responsible to pay. And of course, Fred now controlls the money I had lived on since 1979 yet he would not pay my attorneys. Just doesn't sound right to me. Does it to you, Judge?

The Depositions of my two daughters confirmed to me that my daughters have hated me from their young youth. Even though I gave them everything they wanted because I could afford it. Yet, it was not enough to prove my love for them. I was obviously too slow at rescuing them from their abusive Dad. As time went on, I would physically position myself to take the body beating he was dishing out to protect their bodies. When he asked for a divorce I demanded he leave our home. He left only to come back the next day crying. I knew my best girlfriend had not yet decided to leave her husband and four children. I took him back but that is when the mental and physical abuse he dished out to all of us got worse. I could not interrupt their Dad's abuse of drugs and alcohol that took their toll on their innocence. He finally left with his girlfriend and for over 10 years he was absence from his daughters' lives. If I had it to do over again, I would have done it all differently, I followed my cultural mores. It turned out to be bad advice. Kathryn Ann Hartman received months of psychological care. I paid for the Doctor and her care not her Dad. I thought of her to be the beautiful women I knew her to be. I understand from her Deposition, I was just a meal ticket all along. She never caught the love I was giving.

Both girls signed in triplicate the Solomon Dwiggins Document of 2009. I wanted them to have everything when I died. They signed knowing that I gave them remainderman status in the trust my father gave me. They had nothing to do with my Trust. I was nice and gave them that status. They even had my own attorney advising them on how to get what they wanted, David Strauss, Exq. He was Marjorie and my Trust attorney. They signed the Solomon Dwiggins Document of 2009 knowing they would have to wait till I died for them to be in the flow of money.

By me giving many millions to them from 2009 to 2012 they got more and more greedy. My adopted mother did not have anything to give them. She had no power over Trust 2. Only I coud give the oil royalty income away as I did to my adopted mother and to continue giving after she died to my daughters. My Adoptive mother did not own any assets in Upton County Texas to give away. If she had power and authority she would have done so way before she died but she could not. Nothing was ever given from my father regarding the oil assets to her or to her MtC Trust. He gave the all oil royalty and land to me according to his trust just as he received from his parents so many years ago.

The depositions from both daughters confirm, affirm and reaffirm their statement that they were never to be in the flow of money until I died in both the Solomon Dwiggins Document and in their testimony in both of their depositions.

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Fred Waid. What a great way to run up a bill I was responsible to pay. And of course, Fred now controlls the money I had lived on since 1979 yet he would not pay my attorneys. Just doesn't sound right to me. Does it to you, Judge?

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The depositions from both daughters confirm, affirm and reaffirm their statement that they were never to be in the flow of money until I died in both the Solomon Dwiggins Document and in their testimony in both of their depositions.

On April 21, 2017 someone who did not announce who they were was pounding furiously upon my front door. Then moved to pound loudly on every window of my home. Then back again at

my front door. I was calling the police as I had no idea who was acting so bad mean. My neighbor called at that moment and said Fred Waid was at her door and he is going to call the fire department to break down my door. She also said the Police were at my property. I opened the door and let the police officer in. He saw an orderly house and in his report he wrote " I made contact with an elderly female, she was in good health, nothing further to report."

How evil can people be. If there is a way to remove the remainderman status I gave my two daughters, I would do it in a heartbeat.

Judge I have given you many reasons why I need an attorney now. Not down the road. I need one now.

How evil can people be. If there is a way to remove the remainderman status I gave my two daughters, I would do it in a heartbeat.

Judge I have given you many reasons why I need an attorney now. Not down the road. I need a properly paid attorney now.

Eleanor Ahern

Eleanor Ahern, Beneficiary of the W.N.Connell
and Marjorie T. Connell Living Trust 5 18 79

called at that moment and said Fred Waid was at her door and he is going to call the fire department to break down my door. She also said the Police were at my property. I opened the door and let the police officer in. He saw an orderly house and in his report he wrote " I made contact with an elderly female, she was in good health, nothing further to report."

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Eleanor Ahern In Propria Persona

Eleanor Ahern, Beneficiary of the W.N.Connell and Marjorie T. Connell Living Trust 5 18 79

July 6 2017

Case No. P-09-066425-T

Judge Sturman,

Since November 2015 when you authorized $20,000 to be used for my medical and living expenses nothing was paid till April 2, 2017. This means nothing was paid for my medical or living expenses from April 1, 2015, nothing through all of 2016 Finally the first payment for my Dental Deep Cleaning was April 2, 2017. To my knowledge only $377 was spent for my benefit as of May 24, 2017 according to Hutchison & Steffen lawyers as was written in their Opposition to me being Informa Pauperis.

Yet the $20,000 has been used up. This information was given in the May 24 Hearing by your questioning the $20,000 and you hearing from Mr. Geist verbally stating 15 + times "the $20,000 has been used up."

The Cataract Surgery's balance from Medicare will be due possibly in September, Implants from Dr. Marchant and Hearing Aids from Doctor Anderson who is the owner of Anderson Audiology. He has a Masters Degree in Audiology. There will be either near or far sighted glasses from Dr. Malik.

I am requesting a full accounting with back up detail of what invoices Fred paid for me from April 1, 2015 up to the May 24 Hearing from the $20,000 and a complete accounting with back up detail of all expenses from May 24, 2017 to this current date. There has to be a balance of unused monies from the $20,000. If it is gone then it has to be accounted for.

Response to Eleanor's Application To Proceed In Forma Pauperis

"Mrs. Ahern has cooperated, has provided the relevant information, her providers have been paid." (NOT SO) as of May 25 when he stated they were paid. I have cooperated he had some invoices for several months but only one bill was paid before the May 24 Hearing.

Page 3 line 11 "for example, the following bills have been **paid to date May 24, 2017**" Fred wrote

P3 L 12 New Eyes I wrote Fred, Doctor Todd Jackson is the Cataract Doctor and to put the money back in my account,	$ 197.42	not paid
P3 L 12 1/2 Edward J. Malik (D.) optometrist **ID 1.** Letter 6 29 17	$ 2,011.83	not paid
David Merchant, D.D.S. (dentist)	$ 377.00	paid
P3 L 13 ½ Smith Pharmacy (prescription) **ID 2** Receipt paid 6 14 17	$ 11.08	not paid
P3 L14 Animal Kingdom Vet (veterinarian) ID **3** Ahern Account	$ 1,140.92	not paid
Total from what Fred paid in his Opposition to me being In forma Pauperis	$ 3,738.32	paid

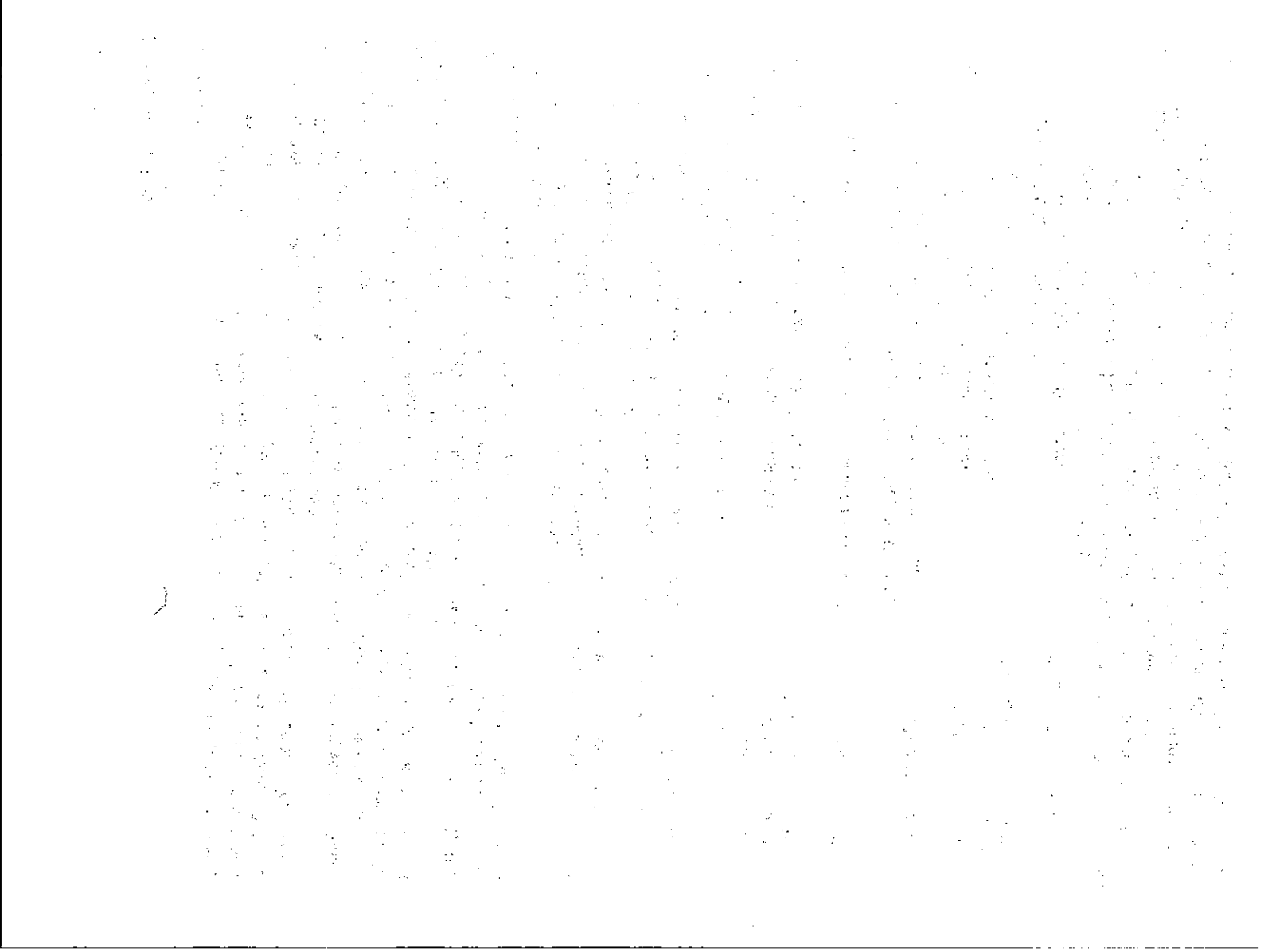
(listed below are invoices not paid on or before May 24, Hearing)

Page 3 line 12 New Eyes (I inform Fred that Dr. Jackson is the eye Dr and retrieve the money and put it back into my account.	$ 197.43	no need to pay
Page 3 line 12 1/2½ *Dr. Edward Malik for 2 new glasses*	$ 2,011.83	not paid
Page 3 line 3 *Smith's Pharmacy Prescription Rinse from April 2 17*	$ 11.08	not paid
Page 3 line 14 Animal Kingdom first Bill	$ 1,145.92	not paid
Animal Kingdom Bill D3 paid June 11, 2017		
Total paid by Fred before May 24, 2017 for Dr. Marchant	$ 377.00	paid

$20,000 - $19,623.00 Unaccounted for as of **May 24, 2017 Hearing.**

D4 copy of the envelop from Hutchison & Steffen showing the date stamp to be 5 19 2017. I received it Tuesday 5 23, 2017. It was in my POB 176 the day before the May 24, 2017 Hearing. Do I understand correctly that all correspondence regarding a Hearing must be delivered 16 days before the Hearing.

The following pages and line numbers from the May 24 , 2017 Transcript are important because the questions that the Court asked regarding the $20,000 were documented in the affirmative 15 + times by Attorney Geist confirming your questions that the $20,000 is gone. To the best of my knowledge I have



documented what has actually been spent on me before the Hearing May 24, 2017. Who and when did someone receive the use of the $20,000 you authorized Fred Waid to spend on me. I certainly did not receive any benefit for almost 2 years. You can see what Living expense, in the discretion of Mr. Waid, got me – NOTHING. Many requests were made and totally ignored to Tammy Peterson and Kirk Lenhard Yet you are still going to give me living expenses in the discretion of Mr. Waid going forward.

I saw Fred Waid cradling Jacqueline in his arms in your Court's Anti room. He is anything but an impartial trustee. Did you know that if I would have signed the final settlement Fred proposed, Fred would have owned 25% of my father's assets. I asked to see the settlement and I was told by Kirk I would have to sign it as is so he could get paid and then it was going to be written up. In this settlement, I was encumbered with every lie Fred Waid has spoken against me and everyone in this court case was exonerated and held harmless.

Fred finally paid Kirk and Brownstein were paid $70,000. My money was paid to Kirk long after Kirk withdrew. It would have been great for Kirk to have been paid while he had me as a client who needed him to protect me from Fred Waid and his Hutchison & Steffen Lawyers.

*1 Page 13 Line 15 Geist "Since Feb 22nd up until May 25th, we've paid almost 20,000.
*2 page 15 line 16 Court says so that's – have – are you saying that that will mean the entire 20 has been expended or has that entire 20 already been expended and we need additional 20 or 35?
*3Page 15 Line 19 Geist up to this pint, the 20,000 will have been expended
*4Page 17 Line 6 Court "is what your telling me Mr. Geist, is that we have used up the 20 already been expended and we need additional 20 or 35?
*5 page 17 line 17 because this is what, over a year and a half on the initial 20 -
*6 Page 17 Line 25 Court "because it sounds like we've used it up
*7page 15 Line 16 Court "are you saying that that will mean the entire $20 has been expended or has the entire $20,000 been expended and we need additional $20 to $25
*8 page 17 Line 6 Court ... - - but we would need additional funds is what you are telling me Mr. Geist, because we have used up the $20,000.
*9 page 17 Line 17 I It has been a year, a year and a half on the initial 20
*10 page 17 Line 20 Mr. Geist "Correct"
*11 page 17 Line 25 Court "because it sounds like we've used it up, so do we need now to look at having another budget put in place?
*12 page 20 line 21 Court Because we 've used up the 20 – initial 20,000 so we need a new amount and then we can start again and that will be where we'll take the money for the hearing aids?
*13 Page 20 Line 25 Geist Yes
*14 Page 21 Line 2 to get something on so we'll know how much money – 30 or I'm assuming 20 or –
*15 Page 21 Line 4 Geist Another 20 I think would probably be appropriate, but I

Judge 15times you mentioned the $20,000 and Geist agreed with you some 15 times that the $20,000 has been used up. I am requesting from Fred Waid an accounting of what was actually paid from the $20,00 up to May 24, 2017 with detailed backup and also an accosting from May 24, 2017 with detailed back up to current date.

Page 19 Line 10 Mr Geist – Living expenses in the discretion of Mr Waid going forward? And Judge you said Right.
You do realize, Judge, that I have had no Living Expenses or Medical Expenses paid by Mr. Waid for me from April 1 2015 through November 2015 when you allowed him to spend $20,000 on me. Through all of 2016 he was given tons of expenses through my attorneys Tammy Peterson and Kirk Lenhard and not a dime of the $20,000 was spent on me.. Nothing was spent on me until April 2, 2017 when a Visa was given to Dr. Marchant to deep clean my teeth. Through my attorneys Tammy and Kirk, I requested cleaning my teeth every 3 month and Fred just ignored all my request. I made approximately 20 appointments with New Eyes Cataract Surgeon to have my Cataracts removed from April 2015 all through 2016 because of lack of payments I had to cancel because Temporary Trustee Fred Waid would not pay. April 8, 2017, I had my first Medical Care. a much-needed eye operation, with Doctor Todd Jackson to remove a growth from my left corona. If he had not removed it when he did, I was going to lose my corona then I would have had to have a corona transplant. The eye needs to heal for three months then I can have the Cataract Surgery on the left eye.

Eleanor Ahern

Eleanor Ahern, In forma Pauperis Beneficiary of the W. N. Connell
And Marjorie T. Connell Living Trust dated 5 18 1992

Document 1 Dr. Malik's letter noting the $2011.83 has not been paid

Document 2 Smith Pharmacy showing $11.08 paid 6 14 17

Document 3 Accounts paid from Animal Kingdom for Captain 6 11 17

Document 4 Copy of post mark 5 19 17

Date: 05/23/17

Subject: Update Rhonda

To: Judge Shuman

Phone:

Fax: (702) 376-7909

From: Eyes 'n Optics

Phone: (702) 384-0333

Fax: (702) 685-4113

No. of pages: 4

Message:

Judge Shuman,

Please remember to fax return slip of the enclosed exam. It has been emailed to Rhonda Alvarado already, but left to be emailed. The exams owed to #2011, 83 & Lewis Alvarado answered. Also left to be emailed. The exams owed to #2011, 83 & 90 9 05/23/2017. If there are any questions or concerns please feel free to contact us @ (702) 384-0333

Thank you,

WAITING: 06/14 03:49PM

ORANGE - 414

REFILL DOB: **05/13/1938**
Rx # **6147051**

CHLORHEXIDINE 0.12% RINSE
Patient Pay Amount: **$11.08**
Day Supply: **15**
Quantity: **473**

AHERN, ELEANOR

Gender: **Female**

Loyalty:
Not On File

Prescriber:
MARCHANT, DAVID

06/14/2017 (FREE RX DISCO)
Patient Pay Amount: **$11.08**

Prescription qualifies for points. Check register receipt for point balance.

Directions:
RINSE 1/2 OUNCE BY MOUTH TWICE DAILY AFTER BREAKFAST AND AT BEDTIME. RINSE FOR 30 SECONDS, THEN SPIT. NO EATING OR DRINKING FOR 30 MINUTES.

Allergies:
NO KNOWN ALLERGIES

Smith's Low prices. Market fresh.

350 N. SANDHILL BLVD.
702-346-8652
Your cashier was RX 67

RX	PHARMACY	NP	29.84	Q
RX	PHARMACY	NP	34.27	Q
RX	PHARMACY	NP	11.08	Q
	TAX		0.00	
****	BALANCE		75.19	
	CASH		80.00	
	CHANGE		4.81	

TOTAL NUMBER OF ITEMS SOLD = 3
06/14/17 03:51PM 342 67 79 567

ELEANOR AHERN
Rx# 6147051 *Refill*
Safety Caps 06/14/2017
X _____
Patient Signature
FREE RX DISCOUNT $11.08
Counseling: Received ☐ Declined ☐
RPH: _____

Client Account History

Client ID	345					Account Balance
Client Name	Ahern, Eleanor	Current	30 Days	60 Days	90 Days	
		$0.00	$0.00	$0.00	$0.00	$0.00

Date	Transaction Description	Debit	Credit	Balance
4/11/2017	Payment: Visa	$0.00	$1,140.99	($1,140.99)
4/11/2017	Invoice #: 113827 - Closed	$1,140.99	$0.00	$0.00
6/12/2017	Payment: Visa	$0.00	$647.30	($647.30)
6/12/2017	Invoice #: 114414 - Closed	$647.30	$0.00	$0.00
6/15/2017	Payment: Cash	$0.00	$100.00	($100.00)
6/15/2017	Change Given:	$56.75	$0.00	($43.25)
6/15/2017	Invoice #: 115261 - Closed	$43.25	$0.00	$0.00
6/16/2017	Payment: Visa	$0.00	$362.64	($362.64)
6/16/2017	Invoice #: 115263 - Closed	$362.64	$0.00	$0.00

Animal Kingdom Veterinary Hospital

Date: 6/29/2017

N & STEFFEN
ORNEYS
FESSIONAL PARK
A DRIVE, SUITE 200
NEVADA 89145

5.211

5-19-2017

Eleanor Ahern
355 W. Mesquite Blvd., D30 #176
Mesquite, NV 89027

July 7, 2017

Judge Sturman,

I BEGGED you in writing not to allow Kirk Lenhard to withdraw without ordering him to give me a full copy of my file. I have not received a copy of my file from either MAC or Brownstein. . I looked over Brownstein's bill and found that more than 50% was created by Fred Waid, Temporary Trustee.

Now that Kirk Lenhard has withdrawn I have been unable to get their cooperation to get a full copy of my file

Eleanor Ahern

Eleanor Ahern *Informa Properis*

June 30, 2017

Hutchison N Steffen Law Firm
Attn: Fred Waid – Temporary Trustee
10080 W. Alta Drive Ste. 200
Las Vegas NV 89145

RE: WN Connell and Marjorie T. Connell Living Trust, Payments to Eleanor Ahern

Dear Mr. Waid,

I am writing you with my complete list of monthly expenses for the upcoming month of July 2017. Below is a complete, itemized statement of my expenses for July and attached are copies of invoices for a few of the expenses that are health related and expenses I need to take care of before I can continue my appointments for my hearing aids, dental work, eye glasses, etc. These copies of invoices are directly from the Dr's and I need to pay them before I can schedule the work to be done.

I have also included in my monthly expenses, $600 for an assistant, that will be helping me approximately 5 hours per week, to go over office and book work, bill paying, errand running, or whatever I need help with.

I have also itemized several bills that are outstanding as of today, and items I have already relayed to you the necessity of payment disbursement for them, but for whatever reason, you have chosen not to pay. These items listed under "outstanding", need to be paid immediately.

From now on, I will be sending you my itemized list for each month, in this same letter format, sent via certified mail return receipt, as the current communication we use by fax, is obviously not working for either of us and I am not getting the monies requested for my monthly expenses.

July's Expenses for Eleanor Ahern are as follows:

*Rent	$ 1380.00
*AC Filters	15.00
*Car Payment	414.39
*Geico Car Insurance	88.33
*Delta Defense Class	13.14
*Telephone	45.00
*Groceries/Dining Out	800.00
*Depends/Feminine Hygiene	1000.00
*Gas	135.00

*Propane	21.00
*Netflix	19.00
*Movies/Theater	80.00
*Chiropractic Work	300.00
*Captains Haircut/Dog Grooming	70.00
*3 days of pet sitting for captain and bird and cat	150.00
*My Assistant	600.00
*Shooting Ammunition/Class	20.00
*Printer Supplies/Case Paper , Printer Ink	170.00
*Lipstick, 2 tubes	50.00
*Make Sense Foundation Makeup 2 bottles	100.00
*Manicure/Pedicure, twice monthly, with tip	140.00
*House Cleaner	200.00
*Carpet Cleaning	130.00
*Captain's teeth cleaning, Parvo and Boardatella Shots & Fecal Flotation	187.00
*Donnie and Marie Show, Las Vegas	200.00
*Monthly mailbox services and copies and printing	70.00
*Clear Choice Dental for implants/full mouth	52,000.00
*Quality Hearing Aids, Dr. Kent Davenport	6,170.00
*Dr. Malick Eyes and Eyeglasses	2011.83
*3 Pairs of Orthopedic Shoes	600.00
*Build Up For new Shoes, Orthotics	400.00
*New Bathing Suit	180.00
*New Summer Clothes, shopping at "Stage"	825.00
*Resprin -supplement	26.99
*Floral Essence -supplement	47.59
*Zitazym – supplement	193.99
*Cellular Force – supplement	80.00
*Protandum – Supplement Order PBS Pro Biotics	368.33
*Prexagen Professic – Supplement	89.95
*Herbal Green Tea Order	19.95
*Tax on Supplements	41.96
*Medical Marijuana Certification/Card	255.00
*Hair Cut/Styling/Color – Bliss Salon	200.00
*Esthetician/Facial	125.00
*Diabetic Strips/Supplies	80.00
*Ear Flushing/Myself – Dr's office, wax removal	129.00
*Class Reunion Fee	50.00
*Hotel, New Orleans, Class Reunion, overnight stay, garage, taxes, fees	200.00
*Food Las Vegas, 2 days, Reunion	200.00
*Silver Shuttle, Class Reunion, to and from Las Vegas	200.00
***TOTAL	**$70,892.45**

OUTSTANDING BILLS NOT YET PAID, AND ALREADY REQUESTED:

1. $40.00 on Credit Account, JC Penneys
2. $25.32 Animal Kingdom
3. ($2011.83 Dr. Malick, I have listed it above since you have not given it to me, and I wll take care of it with him when I go in for my glasses)
4. $25.00 4/6/2017, Gas, for driver
5. $25.00, Dr. Claudia Krispel 4/26/2017
6. $25.00, Dr. Jackson 6/7/2017
7. $25.00 Dr. Claudia Krispel 6/7/2017
8. 25.00, Gas for driver for Dr. appts. 6/7/2017
9. $27.27, Dr. Malick, Post Op Cataract Surgery, 6/29/2017
10. $25.00 Gas for driver

This concludes my figures for the month of July 2017 expenses, and the outstanding expenses I have already requested payment for.

Please Direct Deposit, or wire the money to my bank account, with the following account information for routing and account numbers:

Eleanor Ahern
Washington Federal Bank
Routing Number: 325070980
Account Number: 62761416254

Please take care of this deposit to my account within this next week. I do understand that Tuesday is a Federal Holiday and may cause a couple days delay.

Sincerely,

Eleanor Ahern

Family Doctors of Boulder City
895 Adams Blvd
Boulder City NV 89005
702-293-0406

Herve Bezard MD
7/23/2015

NAME: Eleanor Ahern DOB: 05/13/1938
ADDRESS: 8635 West Sahara Ave #549 Las Vegas Nevada 89117

Order for assistance with house cleaning medically neccessary due to left leg length discrepancy.

DX: 736.81 Unequal leg length (acquired)

PHYSICIAN SIGNATURE: _____
Herve Bezard MD

WARREN L. SMITH, M.D.
HERVE BEZARD, M.D.

JOANNE LEOVY, M.D.
JIM CHIANG, M.D.

Family Doctors of Boulder City

895 ADAMS BOULEVARD • BOULDER CITY, NEVADA 89005 • PHONE (702) 293-0406 • FAX (702) 293-0192

NAME Eleanor Ahern

ADDRESS _____ DATE 8/22/13

℞ Assistance with House cleaning is medically necessary

EFILL _____ TIMES

DISPENSE ONLY AS WRITTEN ☐

DEA Number _____ Dr. _____

July 7, 2017

Hutchison & Steffen Law Firm
Attention: Fred Waid – Temporary Trustee
10080 W. Alta Drive Ste 200
Las Vegas, Nevada 89145

Re: W. N. Connell and Marjorie T. Connell Living Trust, Payments to Eleanor Ahern
Budget Continued

These are additional items to be paid for in July Expenses.

$ 7,274.17 each semester. Full term Communications College Degree

$ 275,000.00 Three attorneys were paid in full for years. Fred Waid ran up their bill incurred on my behalf. Because he demanded so much of their time. He drove up my bills with attorneys and CPAs and now the bills are increasing monthly because of past due interest charges. And he found nothing I did wrong.

$ 8,250.00 Two CPAs who also were paid in full before Fred Waid. They, acting on my behalf incurred large bills as his demands took a lot of their time. Now, because I cannot pay these bills as all my assets, which I have lived on since Nov. 24, 1979 when my father passed on, were frozen by Judge Sturman, these bills are increasing each month. And he found nothing I did wrong.

By Fred's own calculations, I had the money to pay back the Trust for dipping into it to pay attorney's fees. I cold have paid first $400,000 Tammy and Kirk tried to get him to pay on my behalf. Fred delayed with no comment back to them. With the $400,000 paid I could have paid the additional payback of $200,00 from future income. Fred Waid refused to do right by me.

$ 1,000.00 Security System upgrade

$ 10,000.00 Continue my flying lessons and study course.

$ 17,000.00 Fix short leg

$ 100.00 A year's membership in the Mesquite Senior Citizen Recreation Center for Water Aerobatics and use of the Gym

$318,534.17 Total

It seems to me, Fred Waid is working for the Plaintiffs and their attorney. He certainly has not been helping me keep attorneys or caring about my needs. Over the phone he told me, he, as a Trustee for people, he takes their stuff sells it and he makes commission.

Eleanor Ahern *In Forma Pauperis*

Washington Federal Bank
Routing Number: 325070980
Account Number: 62761415254

July 2, 2017

June 29, 2017 second time to request $85.32 for Jack Sprovtsoff to be paid back for fuel

Hutchison & Steffen LLC
Fred Waid
Court Appointed Temporary Trustee
10080 West Alta Drive Suite 200
Las Vegas, Nevada 89145

To whom it may concern,

On June 15, 2017 I drove Ellie and Captain to the Animal Kingdom Veterinary Hospital. I filled up before and filled up the nest day.

On June 6, 2017 I drove Ellie to Dr. Jackson to have her left eye checked after the operation to remove the growth.
On the same date, I drove her appointment to Dr. Claudia Krispel 3037 West Horizon Ridge # 110, Henderson, NV 89025
On the same date I drove to Ellie to an appointment at CleanChoice Dental Implant Center 6460 Medical Center Street, Las Vegas Nevada 89148
On the same date I drove Ellie to an appointment to Dr. Malik's office at 11035 Lavender Hills Dr. Las Vegas, Nevada, Suite 180 89315 West Sahara and 214 to pick up her glasses (under warranty), I started with a full tank and I filled up the next day
April 26, 2017 to Dr Cladia Krispel Meadows Retina for Macular Regeneration 3037 W Horizon Ridge suite 110 HendersNV 89025.
June 28, 2017 to Dr. Malik 11035 Lavender Hills Dr. Las Vegas, Nevada post op exam for Cataract Surgery right eye and June 28, 2017 to Kent Davenport Quality Hearings Aids 8675 Eastern Suite 200iii and Windmill, Las Vegas, NV. 89123. Look for a detailed letter. These are the hearing aids I want and need.

Jack Sprovtsoff
Please send $112.59 to me at 355 West Mesquite Blvd.D30 #176 Mesquite ,Nevada 89027

3 receipts for fuel to Doctor's Appointments (4 26 2017 lost) for gas
One new receipt

$25.32	June 16 , 2017	Animal Kingdom Receipt enclosed for fill-up the next day
25.00	June 07, 2017	Multipole Dr. Appointments see above
25.00	April 26, 2017	receipt missing Dr. Cladia Krispel Meadows Retina for Macular Regeneration
$85.32 Total		
$27.27	June 29, 2017	Dr Malk Post Op for Cataract Surgery and Kent Davenport Quality Hearings Aids.
$112.59	**One new fuel receipt added to past total.**	

Electronically Filed
7/17/2017 4:23 PM
Steven D. Grierson
CLERK OF THE COURT

EPAP
Todd L. Moody (5430)
Russel J. Geist (9030)
HUTCHISON & STEFFEN, LLC
10080 West Alta Drive, Suite 200
Las Vegas, Nevada 89145
(702) 385-2500
(702) 385-2086 FAX
tmoody@hutchlegal.com
rgeist@hutchlegal.com

Attorneys for Fredrick P. Waid Court-appointed Trustee

DISTRICT COURT

CLARK COUNTY, NEVADA

In the matter of THE W.N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST Dated May 18, 1972, an Inter Vivos Irrevocable Trust.	Case No.: P-09-066425-T Dept. 26 Date of Hearing: 8/2/17 Time of Hearing: 11:00 a.m.

EX PARTE REQUEST FOR LEAVE TO FILE, UNDER SEAL, RESPONSE TO ELEANOR AHERN'S APPLICATION PETITION FOR TEMPORARY TRUSTEE TO RELEASE TRUST FUNDS TO ELEANOR AHERN FOR LEGAL FEES AND OMNIBUS COUNTER-PETITION (1) TO APPOINT GUARDIAN AD LITEM; (2) FOR INSTRUCTION; AND (3) ORDER RELATING TO IRS MATTERS

Fredrick P. Waid (Waid), Trustee of the W.N. Connell and Marjorie T. Connell Living Trust, dated May 18, 1972, (the "Trust"), by and through his attorneys of record, Hutchison & Steffen, LLC, hereby moves this Court for leave to file, under seal, a response to Eleanor Ahern's Motion for Petition for Hearing to Request Temporary Trustee, Fred Waid, to Release Trust Funds for Eleanor Ahern to Pay for Appropriate Legal Counsel, Larry Semenze, Esq., And to Be Noticed for Hearing on Order Shortening Time. This motion is made and based upon SRCR 3.4(f), the

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HUTCHISON & STEFFEN
A PROFESSIONAL LLC
PECCOLE PROFESSIONAL PARK
10080 WEST ALTA DRIVE, SUITE 200
LAS VEGAS, NV 89145

pleadings and papers on file, the points and authorities below, and any oral argument the Court may entertain at the time of the hearing.

Dated this 17 day of July, 2017.

HUTCHISON & STEFFEN, LLC

Todd L. Moody (5430)
Russel J. Geist (9030)
10080 West Alta Drive, Suite 200
Las Vegas, Nevada 89145

Attorneys for Fredrick P. Waid

HUTCHISON & STEFFEN
A PROFESSIONAL LLC
PECCOLE PROFESSIONAL PARK
10080 WEST ALTA DRIVE, SUITE 200
LAS VEGAS, NV 89145

HUTCHISON & STEFFEN
A PROFESSIONAL LLC
PECCOLE PROFESSIONAL PARK
10080 WEST ALTA DRIVE, SUITE 200
LAS VEGAS, NV 89145

MEMORANDUM OF POINTS AND AUTHORITIES

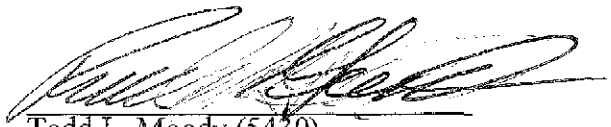
On July 11, 2017, Mr. Waid received a copy of the Motion for Petition for Hearing to Request Temporary Trustee, Fred Waid, to Release Trust Funds for Eleanor Ahern to Pay for Appropriate Legal Counsel, Larry Semenze, Esq., And to Be Noticed for Hearing on Order Shortening Time, hereinafter, "Subject Motion." The motion has been set for hearing for August 2, 2017. Mr. Waid, the Court-appointed Trustee, would like to respond to the Subject Motion but believes the response should be filed under seal because it includes medical and dental information.

Rule 3.4 of the Nevada Rules for Sealing and Redacting Court Records (SRCR) allows any person to request that the court seal or redact court records for a case that is subject to these rules by filing a written motion, and subpart (f) establishes that one of the grounds for such a request includes sealing a record that includes "medical, mental health, or tax records." (SRCR 3.4(f).)

Because Ms. Ahern's motion and Mr. Waid's response contain medical information, any response should be filed under seal.

Dated this ____ day of July, 2017.

HUTCHISON & STEFFEN, LLC



Todd L. Moody (5430)
Russel J. Geist (9030)
10080 West Alta Drive, Suite 200
Las Vegas, Nevada 89145

Attorneys for Fredrick P. Waid Court-appointed Trustee

HUTCHISON & STEFFEN
A PROFESSIONAL LLC
PECCOLE PROFESSIONAL PARK
10080 WEST ALTA DRIVE, SUITE 200
LAS VEGAS, NV 89145

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of HUTCHISON & STEFFEN and that on this 17th day of July, 2017, I caused a true and correct copy of the above and foregoing **EX PARTE REQUEST FOR LEAVE TO FILE, UNDER SEAL, RESPONSE TO ELEANOR AHERN'S APPLICATION PETITION FOR TEMPORARY TRUSTEE TO RELEASE TRUST FUNDS TO ELEANOR AHERN FOR LEGAL FEES AND OMNIBUS COUNTER-PETITION (1) TO APPOINT GUARDIAN AD LITEM; (2) FOR INSTRUCTION; AND (3) ORDER RELATING TO IRS MATTERS** to be served as follows:

[X] by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada; and/or

[X] pursuant to EDCR 8.05(a) and 8.05(f), to be electronically served through the Eighth Judicial District Court's electronic filing system, with the date and time of the electronic service substituted for the date and place of deposit in the mail; and/or

[ ] Pursuant to EDCR 7.26, to be sent via facsimile; and/or

[ ] to be hand-delivered;

to the persons listed below at the address and/or facsimile number indicated below:

Via Mail Only:
Eleanor Ahern
355 W. Mesquite Blvd., D30, #176
Mesquite, NV 89027

Via E-File/E-Serve Only:
Joseph J. Powell, Esq.
The Rushforth Firm
1707 Village Center Circle, Ste. 150
Las Vegas, NV 89134
Attorneys for Kathryn A. Bouvier and Jacqueline M. Montoya

An Employee of Hutchison & Steffen, LLC

Electronically Filed
7/19/2017 3:53 PM
Steven D. Grierson
CLERK OF THE COURT

EXPR
Todd L. Moody (5430)
Russel J. Geist (9030)
HUTCHISON & STEFFEN, LLC
10080 West Alta Drive, Suite 200
Las Vegas, Nevada 89145
(702) 385-2500
(702) 385-2086 FAX
tmoody@hutchlegal.com
rgeist@hutchlegal.com

Attorneys for Fredrick P. Waid, Court-appointed Trustee

DISTRICT COURT

CLARK COUNTY, NEVADA

In the matter of THE W.N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST DATED May 18, 1972, an Inter Vivos Irrevocable Trust.	Case No.: P-09-066425-T Dept. 26

ORDER ALLOWING TRUSTEE TO FILE RESPONSE TO ELEANOR AHERN'S APPLICATION PETITION FOR TEMPORARY TRUSTEE TO RELEASE TRUST FUNDS TO ELEANOR AHERN FOR LEGAL FEES AND OMNIBUS COUNTER-PETITION (1) TO APPOINT GUARDIAN AD LITEM; (2) FOR INSTRUCTION; AND (3) ORDER RELATING TO IRS MATTERS TO ELEANOR *UNDER SEAL*

An ex parte request was filed on July 17, 2017 by Fredrick P. Waid, acting Successor Trustee ("Trustee") of The W.N. Connell and Marjorie T. Connell Living Trust, dated May 18, 1972 ("Trust"), for leave to file a response under seal to Eleanor Ahern's Motion for Petition for Hearing to Request Temporary Trustee, Fred Waid, to Release Trust Funds for Eleanor Ahern to Pay for Appropriate Legal Counsel, Larry Semenze, Esq. And to Be Noticed for Hearing on Order Shortening Time. Having considered the ex parte motion,

THE COURT FINDS that good cause exists for the Trustee file his response to Eleanor Ahern's Motion for Petition for Hearing to Request Temporary Trustee, Fred Waid, to Release Trust Funds for Eleanor Ahern to Pay for Appropriate Legal Counsel, Larry Semenze, Esq. And to Be Noticed for Hearing on Order Shortening Time under seal.

HUTCHISON & STEFFEN
A PROFESSIONAL LLC
PECCOLE PROFESSIONAL PARK
10080 WEST ALTA DRIVE, SUITE 200
LAS VEGAS, NV 89145

Having considered the same and good cause appearing,

IT IS HEREBY ORDERED that the Trustee is granted leave to file a Response to Eleanor Ahern's Application Petition for Temporary Trustee to Release Trust Funds to Eleanor Ahern for Legal Fees and Omnibus Counter-petition (1) to Appoint Guardian Ad Litem; (2) for Instruction; and (3) Order Relating to IRS Matters under seal.

Dated this 27th day of July, 2017.

District Court Judge

Submitted by:

HUTCHISON & STEFFEN, LLC

Todd L. Moody (5430)
Russel J. Geist (9030)
10080 W. Alta Dr., Ste 200
Las Vegas, NV 89145
tmoody@hutchlegal.com
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Attorneys for Fredrick P. Waid Court-appointed Trustee

DISTRICT COURT

CLARK COUNTY, NEVADA

In the matter of

THE W.N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST DATED May 18, 1972, an Inter Vivos Irrevocable Trust.

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

NOTICE OF ENTRY OF ORDER

NOTICE IS HEREBY GIVEN that an Order Allowing Trustee to File Response to Eleanor Ahern's Application Petition for Temporary Trustee to Release Trust Funds to Eleanor Ahern for Legal Fees and Omnibus Counter-Petition (1) to Appoint Guardian Ad Litem; (2) for Instruction; and (3) Order Relating to IRS Matters Under Seal was entered in the above-entitled matter on July 19, 2017. A copy of the order is attached hereto.

DATED this 21 day of July, 2017.

HUTCHISON & STEFFEN

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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of HUTCHISON & STEFFEN and that on this 21 day of July, 2017, I caused a true and correct copy of the above and foregoing **NOTICE OF ENTRY OF ORDER** to be served as follows:

[X] by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada; and/or

[X] pursuant to EDCR 8.05(a) and 8.05(f), to be electronically served through the Eighth Judicial District Court's electronic filing system, with the date and time of the electronic service substituted for the date and place of deposit in the mail; and/or

[ ] Pursuant to EDCR 7.26, to be sent via facsimile; and/or

[ ] to be hand-delivered;

to the persons listed below at the address and/or facsimile number indicated below:

Via Mail Only:
Eleanor Ahern
355 W. Mesquite Blvd., D30, #176
Mesquite, NV 89027

Via Eservice Only:
Joseph J. Powell, Esq.
The Rushforth Firm
1707 Village Center Circle, Ste. 150
Las Vegas, NV 89134
Attorneys for Kathryn A. Bouvier and Jacqueline M. Montoya

An Employee of Hutchison & Steffen, LLC

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EXPR
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Attorneys for Fredrick P. Waid, Court-appointed Trustee

DISTRICT COURT

CLARK COUNTY, NEVADA

In the matter of THE W.N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST DATED May 18, 1972, an Inter Vivos Irrevocable Trust.	Case No.: P-09-066425-T Dept. 26

ORDER ALLOWING TRUSTEE TO FILE RESPONSE TO ELEANOR AHERN'S APPLICATION PETITION FOR TEMPORARY TRUSTEE TO RELEASE TRUST FUNDS TO ELEANOR AHERN FOR LEGAL FEES AND OMNIBUS COUNTER-PETITION (1) TO APPOINT GUARDIAN AD LITEM; (2) FOR INSTRUCTION; AND (3) ORDER RELATING TO IRS MATTERS TO ELEANOR *UNDER SEAL*

An ex parte request was filed on July 17, 2017 by Fredrick P. Waid, acting Successor Trustee ("Trustee") of The W.N. Connell and Marjorie T. Connell Living Trust, dated May 18, 1972 ("Trust"), for leave to file a response under seal to Eleanor Ahern's Motion for Petition for Hearing to Request Temporary Trustee, Fred Waid, to Release Trust Funds for Eleanor Ahern to Pay for Appropriate Legal Counsel, Larry Semenze, Esq. And to Be Noticed for Hearing on Order Shortening Time. Having considered the ex parte motion,

THE COURT FINDS that good cause exists for the Trustee file his response to Eleanor Ahern's Motion for Petition for Hearing to Request Temporary Trustee, Fred Waid, to Release Trust Funds for Eleanor Ahern to Pay for Appropriate Legal Counsel, Larry Semenze, Esq. And to Be Noticed for Hearing on Order Shortening Time under seal.

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Having considered the same and good cause appearing,

IT IS HEREBY ORDERED that the Trustee is granted leave to file a Response to Eleanor Ahern's Application Petition for Temporary Trustee to Release Trust Funds to Eleanor Ahern for Legal Fees and Omnibus Counter-petition (1) to Appoint Guardian Ad Litem; (2) for Instruction; and (3) Order Relating to IRS Matters under seal.

Dated this 24th day of July, 2017.

District Court Judge

Submitted by:

HUTCHISON & STEFFEN, LLC

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01

OBJECTION

Eleanor Ahern *Pro Se*
355 West Mesquite Blvd. D30
#176
Mesquite, Nevada 89107

DISTRICT COURT

CLARK COUNTY, NEVADA

IN THE MATTER OF

W. N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST DATED MAY 18, 1972, AN INTER VIVOS IRREVOCABLE TRUST.

Case No.: P-09-066425-T

Dated this 28 of July, 2017

REPLY TO TEMPORARY TRUSTEE'S RESPONSE FOR MOTION FOR PETITION FOR HEARING TO REQUEST TEMPORARY TRUSTEE, FRED WAID, TO RELEASE TRUST FUNDS FOR ELEANOR AHERN TO PAY FOR APPROPRIATE LEGAL COUNSEL, LARRY SEMENZA, ESQ AND TO BE NOTICED FOR HEARING ON ORDER SHORTING TIME.

RESPONSE TO OMNIBUS-COUNTER-PETITION (1) TO APPOINT GUARDIAN AD LITEM (2) FOR INSTRUCTION, AND (3) ORDER RELATING TO IRS MATTERS.

Eleanor Ahern Pro se
Eleanor Ahern *Pro Se*

RECEIVED
AUG 01 2017
CLERK OF THE COURT

July 28, 2017

Judge Gloria Sturman,

This is a prime example of why I need an attorney. The Hutchison & Steffen Law Firm, Todd Moody and Fred Waid, Temporary Trustee, are attempting to again take advantage of me because I do not have an attorney to represent me in all matters of this Court Case # P- 09-0664125-T Fred Waid, Temporary Trustee, has written a document of half-truths and no truths without me even having the opportunity to properly respond.

I would love to respond to every line of Fred Waid, Temporary Trustee's, allegations, but because of my difficulty in seeing, it would take me way too long and be too taxing. Fred Waid, Temporary Trustee, could have taken care of some of my physical and medical needs well over two years ago and when you ordered on November 15, 2015 $20,000 to be spent on my physical and medical needs. Nothing was spent from the $20,000 through all of 2016. It was not until April 2017 did Fred Waid provide money for my medical and physical needs. Deep Cleaning for paradental disease had been ordered to be done every three months by a Mesquite dentist in early 2015. It was not until April 2017, did I have my first medical care. The dental care for deep cleaning was the first money Fred Waid, Temporary Trustee, paid even though many requests were made all through 2016. I had an abscess for two years and that is unacceptable at my age especially in light of how many millions he was sitting on that was my money.

Fred Waid, Temporary Trustee, is wrong when Fred tells you that I am not doing my own signing. This is another bogus claim. It has been very difficult to prepare this Objection. This is one of the very important reasons why I am asking for a lawyer. Because I am not one. This is unreasonable Elder Abuse.

Also the EPS report is very, very, very, very different from what Fred Waid, Temporary Trustee has represented to the Court.

Fred Waid, Temporary Trustee's, representation about the EPS's report is totally misrepresented. Sandy Lewis told me that her agency sees children turning their parents into EPS trying to take their parents money. Sandy told me Jacqueline filed the EPS Report.

The following is the Final Report from the EPS's investigator Sandy Lewis: "The allegation of exploitation is not substantiated. This case is appropriate for closure." I am very capable of self care and of a sound mind. Please do not fall for Fred Waid Temporary Trustees telling you, Judge Sturman, there is a problem when there is not. This is not a ground for guardianship or grounds for any instructions. I personally drove with a healing casted broken left leg to the EPS office. The report filed by Jacqueline was all lies and I was able to prove it.

Fred Waid failed to write the final decision from the ESP Report so he could influence you against me. Not a good and caring trustee. Fred Waid, Temporary Trustee is again, doing the dirty work for Joey Powell and my daughters who would financially bessefit from my death per the 2009 Petition and the 2009 Order signed by Judge Ritchie. You can protect me Judge, you can do right by me. Please sign your Order for me immediately for $100,000 to be released to Larry Semenza, Ltd. Do not let Fred Waid, Temporary Trustee Procrastinate and delay payment as Fred Waid did for Kirk Lenhard and the Brownstein Law Firm.

At the Evidentiary Hearing February 9 and 10 2017, I begged for a continuance and you said "DENIED." I begged you for an attorney and you again said "DENIED". I cannot fight Joey Powell and Fred Wade's lies alone. I NEED AN ATTORNEY TO PROTECT ME FROM THE TRUSTEE AND THE PLAINTIFF'S ATTORNEY IN THE RUSHFORTH FIRM

Judge Gonzalez dismissed out of her courtroom the case against me and admonished Fred Waid, Temporary Trustee, to **never come into her courtroom again with only (hearsay) with no established facts and documentation.** Judge Sturman you said in court, **I do not agree with Judge Gonzalez's decision and I am still going to punish Eleanor. The Court court shows that Judge Sturman is still wants to hold me accountable for stealing money** even though I never stole any money. When I interview Fred Waid in late March of 2015, he told me that Judge Sturman blindly trusts him and he can do just about anything he wants. Judge Sturman had Ordered Fred Waid, Temporary Trustee, to have a full accounting to be given to me at the end of February 2017. Fred Wade, Temporary Trustee, agreed but it did not happen. Since I am not an attorney, I could not or did not know how to file against Fred Waid, Temporary Trustee, to make him obey your Judge's Order. He sure seems to be independent of the court. This is another reason for me to have a lawyer to protect me from Fred Waid. Sure seems during the Evidentiary Hearing because of the way she refused to grant a continuance, so I could have my constitutional rights full filled by having competent prepared legal counsel.. Knowing I had no other assets, Judge Gloria Sturman froze my Oil and Gas assets that I had been living on since my father died in 1979. The kids are old enough to work Judge Gloria Sturman ordered from her bench that I could not even pay attorney fees with Trust funds. **Now millions of dollars are in my account under complete unaccountable control by Fred Waid, Temporary Trustee, since April 1, 2015.**

I strongly feel Fred Waid, Temporary Trustee, is doing Elder Abuse against me with every word he writes.

Fred Waid, Temporary Trustee, is not unbiased. Fred Waid, Temporary Trustee is very biased toward my daughters (The Plaintiffs) since you appointed him to be the Temporary Trustee April 1, 2015. Again, my constitutional rights have been badly trampled upon. And my constitutional rights are to this day smashed and nonexistent. Fred Waid, Temporary Trustee, has not fulfilled his obligation to me as a Temporary Trustee. Fred Waid, Temporary Trustee, is required by my Trust and NRS to complete an annual detailed accounting with back up certified by a certified

CPA. By not doing the required accounting, another smoke screen ,so Fred Waid, Temporary Trustee, gets out of doing any accounting that I have requested of him since he was appointed by Judge Gloria Stumman April 1, 2015. A thorough account just might expose the fraud and mishandling of my money. Maybe that is why Fred Waid is shying away from an ethical and not a bogus accounting. I would like to see the legal bills that have been paid by my trust to Fred Waid, Temporary Trustee's friends. I bet it is in excess of one million dollars. There is no accounting for me to actually see where my Oil Money and Gas royalty is being spent. A Beneficiary should not be made to guess about any of the Trust's receipts paid and income received from the Oil and Gas Companies. Has the grazing been paid n 2016? I want to remind you Judge for an extended period of time Fred Wade Temporary, Trustee has ignored your orders.

Filed Aug 17, 2009 PETITION TO ASSUME JURISDICTION OVER TRUST; CONFIRM TRUSTEE; AND CONSTSRUE AND REFORM - Please note the following pages of the above Petition are following: The quoted sentences are copied exactly as the Petition was written.

Page 4 of 18 Line No. 16 **"**The division of the Trust into Trust No. 2 and Trust No 3 is similar to a type of trust commonly known as an "AB" where upon the death of the first settler, an amount equal to the federal estate tax. exemption is allocated to a credit shelter type trust in a standard AB trust, **the assets allocated to the *credit shelter trust are for the benefit of the deceased spouse's beneficiaries while the remaining assets are for the benefit of the surviving spouse."***
(The Rushforth Firm represented this so that the "AB" shelter trust was for Marjorie's benefit. When in fact, it reads that it is for the benefit of the deceased spouse/s beneficiaries while the remaining assets are for the benefit of the surviving spouse. Clearly you did not hear this argued correctly by the Rushforth Firm.) Argued correctly would be upon the death of the first settler, an amount equal to the federal estate tax, exemption is allocated to a credit shelter type trust in a stand AB trust, the assets allocated to the credit shelter trust are for the benefit of the deceased spouse's beneficiaries (Eleanor Ahern).

Page 4 of 18 Line 19 No. 18 As of the death of Marjorie, Trust 2 owned land and oil and gas shares in reserves and income located in Upton, Texas
. (The "Assets").

Page 4 of 18 Line 19 "*Pursuant to Article Fourth, which Article governs the administration of Trust No. 2,* **All** *income from the Oil Assets is to be paid to the Petitioner as the "Residual*

Beneficiary" during her lifetime. (Small 4) Such income has been paid to the Petitioner since the creation of Trust 2 after W. N. CONNELL's Death." I did bless my adopted mother and my daughters I did not have to I chose to.

Page 5 of 18 Line 25 Paragraph 4 at the bottom "Section B of Article Fourth also states that **ALL INCOME RECEIVED BY TRUST NO. 2** OTHER THAN **THAT RECEIVED FROM THE OIL ASSETS IS TO BE PAID TO MARJORIE.** HOWEVER, AS THE SOLE ASSET OF TRUST O. 2 CONSISTS OF THE OIL ASSETS, THIS PROVISION IS INAPPLICABLE. Additionallyi, Trust No. 2 granted Marjorie power to appoint and/or invade the principal of Trust No. 2 during her lifetime. See, Trust ,Ex. 2, pg 5. Petitioner is informed and believes that MARJORIE did not exercise her power of appointment nor was the principal invade for her benefit during her lifetime." (This also was argued incorrectly by Joey Powell of the Ruthforth Firm.

Please note the following pages of the Order Filed September 4, 2009 signed by Judge Ritchie **ORDER ASSUMING JURISDICTION OVER TRUST; CONFIRM TRUSTEE; AND FOR CONSTRUCTION OF AND REFORM OF TRUST INSTSRUMENT.**

Page 2 of 6 Line 12 **IT IS HEREBY ORDERED** that the dispositive provision of Trust No. 2 created under THE W. N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST, dated May 18, 1972 are hereby reformed and construed to provide that **upon the death of ELEANOR C. AHERN** the residue of Trust No. 2 created under THE W. N. CONNELLAND MARJORIE T. CONNELL LIVING TRUST, dated May 18 shall be distributed to the heirs of ELEANOR C. AHERN.

Beneficiary the Trustee shall divide the balance of Trust No 2 into two equal shares as follows; ..... Page 4 of 6 Line 4 No 3 *Use of Tangible Trust Assists. The Trustee, in the Trustee's sole Discretion may grant such Beneficiary the right to the use, possession and enjoyment of all of the tangible personal* property ***held by such Beneficiary's Share, without financial obligation for the use of such property.*** This was the Trust law I was working within as I planned my life as the recipient of all the monies generated from the Land and Oil and Gas royalty's as confirmed by

by the Reconstruction of my Trust. **The Kids (Plaintiffs) must wait until I die to get to be in the flow of any money from the monies generated by Trust 2 as stated in the Solomon Document's Petition an Oder of the Reconstruction of my Trust.** Honorable Judge Sturman, I ad Court approval because I was planning my life around the 2009 9 Petition andf 2009 Order signed by Judge Richie.

All of the above quotes were taken from the PETITION TO ASSUME JURISDICTION OVER TRUST; CONFIRM TRUSTEE; AND CONSTRUE AND REFORM TRUST filed August 17, 2009 and from the ORDER ASSUMING JURISDICTION OVER TRUST; CONFIRM TRUSTEE; AND FOR CONSTRUCTION OF AND REFORM OF TRUST INSTRUMENT

Page 5 of 6 Trustee and For Construction of and Reform of Trust Instrument. Exhibit 6 page 2 please find Jacqueline M. Montoya signature Exhibit 7 page 2 please find Kathryn A. Bouvier signature.

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Both signatures of the kids (The Plaintiffs) confirms to the District Court that I, Eleanor Ahern, was and is the only Sole Trustee and the only Sole Beneficiary as long as I was alive.

6

Fred Waid, Temporary Trustee, just thinks he knows but he does not..

You, Judge Sturman, were lied to by both girls (The Plaintiffs) and their attorney Joey Powell and The Rushforth Firm thus allowing you to subvert Judge Ritchie 's 2009 Order signed September 4, 2009. The Kids (The Plaintiffs) lied to you in your court and gave false information to their attorneys to plead in front of you. Both daughters signed the 2009 Petition knowing full well that they would never be in the flow of the Oil and Gas money until my death. Judge Ritchie signed the 2009 Order that they were never to be in the flow of the Oil and Gas money until I died **Now the order you made and the Order The Supreme Court made has both girls illegally being in the flow of the oil and gas money. I AM STILL ALIVE. Marjorie never was in the flow of money per the 2009 Petition and the 2009 Order signed by Judge Ritchie. She had nothing to give the daughters. If I had died and the daughters had died before Marjorie had died, then and only then could Marjorie have been a recipient of the Oil and Gas money.**

And I know for a fact that it is not necessary to recover any money. There are copies of checks that are listed twice. Fred Waid, Temporary Trustee's math does not add up,

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It is not necessary to recover any money from my Paid on Death (POD) accounts. This is normal business practices. The money that was in these POD account I rolled up into a lump sum and gave to Fred Waid, Temporary Trustee. His math just does not add up even though he has hired 3 separate CPA Firms. And to this day, I have not received a detailed accounting certified by a qualified CPA. It has been over two years and four months and still no accounting. Remember, Judge Sturman, February 10, 2017, you asked Fred Waid, Temporary Trustee, if he could have the accounting available for Eleanor by the end of February? Fred Waid, Temporary Trustee, said yes ,to you that he could get it to me by the end of February. He still refuses to give me, my father's only daughter, and the only beneficiary of Trust 2, a complete detailed accounting. Judge Sturman, is Fred Waid, Temporary Trustee, trying to hide something from you and me? Or is he just inept! According to the 2009 Petition and the 2009 Order signed by Judge Ritchie, **I must be my own trustee as my father had decreed that honor upon me and confirmed by the Reconstruction of the Trust in 2009.** .Since (The Plaintiffs) were never in the flow of Oil and Gas Money per the 2009 Petition and the 2009 Order both of daughter's' (The Plaintiffs) signed that they under stood and signed the Petition stating they would get the Oil and Gas Income when I was dead. My trust must be returned to me now.

Again, and Fred Waid, Temporary Trustee, is not impartial. Fred Waid, Temporary Trustee has showntime and again Fred Waid, Temporary Trustee, is doing the bidding of my daughters and their attorney, Joseph Powell of The Rushforth Firm. Fred Waid, Temporary Trustee, often repeats their unsubstantiated statements. Because of Fred Waid, Temporary Trustee's demanding of me to give him personally 25% of my Trust in order to "settle the matter(s)", I wonder if the Kids (plaintiffs) promised him 25% of my Trust to get me kicked out of Trust No. 2?

The Soloman Dwiggins Freer Law Firm filed a Petition August 17, 2009 clearly states that I, Eleanor Ahern, is the sole Trustee and Sole Beneficiary and the children acknowledged that I have sole and separate control as long as I am alive. The kids (Plaintiffs) agreed in the Petition that I am the sole Trustee and Sole Beneficiary and they have acknowledged this by signing the Petition called "The Solomon Document." Jacqueline M. Montoya nor Kathryn A. Bouvier could not have sued me if I had not willingly reconstructed the Trust to make them remaindermen. They lied to the Court. The kids (Plaintiffs) recognized they had no claim to any of the Trust's moneys that came from the oil and gas revenues. Therefore, the kids (Plaintiffs) sued me in court. Even though both Jacqueline M. Montoya and Kathryn A. Bouvier signed that they knew they had no legal claim **to any of the money from the Oil and Gas assets in Texas until I died.** And they signed the Reconstruction. It is the weakest form of beneficial interests.

Fred Waid has had complete and utter disregard for the Court(s). Although, Fred Waid, Temporary Trustee, enjoys the Court's favor without any accountability.

On July 14, 2017 Fred Waid, Temporary Trustee, Fred Waid, Temporary Trustee swore he spent $7,890 on me yet in court over 15 times Russel Geitz (Russel Gritz is a Managing Partner of Hutchison & Steffen) was in complete agreement with you, Judge Sturman, when you questioned the $20,000 as being used up. Gone! Which is it? $20,000 or $7,890? Fred Waid, Temporary Trustee, has not given me any accounting of where the $7,890 was spent on me. I would like to see who actually received the $7,890 and how much was paid to each provider who gave me this benefit. **Which is it Judge Sturman? $20,000 That Russel Geitz, Managing Partner of the Hutchison & Steffen swore to in Court May 24 or $7,890 sworn by Fred Waid, Temporary Trustee in his Court Document On 7 14 2017.** I believe I can roughly account for less than $2,800.00 being used for my benefit and for Captain's benefit. Again Judge Sturman, as you did February 10th 2017, please require Fred Waid, Temporary

Trustee to do an accounting with complete backup materials for the $7,890.00. Again, Fred Waid, Temporary Trustee, has ignored your every request to give me a complete recounting from April 1, 2015 when you, Judge Sturman appointed Fred Waid as Temporary Trustee.

Again, Fred Waid's numbers just do not add up. Fred Waid lies to the Court. He just cannot seem to be able to tell the truth. **I do not want him, Fred Waid as my Trust 2 Trustee. I need to be my own Trustee as stated in the Solomon Dwiggins and Freer Reconstruction of Trust 2.** According the the Reconstruction Petition and Order I have **NO OBLIGATION TO THE KIDS TO RECEIVE ANY MONEY FROM THE OIL AND GAS MONEY UNTIL I AM DEAD.** When I was spending money in 2012, 2013 and 2004 and the first three months of 2015 was doing exactly as the Reconstruction of Trust 2 reads I have every right to do. Fred Waid, Temporary Trustee, appointed by you, Judge Sturman, has created so much confusion, diversion and lies for Fred Waid, Temporary Trustee's

own goals of confiscating my trust for his own benefit. I have to believe you can see through his smoke screen to take my trust away from me even though I had every right to do just as my father's trust states and confirmed by the Reconstruction of my Trust in 2009 by Mark Solomon of the Solomon Dwiggins and Freer Law Firm of Las Vegas, Nevada.

Fred Waid, Temporary Trustee, is asking for the following to be heard the same day an hour at the same time as my Hearing: **(OMNIBUS COUNTER-PETITION (1) TO APPOINT GUARDIAN AD LITEM; (2) FOR INSTRUCTION; AND (3) IRS MATTERS).** These ORDERS Fred Waid, Temporary Trustee is demanding are **VERY SERIOUS LIFE CHANGING DEMANDS HE IS ASKING YOU, JUDGE STURMAN, TO MAKE WITHOUT PROPER HEARING AND COUNSEL FOR ME.**

This is clearly a paramount reason for me to have an attorney **NOW.** Even though I am of a sound mind and very capable of handling my own life and my affairs, I cannot legally address Fred Waid's counter claims. Because I am not a lawyer. I am not experienced or trained or educated as a lawyer. I do not have what it takes to address what he piggy backed on my Petition.

Please remove them from the agenda. I must have a lawyer to address his counter claims. I do not know how to handle the counter-claims properly. I do not have that knowledgeIt is not fair as I do not have the knowledge to address the additional issues Fred Waid, Temporary Trustee, who is trying take advantage of my weakness to once again stomp on my constitutional rights. Judge Sturman, do not intertain Fred. Waid's counter Claims. I desire a hearing just for my issues to hire a lawyer to represent me and be paid $100,000.

Please, Judge Sturman, it is very important for me to have the Hearing on August 2, 2017 as a one issue Hearing for you to sign an Order for Fred Waid, Temporary Trustee, to release $100,000 from my account to pay Larry Semenza NOW. This Hearing needs to be ONLY my hearing. Please do not allow the unlawful piggybacking of Fred Waid, Temporary Trustee's, Hearing on the back of my Hearing to be heard the same day and hour at the same time. OMNICOUNTER-PETITION (1) TO APPOINT GUARDIAN AD LITEM; (2) FOR INSTRUCTION; AND (3) ORDER RELATING TO IRS MATTERS.

During March of 2015, I offered to Fred Waid, Temporary Trustee and Fred Waid, Temporary Trustee agreed for me to make firm appointments to introduce Fred Waid, Temporary Trustee, to every Banker and all the many oil men and women I was working with up to April 1, 2015 and Fred Waid, Temporary Trustee, agreed to be present at all the transitional meetings. Fred Waid, Temporary Trustee, was a no call and a no show. I was being very cooperative with Fred Waid, Temporary Trustee. I called Fred Waid, Temporary Trustee about 15 times to reschedule. It took him several weeks to respond. It was then that Fred told me that he does not want nor does he need my help. Fred Waid was not willing to cooperate with me.

Judge Sturman, I should not be penalized for Fred Waid, Temporary Trustee's lack of understanding and Joey Powell's lack of understanding about the Reconstruction of my Trust as I acted in 2012, 2013,2014, 2015 and until April 1, 2015 exactly as the Reconstruction Petition and Order dictates I could act in total freedom to enjoy the abundance in any way I wanted. The Petition and The Order state loudly that the Kids (PLAINTIFFS) must wait till I die to be in the flow of ANY money. The Reconstruction of my Trust also states that Marjorie **is not** to be in the flow of money until my Heirs and I were died .

The truth is now known and presented to you, I am the Sole Beneficiary and Sole Trustee of the W. N. Connell Living Trust. I know you now know and can understand the words legally created by my parents Living Trust confirmed by the Order signed by Judge Ritchie that I am truly the Sole Trustee and Sole Beneficiary. You, Judge Sturman, bought, the Kids (Plaintiff's) lies and the Plaintiff's attorney Joseph Powell's lies and Fred Waid, Temporary Trustee's, lies . Actually, Fred Waid, Temporary Trustee saw he could gain personally. He came up with a whimsical idea, totally illegal, Fred would be 100 % owner of a Management Company in Texas and all the Oil and Gas assets would be placed in Fred Waid's Management Company as an LLC. This would change the identity of the current Trust 2. Totally illegal. Fred Waid, Temporary Trutee came up with another whimsical idea. Kirk Lenbard demanded of me I had to sign the last Settlement Fred Waid, Temporary Trustee, presented to my kids agree to. I was to sign a settlement now that would be written later or Kirk would withdraw from my case because Fred has taken so long to get him his money, Kirk said I had to sign so he could get his money. He also said I must agree to give Fred Waid, Temporary Trustee, 25% of my income. Kirk also said that everyone in this case would be held harmless but that I would still be responsible for all the items

Fred Waid lied about me that I had stolen millions of dollars. NOT ACCORDING TO THE 2009 ORDER SIGNED BY Judge Ritchie and the 2009 Petition.

Now, Judge Sturman, after you and your legal counsel digest the 2009 Order signed by Judge Ritchie and the 2009 Petition presented by SOLOMON DWIGGINS & FREER, LTD. it is time for you to correct the wrongs that have been done to me since this case was placed in District Court

Case No P-09-066424-T in 2009 and also from the time that you appointed Fred Waid, in April 1, 2015, Temporary Trustee, of The W. N. Connell and Marjorie T. Connell Living Trust, dated May 18, 1972.

I am writing this again to stress the point I am the Sole Trustee and Sole Beneficiary of the W. N. Connell Living Trust dated May 18, 1972 per Judge Ritchie's Order.

for the use of such property. This was the Trust law I was working within as I planned my life as the recipient of all the monies generated from the Land and Oil and Gas royalty's as confirmed by the Reconstruction of my Trust. **The Kids (Plaintiffs) must wait until I die to get to be in the**

I am not under any undue influence now or from the time of my adopted mother's death in 2009. This is a lie from hell programed by Jacqueline who gave that information to Fred Waid to gie to you Judge Sturman. If Jacqueline can get rid of me, she and her sister get ALL the money, except what Fred Waid, Temporary Trustee plans on taking for himself for doing such a good job for the daughters (The Plaintiffs). Why would anyone not give an accounting from day one of his appointment by Judge Sturman? My answer is Fred Waid, Temporary Trustee's "Greed". He wants his share. He has a very bad reputation around town of manipulating people he has been put in charge over as Trustee to the total destruction and bringing them to poverty those whom he was to protect. Other trustee 's in his field said to me Fred Waid, has a less than desirable reference regarding Fred Waid's Mode of Operation. Seems like the other Professionals in his field said said to me, Fred Waid, takes people's stuff he has been Trustee over, sells it and makes himself a commission. The Beneficiaries now have no money and cannot fight the person, Fred Waid, who out maneuvered them out of all their money and stuff. Not a good reputation to have around town. When I interviewed Fred Waid, confirmed to me he sells peoples assets. He told me he did not care how much my daughters and I cried to him. He told me he did not care how many generations the property in Texas had been in my family. His plan was to sell everything that was my family's in Texas.

Jacqueline has always disliked the people I chose to like. Seems like Fred Waid is using undue influence as a crime to make himself look good that Fred Waid is really looking out for me and my well being. Fred Waid has seen the massive amount of money the Oil and Gas revenue brings in. Fred Waid, Temporary Trustee, has tried twice with his whimsical ideas to move Fred Waid, Temporary, into a power position. Fred Waid, Temporary Trustee, does have favor with Judge Sturman as she never holds him accountable for anything she orders him to do. If he does not do it, it is ok with her. Judge Sturman actually said to me loud and clear in Court toward the end of December 2014 "I am going to make you, Eleanor, regret the day you refused to sign the Burt Settlement.

Both Jacquie and Kathryn hated every dime I ever gave away to the homeless or to feed the hungry whether I bought them food, gave them cash or provided temporary housing until they got on their feet. They wouldn't even let my 9-year-old grandsons go with me to feed over 30 people every week for several years. 20 good honest citizens got together every week and feed the homeless. In winter we gave the coats and blankets.

Judge Ritchie's 2009 Order and Mark Solomon Dwiggins and Freer LTD Petition says many times the girls nor Marjorie will ever be in the flow of money from the Oil and Gas revenues until I die.

Regarding the IRS issue. It is clear to me that this is just another of Fred Waid's Smoke Screens. It is not realistic and is a diversion. I offered to make arrangements and to introduce him to everybody I had been working with and to cover all the Tax history and the changes I had implemented so he could continue them. I was very cooperative. So, what happens? Fred Waid,

Temporary Trustee, was a no call and no show for every transitional appointment I made. And he had agreed. I offered to be cooperative. I had to call Fred Waid, Temporary Trustee more than 15 times. With no call back. When he did call several weeks later, he informed me he did not need or want my help. It is clear to me that Fred Waid, Temporary Trustee was and is extremely wrong about the taxes. It is clear to me the taxes have been mishandled by Fred Waid, Temporary. Trustee.

It is much easier for me to keep track of Fred Waid, Temporary Trustee's words by fax. Even MACand Brownstein told me Fred lies. His word is no good. That is why it is safer for me to hear from him by the written word in a fax Fred Waid , Temporary Trustee signed for the monies that were given to him by me. Through the MAC law Firm He, Fred Waid never recovered any money. It was all handed to him. Just some important facts for you to have, Judge Sturman.

From past experience, I was not given any medical care for approximately a year and 4 months after you authorized $20,000 for medical care although Fred Waid, Temporary Trustee received many requests from me throughout that time for Cataract Surgery, Teeth cleaning for paradental disease and Hearing Aids, Kirk Lenhard had to withdraw from representing me in this District Court case because Kirk had to wait for Months after you authorized his $70,000 to be paid.

It is clear to me Fred Waid, Temporary Trustee, is squeezing me out by hoping he doesn't have to take care of my medical and physical needs.

I do have a right for a lawyer. It is my Constitutional Right to have a properly paid attorney. My money must **not** be horded as Fred Waid, Temporary Trustee has been doing from April 1, 2015 to current. Fred Waid, Temporary Trustee, hampered The Brownstein Law Firm because they let Fred get away with bad lawyering because they could not pay to enter into the court to stop his bad acts. This was told to me by my lawyers at Brownstein. Please issue payment immediately to Larry Semenza, Ltd. I need a lawyer today and every day till everyone knows and have read

the 2009 Petition and the 2009 Order signed my Judge Ritchie. I have heard from other attorneys that Fred Waid has a mode of operation with at least 5 other people he was Trustee for. He is known to take their inheritance, their stuff, and leave the beneficiaries destitute with no money to bring Fred Waid, Temporary Trustee into court. There is no one but me making (as Fred Waid, Temporary Trustee, states "outlandish claims against him." I have experienced his wrath. I want me as my trustee just as the 2009 Petition and the 2009 Order signed by Judge Ritchie states. Please have your legal counsel read both of 2009 Documents extensively. I am the Sole Trustee and the Sole Beneficiary per all the words in these two 2009 documents. Now it is time for you to be on my side as I have been abused by this Court for so many years. Judge Sturman, you believed their lies. I am and always have been the only Sole Trustee and only Sole Beneficiary of the W. N. Connell and Marjorie T. Connell Living Trust dated May 18, 1979. Only with me dead are my daughters in the flow of Oil and Gas money per Judge Ritchie's 2009 Order and The Solomon Dwiggins & Freer Las Firm's Petition.

I do need hearing aids from Anderson Clinic from between $4,600 and $6,500. I was tested again last week. My hearing was 85% in 2015 today is it 30% in negative comprehension in my left ear. Anderson Audiology do es have a mike that brings the sound around to my good ear so that I hear again in two ears with no problems. I am excited. I must have another exam by Dr. Toland. Ear, Nose and Throat Doctor because Dr. Anderson wants to make certain there is nothing physical causing the 30% hearing loss. Again, I affirm, I researched, read, typed and edited all these pages myself;

The Court record is very clear that Judge Gloria Sturman made many extremely strong negative statements prior to hearing the FACTS. She has said prior to Hearings:

1. "Mrs. Ahern must be punished"
2. "I will make Mrs. Ahern regret not taking the settlement - January 2015
3. "According to Joseph Powell, Judge Sturman has repeatedly reassured the Movant's that Mrs. Ahern "punishment" would shortly be delivered."

4. A review of this Court's statements made at the March 3, 2016 Hearing is certainly appropriate." Judge Sturman even issued a judgement without hearing all the FACTS
5. "I thought all along somebody probably needed to go to jail. Judge Gonzalez didn't send her to jail. That's her choice. She felt that that wasn't properly set up since there is that type of contempt of a Court order requires very specific findings before a person can be sent to Jail."..... Honorable Judge Sturman the reason Judge Gonzalez didn't do what you said, even though you said you would have nothing to do with guardianship or sending a 79 year old lady to jail was that Judge Gonzalez warned Fred Waid to never come to her courtroom with no documentation and with only (hearsay.) The here say was from people who were from out of state. Your Honor, Judge Gonzalez had no evidence against me. Fred Waid, Temporary Trustee did not present any evidence to her court. The only thing Fred Waid, Temporary Trustee presented to Judge Gonzalez was second and 3rd hand here say. Judge Gonzalez warned him to newer come to her court again with such serious charges without any evidence whatsoever. Fred Left Gondolaz's Courtroom vividly shaken. Judge Sturman, I was very surprised to hear you disagreed with Judge Gonzalez because you said that you would have nothing to do with guardianship or sending a 79 year old lady to jail. Judge Sturman time will not allow me to type in the many other statements made by you. In your capacity as District Court Judge you made up your mind before you heard all the FACTS and ARGUMENTS . Your Honor, please consider removing yourself from this case as you are obviously prejudiced against me

Your Honor, as you are aware, Larry Semenza was present February 9, 2017 for the Evidentiary Hearing but not prepared He could not have represented me without pay of proper presentation. I wanted Larry Semenza. At the end of Februar 10, 2017 you awarded millions of Dollars to the other side using Fred Waid, Temporary Trustee Bogus uncertified. Accounting. You offered to pay him for his 2-day time in court which does not provide for pay for preparation. I am still

waiting to get a lawyer. Judge Sturman awarded based on a multiplier of 3 times because she wanted to punish me. Judge Sturman had some choice words for me just before she left her Courtroom The turned to look directly at me and said I hope your Oil wells make lots of money real soon so you can still be alive when you get all your bills paid off off . Then you, Judge Sturman, chuckled out of your courtroom. I gave to Fred Waid in the all cash on hand. Judge Sturman you used a figure to calculate my damages that were the dollar amount I gave Fred Wad.

In all the Hearing of 2017, I was without a lawyer. I asked you three times to give me a continence and a lawyer. Each time you said "Denied".

Eleanor Ahern *Pro se*

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CLERK OF THE COURT

ORDR
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DISTRICT COURT

CLARK COUNTY, NEVADA

In the Matter of the	Case No. P-09-066425-T
	PC1
THE W. N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST, Dated May 18, 1972	
	Date of Hearing: September 4, 2009
An Intervivos Irrevocable Trust.	**Time of Hearing: 9:30 a.m.**

ORDER ASSUMING JURISDICTION OVER TRUST; CONFIRM TRUSTEE; AND FOR CONSTRUCTION OF AND REFORM OF TRUST INSTRUMENT

The verified Petition of ELEANOR C. AHERN, f/k/a ELEANOR MARGUERITE CONNELL HARTMAN to assume jurisdiction over THE W. N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST, dated May 18, 1972 (the "Trust"), and any and all sub-trusts created thereunder, to confirm ELEANOR C. AHERN, f/k/a ELEANOR MARGUERITE CONNELL HARTMAN as the Successor Trustee of said trust; and for construction and reform of trust instrument, having come on regularly for hearing the 4th day of September, 2009; BRIAN K. STEADMAN, ESQ., of the law firm SOLOMON DWIGGINS & FREER, LTD. appeared as counsel for the Petitioner; the Court finds that due and legal notice of the time and place of hearing of said Petition has been given in the manner required by law; and good cause appearing therefor,

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CLERK OF THE COURT

IT IS HEREBY ORDERED that this Court hereby assumes jurisdiction over THE W. N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST, dated May 18, 1972, and any and all sub-trusts created thereunder, as a proceeding *in rem*;

IT IS HEREBY FURTHER ORDERED that ELEANOR C. AHERN, *f/k/a* ELEANOR MARGUERITE CONNELL HARTMAN be, and hereby is, confirmed and appointed as Successor Trustee of THE W. N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST, dated May 18, 1972, and any and all sub-trusts created thereunder, with the exception of any trust in which the assets of Trust No. 3 of THE W. N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST, dated May 18, 1972 were appointed by MARJORIE T. CONNELL; and

IT IS HEREBY FURTHER ORDERED that the dispositive provisions of Trust No. 2 created under THE W. N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST, dated May 18, 1972, are hereby reformed and construed to provide that upon the death of ELEANOR C. AHERN the residue of Trust No. 2 created under THE W. N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST, dated May 18, 1972, shall be distributed to the heirs of ELEANOR C. AHERN;

IT IS HEREBY FURTHER ORDERED that it is approved and granted that Sections "E," "F," "G," and "H" to Article Fourth of THE W. N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST, dated May 18, 1972, is hereby reformed as follows:

> *E. Distribution Upon Death of both the Survivor and the Residual Beneficiary. Upon the death of both the Survivor and the Residual Beneficiary, the Trustee shall divide the balance of Trust No. 2 into two equal shares, as follows:*
>
> > *1. One (1) equal share shall be distributed, outright and free of trust, to the Residual Beneficiary's daughter, JACQUELINE M. MONTOYA, if she is then living. Subject to Section (F) below, if, as of the date of the Residual Beneficiary's death, JACQUELINE M. MONTOYA is not then living, then said equal share shall be distributed to JACQUELINE M. MONTOYA's then living issue, by right of representation. Each share created pursuant to this Section E(1) of Article Fourth for the benefit of the issue of JACQUELINE M. MONTOYA shall be held as a separate trust ("Beneficiary's Share") for the*

benefit of such issue ("Beneficiary") to be held by the Trustee, administered and further distributed pursuant to Section G of this Article Fourth.

2. One (1) equal share shall be distributed, outright and free of trust, to the Residual Beneficiary's daughter, KATHRYN A. BOUVIER, if she is then living. Subject to Section (F) below, if, as of the date of the Residual Beneficiary's death, KATHRYN A. BOUVIER is not then living, then said equal share shall be distributed to KATHRYN A. BOUVIER's then living issue, by right of representation. Each share created pursuant to this Section E(2) of Article Fourth for the benefit of the issue of KATHRYN A. BOUVIER shall be held as a separate trust ("Beneficiary's Share") for the benefit of such issue ("Beneficiary") to be held by the Trustee, administered and further distributed pursuant to Section G of this Article Fourth.

3. In the event that both JACQUELINE M. MONTOYA and KATHRYN A. BOUVIER predecease the Grantors, leaving no issue, and having failed to exercise the testamentary power of appointment pursuant to Section (F) below, then the balance shall be distributed in accordance with Article Eleventh herein.

F. Power of Appointment. In the event that JACQUELINE M. MONTOYA or KATHRYN A. BOUVIER predeceases the Residual Beneficiary, upon the death of the Residual Beneficiary, the Trustee shall distribute such beneficiary's equal share to or in trust for such one or more persons or organizations and in such manner and proportions as such beneficiary may appoint by her will or revocable trust making specific reference to this general power of appointment.

G. Management of Beneficiary's Shares. Until a Beneficiary has attained the age of twenty-one (21) years, the Trustee may distribute to or apply for the benefit of such Beneficiary so much of the income or principal from such Beneficiary's Share as the Trustee determines, in the Trustee's sole discretion, is necessary to provide for his or her health, education, maintenance, and support. In addition, the Trustee may make the following discretionary distributions:

1. Investment in Business. The Trustee may, in the Trustee's sole discretion, apply the principal or income of such Beneficiary's Share for the purpose of investing in a business or profession operated by, or to be operated by, such Beneficiary and to be owned by the Beneficiary's Share.

2. Acquisition of Residences. The Trustee may, in the Trustee's sole discretion, apply the income and principal of such Beneficiary's Share for the purpose of purchasing one or more residences to be owned by the Beneficiary's Share and used and occupied by such Beneficiary and his or her family, including a primary residence, seasonal residence or otherwise. In the case of any residence owned by the Beneficiary's Share, and in the Trustee's sole

discretion, such Beneficiary may occupy and use such residence without rent or any other financial obligation for the payment of the taxes, insurance payments, maintenance costs and other expenses required in order to keep such residences in proper repair and free of liens.

3. Use of Tangible Trust Assets. The Trustee, in the Trustee's sole discretion, may grant such Beneficiary the right to the use, possession and enjoyment of all of the tangible personal property held by such Beneficiary's Share, without financial obligation for the use of such property.

4. Distribution of Beneficiary's Share. Upon a Beneficiary attaining the age of twenty-one (21), the Trustee shall distribute to him or her, outright and free of trust, the remaining principal and accumulated income of that Beneficiary's Share. If the Beneficiary has already reached the age of twenty-one (21) at the time of the creation of the Beneficiary's Share, then the Trustee shall, upon making the division, distribute, outright and free of trust, to the Beneficiary the balance of such Beneficiary's Share.

5. Distribution Upon Death of Beneficiary. If any Beneficiary shall die prior to the complete distribution of such Beneficiary's Share, then all of the remaining assets in such Beneficiary's Share shall be distributed to or in trust for such one or more persons or organizations and in such manner and proportions as such Beneficiary may appoint by his or her will or revocable trust making specific reference to this general power of appointment. To the extent that the Beneficiary does not exercise this general power of appointment, the remainder of such Beneficiary's Share shall be distributed to the issue of such Beneficiary in equal shares by right of representation and each such share shall be held, managed and further distributed by the Trustee as a Beneficiary's Share under Section G of Article Fourth. If the Beneficiary shall die failing to exercise this general power of appointment without leaving issue, then the Beneficiary's Share shall be distributed pro rata to the other Beneficiary's Shares then being administered by the Trustee hereunder, and if none, then to the Beneficiary's heirs at law under the intestacy laws of the State of Nevada.

6. Distributions to or for the Benefit of Minors or Persons Under Disability. Whenever the Trustee is given the power or discretion to make distributions to or for the benefit of a minor or other beneficiary under a disability, the Trustee, in the Trustee's sole discretion, may make distributions to a minor or other person under disability by making distributions to the guardian or conservator of his or her estate and/or person, as the Trustee shall determine, or to any suitable person with whom he or she resides, or the Trustee may apply distributions directly for such beneficiary's benefit, or the Trustee may make distributions to any duly established custodian for any minor beneficiary under the Uniform Gifts to Minors Act or Uniform Transfers to Minors Act of any State. Any custodian acting on behalf of a minor beneficiary shall have the power to bind the beneficiary with respect to all matters

concerning the Trust. The Trustee, in its sole discretion, may also make distributions directly to a minor if, in the Trustee's judgment, such minor is of sufficient age and maturity to receive such distribution and spend the money properly. The previous language of this paragraph 6 notwithstanding, if a beneficiary is, or would be eligible for need-based government benefits, the Trustee shall hold the funds for such beneficiary in a "special needs trust" as that term is understood for need-based government planning. By "special needs trust" is meant that the Trustee shall have the sole and absolute discretion to make distributions for the benefit of such beneficiary in a manner that improves the quality of life for the beneficiary but will not make the beneficiary ineligible for need-based government benefits. The provisions of the Paragraph 6 are intended to supplant need-based government benefits, but not to replace them and all terms of this Paragraph 6 shall be so interpreted for all purposes.

H. Maximum Term for Trusts. Notwithstanding any other provision of this Trust, unless terminated earlier under other provisions of this agreement, each trust created under this agreement shall terminate upon the expiration of the longest period that property may be held in trust under this agreement without violating the applicable rule against perpetuities, or similar applicable rule. At that time, the remaining trust property shall vest in and be distributed to the persons entitled to receive distributions of income hereunder.

IT IS HEREBY FURTHER ORDERED that THE W. N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST, dated May 18, 1972, is hereby reformed and construed to provide that the beneficiaries of the Trust shall serve as Successor Trustees upon the death, incapacity, or resignation of ELEANOR C. AHERN, f/k/a ELEANOR MARGUERITE CONNELL HARTMAN; and

IT IS HEREBY FURTHER ORDERED that it is approved and granted that Article Twelfth of THE W. N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST, dated May 18, 1972, is hereby reformed as follows:

Twelfth: Successor Trustee. In the event of the death or incapacity of either Grantor, the Survivor shall continue to serve as the sole Trustee of all of the trusts created hereunder. Upon the death or incapacity of the Survivor, the Grantors then nominate and appoint ELEANOR C. AHERN, f/k/a ELEANOR MARGUERITE CONNELL HARTMAN, as the Trustee of all of the trusts created hereunder, or in the event that she is unable or unwilling to serve in the said capacity, then the Grantors nominate and appoint JACQUELINE M. MONTOYA to serve in the said capacity. In the event that JACQUELINE M. MONTOYA is unable or unwilling to act as successor Trustee, then KATHRYN A. BOUVIER shall act as successor Trustee. No successor Trustee shall have

any responsibility for the acts or omissions of any prior trustees and no duty to audit or investigate the accounts or administration of any such trustee, nor, unless in writing requested so to do by a person having a present or future beneficial interest under a trust created hereunder, any duty to take action or obtain redress for breach of trust.

In the event that none of the trustees named in this Article Twelfth are able or willing to serve, then the majority of adult income beneficiaries of the Trust shall select a successor Trustee.

DATED this 4th day of September, 2009.

DISTRICT COURT JUDGE

Respectfully submitted,

SOLOMON DWIGGINS & FREER, LTD.

By

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PET
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DISTRICT COURT

CLARK COUNTY, NEVADA

In the Matter of the	)	Case No. ~~P-09~~ P-09-066425-T
	)	PC1
THE W. N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST, Dated May 18, 1972	)	
	)	**Date of Hearing: September 4, 2009**
An Intervivos Irrevocable Trust.	)	**Time of Hearing: 9:30 a.m.**
	)	

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PETITION TO ASSUME JURISDICTION OVER TRUST; CONFIRM TRUSTEE; AND CONSTRUE AND REFORM TRUST

Petitioner, ELEANOR C. AHERN, f/k/a ELEANOR MARGUERITE CONNELL HARTMAN ("Petitioner"), as successor Trustee of THE W. N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST, dated May 18, 1972 (the "Trust"), by and through counsel Mark A. Solomon, Esq., of the law firm of SOLOMON DWIGGINS & FREER, LTD., hereby respectfully petitions this Court to assume jurisdiction over the Trust, to confirm the Petitioner as Trustee of the Trust and any and all sub-trusts created under the Trust, to construe the Trust, and for an order reforming the distributions to the beneficiaries after the death of the Petitioner and the provisions appointing the successor Trustee. Pursuant to Nevada Revised Statutes ("NRS") 153.031(b), (e), and (n), 155.140, 164.050, 164.010, and

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164.015, Petitioner alleges as follows:

I.
PETITION TO ASSUME JURISDICTION OVER TRUST AND CONFIRM THE APPOINTMENT OF PETITIONER AS TRUSTEE

1. W. N. CONNELL and MARJORIE T. CONNELL ("MARJORIE"), husband and wife, as the grantors ("Grantors") and initial trustees, established the Trust on May 18, 1972, a copy of which is attached to this Petition as **Exhibit "1."**

2. W. N. CONNELL died on November 24, 1979, and was survived by his wife, MARJORIE. A copy of W. N. CONNELL's death certificate[1] is attached hereto as **Exhibit "2."**

3. The Petitioner is W. N. CONNELL's only surviving child. MARJORIE had no children during her lifetime, but formally adopted the Petitioner.

4. Pursuant to Article Twelfth, upon W. N. CONNELL's death, MARJORIE was named as the successor Trustee. *See*, Trust, Ex. 1, at pg. 13.

5. Pursuant to Section C of Article Second and Article Third, upon W. N. CONNELL's death, the Trust was divided between Trust No. 2 and Trust No. 3. MARJORIE served as successor Trustee of the Trust, including Trust No. 2 and Trust No. 3, until her death.

6. On May 6, 1980, the Petitioner was named as Co-Trustee of the Trust, as is indicated in the Substitution of Trustee, attached hereto as **Exhibit "3."** The Petitioner served as Co-Trustee until the death of MARJORIE.

7. MARJORIE died on May 1, 2009. A copy of MARJORIE's death certificate[2] is attached hereto as **Exhibit "4."**

8. Pursuant to Article Twelfth, upon the death or incapacity of both W. N. CONNELL and

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[1] The social security number has been redacted.

[2] The social security number has been redacted.

MARJORIE, the Petitioner is to serve as successor Trustee. *See*, Trust, Ex. 1, at pg. 13. The Petitioner is currently serving as sole Trustee of the Trust, including Trust No. 2 and Trust No. 3.

9. The Petitioner is currently residing in Clark County, Nevada. The Trust is currently being administered in Clark County, Nevada.

10. Section F of Article Eighth states as follows:

> F. Applicable Law. This Trust Agreement is executed under the laws of the State of Nevada and shall in all respects be governed by the laws of the State of Nevada.

11. NRS 164.010(1) and (2) provides in pertinent part as follows:

> 1. Upon the petition of any person appointed as trustee of an express trust by any instrument other than a will . . . the district court of the county in which the trustee resides or conducts business, or in which the trust has been domiciled, shall consider the application to confirm the appointment of the trustee and specify the manner in which the trustee must qualify. Thereafter the court has jurisdiction of the trust as a proceeding in rem.
>
> 2. If the court grants the petition, it may consider at the same time any petition for instructions filed with the petition for confirmation.

12. It is appropriate for this Court to confirm Petitioner as Trustee since the Trust designates her to serve as successor Trustee upon the death of both W. N. CONNELL and MARJORIE death.

13. Further, *in rem* jurisdiction over the Trust is proper since the Trust is domiciled and being administered in Nevada.

14. Therefore, this Court should confirm the appointment of the Petitioner as Trustee of the Trust and exercise *in rem* jurisdiction over the Trust.

II.
PETITION TO CONSTRUE AND REFORM TRUST

15. Pursuant to Section C of Article Second and Article Third, upon W. N. CONNELL's death, MARJORIE, as the Trustee, allocated to Trust No. 3: (1) MARJORIE's separate interest in the trust estate; (2) MARJORIE's one-half (½) interest in the community property of the trust estate; and (3) an

amount of property which qualified for the maximum marital deduction allowed for federal estate tax purposes, reduced by the total of any other amounts allowed under the Internal Revenue Code ("IRC") as federal estate tax credits. MARJORIE allocated to Trust No. 2 the balance of the Trust assets. *See*, Trust, Ex. 1, at pgs. 2 and 3.

16. The division of the Trust into Trust No. 2 and Trust No. 3 is similar to a type of trust commonly known as an "AB" trust, where upon the death of the first settlor, an amount equal to the federal estate tax exemption is allocated to a credit shelter type trust with the remaining assets allocated to a trust for the surviving spouse. In a standard AB trust, the assets allocated to the credit shelter trust are for the benefit of the deceased spouse's beneficiaries while the remaining assets are for the benefit of the surviving spouse.

17. Indeed, Trust No. 2 was drafted in such a manner as to benefit both the Petitioner and MARJORIE, who would typically be W. N. CONNELL's beneficiaries. Additionally, Trust No. 3 was for MARJORIE's benefit during her lifetime, and, more importantly, MARJORIE retained the testamentary power to appoint the balance of Trust No. 3 to her estate or to any person or persons. See, Trust, Ex. 1, at pg. 6.[3]

18. As of the death of MARJORIE, Trust No. 2 owned land and oil and gas shares in reserves and income located in Upton County, Texas (the "Oil Assets"). The Oil Assets have not been valued for some time, but are estimated to be worth approximately $700,000.

19. Pursuant to Article Fourth, which Article governs the administration of Trust No. 2, all income from the Oil Assets is to be paid to the Petitioner as the "Residual Beneficiary" during her

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[3] MARJORIE exercised this power of appointment prior to her death as indicated in Article Four of the Last Will and Testament of MARJORIE, dated January 7, 2008. A copy of MARJORIE's Last Will and Testament is attached hereto as **Exhibit "5."** The beneficiary of the exercise of the power of appointment was the MTC Living Trust, which contains provisions for the benefit of the Petitioner's issue.

lifetime.[4] Such income has been paid to the Petitioner since the creation of Trust No. 2 after W. N. CONNELL's death.

20. Section B of Article Fourth, governing Trust No. 2, provides as follows:

> B. Income. . . . In the event that the [Petitioner] predeceases [MARJORIE], the [Petitioner's] right to receive income hereunder shall be paid to or for the benefit of her living children and the issue of any deceased child by right of representation; or in the event she dies without leaving issue, her income rights hereunder shall become those of [MARJORIE].

See, Trust, Ex. 1, at pg. 4.

21. Although Trust No. 2 provides for a contingent distribution of the income from Trust No. 2 in the event that the Petitioner predeceased MARJORIE, no provision is made as to the final distribution of Trust No. 2 after the death of the Petitioner, in the event that MARJORIE predeceased the Petitioner.

22. Upon assuming jurisdiction of a trust, this Court "has exclusive jurisdiction" over proceedings to construe the terms of the trust and declare the rights of the parties, including "any appropriate relief provided for with regards to a testamentary trust in NRS 153.031." *See*, NRS 164.015(1). NRS 153.031 provides, in pertinent part:

> 1. A trustee or beneficiary may petition the court regarding any aspect of the affairs of the trust, including:
>
> (b) Determining the construction of the trust instrument;
>
> ***
>
> (e) Ascertaining beneficiaries and determining to whom property is to pass or be delivered upon final or partial termination of the trust, to the extent not provided in the trust instrument;

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[4] Section B of Article Fourth also states that all income received by Trust No. 2, other than that received from the Oil Assets, is to be paid to MARJORIE. However, as the sole asset of Trust No. 2 consists of the Oil Assets, this provision is inapplicable. Additionally, Trust No. 2 granted to MARJORIE the power to appoint and/or invade the principal of Trust No. 2 during her lifetime. *See*, Trust, Ex. 1, at pg. 5. Petitioner is informed and believes that MARJORIE did not exercise her power of appointment nor was the principal invaded for her benefit during her lifetime.

***

(n) Approving or directing the modification or termination of the trust[.]

23. A trust instrument may be reformed to conform with the settlor's intent, which may be ascertained from the trust instrument as a whole. *See, Sheinkopf v. Bornstein*, 823 N.E.2d 372 (Mass. 2005); *see also, Dassori v. Patterson*, 440 Mass. 1039, 802 N.E.2d 553 (2004) (A trust instrument may be reformed to conform with the settlor's intent.) The equitable power of the court to modify or reform a trust extends to situations where trust instrument contains some expression of trustor's intention, but drafting error renders that expression ambiguous. *See, Ike v. Doolittle*, 61 Cal. App. 4th 51, 70 Cal. Rptr. 2d 887 (4th Dist. 1998) (Recognizing the common law equitable power and the statutory authority of the court to alter administrative or distributive provisions of trust where necessary to accomplish purpose of trust).

24. On the application of the trustee or one or more beneficiaries, the court possesses and frequently exercises the power to modify the terms of the trust in order to effectuate the accomplishment of the purposes of the settlor. See generally, *Bogert on Trusts and Trustees*, §994; Restatement, Third, Trusts, §62. The court has equitable power to order reformation of a trust; and, once the court acquires jurisdiction, it is authorized to administer full, complete, and final relief. *See, Schroeder v. Gebhart*, 825 So. 2d 442 (Fla. Dist. Ct. App. 5th Dist. 2002), review denied, 845 So. 2d 892 (Fla. 2003).

25. If, due to a mistake, the trust does not contain the terms that were intended by the settlor, the settlor or other interested party may maintain a suit in equity to have the instrument reformed so that it will contain the terms that were actually agreed upon or that reflect the settlor's actual intent. *See*, Restatement, Second, Trusts, §333. *See also*, Restatement, Third, Trusts, §62.

26. The Petitioner is informed and believes that the failure to provide for distribution upon Petitioner's death is an omission due to scrivener error. Indeed, the Trust as a whole appears to be an

"AB" type trust whereby each spouse designates the beneficiaries they intend to receive such spouse's share, but, in the case of the Trust, the final dispositive provisions of Trust No. 2 were omitted.

27. Indeed, Article Fourth of the Trust, governing Trust No. 2 makes adequate provision for numerous other contingencies for the disposition of Trust No. 2, but appears to omit a provision for alternate disposition in the current situation - where MARJORIE predeceased the Petitioner. *See*, Trust, Ex. 1, at pgs. 4 and 5.

28. The Grantors' intent as to the final disposition of Trust No. 2 after the death of the Petitioner can be derived from the contingent dispositions of Trust No. 2 and the dispositve terms of Trust No. 3.

29. Section B of Article Fourth, governing Trust No. 2, provides that the income from Trust No. 2 is to be distributed to the Petitioner's issue if the Petitioner predeceased MARJORIE. Additionally, Trust No. 2 provides that, if the Petitioner predeceased MARJORIE leaving no issue, that MARJORIE be entitled to the income from the Oil Asset. These provisions show the Grantors had an overall dispositive model for Trust No. 2 in mind, which included not only the Petitioner, but the Petitioner's issue.

30. As outlined in Section D of Article Fifth, governing Trust No. 3, adequate provisions are made in for Trust No. 3 for the contingency of MARJORIE predeceasing the Petitioner, as follows:

> D. Death of Survivor. Upon the death of the Survivor, the Trustee shall distribute the trust estate in accordance with and to the extent provided by the Survivor's exercise of his or her power of appointment.
>
> If, and to the extent that the Survivor shall fail to effectively exercise the foregoing power of appointment, the principal and undistributed income of Trust No. 3 shall, upon his or her death, be distributed to the Residual Beneficiary, or to the heirs of her body if she is not then living.

See, Trust, Ex. 1, at pg. 6.

31. Moreover, Section D of Article Fifth, governing Trust No. 3, provides that, upon the death of both W. N. CONNELL and MARJORIE, the balance of Trust No. 3, if not otherwise appointed, is to

be distributed to the Petitioner or, if she is not living, then to her heirs. This provision clearly shows the Grantors' overall intent that the assets be vested in remainder beneficiaries, in particular the Petitioner and her heirs.

32. Bringing together the dispositive provisions of Trust No. 2 and Trust No. 3, the Grantors' intentions can be derived as follows: that, upon the death of the Petitioner, the balance of Trust No. 2 is to vest in the Petitioner's heirs.

33. Based on the terms of the Trust, the Petitioner requests that this Court: (1) construe the Trust to provide that it is the intent of W. N. CONNELL and MARJORIE T. CONNELL, as Grantors, to distribute the residue of Trust No. 2 to ELEANOR C. AHERN's heirs upon her death;[5] and (2) reform Trust No. 2 in accordance with such intention by adding new Sections "E," "F," "G," and "H" to Article Fourth as follows:

> *E. Distribution Upon Death of both the Survivor and the Residual Beneficiary. Upon the death of both the Survivor and the Residual Beneficiary, the Trustee shall divide the balance of Trust No. 2 into two equal shares, as follows:*
>
> *1. One (1) equal share shall be distributed, outright and free of trust, to the Residual Beneficiary's daughter, JACQUELINE M. MONTOYA, if she is then living. Subject to Section (F) below, if, as of the date of the Residual Beneficiary's death, JACQUELINE M. MONTOYA is not then living, then said equal share shall be distributed to JACQUELINE M. MONTOYA's then living issue, by right of representation. Each share created pursuant to this Section E(1) of Article Fourth for the benefit of the issue of JACQUELINE M. MONTOYA shall be held as a separate trust ("Beneficiary's Share") for the benefit of such issue ("Beneficiary") to be held by the Trustee, administered and further distributed pursuant to Section G of this Article Fourth.*
>
> *2. One (1) equal share shall be distributed, outright and free of trust, to the Residual Beneficiary's daughter, KATHRYN A. BOUVIER, if she is then living. Subject to Section (F) below, if, as of the date of the Residual Beneficiary's death, KATHRYN A. BOUVIER is not then living, then said equal*

---

[5] The Petitioner's heirs as of the date of this Petition are her two (2) daughters, JACQUELINE M. MONTOYA and KATHRYN A. BOUVIER.

share shall be distributed to KATHRYN A. BOUVIER's then living issue, by right of representation. Each share created pursuant to this Section E(2) of Article Fourth for the benefit of the issue of KATHRYN A. BOUVIER shall be held as a separate trust ("Beneficiary's Share") for the benefit of such issue ("Beneficiary") to be held by the Trustee, administered and further distributed pursuant to Section G of this Article Fourth.

3. In the event that both JACQUELINE M. MONTOYA and KATHRYN A. BOUVIER predecease the Grantors, leaving no issue, and having failed to exercise the testamentary power of appointment pursuant to Section (F) below, then the balance shall be distributed in accordance with Article Eleventh herein.

F. Power of Appointment. In the event that JACQUELINE M. MONTOYA or KATHRYN A. BOUVIER predeceases the Residual Beneficiary, upon the death of the Residual Beneficiary, the Trustee shall distribute such beneficiary's equal share to or in trust for such one or more persons or organizations and in such manner and proportions as such beneficiary may appoint by her will or revocable trust making specific reference to this general power of appointment.

G. Management of Beneficiary's Shares. Until a Beneficiary has attained the age of twenty-one (21) years, the Trustee may distribute to or apply for the benefit of such Beneficiary so much of the income or principal from such Beneficiary's Share as the Trustee determines, in the Trustee's sole discretion, is necessary to provide for his or her health, education, maintenance, and support. In addition, the Trustee may make the following discretionary distributions:

1. Investment in Business. The Trustee may, in the Trustee's sole discretion, apply the principal or income of such Beneficiary's Share for the purpose of investing in a business or profession operated by, or to be operated by, such Beneficiary and to be owned by the Beneficiary's Share.

2. Acquisition of Residences. The Trustee may, in the Trustee's sole discretion, apply the income and principal of such Beneficiary's Share for the purpose of purchasing one or more residences to be owned by the Beneficiary's Share and used and occupied by such Beneficiary and his or her family, including a primary residence, seasonal residence or otherwise. In the case of any residence owned by the Beneficiary's Share, and in the Trustee's sole discretion, such Beneficiary may occupy and use such residence without rent or any other financial obligation for the payment of the taxes, insurance payments, maintenance costs and other expenses required in order to keep such residences in proper repair and free of liens.

3. Use of Tangible Trust Assets. The Trustee, in the Trustee's sole discretion, may grant such Beneficiary the right to the use, possession and

enjoyment of all of the tangible personal property held by such Beneficiary's Share, without financial obligation for the use of such property.

4. Distribution of Beneficiary's Share. Upon a Beneficiary attaining the age of twenty-one (21), the Trustee shall distribute to him or her, outright and free of trust, the remaining principal and accumulated income of that Beneficiary's Share. If the Beneficiary has already reached the age of twenty-one (21) at the time of the creation of the Beneficiary's Share, then the Trustee shall, upon making the division, distribute, outright and free of trust, to the Beneficiary the balance of such Beneficiary's Share.

5. Distribution Upon Death of Beneficiary. If any Beneficiary shall die prior to the complete distribution of such Beneficiary's Share, then all of the remaining assets in such Beneficiary's Share shall be distributed to or in trust for such one or more persons or organizations and in such manner and proportions as such Beneficiary may appoint by his or her will or revocable trust making specific reference to this general power of appointment. To the extent that the Beneficiary does not exercise this general power of appointment, the remainder of such Beneficiary's Share shall be distributed to the issue of such Beneficiary in equal shares by right of representation and each such share shall be held, managed and further distributed by the Trustee as a Beneficiary's Share under Section G of Article Fourth. If the Beneficiary shall die failing to exercise this general power of appointment without leaving issue, then the Beneficiary's Share shall be distributed pro rata to the other Beneficiary's Shares then being administered by the Trustee hereunder, and if none, then to the Beneficiary's heirs at law under the intestacy laws of the State of Nevada.

6. Distributions to or for the Benefit of Minors or Persons Under Disability. Whenever the Trustee is given the power or discretion to make distributions to or for the benefit of a minor or other beneficiary under a disability, the Trustee, in the Trustee's sole discretion, may make distributions to a minor or other person under disability by making distributions to the guardian or conservator of his or her estate and/or person, as the Trustee shall determine, or to any suitable person with whom he or she resides, or the Trustee may apply distributions directly for such beneficiary's benefit, or the Trustee may make distributions to any duly established custodian for any minor beneficiary under the Uniform Gifts to Minors Act or Uniform Transfers to Minors Act of any State. Any custodian acting on behalf of a minor beneficiary shall have the power to bind the beneficiary with respect to all matters concerning the Trust. The Trustee, in its sole discretion, may also make distributions directly to a minor if, in the Trustee's judgment, such minor is of sufficient age and maturity to receive such distribution and spend the money properly. The previous language of this paragraph 6 notwithstanding, if a beneficiary is, or would be eligible for need-based government benefits, the Trustee shall hold the funds for such beneficiary in a "special needs trust" as that term is understood for need-based government planning. By "special needs

trust" is meant that the Trustee shall have the sole and absolute discretion to make distributions for the benefit of such beneficiary in a manner that improves the quality of life for the beneficiary but will not make the beneficiary ineligible for need-based government benefits. The provisions of the Paragraph 6 are intended to supplant need-based government benefits, but not to replace them and all terms of this Paragraph 6 shall be so interpreted for all purposes.

H Maximum Term for Trusts. Notwithstanding any other provision of this Trust, unless terminated earlier under other provisions of this agreement, each trust created under this agreement shall terminate upon the expiration of the longest period that property may be held in trust under this agreement without violating the applicable rule against perpetuities, or similar applicable rule. At that time, the remaining trust property shall vest in and be distributed to the persons entitled to receive distributions of income hereunder.

34. Article Twelfth of the Trust states, in pertinent part, as follows:

> Twelfth: Successor Trustee. In the event of the death or incapacity of either Grantor, the Survivor shall continue to serve as the sole Trustee of all of the trusts created hereunder. Upon the death or incapacity of the Survivor, the Grantors then nominate and appoint [the Petitioner] as the Trustee of all of the trusts created hereunder, or in the event that she is unable or unwilling to serve in the said capacity, then the Grantors nominate and appoint the FIRST NATIONAL BANK OF NEVADA to serve in the said capacity.

35. In 2008, the FIRST NATIONAL BANK OF NEVADA failed, and is no longer in existence. As outlined in Article Twelfth, W. N. CONNELL and MARJORIE entrusted the beneficiaries (first being MARJORIE and, upon MARJORIE's death, the Petitioner) of the Trust to act as Trustees.

36. The Petitioner requests that, due to the failure of the successor Trustee named by the Grantors, this Court: (1) construe the Trust to provide that the intent of W. N. CONNELL and MARJORIE is to appoint the beneficiaries of the Trust to serve as Trustees thereof; and (2) to reform the Trust in accordance with such intention by modifying Article Twelfth as follows:

> *Twelfth: Successor Trustee. In the event of the death or incapacity of either Grantor, the Survivor shall continue to serve as the sole Trustee of all of the trusts created hereunder. Upon the death or incapacity of the Survivor, the Grantors then nominate and appoint ELEANOR C. AHERN, f/k/a ELEANOR MARGUERITE CONNELL HARTMAN, as the Trustee of all of the trusts created hereunder, or in the event that she is unable or unwilling to serve in the said capacity, then the Grantors nominate and appoint JACQUELINE M.*

MONTOYA to serve in the said capacity. In the event that JACQUELINE M. MONTOYA is unable or unwilling to act as successor Trustee, then KATHRYN A. BOUVIER shall act as successor Trustee. No successor Trustee shall have any responsibility for the acts or omissions of any prior trustees and no duty to audit or investigate the accounts or administration of any such trustee, nor, unless in writing requested so to do by a person having a present or future beneficial interest under a trust created hereunder, any duty to take action or obtain redress for breach of trust.

In the event that none of the trustees named in this Article Twelfth are able or willing to serve, then the majority of adult income beneficiaries of the Trust shall select a successor Trustee.

37. The reformation of the Trust, pursuant to this Petition, will not change the substantive rights of the Petitioner during her lifetime. The sole purposes of the reformation are: (1) to clarify the dispositive provisions of Trust No. 2 after the death of the Petitioner; and (2) to forestall the requirement of petitioning the Court upon the death of the Petitioner to determine the successor Trustee.

38. The names, ages, residences, and relationships of the persons interested in the Trust, so far as known to Petitioner, are as follows:

NAME	AGE	RELATIONSHIP	ADDRESS
ELEANOR C. AHERN	Adult	Residual Beneficiary	6105 Elton Ave Las Vegas, NV 89107
JACQUELINE M. MONTOYA	Adult	Daughter of ELEANOR C. AHERN	3385 Maverick Street Las Vegas, NV 89108
KATHRYN A. BOUVIER	Adult	Daughter of ELEANOR C. AHERN	8461 Purple Sage Road Middleton, ID 83644
SHRINERS HOSPITALS FOR CHILDREN	N/A		Attn: Legal Department P.O. Box 31356 Tampa, FL 33631-3356

39. JACQUELINE M .MONTOYA and KATHRYN A. BOUVIER have consented in writing to the proposed reformation, as outlined in herein, and to this Court entering an order to assume jurisdiction over the Trust, the appointment of the Petitioner as the Trustee, and the reformation of the Trust as provided in this Petition. Said consents are attached hereto as **Exhibits "6" and "7,"**

respectively.

40. The interests of JACQUELINE M. MONTOYA and KATHRYN A. BOUVIER and their respective issue in Trust No. 2 are substantially identical, and JACQUELINE M. MONTOYA and KATHRYN A. BOUVIER are able to adequately represent the interests of their respective issue, including any minor and unborn issue without the necessity of the appointment of a guardian ad litem. *See*, NRS 155.140 and 164.005.

WHEREFORE, Petitioner requests that this Petition be set for hearing, and that after hearing the matters of this Petition, this Court find that notice of the time and place of such hearing has been given in the manner required by law, and that this Court make and enter its Orders and Decrees pursuant to NRS 153.031 (e) and (n), 164.010 and 164.015:

1. That this Court assume jurisdiction over THE W. N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST, dated May 18, 1972, and any and all sub-trusts created thereunder, as a proceeding *in rem*;

2. That ELEANOR C. AHERN, f/k/a ELEANOR MARGUERITE CONNELL HARTMAN be confirmed as the Trustee of THE W. N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST, dated May 18, 1972, and any and all sub-trusts created thereunder, with the exception of any trust in which the assets of Trust No. 3 of THE W. N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST, dated May 18, 1972 were appointed by MARJORIE T. CONNELL;

3. That this Court enter an order: (1) construing THE W. N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST, dated May 18, 1972, to provide that it was the intent of W. N. CONNELL and MARJORIE T. CONNELL, as Grantors, to distribute the residue of Trust No. 2 created thereunder to ELEANOR C. AHERN's heirs upon her death; and (2) that the Trust is to be reformed in accordance with such intent;

4. That this Court order the Trust to be reformed to add new Sections "E," "F," "G," and "H" to Article Fourth of THE W. N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST, dated May 18, 1972, as follows:

E. Distribution Upon Death of both the Survivor and the Residual Beneficiary. Upon the death of both the Survivor and the Residual Beneficiary, the Trustee shall divide the balance of Trust No. 2 into two equal shares, as follows:

1. One (1) equal share shall be distributed, outright and free of trust, to the Residual Beneficiary's daughter, JACQUELINE M. MONTOYA, if she is then living. Subject to Section (F) below, if, as of the date of the Residual Beneficiary's death, JACQUELINE M. MONTOYA is not then living, then said equal share shall be distributed to JACQUELINE M. MONTOYA's then living issue, by right of representation. Each share created pursuant to this Section E(1) of Article Fourth for the benefit of the issue of JACQUELINE M. MONTOYA shall be held as a separate trust ("Beneficiary's Share") for the benefit of such issue ("Beneficiary") to be held by the Trustee, administered and further distributed pursuant to Section G of this Article Fourth.

2. One (1) equal share shall be distributed, outright and free of trust, to the Residual Beneficiary's daughter, KATHRYN A. BOUVIER, if she is then living. Subject to Section (F) below, if, as of the date of the Residual Beneficiary's death, KATHRYN A. BOUVIER is not then living, then said equal share shall be distributed to KATHRYN A. BOUVIER's then living issue, by right of representation. Each share created pursuant to this Section E(2) of Article Fourth for the benefit of the issue of KATHRYN A. BOUVIER shall be held as a separate trust ("Beneficiary's Share") for the benefit of such issue ("Beneficiary") to be held by the Trustee, administered and further distributed pursuant to Section G of this Article Fourth.

3. In the event that both JACQUELINE M. MONTOYA and KATHRYN A. BOUVIER predecease the Grantors, leaving no issue, and having failed to exercise the testamentary power of appointment pursuant to Section (F) below, then the balance shall be distributed in accordance with Article Eleventh herein.

F. Power of Appointment. In the event that JACQUELINE M. MONTOYA or KATHRYN A. BOUVIER predeceases the Residual Beneficiary, upon the death of the Residual Beneficiary, the Trustee shall distribute such beneficiary's equal share to or in trust for such one or more persons or organizations and in such manner and proportions as such beneficiary may appoint by her will or revocable trust making specific reference to this general power of appointment.

G. Management of Beneficiary's Shares. Until a Beneficiary has attained the age of twenty-one (21) years, the Trustee may distribute to or apply for the benefit of such Beneficiary so much of the income or principal from such Beneficiary's Share as the Trustee determines, in the Trustee's sole discretion, is necessary to provide for his or her health, education, maintenance, and support. In addition, the Trustee may make the following discretionary distributions:

1. Investment in Business. The Trustee may, in the Trustee's sole discretion, apply the principal or income of such Beneficiary's Share for the purpose of investing in a business or profession operated by, or to be operated by, such Beneficiary and to be owned by the Beneficiary's Share.

2. Acquisition of Residences. The Trustee may, in the Trustee's sole discretion, apply the income and principal of such Beneficiary's Share for the purpose of purchasing one or more residences to be owned by the Beneficiary's Share and used and occupied by such Beneficiary and his or her family, including a primary residence, seasonal residence or otherwise. In the case of any residence owned by the Beneficiary's Share, and in the Trustee's sole discretion, such Beneficiary may occupy and use such residence without rent or any other financial obligation for the payment of the taxes, insurance payments, maintenance costs and other expenses required in order to keep such residences in proper repair and free of liens.

3. Use of Tangible Trust Assets. The Trustee, in the Trustee's sole discretion, may grant such Beneficiary the right to the use, possession and enjoyment of all of the tangible personal property held by such Beneficiary's Share, without financial obligation for the use of such property.

4. Distribution of Beneficiary's Share. Upon a Beneficiary attaining the age of twenty-one (21), the Trustee shall distribute to him or her, outright and free of trust, the remaining principal and accumulated income of that Beneficiary's Share. If the Beneficiary has already reached the age of twenty-one (21) at the time of the creation of the Beneficiary's Share, then the Trustee shall, upon making the division, distribute, outright and free of trust, to the Beneficiary the balance of such Beneficiary's Share.

5. Distribution Upon Death of Beneficiary. If any Beneficiary shall die prior to the complete distribution of such Beneficiary's Share, then all of the remaining assets in such Beneficiary's Share shall be distributed to or in trust for such one or more persons or organizations and in such manner and proportions as such Beneficiary may appoint by his or her will or revocable trust making specific reference to this general power of appointment. To the extent that the Beneficiary does not exercise this general power of appointment, the remainder of such Beneficiary's Share shall be distributed to the issue of such Beneficiary in equal shares by right of representation and each such share

shall be held, managed and further distributed by the Trustee as a Beneficiary's Share under Section G of Article Fourth. If the Beneficiary shall die failing to exercise this general power of appointment without leaving issue, then the Beneficiary's Share shall be distributed pro rata to the other Beneficiary's Shares then being administered by the Trustee hereunder, and if none, then to the Beneficiary's heirs at law under the intestacy laws of the State of Nevada.

6. Distributions to or for the Benefit of Minors or Persons Under Disability. Whenever the Trustee is given the power or discretion to make distributions to or for the benefit of a minor or other beneficiary under a disability, the Trustee, in the Trustee's sole discretion, may make distributions to a minor or other person under disability by making distributions to the guardian or conservator of his or her estate and/or person, as the Trustee shall determine, or to any suitable person with whom he or she resides, or the Trustee may apply distributions directly for such beneficiary's benefit, or the Trustee may make distributions to any duly established custodian for any minor beneficiary under the Uniform Gifts to Minors Act or Uniform Transfers to Minors Act of any State. Any custodian acting on behalf of a minor beneficiary shall have the power to bind the beneficiary with respect to all matters concerning the Trust. The Trustee, in its sole discretion, may also make distributions directly to a minor if, in the Trustee's judgment, such minor is of sufficient age and maturity to receive such distribution and spend the money properly. The previous language of this paragraph 6 notwithstanding, if a beneficiary is, or would be eligible for need-based government benefits, the Trustee shall hold the funds for such beneficiary in a "special needs trust" as that term is understood for need-based government planning. By "special needs trust" is meant that the Trustee shall have the sole and absolute discretion to make distributions for the benefit of such beneficiary in a manner that improves the quality of life for the beneficiary but will not make the beneficiary ineligible for need-based government benefits. The provisions of the Paragraph 6 are intended to supplant need-based government benefits, but not to replace them and all terms of this Paragraph 6 shall be so interpreted for all purposes.

H. Maximum Term for Trusts. Notwithstanding any other provision of this Trust, unless terminated earlier under other provisions of this agreement, each trust created under this agreement shall terminate upon the expiration of the longest period that property may be held in trust under this agreement without violating the applicable rule against perpetuities, or similar applicable rule. At that time, the remaining trust property shall vest in and be distributed to the persons entitled to receive distributions of income hereunder.

5. That this Court enter an order: (1) construing THE W. N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST, dated May 18, 1972, to provide that the intent of W. N. CONNELL and MARJORIE T. CONNELL was to appoint the beneficiaries of the Trust to serve as Trustees thereof; and

(2) that the Trust is to be reformed in accordance with such intent;

6. That this Court order the Trust to be reformed by modifying Article Twelfth of THE W. N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST, dated May 18, 1972, to read as follows:

> *Twelfth: Successor Trustee. In the event of the death or incapacity of either Grantor, the Survivor shall continue to serve as the sole Trustee of all of the trusts created hereunder. Upon the death or incapacity of the Survivor, the Grantors then nominate and appoint ELEANOR C. AHERN, f/k/a ELEANOR MARGUERITE CONNELL HARTMAN, as the Trustee of all of the trusts created hereunder, or in the event that she is unable or unwilling to serve in the said capacity, then the Grantors nominate and appoint JACQUELINE M. MONTOYA to serve in the said capacity. In the event that JACQUELINE M. MONTOYA is unable or unwilling to act as successor Trustee, then KATHRYN A. BOUVIER shall act as successor Trustee. No successor Trustee shall have any responsibility for the acts or omissions of any prior trustees and no duty to audit or investigate the accounts or administration of any such trustee, nor, unless in writing requested so to do by a person having a present or future beneficial interest under a trust created hereunder, any duty to take action or obtain redress for breach of trust.*
>
> *In the event that none of the trustees named in this Article Twelfth are able or willing to serve, then the majority of adult income beneficiaries of the Trust shall select a successor Trustee.*

7. For such other and further relief as the Court deems proper.

DATED this 14 day of August, 2009.

Respectfully submitted,
SOLOMON DWIGGINS & FREER, LTD.

By: _____
MARK A. SOLOMON, ESQ.
Nevada State Bar No. 00418
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Nevada State Bar No. 10771
9060 W. Cheyenne Avenue
Las Vegas, Nevada 89129
Telephone: 702.853.5483

Attorneys for Eleanor C. Ahern, Petitioner

VERIFICATION

ELEANOR C. AHERN, f/k/a ELEANOR MARGUERITE CONNELL HARTMAN, whose address is 6105 Elton Ave, Las Vegas, NV 89107, declares under penalties of perjury of the State of Nevada:

That she is the Petitioner who makes the foregoing Petition to Assume Jurisdiction Over Trust; Confirm Trustee; and Construe and Reform Trust; that she has read said petition and know the contents thereof, and that the same is true of her own knowledge except for those matters stated on information and belief, and that as to such matters she believes it to be true.

DATED this 3rd day of August, 2009.

Eleanor C Ahern

ELEANOR C. AHERN f/k/a ELEANOR MARGUERITE CONNELL HARTMAN

EXHIBIT 1

1972

TRUST AGREEMENT

("The W. N. Connell and Marjorie T. Connell Living Trust")

THIS TRUST AGREEMENT, made this 15th day of May, 1972, by W. N. CONNELL and MARJORIE T. CONNELL, husband and wife, (hereinafter sometimes referred to as the "Grantors", when reference is made to them in their capacity as creators of this Trust and the transferrors of the principal properties thereof), and W. N. CONNELL and MARJORIE T. CONNELL, of Las Vegas, Nevada, (hereinafter sometimes referred to as the "Trustee" when reference is made to them in their capacity as the Trustee or fiduciary hereunder), and by this instrument revoke the previous revocable living trust made by us on the 1st day of Dec., 1971:

W I T N E S S E T H :

WHEREAS, the Grantors desire by this Trust Agreement to establish a revocable trust for the uses and purposes hereinafter set forth, to make provision for the care and management of certain of their present properties and for the ultimate disposition of the trust properties;

NOW, THEREFORE, the Grantors hereby give, grant, transfer, set over and deliver as the original trust estate, IN TRUST, unto the Trustee, who hereby declare that they have received from the Grantors all of the property listed on Schedule "A" (which schedule is attached hereto and made a part of this Trust Agreement), TO HAVE AND TO HOLD THE SAME IN TRUST, and to manage, invest and reinvest the same and any additions that may from time to time be made thereto, subject to the hereinafter provided trusts and the terms and conditions, powers and agreements, relating thereto.

Additional property may be added to the trust estate, at any time and from time to time, by the Grantors, or either of them, or by any person or persons, by inter vivos act or testamentary transfer, or by insurance contract or trust designation.

The property comprising the original trust estate during the joint lives of the Grantors shall retain its character as their community property or separate property, as designated on the attached Schedule "A". Property subsequently received by the Trustee during the joint lives of the Grantors shall be listed on an appropriate schedule annexed hereto and shall have the separate or community character ascribed thereto on such schedule.

FIRST: NAME AND BENEFICIARIES OF TRUST. The trusts created hereby shall be for the use and benefit of the Grantors and for ELEANOR MARGUERITE CONNELL HARTMAN, the daughter of W. H. CONNELL by a prior marriage, and for her issue as hereinafter provided. ELEANOR MARGUERITE CONNELL HARTMAN shall hereinafter be designated as the "Residual Beneficiary".

This trust shall be known and identified as the "W. H. Connell and Marjorie T. Connell Living Trust", and, for purposes of convenience, shall hereinafter be referred to as Trust No. 1.

SECOND: TRUST NO. 1. The Trustee shall hold, manage, invest and reinvest the trust estate and shall collect the income thereof and dispose of the net income and principal as follows:

A. Income. The Trustee shall pay equally to the Grantors, during their joint lives, all community net income of the trust estate and shall pay to each Grantor all separate net income from his or her respective share of the trust estate. Such income shall be paid to the Grantors unless the Trustee receives written notice from the Grantors that all income shall not be distributed but shall be accumulated by the Trustee and invested and reinvested as herein provided.

B. Principal. During the joint lives of the Grantors, the Trustee shall pay over and distribute to a Grantor such part or all of the principal of his or her separate property and his or her share of the community property placed in this initial trust by that Grantor as he or she shall demand in a writing directed to the Trustee.

C. Death of Either Grantor. Upon the death of the Grantor whose death shall first occur, the Trustee shall divide the trust estate, including all property received as a result of the decedent's death, as follows:

1. The trust estate and all property received as a result of the decedent's death shall be divided into two parts, each part to be administered as a separate trust to be known respectively as "Trust No. 2" and "Trust No. 3". Reference hereafter to the "Decedent" shall refer to either of the Grantors whose death shall first occur and reference to the "Survivor" shall refer to the other Grantor.

2. The Trustee shall allocate to Trust No. 3 (a) the Survivor's separate property interest in the trust estate; (b) the Survivor's one-half (1/2) interest in the community property of the trust estate, less a proportionate part of all amounts properly chargeable against all community property; and (c) the Survivor's community property interest in any policy of insurance on the life of the Decedent owned by the Grantors as community property and made payable to Trust No. 1.

3. The Trustee shall allocate to Trust No. 3, from the Decedent's separate property an amount as determined in Article THIRD hereof.

4. The Trustee shall allocate to Trust No. 2, all the remaining portion of the trust estate not allocated to Trust No. 3, including, but not limited to, the Decedent's community property interest, if any, in any life insurance policy on the life of the Decedent payable to Trust No. 1.

5. In the event that property is received by the Trustee, by inter vivos or testamentary transfer and directions are contained in the instrument of transfer, for allocation to or between Trust No. 2 or Trust No. 3, then the Trustee shall make allocation in accordance with such directions, anything to the contrary herein, notwithstanding.

6. It is the intention of the parties, that ELEANOR MARGUERITE CONNELL HARTMAN shall be a Co-trustee of the Decedent's separate property in trust in this Trust to the extent the term "Trustee", as hereinafter used, shall apply to her.

THIRD: MARITAL DEDUCTION. The Trustee shall allocate to Trust No. 3 from the Decedent's separate property the fractional share of the said assets which is equal to the maximum marital deduction allowed for federal estate tax purposes, reduced by the total of any other amounts allowed under the Internal Revenue Code as a Marital Deduction which are not a part of this trust estate. In making the computations and allocations of the said property to Trust No. 3 as herein required, the determination of the character and ownership of the said property and the value thereof shall be as finally established for federal estate tax

purposes. This distribution is being made without regard to death taxes payable by reason of the Decedent's death, which taxes shall be paid from Trust No. 2 only.

FOURTH: TRUST NO. 1. The Trustee shall hold, manage, invest and reinvest the estate of Trust No. 2 and shall collect the income thereof and dispose of the net income and principal as follows:

A. Death of Decedent. Upon the death of the Decedent, the Trustee shall pay from the income or principal of this trust, the death taxes, probate and legal expenses, and the expenses of the last illness and funeral of the Decedent, provided, however, that no funds received by the Trustee as proceeds from a retirement plan qualified under the Internal Revenue Code shall be available for these purposes unless there are no other assets in the Survivor's estate, in which event funds from a qualified plan can be used, but only to the extent of these actual expenses.

B. Income. All income received by this Trust from the separate property of the Decedent shall be paid to the Residual Beneficiary. In the event any of the real property located in Upton County, Texas, as listed on the original Schedule "A" attached hereto, forms a part of the corpus of this Trust, the Residual Beneficiary shall be paid an additional payment from the income received from the Decedent's half of the community property, which forms a part of the corpus of this Trust, equal to all of the income received by this Trust from the real property located in Upton County, Texas. However, the provisions relating to the additional payment, shall be noncumulative, and in any calendar year in which the income received from the said community property is not sufficient to make full payment hereunder, the Trustee is directed to pay only the income which has been received by this Trust during that year, and not to carry forward any deficiency in payment to the next calendar year's income.

In the event the Residual Beneficiary predeceases the Survivor, the Residual Beneficiary's rights to receive income hereunder shall be paid to or for the benefit of her living children and the issue of any deceased child by right of representation; or in the event she dies without living issue, her income rights hereunder shall become those of the Survivor.

All other income received by this Trust shall be distributed to the Survivor.

All payments as provided in this Section shall be made at frequent intervals, but at least semi-annually.

C. Principal. The Trustee shall pay over and distribute the principal of the estate of Trust No. 2 as follows:

1. Power to make gifts. The Survivor shall have the discretionary power during his or her lifetime to direct the Trustee to pay over and distribute trust principal of the separate property in trust from the Decedent's Trust to or for the benefit of the Residual Beneficiary or any of her living issue; such power may be exercised by delivering to the Trustee a writing duly executed and acknowledged, wherein he or she specifies the amount of principal that should be paid over and distributed to the particular issue and in what proportions such principal shall be paid over and distributed. It is the Grantors' intent hereby to convey upon the Survivor a sprinkling power; said power is limited, however, to appointments made to and among the Residual Beneficiary or her living issue.

2. Power of invasion. If, in the opinion of the Trustee, the income from all sources of which the Trustee has knowledge shall not be sufficient to support, maintain, educate and provide for the Survivor or Residual Beneficiary or any issue of the Residual Beneficiary in their accustomed manner of living, or in the event of any emergency befalling these said parties, such as illness, accident or other distress, the Trustee is authorized to use and expend such part of the trust principal of Decedent's separate property in trust, as the Trustee may deem necessary or desirable to meet such needs or emergencies. The decision of the Trustee as to what shall constitute an emergency or the necessity or desirability of encroachment upon principal shall be conclusive upon all parties and the Trustee shall be relieved and exonerated hereunder if the Trustee acts in good faith in making such determination.

3. Sale of real property from Decedent's separate property. The Survivor is directed that in the event any additional money is needed for payment of funeral, last illness or other costs to settle any claims made against Decedent's estate, or in the event that the sale of Decedent's separate property is contemplated at any time, only the separate property of Decedent situated in Las Vegas, Clark County, Nevada, shall be sold to satisfy this obligation.

4. Sale of real property. In the event that any real property which is listed on Schedule "A" attached hereto as the Decedent's separate property, and, is a part of the corpus of Trust No. 2 is sold, the Grantors direct the Trustee to distribute the net proceeds from such sale, less any applicable income tax due because of such sale, to the Residual Beneficiary, free of trust. In the event the Residual Beneficiary is not living at the time of the said sale, the proceeds therefrom shall remain in this Trust, and shall be subject to all of the provisions as herein contained.

D. Definition of real property. The term "real property" as used in this Article FOURTH shall not include the mineral, oil and gas interests in Upton County, Texas, if the same are separately listed on Schedule "A" hereto.

FIFTH: TRUST NO. 1. The Trustee shall hold, manage, invest and reinvest the estate of Trust No. 1 and shall collect the income thereof and dispose of the net income and principal as follows:

A. Income. The Trustee shall pay to the Survivor during his or her lifetime all of the net income of the Survivor's trust estate in convenient, regular installments, but not less frequently than quarter-annually.

B. Powers of appointment over income and principal.

1. During his or her lifetime, the Survivor shall have the power to appoint all or any part of the principal and undistributed income, if any, of the estate of Trust No. 1 to himself or herself, or to any person or persons. Such power of appointment shall be exercisable in all events, but only by the Survivor's submitting to the Trustee written instructions expressly exercising such power.

2. Upon the death of the Survivor, he or she shall have the absolute power to appoint the entire principal and the undistributed income, if any, of the estate of Trust No. 1, or any part thereof, to his or her estate or to any person or persons. Such power of appointment shall be exercised only by a provision in the Last Will of the Survivor expressly exercising such power. Unless within ninety (90) days after the death of the Survivor the Trustee has actual notice of the existence of a Will exercising such power, it shall be deemed for all purposes hereunder that such power was not exercised.

C. Revocation and Amendments. The Survivor shall have the power to revoke, amend or terminate Trust No. 1 herein provided by delivering such amendments or revocation in writing to the Trustee provided that the Trustee's duties and liabilities cannot be increased without the Trustee's consent.

D. Death of Survivor. Upon the death of the Survivor, the Trustee shall distribute the trust estate in accordance with and to the extent provided by the Survivor's exercise of his or her power of appointment.

If and to the extent that the Survivor shall fail to effectively exercise the foregoing power of appointment, the principal and undistributed income of Trust No. 1 shall, upon his or her death, be distributed to the Residual Beneficiary, or to the heirs of her body if she is not then living.

SIXTH: SPENDTHRIFT PROVISION. Each and every beneficiary under the Living Trust and the various estates created hereunder is hereby restrained from and shall be without right, power or authority to sell, transfer, assign, pledge, mortgage, hypothecate, alienate, anticipate, bequeath or devise, or in any manner affect or impair his, her or their beneficial right, title, interest, claim and estate in and to either the income or principal of any claim created hereunder, or to any part thereof, during the entire term of said trusts; nor shall the right, title, interest, or estate of any beneficiary be subject to any right, claim, demand, lien or judgment of any creditor of any such beneficiary, nor be subject nor liable to any process of law or equity, but all of the income and principal, except as otherwise provided in this Trust Agreement shall by the Trustee be payable and deliverable to or for the benefit of only the before named and designated beneficiaries, at the times hereinbefore set out, and receipt by such beneficiaries shall relieve the Trustee from responsibility for such good faith distributions.

SEVENTH: POWERS OF TRUSTEE. To carry out the purposes of any trust created under this instrument and subject to any limitations stated elsewhere in this Trust Agreement, the Trustee is vested with the following powers with respect to the trust estate and any part of it, in addition to those powers now or hereafter conferred by law:

A. To continue to hold any property, including any shares of the Trustee's own stock and to operate at the risk of the trust estate any business that the Trustee receives or acquires under the trust as long as the Trustee deems advisable.

B. To manage, control, grant options on, sell, (for cash or on deferred payments), convey, exchange, partition, divide, improve and repair trust property.

C. To lease trust property for terms within or beyond the term of the trust and for any purpose, including

exploration for and removal of gas, oil and other minerals; and to enter into community oil leases, pooling and unitization agreements.

D. To borrow money and to encumber or hypothecate trust property by mortgage, deed of trust, pledge, or otherwise; to borrow money on behalf of one trust from any other trust created hereunder to guarantee any loan made during the lifetime of the Grantors.

E. To carry, at the expense of the trust, insurance of such kinds and in such amounts as the Trustee deems advisable to protect the trust estate and the Trustee against any hazard.

F. To commence or defend such litigation with respect to the trust or any property of the trust estate as the Trustee may deem advisable at the expense of the trust.

G. To compromise or otherwise adjust any claims or litigation against or in favor of the trust.

H. To invest and reinvest the trust estate in every kind of property, real, personal or mixed, and every kind of investment, specifically including, but not by way of limitation, corporate obligations of every kind, stocks, preferred or common, shares of investment trusts, investment companies, and mutual funds and mortgage participations, which men of prudence, discretion and intelligence acquire for their own account, and to invest in any common trust fund administered by the Trustee and to lend money of one trust to any other trust created hereunder.

I. With respect to securities held in the trust, to have all the rights, powers and privileges of an owner, including, but not by way of limitation, the power to vote, give proxies and pay assessments; to participate in voting trusts, pooling agreements, foreclosures, reorganizations, consolidations, mergers, liquidations, sales and leases and incident to such participation to deposit securities with and transfer title to any protective or other committee on such terms as the Trustee may deem advisable; and to exercise or sell stock subscriptions or conversion rights.

J. Except as otherwise specifically provided in this instrument, the determination of all matters with respect to what is principal and income of the trust estate and the apportionment and allocation of receipts and expenses thereon shall be governed by the provisions of the Nevada Principal and Income Law and shall be determined by the Trustee in the Trustee's discretion; provided, however, that all capital gain distributions from mutual funds should be allocated to principal.

K. All of the trust powers set forth in Nevada Revised Statutes 163.265 to 163.410 inclusive, are hereby incorporated into this Trust Agreement.

EIGHTH: SPECIAL PROVISIONS.

A. Use of Home. The Trustee shall allow the Survivor to occupy and use until his or her death the home (or any interest therein) used by either or both Grantors as a principal residence at the time of the Decedent's death. The Trustee shall, at the discretion of the Survivor, sell such home, and if the Survivor so directs, purchase and/or build another comparable residence to be used as a home for the Survivor, and so on from time to time. The Survivor shall not be required to pay any rent for the use of such home.

B. Revocation and Amendment.

1. (Except as provided in paragraph 2 of this clause):

(a) This Trust Agreement, and the trusts evidenced thereby, may be revoked at any time during the joint lives of the Grantors by either of the Grantors delivering written notice of revocation to the Trustee and to the other Grantor.

(b) This Trust Agreement, and the trusts evidenced thereby, may be amended at any time and from time to time during the joint lives of the Grantors by the joint action of both Grantors delivering such amendment or amendments in writing to the Trustee provided that the Trustee's duties and liabilities cannot be increased without the Trustee's consent.

(c) From and after the death of the Decedent, this Trust Agreement may not be revoked, altered or amended, except as provided in relation to Trust No. 3.

(d) Upon any revocation of this Trust Agreement, during the Grantors' joint lives, the Trustee shall return to each Grantor his or her half of the community assets and to each Grantor his or her separate property, as indicated on Schedule "A".

2. In the event that any insurance on the life of either Grantor, owned by the other Grantor as his or her separate property, is payable to the Trustee or Trustees of any trust hereunder, then this Trust Agreement and the trusts evidenced thereby may be amended or revoked, insofar as they relate to such insurance, only by the Grantor who is owner of such insurance. The insured Grantor shall have no right to revoke or amend to that extent. This paragraph shall be construed as limiting the rights of the insured-Grantor and not as expanding the rights of the owner-Grantor.

C. Simultaneous Death. If there be no sufficient evidence that the Grantors died otherwise than simultaneously, then for purposes of this Trust Agreement, it shall be conclusively presumed for all purposes of administration and tax effect of this Trust Agreement that the Decedent shall be the Husband and the Survivor shall be the Wife.

D. Limitation of Trust Powers. Administrative control and all other powers relating to the various trust estates created hereunder, shall be exercised by the Trustee in a fiduciary capacity and solely for the benefit of the Survivor and the other beneficiaries as herein provided. Neither the Trustee, the Grantors, nor any other person, shall be permitted to purchase, exchange, reacquire or otherwise deal with or dispose of the principal of any of the various trust estates or the income therefrom, for less than an adequate and full consideration in money or money's worth; nor shall any person borrow the principal or income of the trust estates, directly or indirectly, without adequate interest in any case or without adequate security therefor.

E. Compensation of Trustee. The Trustee or successor Trustee, as herein provided, shall receive reasonable compensation for ordinary services performed hereunder. Reasonable compensation shall be based upon the then prevailing rates charged for similar services in the locality where the same are performed by other fiduciaries engaged in the trust business or acting as trustees.

F. Applicable Law. This Trust Agreement is executed under the laws of the State of Nevada and shall in all respects be governed by the laws of the State of Nevada; provided, however, the Trustee shall have the discretion, exercisable at any later time and from time to time, to administer Trust No. 1 pursuant to the laws of any jurisdiction in which the Trustee may be domiciled, by executing and acknowledging a written instrument to that effect and attaching the same to this Trust Agreement, and, if the Trustee so exercises the Trustee's discretion, as above provided, the various trust estates shall be governed by the laws of the other state or jurisdiction in which Trust No. 1 is then being administered.

G. Invalid Provisions. In the event any clause, provision or provisions of this Trust Agreement and the Living Trust created hereunder prove to be or be adjudged invalid or void for any reason, then such invalid or void clause, provision or provisions, shall not effect the whole of this instrument, but the balance of the provisions hereof shall remain operative and shall be carried into effect insofar as legally possible. If any provision contained in this Trust Agreement shall otherwise violate the rules against perpetuities now or hereafter in effect in the State of Nevada or in any state by which this Living Trust may subsequently be governed, that portion of the Trust so effected shall be administered as herein provided until the termination of the maximum period authorized by Law, at which time and forthwith, such part of the said trust estate so

affected shall be distributed in fee simple to the beneficiary or beneficiaries in the proportions in which they are then entitled to enjoy the benefits so terminated.

H. Incompetency of Beneficiary. During any period in which any beneficiary under this Trust Agreement is judicially declared incompetent, or in the opinion of the Trustee is unable to care for himself, the Trustee shall pay over or use for the benefit of said incompetent beneficiary any part or all of the net income or principal from his or her share of the trust estate, in such manner as the Trustee shall deem necessary or desirable for said beneficiary's support, maintenance and medical care.

I. Claimants. The Grantors have, except as otherwise expressly provided in this Trust Agreement, intentionally and with full knowledge declined to provide for any and all of their heirs or other persons who may claim an interest in their respective estates or in these trusts.

J. Headings. The various clause headings used herein are for convenience of reference only and constitute no part of this Trust Agreement.

K. Copies. This Trust Agreement may be executed in any number of copies and each shall constitute an original of one and the same instrument.

L. Construction. Whenever it shall be necessary to interpret this trust, the masculine, feminine and neuter personal pronouns may be construed interchangeably, and the singular shall include the plural and the plural the singular.

NINTH: LIFE INSURANCE POLICIES. With respect to any policies of life insurance under which the Trustee is designated as beneficiary, the Trustee shall deal with such policies as required by the following trust provisions, in addition to the general trust provisions hereinbefore and hereinafter set forth:

A. Custody of Insurance Policies. The Trustee shall have the custody of any policy of life insurance under which the Trustee is designated as beneficiary. However, the owner shall have the right to possession of said policy or policies upon written request to the Trustee.

B. Payment of Premiums. The Trustee shall be under no obligation to pay the premium of any policy or policies of insurance, nor to make certain that such premiums are paid by the Grantors or others, nor to notify any persons of the non-payment of such premiums; and, the Trustee shall be under no responsibility or liability of any kind in case such premiums are not paid.

C. Collection of Policy Proceeds. Upon the death of the insured under such policy or policies, the Trustee shall collect all proceeds due thereon and the Trustee shall make all reasonable efforts to carry out the provisions of this Trust Agreement, including the maintenance of or defense of any action or suit; provided, however, the Trustee shall be under no duty to maintain or enter into any litigation unless the expenses thereof, including counsel fees and costs, have been advanced or guaranteed in an amount and in a manner which is reasonably satisfactory. The Trustee may repay any advances made by the Trustee or reimburse itself for any such fees and costs expended in reasonable attempts for collection of such proceeds out of the principal or income of the trust.

D. Purchase of Assets. The Trustee is hereby authorized and empowered to apply any part or the whole amount of any insurance proceeds collected hereunder to purchase assets from the insured's estate which may be offered for sale by the legal representative of the insured's estate at a price equal to the value of such assets as fixed by competent authority for purposes of determining the liability of the insured's estate for death taxes or at such other price as may be agreed upon by the personal representative of the insured's estate.

TENTH: NON-CONTEST PROVISION. The Grantors specifically desire that these trusts created herein be administered and distributed without litigation or dispute of any kind. If any beneficiary of these trusts or any other person, whether stranger, relatives or heirs, or any legatees or devisees under the Last Will and Testament of the Grantors or the successors in interest of any such persons, including any person who may be entitled to receive any portion of the Grantors' estates under the intestate laws of the State of Nevada, seek or establish to assert any claim to the assets of these trusts established herein, or attack, oppose or seek to set aside the administration and distribution of the said trusts, or to have the same declared null and void or diminished, or to defeat or change any part of the provisions of the trust established herein, then in any and all of the above mentioned cases and events, such person or persons shall receive One Dollar ($1.00) and no more in lieu

of any interest in the assets of the trusts.

ELEVENTH: DEATH OF ALL BENEFICIARIES. In the event the Residual Beneficiary shall predecease the Grantors without living issue or children of any deceased child, then the Grantors direct that all of the income and principal of any trusts created hereunder shall be distributed to the Shriners Hospitals for Crippled Children upon the death of the Survivor.

TWELFTH: SUCCESSOR TRUSTEE. In the event of the death or incapacity of either Grantor, the Survivor shall continue to serve as the sole Trustee of all of the trusts created hereunder. Upon the death or incapacity of the Survivor, the Grantors then nominate and appoint ELEANOR MARGUERITE CONNELL MARTMAN as the Trustee of all of the trusts created hereunder, or in the event that she is unable or unwilling to serve in the said capacity, then the Grantors nominate and appoint the FIRST NATIONAL BANK OF NEVADA to serve in the said capacity. No successor trustee shall have any responsibility for the acts or omissions of any prior trustee and no duty to audit or investigate the accounts or administration of any such trustee, nor, unless in writing requested so to do by a person having a present or future beneficial interest under a trust created hereunder, any duty to take action or obtain redress for breach of trust.

THIRTEENTH: ACKNOWLEDGEMENT, REPORTS, INSPECTION OF RECORDS. The Trustee hereby acknowledges receipt of and accepts the property and the estate of Trust No. I created hereunder on the terms and conditions stated and agrees to care for, manage and control the same in accordance with the directions herein specified, and to furnish to each beneficiary having income paid, distributed, credited or accumulated for his or her benefit, annually and more often if requested so to do, a statement showing

the condition of the trust property, the character and amounts of the investments and liabilities, and the receipts, expenses and disbursements since the last previous statement. The books of account of the Trustee in connection with the investments shall at all times be open to the reasonable inspection of the living beneficiaries or their duly qualified representatives, and such person or persons as they may designate for that purpose.

THIS TRUST AGREEMENT is accepted and executed by the Grantors and Trustee in the State of Nevada on the day and year first above written.

GRANTORS:

W. N. CONNELL

MARJORIE T. CONNELL

TRUSTEE:

W. N. CONNELL

MARJORIE T. CONNELL

STATE OF NEVADA)
) ss
COUNTY OF CLARK)

On May 18th, 1972, personally appeared before me, a Notary Public, W. N. CONNELL and MARJORIE T. CONNELL, who declared to me that they executed the foregoing Trust Agreement.

Notary Public in and for said County and State

NOTARY PUBLIC - STATE OF NEVADA
CLARK COUNTY
JUNE A. GAVIN
My Commission Expires May 4, 1976

SCHEDULE "A"

("The W. N. Connell and Marjorie T. Connell Living Trust")

All of the Grantors' rights, title and interest in the following assets are hereby transferred to the Trustee as part of this trust estate and will be administered and distributed in accordance with the terms of the foregoing Trust Agreement.

The following real property interests constitute the community property of the Grantors:

1. Lots One (1) and Two (2) in Block Sixteen (16) of South Addition to the City of Las Vegas, as shown by map thereof on file in Book 1 of Plats, page 51, in the Office of the County Recorder of Clark County, Nevada.

2. Lot Three (3), Block Six (6), Biltmore Addition to the City of Las Vegas, as shown by map thereof on file in Book 2 of Plats, Page 33, in the Office of the County Recorder of Clark County, Nevada.

3. Lots Fifteen (15) and Sixteen (16) in Block Fifteen (15) in the South Addition to the City of Las Vegas as shown by map thereof on file in Book 1 of Plats, Page 14, in the Office of the County Recorder of Clark County, Nevada.

4. Lots Twenty-Two (22) and Twenty-Three (23) in Block Eleven (11) of South Addition to the City of Las Vegas as shown by map thereof on file in Book 1 of Plats, Page 51, in the Office of the County Recorder of Clark County, Nevada.

5. Lots Twenty-four (24) and Twenty-five (25) in Block Eleven (11) of South Addition to the City of Las Vegas, as shown by map thereof on file in Book 1 of Plats, page 51, in the Office of the County Recorder of Clark County, Nevada.

The following assets constitute the separate property of W. N. CONNELL:

1. Real Property:

   (a) That portion of the North Half (N 1/2) of the South Half (S 1/2) of the Southwest Quarter (SW 1/4) of Section 28, Township 20 South, Range 61 East, M.D.B.&M., described as follows:

   Beginning at the point of intersection of the East Line of the Northwest Quarter (NW 1/4) of

the Southeast Quarter (SE 1/4) of the Southwest Quarter (SW 1/4) of said Section 28, said Township and Range, (hereinafter called Line 1) with the South boundary of Clark Avenue produced Westerly as the same is now established (hereinafter called Line 2); thence South along said Line 1 a distance of 378 feet; thence North 89° 36' West and parallel to said Line 2 a distance of 100 feet; thence North along a line parallel to said Line 1 a distance of 378 feet to said Line 2; thence East along said Line 2, 100 feet to the point of beginning-

Together with an undivided 1/30th interest of, in and to all water flowing or otherwise produced from that certain artesian well located in the North Half of the South Half of the Southeast Quarter of Section 29, Township 20 South, Range 61 East, M.D.B.&M, known as the New Russell Well. Together with an undivided 1/30th interest in and to that certain pipe line connected to and running from said well Easterly to a point 100 feet West from said Line 1 above described; together with an easement for said pipe line in common with all the other owners of said pipe line along a strip of ground three feet in width, the center line of which is located approximately 150 feet South of and running parallel with said Line 2, and which strip extends from said well to a point 100 feet West from said Line 1; together with the right to enter thereon for the purpose of repairing, replacing and renewing said pipe line.

Reference: Deed # 130405, Book 35, pages 159 and 160.

(b) The West 1/2 of Section 37, all of Sections 38, 47 and 48 in Block 39, Township 5 South, T. & P. R.R. Co. Survey in Upton County, Texas.

2. Oil, gas and mineral rights on and under the following described real property in Upton County, Texas.

(a) Sections 31 and 42 of Block 38, Township 5 South, T. & P. R.R. Co. Survey.

(b) Sections 32, 33, 36, 37, 38, 40, 41, 44, 45, 47 and 48 of Block 39, Township 5 South, T. & P. R.R. Co. Survey.

(c) Sections 36 and 37 of Block 40, Township 5 South, T. & P. R.R. Co. Survey.

3. The oil, gas and mineral leases on the following described real property in Upton County, Texas.

(a) Sections 31 and 42 of Block 38, Township 5 South, T. & P. R.R. Co. Survey.

(b) Sections 32, 33, 36, 37, 38, 40, 41, 44, 45, 47 and 48 of Block 39, Township 5 South, T. & P. R. R. Co. Survey.

(c) Sections 36 and 37 of Block 40, Township 5 South, T. & P. R.R. Co. Survey.

The undersigned Grantors named in the foregoing Trust Agreement hereby certify that they have read said Trust Agreement and that it fully and accurately sets out the terms, trusts and conditions under which the trust estate therein described is to be held, managed and disposed of by the Trustee therein named; and, that they hereby approve, ratify and confirm the said Trust Agreement.

W. N. CONNELL

MARJORIE T. CONNELL

STATE OF NEVADA)
) SS
COUNTY OF CLARK)

On May 18th, 1972, personally appeared before me, a Notary Public, W. N. CONNELL and MARJORIE T. CONNELL, who acknowledged to me that they executed the foregoing Trust Agreement.

Notary Public in and for said County and State

NOTARY PUBLIC - STATE OF NEVADA
COUNTY OF CLARK
JUNE A. GAVIN
My Commission Expires May 8, 1974

EXHIBIT 2

CLARK COUNTY HEALTH DISTRICT
625 Shadow Lane • P.O. Box 4426
Las Vegas, Nevada 89106

STATE OF NEVADA — DEPARTMENT OF HUMAN RESOURCES
DIVISION OF HEALTH — SECTION OF VITAL STATISTICS
CERTIFICATE OF DEATH

26729

William M. Connell, Sr. — November 24, 1979 — Clark
Las Vegas — Sunrise Hospital — Inpatient
White — Irish-Scotch — 81 — March 15, 1898
Texas — Male — Married — Marjorie Thrash
Retired Operator — Automobile Dealership
Nevada — Clark — Boulder City — 1508 Cindy Ave. — 89005
William M. Connell — Dora — Andrews
Marjorie Connell - Wife — 1508 Cindy Ave. Boulder City Nevada 89005
Burial — Palm Memorial Park — Las Vegas — Nevada
Palm Mortuary 1325 S. Main Las Vegas Nevada 89101
11-26-79 — 12:02 A.M.
Louis Friedman, M.D. 3152 E. Maryland Pky. Las Vegas, Nevada
NOV 26 1979
Arteriosclerotic Heart Disease
Coronary Insufficiency
Contributing: Emphysema
90

No 142

CERTIFIED TO BE A TRUE AND CORRECT COPY OF THE DOCUMENT ON FILE WITH THE REGISTRAR OF VITAL STATISTICS, STATE OF NEVADA. This copy was issued by the Clark County Health District from Data certified documents as authorized by the State Board of Health pursuant to NRS 440.175.

Date Issued APR 27 1980

EXHIBIT 3

1980

SUBSTITUTION OF TRUSTEE

MARJORIE T. CONNELL, surviving Trustee of the W. N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST, made and entered into on May 18, 1977, by and between W. N. CONNELL and MARJORIE T. CONNELL, as Grantors, and W. N. CONNELL and MARJORIE T. CONNELL, as Trustee, hereby substitutes and appoints ELEANOR MARGUERITE CONNELL HARTMAN, daughter of W. N. CONNELL, as Co-Trustee of the separate property of W. N. CONNELL presently held in the above-entitled Trust. This substitution is made pursuant to the terms of said Trust, due to the decease of W. N. CONNELL, who passed away November 24, 1979.

Marjorie T. Connell
MARJORIE T. CONNELL

The undersigned, ELEANOR MARGUERITE CONNELL HARTMAN, also known as ELEANOR C. HARTMAN, hereby consents to serve as Co-Trustee of the separate property of W. N. CONNELL in the above-entitled Trust.

Dated this 6th day of May, 1980.

Eleanor Marguerite Connell Hartman
ELEANOR MARGUERITE CONNELL HARTMAN
Eleanor C. Hartman

STATE OF NEVADA)
: ss
COUNTY OF CLARK)

On this 6th day of May, 1980, before me, the undersigned, a Notary Public in and for said County and State, duly commissioned and sworn, personally appeared MARJORIE T.

STATE OF NEVADA)
: ss
COUNTY OF CLARK)

On this 6th day of May, 1980, before me, the undersigned, a Notary Public in and for said County and State, duly commissioned and sworn, personally appeared ELEANOR MARGUERITE CONNELL BARTMAN, known to me to be the person whose name is subscribed to the within instrument, and who acknowledged to me that she executed the same freely and voluntarily and for the uses and purposes therein mentioned.

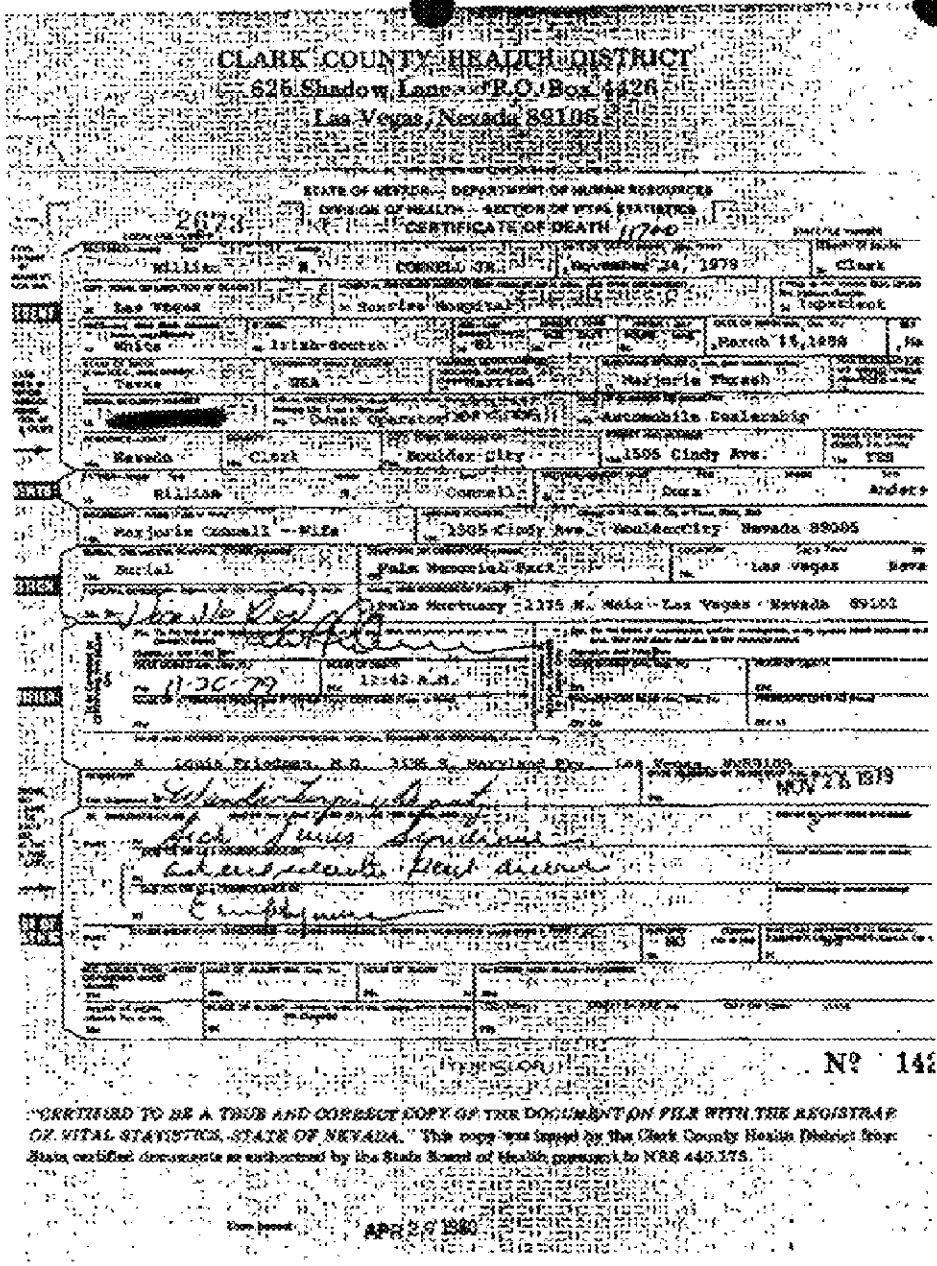
NOTARY PUBLIC

Notary Public State of Nevada
CLARK COUNTY
Gina Di Marco
My Appointment Expires Mar. 2, 1982

TO WHOM IT MAY CONCERN:

The Trust Agreement was recorded in Upton County Texas, on July 18, 1980 in Volume 459, Page 100, in the Deed of Records The Substitution Trustee document was also recorded in Upton County, Texas on July 18, 1980, Deed of Records, Volume 499, Page 117, and a Certified Copy of the Assignment of Leases recorded in Clark County, Nevada, on July 7, 1980, Book 1249 as Document No. 1258708. Deeds of the Mineral Interest were recorded June 13, 1972, Volume 405, Page 329, of Oil Records and also Deed of Records, Volume 414, Page 9.

CLARK COUNTY HEALTH DISTRICT
625 Shadow Lane • P.O. Box 4426
Las Vegas, Nevada 89106



STATE OF NEVADA — DEPARTMENT OF HUMAN RESOURCES
DIVISION OF HEALTH — SECTION OF VITAL STATISTICS
CERTIFICATE OF DEATH

2073 11740

William R. Connell Sr. November 24, 1979 Clark

Las Vegas Sunrise Hospital Inpatient

White Irish-Scottish March 16, 1898

Texas USA Married Marjorie Thrash

Retired Automobile Dealership

Nevada Clark Boulder City 1505 Cindy Ave. YES

William R. Connell Dora Anders

Marjorie Connell - Wife 1505 Cindy Ave. Boulder City Nevada 89005

Burial Palm Memorial Park Las Vegas Nevada

Palm Mortuary 2375 E. Main - Las Vegas - Nevada 89101

11-26-79 12:42 A.M.

Louis Friedman, M.D. 2536 S. Maryland Pkwy. Nevada 89109

NOV 28 1979

Heart Failure Arteriosclerotic Heart disease

No. 142

"CERTIFIED TO BE A TRUE AND CORRECT COPY OF THE DOCUMENT ON FILE WITH THE REGISTRAR OF VITAL STATISTICS, STATE OF NEVADA." This copy was issued by the Clark County Health District from State certified documents as authorized by the State Board of Health pursuant to NRS 440.175.

APR 22 1980

EXHIBIT 4

STATE OF NEVADA — DEPARTMENT OF HUMAN RESOURCES
DIVISION OF HEALTH — VITAL STATISTICS

CERTIFICATE OF DEATH

STATE FILE NUMBER 2009006369

TYPE OR PRINT IN PERMANENT BLACK INK

DECEDENT

1a. DECEASED-NAME (FIRST, MIDDLE, LAST, SUFFIX): Marjorie T CONNELL
2. DATE OF DEATH (Mo/Day/Year): May 31, 2009
3a. COUNTY OF DEATH: Clark
3b. CITY, TOWN, OR LOCATION OF DEATH: Las Vegas
3c. HOSPITAL OR OTHER INSTITUTION - Name (If not either, give street and number): Valley Hospital Medical Center
3d. If Hosp. or Inst., indicate DOA, ER/Emer. Rm., Inpatient (Specify): Inpatient
4. SEX: Female
5. RACE: White (Specify)
6. Hispanic Origin? Specify No - Non-Hispanic
7a. AGE - Last Birthday (Years): 91
7b. UNDER 1 YEAR: MOS | DAYS | HOURS | MINS
7c. UNDER 1 DAY: HOURS | MINS
8. DATE OF BIRTH (Mo/Day/Yr): March 02, 1918
9a. STATE OF BIRTH (If not U.S.A., name country): Alabama
9b. CITIZEN OF WHAT COUNTRY: United States
10. EDUCATION: 1a
11. MARRIED, NEVER MARRIED, WIDOWED, DIVORCED (Specify): Widowed
12. SURVIVING SPOUSE (If wife, give maiden name):
13. SOCIAL SECURITY NUMBER: [redacted]
14a. USUAL OCCUPATION (Give Kind of Work Done During Most of Working Life, Even if Retired): Businesswoman
14b. KIND OF BUSINESS OR INDUSTRY: Investments
Ever in US Armed Forces? No

10 DEATHS OCCURRED IN INSTITUTION SEE HANDBOOK REGARDING COMPLETION OF RESIDENCE ITEMS

15a. RESIDENCE - STATE: Nevada
15b. COUNTY: Clark
15c. CITY, TOWN OR LOCATION: Las Vegas
15d. STREET AND NUMBER: 1325 Strong Drive
15e. INSIDE CITY LIMITS (Specify Yes or No): Yes

PARENTS

16. FATHER - NAME (First, Middle, Last, Suffix): Oscar THRASH
17. MOTHER - NAME (First, Middle, Last, Suffix): Cora BLAKE

18a. INFORMANT - NAME (Type or Print): Jacqueline MONTOYA
18b. MAILING ADDRESS (Street or R.F.D. No., City or Town, State, Zip): 3085 Maverick Street Las Vegas, Nevada 89108

DISPOSITION

19a. BURIAL, CREMATION, REMOVAL, OTHER (Specify): Burial
19b. CEMETERY OR CREMATORY - NAME: Palm Downtown Cemetery
19c. LOCATION - City or Town, State: Las Vegas Nevada 89101

20a. FUNERAL DIRECTOR - SIGNATURE (Or Person Acting as Such): BART BURTON SIGNATURE AUTHENTICATED
20b. FUNERAL DIRECTOR LICENSE #: 52
20c. NAME AND ADDRESS OF FACILITY: Palm Mortuary-Downtown 1325 North Main Street Las Vegas NV 89101

TRADE CALL

TRADE CALL - NAME AND ADDRESS:

CERTIFIER

21a. To the best of my knowledge, death occurred at the time, date and place and due to the cause(s) stated. (Signature & Title): SIGNATURE AUTHENTICATED CHRISTOPHER CRUZ MD
21b. DATE SIGNED (Mo/Day/Yr): May 04, 2009
21c. HOUR OF DEATH: 08:47
21d. NAME OF ATTENDING PHYSICIAN IF OTHER THAN CERTIFIER (Type or Print):

22a. On the basis of examination and/or investigation, in my opinion death occurred at the time, date and place and due to the cause(s) stated. (Signature & Title)
22b. DATE SIGNED (Mo/Day/Yr):
22c. HOUR OF DEATH:
22d. PRONOUNCED DEAD (Mo/Day/Yr):
22e. PRONOUNCED DEAD AT (Hour):

23a. NAME AND ADDRESS OF CERTIFIER (PHYSICIAN, ATTENDING PHYSICIAN, MEDICAL EXAMINER, OR CORONER) (Type or Print): CHRISTOPHER CRUZ MD 3650 S Decatur Las Vegas, NV 89103
23b. LICENSE NUMBER: 10545

REGISTRAR

24a. REGISTRAR (Signature): NINETTE HARRINGTON SIGNATURE AUTHENTICATED
24b. DATE RECEIVED BY REGISTRAR (Mo/Day/Yr): May 05, 2009
24c. DEATH DUE TO COMMUNICABLE DISEASE: YES ☐ NO ☒

CAUSE OF DEATH

25. IMMEDIATE CAUSE (ENTER ONLY ONE CAUSE PER LINE FOR (a), (b) AND (c).)
PART I
(a) Pneumonia — Interval between onset and death:
DUE TO, OR AS A CONSEQUENCE OF
(b) Sepsis — Interval between onset and death:
DUE TO, OR AS A CONSEQUENCE OF
(c) Renal failure — Interval between onset and death:
DUE TO, OR AS A CONSEQUENCE OF
(d) Respiratory failure — Interval between onset and death:

CONDITIONS IF ANY WHICH GAVE RISE TO IMMEDIATE CAUSE (a) STATING THE UNDERLYING CAUSE LAST

PART II

26. AUTOPSY (Specify Yes or No): No
27. WAS CASE REFERRED TO CORONER (Specify Yes or No): No

28a. ACC., SUICIDE, HOM., UNDET. OR PENDING INVEST. (Specify)
28b. DATE OF INJURY (Mo/Day/Yr):
28c. HOUR OF INJURY:
28d. DESCRIBE HOW INJURY OCCURRED:
28e. INJURY AT WORK (Specify Yes or No):
28f. PLACE OF INJURY - At Home, Farm, Street, Factory, Office Building, etc. (Specify):
28g. LOCATION: STREET OR R.F.D. No. CITY OR TOWN STATE

STATE REGISTRAR

"CERTIFIED TO BE A TRUE AND CORRECT COPY OF THE DOCUMENT ON FILE WITH THE REGISTRAR OF VITAL STATISTICS, STATE OF NEVADA." This copy was issued by the Southern Nevada Health District from State certified documents as authorized by the State Board of Health pursuant to NRS 440.175.

NOT VALID WITHOUT THE RAISED SEAL OF THE SOUTHERN NEVADA HEALTH DISTRICT

Lawrence K. Sands, D.O., M.P.H.
Registrar of Vital Statistics
By:
Date Issued: MAY 06 2009

SOUTHERN NEVADA HEALTH DISTRICT • 625 Shadow Lane P.O. Box 3902 • Las Vegas, Nevada 89127 • 702-759-1010 • Tax ID# 88-0151573

EXHIBIT 5

COPY

The original of this LAST WI... located in the office of DAVID A. STE... 900 Rancho Lane Las Vegas, NV ... 725-47...

Last Will and Testament of MARJORIE T. CONNELL

I, MARJORIE T. CONNELL, also known as MARJORIE THRASH CONNELL, a resident of Clark County, Nevada, revoke any prior wills and codicils made by me and declare this to be my Last Will and Testament.

Article One
Family Information

I am unmarried.

I have one step-child, ELEANOR C. HARTMAN AHERN, born on May 13, 1938.

Article Two
Distribution of My Property

Section 2.01 Pour-Over to My Living Trust

All of my probate estate, excluding any property over which I might have a power of appointment, and after payment of expenses and taxes which are paid pursuant to this will, I give to the then acting Trustee of the MTC LIVING TRUST dated December 6, 1995 as restated on January 7, 2008 and executed prior to this will, to be added to the property of that trust. I direct that the Trustee administer the property as provided in the trust agreement and any amendments prior to my death.

Section 2.02 Alternate Disposition

If the trust referred to in Section 2.01 is not in effect at my death or if for any other reason the pour-over cannot be accomplished, I specifically and completely incorporate the terms of the trust into this will by reference. In such a situation, I direct my Personal Representative to establish a trust in accordance with the provisions of such trust and give the remainder of my estate, excluding any property over which I might have a power of

appointment, to the Trustee of said trust to be administered as provided in the trust agreement.

Article Three
Designation and Succession of Fiduciaries

Section 3.01 Personal Representative

I nominate JACQUELINE MARGUERITE MONTOYA as my Personal Representative. If JACQUELINE MARGUERITE MONTOYA fails or ceases to act as my Personal Representative, I nominate KATHRYN ANN BOUVIER as my successor Personal Representative.

Article Four
Exercise of Power of Appointment

Section 4.01 Exercise of Power of Appointment Granted by WILLIAM N. CONNELL

In the W.N. Connell and Marjorie T. Connell Living Trust dated May 18, 1972, Article Fifth Trust No. 3 Paragraph B(2) of the Trust, I was granted a testamentary power of appointment. I hereby exercise that power of appointment and appoint the entire principal and the undistributed income in Trust No. 3, if any, on my death to JACQUELINE MONTOYA and KATHRYN ANNE BOUVIER to be distributed in trust in accordance with the provisions of the MTC LIVING TRUST dated December 6, 1995, as restated on January 7, 2008.

Article Five
Powers of Fiduciaries

Section 5.01 Grant

My Personal Representative may perform every act reasonably necessary to administer my estate and any trust established under my will.

Specifically, my Personal Representative may exercise the following powers: hold, retain, invest, reinvest, sell, and manage real or personal property, including interests in any form of business entity including, but not limited to, limited partnerships and limited liability companies, and policies of life, health and disability insurance, without diversification as to kind, amount or risk of non-productivity and without limitation by statute or rule of law. My Personal Representative may partition, sell, exchange, grant, convey, deliver, assign, transfer, lease, option, mortgage, pledge, abandon, borrow, loan and contract. My Personal Representative may distribute the assets of my estate in cash or kind or partly in each at fair market value on the date of distribution, without requiring pro rata distribution of specific assets and without requiring pro rata allocation of the tax bases of such assets. My Personal Representative may hold in nominee form, continue businesses, carry out agreements and deal with itself, other fiduciaries and business organizations in which my Personal Representative may have an interest. It may establish reserves; release powers, and abandon, settle or contest claims. It may employ attorneys, accountants, custodians of the trust assets, and other agents or assistants as deemed advisable to act with or without discretionary powers and compensate them and pay their expenses from income or principal or both.

Section 5.02 Powers Granted by State Law

In addition to all of the above powers, my Personal Representative may, without prior authority from any court, exercise all powers conferred by my will or by common law or by the Nevada Revised Statutes or other statute of the State of Nevada or any other jurisdiction whose law applies to my will. My Personal Representative shall have absolute discretion in exercising these powers. Except as specifically limited by my will, these powers shall extend to all property held by my fiduciaries until the actual distribution of the property.

Section 5.03 Distribution Alternatives

My Personal Representative may make any payments under my will:

Directly to the beneficiary;

In any form allowed by applicable state law for gifts or transfers to minors or persons under disability;

To the beneficiary's guardian, conservator or caregiver for the benefit of the beneficiary; or

By direct payment of the beneficiary's expenses.

A receipt by the recipient for any such distribution, if such distribution is made in a manner consistent with the proper exercise of my fiduciaries' duties hereunder, shall fully discharge my fiduciaries.

Article Six
Administrative Provisions

Section 6.01 Court Proceedings

If any trust is established under my will that trust shall be administered in a timely and efficient manner consistent with its terms, free of active judicial intervention and without order, approval or other action by any court. It shall be subject only to the jurisdiction of a court being invoked by the trustees or other interested parties or as otherwise provided by law.

Section 6.02 No Bond

I direct that no fiduciary shall be required to give any bond in any jurisdiction, and if, notwithstanding this direction, any bond is required by any law, statute, or rule of court, no sureties be required.

Section 6.03 Compensation

Any fiduciary under this instrument shall be entitled to reasonable compensation commensurate with services actually performed and to be reimbursed for expenses properly incurred.

Section 6.04 Ancillary Fiduciary

In the event ancillary administration shall be required or desired and my domiciliary Personal Representative is unable or unwilling to act as an ancillary fiduciary, my domiciliary Personal Representative shall have the power to designate, compensate, and remove the ancillary fiduciary. The ancillary fiduciary may either be a natural person or a corporation. My domiciliary Personal Representative may delegate to such ancillary fiduciary such powers granted to my original Personal Representative as my Personal Representative may deem proper, including the right to serve without bond or surety on bond. The net proceeds of the ancillary estate shall be paid over to the domiciliary Personal Representative.

Article Seven
Taxes, Claims and Expenses

Section 7.01 Payment of Death Taxes, Claims and Expenses

The Trustee of the trust referred to in this will is authorized to pay my funeral and burial expenses, claims against my estate, and expenses of estate administration. Accordingly, I direct my Personal Representative to consult with the Trustee to determine which such expenses and claims should be paid by my personal representative from property passing under my will, and which such expenses and claims should be paid by the trustee from the trust.

I direct my Personal Representative to follow any instructions contained in the MTC LIVING TRUST in making any tax election, including, but not limited to, the allocation of my GST Exemption. I direct that the taxes imposed by reason of my death upon property passing under and outside my will be apportioned and paid in the manner provided in the MTC LIVING TRUST, and I incorporate the tax apportionment provisions of the MTC LIVING TRUST as part of my will.

In no event shall any of such taxes be allocated to or paid from property which is not included in my gross estate for federal estate tax purposes or which qualifies for the federal estate tax charitable deduction.

Section 7.02 Tax and Administrative Elections

My Personal Representative may exercise any available elections under any applicable income, inheritance, estate, succession, or gift tax law. This authority specifically includes the power to select any alternate valuation date for death tax purposes and the power to determine whether any or all of the administration expenses of my estate are to be used as estate tax deductions or as income tax deductions, and no compensating adjustments need be made between income and principal as a result of such determinations unless my Personal Representative shall determine otherwise, in the discretion of my Personal Representative, or unless required by law.

My Personal Representative shall not be liable to any beneficiary of my estate for tax consequences occasioned by reason of the exercise or non-exercise of any such elections or by reason of the allocation and distribution of property in kind in full or partial satisfaction of any beneficiary's interest in my estate.

Article Eight
General Provisions

Section 8.01 Applicable Law

The validity and construction of my will shall be determined by the laws of Nevada.

Section 8.02 No Contract to Make Will

I have not entered into any contract, actual or implied, to make a will.

Section 8.03 Contest Provision

If any beneficiary of this will or any trust created under this will, alone or in conjunction with any other person undertakes or participates in any one or more of the actions listed below, then the right of such beneficiary to take any interest given to such beneficiary under this will or any trust created pursuant to this will shall be determined as it would have been determined had such beneficiary predeceased me without surviving descendants.

Contests by a claim of undue influence, fraud, menace, duress or lack of testamentary capacity, or otherwise objects in any court to the validity of (a) this Will, (b) any trust created under the terms of this Will, (c) any other trust created by me, and any trusts created under those agreements, or (d) any beneficiary designation of an annuity, retirement plan, IRA, Keogh, pension or profit sharing plan or insurance policy signed by or created by me, (collectively referred to hereafter in this Section as "Document" or "Documents") or any amendments or codicils to any Document;

Seeks to obtain an adjudication in any court proceeding that a Document or any of its provisions is void, or otherwise seeks to void, nullify or set aside a Document or any of its provisions;

Files suit on a creditor's claim filed in a probate of my estate, against my trust estate, or any other Document, after rejection or lack of action by the respective fiduciary;

Files a petition or other pleading to change the character (community, separate, joint tenancy, partnership, domestic partnership, real or personal, tangible or intangible) of property already so characterized by a Document;

Claims ownership in a court proceeding to any asset held by me in joint tenancy, other than as a surviving joint tenant;

Files a petition to determine domestic partnership property as my cohabitant or as my Spouse;

Files a petition for probate homestead in a probate proceeding of my estate without the prior written consent of the Personal Representative designated in this Will;

Files a petition for family allowance in a probate of my estate without the prior written consent of the Personal Representative designated in this Will;

Files a petition to impose a constructive trust or resulting trust on any assets of my estate, if any; or

Participates in any of the above actions in a manner adverse to my estate, such as conspiring with or assisting any person who takes any of the above actions.

My Personal Representative is hereby authorized to defend, at the expense of my estate, any violation of this paragraph. A "contest" shall include any action described above in an arbitration proceeding and shall not include any action described above solely in a mediation not preceded by a filing of a contest with a court, notwithstanding the foregoing.

This Section shall not apply so as to cause a forfeiture of any distribution otherwise qualifying for the federal estate tax charitable deduction.

Section 8.04 Construction

Unless the context requires otherwise, words denoting the singular may be construed as denoting the plural. Words of the plural may be construed as denoting the singular. Words of one gender may be construed as denoting another gender, if appropriate.

Section 8.05 Headings and Titles

The headings and paragraph titles are for reference only.

Section 8.06 Internal Revenue Code, IRC or Code

References to the Internal Revenue Code, the IRC or the Code shall refer to the Internal Revenue Code of the United States. References to specific sections of the Code shall be to any sections of like or similar import that replace the specific sections as a result of changes to the Internal Revenue Code made after the date of my will.

Section 8.07 Other Definitions

Except as otherwise provided in my will, terms shall be as defined in the Nevada Revised Statutes as amended after the date of my will and after my death.

Section 8.08 Survivorship

For purposes of this will, any beneficiary shall be deemed to have predeceased me if such beneficiary dies within 90 days after the date of my death.

Section 8.09 Severability

If any part of this instrument shall be adjudicated to be void or invalid, the remaining provisions not specifically so adjudicated shall remain in full force and effect.

I, MARJORIE T. CONNELL, sign my name to this instrument consisting of 9 pages on January 7, 2008 and being first duly sworn, do hereby declare to the undersigned authority that I sign and execute this instrument as my Last Will and Testament, that I sign it willingly, that I execute it as my free and voluntary act for the purposes therein expressed, and that I am eighteen years of age or older, of sound mind, and under no constraint or undue influence.

Marjorie T. Connell

MARJORIE T. CONNELL, Testatrix

Then and there personally appeared the within-named Sharon A. Brown and Josefina C. Jones, who, being duly sworn, depose and say under the penalty of perjury: That they witnessed the execution of the within Will of the within-named Testatrix, MARJORIE T. CONNELL, that the Testatrix subscribed the Will and declared the same to be her Last Will and Testament in their presence; that they thereafter subscribed their names as witnesses in the presence of the Testatrix and in the presence of each other and at the request of the Testatrix; that the Testatrix at the time of the execution of the Will appeared to them to be of full age and of sound mind and memory, and that they make this affidavit at the request of the Testatrix.

Sharon A. Brown, Witness
900 Rancho Lane
Las Vegas, NV 89106

Josefina C. Jones, Witness
900 Rancho Lane
Las Vegas, NV 89106

EXHIBIT 6

CONS
SOLOMON DWIGGINS & FREER, LTD.
MARK A. SOLOMON, ESQ.
Nevada State Bar No. 00418
BRIAN K. STEADMAN, ESQ.
Nevada State Bar No. 10771
9060 W. Cheyenne Avenue
Las Vegas, Nevada 89129
Telephone: (702) 853-5483
Facsimile: (702) 853-5485
E-mail: msolomon@sdfnvlaw.com
Email: bsteadman@sdfnvlaw.com

Attorneys for Eleanor C. Ahern, Petitioner

DISTRICT COURT

CLARK COUNTY, NEVADA

In the Matter of the THE W. N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST, Dated May 18, 1972 An Intervivos Irrevocable Trust.	Case No. Department No. **Date of Hearing:** **Time of Hearing:**

CONSENT TO PETITION TO ASSUME JURISDICTION OVER TRUST; CONFIRM TRUSTEE; AND CONSTRUE AND REFORM TRUST AND WAIVER OF NOTICE

JACQUELINE M. MONTOYA, an interested party in the above-named Trust matter, states as follows:

1. I am a contingent income beneficiary of the W. N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST, dated May 18, 1972 (the "Trust").

2. I have read the Petition to Assume Jurisdiction Over Trust; Confirm Trustee, and Construe and Reform Trust (the "Petition") and believe it to be true and correct to the best of my knowledge.

3. I hereby consent to the Petition and request that the Court enter an Order approving the Petition in its entirety.

4. I hereby waive notice of notice of the hearing on the Petition pursuant to Nevada

Revise Statutes 155.010(4).

Dated this 8 day of August, 2009.

JACQUELINE M. MONTOYA

SOLOMON DWIGGINS & FREER, LTD.

By: _____
MARK A. SOLOMON, ESQ.
Nevada Bar No. 00418
BRIAN K. STEADMAN, ESQ.
Nevada Bar No. 10071
9060 W. Cheyenne Avenue
Las Vegas, NV 89129

Attorneys for Eleanor C. Ahern, Petitioner

EXHIBIT 7

CONS
SOLOMON DWIGGINS & FREER, LTD.
MARK A. SOLOMON, ESQ.
Nevada State Bar No. 00418
BRIAN K. STEADMAN, ESQ.
Nevada State Bar No. 10771
9060 W. Cheyenne Avenue
Las Vegas, Nevada 89129
Telephone: (702) 853-5483
Facsimile: (702) 853-5485
E-mail: msolomon@sdfnvlaw.com
Email: bsteadman@sdfnvlaw.com

Attorneys for Eleanor C. Ahern, Petitioner

DISTRICT COURT

CLARK COUNTY, NEVADA

In the Matter of the THE W. N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST, Dated May 18, 1972 An Intervivos Irrevocable Trust.	Case No. Department No. **Date of Hearing:** **Time of Hearing:**

CONSENT TO PETITION TO ASSUME JURISDICTION OVER TRUST; CONFIRM TRUSTEE; AND CONSTRUE AND REFORM TRUST AND WAIVER OF NOTICE

KATHRYN A. BOUVIER, an interested party in the above-named Trust matter, states as follows:

1. I am a contingent income beneficiary of the W. N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST, dated May 18, 1972 (the "Trust").

2. I have read the Petition to Assume Jurisdiction Over Trust; Confirm Trustee, and Construe and Reform Trust (the "Petition") and believe it to be true and correct to the best of my knowledge.

3. I hereby consent to the Petition and request that the Court enter an Order approving the Petition in its entirety.

4. I hereby waive notice of notice of the hearing on the Petition pursuant to Nevada

Revise Statutes 155.010(4).

Dated this 9 day of August, 2009.

KATHRYN A. BOUVIER

SOLOMON DWIGGINS & FREER, LTD.

By: _____
MARK A. SOLOMON, ESQ.
Nevada Bar No. 00418
BRIAN K. STEADMAN, ESQ.
Nevada Bar No. 10771
9060 W. Cheyenne Avenue
Las Vegas, NV 89129

Attorneys for Eleanor C. Ahern, Petitioner

Electronically Filed
8/2/2017 5:12 PM
Steven D. Grierson
CLERK OF THE COURT

ORDR
Todd L. Moody (5430)
Russel J. Geist (9030)
HUTCHISON & STEFFEN, LLC
10080 West Alta Drive, Suite 200
Las Vegas, Nevada 89145
(702) 385-2500
(702) 385-2086 FAX
tmoody@hutchlegal.com
rgeist@hutchlegal.com

Attorneys for Fredrick P. Waid, Court-appointed Trustee

DISTRICT COURT

CLARK COUNTY, NEVADA

In the matter of THE W.N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST DATED May 18, 1972, an Inter Vivos Irrevocable Trust.	Case No.: P-09-066425-T Dept. 26

ORDER DENYING REQUEST FOR ATTORNEY'S FEES AND GRANTING TRUSTEE'S REQUEST TO APPOINT GUARDIAN AD LITEM

Date of Hearing: 08/02/17
Time of Hearing: 11:00 a.m.

Eleanor Ahern filed a motion on July 10, 2017 requesting Fredrick P. Waid, court-appointed acting Successor Trustee ("Trustee") of The W.N. Connell and Marjorie T. Connell Living Trust, dated May 18, 1972 ("Trust"), to release trust funds to pay $100,000 to Larry Semenze, Esq. as her legal counsel. The Trustee filed his response to the motion on July 20, 2017 and counter-moved for the appointment of a guardian ad litem, for permission to pursue a return of property action, and for an order relating to IRS matters.

Having considered the motion and counter-motions,

THE COURT FINDS that Eleanor Ahern was not able to articulate sufficient reasons why she requires an attorney at this point in the litigation, or why it would cost $100,000 to retain counsel.

///

HUTCHISON & STEFFEN
A PROFESSIONAL LLC
PECCOLE PROFESSIONAL PARK
10080 WEST ALTA DRIVE, SUITE 200
LAS VEGAS, NV 89145

THE COURT FURTHER FINDS that it is in Eleanor Ahern's best interest to have a guardian ad litem appointed.

Having considered the same and good cause appearing,

IT IS HEREBY ORDERED that Eleanor Ahern's motion for an order requiring the Trustee to release $100,000 to Larry Semenze, Esq., is denied without prejudice.

IT IS FURTHER ORDERED that the Trustee's motion to appoint a guardian ad litem is granted, and Kristin K. Woods of St. George, Utah is appointed as temporary guardian ad litem.

IT IS FURTHER ORDERED that the Trustee's request to pursue a return of property action against Suzanne Nounna is stayed pending a recommendation from the guardian ad litem.

Dated this 2nd day of August, 2017.

District Court Judge

Submitted by:

HUTCHISON & STEFFEN, LLC

Todd L. Moody (5430)
Russel J. Geist (9030)
10080 W. Alta Dr., Ste 200
Las Vegas, NV 89145
tmoody@hutchlegal.com
rgeist@hutchlegal.com

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Steven D. Grierson
CLERK OF THE COURT

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Attorneys for Fredrick P. Waid Court-appointed Trustee

DISTRICT COURT

CLARK COUNTY, NEVADA

In the matter of

THE W.N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST DATED May 18, 1972, an Inter Vivos Irrevocable Trust.

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

NOTICE OF ENTRY OF ORDER

NOTICE IS HEREBY GIVEN that an Order Denying Request for Attorney's Fees and Granting Request to Appoint Guardian Ad Litem was entered in the above-entitled matter on August 2, 2017. A copy of the order is attached hereto.

DATED this 3rd day of August, 2017.

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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of HUTCHISON & STEFFEN and that on this 3 day of August, 2017, I caused a true and correct copy of the above and foregoing **NOTICE OF ENTRY OF ORDER** to be served as follows:

[X] by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada; and/or

[X] pursuant to EDCR 8.05(a) and 8.05(f), to be electronically served through the Eighth Judicial District Court's electronic filing system, with the date and time of the electronic service substituted for the date and place of deposit in the mail; and/or

[ ] Pursuant to EDCR 7.26, to be sent via facsimile; and/or

[ ] to be hand-delivered;

to the persons listed below at the address and/or facsimile number indicated below:

Via Mail Only:
Eleanor Ahern
355 W. Mesquite Blvd., D30, #176
Mesquite, NV 89027

Via Eservice Only:
Joseph J. Powell, Esq.
The Rushforth Firm
1707 Village Center Circle, Ste. 150
Las Vegas, NV 89134
Attorneys for Kathryn A. Bouvier and Jacqueline M. Montoya

An Employee of Hutchison & Steffen, LLC

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DISTRICT COURT

CLARK COUNTY, NEVADA

In the matter of

THE W.N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST DATED May 18, 1972, an Inter Vivos Irrevocable Trust.

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

ORDER DENYING REQUEST FOR ATTORNEY'S FEES AND GRANTING TRUSTEE'S REQUEST TO APPOINT GUARDIAN AD LITEM

Date of Hearing: 08/02/17
Time of Hearing: 11:00 a.m.

Eleanor Ahern filed a motion on July 10, 2017 requesting Fredrick P. Waid, court-appointed acting Successor Trustee ("Trustee") of The W.N. Connell and Marjorie T. Connell Living Trust, dated May 18, 1972 ("Trust"), to release trust funds to pay $100,000 to Larry Semenze, Esq. as her legal counsel. The Trustee filed his response to the motion on July 20, 2017 and counter-moved for the appointment of a guardian ad litem, for permission to pursue a return of property action, and for an order relating to IRS matters.

Having considered the motion and counter-motions,

THE COURT FINDS that Eleanor Ahern was not able to articulate sufficient reasons why she requires an attorney at this point in the litigation, or why it would cost $100,000 to retain counsel.

///

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THE COURT FURTHER FINDS that it is in Eleanor Ahern's best interest to have a guardian ad litem appointed.

Having considered the same and good cause appearing,

IT IS HEREBY ORDERED that Eleanor Ahern's motion for an order requiring the Trustee to release $100,000 to Larry Semenze, Esq., is denied without prejudice.

IT IS FURTHER ORDERED that the Trustee's motion to appoint a guardian ad litem is granted, and Kristin K. Woods of St. George, Utah is appointed as temporary guardian ad litem.

IT IS FURTHER ORDERED that the Trustee's request to pursue a return of property action against Suzanne Nounna is stayed pending a recommendation from the guardian ad litem.

Dated this 2nd day of August, 2017.

District Court Judge

Submitted by:

HUTCHISON & STEFFEN, LLC

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08/08/2017
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Eleanor Ahern *IN FOR A PAUPERIS*
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Mesquite, Nevada
Phone 702 345 3035
Fax 702 345 7909

DISTRICT COURT

CLARK COUNTY

IN THE MATTER OF THE W. N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST dated May 18, 1972 Plaintiffs Jacqueline M. Montoya Kathryn A. Bouvier vs Defendant Eleanor Ahern	Case No.: P– 09 -066425 - T STAY THE ORDER OF GUARDIAN AD LITEM Hearing Date: Hearing Time:

I did not like what Hutchison & Steffen's Attorney, Todd Moody and his client Fred Waid, Temporary Trustee of the W. N. Connell and Marjorie T. Connell Living Trust, dated May 18, 1972 and Judge Sturman did against me in the August 2, 2017 Hearing. I asked for a Hearing to have Judge Sturman request Fred Waid to pay from my Trust money a retainer for $100,000 to Larry Semenza to be Eleanor Ahern's Attorney. The Hearing was granted b Judge Sturman. Todd Moody piggybacked their hearing for a Guardian for me on the back of my single-issue Hearing. I was asked many times to tell the Court "WHY I NEEDED AN ATTORNEY". I responded each time " My Petition is Sufficient." In her Order she said Eleanor Ahern's reasons were insufficient. I asked the Judge if she read my Petition. she said yes. And she asked her question again.

I repeated many times I need an Attorney not a Guardian." PLEASE GRANT MY REQUEST FOR A STAY UNTIL I OBTAIN $100,000 FROM MY TRUST MONEY FOR A RETAINNER FOR LARRY SEMENZA TO BE MY ATTTORNEY.

Dated this 8th day of August, 2017

Eleanor Ahern

Eleanor Ahern *In Forma Pauperis*

I CERTIFY I AM FAXING ON AUGUST 8, 2017, TO THOSE LISTED BELOW APPEALING THE ORDER TO APPOINT A GUARDIAN FOR ELEANOR AHERN.

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Attorneys for Jacqueline M. Montoya
and Kathryn A. Bouvier ("Movants")

DISTRICT COURT

CLARK COUNTY, NEVADA

In the Matter of

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

A non-testamentary trust.

Case No. P-09-066425-T
Department: 26 (Probate)

Date of Hearing: February 9 -10, 2017

ORDER REGARDING MOTION FOR ASSESSMENT OF DAMAGES AGAINST ELEANOR AHERN

A. PROCEDURAL BACKGROUND/OVERVIEW

A.1 A "Motion for Assessment of Damages Against Eleanor Ahern; Enforcement of No Contest Clause; and Surcharge of Eleanor's Trust Income" ("the Motion") was filed on behalf of Jacqueline M. Montoya and Kathryn A. Bouvier ("Movants" or "Ms. Montoya and Ms. Bouvier") on June 3, 2015, and a Supplement to the Motion was filed on July 31, 2015. Ms. Montoya is the currently serving trustee of the MTC Living Trust, dated December 6, 1995, and subsequently restated in its entirety on October 3, 2000 ("MTC Trust"), and is also a beneficiary of the MTC Trust, while Ms. Bouvier is a beneficiary of the MTC Trust.

A.2 An opposition to the Motion was filed on behalf of Eleanor Connell Hartman Ahern

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("Ms. Ahern") on June 29, 2015, and a "Motion to Strike Supplement to Motion for Assessment of Damages Against Eleanor Ahern; Enforcement of No Contest Clause; and Surcharge of Eleanor's Trust Income" was filed on August 3, 2015.

A.3 An evidentiary hearing was held on February 22, 2016 and continued on March 3, 2016. On February 22, 2016 legal arguments were presented by all parties, and the testimony of two witnesses, Fredrick Waid and Jacqueline Montoya, was offered, and on March 3, 2016 closing arguments were made.

(a) Jacqueline M. Montoya and Kathryn A. Bouvier were jointly represented by attorneys Layne T. Rushforth, Joseph J. Powell, and Daniel P. Kiefer of The Rushforth Firm, Ltd.;

(b) Eleanor Connell Hartman Ahern ("Ms. Ahern") was represented by Tamara Beatty Peterson, Esq. and Kirk B. Lenhard, Esq., of Brownstein Hyatt Farber Schreck, LLP; and

(c) Fredrick P. Waid ("Mr. Waid"), in his capacity as the acting trustee of THE W.N. CONNELL and MARJORIE T. CONNELL LIVING TRUST, dated May 18, 1972 ("the Trust"), was represented by Todd L. Moody and Russel J. Geist of Hutchison & Steffen, LLC.

A.4 The result of the evidentiary hearing on February 22, 2016 and March 3, 2016 was the issuance of the "Order Regarding Motion for Assessment of Damages; Enforcement of No Contest Clause; and Surcharge of Trust Income", dated September 13, 2016 ("Order Regarding Motion for Damages").

A.5 The Order Regarding Motion for Damages included the following findings:

1. *Ms. Ahern, as Trustee, did not comply with the Court order to protect the 65% share of the Trust that was to be segregated under the terms of the Trust for the Movants, Ms. Montoya and Ms. Bouvier.*

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3. Ms. Ahern's failure to comply with the Court's Order to protect the Movants' 65% share, however, resulted in a misapplication of the Trust income, which deprived the Movants of funds owed to them under the terms of the Trust. Ms. Ahern's misapplication of Trust funds warrants a surcharge against Ms. Ahern's 35% share of the Trust, to be paid to Movants, in a total amount to be determined at a future hearing to be set by this Court.

4. Additional briefing and argument is needed on the issues of punitive and treble damages. It is expected that the additional briefing on such damages, and the hearing on the total amount owed to Movants, will be scheduled after the Successor Trustee, Fredrick P. Waid ("Mr. Waid") finalizes his accounting for the Court.

6. In further violation of this Court's Orders, Ms. Ahern removed some funds from Trust accounts before turning those accounts over to the Successor Trustee, Mr. Waid. Some funds have since been turned over to the Successor Trustee, however, until such time as Mr. Waid can provide an Accounting the Court cannot rule on Ms. Ahern potential liability. The exact amount of any damages resulting from these serious breaches of fiduciary duty will be determined at a later evidentiary hearing.

8. Movant's seek punitive damages, which requires a finding of willful and malicious conduct. In the alternative, Movants seek treble damages for breach of fiduciary duty. Ms. Ahern's conduct was shocking and needs to be dealt with a serious fashion, but the final decision on whether punitive and/or treble damages should be awarded in addition to restitution will be made at the evidentiary hearing to be scheduled after Mr. Waid concludes

discovery and prepares his report and accounting to the Court.

A.6 In the "Order" section of the Order Regarding Motion for Damages, it was stated that:

> *IT IS FURTHER ORDER ADJUDGED AND DECREED that Mr. Waid shall prepare a report and a trustee's account, and upon completion, a hearing on the amounts owed by Ms. Ahern, including any punitive and treble damages, shall be conducted, unless the parties stipulate otherwise.*

A.7 In compliance with this Court's Order Regarding Motion for Damages, on February 1, 2017, Mr. Waid filed his "Accounting and Report of Trust Activity from 2013 to 2015" ("Accounting and Report").

A.8 As it relates to his calculation of the amounts owed to the MTC Trust from Ms. Ahern, Mr. Waid made the following declarations and conclusions in his Accounting and Report:

> *Since the Appointment of the Successor Trustee in April 2015, this Court has issued numerous orders requiring Ms. Ahern to produce records, comply with deposition notices and cooperate with the Successor Trustee's efforts to prepare an accounting for time periods when she served as Trustee. In response to the Court's orders Ms. Ahern has produced, through her various counsel, only limited records primarily consisting of forwarded mail. She did not appear for any scheduled or ordered depositions notwithstanding the findings of the Court regarding fraud and other misconduct pursuant to hearings on the Motion to Enforce the Trust's No Contest Clause.*
>
> *Due to her failure to appear and cooperate as ordered, a significant portion of the transactional history that occurred during Ms. Ahern's tenure as trustee cannot be reconciled or explained. As such, and pursuant to Generally Accepted Accounting Principles (GAAP), the Successor Trustee is unable to this provide the*

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Court with definitive information or explain as to the greatly expanded Trust expenditures, either in dollars spent or to whom those dollars were paid, during the accounting period and Ms. Ahern's tenure as Trustee. [Pages 1- 2 of Accounting and Report]

****

Again, due to Ms. Ahern's failure to answer questions under oath, the rationale and basis for the expenditures remain unanswered and unclear. What is clear is that MTC did not receive a single distribution of royalty income from the Trust between June 2013 and April 2015. [Page 2 of Accounting and Report]

****

A significant number of expenses that were authorized by Ms. Ahern appear to have provided no benefit to the Trust and cannot be deemed appropriate, deductible business expenses as defined and permitted by the Internal Revenue Code. [Page 2 of Accounting and Report]

****

After reviewing available records from the Internal Revenue Service, various banks, oil and gas producers, common royalty recipients (i.e., the Miller family, which shares an equivalent 25% royalty interest as the Trust) and partial reconciliations completed by the accounting firm of Gamm et & King CP As, the Successor Trustee prepared the chart attached as Exhibit B, which sets forth the best available basis for calculation of royalties not paid to the MTC Trust, as required by the terms of the Trust and as determined by this Court's previous findings and orders.

MTC should have received royalty payments of $481,010 for 2013, $2,028,134 for 2014 and $1,447,406 for 2015, totaling $3,956,550. MTC received

for the three (3) year period a total of $2,214,497, with $1,914,622 of the amount being paid after Ms. Ahern was removed as Trustee. The total undistributed royalties for the period is $1,742,053. [Page 2 - 3 of Accounting and Report]

A.9 On February 7, 2017, the Movants filed their Pre-Trial Memorandum, which set forth the amount of damages that the Movants were seeking to be awarded by the Court in light of Mr. Waid's computations and calculations as found in his Accounting and Report.

A.10 On or about February 8, 2017, Ms. Ahern submitted an *ex parte* request, via correspondence faxed to the Court, to have funds released by Mr. Waid from the Trust for the payment of her representation by Mr. Lawrence Semenza at the evidentiary hearing.

A.11 In response to Ms. Ahern's *ex parte* request for an order releasing funds, pursuant to a minute order issued on February 8, 2017, the Court granted Ms. Ahern's request for the release of funds directly to Attorney Semenza "*for his reasonable attorney's fees incurred for his representation of Ms. Ahern at the February 9th and 10th evidentiary hearing*".

A.12 Prior to the start of the evidentiary hearing, Attorney Semenza indicated that he would be unable to represent Ms. Ahern under the circumstances and would have to respectfully decline to accept the representation despite the minute order issued by the Court[1].

A.13 Subsequent to Attorney Semenza making his decision, Ms. Ahern was informed by the Court of the situation and the fact that the evidentiary would proceed as scheduled. Ms. Ahern replied that because she would not be represented by counsel, she indicated that she was declining

---

[1] MR. SEMENZA: I have not made an appearance, and I certainly cannot make an appearance under the terms that have been specified in the Court's order. Ms. Ahern, as you indicated last time, Your Honor, needs counsel, and apparently she does not have sufficient funds with which to engage counsel, whether it's me or someone else. And to me, for me to enter an appearance today and for tomorrow, assuming that the hearing were to continue that and then I don't know whether I would have to move the Court to withdraw since I —in for a pound, in for a penny, whatever. I cannot do that. It would be malpractice for me to step into this for a hearing this morning, Your Honor, and I cannot do so.

THE COURT: Okay. So you're respectfully declining to appear.

MR. SEMENZA: I am, Your Honor.

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PLEADING CONTINUES IN NEXT VOLUME

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF THE W.N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST, DATED MAY 18, 1972,	Case No: P-09-066425-T Docket No: 73837
ELEANOR CONNELL HARTMAN AHERN, Appellant(s), vs. JACQUELINE M. MONTOYA; AND KATHRYN A. BOUVIER, Respondent(s),	

RECORD ON APPEAL
VOLUME
46

ATTORNEY FOR APPELLANT
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ATTORNEY FOR RESPONDENT
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P-09-660425-T IN THE MATTER OF THE TRUST OF:
THE W.N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST, DTD MAY 18, 1972

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

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

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

I N D E X

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

I N D E X

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in and of itself is evidence --

THE COURT: Uh-huh.

MR. KIEFER: -- of fraud --

THE COURT: Uh-huh.

MR. KIEFER: -- and I would ask that the punitive damages be based on an award of 1.2 million.

THE COURT: Okay. Okay. Thank you.

MR. KIEFER: Thank you.

THE COURT: I appreciate that.

MR. MOODY: Your Honor, can I -- I just feel like I need to point --

THE COURT: Thanks, Mr. Moody.

MR. MOODY: -- just straighten one thing out.

THE COURT: Okay. Yeah.

MR. MOODY: If you'll remember Mr. Waid's testimony from yesterday --

THE COURT: Yeah.

MR. MOODY: -- he said that at the end of one year, rather than running the Trust down to zero, which would have almost eliminated any tax liability, that Ms. Ahern carried over a balance into the next year.

THE COURT: Uh-huh. Yeah. Okay.

MR. MOODY: That is where that enormous tax liability came from because those funds were not properly distributed.

THE COURT: Was that the 2013?

MR. MOODY: It -- they were held from -- let me just say that the $800,000 tax liability was for 2014 and 2014 only.

THE COURT: Uh-huh.

MR. MOODY: There remain outstanding tax liabilities from 2011, 2012, and 2013, which adds to the complexity of all this. But I can state, based on Mr. Waid's representations and testimony yesterday, that the tax liability that was incurred was because those funds -- not just because they weren't properly segregated, but because they were held over and, therefore, that Trust did incur a liability that it should not have.

THE COURT: Thank you. All right.

The Court will award damages as follows: Compensatory damages in the amount of $2,581,994. This is the amount that the Trust was harmed by Ms. Ahern's action and that need to be recovered.

A portion of that has been recovered and paid, and as I understand, the amount that Mr. Waid has paid back to the 65 percent beneficiaries is $839,941; am I correct in that? And that should be deducted from the 2.5?

MR. KIEFER: I apologize, Your Honor. Could you say that number one more time?

THE COURT: That amount has been satisfied, $839,941.

MR. KIEFER: And 92 cents. Correct, Your Honor.

THE COURT: And 92 cents --

MR. KIEFER: Yep.

THE COURT: -- has been satisfied of that amount?

MR. KIEFER: Correct, Your Honor.

THE COURT: However, certain actions appear to warrant punitive damages, additional damages intended to punish and discourage this kind of conduct. Because that's the thing that has concerned me and it's concerned me since 2015 when Ms. Ahern was removed, that there was this flurry of activity, which appears intended at hiding the money.

And it's difficult to understand how much of the 2.5 million, because Ms. Ahern has refused to cooperate in this inquiry and has obstructed it, and adverse inference should be imposed on her. And the belief of the Court is that, if discovery had been had into these matters it would have been adverse to Ms. Ahern.

And the problem that I have here, is that, because we were in litigation some of these funds had to be held, some of them had to be segregated. So I am reluctant to impose punitive damages on the entire $2.5 million because I don't know yet how much the final tax liability is going to be. I don't know how much of that might have been influenced by the litigation hold, so I'm reluctant to impose punitive damages on the entire $2.5 million.

However, Mr. Kiefer did point out a very interesting fact and something that was really disturbing to Mr. Waid as a

Trustee, is holding funds in the form of a cashier's check, totally improper. No Trustee should ever do that, very bad practice. Needs to be discouraged, and clearly appears to have been intended to defraud the Trust.

The fact that Mr. Waid was able to recover that money is something for which we can be thankful, but which does not excuse the fact that it never should have been done in the first place. That appears, to me, to have been undertaken with conscious disregard of the rights of the remainder beneficiaries, appears to have been fraudulent.

While it may not have been, and that's a very high standard to meet, because of the lack of evidence Mrs. Ahern has been -- refused to cooperate or provide -- we have to infer that it would have been adverse to her, and so that fraud would have been proven. It appears to have been done with malice, intentional malice, and oppression. Again, we have no evidence would disabuse the Court of this belief, because Mrs. Ahern has refused to cooperate in this inquiry.

So I am going to award punitive damages pursuant to NRS 42.005 on a portion of the total damages. That would be on the $1,200 that was held in the cashier's check, which appears to have been intentionally withdrawn on the day of or the day after Ms. Ahern was removed as Trustee, and in an attempt to hide the money. So I'll award punitive damages on the 1,200,000 in the form of treble damages for $3,600 --

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3,600,000 in punitive damages.

Further, I believe that the remainder beneficiaries are entitled to their attorney's fees and costs for this hearing, so we'll entertain whatever you've had to do to prepare from when we entered the decision, not for the appeal itself. I don't think that's appropriate, but for whatever discovery efforts you've had to cooperate in and work with Mr. Waid and the hearings leading up to today's hearing.

I'll entertain a Motion for Fees and Costs for everything unrelated to the appeal. If you were seeking damages for the -- attorney's fees for the appeal, that'd be -- there's a separate procedure to look for attorney's fees for the appeal. This is just for what's gone on separate from the appeal getting us up to today.

And the issue, as you've known we've got, not only Marquis Aurbach's Attorney's Fees Request, but also Mr. Lenhard's Attorney's Fees Request. And as I told you the other day, I believe these attorney's fees request do attach to something. They attach to the beneficial interest. I do recall something that Ms. Ahern said in her - in her letter to the Court, which is that she was her father's only child, and that he wanted her to have something, and that was her 35 percent.

We've not discussed it today, but I did not hear you request that she be disinherited. I would not go there. Her

father had intended her to have the 35 percent. I hope at some point in time these oil and gas revenues pay off hugely and she's able to satisfy this judgment and start collecting the money that her father intended her to have. And if she had not, I believe, been led astray by people who did not have her best interests at heart, this would never have happened.

If she had just left everything in place the way her parents wanted it, we wouldn't be here today, but bad people -- I think one time Mr. Waid described them as grifters. Bad people have interfered and taken her money, and I'm sorry for that, but it doesn't change my view that in doing so she abused the Trust that was placed in her by her parents. They wanted her to be the Trustee of this Trust.

She abused that position to the detriment of her daughters, and that's not what her parents intended. Her parents wanted her to have 35 percent for her life, and I hope that at some point in time she can resume receiving that entire amount.

But until she's paid off this judgment, she remains under Mr. Waid's Trusteeship, and we will deal with her needs as we have discussed previously. The Trustee and his best interests for her health and welfare can request the Court distribute money.

But other than that, we've got to pay this back, and this will take priority over the attorney's fees of her

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Marquis Aurbach and Mr. Lenhard, who are also entitled to be paid; but they do not have a priority in payment. And however Mr. Waid can figure out how to pay these poor people back for all the time they invested in trying to help her, I don't know. I leave that to Mr. Waid in his discretion as a professional Trustee. The Court has full faith in his abilities.

So, Ms. Waid -- Ms. Ahern, I sincerely, as I said, hope at some point in time your parents' wishes can be carried out again, but I truly do believe, and I know you don't see it, but I believe you've been led astray by people who do not have your interests at heart and who have caused you to harm not only your family but yourself, and I'm sorry for that, but your parents placed a very great trust in you and you abused it.

That's my ruling. Thank you.

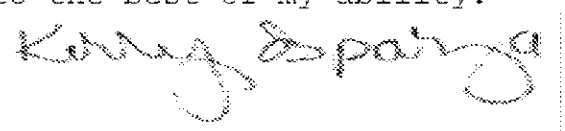
MR. POWELL: Thank you, Your Honor.

MR. MOODY: Thank you, Your Honor.

THE COURT: We'll be in recess.

[Proceedings adjourned at 11:42 a.m.]

ATTEST: I do hereby certify that I have truly and correctly transcribed the audiovisual recording of the proceeding in the above entitled case to the best of my ability.



Kerry Esparza, Court Recorder/Transcriber
Eighth District Court, Department XXVI

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CLERK OF THE COURT

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DISTRICT COURT

CLARK COUNTY, NEVADA

In the Matter of THE W.N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST DATED May 18, 1972, An Inter Vivos Irrevocable Trust	CASE NO.: P-09-066425-T DEPT. NO.: XXVI **JUDGMENT**

Judgment is hereby entered in favor of Brownstein Hyatt Farber Schreck, LLP and against Eleanor Ahern for attorney fees only in the amount of **$311,320.72**, which amount shall accrue interest at the legal rate until such time it is paid in full.

DATED this 15th day of March, 2017.

DISTRICT COURT JUDGE

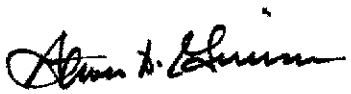
Submitted by:

BROWNSTEIN HYATT FARBER SCHRECK, LLP

By:
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DISTRICT COURT

CLARK COUNTY, NEVADA

In the Matter of THE W.N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST DATED May 18, 1972, An Inter Vivos Irrevocable Trust	CASE NO.: P-09-066425-T DEPT. NO.: XXVI **NOTICE OF ENTRY OF JUDGMENT**

PLEASE TAKE NOTICE that Judgment was entered on March 17, 2017. A copy of said Judgment is attached hereto.

DATED this 20th day of March, 2017.

BROWNSTEIN HYATT FARBER SCHRECK, LLP

By: /s/ Kirk B. Lenhard
KIRK B. LENHARD, ESQ., Bar No. 1437
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of Brownstein Hyatt Farber Schreck, LLP, and pursuant to NRCP 5(b), EDCR 8.05, Administrative Order 14-2, and NEFCR 9, I caused a true and correct copy of the foregoing **NOTICE OF ENTRY OF JUDGMENT** to be submitted electronically for filing and service with the Eighth Judicial District Court via the Court's Electronic Filing System on the 20th day of March, 2017, to the following:

TODD L. MOODY, ESQ.
tmoody@hutchlegal.com
RUSSEL J. GEIST, ESQ.
rgeist@hutchlegal.com
HUTCHISON & STEFFEN, LLC
10080 West Alta Drive, Suite 200
Las Vegas, NV 89145
Attorneys for Fredrick P. Waid, Court-appointed Trustee

JOSEPH J. POWELL, ESQ.
probate@rushforthfirm.com
THE RUSHFORTH FIRM, LTD.
P.O. Box 371655
Las Vegas, NV 89137-1655
Attorneys for Jacqueline M. Montoya and Kathryn A. Bouvier

/s/ Paula Kay
an employee of Brownstein Hyatt Farber Schreck, LLP

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CLERK OF THE COURT

JUDG

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DISTRICT COURT

CLARK COUNTY, NEVADA

In the Matter of THE W.N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST DATED May 18, 1972, An Inter Vivos Irrevocable Trust	CASE NO.: P-09-066425-T DEPT. NO.: XXVI **JUDGMENT**

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DATED this 15th day of March, 2017.

DISTRICT COURT JUDGE

Submitted by:

BROWNSTEIN HYATT FARBER SCHRECK, LLP

By:
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BROWNSTEIN HYATT FARBER SCHRECK, LLP

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MAR 2 9 2017
CLERK OF COURT

36

No Attorney Proper Person
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702 345 3035 Phone
702 346 7909 Fax

P-09-066425-T
MOT
Motion
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DISTRICT COURT

CLARK COUINTY NEVADA

BROWNSTEIN HYATT FARBER SCHRICK
KIRK B. LENHARD, ESQ NV BAR #1437
100 NORTH CITY PARKWAY, SUITE 1600
LAS VEGAS, NEVADA 89106
702 382 2101 PHONE
702 382 8135
VS
Eleanor Ahern
355 West Mesquite Blvd. D30 #176
Mesquite, Nevada 89027

Case No.P-09-066425-T

MOTION TO ADJUDICATE ATTORNEY FEES AND COSTS

NOTICE IS HEREBY GIVEN

That defendant Eleanor Connell Hartman Ahern hereby appeals to the Supreme Court of Nevada from the order and judgement on defendant Eleanor Connell Hartman Ahern in favor of Brownstein Hyatt Farber Schreck, LLP's motion to adjudicate attorney fees and costs filed herein February 22, 2017 with written notice of entry filed and served on February 22, 2017. Said Judgement setting forth with finality the provisions of the judgement placed against said defendant as well as any and all other orders made final and/or otherwise appealable by the foregoing.

Eleanor Ahern
355 West Mesquite Blvd D30
Suite 176
Mesquite, Nevada 89027
702 345 3025 Phone cannot leave message
702 346 7909 Fax

Dated this 28th of March 2017

Eleanor Ahern
No Attorney Proper Person

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2

CERTIFICATE OF SERVICE

I hereby certify that on or about the date filed, a copy of the foregoing **APPEAL** Re: Brownstein Hyatt Farber Schrick's Motion to Adjudicate Attorney's lien was E-Served, mailed or a copy was placed in the attorney's folder in the Clerk's Office as Follows:

BROWNSTEIN HYATT FARBER SCHRICK
Kirk Lenhard
100 North City Parkway Suite 1600
Las Vegas, Nevada 89106
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702 382 8135 Fax

HUTCHISON & STEFFEN
Russel J. Geist
Todd L. Moody
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Las Vegas, Nevada 89145

RUSHFORTH FIRM
Joseph Powell
P.O. Box 371655
Las Vegas, Nevada

Eleanor Ahern

Eleanor Ahern in Proper Person
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Mesquite, Nevada 89027
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702 36 7909 Fax

ASTA

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CLERK OF THE COURT

IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA IN AND FOR THE COUNTY OF CLARK

IN THE MATTER OF THE W.N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST, DATED MAY 18, 1972 An Intervivos Irrecovable Trust	Case No: P-09-066425-T Dept No: Probate

CASE APPEAL STATEMENT

1. Appellant(s): Eleanor Ahern

2. Judge: Gloria Sturman

3. Appellant(s): Eleanor Ahern

Counsel:

Eleanor Ahern
355 West Mesquite Blvd., D30 #176
Mesquite, NV 89027

4. Respondent (s): Brownstein Hyatt Farber Schreck, LLP

Counsel:

Kirk B. Lenhard, Esq.
100 North City Pkwy., Ste 1600
Las Vegas, NV 89106

5. Appellant(s)'s Attorney Licensed in Nevada: N/A
Permission Granted: N/A

Respondent(s)'s Attorney Licensed in Nevada: Yes
Permission Granted: N/A

6. Appellant Represented by Appointed Counsel In District Court: No

7. Appellant Represented by Appointed Counsel On Appeal: N/A

8. Appellant Granted Leave to Proceed in Forma Pauperis: N/A

Appellant Filed Application to Proceed in Forma Pauperis: No
Date Application(s) filed: N/A

9. Date Commenced in District Court: August 17, 2009

10. Brief Description of the Nature of the Action: Probate

Type of Judgment or Order Being Appealed: Judgment

11. Previous Appeal: Yes

Supreme Court Docket Number(s): 66231, 67782, 68046, 69737, 71577

12. Child Custody or Visitation: N/A

13. Possibility of Settlement: Unknown

Dated This 3 day of April 2017.

Steven D. Grierson, Clerk of the Court

/s/ Amanda Hampton
Amanda Hampton, Deputy Clerk
200 Lewis Ave
PO Box 551601
Las Vegas, Nevada 89155-1601
(702) 671-0512

cc: Eleanor Ahern

No Attorney Proper Person
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P-09-066425-T
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Notice of
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DISTRICT COURT

CLARK COUINTY NEVADA

In the matter of
W. N. Connell and Marjorie E. Conell Living Trust
Dated May 18, 1972

Eleanor Ahern
355 West Mesquite Blvd. D30 #176
Mesquite, Nevada 89027

Case No. P-09-066425-T

AMENDED NOTICE OF APPEAL

NOTICE IS HEREBY GIVEN

That defendant Eleanor Connell Hartman Ahern hereby appeals to the Supreme Court of Nevada from the order and judgement on defendant Eleanor Connell Hartman Ahern in favor of Brownstein Hyatt Farber Schreck, LLP's motion to adjudicate attorney fees and costs filed herein February 28, 2017 with written notice of entry filed and served on March 17, 2017. Said Judgement setting forth with finality the provisions of the judgement placed against said defendant as well as any and all other orders made final and/or otherwise appealable by the foregoing.

Dated this 28th of March 2017

Eleanor Ahern

Eleanor Ahern Proper Person

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CLERK OF THE COURT

CERTIFICATE OF SERVICE

I hereby certify that on or about the date filed, a copy of the foregoing **APPEAL** Re: Brownstein Hyatt Farber Schrick to motion to Adjudicate Attorney's Lien was filed.

Brownstein Hyatt Farber Schrick	HUTCHISON & STEFFEN	RUSHFORTH FIRM
Kirk Lenhard, Esq	Russel J. Geist, Esq	Joseph Powell, Esq
100 North City Parkway Ste. 1600	10080 West Alta Drive	1707 Village Center Cr. Ste 150
Las Vegas, Nevada 89145	Las Vegas, Nevada 89145	Las Vegas, Nevada 89134

I hereby certify that on March 30, 2017 I hand delivered a copy of this true and correct document to the above mentioned.

Eleanor Ahern

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Eleanor Ahern
355 W. Mesquite Blvd D30 #176
Mesquite NV 89027



District Clerk of Courts
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Las Vegas, Nevada 89101

9018

CSERV

Todd L. Moody (5430)
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Attorneys for Fredrick P. Waid Court-appointed Trustee

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DISTRICT COURT

CLARK COUNTY, NEVADA

In the matter of

THE W.N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST DATED May 18, 1972, an Inter Vivos Irrevocable Trust.

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

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of HUTCHISON & STEFFEN and that on this 11th day of April, 2017, I caused a true and correct copy of the foregoing:

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to be served as follows:

[X] by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada; and/or

[ ] pursuant to EDCR 8.05(a) and 8.05(f), to be electronically served through the Eighth Judicial District Court's electronic filing system, with the date and time of the electronic service substituted for the date and place of deposit in the mail; and/or

[ ] Pursuant to EDCR 7.26, to be sent via facsimile; and/or

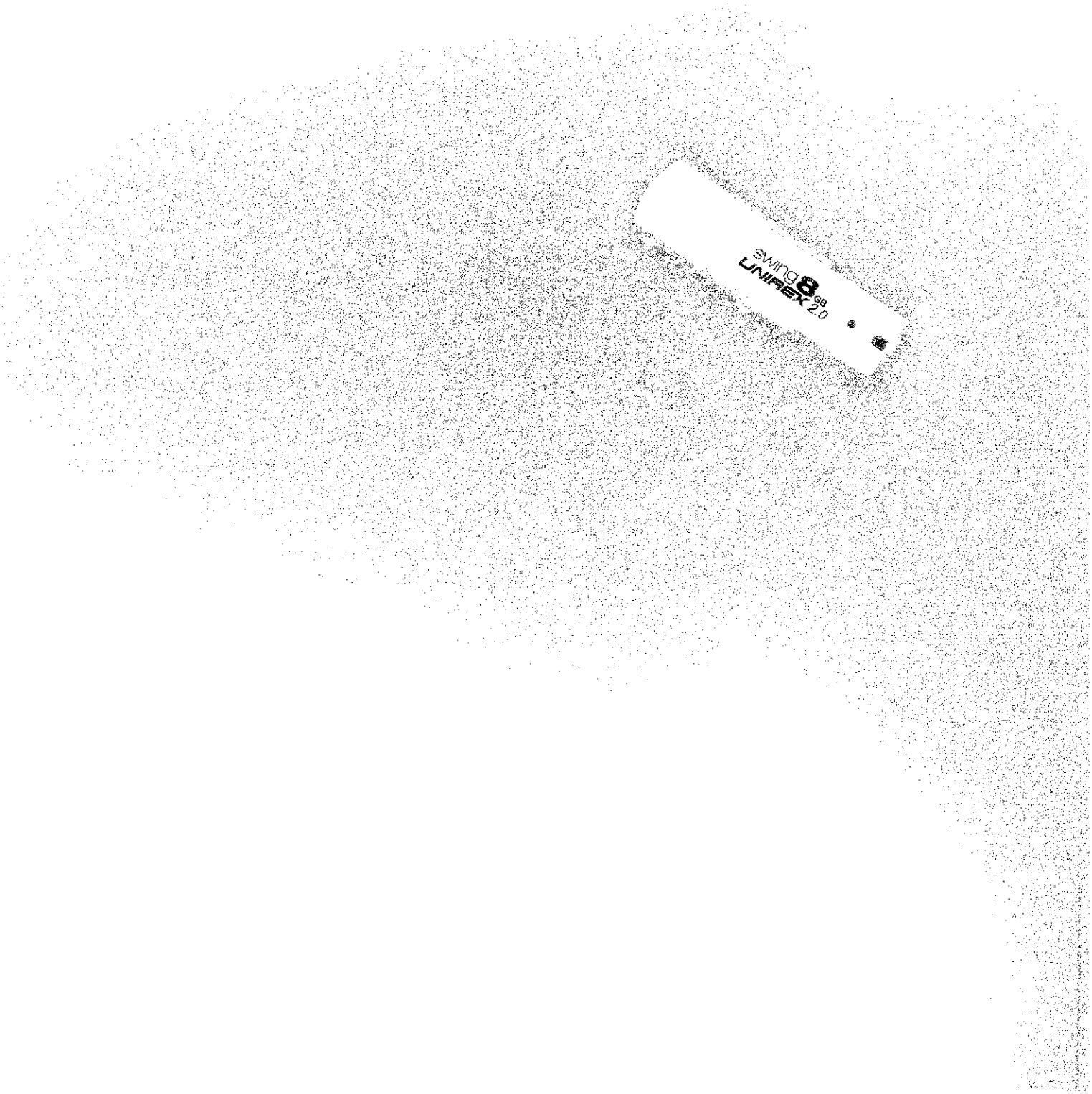
[ ] to be hand-delivered;

to the persons listed below at the address and/or facsimile number indicated below:

Via U.S. Mail:
Eleanor Ahern
355 West Mesquite, D30, #176
Mesquite, NV 89027

An Employee of Hutchison & Steffen, LLC

HUTCHISON & STEFFEN
A PROFESSIONAL LLC
PECCOLE PROFESSIONAL PARK
10080 WEST ALTA DRIVE, SUITE 200
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4

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DISTRICT COURT

CLARK COUINTY NEVADA

P-09-066425-T
NOAS
Notice of Appeal
4641490

IN THE MATTER. OF
W. N. CONNELL AND MARJORIE T. CONNELL
LIVING TRUST
DATED MAY 18, 1972

Eleanor Ahern
355 West Mesquite Blvd. D30 #176
Mesquite, Nevada 89027

Case No. P-09-066425-T

OTICE OF APPEAL

That defendant Eleanor Connell Hartman Ahern hereby appeals to the Supreme Court of Nevada from the order and judgement on defendant Eleanor Connell Hartman Ahern in favor of Marquis Aurbach Coffing's motion to adjudicate attorney fees and costs filed herein March 19, 2017 with written notice of entry filed and served on March 20, 2017. Said Judgment setting forth with finality the provisions of the judgment placed against said defendant as well as any and all other orders made final and/or otherwise appealable by the foregoing.

Dated this 13th of April 2017

Eleanor Ahern

Eleanor Ahern Proper Person

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3

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing **APPEAL** Re: Marquis Aurbach Coffing to Adjudicate Attorney's Lien was filed

MARQUIS AURBACH COFFING
Dale A Hayes, Esq
Liane K Wakayama, Esq
Candice E. Renka, Esq.
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HUTCHISON & STEFFEN
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Joseph Powell, Esq
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Brownstein Hyatt Farber Schreck
Kirk Lenhard, Esq
100 North City Parkway Ste. 16 ...020100
Las Vegas, Nevada 89145

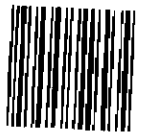
I hereby certify that on April 13, 2017 I mailed a copy of this true and correct document to the above mentioned.

Eleanor Ahern

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Eleanor Ahern
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89027
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Steven D Grierson, Clerk of the Court
200 Lewis avenue 3rd floor
Las Vegas, NV. 89155-1160



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DISTRICT COURT

CLARK COUINTY NEVADA

IN THE MATTER. OF
W. N. CONNELL AND MARJORIE T. CONNELL
LIVING TRUST
DATED MAY 18, 1972

Eleanor Ahern
355 West Mesquite Blvd. D30 #176
Mesquite, Nevada 89027

Case No. P-09-066425-T

OTICE OF APPEAL

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Dated this 13th of April 2017

Eleanor Ahern

Eleanor Ahern Proper Person

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CLERK OF THE COURT

3

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing **APPEAL** Re: Marquis Aurbach Coffing to Adjudicate Attorney's Lien was filed

MARQUIS AURBACH COFFING
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Candice E. Renka, Esq.
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HUTCHISON & STEFFEN
Russel J. Geist, Esq
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RUSHFORTH FIRM
Joseph Powell, Esq
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Las Vegas, Nevada 89134

Brownstein Hyatt Farber Schreck
Kirk Lenhard, Esq
100 North City Parkway Ste. 16 ...020100
Las Vegas, Nevada 89145

I hereby certify that on April 13, 2017 I mailed a copy of this true and correct document to the above mentioned.

Eleanor Ahern

Eleanor Ahern, Proper Person
355 West Mesquite Blvd #176
Mesquite, Nevada 89027
702 345 3035 Phone (No message available)
702 346 7909 Fax

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4/18/2017 9:52 AM
Steven D. Grierson
CLERK OF THE COURT

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DISTRICT COURT

CLARK COUINTY NEVADA

IN THE MATTER OF
W. N. CONNELL AND MARJORIE T. CONNELL
LIVING TRUST
DATED MAY 18, 1972

Eleanor Ahern
355 West Mesquite Blvd. D30 #176
Mesquite, Nevada 89027

Case No. P-09-066425-T

OTICE OF APPEAL

That defendant Eleanor Connell Hartman Ahern hereby appeals to the Supreme Court of Nevada from the order and judgement on defendant Eleanor Connell Hartman Ahern in favor of Marquis Aurbach Coffing's motion to adjudicate attorney fees and costs filed herein March 19, 2017 with written notice of entry filed and served on March 20, 2017. Said Judgment setting forth with finality the provisions of the judgment placed against said defendant as well as any and all other orders made final and/or otherwise appealable by the foregoing.

Dated this 13th of April 2017

Eleanor Ahern
Eleanor Ahern Proper Person

#53 RECEIVED
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(3)

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing **APPEAL** Re: Marquis Aurbach Coffing to Adjudicate Attorney's Lien was filed

MARQUIS AURBACH COFFING
Dale A Hayes, Esq
Liane K Wakayama, Esq
Candice E. Renka, Esq.
10001 Park Run Drive
Las Vegas, Nevada 89145

HUTCHISON & STEFFEN
Russel J. Geist, Esq
10080 West Alta Drive
Las Vegas, Nevada 89145

RUSHFORTH FIRM
Joseph Powell, Esq
1707 Village Center Cr. Ste 150
Las Vegas, Nevada 89134

Brownstein Hyatt Farber Schreck
Kirk Lenhard, Esq
100 North City Parkway Ste. 16 ...020100
Las Vegas, Nevada 89145

I hereby certify that on April 13, 2017 I mailed a copy of this true and correct document to the above mentioned.

Eleanor Ahern

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Mesquite, Nevada 89027
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Eleanor Ahern
355 West Mesquite Blvd D30
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IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA IN AND FOR THE COUNTY OF CLARK

IN THE MATTER OF THE W.N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST, DATED MAY 18, 1972 An Intervivos Irrecovable Trust	Case No: P-09-066425-T Dept No: XXVI

CASE APPEAL STATEMENT

1. Appellant(s): Eleanor Ahern

2. Judge: Gloria Sturman

3. Appellant(s): Eleanor Ahern

Counsel:

Eleanor Ahern
355 West Mesquite Blvd., D30 #176
Mesquite, NV 89027

4. Respondent (s): Brownstein Hyatt Farber Schreck, LLP

Counsel:

Kirk B. Lenhard, Esq.
100 North City Pkwy., Ste 1600
Las Vegas, NV 89106

5. Appellant(s)'s Attorney Licensed in Nevada: N/A
Permission Granted: N/A

Respondent(s)'s Attorney Licensed in Nevada: Yes
Permission Granted: N/A

6. Appellant Represented by Appointed Counsel In District Court: No

7. Appellant Represented by Appointed Counsel On Appeal: N/A

8. Appellant Granted Leave to Proceed in Forma Pauperis: N/A

Appellant Filed Application to Proceed in Forma Pauperis: No
Date Application(s) filed: N/A

9. Date Commenced in District Court: August 17, 2009

10. Brief Description of the Nature of the Action: Probate

Type of Judgment or Order Being Appealed: Judgment

11. Previous Appeal: Yes

Supreme Court Docket Number(s): 66231, 67782, 68046, 69737, 71577, 72766

12. Child Custody or Visitation: N/A

13. Possibility of Settlement: Unknown

Dated This 21 day of April 2017.

Steven D. Grierson, Clerk of the Court

/s/ Amanda Hampton
Amanda Hampton, Deputy Clerk
200 Lewis Ave
PO Box 551601
Las Vegas, Nevada 89155-1601
(702) 671-0512

cc: Eleanor Ahern

ASTA

Electronically Filed
04/21/2017
CLERK OF THE COURT

IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA IN AND FOR THE COUNTY OF CLARK

IN THE MATTER OF

THE W.N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST, DATED MAY 18, 1972

An Intervivos Irrecovable Trust

Case No: P-09-066425-T

Dept No: XXVI

CASE APPEAL STATEMENT

1. Appellant(s): Eleanor Ahern

2. Judge: Gloria Sturman

3. Appellant(s): Eleanor Ahern

Counsel:

Eleanor Ahern
355 West Mesquite Blvd., D30 #176
Mesquite, NV 89027

4. Respondent (s): Brownstein Hyatt Farber Schreck, LLP

Counsel:

Kirk B. Lenhard, Esq.
100 North City Pkwy., Ste 1600
Las Vegas, NV 89106

5. Appellant(s)'s Attorney Licensed in Nevada: N/A
Permission Granted: N/A

Respondent(s)'s Attorney Licensed in Nevada: Yes
Permission Granted: N/A

6. Appellant Represented by Appointed Counsel In District Court: No

7. Appellant Represented by Appointed Counsel On Appeal: N/A

8. Appellant Granted Leave to Proceed in Forma Pauperis: N/A

Appellant Filed Application to Proceed in Forma Pauperis: No
Date Application(s) filed: N/A

9. Date Commenced in District Court: August 17, 2009

10. Brief Description of the Nature of the Action: Probate

Type of Judgment or Order Being Appealed: Judgment

11. Previous Appeal: Yes

Supreme Court Docket Number(s): 66231, 67782, 68046, 69737, 71577, 72766

12. Child Custody or Visitation: N/A

13. Possibility of Settlement: Unknown

Dated This 21 day of April 2017.

Steven D. Grierson, Clerk of the Court

/s/ Amanda Hampton
Amanda Hampton, Deputy Clerk
200 Lewis Ave
PO Box 551601
Las Vegas, Nevada 89155-1601
(702) 671-0512

cc: Eleanor Ahern

ASTA

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04/24/2017
CLERK OF THE COURT

IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA IN AND FOR THE COUNTY OF CLARK

IN THE MATTER OF

THE W.N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST, DATED MAY 18, 1972

An Intervivos Irrecovable Trust

Case No: P-09-066425-T

Dept No: XXVI

CASE APPEAL STATEMENT

1. Appellant(s): Eleanor Ahern

2. Judge: Gloria Sturman

3. Appellant(s): Eleanor Ahern

Counsel:

Eleanor Ahern
355 West Mesquite Blvd., D30 #176
Mesquite, NV 89027

4. Respondent (s): Brownstein Hyatt Farber Schreck, LLP

Counsel:

Kirk B. Lenhard, Esq.
100 North City Pkwy., Ste 1600
Las Vegas, NV 89106

5. Appellant(s)'s Attorney Licensed in Nevada: N/A
Permission Granted: N/A

Respondent(s)'s Attorney Licensed in Nevada: Yes
Permission Granted: N/A

6. Appellant Represented by Appointed Counsel In District Court: No

7. Appellant Represented by Appointed Counsel On Appeal: N/A

8. Appellant Granted Leave to Proceed in Forma Pauperis: N/A

Appellant Filed Application to Proceed in Forma Pauperis: No
Date Application(s) filed: N/A

9. Date Commenced in District Court: August 17, 2009

10. Brief Description of the Nature of the Action: Probate

Type of Judgment or Order Being Appealed: Judgment

11. Previous Appeal: Yes

Supreme Court Docket Number(s): 66231, 67782, 68046, 69737, 71577, 72766

12. Child Custody or Visitation: N/A

13. Possibility of Settlement: Unknown

Dated This 24 day of April 2017.

Steven D. Grierson, Clerk of the Court

/s/ Amanda Hampton
Amanda Hampton, Deputy Clerk
200 Lewis Ave
PO Box 551601
Las Vegas, Nevada 89155-1601
(702) 671-0512

cc: Eleanor Ahern

Electronically Filed
5/9/2017 3:54 PM
Steven D. Grierson
CLERK OF THE COURT

DISTICT COURT
CLARK COUNTY, NEVADA
* * * *

In the Matter of the Trust of: The W.N. Connell and Marjorie T. Connell Living Trust, dtd May 18, 1972	Case No.: P-09-066425-T Department 26

ORDER SCHEDULING HEARING

TO: Eleanor Ahern; Joseph J Powell; Russel J Geist; Todd Moody

YOU ARE HEREBY ORDERED TO APPEAR in District Court, 200 Lewis Avenue, Department 26, **May 24, 2017, at 10:30AM** to discuss information missing from Ms. Ahern's Application to Proceed In Forma Pauperis. Court will allow Ms. Ahern to appear via video conferencing if she so desires.

DATED this 9th day of May, 2017.

GLORIA J. STURMAN,
DISTRICT COURT

I hereby certify that on the date filed, I mailed and/or e-served a copy to, or placed a copy in the attorney folder(s) of the following parties;

Joseph J Powell
Russel J Geist
Todd Moody
Eleanor Ahern

Linda Denman
Judicial Executive Assistant



THIS SEALED
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9037 - 9041
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DISTRICT COURT

CLARK COUINTY NEVADA

IN THE MATTER, OF
W. N. CONNELL AND MARJORIE T. CONNELL
LIVING TRUST
DATED MAY 18, 1972

Eleanor Ahern
355 West Mesquite Blvd. D30 #176
Mesquite, Nevada 89027

Case No. P-09-066425-T

Letter to Judge Sturman, copies to
HUTCHISON & STEFFEN
TODD MOOD, ESQ
RUSHFORTH FIRM
JOSEPH POWELL, ESQ
LARRY /SEMENZA, ESQ

Dated this 10th Day of May, 2017

Eleanor Ahern

Eleanor Ahern Proper Person

RECEIVED
MAY 10 2017
CLERK OF THE COURT

CERTIFICATE OF SERVICE

I hereby certify that a copy of the attached letter and attached Order was faxed to the following law firms on May 10, 2017.

HUTCHISON & STEFFEN
Russel J. Geist, Esq
Todd Moody, Esq.
Fred Waid
10080 West Alta Drive
Las Vegas, Nevada 89145

RUSHFORTH FIRM
Joseph Powell, Esq
1707 Village Center CR. Suite 150
Las Vegas, Nevada 89130

I hereby certify that on May 10, 2017 I mailed a copy of this true and correct document to the above mentioned.

Eleanor Ahern

Eleanor Ahern, Proper Person
355 West Mesquite Blvd #176
Mesquite, Nevada 89027
702 345 3035 Phone (No message available)
702 346 7909 Fax

To: The Honorable Gloria J. Sturman
Department XXVI
Phone (702) 671-362
Fax # (702) 366-139
From: Eleanor Ahern Pro Sa

Judge Sturman,

The attached document dated May 4, does not meet my approval because I had not seen it before it arrived at my pob on April 8, 2017. Your honor, as you well know, I have been denied the right to have council represent me because Fred Waid, Temporary Trustee refuses repeatedly to pay for legal counsel for me.

Although you gave a Minute Order allowing a lawyer to be in court with me, you denied my continence request. The lawyer would have been open to malpractice by all the parties because he did not have sufficient time to prepare.

So, I sat there like a lamb led to slaughter while they lied. Although Fred Waid promised in court to pay for me to have a copy of the Transcript of the Evidentiary Hearing February 9 and February 10, 2017. He did not. When Kerry, your Official Court Transcriber was preparing the final transcript to be sent to me, Fred Waid called her and told her not to send it to me for some reason. I do not understand, I had every legal right to that transcript when he did. I firmly believe she should have sent it to me as I am Per Se. I had the equal right to review the transcript prior to its finalization. Fred Waid, in my opinion based on his actions, ran the clock on me so I could not make any edits. I was patient because I was confident Karry would get the transcript to me as soon as it was ready, as she said so. I never expected Fred Waid to run interference and I not be informed by either party, Fred Waid and Kerry. For the life of me, I cannot figure out why Kerry had to obey Fred Waid. This is a prime example why I need a lawyer. These guys play games and you were not willing to give a continuance.

Your Honor, again, I am requesting appropriate legal counsel to represent me. I am requesting Legal Counsel Mr. Larry Semenza be paid so that I am not taken advantage of any more.

The attached proved I was taken advantage of as Pro Se representing myself, I should have been included in this Order process. I was purposely excluded, as we will see.

It is common practice for all the lawyers to be included when drafting an order. I have not been given the curtesy or respect to have a transcript in advance so I can participate in any appropriate edit/or correction of the transcript nor was I included in the drafting of the Order for form and content. I was completely excluded and purposely denied my right by all involved in the process who are all Officers of the Court, As

a matter of fact, Mr. Fred Waid even sent a letter where his name is listed as the lawyer for Hutchison and Steffen in Lawyer Directory as an Officer of your Court. He even sent a letter stating that I, as Pro Sa, have no right and banned me from communicating with the Court. I am requesting a minimum of $50,000 be given to Legal Counsel Mr. Larry Semenza to review and approve or disapprove the attached as to form and content along with him having the ability to review and read the transcript against the recording and audio for accuracy and context.

I see they submitted the Order for your signature. They know I am Pro Sa. I should have been allowed to be a part of the process. They have a legal obligation to include me. Again, these men had a legal obligation to include me in drafting the Order attached. They completely ignored this legal obligation.

I do not approve the attached. My rights have been trampled on. In my opinion, if I had a lawyer and this had been done to my lawyer, I believe, the lawyer would have held them accountable with possible contempt of court, sanctions and they would have had to pay lawyer's fees.

Look, I am learning as I go along. I am not educated in the Law. This puts me at a disadvantage before I start. Not to mention, extreme loss of hearing, and cataracts in both eyes and the fact that I will soon celebrate m y 79th birthday. By the way I plan on living a good and healthy life for a total of 120 years

Judge, I am asking you to lift the past 30-day time frame to make any necessary corrections to the transcript. I was denied access to that process, therefore, I am requesting my rights to be extended with the help of Legal Counsel Larry Semenza. I am requesting a minimum of $50,000 for Legal Counsel Larry Semenza to go over the Audio, Visual and hard copy of the February 9, 10, 2017 Evidentiary Hearing Certified Transcript.

I never saw the attached Order before it arrived in my post office box Monday, April 8, 2017. Kerry told me she would get me a certified copy via e mail, recording and a Certified Hard Copy of the Transcript. Please send all the these to me immediately. Again, my rights have been trampled on. I am Pro Sa and have a legal right to have been included in the process. Your Honor, Please look closely. I was not sent do not have what they sent you. How am I to know what it says? It seems to me you have received an Ex Parte communication from the Rushforth Firm and Joey Powell. Please do not sign this order. Please make this right by me.

Eleanor Ahern

Eleanor Ahern, Pro Se

All mail be forwarded tomorrow

Eleanor Ahern Pro Se

The Rushforth Firm, Ltd.

A Professional Limited-Liability Company

ATTORNEYS AT LAW

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WEB SITES

http://rushforth.net
http://rushforthfirm.com

May 4, 2017

Via hand delivery only
The Honorable Gloria J. Sturman
Department 26
Eighth Judicial District Court
200 Lewis Avenue
Las Vegas, Nevada 89155

Re: The W.N. Connell and Marjorie T. Connell Living Trust
Case No. P-09-066425-T
Proposed Order relating to "Motion for Assessment of Damages Against Eleanor Ahern"
(Our File: 7242)

Dear Judge Sturman:

So that there is no ex parte communication, a copy of this letter is being sent to Mr. Waid, Mr. Moody, and Ms. Ahern, who appeared *pro se* at the recent evidentiary hearing.

Attached hereto is the proposed order that has been prepared relating to the evidentiary hearing that was conducted on February 9th and 10th. As such, the "Order Regarding Motion for Assessment of Damages Against Eleanor Ahern" ("Order") is respectfully submitted to you for your review and approval.

Please note that Mr. Moody and Mr. Waid have reviewed the Order and have approved it, as evidenced by Mr. Moody's approval of the Order as to "form and content".

Please note that Mr. Kiefer and I are under the belief that you ordered the sum of $3,862,742.55 be the amount of the exemplary damages, trebling the sum of $1,287,580.85. In the transcript, there was reference to a flat figure of $1.2 million, and there was discussion of the "$1.2 million check". Because this was, based on the context of your ruling, a clear reference to a cashier's check in the amount of $1,287,580.85, which Mr. Waid testified regarding and which was

reflected in his Report materials. As such, this is the figure that has been included in the Order. If Mr. Kiefer and I misunderstood your ruling, please let me know and a revised order can be re-submitted to you.

Thank you for your time and the consideration of this proposed order.

Sincerely,

JOSEPH J. POWELL
joey@rushforth.net

cc: Todd Moody, Esq.
Fred Waid, Trustee
Eleanor Ahern

N:\DOCS\M-Q\Montoya.J.7242\letter.170504.JJP-Judge Sturman.jjp.wpd

ORDR
JOSEPH J. POWELL (State Bar No. 8875)
DANIEL P. KIEFER (State Bar No. 12419)
THE RUSHFORTH FIRM, LTD.
P. O. Box 371655
Las Vegas, NV 89137-1655
Telephone: (702) 255-4552 / Fax: (702) 255-4677
e-mail: probate@rushforthfirm.com
Attorneys for Jacqueline M. Montoya
and Kathryn A. Bouvier ("Movants")

DISTRICT COURT

CLARK COUNTY, NEVADA

In the Matter of

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

A non-testamentary trust.

Case No. P-09-066425-T
Department: 26 (Probate)

Date of Hearing: February 9 -10, 2017

ORDER REGARDING MOTION FOR ASSESSMENT OF DAMAGES AGAINST ELEANOR AHERN

A. PROCEDURAL BACKGROUND/OVERVIEW

A.1 A "Motion for Assessment of Damages Against Eleanor Ahern; Enforcement of No Contest Clause; and Surcharge of Eleanor's Trust Income" ("the Motion") was filed on behalf of Jacqueline M. Montoya and Kathryn A. Bouvier ("Movants" or "Ms. Montoya and Ms. Bouvier") on June 3, 2015, and a Supplement to the Motion was filed on July 31, 2015. Ms. Montoya is the currently serving trustee of the MTC Living Trust, dated December 6, 1995, and subsequently restated in its entirety on October 3, 2000 ("MTC Trust"), and is also a beneficiary of the MTC Trust, while Ms. Bouvier is a beneficiary of the MTC Trust.

A.2 An opposition to the Motion was filed on behalf of Eleanor Connell Hartman Ahern

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("Ms. Ahern") on June 29, 2015, and a "Motion to Strike Supplement to Motion for Assessment of Damages Against Eleanor Ahern; Enforcement of No Contest Clause; and Surcharge of Eleanor's Trust Income" was filed on August 3, 2015.

A.3 An evidentiary hearing was held on February 22, 2016 and continued on March 3, 2016. On February 22, 2016 legal arguments were presented by all parties, and the testimony of two witnesses, Fredrick Waid and Jacqueline Montoya, was offered, and on March 3, 2016 closing arguments were made.

(a) Jacqueline M. Montoya and Kathryn A. Bouvier were jointly represented by attorneys Layne T. Rushforth, Joseph J. Powell, and Daniel P. Kiefer of The Rushforth Firm, Ltd.;

(b) Eleanor Connell Hartman Ahern ("Ms. Ahern") was represented by Tamara Beatty Peterson, Esq. and Kirk B. Lenhard, Esq., of Brownstein Hyatt Farber Schreck, LLP; and

(c) Fredrick P. Waid ("Mr. Waid"), in his capacity as the acting trustee of THE W.N. CONNELL and MARJORIE T. CONNELL LIVING TRUST, dated May 18, 1972 ("the Trust"), was represented by Todd L. Moody and Russel J. Geist of Hutchison & Steffen, LLC.

A.4 The result of the evidentiary hearing on February 22, 2016 and March 3, 2016 was the issuance of the "Order Regarding Motion for Assessment of Damages; Enforcement of No Contest Clause; and Surcharge of Trust Income", dated September 13, 2016 ("Order Regarding Motion for Damages").

A.5 The Order Regarding Motion for Damages included the following findings:

1. *Ms. Ahern, as Trustee, did not comply with the Court order to protect the 65% share of the Trust that was to be segregated under the terms of the Trust for the Movants, Ms. Montoya and Ms. Bouvier.*

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3. Ms. Ahern's failure to comply with the Court's Order to protect the Movants' 65% share, however, resulted in a misapplication of the Trust income, which deprived the Movants of funds owed to them under the terms of the Trust. Ms. Ahern's misapplication of Trust funds warrants a surcharge against Ms. Ahern's 35% share of the Trust, to be paid to Movants, in a total amount to be determined at a future hearing to be set by this Court.

4. Additional briefing and argument is needed on the issues of punitive and treble damages. It is expected that the additional briefing on such damages, and the hearing on the total amount owed to Movants, will be scheduled after the Successor Trustee, Fredrick P. Waid ("Mr. Waid") finalizes his accounting for the Court.

6. In further violation of this Court's Orders, Ms. Ahern removed some funds from Trust accounts before turning those accounts over to the Successor Trustee, Mr. Waid. Some funds have since been turned over to the Successor Trustee, however, until such time as Mr. Waid can provide an Accounting the Court cannot rule on Ms. Ahern potential liability. The exact amount of any damages resulting from these serious breaches of fiduciary duty will be determined at a later evidentiary hearing.

8. Movant's seek punitive damages, which requires a finding of willful and malicious conduct. In the alternative, Movants seek treble damages for breach of fiduciary duty. Ms. Ahern's conduct was shocking and needs to be dealt with a serious fashion, but the final decision on whether punitive and/or treble damages should be awarded in addition to restitution will be made at the evidentiary hearing to be scheduled after Mr. Waid concludes

discovery and prepares his report and accounting to the Court.

A.6 In the "Order" section of the Order Regarding Motion for Damages, it was stated that:

> *IT IS FURTHER ORDER ADJUDGED AND DECREED that Mr. Waid shall prepare a report and a trustee's account, and upon completion, a hearing on the amounts owed by Ms. Ahern, including any punitive and treble damages, shall be conducted, unless the parties stipulate otherwise.*

A.7 In compliance with this Court's Order Regarding Motion for Damages, on February 1, 2017, Mr. Waid filed his "Accounting and Report of Trust Activity from 2013 to 2015" ("Accounting and Report").

A.8 As it relates to his calculation of the amounts owed to the MTC Trust from Ms. Ahern, Mr. Waid made the following declarations and conclusions in his Accounting and Report:

> *Since the Appointment of the Successor Trustee in April 2015, this Court has issued numerous orders requiring Ms. Ahern to produce records, comply with deposition notices and cooperate with the Successor Trustee's efforts to prepare an accounting for time periods when she served as Trustee. In response to the Court's orders Ms. Ahern has produced, through her various counsel, only limited records primarily consisting of forwarded mail. She did not appear for any scheduled or ordered depositions notwithstanding the findings of the Court regarding fraud and other misconduct pursuant to hearings on the Motion to Enforce the Trust's No Contest Clause.*
>
> *Due to her failure to appear and cooperate as ordered, a significant portion of the transactional history that occurred during Ms. Ahern's tenure as trustee cannot be reconciled or explained. As such, and pursuant to Generally Accepted Accounting Principles (GAAP), the Successor Trustee is unable to this provide the*

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Court with definitive information or explain as to the greatly expanded Trust expenditures, either in dollars spent or to whom those dollars were paid, during the accounting period and Ms. Ahern's tenure as Trustee. [Pages 1- 2 of Accounting and Report]

****

Again, due to Ms. Ahern's failure to answer questions under oath, the rationale and basis for the expenditures remain unanswered and unclear. What is clear is that MTC did not receive a single distribution of royalty income from the Trust between June 2013 and April 2015. [Page 2 of Accounting and Report]

****

A significant number of expenses that were authorized by Ms. Ahern appear to have provided no benefit to the Trust and cannot be deemed appropriate, deductible business expenses as defined and permitted by the Internal Revenue Code. [Page 2 of Accounting and Report]

****

After reviewing available records from the Internal Revenue Service, various banks, oil and gas producers, common royalty recipients (i.e., the Miller family, which shares an equivalent 25% royalty interest as the Trust) and partial reconciliations completed by the accounting firm of Gamm et & King CP As, the Successor Trustee prepared the chart attached as Exhibit B, which sets forth the best available basis for calculation of royalties not paid to the MTC Trust, as required by the terms of the Trust and as determined by this Court's previous findings and orders.

MTC should have received royalty payments of $481,010 for 2013, $2,028,134 for 2014 and $1,447,406 for 2015, totaling $3,956,550. MTC received

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for the three (3) year period a total of $2,214,497, with $1,914,622 of the amount being paid after Ms. Ahern was removed as Trustee. The total undistributed royalties for the period is $1,742,053. [Page 2 - 3 of Accounting and Report]

A.9 On February 7, 2017, the Movants filed their Pre-Trial Memorandum, which set forth the amount of damages that the Movants were seeking to be awarded by the Court in light of Mr. Waid's computations and calculations as found in his Accounting and Report.

A.10 On or about February 8, 2017, Ms. Ahern submitted an *ex parte* request, via correspondence faxed to the Court, to have funds released by Mr. Waid from the Trust for the payment of her representation by Mr. Lawrence Semenza at the evidentiary hearing.

A.11 In response to Ms. Ahern's *ex parte* request for an order releasing funds, pursuant to a minute order issued on February 8, 2017, the Court granted Ms. Ahern's request for the release of funds directly to Attorney Semenza "*for his reasonable attorney's fees incurred for his representation of Ms. Ahern at the February 9th and 10th evidentiary hearing*".

A.12 Prior to the start of the evidentiary hearing, Attorney Semenza indicated that he would be unable to represent Ms. Ahern under the circumstances and would have to respectfully decline to accept the representation despite the minute order issued by the Court[1].

A.13 Subsequent to Attorney Semenza making his decision, Ms. Ahern was informed by the Court of the situation and the fact that the evidentiary would proceed as scheduled. Ms. Ahern replied that because she would not be represented by counsel, she indicated that she was declining

---

[1] MR. SEMENZA: I have not made an appearance, and I certainly cannot make an appearance under the terms that have been specified in the Court's order. Ms. Ahern, as you indicated last time, Your Honor, needs counsel, and apparently she does not have sufficient funds with which to engage counsel, whether it's me or someone else. And to me, for me to enter an appearance today and for tomorrow, assuming that the hearing were to continue that and then I don't know whether I would have to move the Court to withdraw since I —in for a pound, in for a penny, whatever. I cannot do that. It would be malpractice for me to step into this for a hearing this morning, Your Honor, and I cannot do so.

THE COURT: Okay. So you're respectfully declining to appear.

MR. SEMENZA: I am, Your Honor.

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to speak[2].

A.14 After making such declaration, Ms. Ahern then made an oral request for the evidentiary hearing to be continued which the Court promptly denied[3].

A.15 At the evidentiary hearing commencing on February 9th, appearances and representations were as follows:

(a) The Movants were jointly represented by attorneys Joseph J. Powell and Daniel P. Kiefer of The Rushforth Firm, Ltd.;

(b) Ms. Ahern appeared *pro se*; and

(c) Mr. Waid, in his capacity as the acting trustee of the Trust, was represented by Todd L. Moody of Hutchison & Steffen, LLC.

A.16 The sole witness to provide testimony at the evidentiary hearing was Mr. Waid.

A.17 The issues to be determined at the evidentiary hearing were the determination of the compensatory damages owing to the Movants, via their beneficial interests in the MTC Trust, from Ms. Ahern and a determination as to whether exemplary damages would be awarded to the Movants based on Ms. Ahern's conduct and if appropriate the amount of such exemplary damages that was appropriate.

B. Findings Regarding Compensatory Damages

The Court makes the following findings and rulings in relation to compensatory damages:

B.1 Mr. Waid testified regarding the conclusions found in his Accounting and Report. As such, the Accounting and Report is accepted by the Court in its entirety and the findings and determinations therein relating to figures withheld from the MTC Trust beneficiaries, the Movants,

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[2] MS. AHERN: Since I am not represented by counsel, I will not be speaking.

THE COURT: Okay. That's understood.

[3] MS. AHERN: I would like a continuance.

THE COURT: That's denied.

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by Ms. Ahern, are deemed accurate.

B.2 Specifically, between June of 2013 and the end of 2015 that the Movants, through distributions required to be given to the MTC Trust, were entitled to the sum of $3,956,550.

B.3 Further, for the period of June of 2013 through March 31, 2015, the Movants were entitled to the sum of $2,581,994.92.

B.4 Additionally, Mr. Waid made equitable adjustments of income, pursuant to guidance from the Court, after he became trustee in early April of 2015, thus reducing the amount owed to the Movants. As a result, the amount owed to Movants, through the MTC Trust, for the time period of June of 2013 through March 31, 2015, is $1,742,053.

B.5 Ms. Ahern offered no evidence to refute Mr. Waid's Accounting and Report nor his testimony regarding his thorough investigation and subsequent reporting of the findings regarding the same.

C. Findings Regarding Exemplary Damages

The Court makes the following findings and rulings in relation to exemplary damages:

C.1 The Movants have asked for this Court to award exemplary damages against Ms. Ahern based on her inappropriate conduct in this matter.

C.2 Based on all evidence received and reviewed at the various evidentiary hearings, including testimony of Mr. Waid, the Court finds that the imposition of punitive damages against Ms. Ahern based on her conduct are warranted.

C.3 Specifically, Ms. Ahern intentionally and fraudulently breached her fiduciary duties to the MTC Trust, and the Movants, as beneficiaries of the MTC Trust, and committed tortious acts in converting and embezzling Trust funds. Accordingly, the Court finds that Ms. Ahern acted with oppression, fraud, and malice.

C.4 Punitive damages are reserved for bad actors who deserve to be punished. *See Coughlin v. Hilton Hotels Corp.*, 879 F.Supp. 1047 (D. Nev. 1995) ("*punitive damages are not*

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designed to compensate the victim of a tortious act but rather to punish and deter oppressive, fraudulent or malicious conduct"). Ms. Ahern's actions deserve to be punished and rise to the level of her having acted with oppression, fraud, and malice.

C.5 This Court has the authority to award punitive damages "*in an action for the breach of an obligation not arising from contract, where it is proven by clear and convincing evidence that the defendant has been guilty of oppression, fraud, or malice.*" *See* NRS 42.005(1).

C.6 Once shown, a petitioner, "*in addition to the compensatory damages, may recover damages for the sake of example and by way of punishing the defendant ..... an amount equal to three times the amount of compensatory damages awarded to [Petitioner] if the amount of compensatory damages is $100,000 or more.*" *Id.*

C.7 The evidence presented at the various evidentiary hearings conclusively established that Ms. Ahern willfully and intentionally deceived this Court, and the Movants, by claiming, in a sworn declaration signed under oath, all funds that she was ordered (by the Court) to keep in trust during the pendency of the dispute were "intact and are presently being held in trust."

C.8 This Court previously held in its "Order Regarding Motion for Damages," that "*the account [Ms. Ahern] filed, under penalty of perjury on March 13, 2015, titled "Brief Regarding Accounting Fiduciary Duties, and Trust Administration" was incomplete and intentionally inaccurate.*"

C.9 In that same order, this Court determined that "*Ms. Ahern, as Trustee, did not comply with the Court order to protect the 65% share of the Trust that was to be segregated under the terms of the Trust for the Movants, Ms. Montoya and Ms. Bouvier.*"

C.10 Based on the evidence presented to this Court (i.e. the testimony of Mr. Waid at the hearings occurring on February 22, 2016 and February 9, 2017, together with the exhibits admitted at the same hearings, which include reports made by Mr. Waid), the Court finds that there is clear and convincing evidence that Ms. Ahern committed fraud, oppression, and malice.

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C.11 The following factual findings support the Court's findings of fraud, oppression, and malice:

1. Ms. Ahern filed, under penalty of perjury, an intentionally inaccurate accounting with the Court;

2. Ms. Ahern failed to keep funds which were in dispute----i.e. the income attributable to the MTC Trust's 65% share (the "Segregated Funds:)---- segregated despite Court order to do so (the "Segregation Order");

3. Ms. Ahern represented to the Court, under penalty of perjury, that she was complying with the Court's Segregation Order while she continuously (and secretly) removed large portions of the Segregated Funds from the Trust accounts;

4. Ms. Ahern claimed, under penalty of perjury, that $500,000 of the Segregated Funds were on deposit with Fidelity Capital Inc. The evidence and testimony in this matter demonstrate that this representation was and is false. There was never $500,000 on deposit with Fidelity Capital Inc.;

5. Ms. Ahern claimed, under penalty of perjury, that she rented office space for the Trust from Joseph's Properties at a cost of $1,750 per month pursuant to an alleged lease. The evidence and testimony in this matter demonstrate that this representation was and is false, and that Ms. Ahern never rented office space from Joseph's Properties;

6. While the Segregation Order was in place, Ms. Ahern paid $300,000 of Segregated Funds to Real Estate Services, a entity operated by Suzanne Nounna. Suzanne Nounna has no beneficial interest in the Trust or the MTC Trust;

7. Ms. Ahern withdrew a substantial amount of Segregated Funds from Trust

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accounts slightly before, on the day of, and shortly after her removal as trustee. Ms. Ahern made such withdrawals by use of cashier's checks. Mr. Waid testified that Ms. Ahern's use of cashier's checks was "severely reckless" and "troubling" because of such negotiable instrument's status as unprotected, uninsured, bearer paper;

8. Despite the Segregation Order, Ms. Ahern used Segregated Funds to pay hundreds of thousands of dollars in personal expenses;

9. On, or around, February 18, 2015, Ms. Ahern removed $1,287,580.85 of Segregated Funds held in a Wells Fargo Trust account by use of a cashier's check (the "February 2015 Cashier's Check").

10. After her removal as trustee of the Trust, Ms. Ahern attempted an "all cash" withdrawal of $100,000 from the Segregated Funds; and the Movant's share.

C.12 The Court and Mr. Waid provided Ms. Ahern ample opportunity to explain her actions described above and provide appropriate documentation to demonstrate any legitimate purpose for such actions. Ms. Ahern remained silent on these issues and failed to provide any financial documentation relevant to the above issues. More specifically, Ms. Ahern refused to cooperate with Mr. Waid's investigation into Trust assets that went missing during her tenure as trustee, and has willfully and intentionally obstructed and impeded the same.

C.13 The Court has no choice but to impose an adverse inference against Ms. Ahern pursuant to the standard set for by the Nevada Supreme Court in *Bass-Davis v. Davis*, 122 Nev. 442, 134 P.3d 103 (2006). Accordingly, the Court finds that any information and documentation which Ms. Ahern could have provided in relation to Mr. Waid's inquiry would have been adverse to her legal position. *See* id. at 451-52, 109.

C.14 In the absence of any evidence to the contrary, the Court finds that pursuant to NRS

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47.250(1) Ms. Ahern's unlawful acts of violating the Segregation Order by removing Segregated Funds "was done with an unlawful intent." Similarly, the Court must also find that pursuant to NRS 47.250(2) Ms. Ahern intended the "ordinary consequences" of her "voluntary acts" of repeatedly removing and withdrawing monies from the Segregated Funds----i.e. that she intended to disregard and violate the Segregation Order.

C.15 Based on the above, the Court hereby finds that Ms. Ahern's actions in relation to the Movants and the Segregated Funds were undertaken with an conscious disregard of the rights of the Movants and were clearly fraudulent.

C.16 Of the above described actions, the Court finds Ms. Ahern's actions in relation to the February 2015 Cashier's Check to be especially troubling and egregious. Although the funds associated with the February 2015 Cashier's Check were eventually recovered through diligent efforts of Mr. Waid, Ms. Ahern's use of this check was nonetheless reprehensible. Mr. Waid testified that such behavior was disturbing. The Court believes that such willful behavior and disregard of the Segregation Order needs to be discouraged, and clearly appears to have been intended to defraud the Trust and the Movants.

C.17 Having considered the totality of Ms. Ahern's wrongful acts, the adverse inference imposed against Ms. Ahern in accordance with *Bass-Davis v. Davis*, and the unrebutted presumptions set forth at NRS 47.250(1) and (2), the Court believes that the imposition of punitive damages in this matter is appropriate pursuant to NRS 42.005.

C.18 As the Court finds Ms. Ahern's actions in relations to the February 2015 Cashier's Check to be the most egregious and reprehensible of Ms. Ahern's conduct, the Court shall treble the amount of funds removed through the February 2015 Cashier's Check ($1,287,580.85) and award such as a punitive damage in favor of the Movants and against Ms. Ahern. Accordingly, the Court intends to award punitive damages against Ms. Ahern in the amount of $3,862,742.55 (3 X $1,287,580.85).

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C.19 The Court finds that the punitive damage award described above should be paid from and/or offset against Ms. Ahern's share of the Trust.

C.20 Given the anticipated compensatory damage award of $2,581,994.92, which would allow a possible punitive damages award in the amount of $7,745,984.76, the anticipated punitive damage award described above is well within the statutory bounds set forth in NRS 42.005(1)(a).

C.21 In accordance with, and in supplement to, the Order Regarding Motion for Damages, the Court finds that Ms. Ahern's share of the Trust shall remain in complete and entire suspension until all damages awarded herein (both compensatory and punitive damage awards), which shall include all relevant interest, fees, and costs, have been fully satisifed. Accordingly, the Movants shall receive all Trust income, with Mr. Waid calculating the relevant portion of Trust income which would otherwise be attributable to Ms. Ahern's 35% share, until such time as Ms. Ahern's debts and liabilities outlined herein are fully satisfied. The determination of whether Ms. Ahern's liabilities to the Movants has been fully satisfied by her 35% share of the Trust shall be made by Mr. Waid in his capacity as successor trustee of the Trust.

D. FINDINGS REGARDING AWARD OF ATTORNEY'S FEES AND COSTS

The Court makes the following findings and rulings in relation to the Movants' request for an award of attorney's fees and costs:

D.1 An award of attorney's fees and costs is appropriate pursuant to NRS 153.031(3)(b) because:

1. The Movants' successfully moved the Court for relief "compelling redress of a breach of the trust" pursuant to NRS 153.031(1)(m); and
2. An award of fees and costs in this matter is necessary to "avoid an injustice" pursuant to NRS 153.031(3) because the Movants' relevant fees and costs are a direct and proximate result of Ms. Ahern's misconduct.

D.2 The Court shall entertain a motion for fees from the Movants which shall detail the

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reasonableness of the requested fees in accordance with the *Brunzell* factors; and

D.3 As the Court does not believe that the Movants' are entitled to an award of their fees and costs associated with the recently completed appeal in this matter, the motion for fees shall not include a request for such fees and costs.

E. JUDGMENT AGAINST ELEANOR CONNELL HARTMAN AHERN

E.1 Based on the above findings and rulings, the Court hereby ENTERS JUDGMENT FOR COMPENSATORY DAMAGES in favor of the MTC TRUST (of which JACQUELINE M. MONTOYA and KATHRYN A. BOUVIER are beneficiaries) and against ELEANOR CONNELL HARTMAN AHERN as follows:

1. Compensatory damages in the amount of $2,581,994.92;
2. A partial satisfaction of the above award shall be provided to ELEANOR CONNELL HARTMAN AHERN in the amount of $809,841.92 based on payments made by Mr. Waid in his role as successor trustee of the Trust to the MTC TRUST; accordingly, the current outstanding balance of the compensatory damages awarded above is $1,742,053;
3. In accordance with NRS 17.130(2) and NRS 99.040(1), pre-judgment and post-judgment interest shall accrue against this compensatory damage award until fully satisfied;
4. In light of Mr. Waid's unique knowledge of the partial satisfaction described above, as well as his role as successor trustee, Mr. Waid shall determine and calculate the amount of relevant judgment interest associated with this compensatory damage award;
5. Ms. Ahern's share of the Trust shall remain in complete and entire suspension until all compensatory damages awarded herein have been fully satisfied;

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6. The MTC Trust shall receive all net Trust income, with Mr. Waid calculating the relevant portion of the Trust income which would otherwise be attributable to ELEANOR CONNELL HARTMAN AHERN's 35% share, until such time a this is fully satisfied; and

7. The determination of whether ELEANOR CONNELL HARTMAN AHERN's liability related to this compensatory damage award has been fully satisfied shall be made by Mr. Waid in his capacity as successor trustee of the Trust.

E.2 Based on the above findings and rulings, the Court hereby ENTERS JUDGMENT FOR PUNITIVE DAMAGES in favor of the MTC TRUST (of which JACQUELINE M. MONTOYA and KATHRYN A. BOUVIER are beneficiaries) and against ELEANOR CONNELL HARTMAN AHERN as follows:

1. Exemplary damages in the amount of $3,862,742.55;

2. In accordance with NRS 17.130(2) and NRS 99.040(1), pre-judgment and post-judgment interest shall accrue against this exemplary damage award until fully satisfied;

3. In light of Mr. Waid's unique role as successor trustee, Mr. Waid shall determine and calculate the amount of relevant judgment interest associated with this exemplary damage award;

4. Ms. Ahern's share of the Trust shall remain in complete and entire suspension until all compensatory damages awarded herein have been fully satisfied;

5. The MTC Trust shall receive all Trust income, with Mr. Waid calculating the relevant portion of Trust income which would otherwise be attributable to ELEANOR CONNELL HARTMAN AHERN's 35% share, until such time as this is fully satisfied; and

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DISTRICT COURT

CLARK COUNTY, NEVADA

* * *

CASE NO. P-09-066425-T

DEPT. NO. 26

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

Audiovisual Transmission Equipment Appearance Request

P-09-066425-T
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Pursuant to Rule 4 of the Nevada Supreme Court's RULES GOVERNING APPEARANCE BY AUDIOVISUAL TRANSMISSION EQUIPMENT, Eleanor Ahern requests that she be permitted to testify by remote court appearance via video conference for the hearing scheduled to begin on:

Date: May 24, 2017

Time: 10:30AM

Courtroom No.:10D

Eleanor Ahern by executing the attached Audiovisual Transmission Equipment Appearance Consent, agrees to be bound by the oath given by the Court Clerk, Eighth Judicial District Court and to be subject to the jurisdiction of this Court for purposes related to this testimony.

Eleanor Ahern agrees to provide all exhibits to the Court and other parties in advance in the same form as have been or will be submitted to the Court Clerk.

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CLERK OF THE COURT

4

Any objection to this request must be made in writing within two (2) judicial days of service of this request.

Eleanor Ahern agrees that by submitting this request, she will test and verify the functionality of video conference connectivity with the Court's IT department at least two (2) judicial days before the scheduled appearance. Contact information for the test is:

Name of Counsel/Party: Eleanor Ahern

Email Address: _____

Phone Number: _____

Name of Witness: _____

Email Address: _____

Phone Number: _____

Eleanor Ahern certifies that the video connection has been successfully tested at http://bluejeans.com/111, prior to submitting this application.

Dated this __ day of _____, 2016.

_____
(Counsel/Party)

Certificate of Service

I hereby certify, that on the date filed, this Audiovisual Transmission Equipment Appearance Request was served on the parties identified on Wiznet's e-service list (or alternate method).

_____

ATEAC

DISTRICT COURT

CLARK COUNTY, NEVADA

* * *

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

CASE NO. P-09-066425-T

DEPT. NO. 26

Audiovisual Transmission Equipment Appearance Consent

By making this request for Audiovisual Transmission Equipment Appearance, the undersigned agrees to be bound by the oath given by the Court Clerk over the video conference connection and to be subject to the jurisdiction of this Court for purposes related to this testimony.

_____

Print Name:_____

Date:_____

Email Address:_____

Phone Number:_____

I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.

Executed on (date)

.....

(signature)

OR

County of _____)
) ss
State of _____)

SUBSCRIBED AND SWORN TO BEFORE ME THIS _____ day of _____, 2016.

_____
Notary Public in and for said County and State

My Commission Expires: _____

Certificate of Service

I hereby certify, that on the date filed, this Audiovisual Transmission Equipment Appearance Consent was served on the parties identified on Wiznet's e-service list (or alternate method).

_____

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Steven D. Grierson
CLERK OF THE COURT

EPAP
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Attorneys for Fredrick P. Waid Court-appointed Trustee

DISTRICT COURT

CLARK COUNTY, NEVADA

In the matter of THE W.N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST Dated May 18, 1972, an Inter Vivos Irrevocable Trust.	Case No.: P-09-066425-T Dept. 26 Date of Hearing: Time of Hearing:

EX PARTE REQUEST FOR LEAVE TO FILE, UNDER SEAL, RESPONSE TO ELEANOR AHERN'S APPLICATION TO PROCEED IN FORMA PAUPERIS

Fredrick P. Waid (Waid), Trustee of the W.N. Connell and Marjorie T. Connell Living Trust, dated May 18, 1972, (the "Trust"), by and through his attorneys of record, Hutchison & Steffen, LLC, hereby moves this Court for leave to file, under seal, a response to Eleanor Ahern's Application to Proceed in Forma Pauperis. This motion is made and based upon SRCR 3.4(f), the pleadings and papers on file, the points and authorities below, and any oral argument the Court may entertain at the time of the hearing.

Dated this 15 day of May, 2017.

HUTCHISON & STEFFEN, LLC

Todd L. Moody (5430)
Russel J. Geist (9030)
10080 West Alta Drive, Suite 200
Las Vegas, Nevada 89145

Attorneys for Fredrick P. Waid

HUTCHISON & STEFFEN
A PROFESSIONAL LLC
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MEMORANDUM OF POINTS AND AUTHORITIES

On April 18, 2017, Mr. Waid received a copy of a memorandum to Ms. Ahern from this Court. (Ex. 1.) The memorandum included a proposed order that was returned unsigned by the Court to Ms. Ahern because the Application was not noticed for a hearing and because it was submitted ex parte. The court set a hearing for May 24, 2017 to discuss Ms. Ahern's request to proceed in forma pauperis, and Mr. Waid would like to respond to the application but believes the response should be filed under seal because it includes medical and dental information.

Rule 3.4 of the Nevada Rules for Sealing and Redacting Court Records (SRCR) allows any person to request that the court seal or redact court records for a case that is subject to these rules by filing a written motion, and subpart (f) establishes that one of the grounds for such a request includes sealing a record that includes "medical, mental health, or tax records." (SRCR 3.4(f).)

Because Ms. Ahern's request and Mr. Waid's response contain medical information, any response should be filed under seal.

Dated this 15 day of May, 2017.

HUTCHISON & STEFFEN, LLC

Todd L. Moody (5430)
Russel J. Geist (9030)
10080 West Alta Drive, Suite 200
Las Vegas, Nevada 89145

Attorneys for Fredrick P. Waid Court-appointed Trustee

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EXHIBIT PAGE ONLY

EXHIBIT 1

HUTCHISON & STEFFEN
A PROFESSIONAL LLC

Dept. XXVI

District Court

MEMO

To: Eleanor Ahern
From: Department 26
Subject: In forma pauperis – P066425
Date: April 18, 2017

Your proposed Order has been returned UNSIGNED for the following reasons:

XXXXX Please notice your in forma pauperis application for a hearing. Any petition for distributions or accountings must also be noticed for a hearing as the Court cannot consider ex parte requests. If you wish to notice these matters for hearing please confirm if you again request to appear via video link.

Thank you!

CC: Todd Moody, Esq. – 702-385-2086
Joseph Powell, Esq. – 702-255-4677

(23 pages attached)

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DISTICT COURT
CLARK COUNTY, NEVADA
* * * *

In the Matter of the Trust of: The W.N. Connell and Marjorie T. Connell Living Trust, dtd May 18, 1972	Case No.: P-09-066425-T Department 26

ORDER SCHEDULING HEARING

TO: Eleanor Ahern; Joseph J Powell; Russel J Geist; Todd Moody

YOU ARE HEREBY ORDERED TO APPEAR in District Court, 200 Lewis Avenue, Department 26, **May 24, 2017, at 10:30AM** to discuss information missing from Ms. Ahern's Application to Proceed In Forma Pauperis. Court will allow Ms. Ahern to appear via video conferencing if she so desires.

DATED this 9th day of May, 2017.

GLORIA J. STURMAN,
DISTRICT COURT

I hereby certify that on the date filed, I mailed and/or e-served a copy to, or placed a copy in the attorney folder(s) of the following parties;

Joseph J Powell
Russel J Geist
Todd Moody
Eleanor Ahern

Linda Denman
Judicial Executive Assistant

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EXPR
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Attorneys for Fredrick P. Waid, Court-appointed Trustee

DISTRICT COURT

CLARK COUNTY, NEVADA

In the matter of THE W.N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST DATED May 18, 1972, an Inter Vivos Irrevocable Trust.	Case No.: P-09-066425-T Dept. 26

ORDER ALLOWING TRUSTEE TO FILE RESPONSE TO ELEANOR AHERN'S APPLICATION TO PROCEED IN FORMA PAUPERIS UNDER SEAL

An ex parte request was filed on May 15, 2017 by Fredrick P. Waid, acting Successor Trustee ("Trustee") of The W.N. Connell and Marjorie T. Connell Living Trust, dated May 18, 1972 ("Trust"), for leave to file a response to Eleanor Ahern's Application to Proceed in Forma Pauperis. Having considered the ex parte motion,

THE COURT FINDS that good cause exists for the Trustee file his response to Eleanor Ahern's Application to Proceed in Forma Pauperis under seal.

Having considered the same and good cause appearing,

///

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///

HUTCHISON & STEFFEN
A PROFESSIONAL LLC
PECCOLE PROFESSIONAL PARK
10080 WEST ALTA DRIVE, SUITE 200
LAS VEGAS, NV 89145

IT IS HEREBY ORDERED that the Trustee is granted leave to file a response to Eleanor Ahern's Application to Proceed in Forma Pauperis under seal.

Dated this 16th day of May, 2017.

District Court Judge

Submitted by:

HUTCHISON & STEFFEN, LLC

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Attorneys for Fredrick P. Waid

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Attorneys for Fredrick P. Waid Court-appointed Trustee

DISTRICT COURT

CLARK COUNTY, NEVADA

In the matter of

THE W.N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST DATED May 18, 1972, an Inter Vivos Irrevocable Trust.

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

NOTICE OF ENTRY OF ORDER

NOTICE IS HEREBY GIVEN that an Order Allowing Trustee to File Response to Eleanor Ahern's Application to Proceed in Forma Pauperis Under Seal was entered in the above-entitled matter on May 18, 2017. A copy of the order is attached hereto.

DATED this 19 day of May, 2017.

HUTCHISON & STEFFEN

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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of HUTCHISON & STEFFEN and that on this 19 day of May, 2017, I caused a true and correct copy of the above and foregoing **NOTICE OF ENTRY OF ORDER** to be served as follows:

[X] by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada; and/or

[X] pursuant to EDCR 8.05(a) and 8.05(f), to be electronically served through the Eighth Judicial District Court's electronic filing system, with the date and time of the electronic service substituted for the date and place of deposit in the mail; and/or

[ ] Pursuant to EDCR 7.26, to be sent via facsimile; and/or

[ ] to be hand-delivered;

to the persons listed below at the address and/or facsimile number indicated below:

Via Mail Only:
Eleanor Ahern
355 W. Mesquite Blvd., D30, #176
Mesquite, NV 89027

Via Eservice Only:
Joseph J. Powell, Esq.
The Rushforth Firm
1707 Village Center Circle, Ste. 150
Las Vegas, NV 89134
Attorneys for Kathryn A. Bouvier and Jacqueline M. Montoya

An Employee of Hutchison & Steffen, LLC

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EXPR
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Attorneys for Fredrick P. Waid, Court-appointed Trustee

DISTRICT COURT

CLARK COUNTY, NEVADA

In the matter of THE W.N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST DATED May 18, 1972, an Inter Vivos Irrevocable Trust.	Case No.: P-09-066425-T Dept. 26

ORDER ALLOWING TRUSTEE TO FILE RESPONSE TO ELEANOR AHERN'S APPLICATION TO PROCEED IN FORMA PAUPERIS UNDER SEAL

An ex parte request was filed on May 15, 2017 by Fredrick P. Waid, acting Successor Trustee ("Trustee") of The W.N. Connell and Marjorie T. Connell Living Trust, dated May 18, 1972 ("Trust"), for leave to file a response to Eleanor Ahern's Application to Proceed in Forma Pauperis. Having considered the ex parte motion,

THE COURT FINDS that good cause exists for the Trustee file his response to Eleanor Ahern's Application to Proceed in Forma Pauperis under seal.

Having considered the same and good cause appearing,

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10080 WEST ALTA DRIVE, SUITE 200
LAS VEGAS, NV 89145

IT IS HEREBY ORDERED that the Trustee is granted leave to file a response to Eleanor Ahern's Application to Proceed in Forma Pauperis under seal.

Dated this 16th day of May, 2017.

District Court Judge

Submitted by:

HUTCHISON & STEFFEN, LLC

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DISTRICT COURT

CLARK COUNTY, NEVADA

IN THE MATTER OF THE TRUST OF: THE W.N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST MAY 18, 1972	CASE NO. P-09-066425-T DEPT. XXVI

BEFORE THE HONORABLE GLORIA J. STURMAN, DISTRICT COURT JUDGE

WEDNESDAY, MAY 24, 2017

TRANSCRIPT OF PROCEEDINGS
ELEANOR AHERN'S IN FORMA PAUPERIS REQUEST

APPEARANCES:

For Jacqueline M. Montoya and Kathryn A. Bouvier:	JOSEPH J. POWELL, ESQ.
For the Trustee:	RUSSEL J. GEIST, ESQ.
Also present via video conference:	ELEANOR C. AHERN

RECORDED BY: SANDRA PRUCHNIC, COURT RECORDER

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

Wednesday, May 24, 2017 at 11:50 a.m.

THE COURT: -- one for me as well, but --

THE MARSHAL: Yeah.

THE COURT: Yeah.

MS. AHERN: Don't know if you all can hear me or not.

THE COURT: Yes. Okay, good morning -- can you hear us, Ms. Ahern?

MS. AHERN: Yes, I can hear you. Thank you very --

THE COURT: All right, ready. Then we're ready to call the case. We're sorry that we were delayed, but we just finished all the other cases and we're ready now to go to our 10:30 matter, which is the Estate of Connell, 066425.

Okay. All right. So Ms. Ahern, I -- I understand that from a -- a fax you sent last night that you did not get notice of this, so the first thing we need to know is the proper address that the Court should be using because I thought we established this in February, but if that address is not working, we need to know that because we have to make sure we've got a proper address to send you notices.

MS. AHERN: Can I give you the proper address now?

THE COURT: Yes, please.

MS. AHERN: 355 West Mesquite Boulevard D30, Mesquite, Nevada 89027.

THE COURT: All right. And then with respect to – because we are paperless and we're supposed to be electronically filing, do you have an electronic filing address on record --

MS. AHERN: No, I do not, but I have -- I have a Checks-N-Mail that -- that I can give you and also I can give you a fax number.

THE COURT: Is that your official address for -- is that where you get all your

mail? Because we have to --

MS. AHERN: Yes --

THE COURT: -- we have to know – we have to know that we're sending things to an address where you can get them and that's apparently been a problem because we don't have an official address for you. You've never given that to the Court.

MS. AHERN: Yes, I've – I've given that address to you. Kirt (sic) Lenhard gave the wrong address and I corrected it --

THE COURT: Okay.

MS. AHERN: -- in paperwork to the courts.

THE COURT: Oh, okay.

MS. AHERN: And to Todd and Mr. Moody --

THE COURT: Okay. All right.

MS. AHERN: -- Mr. Moody and Fred.

THE COURT: So that's the 355 West Mesquite?

MS. AHERN: Yes, it is.

THE COURT: Okay. Okay, great. All right. So then you had submitted a request for in forma pauperis approval and that is significant in that if you have the in forma pauperis from this Court, it also applies to your appeal.

So we have a form application that is adopted in our court for information that the Court needs in order to evaluate those requests and the request that I had from you was incomplete with respect to that information. Rather than just deny your request, I wanted to give you an opportunity to provide the additional information that you requested for the – that you need for the in forma pauperis so I can make that evaluation.

The significant thing about in forma pauperis requests is that the information provided is confidential and so if your concern is that this is being made public, it is not. And to that extent to the extent that any – that -- that your in forma pauperis request was attached to any pleadings, we would seal those. And that would be with respect to -- I think it's Exhibit 1 to Mr. Waid's response.

So if you're concerned that your information is being made public, it's not. It's sealed once it's – if it's approved, it's sealed and if it's not approved, it's still sealed.

So – but we need to have the -- the information and -- and I have insufficient information upon which I can make any kind of an evaluation because all I have – I have some information here that indicates that you owe money on a vehicle, that you have no bank accounts with any money in them and that you – but nevertheless, you are able to pay rent and a mortgage and other expenses and, you know, you give us no information about income. This doesn't make any sense. It's entirely incomplete and I -- I can't evaluate this request so I – we're going to give you this opportunity to tell us what your – what -- what if any income you have to figure out if these expenses exceed your income.

MS. AHERN: Judge, because of my hearing, may I repeat a portion of what you said to make sure I understood it?

THE COURT: Yeah.

MS. AHERN: All right. You said that everything will be sealed from everybody else --

THE COURT: No. I said that with – no --

MS. AHERN: -- except those people that are in the courtroom today?

THE COURT: No, no, I said that with respect to your application for in forma

pauperis, it's sealed and it's not – the public can't see it. It cannot be seen by the public.

MS. AHERN: But everybody in this courtroom can see it; is that correct?

THE COURT: Correct. Yes. So -- but it -- it would be sealed so that it's not a matter of public record. So the Court just needs to be able to understand what your request for in forma pauperis is based on that you -- you state that you have no bank accounts with any money in them and you don't give me any information about an income, but you provide me with expenses so I can't figure out what your income is to see if it's adequate to cover your expenses such that you should then be getting pro hac vice to -- to get the in forma pauperis and not have to pay the costs. I -- without that information, I -- I cannot evaluate your petition.

MS. AHERN: I want to give you that -- I want to give you that income.

THE COURT: Okay.

MS. AHERN: But I also want to state for the record that I need to have a transcript of this hearing along with a transcript of February 9 and 10 and I cannot open a flash drive.

THE COURT: Well –

MS. AHERN: And I would like to have it a DVD audio/visual of this today. May I have those please and will Fred please pay for them?

THE COURT: Okay. All right, here's the thing. I -- I -- I noticed this hearing in response to your request for in forma pauperis so let's deal with that first. With respect to your request for in forma pauperis, you give me no information concerning any kind of income, including Social Security or any other kind of income. We have some information about some expenses, not totaled, and so I don't know what your total expenses are versus your -- your total income so I can't

evaluate your petition and without that –

MS. AHERN: Okay.

THE COURT: -- I have to deny it.

MS. AHERN: I want very much to tell you --

THE COURT: Okay, great.

MS. AHERN: -- my income from Social Security is all that I have.

THE COURT: Okay, and -- and how much is that?

MS. AHERN: Two thousand seven hundred --

THE COURT: Okay.

MS. AHERN: -- thirty -- $2,837.

THE COURT: Two thousand eight hundred and thirty-seven dollars per month. Okay, great. That's – so that's your only source of income is Social Security?

MS. AHERN: Yes, ma'am.

THE COURT: Okay. All right. And then with respect to expenses, you have rent, the – your utilities and internet service. And on the food, I -- I'm – I can't tell from reading this what – if your food claimed is 1,812 or $812?

MS. AHERN: No, it's 1,812 and the reason is that I have included all the animals food which is about $500 a month. I have included all my food. I have included all the cleaning and my Depends is sometimes -- very often the average of $300 a month and it can go higher, and $300 a month is $1,200 for Depends a month.

THE COURT: Okay. All right. And then under medical, you have $1,787. Is that -- is that an insurance payment? Are -- are you paying your -- your Medicare co-pay? Is that what that is?

MS. AHERN: No, it's paying $10 a month for tests that I had here in Mesquite.

THE COURT: Oh is – so is the total amount that's owed $1,787?

MS. AHERN: Yes.

THE COURT: Okay, so it -- that's not the total amount paid every month?

MS. AHERN: No, it's not.

THE COURT: Okay, okay. I -- I --

MS. AHERN: I pay --

THE COURT: Now I –

MS. AHERN: I pay close to 10, 20, 30, 40, $50 a month in medical.

THE COURT: Okay. And do you have any like – do you pay a -- a Medicare supplement to get a -- a Part D or -- or prescription coverages, anything like that?

MS. AHERN: To answer that question, I checked in on it. They want to charge me $70 a month as a penalty for the supplement and for -- for medication which I don't take. So I don't have the -- the supplement at all.

THE COURT: Okay. All right. So based on the –

MS. AHERN: And actually they were going to charge besides the $70 penalty, it was another $45 on top of that.

THE COURT: Okay. All right.

MS. AHERN: So about $120 and it was just too much for me not using it because I don't take any medication.

THE COURT: Oh, okay, great. So based on the representation that you've given us today, your monthly income from Social Security is $2,837 and your expense –

MS. AHERN: Can -- can you repeat that?

THE COURT: That your income from Social Security, $2,837, that is your sole source of income that –

MS. AHERN: Yes, ma'am.

THE COURT: -- that you have approximately $3,896 per month in expenses?

MS. AHERN: Yes, ma'am.

THE COURT: Okay. All right. All right, so then you've got I think – because it's -- it's – trying to figure this. So the $5,635 carried over from page 3, I -- I think that included the $1,787 for medical, but that's not a monthly payment, that is the total amount owed. It's -- it's the total amount of the debt. So -- then we've got – you indicated some additional expenses as you – you say -- you say on here your supplements and Depends, that's 452, your printer --

MS. AHERN: The Depends is even higher. The Depends is averaging about 300 I -- I didn't even write that down because it's kind of personal.

THE COURT: Okay. And then you have a substantial MasterCard bill that is another debt. Are you making any payments on your MasterCard bill at all?

MS. AHERN: No, there's no money extra for that.

THE COURT: Okay. All right. Okay, so appears to be about $4,525 in monthly costs. Okay.

MS. AHERN: Yes.

THE COURT: All right, great. All right. So your request for in forma pauperis is granted. I'll sign your order and you can use that then -- you can give that also to the Supreme Court so they know that you've been given in forma pauperis status.

But then you had also requested – you'd requested some – and now that you've got that then it makes a difference as to what you have to pay on -- to get transcripts and DVDs. So you requested -- you said you wanted a transcript and

you wanted a DVD of the hearing in February and also of this hearing?

MS. AHERN: Yes, ma'am. And can -- can I repeat that back to you to make sure that I understood what you said?

THE COURT: Right. Yes.

MS. AHERN: Yes. What I want is a transcript of a hard copy of the February 9 and 10 so that I can read it and blow it up and get it larger with my -- glass. Also I need a DVD, an audio of this what we're talking about today and also a transcript about today.

THE COURT: Okay. Now, I – when you said you need to be able to blow up the transcript --

MS. AHERN: Oh.

THE COURT: -- I –

MS. AHERN: I'm sorry. I was just using it with my magnifying glass.

THE COURT: Oh, okay. So with your magnifying glass because I was going to say I – it -- it's -- it's a printed document. It -- it -- it just comes out printed. So okay. All right, great. I will – we've got that request --

MS. AHERN: Judge Sturman, may I – may I tell you one thing I'd -- I'd like to tell you?

THE COURT: Uh-huh.

MS. AHERN: I was not -- I was not noticed properly or any way at all about this hearing. I found out about it accidentally.

THE COURT: Yeah, that's why I asked you to make sure that you've provided the Court with an address that we can put in the court record that this is the official address that you want us using, 355 West Mesquite Boulevard D3 –

MS. AHERN: Judge –

THE COURT: -- D30.

MS. AHERN: Excuse me, Judge. Fred Waid and Todd knows my address and they have been sending me items for months --

THE COURT: Oh.

MS. AHERN: -- at that address.

THE COURT: Okay, but it's not in the court record. The problem is it's not in the court's records as your official address for service under the court record. It was never recorded as your official record for the court. We -- we have a different address for you.

MS. AHERN: But -- but I need (indiscernible) you understand that I had a 9:00 cataract surgery this morning that I have cancelled and put it down to 3:00 this afternoon.

THE COURT: Okay.

MS. AHERN: Fred and Todd knew that I had this appointment. Did they not want me to be here today to answer these questions? They could have called or could have emailed me. Or no, fax me, fax me is how I talk to them. They should have faxed me about this hearing. They both knew about it.

THE COURT: Okay. Well, but the Court set it and they had no way of knowing that the Court didn't have your correct address. So now that we have your correct address, we will correct that in the court's records that for purpose of future service, that you're to be mailed documents at 355 West Mesquite Boulevard D30, Number 176, and the phone number that you've given here, 702-345-3035, is that your phone number?

MS. AHERN: Yes.

THE COURT: Okay, and then the fax number –

MS. AHERN: Would have to notify me by fax that you're calling me --

THE COURT: Okay. And so the --

MS. AHERN: -- because I -- I don't pick it up randomly --

THE COURT: Okay.

MS. AHERN: -- and I don't hear it very well.

THE COURT: Okay. And so the fax number at 345-7909 is your fax?

MS. AHERN: Yes --

THE COURT: Okay.

MS. AHERN: -- it gets to me. Yes, it does.

THE COURT: All right, great. Okay.

MS. AHERN: My mailbox.

THE COURT: All right. So then I – I've signed this order granting your in forma pauperis request and we'll give that -- we'll have that filed. You can come -- you can come pick that up and file it so you'll – you'll have that.

MS. AHERN: Yeah. I -- I don't know what that means. Do I -- I come to your office and –

THE COURT: We –

MS. AHERN: I'm trying to repeat because I'm not sure I even heard you say I come to pick that up from your office?

THE COURT: Right.

MS. AHERN: Can you not – and then I file it?

THE COURT: Right. Are you not able to do that? Do you need the Court to file it for you?

MS. AHERN: I think it would be better than me trying to ask for gas money to come in to -- to see you.

THE COURT: Okay. So you -- you'd like the Court to file the order granting your in forma pauperis request and mail that to you at the address you've given us today?

MS. AHERN: Yes, ma'am.

THE COURT: Got it. Okay. Great. All right. So the only thing the Court set for a hearing today was this in forma pauperis request. There was a response filed by Mr. Waid that went into a lot of other issues that you've requested with respect to other matters for distributions, including the additional amount needed for dental surgery. I didn't notice that for a hearing today, so if you are seeking additional amounts disbursed above what was already authorized is -- is that what I'm understanding you're asking for?

MS. AHERN: Let me repeat what I think you said. I am asking for additional medical cost for my teeth because they had been so abused for over a year and a – almost two years that they're all infected and I'm going to have to have implants. And yes, I'm asking for additional funds for the implants --

THE COURT: Okay.

MS. AHERN: -- but we –

THE COURT: All right. Now –

MS. AHERN: And (indiscernible) possible because I'm terribly infected. My whole mouth is full of infection.

THE COURT: Got it. Okay. All right, now that – I did -- did not technically notice that for hearing today.

Mr. Geist, are you prepared to address that?

MR. GEIST: I am, Your Honor.

THE COURT: Okay, Mr. Geist said that even though I didn't notice that, he --

he's prepared to address that request even though it wasn't noticed for hearing today. So we'll go on ahead and we'll discuss that request, okay? Okay.

MS. AHERN: Yes, ma'am.

THE COURT: Okay, we'll get Mr. Geist's appearance.

MR. GEIST: Okay, Russel Geist, Bar number 9030, appearing on behalf of the Trustee, Fred Waid.

THE COURT: Okay.

MR. GEIST: Your Honor, as – as the Court entered an order 2015 in -- in response to Ms. Ahern's request for a distribution of trust income, the Court ordered that $20,000 be set aside for her maintenance and -- and other living expenses. Mr. Waid has been receiving – I'm trying not to cover that microphone so Ms. -- Ms. Ahern can hear me.

We have been receiving information from her healthcare providers and have been paying those -- those invoices -- we've been confirming them. Since about February 22nd up until May 15th, we've paid almost 20,000. There are still some outstanding payments that we anticipate paying; one from Animal Kingdom Veterinary Hospital where we're looking at an invoice total of $647.30. We're not quite sure that -- that all of those expenses are -- are necessary and so we're working with them.

There is also another -- another invoice that we have from Todd Jackson who is the, I believe, glaucoma cataract surgeon. We're actually waiting for Medicare to pay their portion and then the Trust will pay the balance.

The -- the oral surgery, the dental surgery that Ms. Ahern is referring to, the estimates that we're looking at started about 20,000, but Mr. Waid in -- in speaking with the -- the -- the oral surgeon in this case, it could go up to 35,000.

Obviously that's going to exceed the amount that's been set aside for her living expenses.

We – Mr. Waid has reached out to the MTC Trust to work out an arrangement and they're – they're – they have agreed to – and -- and forgive me if I'm misrepresenting this, but they have agreed to actually pay the excess of that surgery. What they would like Ms. Ahern to do is sign an acknowledgment that this is not a payment from the Trust, this is not any -- any amount that she's entitled to under an order or anything, which given the circumstances I think is reasonable, and that would cover that amount. So we believe that there is a -- a solution if Ms. Ahern would be willing to sign that agreement.

THE COURT: Okay. So –

MS. AHERN: May -- may I – may I -- may I interrupt?

THE COURT: Yes.

MS. AHERN: I -- I -- I need to repeat what he said.

THE COURT: Yes.

MS. AHERN: I wrote it down and let me see if I wrote it down correctly. Would that be all right everybody?

THE COURT: Yes.

MS. AHERN: May -- may I?

THE COURT: Yes, yes.

MS. AHERN: Okay. Fred got an arrangement MTC Trust would pay the excess and it's not a payment from the Trust to cover the amount of the excess.

THE COURT: Right, it's not an income distribution I think is what you're saying?

MR. GEIST: Correct, it's – it –

THE COURT: It's just – it's essentially just a –

MR. GEIST: In essence it would be a gift --

THE COURT: A gift, yeah.

MR. GEIST: -- my understanding. It's -- it's --

THE COURT: Yeah.

MR. GEIST: -- not from the -- the actual Connell Trust.

THE COURT: It's just an – it's just an accommodation to --

MR. GEIST: Correct.

THE COURT: -- cover this expense.

That's agreed, Mr. Powell?

MR. POWELL: Yes, Your Honor.

THE COURT: I appreciate that.

Okay, yeah, so we're going to get the dental work covered. Okay, and –

MS. AHERN: Okay.

THE COURT: -- so that's – have – are you saying that that will mean the entire 20 has been expended or has that entire 20 already been expended and we need additional 20 to 35?

MR. GEIST: Correct, the -- the -- up to -- up to this point, the 20,000 will have been expended.

THE COURT: Okay.

MR. GEIST: That's not even including this oral surgery.

THE COURT: Okay. So we're going to be able to cover – and I think that the other thing that Mr. Waid was concerned about was the hearing aids. While he wants to cover hearing aids, I understood his concern was the – is the hearing aid

place in Idaho such that you would have to go to --

MS. AHERN: I -- I need to explain to you that the person here Audio – Anderson Audio- --

THE COURT: Yes.

MS. AHERN: -- -ologist was $7,000. I chose to have that – that didn't happen --

THE COURT: Right.

MS. AHERN: -- over the years and I chose to go up and try to go to Idaho. I would have to either drive or fly. It would be far less than the $7,000 here.

THE COURT: Okay.

MS. AHERN: I know a man that has had them. He's here in the complex. He's very happy for the last 35 years with these hearing aids. It's like getting four hearing aids in one and his is 2,800.

THE COURT: So -- so even though it requires traveling to them for any kind of appointments and treatment, overall the expense is less -- you believe would -- long term would be less than using the person in Mesquite or St. George -- I forget where he was. Was it St. George?

MS. AHERN: Yes, he's -- very definitely, he was in Las Vegas --

THE COURT: Oh Las Vegas.

MS. AHERN: -- this Anderson clinic --

THE COURT: Okay.

MS. AHERN: -- was $7,000. It would be far less and I've heard horror stories about people having hearing aids and they don't use them because they're so uncomfortable --

THE COURT: Right.

MS. AHERN: -- and so terrible and this man says these are awesomely wonderful. If they need adjustment, you just send it to him and he sends them right back.

THE COURT: Okay. All right. Okay, so that explains that so we can get that information to Mr. Waid and – but we would need additional funds is -- is what you're telling me, Mr. Geist, because we've used up the 20,000. So for these additional expenses for the teeth and for the dental work we would need additional funds and the dental work they've agreed on, is the – are the hearing aids within Mr. -- Mr. Waid's calculations that would be another --

MR. GEIST: That -- that would be, yeah --

THE COURT: That'd be additional.

MR. GEIST: -- in addition to.

THE COURT: Okay.

MR. GEIST: Correct.

THE COURT: All right. So – but nobody I – do we have any kind of an understanding or agreement on -- on that or do we need to consider another – because this is what, over a year -- a year, year and a half on the initial 20 --

MR. GEIST: A -- a year --

THE COURT: -- that --

MR. GEIST: -- and a half, correct.

THE COURT: -- do we need to then budget another amount? Does Mr. Waid have a position on if – if there's another amount to be budgeted, what it would be, covering what period?

MR. GEIST: Well --

THE COURT: Because it sounds like we've used it up, so do we need now to

take another look at having another budget put in place?

MR. GEIST: I think we would need to. The difficulty in -- in putting that burden on Mr. Waid is he doesn't have her living expenses and -- and the ability really to project that forward. I think that --

THE COURT: Right.

MR. GEIST: -- burden would be on Ms. Ahern --

THE COURT: Well we have the in forma pauperis petition --

MR. GEIST: Correct.

THE COURT: -- and so --

MS. AHERN: Yeah.

THE COURT: -- that's the representation she's made as to what her expenses are. So based on that, I guess the question is can we – with the information that has been provided here, understanding that the dental work is being paid for as just a -- an accommodation from the MTC Trust, what about going forward because we now have the hearing aids and then there'll be additional expenses going forward so how are we going to accommodate that?

MR. GEIST: Well I -- I would – I would propose, Your Honor, that any kind of arrangement still give Mr. Waid the discretion to pay these expenses.

THE COURT: Right.

MR. GEIST: She has income coming in. And -- and the burden would be on her to present validatable –

THE COURT: Sure. As we --

MR. GEIST: -- information.

THE COURT: -- as we've done in the past –

MR. GEIST: Right. Right.

THE COURT: Certainly, as we've done in the past, but I -- it seems to me that we're going to need to again set up some amount of fund that -- that the request can be made against for Mr. Waid to make the distributions in his discretion.

MR. GEIST: So -- so would your -- would -- would the Court propose then that Mr. Waid work out that -- that amount, come to the Court with a request for instructions --

THE COURT: Right.

MR. GEIST: -- a petition for instructions to continue paying –

THE COURT: Right.

MR. GEIST: -- living expenses in the discretion of Mr. Waid going forward?

THE COURT: Right.

MR. GEIST: Okay.

THE COURT: So my – my only question then is so, Ms. Connell, what we're going to – Ms. Ahern, what we're going to do is the dental work is going to be paid for through the MTC Trust as an accommodation, not as an income distribution, but as an accommodation.

I don't – about the hearing aids, counsel --

[Colloquy between counsel]

THE COURT: Give us just a moment, Ms. Ahern. We're going to get right back to you.

MS. AHERN: You said you'll get right back to me?

THE COURT: Yeah, just one moment. Taking just a brief recess here for counsel to -- to make sure that we've got it straight on this payment.

MS. AHERN: On my hearing aids?

THE COURT: On the payment.

MS. AHERN: Of the hearing aid?

THE COURT: Yeah.

MS. AHERN: Oh, the payments for --

THE COURT: No, that's on the dental, that's on the dental --

MS. AHERN: Right.

THE COURT: -- and we're -- I'm -- now I'm waiting for counsel to let me know about the hearing aids.

[Colloquy between counsel]

MR. GEIST: Yeah, we're in agreement that that's the best way to handle this is continue –

THE COURT: Okay, okay.

MR. GEIST: -- to allow Fred – permit Fred to, you know, pay those expenses as long as we can back them up with, you know, invoices and in -- in his discretion make sure her -- her –

THE COURT: Right.

MR. GEIST: -- living expenses are covered.

THE COURT: Okay. So we've got the dental work covered. With respect to the --

MR. GEIST: Correct.

THE COURT: -- to the hearing aids, we're going to need Mr. Waid to come in with a request that the Court order a -- a new amount -- because we've used up the 20 – initial 20,000, so we need a new amount to be set aside and Mr. Waid will request the Court how much that will be and then we can start again and that will be where we'll take the money for the hearing aids?

MR. GEIST: Yes.

THE COURT: So that's we're -- we're going to do. We're going to – how -- how long does Mr. Waid need do you think to -- to get something on so we'll know how much money -- 20 or -- I'm assuming 20 or –

MR. GEIST: Another 20 I think would probably be appropriate, but I --

THE COURT: Yeah.

MR. GEIST: -- I would rather he make that decision --

THE COURT: Okay.

MR. GEIST: -- after looking at it --

THE COURT: So he'll make that request in what, like –

MR. GEIST: Thirty days.

THE COURT: In 30 days? Okay. So within 30 days we'll have another request. Are we going to need a hearing on that or -- I don't know that there's any opposition.

MS. AHERN: Judge --

MR. POWELL: We'll -- we'll discuss it with --

THE COURT: Okay.

MR. POWELL: -- with Mr. Waid and -- and Mr. Geist and basically see – yeah, because we want to make it obviously very economical so if we –

THE COURT: Right.

MR. POWELL: -- can just agree to something, then we'll just forget coming back in.

THE COURT: Right.

MR. POWELL: Yeah.

THE COURT: Okay. Yeah, so what we're going to do then, Ms. Ahern, so that we can hopefully avoid another hearing like this, Mr. Waid will file a request for

a new budget to have a new amount of -- of money to continue with what we're doing here, just as we've done with the first 20,000, and if -- if the -- the Trust can agree on that, then we won't have to have a hearing on it. And so he'll be filing that request here within -- within no more than 30 days and if it's agreed to, then there's no need to have a hearing. So we're – we're hoping --

MS. AHERN: Thank –

THE COURT: -- we're hoping we don't have to have a hearing.

MS. AHERN: I need to make a comment on something. I want to thank very much the -- the gift that I am receiving. I really appreciate that and I definitely appreciate the hearing. I really appreciate that. I have people driving me from my church. They have been paid by my church and the church is requesting Mr. Waid to pay the gas, the tips and what other expenses the friends from --

THE COURT: Okay.

MS. AHERN: -- the church expended for me. One was $55 and he has that receipt, but the -- he needs to pay the church because the church paid my friend.

THE COURT: Oh I see. Okay.

MR. GEIST: Your -- Your Honor, if this is the Calvary Chapel Mesquite is that what you're referring to?

THE COURT: Calvary Chapel --

MS. AHERN: Yes --

MR. GEIST: Okay.

MS. AHERN: Yes, sir.

MR. GEIST: If it is, then a payment was made on May 17th in the amount of $55.20.

THE COURT: Okay.

MR. GEIST: So their request was filled --

MS. AHERN: Oh, thank you. Praise God. Thank you.

THE COURT: Okay.

MR. GEIST: You're welcome.

THE COURT: And so what – but what we need now because we've used up that initial $20,000, we're going to need Mr. Waid to get us a new amount that he wants the Court to order set aside and it sounds like once he's filed that, it may not be necessary to have a hearing because it – we may be able to do this with no opposition. The Court can just grant it and there's no need to have a hearing, but – so we need to get that though so we've got a new fund of money we can start using, okay?

MS. AHERN: Thank you.

THE COURT: Because we've used up all the money we've got so far, so we're going to -- we're going to get another fund of money set up. So just give us –

MS. AHERN: Thank you.

THE COURT: -- give us a few days and we'll – and Mr. Waid will get that filed within – with -- with the holiday and everything it's going to be a while so -- no more than 30 days. We'll have that ready for you in no more than 30 days --

MS. AHERN: Judge?

THE COURT: Yes.

MS. AHERN: Judge, my wonderful service dog, Captain, is hurting terribly. He needs to have drugs to take the pain down. Can you please make some money for Captain's pain, please?

THE COURT: So is that part of the Animal Kingdom bill, Mr. Geist, that Mr. Waid's working with the – with the veterinarian on?

MS. AHERN: He's hurting --

MR. GEIST: Yes.

MS. AHERN: -- so bad.

MR. GEIST: Yes, it is, Your Honor, the -- that does include -- I mean that's the invoice that we have is for Captain.

THE COURT: Yeah. Yeah, and so Mr. Waid is working with -- with Animal Kingdom on the -- on the invoice and that does include ongoing medication for his -- his pain?

MR. GEIST: I -- I -- I believe so.

THE COURT: If that's included?

MR. GEIST: Yeah.

THE COURT: Yeah, if that's included in the bill that Animal –

MS. AHERN: Pain is so severe.

THE COURT: Yeah, if -- if that's included in the bill that -- that Animal Kingdom gave, then that's – and Mr. -- Mr. Waid's working on that one right now.

MR. GEIST: Correct, Your Honor.

THE COURT: Okay. All right.

MS. AHERN: Thank you. Thank you so much.

THE COURT: Okay. So going forward then we will mail you this in forma pauperis order and that -- and you'll need that because it will also affect your Supreme Court costs. So once you've got that in forma pauperis order, because I know they've asked you for a filing fee, you can show them this in forma pauperis order. So fees will be waived there, too. We've got your request for the copies here so we'll be able to do those transcripts.

All right. And then the only other thing is –

MS. AHERN: Thank you. God bless you.

THE COURT: And then –

MS. AHERN: God bless you.

THE COURT: Okay, well thank you and you – have a good weekend.

We're going to seal, Mr. Geist, Exhibit 1.

MR. GEIST: Okay.

THE COURT: Because even though you -- you've got it, it's just – the orders and the – and the information that goes with it are sealed.

MR. GEIST: Understood.

THE COURT: So that one's – so Exhibit 1 is sealed and so unless there's anything else -- yes, Mr. Powell.

MR. POWELL: Your Honor, a few just points to clarify with Ms. Ahern and I'll just address the Court and then the Court can address Ms. Ahern.

MR. GEIST: You need to be up there so she can hear.

MR. POWELL: Oh, right here? Okay.

Can hear me better now. Just wanted to address the Court on a few issues and then the Court can address Ms. Ahern on these. There's – in -- in light of filings that have come in, there's confusion on our end as to who we should be dealing with on various issues relating to this case.

The one issue, Your Honor, is Ms. Ahern filed a – looks like an appeal against the -- the order awarding fees to Brownstein Hyatt and we're just seeking clarification given that looks like there's an attempt to negate payment based on the order and appeal, question is we have been dealing with the pending appeal with Mr. Lenhard, but we want to ensure that Ms. Ahern considers Mr. Lenhard to still be her counsel on that appeal because we're not sure if she's aware that Mr. Lenhard is

her attorney so we want to make sure that we are – should still be dealing with Mr. Lenhard versus should we be dealing with Ms. Ahern because Ms. Ahern seems to have confusion on some of these issues as to not getting notice or this or that --

THE COURT: Okay.

MR. POWELL: -- so because she's –

THE COURT: Okay.

MR. POWELL: -- pro se on seemingly a lot of these issues now, we just want to get clarification if we should still be dealing with Mr. Lenhard or if we should be dealing directly with –

THE COURT: Okay.

MR. POWELL: -- Ms. Ahern on that --

THE COURT: All right.

MR. POWELL: -- pending appeal.

THE COURT: So Ms. – Ms. Ahern, when Mr. Lenhard withdrew, he only withdrew from this ongoing litigation. He said he would remain on the record for the appeal. So what Mr. Powell is asking is since you have appealed the order granting Mr. Lenhard some fees, is Mr. Lenhard still your attorney of record in the appeal of – the ongoing appeal, not the – not the one on the fees, that's between you and Mr. Lenhard. So if Mr. Powell in the other appeal that Mr. Lenhard was representing you in continues to deal with Mr. Lenhard, not with you directly.

Is that correct?

MR. POWELL: Yes.

THE COURT: Yeah.

MR. POWELL: Yeah. I just want –

MS. AHERN: May I repeat what you said so I –

THE COURT: Yes.

MS. AHERN: -- heard it correctly?

THE COURT: Yeah. Yes.

MS. AHERN: I believe you said that Mr. Lenhard is my attorney of record in this. I do know that and he is to remain attorney of record.

THE COURT: In that – in that appeal. Got it.

MS. AHERN: Anything that is talked to or given to Mr. Lenhard I would appreciate very much to be copied and have it faxed to me.

THE COURT: Well no, actually he can't --

MR. POWELL: That's the problem.

THE COURT: -- because if Mr. Lenhard is your attorney of record, he cannot communicate with you on anything that Mr. Lenhard is your attorney about. That's a violation of the rules. For him to do it would be improper.

So if you need to ask Mr. Lenhard to send you those copies, then that's great, but Mr. -- I can't ask Mr. Powell to do that. I would be asking him to violate ethical rules. He can't communicate you -- with you directly about anything you have an attorney on. He cannot do it.

So if you still want Mr. Lenhard to be your attorney, you're going to have to get any copies and stuff through Mr. Lenhard's office. I understand it's a delay, but Mr. Powell can't -- I can't ask Mr. Powell to do that. That's improper for him to do it.

MS. AHERN: So if Mr. Lenhard would -- would want to, then he will get me copies and if he doesn't want to, is he free not to do that even though I'm a client?

THE COURT: No, well you -- you have to request that of him and -- and, you know, I'm -- unless -- I don't know of any reason why he'd refused to give you

copies, but you know, you need to request the copies from Mr. Lenhard.

MS. AHERN: I have done that. I've requested my whole file and he has not produced it.

THE COURT: Okay. Well --

MR. POWELL: That's where the confusion lies is I don't know what the --

THE COURT: Yeah.

MR. POWELL: -- dynamic is and I don't --

THE COURT: See that's a -- that's a different issue. If you're saying that for the -- to the extent that Mr. Lenhard continues to represent you in the appeal, not the appeal of his -- of his withdraw and attorney's fees, but his -- just the other appeal, then that's a different matter from you saying give me a copy of my complete file. Those are two different things. And so without something on the record there, I -- I can't really tell you what Mr. Lenhard should be doing there. It's -- you know, it's complicated.

So -- it's two different things. So just to be clear, Mr. Powell in the appeal cannot communicate with you if you have counsel. So he's going to continue to communicate with Mr. Lenhard. If you need copies of things that Mr. Powell sends in that appeal, that's a very specific request because Mr. Lenhard is still your attorney. You can request that give you copies of those things. I can't order him to give you a copy of the file unless you want to file something and bring him in -- because he's not here. I can't give him any kind of an order. He's not here today. So I -- I can't make any order on that.

MS. AHERN: Okay, let me understand. I believe you said that if I wanted to that I find that he can't and won't help me with what I need, that I could do something with you -- what is it called that I can do with you?

THE COURT: You -- well you'd have to request -- you know, come in request some sort of an order that he take some action that he's not taking. I -- I don't know. But he's got to be in court. He's not here today so I can't make any kind of -- he is not here today so I cannot make any kind of an order compelling him to do anything today because he's not here.

MS. AHERN: I understand. Thank you, Judge.

THE COURT: All righty. So -- all right.

MR. POWELL: Second issue, Your Honor, is -- I just want to clarify for purposes of the record. We've been contacted -- our office has been contacted by Attorney Mont Tanner, who has implied effectively that there is some sort of representation of Ms. Ahern and so I'd like to have Ms. Ahern clarify again -- it's a catch-22 --

MS. AHERN: I will definitely clarify that. I have signed nothing with Mr. Tanner. He is not my counsel.

MR. POWELL: Okay.

THE COURT: Okay.

MR. POWELL: Same question would apply then as well for Mr. Lawrence Semenza.

MS. AHERN: He is not my counsel.

MR. POWELL: Okay.

MS. AHERN: I have signed a contract with him but I have no money to pay him.

THE COURT: Okay.

MS. AHERN: And I would like very much to ask the Court again to please allow me to have an attorney and be it Mr. --

THE COURT: Okay.

MS. AHERN: -- Larry Semenza.

THE COURT: Okay. So --

MS. AHERN: I would like him to have 50,000 to $100,000 to represent me properly.

THE COURT: Okay. All right, now so Mr. Geist, I don't know, do we have a written formal notice request for that? Yeah, so that's the kind of thing --

MR. GEIST: No, we don't.

THE COURT: Because of the substantial amount of money you're asking for, we need something officially on the Court's docket on the record saying you've requested that and noticed that for a hearing. So --

MS. AHERN: May -- now -- now wait, slow -- slow down.

THE COURT: Okay.

MS. AHERN: I -- I've got to write that down because I think that's important for me to do.

THE COURT: Absolutely. So we'll need you --

MS. AHERN: So I have to -- I have to write you something.

THE COURT: Correct, but you have to file it. It can't just be sent to --

MS. AHERN: And file.

THE COURT: -- it can't just be sent to court chambers. It's got to be filed and noticed for a hearing. If we have it filed and noticed for a hearing, then everybody knows it's on calendar and we'll come in for a hearing -- like we've done here today, we'll do it -- over the video if you don't want to travel. So -- but counsel need to have a chance to respond to it. It's all got to be on the record. So the request would be for you to be advanced funds from the trust to retain counsel of your choice, Mr.

Semenza, and so if you would just get that filed and noticed, we'll -- we'll have a hearing on that.

MS. AHERN: So I -- I got to ask for just a little bit of help from you, if you could, Judge. How is the cover sheet supposed to be written so it's proper?

THE COURT: It would just -- you would just be requesting a -- it's a petition. You -- it's a -- you would be filing a petition for funds to retain counsel and you would notice --

MS. AHERN: Petition for funds to pay counsel.

THE COURT: Yeah, you're requesting that the -- that the trustee be ordered to distribute funds to you. That's what it sounds like you're asking for --

MS. AHERN: Thank you so much. I will get that right away.

THE COURT: Okay, and that's I -- counsel, that -- that -- that sounds like that's what the request is, it's a petition for instructions to the trustee.

MR. GEIST: I think that would be sufficient --

THE COURT: Yeah. Yeah.

MR. GEIST: -- asking the Court to issue an order instructing the trustee --

THE COURT: Okay.

MR. GEIST: -- to release funds for that purpose.

THE COURT: And then that way they can -- if they oppose it, they can oppose it and we can have a hearing.

MR. GEIST: Correct.

THE COURT: But we got to have a --

MS. AHERN: Oh thank --

THE COURT: We've got to --

MS. AHERN: -- thank you so much.

THE COURT: -- we've got to actually have something that everybody can respond to and have a hearing on so -- and we would do it again if you wish by video, that's fine. So --

MS. AHERN: Thank you.

THE COURT: Okay, that's -- anything else then, Mr. Powell --

MR. POWELL: Just one last --

THE COURT: Okay.

MR. POWELL: -- issue, Your Honor, is just in terms of the -- the damages order that we had submitted --

THE COURT: I've got that right here.

MR. POWELL: Okay. Is -- just asking for I guess status on when you think you might --

THE COURT: Okay.

MR. POWELL: -- finish your review of that.

THE COURT: Yeah. Yeah, I did have some -- some questions on it --

MR. POWELL: Okay.

THE COURT: -- because Ms. Ahern had sent not really an opposition -- did you see her letter of May 15th?

MR. POWELL: Yeah, and that's where my confusion lies is --

THE COURT: Okay.

MR. POWELL: Yeah.

THE COURT: All right, that's what we're trying to correspond what Ms. -- Ms. Ahern, you sent a letter on -- it was directed to Justice Cherry so I just want to make sure that this latest letter that you had sent was in response to Mr. Powell's order on damages because I -- I hadn't signed it yet. We were waiting for today to make sure

that this was the objection you were -- you were raising.

MS. AHERN: Yes, ma'am, it was.

THE COURT: Okay, got --

MS. AHERN: Because I had to get a check that was good. It was a cashier's check. It came immediately out of the bank where it was and immediately headed into Mac (phonetic) --

THE COURT: Okay.

MS. AHERN: -- and Mac gave it to to Fred immediately.

THE COURT: Okay. All right.

MS. AHERN: There should have been no damages. I didn't try to steal anything. I gave it immediately.

THE COURT: Okay. All right, so we've got two letters. We've got one from May 9th and one from May 16th from you and then --

MS. AHERN: Could you give me those dates again, please?

THE COURT: Yeah, the two faxes I saw were one that's dated May 9th and it -- it -- you say that it doesn't meet your approval so you've got that one. And then you sent another letter on May 15th. That one was directed to Justice Cherry. So those two letters I -- as far as I can tell, that's everything that you have to say about Mr. Powell's draft, because I --

MS. AHERN: Yes, ma'am.

THE COURT: Okay, got it. Okay, so then yeah. Then I wanted to make sure -- okay, we've got everything then, Mr. Powell. We'll --

MR. POWELL: Okay.

THE COURT: -- we'll take a look at it and -- and -- based on the information that we've been provided.

MR. POWELL: Okay. I appreciate that.

THE COURT: Okay.

MR. POWELL: Your Honor, just one last point I just --

THE COURT: Yeah.

MR. POWELL: -- want to make just to clarify again for my own wellbeing is Ms. Ahern made an accusation that there was ex parte communication between our office and this Court. I don't know how that could be given the fact that we did copy Ms. Ahern on the letter to this Court, so I would just maybe like for Ms. Ahern to understand it's not ex parte communication when we're providing her a copy with the same letter that we provided also to Mr. Waid's office too so --

MS. AHERN: Objection. May I say an objection? Is that a word that I can use?

THE COURT: Pardon? Yeah.

MS. AHERN: May I say objection?

THE COURT: Yes.

MS. AHERN: I can -- I object to that.

THE COURT: Okay. All right. Well, what Mr. --

MS. AHERN: My -- my objection is that it was missing the last two pages. One was the signature page and one was a page that had lots of information on it and so it was not a complete notice and a complete --

THE COURT: Oh, okay.

MS. AHERN: -- what you got, Judge.

THE COURT: Okay. All right, great. Well, generally speaking, ex parte communication is one side communicating and that's why we always send copies of anything you send us to Mr. Powell and Mr. Geist to make sure everybody's got the

same information. So as long as everybody gets -- has -- is -- is getting the same information, then it's not -- there's no ex parte communication. We would prefer that there be no communication with chambers, that it all go through the clerk's office and be properly noticed so everybody's got a hearing.

So all right, then we -- if that's everything then, Mr. Powell, we're -- we're -- we're done --

MR. POWELL: Okay. Thank you, Your Honor.

THE COURT: -- and so with respect we -- we'll get the in forma pauperis order to Ms. Ahern and we'll get the request -- the request for instructions from Mr. Waid for additional funding and I don't know, will you be dealing -- will he be dealing directly with respect to the dental work?

MR. GEIST: I believe so, Your Honor.

THE COURT: Okay.

MR. GEIST: Yeah, he has been up to this point and he will --

THE COURT: All right.

MR. GEIST: -- continue to do so.

THE COURT: So then yeah, the dental work will be paid for in accordance with what we've discussed today and --

MR. GEIST: And just to make sure that the record is clear on the Animal Kingdom Veterinary Hospital, there are about five items on the invoice that we received where we're not sure about two of them how they're -- how the care is -- well, we're working with Animal Kingdom. He's going to exercise his discretion and pay --

THE COURT: Okay.

MR. GEIST: -- most of it. We're not sure about part of it.

THE COURT: Got it. Okay. Thank you very much.

MR. GEIST: Thank you, Your Honor.

THE COURT: Yeah, and we'll be sending the transcripts as requested. We'll order those. Okay.

MS. AHERN: And Judge, just for clarification, you're going to file the paperwork for the in forma pauperis, right?

THE COURT: Right, yeah, we're going to file that and we'll mail it to you.

MS. AHERN: You'll mail it to me.

THE COURT: Yes.

MS. AHERN: Thank you so much.

THE COURT: Yeah, we'll mail it to you. Absolutely. Okay, got it. And then you can go to your -- your cataract appointment now. So --

MS. AHERN: Yes, I can go to my cataract appointment. Thank you kindly.

THE COURT: Good luck with that. Thanks very much. Bye bye everybody.

MR. GEIST: Thank you, Your Honor.

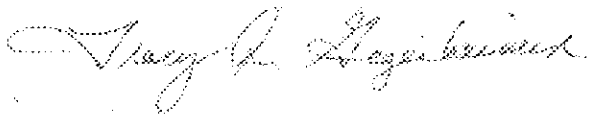
MR. POWELL: Thank you, Your Honor.

MS. AHERN: Goodbye.

THE COURT: We're in recess.

[Proceeding concluded at 12:38 p.m.]

ATTEST: I hereby certify that I have truly and correctly transcribed the audio/visual proceedings in the above-entitled case to the best of my ability.



Tracy A. Gegenheimer, CER-282, CET-282
Court Recorder/Transcriber

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF THE W.N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST, DATED MAY 18, 1972 AN INTER VIVOS IRREVOCABLE TRUST.

ELEANOR CONNELL HARTMAN AHERN,
Appellant,
vs.
BROWNSTEIN HYATT FARBER SCHRECK, LLP,
Respondent.

Supreme Court No. 72766
District Court Case No. P066425

FILED
JUN 20 2017
CLERK OF COURT

CLERK'S CERTIFICATE

STATE OF NEVADA, ss.

I, Elizabeth A. Brown, the duly appointed and qualified Clerk of the Supreme Court of the State of Nevada, do hereby certify that the following is a full, true and correct copy of the Judgment in this matter.

JUDGMENT

The court being fully advised in the premises and the law, it is now ordered, adjudged and decreed, as follows:

"This appeal is dismissed."

Judgment, as quoted above, entered this 18th day of May, 2017.

IN WITNESS WHEREOF, I have subscribed my name and affixed the seal of the Supreme Court at my Office in Carson City, Nevada this June 14, 2017.

Elizabeth A. Brown, Supreme Court Clerk

By: Dana Richards
Deputy Clerk

P-09-066425-T
CCJD
NV Supreme Court Clerks Certificate/Judgn
4659241

IN THE SUPREME COURT OF THE STATE OF NEVADA

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ELEANOR CONNELL HARTMAN AHERN,
Appellant,
vs.
BROWNSTEIN HYATT FARBER SCHRECK, LLP,
Respondent.

No. 72766

FILED

MAY 18 2017

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER DISMISSING APPEAL

This appeal was docketed in this court on April 7, 2017, without payment of the requisite filing fee. On that same day a notice was issued directing appellant to pay the filing fee within ten days. The notice further advised that failure to pay the filing fee within ten days would result in the dismissal of this appeal. Accordingly, cause appearing, this appeal is dismissed.

It is so ORDERED.

CLERK OF THE SUPREME COURT
ELIZABETH A. BROWN
BY: Elizabeth A Brown

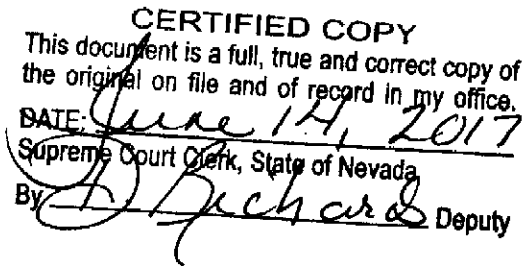
cc: Hon. Gloria Sturman, District Judge
Eleanor Connell Hartman Ahern
Brownstein Hyatt Farber Schreck, LLP/Las Vegas
Eighth District Court Clerk

SUPREME COURT
OF
NEVADA

CLERK'S ORDER

(O)-1947

17-16749


CERTIFIED COPY
This document is a full, true and correct copy of the original on file and of record in my office.
DATE: June 14, 2017
Supreme Court Clerk, State of Nevada
By: Deputy

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF THE W.N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST, DATED MAY 18, 1972 AN INTER VIVOS IRREVOCABLE TRUST.

ELEANOR CONNELL HARTMAN AHERN,
Appellant,
vs.
BROWNSTEIN HYATT FARBER SCHRECK, LLP,
Respondent.

Supreme Court No. 72766
District Court Case No. P066425

REMITTITUR

TO: Steven D. Grierson, Eighth District Court Clerk

Pursuant to the rules of this court, enclosed are the following:

Certified copy of Judgment and Opinion/Order.
Receipt for Remittitur.

DATE: June 14, 2017

Elizabeth A. Brown, Clerk of Court

By: Dana Richards
Deputy Clerk

cc (without enclosures):
Hon. Gloria Sturman, District Judge
Eleanor Connell Hartman Ahern
Brownstein Hyatt Farber Schreck, LLP/Las Vegas

RECEIPT FOR REMITTITUR

Received of Elizabeth A. Brown, Clerk of the Supreme Court of the State of Nevada, the REMITTITUR issued in the above-entitled cause, on JUN 2 0 2017.

HEATHER UNGERMANN
Deputy District Court Clerk

RECEIVED
JUN 16 2017
CLERK OF THE COURT

Electronically Filed
06/28/2017

CLERK OF THE COURT

NEOJ
Eleanor Ahern
355 West Mesquite Blvd. D30 #176
Mesquite, Nevada 89027
Telephone: (702) 345-3035 does not accept messages
Facsimile: (702) 346-7909

DISTRICT COURT

CLARK COUNTY, NEVADA

* * * * *

In the Matter of

THE W.N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST DATED May 18, 1972, An Inter Vivos Irrevocable Trust

CASE NO.: P-09-066425-T
DEPT. NO.: XXVI

NOTICE OF ENTRY OF ORDER

Date of Hearing:
Time of Hearing:

NOTICE OF ENTRY OF ORDER

PLEASE TAKE NOTICE that on the 25th day of May 2017; the **ORDER TO PROCEED IN FORMA PAUPERIS** was entered in the above-entitled matter. A copy of the Order is attached hereto.

Dated this 28 day of June 2017.

Eleanor Ahern
Eleanor Ahern

///

///

///

RECEIVED
JUN 28 2017
CLERK OF THE COURT

APPL
Eleanor Aberw
NAME
355 W. Mesquite Blvd #30 #176
ADDRESS
Mesquiet, NV 89027
CITY, STATE, ZIP CODE
7023453035 No Message
TELEPHONE FAX 702 346 7907
IN PROPER PERSON

FILED
MAY 25 2017
CLERK OF COURT

DISTRICT COURT
CLARK COUNTY, NEVADA

Plaintiff,
vs.
Eleanor Aberw
355 W. Mesquite Blvd #30
#176 Mesquite NV 89027
Defendant

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

ORDER TO PROCEED IN FORMA PAUPERIS
(Filing Fees/Service Only)

Upon consideration of Eleanor Aberw's Application to Proceed in Forma Pauperis and it appearing that there is not sufficient income, property, or resources with which to maintain the action and good cause appearing therefore:

IT IS HEREBY ORDERED,

1. That Eleanor Aberw, shall be permitted to proceed In Forma Pauperis with this action as permitted by NRS 12.015.

2. That Eleanor Aberw shall proceed without the prepayment costs or fees or the necessity of giving security, and the Clerk of the Court may file or issue any necessary writ, pleading or paper without charge.

3. That the Sheriff or other appropriate officer within this State shall make personal service of any necessary writ, pleading or paper without charge.

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4. That if the Eleanor Ahern, prevails in this action, the Court shall enter an Order pursuant to NRS 12.015 requiring the opposing party to pay into the court, within five (5) days, the costs which would have been incurred by the prevailing party, and those costs must then be paid as provided by law.

IT IS HEREBY ORDERD that Eleanor Ahern's request to waive fees and costs is DENIED for the following reason:

A. _____ The Party is not indigent.

B. _____ Other: _____

DATED this 24 day of May, 2017

DISTRICT COURT JUDGE

Respectfully submitted by:

Eleanor Ahern
Signature

Eleanor Ahern
PRINT NAME

355 W. Mesquite Blvd D30 #176
ADDRESS

Mesquite NV 89027
CITY, STATE, ZIP CODE

702 345 3035 No Message
TELEPHONE Fax 702 346 7909

IN PROPER PERSON

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CERTIFICATE OF SERVICE

I hereby certify that on the 23 day of June 2017, I personally mailed a true and correct copy to the Clerk of Courts the foregoing Notice of Entry of Order to be filed and by mail to each party addressed as follows:

TODD L MOODY, ESQ.
tmoody@htchlegal.com
HUTCHISON & STEFFEN, LLC
10080 West Alta Drie Suite 200
Las Vegas, Nevada 89137-1655
Court-appointed Temporary Trustee

Fax No: (702) 385 – 2088

JOSEPH J POWELL
probate@rushforthfirm.com
THE RUSHFORTH FIRM, LTD
P.O. Box 371655
Las Vegas, NV 89137-1655
Attorneys For Jacqueline Montoya @
Kathryn A. Bouvier

Fax No: (702) 255-4677

Eleanor Ahern

Eleanor Ahern, Beneficiary
355 West Mesquite Blvd. D301#76
Mesquite, Nevada 89027
Phone: 702 345 3035
Fax: 702 346 7909

Electronically Filed
07/10/2017
CLERK OF THE COURT

PET
~~MPOR~~

Eleanor Ahern
355 West Mesquite Blvd. D30 #176
Mesquite, Nevada 89027
Telephone: 702 345 3035 does not accept messages
Facsimile: 702 346 7909

DISTRICT COURT

CLARK COUINTY, NEVADA

*****

IN THE MATTER OF
THE W. N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST DATED MAY 18, 1972

Case No. P-09-066425-T

MOTION FOR PETITION FOR HEARING TO REQUST TEMPORARY TRUSTEE, FRED WAID, TO RELEASE TRUST FUNDS FOR ELEANOR AHERN TO PAY FOR APPROPRIATE LEGAL COUNSEL, LARRY SEMENZE, ESQ AND TO BE NOTICED FOR HEARING ON ORDER SHORTENING TIME.

Date of Hearing:
Time of Hearing:

Eleanor Ahern, In Proper Person, hereby moves to ask the Court to issue an order instructing the Temporary Trustee Fred Waid to release Trust Funds for the purpose of providing funds for Larry Semenza, to represent Eleanor Ahern as her LEGAL COUNSEL for the duration of this court case. Eleanor Ahern is requesting a Hearing on order shortening time. This order and motion is based on the Declaration of Eleanor Ahern, and the Points and Authorities attached here, together with all pleadings and papers on file herein.

Dated this on the ~~6th day of June 2017~~. 7 Day of July, 2017

Eleanor Ahern
Eleanor Ahern In Forma Pauperis

P

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RECEIVED
JUL 10 2017
CLERK OF THE COURT

ORDER SHORTENING TIME

Good cause appearing, it is hereby ordered that the MOTION FOR RELEASE OF FUNDS ON ORDER SHORTENING TIME shall be heard on shortened time on the 2nd day of Aug, 2017 At the hour of 11:00 o'clock, a m, in Department XXVI.

Dated this 10 day of July, 2017.

GLORIA STURMAN
DISTRICT JUDGE

DATED July June 2017

Eleanor Ahern
ELEANOR AHERN In Forma Propria

DECLARATION OF ELEANOR AHERN IN SUPPORT OF MOTION FOR RELEASE OF TRUST FUNDS FOR RELEASE OF FUNS FOR LARRY SEMENSA , ESQ. ON ORDER SHORTENING TIME

ELEANOR AHERN being duly sworn. States as follows:

1. I make this declaration in support of my Motion for release of trust funds for Larry Semenza, on order shortening time ("Motion") . I have personal matters knowledge of this matter set forth in this Shortening time ("Motion"). I have personal knowledge of the matters set forth in this Affidavit and, if called as a witness, could and would competently testify thereto.
2. This request is made in good faith and without dilatory motive.
3. From April 20, 2016, I had been represented by Kirk Lenhard, Esq. of Brownstein Hyalt Farber Schreck, L.L.P.
4. On November 23, 2016, this Court granted Mr. Lenhard's firm to withdraw as my counsel.
5. Although I have sought to retain counsel, I have not retained counsel. I believe in the past two Hearings, I have been taken advantage of by the Court Appointed Trustee and his attorneys of my impaired eyesight and bad hearing.
6. Thus, the undersigned submits that, in the interest of justice and judicial economy, good cause exists to hear the Motion on order shortening time.
7. The undersigned requests that this Court set the Motion for hearing as soon as this Court's Calendar permits. The undersigned does not have sufficient financial resources to pay for travel from and to Mesquite for hearing on the Motion, and requests the Court to consider conducting a video and telephonic hearing.
8. Declarant's "TDY" telephone (702 345 3035) is only capable of receiving calls and would request that the Court initiate the call. Any Facsimile messages should be directed to the attention of: Eleanor Ahern.
9. I declare under penalty of perjury under the laws of the State of Nevada that the forgoing is true and correct.

Dated this 3rd day of June July 2017 at Clark County Nevada .

Eleanor Ahern

Eleanor Ahern In Forma Propria

MEMORANDUM OF POINTS AND AUTHORITIES

EDCR 7.42 Provides in pertinent part:

Appearances in proper person; entry of appearance.

\(a) Unless appearing by an attorney regularly admitted to practice law in Nevada and in good standing,no entry of appearance or pleading purporting to be signed by any party to an action may be recognized or given any force or effect by any district court unless the same is signed by the party, with the signature's address and telephone number. If any.

Eleanor Ahern has, in compliance with EDCE 7.42 has signed the Motion for the Hearing for release of trust funds for Larry Semenza, Esq to represent her in all matters of Court of Law and the Order for on Order shortening Time , included her address and telephone number, and the Court may consider the

Motion, and if sufficient facts appear from the Motion and the accompanying Points and Authorities man act upon the Motion..

Due to the fact that the undersigned is unrepresented by counsel, the undersigned if forced to represent herself until funds are made available to pay Counsel, Larry Semenza, Esq.

Dated this 7 day of JULY 2017

Eleanor Ahern
Eleanor Ahern Informa Pauperis

CERTIFICATE OF SERVICE BY FACSIMILE

I hereby certify that on the 10 day of JULY 2017, I personally served the forgoing Motion for a Hearing on releasing trust funds to pay Larry Semenza , Esq.to be my counsel of record and the Order for the Shortening Time by facsimile transmission only pursuant to the amendment to the Eight Judicial District Court Rule 7.26 by faxing a true and correct copy of the same to each party addressed as follows:

TODD MOODY, ESQ
tmoody@hutchlegal.com
RUSSEL J. GEIST,ESQ.
rgeist@hutchlegal.com
HUTCHISON & STEFFEN, LLC
10080 West Alta Drive Suite 200
Attorneys for Fred Waid
Court Appointed Trustee

Fax No. 702 385 2088

JOSEPH J. POWELL, ESQ.
probate@rushforthfirm.com
THE RUSHFORTH FIRM, LTD
P.O.B 371655
Las Vegas, Nevada 89117-1655
Attorneys for Jacqueline Montoya and
Kathryn A. Bouvier

Fax No. 702 255 4677

Eleanor Ahern
Eleanor Ahern Informa Pauperis

EXHIBIT I

These are some of the reasons why I need an attorney

Date: July 7, 2017

Judge Gloria Sturman
Regional Justice Court
Floor 10
200 Lewis Street
Las Vegas, Nevada. 89155

Judge Sturman,

The following are the MANY reasons why I need an attorney:

Marquis Aurback and Coffing Law Firm were the very best attorneys I ever had. They knew the problem and were litigating properly. Fred Waid lied to Ms Ringa and Marquis Aurback and Coffing withdrew. Fred Waid is skillful at eliminating attorneys away from me. MAC worked three days trying to find an attorney who would be a match for Fred Waid. They got Kirk Lenhard with Brownstein Hyatt Farber and Schreck. During one of the first court hearings Kirk attended, he told Fred, "I know what you are going to try to do, You are going to try to separate me from Eleanor." Kirk told Fred " it is not going to happen". But it finally did happen. Kirk had to withdraw for lack of payment. Fred said yes to paying Kirk the next day after the Judge allowed Fred to pay Kirk $70,00o. Then there were delay and more delay and the payment never came to Kirk. Today June 7, 2017 I am still without an attorney to represent me and to protect me from Fred Waid, Temporary Trustee of the W. N. Connell and Marjorie T. Connell Living Trust dated May 18 1972. Fred Waid refused to pay Kirk Lenhard from April 1, 2015 when you appointed Fred asTemporary Trustee. Upon learning that you made an order from the Bench instructing Fred to pay $90,000 out of my funds withheld from me in the following manner: $70,000 to the Kirk Lenhard as my attorney and $20,000 for my medical and living expenses. At this moment, I am referencing the $70,000 for Kirk. November and December 2015 nothing was paid to Kirk. All of 2016 nothing to Kirk.

Fred negotiated a Settlement with the sisters and Kirk Lenhard toward the end of 2016. Kirk told me I had to sign the settlement so he could get paid or he would have to withdraw from being my attorney. I told him I wanted to read it. Kirk said to me, "I can tell you what is in it." I again I said I wanted the settlement sent to me to read. He said I had to sign it as is and you can read it when it is written. No one would ever sign a settlement without first reading it. He said your daughters have agreed to give Fred Waid 25% interest in my father's estate. Kirk also said everyone is exonerated and held harmless. In Kirk's words he said "you are still responsible for everything Fred Waid says you did wrong". Again, I ask, why would I sign such an evil settlement? I told Kirk I could never sign such an evil/bad settlement and I would never giver any percentage of my father's estate to Fred Waid who is a total stranger. A stranger who is holding millions since April 1, 2015 and still to this day, refuses to give me, a beneficiary, a certified accounting of how much money he is

holding with back up materials for every check from the oil companies he has received, every check he has written to law firms and accountants and CPA. I should know how much he spent on unnecessary and unfruitful travels to Dallas and Midland Texas and possibly Scottsdale, Arizona to see the Millers. To this date, I have not received one page of accounting. Fred won. He separated me from two very good attorneys. I read over Brownstein's bill and more than 50% + was Fred talking/ e mailing my attorneys. This is certainly a good way to make sure the client's bill is very large and I would be responsible to pay every penny of it. Fred Waid did pay Brownstein and Attorney Kirk Lenhard but it was long after Kirk had left me without counsel. The $70,000 was finally paid and I received no benefit of the $70,000 being paid while I still had an attorney thanks to Fred Waid Temporary Trustee for the W.N. Connell and Marjorie T. Connell Living Trust dated May 18, 1972.

Do you remember, Judge, when Joey Powell and his plaintiffs (my two daughters) put in a pleading to you that demanded STOP THE BOGUS INVESTIGATION. Fred Waid had not found anything missing, yet Fred acted as if he had. He never had any substantial facts just a smoke screen without proof of any documented bad action on my part. I did dip into the 65% I was holding for whomever won the court case. I had attorneys to pay. I told Fred I used the money and that the $600,000 could be paid back quickly by future income. Tammy Peterson my attorney with Brownstein wrote to Fred Waid that there was enough money in Eleanor's account to pay $400,000 now and finish paying with the income that was coming in. He refused. I could pay it off now but he will not let me. I never stole any money nor did I hide any money. Everyone who assisted me during these years of this long court case were of the highest caliber and wonderful to me. No one ever took any money from me. In fact, I still owe those that worked for me money which I will pay properly from my inheritance.

He lied to you Judge. He could not, nor can he prove his acquisitions against me. Because he had nor does he have any proof. I have heard in a court of law you are innocent until proven guilty. Fred has not proven with any substantial documentation that I am guilty of all he has accused me. Yet Judge he has pushed an abundant of lies about me upon you and you believed them without any proof. I have done nothing but use $600,000 of the 65% . I have had the money all along to pay it back and be rid of Fred Waid but to keep his job as trustee, Fred has not allowed me to pay it back. Tammy Peterson asked in an order to you for him to pay at least $400,000 to the MTC Trust at that time and pay the $200,000 soon thereafter. I was not allowed by Fred Waid to get that negative paid. Frankly, there is no more money to find. Although Fred Waid says I owe millions to the Trust. I told him where to fine all the money there was to find and what was in each of the banks. He **never** found any money in Nevada, or Texas as he claims as I told him where every dime was. I never deposited any money in a California Bank although Fred Waid claims I did. I would like to see his proof. There is not any proof.

Fred Waid and CPA Mr. Wilcox had a meeting with a CPA that showed them that

all the money I had received was deposited in trust accounts. First into the W. N Connell and Marjorie T. Connell Living Trust at Wells Fargo. From that account, the money was split into another Wells Fargo Trust Account where I put the 65% and the other Wells Fargo Trust Account was where I put my 35%. No mystery there. Yet Fred Waid, Temporary Trustee talks as if what I did was wrong. It was not wrong. The CPA they met with reconciled all the revenue with Fred Waid and his accountant Mr. Wilcox who by the way, never did a reconciliation of the Trust income because Fred Waid never gave any of the accounting to Mr. Wilcox ***Nothing Stolen. *** In front of the CPA. Fred and Wilcox at first had all kinds of accusations but when they sat down and listened and learned, both left the meeting agreeing with the CPA that I had not stolen any money. Then Fred started all over again lying to you about me stealing money. No money was ever stolen by me nor was it hid by me. I was changing my Trust from being a pass through trust to writing off expenses to take take care of me as I knew I was 100 % owner of my father's Trust 2 where all the Oil Check had been deposited since 1979 and all the Oil companies wrote the check to Trust 2's EIN number. I knew I could, if I wanted to stop the payments to my adopted mother. I knew she had no income and I made a promise to my father after the Adoption Hearing in Las Vegas 1996, three years before my father died, at his home that she and I would always take care of each other. I honored that vow. She did not.

Fred Waid is not complying with the Trust wording that states the trustee must give a true and certified accounting of all moneys received. He is required to give such an accounting of what has happened to the millions Fred as Temporary Trustee has received since he was appointed by the Court April 2, 2015 to this current JJune 7 2017 date. Millions of dollars are either under his control or spent by him. You have asked Fred twice to produce a full accounting. Again, your ORDERS have been ignored. The last time was February 9 and 10, 2017. Fred Waid has been in charge of the Trust account without any accountable for 9 months in 2015, 12 months in 2016 and 6 months in 2017. No accountability of where my father's money has been spent. I have requested many many times for a certified accounting with backup be given to me as a beneficiary. You have requested twice and you and I both have been ignored. You ORDERED from the bench a full accounting with back up would be made available by Fred Waid no later than 30 days from February 10, 2017. He HAS NOT PRODUCED THAT ACCOUNTING TO ME. HAS HE GIVEN IT TO YOU, JUDGE? If he has could I have a copy?

Three lawyers told me there is nothing illegal about taking trust money, I was trustee over, to secure a Super Sidious Bond. Fred Waid has been working hard to convince you Judge and every one of his attorneys and Kirk Lenhard of the Brownstein Firm that I did something bad. I never did anything bad regarding my trust and my being trustee. I knew I could pay back the $600,000 I borrowed knowing I could pay with future income $200,000. Even by Fred Waid own calculations I only owed $600.000. Yet, he went on a witch hunt, spending hundreds maybe thousands of dollars to find where I had stolen millions. Hid money. He has no proof as I stole nothing nor did I hide any money. Nor did anyone take any money. Judge you never asked him to

show proof of his acquisitions against me. The burden is on him to prove I did something wrong, which I did not.

Fred Waid used a smoke screen to silence my voice. He tried his best to silence me. He marginalized my arguments with his smoke screen. An honest trustee is to have the back of his Beneficiary. Fred wants to stab me in the back. This is not the first time he has taken advantage of the System to take advantage of me. He even took advantage of me when he hired lawyers. He hired his lawyers from his own law firm Hutchison & Steffen. These lawyers should have known better. They were compliant with his taking advantage of me all through this court case and to this day they are helping him still take advantage of me. He misused his favor with the Court at least 3 if not 5 times.

I had less than 24 hours' notice so I could not be prepared in this last hearing, May 24, 2017. That is in the record and no one can change that now. Tammy Peterson and Kirk Lenhard, my lawyers were forced to take the approach of his breaking rules because there weren't dollars to do anything about it. This was the position my lawyers were in because Fred refused to pay their fees, even though, Judge you released $70,000 to pay for lawyer fees. That fee was finally paid to Kirk Lenhard even though I have not received legal notification that it was paid from either Fred or Kirk Lenhard. Did you know, Judge, that these fess were finally paid way after the fact when you gave authority to pay for attorney fees November 2015. Now that Fred got rid of Kirk Lenhard, he chose to pay him the $70.000 you authorized. Do you see the irony of that?

All my medical needs from April 1, 2015 through all of 2016 and the 1st 5 months of 2017 when the first Bill was paid for a driver who paid for the fuel, valet parking and room tips was repaid. Fred Waid has forced me to live with an infection since he was Court Appointed. During this time Fred Waid refused to pay for lawyers. If my health turns bad and I die, he gets my assets. He made an agreement with my daughters that he gets 25%. That amount is hundreds of thousands of dollars. I have well over 100 producing oil wells on my father's land that he gave to me. AND ONLY ME. This is a trust in millions of dollars. It is my opinion Fred is paying Trust money to his professional friends, CPAs, Attorneys and Consultants besides traveling all over the country looking for money on a witch hunt. I already told him where he could find every penny. How much Trust money has he spent? How much money was spent on traveling that the Trust paid for? How much was/is his Dallas Attorney? How much did he pay Hutchison & Steffen Law firm for whom he is listed as a Nevada Lawyer? Fred is not a Nevada lawyer only a Texas lawyer. Judge, wouldn't you like to get these answers also? What Fred Waid has done is Really Really wrong. He is very partial to Jacqueline. I saw him hugging and cradling her in his arm in your Court's anti room. He definitely is not an impartial trustee. He has favored my daughters ever since he was appointed by you. **HE IS NOT AN IMPARTIAL TRUSTEE.**

Judge Sturman, you must understand the greed of this trustee. He is taking

advantage of a Senior Citizen. He expects me to die before this is over. Any infection takes a lot out of a Senior Citizen. A massive infection in the mouth is very dangerous for anyone but especially for a Senior Citizen. Again, since April 1, 2015, I was told I needed dental care every three months. And my requests were ignored. Since April 1, 2015, I asked and sent many invoices for Cataract Surgery and my request was ignored until May 9, 2017. (9 months in 2015) (12 months in 2016) and (6 months in 2017) for 26 months I have been abused and ignored. I asked for hearing aids since April 1, 2015 and my request were completely ignored. My many requests, made through Tammy Peterson and Kirk Lenhard, my last attorneys, have been ignored. Because Kirk Lenhard was not paid, he did not protect me as a paid lawyer would have done. Fred Waid got rid of Kirk and now I have no one. **TO REPRESENT ME OR PROTECT ME FROM FRED WAID.** You have locked away all my assets I had been living on since my father died in November 24, 1979 when he gave them all to me and by my being generous with the money giving to my mother and then my daughters I now suffer and do without because I was generous. Do you see the irony of this and how wrong this is?

Fred Waid has allowed me to be abused by refusing me proper medical care and absolutely no living expenses. Not even gas to come into Court. The settlement also released everyone involved from any wrong doing except me. I was totally responsible for everything Fred Waid said I did wrong without any documented proof of me doing anything wrong which judge was nothing. Again, Fred Waid's smoke screen yet you give him your official covering of immunity to continue doing wrong by me.

Fred Waid presents himself to the Court that he is watchful. He is not. He said his fee would not be any more than $250 a month. Then he hired his buddies, his three lawyer friends in the Hutchison & Steffen Law Firm. Now their combined fees are surely way over a thousand an hour for they seem, to most of the time, show up as a threesome. The abuse of me as a 77 and 78 and now a 79-year-old Senior Citizen has been massive. I documented I was standing in Food Lines. I sent him that documentation. Did he care? NO! He offered no living assistance. The $20,000 you offered in November of 2015 was not used on me till he paid for fuel to Calvary Church Mesquite who paid my church friend who also paid valet parking and room tips. Although I sent many requests to Fred, through Tammy Peterson and Kirk Lenhard, I was again and again ignored. and my dental care to handle the infection did not happen till April 4, of 2017. My first cleaning since Fred Waid was appointed Temporary Trustee by you on April 1, 2015. Again, I stress, I was told by a Mesquite dentist I needed my teeth deep cleaned every three months. Fred knew this, Todd Moody knew this and so did Russel Geitz knew this and all three chose to ignore my request for money for cleaning my teeth, thus a deadly infection took over as all my teeth are now infected.

To this day, June 7, 2017, to my knowledge, I can only account, at the most, far less than approximately $2,500 out of the $20,000 you authorized to be spent on my medical and living expenses from November 2015. I must repeat no money was

spent or given from April 1 2015 to May 2017. Again, a full accounting with back up needs to be given to me and you, Judge, on how the $20,000 was spent. I should believe, you Judge, would like to see where all that money was spent. You should also want to see invoices and a copy of the Trust checks that paid out $20,000. And an accounting of the Credit card that was used to secure the M J Marriott Hotel for two stay over when I had a growth removed on my left corona and my right eye had it's Cataract removed. I know what I received and it was not even close to $20,000. Fred Waid says accusing words yet he has no evidence that I ever did anything wrong but what I owed by dipping into the 65% by $600,000 to pay attorney fees.

My adopted mother owned no assets in Texas. There was a quite a rush of settlements to no avail up to Christmas 2012. Then total quiet. There were no calls, no action,no e mails, no faxes. I felt something was wrong but I could not put my finger on the IT I asked my secretary at the time to investigate the court system in Texas to see if anything was in their system. She found the IT. My two daughters had filed my mother's will to be probated with three lies on the document. 1, Marjorie Connell, their grandmother had no adopted or live birth children 2. I was a step child – thus I did not have to be noticed of this appeal. 3, Marjorie owned asset and land in Upton County, Texas. All three were very big lie. Jacqueline's Texas attorney MaryLou Cassady was an elder abuse attorney in Midland, Texas and was a friend of the Judge. Ms Cassady walked the order to his office and had him sign the order in her presence. I hired Jeffrey Johnston Esq . a well-respected Oil and Gas attorney in Midland Texas for over 30 years. He and his Partner Stan Crawford put a stop to their appeal. Their lead witness was fighting Cancer Attorney and could not appear for trial. Under the Burr Law firm my attorney was Mr. Mugan. When we did have the trial, Judge Sturman got very mad at what Mr. Mugan presented to the Court and the trial was immediately moved into the future.

The trial was just held on May 24, 2017 in front of the presiding Judge Gloria Sturman. It was called an Evidentiary Hearing . I was watching from home on my computer as I had no gas money to drive to be in Court. No, Fred Waid did not offer any gas money for me to come to court. I had asked many times before and it was always either no answer or NO I AM NOT GIVING YOU ANY MONEY TO DRIVE TO TOWN. I did not get noticed of this hearing. When Kirk withdrew he gave an address for me that did not get any mail. I responded to his wrong address to him and to Judge Gloria Sturman with my correct address. She said the Court was never notified of my correct mailing address and that is why I was not noticed. This letter was sent to her with my corrected address shortly after Kirk sent out the incorrect address.

Jeffrey Johnston also assisted in Apache Oil Company's largest bonus for contracting over 11,000 acres under Apache control for drilling ever paid in the Texas Panhandle's history of paying bonuses. The 11,000 plus acres were all owned by my father and his three sisters. Now the decedents, like me, inherited what their parents owned, Mother Cora Connell made certain any Oil and Gas and other minerals were to be shared between the four children and their dependents equally.

My father gave all his sole and separate property which was put in his trust stating it would remain his sole and separate property and that all the income from the 3 ½ sections pasture land and the oil and gas revenue assets would be mine to use during my during my lifetime. He put all these assets into Trust 2 that would be created for me when he died. Trust 2 owns, for my benefit, all of Sections 38, 46, 47 and one half of Section 37 of Block 39, TWP 5-S. The small red square shows the minerals sold back in the 1930s for the all the dependents' benefit. The land grazer was paying $1.00 an acre to run his sheep and cattle on my father's land. I was negotiating a higher price when I was removed. I never should have been removed as I did nothing wrong regarding my trust. Those interested in reading Benjamin Geitz, Esq. Pleading for the Nevada Supreme Court filed in 2016 would learn the truth of what my father's trust states regarding all monies to be used for my benefit during my lifetime. He worked for the Brownstein Hyatt Farber and Schreck Law Firm. He has since moved on to Peterson and Hope Law Firm in Las Vegas, Nevada.

The daughters agreed when they and I signed the Solomon Dwiggins Document in August of 2009 that they would only be in the flow of money when I died. Yes, I lovingly gave them remaindermen status. It was my belief that they would receive everything I had created when I died. They and I knew they would never be in the flow of money till I died. If there were a way to remove the remaindermen statues I would do it in a heartbeat. What they have put me through is almost worse than death. But I am alive and living and I will always remain the best Mom they ever had except I believe I gave too much. And their greed wanted more and more.

You said in Court Judge that I could Petition this Court to bring Kirk Lenhard into Court and you would consider having him produce my full file, all e mail records between Fred Waid, and Tammy Peterson and Kirk Lenhard. I looked over Kirk Lenhard's bills and more than 50 % were created by Fred Waid. What a fine way for the Trustee to create a large bill with my attorneys so I would be responsible to pay. Fred Waid's ethicist must be examined. My petition would include all the records produced by his partner Tammy Peterson who now works for another firm. I did understand you correctly, didn't I. I listened to the DVD again today and I want to thank you for telling me what I need to do to get my records. Thank you.

I would, with your permission, petition Fred Waid to come to Court to have you, Judge Sturman require him to produce a full accounting of my father's assets since April 1, 2015. How he has been spending the assets and to have full back up for each and every penny he has spent. When I was in Court February 9 and 10. You told Fred Waid to produce the accounting by the end of February approximately 30 days later. Your order from the bench has again been ignored. As a beneficiary and my father's only daughter, I have requested an accounting from April 1 when Fred Waid was court appointed till today July 3, 2017. Again, an accounting without backup is only words and figures. Please he must produce an accounting, certified by an

account with all backup for each invoice. And check. Thank you Judge.

I will write a second petition asking you to bring Fred Waid to Court to produce every cent you allowed him to manage for my benefit from the $20,000 you gave him November 2015. Again, I will write there has been less than $2,500 out of the $20,000 you authorized to be used for my medical and my living expenses actually spent on me for medical and none for living expenses. I want to know what happened and how the rest of the money out of the $20,000 was spent, on whom, the date and for what purpose. Since it is all gone according to about 16 times you asked for clarification that the $20,000 was all gone. Mr. Geitz always answered in the affirmative. "Yes, it is all gone".

I have chosen Dr. Marchant and Dr. Davis to do my implants. Not ClearChoice as they will not save any of my teeth, $7,000 to Anderson Healing Aids. Dr. Anderson has a Master's Degree in audiology and I need his skill and knowledge. Medicare pays all but 20% of the Cataract Surgery. That bill should come in around October.

With all my teeth being infected at 79, Fred Waid is playing Russian Roulette with my life. I believe I had pneumonia several times since April 2015. I owe Doctors. All need be paid off at once not at $10.00 a month by me. As I sometimes do not have enough money to eat properly and pay their bills.

Fred Waid is holding $1,000,000 to $3,000,000 of my dollars, maybe more. Judge, do you know how much he is holding? I have not heard. Do I need to do a Petition/Order to get him to give me the amount he is holding in my account to include a full accounting with back up during his term as Temporary Trustee?

Fred Waid even threatened me with an inappropriate IRS action so he could blackmail me to take over my trust. He paid $800,000 just in case I had an IRS issue. I heard they had no issue but returned only a portion. I would like the backup material for this transaction. I never got any report from him that he even paid money or got back money from the IRS. Do you get that accounting.?

Judge, Fred Waid is hostel toward me. Always trying to find me in the wrong. I have only done one thing wring. That dipped into the 65% $600,000 to pay attorney fees. I had enough to pay that back many times and be done with Fred Waid but he kept adding more lies to keep this job of his going until I die and he receives my father's assets. Wrong Judge, so terribly wrong.

He positioned me for malnutrition as he knew about the Food line I stood in every two weeks for months on end yet none of the $20,000 was used in those years.

No new clothes since April 1, 2015. I am inappropriately dressed for both summer and winter.

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IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF THE W.N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST, DATED MAY 18, 1972,	Case No: P-09-066425-T Docket No: 73837
ELEANOR CONNELL HARTMAN AHERN, Appellant(s), vs. JACQUELINE M. MONTOYA; AND KATHRYN A. BOUVIER, Respondent(s),	

RECORD ON APPEAL
VOLUME
45

ATTORNEY FOR APPELLANT
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MESQUITE, NV 89027

ATTORNEY FOR RESPONDENT
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LAS VEGAS, NV 89134

P-09-660425-T IN THE MATTER OF THE TRUST OF:
THE W.N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST, DTD MAY 18, 1972

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

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Todd Moody

From: Fredrick P. Waid
Sent: Wednesday, March 08, 2017 1:27 PM
To: Todd Moody
Subject: FW: CC Payment Receipt from New Eyes

From: payments@securebillpay.net [mailto:payments@securebillpay.net]
Sent: Wednesday, March 08, 2017 1:27 PM
To: Fredrick P. Waid
Subject: CC Payment Receipt from New Eyes

New Eyes
2020 Goldring Ave.
Suite 402
Las Vegas, NV 89106
Phone: 702-485-5000
www.neweyeslasvegas.com/

------ Credit/Debit Card Payment Receipt ----------

Date / Time:	03/08/2017 15:25:46
Name:	Eleanor Ahern
Email:	fwaid@hutchlegal.com
Account No.:	57202
Location:	Pecos
P.O.:	
Order ID:	
Location:	New Eyes Green Valley
CC Number:	**********4121
Amount:	$197.42
Status:	Approved
Auth Code:	300827
Trans #:	1458669468
Description:	

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EXHIBIT PAGE ONLY

EXHIBIT 8

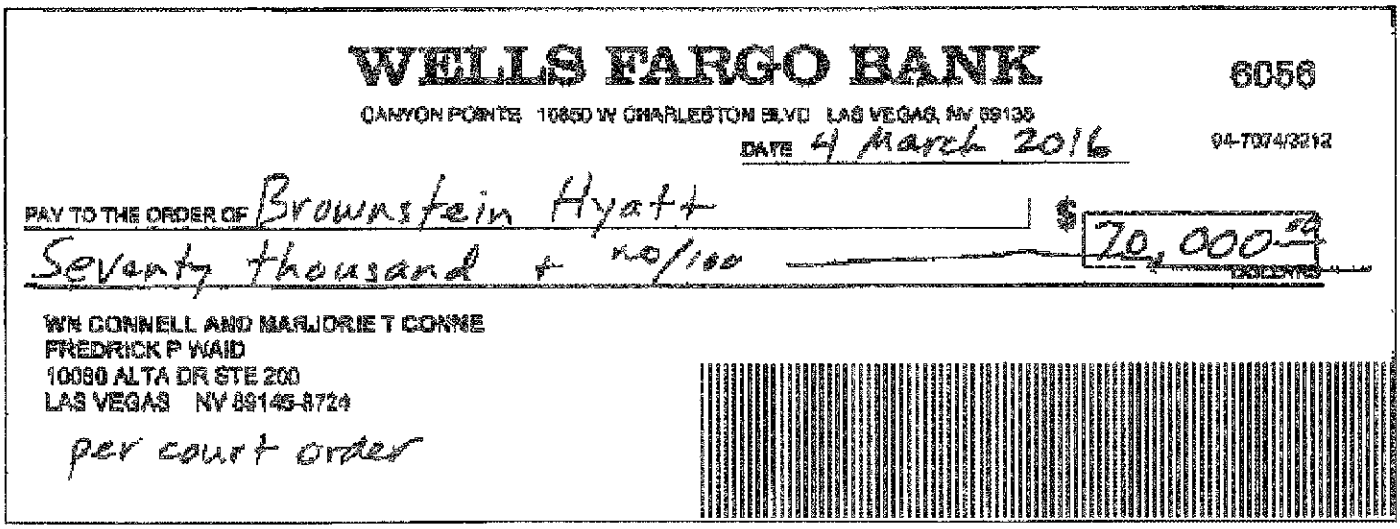
HUTCHISON & STEFFEN

A PROFESSIONAL LLC

WELLS FARGO

Check Details

Check Number	6056
Date Posted	03/04/16
Check Amount	$70,000.00



WELLS FARGO BANK 6056

CANYON POINTE 10650 W CHARLESTON BLVD LAS VEGAS, NV 89135

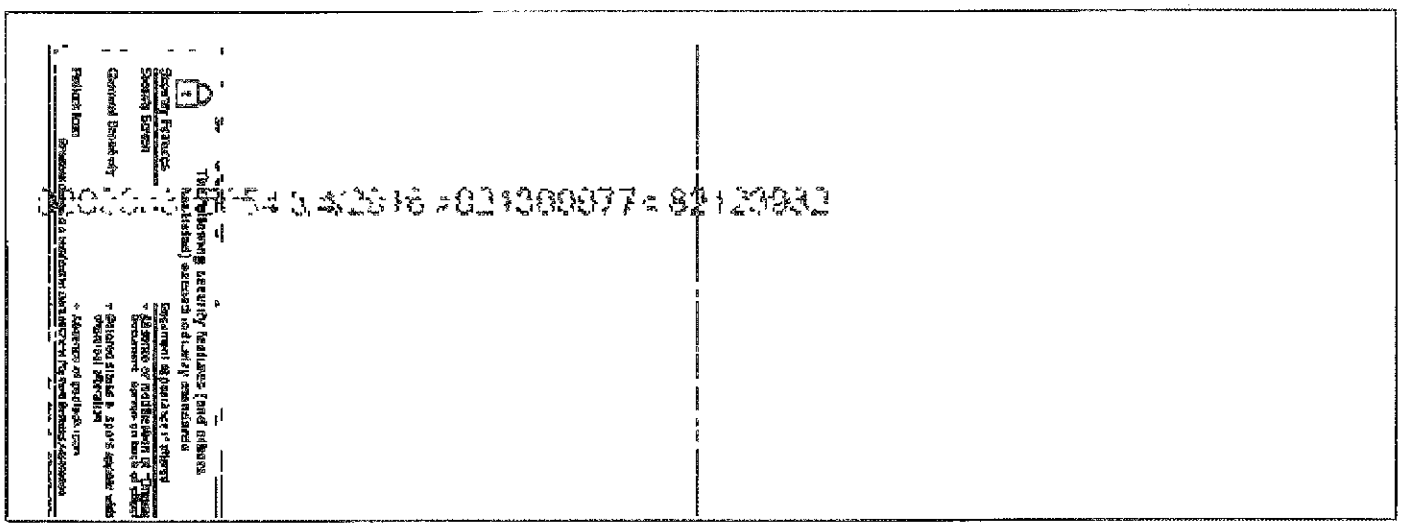
DATE 4 March 2016 94-7074/3212

PAY TO THE ORDER OF Brownstein Hyatt $ 70,000.00

Seventy thousand + no/100 DOLLARS

WN CONNELL AND MARJORIE T CONNE
FREDRICK P WAID
10080 ALTA DR STE 200
LAS VEGAS NV 89145-8724

per court order



*Note

The account number, signature, and endorsement are removed from the image(s) for security reasons. To obtain a full copy of the image, please call us at 1-800-TO-WELLS (1-800-869-3557), 24 hours, 7 days a week.

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RTRAN

CLERK OF THE COURT

DISTRICT COURT

CLARK COUNTY, NEVADA

In re the Matter of:	CASE NO. P-066425
THE W.N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST MAY 18, 1972	DEPT. XX

BEFORE THE HONORABLE GLORIA STURMAN, DISTRICT COURT JUDGE

THURSDAY, FEBRUARY 9, 2017

RECORDER'S TRANSCRIPT
EVIDENTIARY HEARING

APPEARANCES:

For Jacqueline Montoya & Kathryn Bouvier:	JOSEPH POWELL DANIEL P. KIEFER The Rushforth Firm, PLLC
For the Trustee:	TODD L. MOODY FREDRICK P. WAID Hutchison & Steffen, LLC

RECORDED BY: KERRY ESPARZA

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THURSDAY, FEBRUARY 9, 2017 AT 10:17 A.M.

THE COURT: Will everybody make appearances and we'll discuss what we're going to be doing today.

MR. POWELL: Good morning, Your Honor. Joey Powell and Daniel Kiefer appearing on behalf of Jacqueline Montoya and Kathryn Bouvier who are present in the courtroom today.

MR. MOODY: Good morning, Your Honor. Todd Moody, Bar Number 5430 for the Court-Appointed Trustee Fred Waid who is present.

THE COURT: All right. So pursuant to some communication the Court received from Ms. Ahern, we have made an effort to have her be able to join us by a video link. I think that she has also requested and was authorized a disbursement of funds for Counsel. I don't know if that was done. I see Mr. Semenza is here. I don't know if he's prepared to make an appearance or not.

Counsel, you --

MR. WAID: We spoke, Your Honor, but I think Mr. Semenza would like to address the Court on that.

THE COURT: Okay. All right. So I can see Ms. Connell on this little screen but not on the big screen, so what's going on?

THE COURT RECORDER: When we're brought in, Judge --

THE COURT: Okay.

THE COURT RECORDER: She can -

THE COURT: Okay.

THE COURT RECORDER: -- see her, but she cannot hear us.

THE COURT: All right. Great.

So, Mr. Semenza?

MR. SEMENZA: Good morning, Your Honor. Last evening I received a copy of the Court's Minute Order that indicated that, "Pursuant to Eleanor Ahern's ex-parte request for an order releasing funds" --

THE COURT: Uh-huh.

MR. SEMENZA: -- "the Court hereby grants the request and orders that the Trustee, Mr. Waid, shall release funds from Ms. Ahern's share of the Trust directly to Attorney Lawrence J. Semenza, Esquire" -- excuse me, I added the J, which isn't in your order.

THE COURT: Okay.

MR. SEMENZA: -- "for his reasonable attorneys fees incurred for his representation of Ms. Ahern at the February 9th and 10th evidentiary hearing.

THE COURT: Yes.

MR. SEMENZA: I think the last time I appeared before you, Your Honor, I did not enter an appearance --

THE COURT: You did not --

MR. SEMENZA: -- on Ms. Ahern's behalf. And, in fact, I think we discussed the fact that we no longer have special

appearances.

THE COURT: Yes.

MR. SEMENZA: And -

THE COURT: You have not made any appearance.

MR. SEMENZA: I have not made an appearance, and I certainly cannot make an appearance under the terms that have been specified in the Court's order.

Ms. Ahern, as you indicated last time, Your Honor, needs counsel, and apparently she does not have sufficient funds with which to engage counsel, whether it's me or someone else. And to me, for me to enter an appearance today and for tomorrow, assuming that the hearing were to continue that -- and then I don't know whether I would have to move the Court to withdraw since I -- in for a pound, in for a penny, whatever. I cannot do that. It would be malpractice for me to step into this for a hearing this morning, Your Honor, and I cannot do so.

THE COURT: Okay. So you're respectfully declining to appear.

MR. SEMENZA: I am, Your Honor.

THE COURT: Okay. That's understandable. Have you communicated with Ms. Ahern that you're not going to be able to appear for her?

MR. SEMENZA: I have not, Your Honor, because I didn't receive the Court's order until this morning.

THE COURT: Okay. All right. Well, so she can't hear this yet?

THE COURT RECORDER: No.

THE COURT: Okay.

THE COURT RECORDER: I was told she can't, Judge.

THE COURT: Okay. All right. Well, I think that we probably at some point need to get her on the link, advise her that she's going to need to go forward, unrepresented by counsel, because even -- it's not just a question of paying your fees, it's that, you know, she didn't request this until - I don't know, was it --

MR. MOODY: Your Honor.

THE COURT: -- Tuesday or something? Yeah.

MR. MOODY: I hate to interrupt. I just want to point something out.

THE COURT: Yeah.

MR. MOODY: Immediately after receiving the Court's order yesterday, which came in, I don't know, around 3:40 -

THE COURT: Uh-huh.

MR. MOODY: -- yesterday. Mr. Waid and I called Mr. Semenza to let him know about the Court's order. So I understand that while he may not have seen the court order either until last night or maybe even this morning, he was fully aware, and we did that purposely so that this would not be a surprise to him, and so that -

THE COURT: Right. Yeah.

MR. MOODY: -- he would have sufficient time --

THE COURT: And he is here.

MR. MOODY: -- to speak with Ms. Ahern.

THE COURT: Right.

MR. MOODY: I just wanted to clarify.

THE COURT: And, and so we probably do need to advise her of that. You know, we're going forward. So, you know, she did ask for counsel. We tried to do what we could to accommodate her. I, you know, I did not know if she had talked to you or not talked to you, in advance, so that you would know what she was asking the Court to do. So I had no way of knowing if you were prepared to do what she requested. You know, we accommodated the specific things she requested, which was to release funds. So --

MR. SEMENZA: Well, I, I understand that, Your Honor, but I don't believe that was what she had requested. That I -- that the Court release funds for today's hearing and tomorrow's hearing. I don't believe that was her request, Your Honor. I believe that she requested funds to be expended to engage a lawyer, whether it was me or someone else, not just for this hearing, Your Honor.

THE COURT: I think it was that. I think that was. I don't recall her letter specifically. So -- she -- I don't know if she copied you in the letter that she sent, but she

did send a letter. So, I think at this point in time we probably need to advise her that you are not able to, under the circumstances, and in good conscience, appear for her today. So, you know, we tried to accommodate the specific request she made, got her here on the video link per her request. So we can proceed. And --

MR. SEMENZA: May I sit in the audience, Your Honor?

THE COURT: Certainly. And we will advise -

MR. SEMENZA: Thank you.

THE COURT: -- Ms. Ahern that you have come to court to advise the Court that you cannot -- let's see. Ron, can you ask Linda for, if she's got it, Ms. Ahern's letter?

MR. SEMENZA: Excuse me, Your Honor.

THE COURT: Mr. Semenza. We appreciate your presence, Mr. Semenza.

MR. SEMENZA: Thank you, Your Honor.

MR. MOODY: Judge, can I raise one issue --

THE COURT: Yes.

MR. MOODY: -- in light of the colloquy that we just had with Mr. Semenza.

THE COURT: Okay.

MR. MOODY: Judge, I expect that some of the testimony that will come out today will not only involve sensitive financial information, but some of it may have to do with at least two documents that have previously been filed under

seal. So Mr. Waid does have some concerns about Mr. Semenza remaining in the courtroom if he has not entered an appearance for --

THE COURT: Understood.

MR. MOODY: -- Eleanor Ahern. Just want to bring that to the Court's attention.

THE COURT: And so, to the extent that there's ever a question of confidential information that has not been disclosed to non-parties, then I'm sure Mr. Semenza would understand if he was --

THE MARSHAL: I just went to the clerk's office to see if it's in the basket.

THE COURT: Okay. Never mind. Yeah. Okay. Thanks. All right.

MR. KIEFER: And then I guess I would just -- I would piggyback on that same objection, Your Honor --

THE COURT: Okay.

MR. KIEFER: -- and just put it on the record.

THE COURT: Great. Well --

MR. KIEFER: I guess I'm confused as well, though, is -- is he going to ask for compensation for listening in today but not representing her?

THE COURT: It's not a problem for me right now.

So I think at this point in time we need to get Ms. Ahern's line opened up so she knows what's going on here, so

we can discuss the schedule.

MS. AHERN: Hi.

THE COURT: I know that she has indicated she may need to take frequent breaks, so that's okay. I have something I have to do. I have to be over at the federal building, and under the circumstances today, it's going to take a little longer to get in. This is the first day of the Bundy trial. So we're going to be taking a break from 11:30 to 1:30, a longer lunch break than we normally would to accommodate going over there for that thing at noon, so just an FYI. So we need to get her on the line so she knows what she -- what we're doing.

THE COURT: You can open that up.

MR. SEMENZA: Your Honor, if I could be excused? I would appreciate it.

THE COURT: Okay. If you give us just one minute we're going to get Ms. Ahern on the line and advise her that you, you came.

Good morning. This is Judge Sturman. [Echo heard]. Can you hear me, Ms. Ahern?

MS. AHERN: Yes, I can.

THE COURT: Okay. All right. Ms. Ahern, in leading up to today, the Court did receive a letter from you indicating that you wanted counsel today and requesting that the Court authorize attorney's fees for -- the attorney you mentioned was Mr. Semenza. And that also indicating that you were not

going to be able to travel down here from Mesquite for health and financial reasons. So we've accommodated your request to appear by video conference. And, additionally, the Trustee authorized the release of funds for Mr. Semenza.

You should know that Mr. Semenza is here in court. He has indicated to the Court that, as a matter of, I guess, legal ethics, he does not believe that he has had an opportunity to prepare to represent you in this hearing and cannot take on your representation. He has never appeared in this case as counsel for you, and he has respectfully declined to do so for the purposes of this hearing today. He's -- are you aware of that?

MS. AHERN: I just now heard you talk about it.

THE COURT: Okay. All right. So Mr. Semenza has asked to be excused. He does not intend to remain. The -- this particular hearing does involve a lot of confidential financial data that is sealed and not open to the public. So as a -- as he has not appeared in the case, he would not be able to say for certain aspects of the trial that are -- deal with confidential financial information, not to be shared with the public. So he was going to have to leave anyway, so he has asked that he be excused now.

So given the fact that he has stated his regrets that he is unable to prepare for and be here today since he didn't find out until yesterday afternoon that, you know, fees

would be released per your request, he just can't do it, and certainly I cannot force him to appear for you. So we're ready to proceed. We'll excuse Mr. Semenza and appreciate the fact that he came to court to explain why, despite the funds being released, he's not able to take on this representation on such short notice, with no file and no time for preparation.

MR. SEMENZA: Thank you very much, Your Honor.

THE COURT: So Mr. Semenza is excused, and we're otherwise ready to start the hearing today. As we discussed, you had requested that you be given opportunities to take breaks. I see you've raised your hand. So, yes, Ms. Ahern.

MS. AHERN: Since I am not represented by counsel, I will not be speaking.

THE COURT: Okay. That's understood. So and I know that you have indicated that you may need to take frequent breaks, and I see you've raised your hand again.

MS. AHERN: I would like a continuance.

THE COURT: That's denied. You have indicated to my staff that you may need to take frequent breaks. Please feel free to let us -- when you need to take -- know when you need to take a break. We are going to take a lunch break that's a little longer than normal today as I have something to do over the lunch hour, and so, in order to get to the federal courthouse, which has a lot of security today, I will need a

longer lunch break than normal. We'll be taking a break from 11:30 to 1:30 just so you can plan for that. But if you need a break prior to that, just let us know.

I'll let the people who are present in court identify themselves so you know who's here in the courtroom.

MR. POWELL: Joey Powell.

MR. KIEFER: And Daniel Kiefer.

MR. MOODY: Todd Moody for Fred Waid.

Judge, can I also ask that Ms. Ahern identify anyone else that may be on her end either by attorneys or otherwise?

THE COURT: Okay. Thank you.

So, Ms. Ahern, the parties who are present, as you may have heard, are counsel for the moving parties. That's Ms. Montoya and Ms. Bouvier. They're present in court, their attorneys are present in court. The Successor Trustee Mr. Waid's present, along with his Attorney Mr. Moody.

Because, as I mentioned earlier, we have confidential information being discussed today, that the agreement was it would only be disclosed to people who have signed a Confidentiality Agreement. That counsel have asked, who is physically present with you at your end of the video link?

MS. AHERN: No one.

THE COURT: Okay. So it's just yourself. All right.

MS. AHERN: Yes.

THE COURT: Thank you very much.

THE COURT: All right. We appreciate that. Thank you. One of the issues that was pending, the hearing today, and that I have just finished the decision and order on, is a request of Marquis, Aurbach and Coffing to adjudicate their attorney lien. I have a decision ready to go that'll be filed today.

The Trustee had objected to this for two reasons:

"One was, while nobody has disputed the amount of work done by Marquis, Aurbach or their fees, or their qualifications, or any of those issues, the Trustee did raise two issues with the Court. The first of those was -- well, three. The first of those was that the lien could not be perfected because there was nothing for it to attach to.

The second was that the lien should attach only to Eleanor's beneficial interest as opposed to the Trust as a whole, because the efforts were not done for the Trust but rather for Ms. Ahern's benefit.

And finally, that the spendthrift provisions of the Trust would be violated if the lien attached to Ms. Ahern's beneficial interest."

I'll tell you what I've ruled, it's a long decision. The --

"I find that the attorney's fee lien was

properly perfected. The issue that the lien cannot attach to proceeds because none were quote, 'recovered', I found that under the *Argentina Consolidated Mining v. Jolley Urga* case, which says you have to have something it attaches to. You can't just have a defense verdict and have -- and then seek an attorney - a attorney lien, because it doesn't attach to anything.

I don't think that's the situation here. Ms. Ahern has submitted herself to the jurisdiction of the Court as a party. We also have jurisdiction over the law firm having appeared as counsel in this action.

The charging lien does not attach where the party did not file an affirmative claim. Rather, it attaches to the tangible fruits of the attorney services. And here, I believe there were tangible fruits of the attorney's services that it could attach to.

Ms. Ahern did file counter-petitions seeking to confirm not only her claim to the disputed 65 percent, but also enforcement of the no-contest clause against Jacqueline and Kathryn. Further, she has defended against the charges -- the movant's claim that the no-contest clause should be enforced

against her disinheriting her.

So I believe that the fees that were incurred by Marquis Aurbach arise in their defense of these claims and therefore -- and since they were successful in defeating a Settlement Agreement that might have affected and saved us all this litigation, there is something for her -- their lien to attach to. The charging lien only has priority over other liens."

I'm not going to take your question right now, Ms. Ahern. You have to wait for me to finish.

"A charging lien may have priority over other liens if notice is perfected before a settlement or judgment. Golightly versus Vannah at - *Golightly & Vannah versus TJ_Allen*, 372 P.3d 103, 216. Attorneys may not perfect an attorney's lien after settlement is reached, but before -- may perfect their attorney's fee lien after a settlement is reached, but before the funds are received.

And here, again, Marquis Aurbach successfully defeated enforcement of a Settlement Agreement disputed by Eleanor, and the litigation has continued endlessly, and the amounts -- as to the amounts to be charged for Breach of Fiduciary Duty.

So this lien may attach to the sums

affirmatively defending and/or claiming, but I don't think it has priority because it would -- they did not perfect it at the time of their withdrawal. They have waited until now to perfect it. So I think their priority would be that it would come after everything else.

Then, again, the successor objects to the lien attaching to the beneficial interest as in violation of the spendthrift provision of the Trust. The unique nature of an attorney's charging lien allows a judgment to be entered against the affirmative recovery sought by a party in litigation.

No distinction is made in the cases interpreting NRS 18.015, which would suggest that a party who is affirmatively defending the right to continue to receive trust funds would lose their defense or would have a defense to paying attorneys simply by virtue of the fact that the Trust contained a spendthrift clause. I don't think -- I think that's bad public policy.

To read such a defense into NRS 18.015 would place attorneys who take on trust litigation at a disadvantage, an outcome which we cannot believe the Legislature intended. So I don't think we are violating the spendthrift clause.

The Court has considered their lien, all the factors are present, and the *Brunzell*. They have some problems with documenting their costs, which I reference here because I think there are some costs not properly documented.

So I'm going to grant their Motion for attorney's lien. Fees are awarded in their entirety. Costs are awarded in accordance with *Cadle v. Woods Erickson*. The lien is a judgment against Eleanor's beneficial interest in the trust only. So I'll sign that order. That'll be entered today."

Yes, Ms. Ahern.

MS. AHERN: I would request the DVD because I cannot hear you. You speak too fast --

THE COURT: Okay. No problem.

MS. AHERN: -- and your words all run together.

THE COURT: All right. We will -- we'll make sure that that gets done. You'll get a copy of the DVD. Kerry will send it to you.

MS. AHERN: For no cost.

THE COURT: Okay. All right. We'll send that to you.

Kerry, are -- do we have a in forma pauperis order on this one?

THE COURT RECORDER: I'll double-check, Judge, I can do

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that in one second.

THE COURT: Okay.

MS. AHERN: I have to go to the bathroom.

THE COURT: Okay. All right. We'll take a brief recess. And Counsel, we'll take a recess for just a couple of minutes, we'll resume.

[Recess at 10:37 a.m.]

[Resumed at 10:41 a.m.]

THE COURT: We're going to go back on the record. All right. Thanks, Counsel and Ms. Ahern. We're ready to back on the record here.

The -- in the interim, since the last time we had a hearing we -- the Court is in receipt of the decision filed by the Nevada Supreme Court on January 26, 2017, in this case, in which the decision -- the underlying decision about the right to the 65 per has been affirmed. So, is there anything about the Court's decision that any party wishes to discuss? Any issues with the 65 percent, 35 percent -

MR. POWELL: No, Your Honor --

THE COURT: -- decision from the Supreme Court?

MR. POWELL: -- not on our end.

THE COURT: Essentially the court was affirmed and the appeal was dismissed. So we're done.

We've got the summary judgment concerning a Breach of Fiduciary Duty and Attorney's Fees was affirmed. So we're

ready to just proceed on the remaining issues?

MR. POWELL: Yes, correct, Your Honor.

THE COURT: Okay. All right. So, all right. Yeah, Counsel if you want to spread out.

MR. POWELL: Okay.

THE COURT: Since Mr. Semenza's not going to be participating you can each take a table and we'll proceed then with the testimony.

MR. MOODY: So, Your Honor, if it's okay, I think I'll begin --

THE COURT: Okay.

MR. MOODY: -- and just go over some background, maybe spend thirty minutes with Mr. Waid depending on how long he chooses to speak. But that might get us up close to our first break this morning. So I'll ask Mr. Waid to take the stand if that's okay.

THE COURT: Okay.

MR. KIEFER: And Mr. Waid is our one and only witness for the movements -- Movants, Your Honor.

THE COURT: Okay. Fine, thank you.

THE CLERK: Please raise your right hand.

FREDRICK WAID, TRUSTEE WITNESS, SWORN

THE CLERK: Please state your name for the record and spell it.

THE WITNESS: Fredrick, F-R-E-D-R-I-C-K, Waid, W-A-I-D.

MR. MOODY: Your Honor, would it be okay if I remain seated while I ask --

THE COURT: Certainly.

MR. MOODY: -- some questions?

DIRECT EXAMINATION

BY MR. MOODY:

Q Good morning, Mr. Waid.

A Good morning.

Q And what is your role in this case?

A I am the Court Appointed Successor Trustee.

Q Approximately when were you appointed as the Successor Trustee?

A There were a number of hearings in late March of 2015. I received the order approximately the 30th of March and met with counsel the day after and began that assignment.

Q What is your understanding -- and I know there's a court order to this effect, but I just want to get your understanding of what Eleanor Ahern's ongoing responsibilities were once you were appointed as Trustee.

A My understandings, Mr. Moody, is that, consistent with Nevada law and practice, the courts here generally do not release a trustee who has been suspended or removed, for cause, until a final accounting is completed. So while one does not have direct daily or other operational administrative duties as a trustee, they are, nonetheless, still under the

jurisdiction of the court and have all the duties and responsibilities to assist from an accounting, records aspect, a marshaling of assets where needed.

Q And can you tell the Court how cooperative Ms. Ahern has been with you in your role as Successor Trustee in light of her ongoing responsibilities?

A I think I'd prefer, rather than render my own opinion on the matter, that we refer to the Court's record. This Court has entered numerous orders, at my request, or my petition or plea, or motion, seeking court intervention to require Ms. Ahern's cooperation.

The record is clear that this matter went up for a contempt proceeding before Judge Gonzalez. For some technical reasons it was sent back down, and to this date, Ms. Ahern has not sat for her deposition, which is my primary wish and desire as a Successor Trustee. So that simply has not occurred.

Q It's fair to say, "She has not been cooperative with you?"

A That is correct.

Q Can you tell the Court what you did following your appointment, specifically in the days and weeks following that appointment?

A I met with or interviewed or discussed, at length, with her then-counsel at Marquis and Aurbach to understand and

locate where the assets were, how they were held. I met with Mr. Powell and his firm. I spoke with the MTC beneficiaries, Ms. Montoya and Ms. Bouvier, and at the time, Mr. Warnick as well. I was seeking any and all information. I also spoke with Mr. Johnston, he was Texas counsel, I believe in Midland-Odessa, in an effort to marshal the assets and find where the trust funds were located.

Q And what did you find?

A Initially, as I reported, that, based on the court's calculations, there was an anticipation that there would be well in excess of a million nine or even close to $2 million held in trust accounts. I found less than $10,000. Approximately nine thousand and some change.

Q Were you able to find and restore any money?

A Yes. In --

Q Can you tell the Court what you found and approximately how much you were able to bring back into the Trust?

A I'll refer -- I don't have my notes in the prior pleadings, but the interim report indicated over the next two months or so, I recovered approximately a million and six in funds at various institutions or other places.

MR. MOODY: This will probably be a good time for me to put the Trustee's exhibit list in front of the witness.

THE COURT: Okay.

THE WITNESS: Your Honor, Ms. Ahern has a question.
THE COURT: Okay.
THE WITNESS: Ms. Ahern's raising her hand again.
THE COURT: Okay. I'm sorry, thank you. Ms. Ahern, hi.
MS. AHERN: I cannot hear.
THE COURT: Okay.
MS. AHERN: And of course it's very foggy, but I cannot hear.
THE COURT: All Right.
MS. AHERN: So if somebody will say something, please say it slowly.
THE COURT: All right. So we'll try to remember to speak loudly and into our respective microphones.
MR. MOODY: Judge, can I approach the witness?
MS. AHERN: Distinctly is what I need. Slowly and distinctly, please.
THE COURT: Okay. All right. We'll work on that.
MR. MOODY: Can I approach the witness?
THE COURT: Yes.
BY MR. MOODY:
Q Mr. Waid, we have marked as Trustee's Exhibit 42, the Interim Trustee Report. And I want to point out that this was filed, under seal, pursuant to court order dated February 11, 2015. So although I'm going to have you refer to this, I am not seeking to have this admitted.

THE COURT: Understood.

BY MR. MOODY:

Q Mr. Waid, is this the report that you were discussing?

A Yes, sir.

Q And does that confirm the amount that you were able to restore to the Trust?

A Yes. As of -- on page 10, as of June 30, 2015, approximately two months -- three months after my appointment, $1,827,902 was recovered.

MS. AHERN: Please repeat.

THE WITNESS: $1,827,902.08 was recovered.

BY MR. MOODY:

Q Mr. Waid, at that point, did you know what money remained missing?

A No, I did not.

Q Can you tell the Court what you did to determine what amount was missing?

A Marquis and Aurbach had limited records that were available for my review. I was able to review what was filed in Ms. Ahern's accounting that she produced to the Court in March. I then commenced a series of actions, including subpoenas --

MS. AHERN: I'm sorry. I have to go to the bathroom.

THE COURT: Okay. We'll take a break. We'll go off the

record.

[Recess at 10:51 a.m.]

[Resumed at 10:55 a.m.]

MS. AHERN: Have a question.

THE COURT: Sure.

MS. AHERN: I would like a transcript because such detail, may I please have a transcript?

THE COURT: Well --

MS. AHERN: Also provide a CD?

THE COURT: Okay. In addition to the CD and a transcript, there is a cost associated with that. So if you're not going to be able to pay that, you're going to need to file a request for in forma pauperis, specifically to request --

MS. AHERN: I'm sorry, I don't -- I need to write down what that thing you said.

THE COURT: Linda --

MS. AHERN: File what?

MR. WAID: I'll help her with that.

THE COURT: Linda will send you the -- Linda and Mr. Waid -- my assistant will work with Mr. Waid to get you the document that you need to file. It's called in forma --

MS. AHERN: I-N --

THE COURT: -- F-O-R-M-A, in forma, and the third word is pauperis, P-A-U-P-E-R-I-S. And it's a special application you

have to make in order to be relieved of court costs. So Mr. Waid and my assistant will make sure you get the right kind of a form.

MR. WAID: Your Honor, I'll pay for it.

THE COURT: Okay.

Mr. Waid said he'll pay for the transcript.

But, do you want to have her go ahead and -- we can have her go ahead and fill out an in forma pauperis.

MR. WAID: Let's just move along.

THE COURT: Mr. Waid said it's no problem. He'll make sure that the cost of the transcript and the DVD are paid. So since he's agreed to -- that the Trust will pay those bills, we're going to go -- we're going to get that ordered then. Kerry knows and she'll get to work on that for you. Okay.

MS. AHERN: Please, Mr. Waid, thank you very much for being my Trustee. That is so generous.

THE COURT: Uh-huh. All right. Well, we'll get to move on -- we'll get moving then. Okay.

So I think, Mr. Moody, you were asking about the -

MR. MOODY: Yeah.

THE COURT: -- what he did to -- in his search?

MR. MOODY: Correct. Thank you, Your Honor.

BY MR. MOODY:

Q Mr. Waid, we left off, you had just mentioned that one of the starting places you went to was the Brief filed by

Ms. Ahern, and you said it was March. If you'll turn to Exhibit 41 in the binder in front of you?

THE COURT: Mr. Moody, this is unfiled. Do you know if this document --

MR. MOODY: This was filed under seal.

THE COURT: Oh, it was filed -- also filed under seal.

MR. MOODY: Yes. Yes. And for the same reason, I won't be asking for this to be admitted.

THE COURT: Thank you. So noted.

BY MR. MOODY:

Q So, Mr. Waid, just for clarification, March of what year was that Brief submitted by Ms. Ahern?

A The copy that I have is not file-stamped, but it indicates the date of the hearing as March 20th. Let me see if I can find --

Q Of what year?

A Of 2015.

Q Okay. Thanks. That's all I need. So, I'd like you to continue. You said that you started with that Brief and the question, before we broke was, what did you do to figure out how much money was still unrecovered from the Trust?

A There were representations in that Brief relating to a Wells Fargo account. I contacted Wells Fargo Account Services. I provided them with a copy of the Court's Order, and at that point the bank informed me that there was

approximately $9,000 on deposit.

Q All right. You actually ended up subpoenaing records from Wells Fargo, is that true?

A Yes, sir.

Q And can you tell the Court about that production?

A That was a rather lengthy production, I believe three or four separate subpoenas. There were numerous requests from Wells Fargo Bank to extend the period of time in which to answer. I dealt with, first, the private bank division. I then was referred, or the matter was transferred to the Legal Production Department in Phoenix.

The matter was then referred to the Fraud Department. Given the complexity of the records and the expansive nature of the accounts and transactional histories and things that the bank determined on their own, I then was transferred, ultimately, to the senior legal department officer in charge of the subpoenas that were requested of the bank.

Q And can you tell the Court, approximately, how many pages of documents we ended up receiving from Wells Fargo?

A I think they would fill some of the banker's boxes. It's voluminous.

Q I'd like you to look at what have been marked as Exhibits 1 through 39, please. Are these some of those documents that you received from Wells Fargo?

A Yes.

Q And were you able to identify some people and entities?

THE COURT: Ms. Ahern, you had a question?

MS. AHERN: Yes, I would like to receive all exhibits that he is now speaking about.

THE COURT: Okay. All right. Well, this is the issue. Since you requested not to be required to appear in person, the process that the Nevada Supreme Court allows for remote appearance of a party who's -- of a witness who's going to testify, does require that the witness have the records with them. However, given the late request, we were unable to notify Counsel in time that you had requested this accommodation of appearing remotely.

So it's by virtue of the fact that you had failed to notify us, in advance, pursuant to Part IX of the Supreme Court rules governing appearance by audio/visual transmission equipment. Technically, parties to litigation are not allowed to appear remotely. However, we wanted to accommodate your special needs under the ADA as well as your request for this accommodation for financial reasons.

So the Court did grant your accommodation and set up the video link for you, but it -- the side effect of that is, you do not have the exhibits before you. So to that extent, to the extent that any exhibit is admitted, we will make sure,

Mr. Moody, you'll send a copy of any exhibit that is admitted, correct?

MR. MOODY: I will, Your Honor.

THE COURT: So any exhibits that are admitted by the Court will be mailed to you. And as mentioned previously, Mr. Waid's going to see that you get a transcript and we'll send you the DVD as well.

THE WITNESS: If I could point out one item? In my efforts to cooperate with Ms. Ahern's then-Counsel, Mr. Lenhard and Ms. Peterson, they received all of the subpoenaed production documents, and it is my understanding having worked with their firm, they regularly deliver those to their clients. So I'm fairly confident that that process did occur.

THE COURT: Okay. But just to the extent that for her to know what exhibit is what document there is -- in Mr. Moody's exhibit book, there is a list of exhibits, and she can use that list of exhibits to find documents that Mr. Lenhard may have provided to her. And if any exhibit is admitted, we'll also send her a copy of any admitted exhibits. Thank you.

All right. Ms. Ahern, you've got your hand up again.

MS. AHERN: I did not receive any documents from Brownstein regarding the subject matter that we are discussing. So I thank you very much for giving all exhibits mentioned. Thank you.

THE COURT: Okay. I'm going to make very clear what I'm directing Mr. Moody to do. Any exhibits that are admitted will be sent. Admitted exhibits.

MR. MOODY: Correct.

THE COURT: And only those that are admitted. Some of these, as we have referenced, are documents in the Court's records that are understand seal.

MR. MOODY: I may be able to help Ms. Ahern with one point, and that is, prior to her scheduled deposition she requested written questions and copies of any exhibits we planned to ask questions about. 1 through 39 are exactly those documents that, that reference the questions and were the backup information.

So I don't -- I can't say whether she received those or not from Lenhard, but she did make that request. We fulfilled it, so she may have those.

THE COURT: All right. So then for the record, based on Ms. Ahern's request, Mr. Lenhard was provided with written questions and the corresponding Exhibits 1 through 39 in the packet today. So whether Mr. Lenhard has forwarded that to Ms. Ahern or not, I don't know. But they were at least provided and that's a reference for her to go find them. Okay. Great. Thank you. You can proceed.

MR. MOODY: Your Honor, I believe I've laid the foundation for where most, if not all these exhibits came

from.

BY MR. MOODY:

Q Did you also subpoena documents from McNair & Associates?

A Yes.

Q Did you also subpoena documents from the Secretary of State?

A Yes.

Q And --

A For Nevada.

Q Of Nevada, that's correct. And are these at least a portion of those documents that were subpoenaed?

A That is correct.

MR. MOODY: Your Honor, I'd offer Exhibits 1 through 39.

THE COURT: Exhibits 1 through 39 are admitted.

[**Trustee's Exhibits 1 through 39 Admitted**]

THE COURT: And that means that a copy will be sent to Ms. Ahern after the hearing.

MR. MOODY: Okay. Very good. Thank you.

THE COURT: Thank you. I appreciate that.

BY MR. MOODY:

Q Okay. Now, in addition to the Wells Fargo documents you subpoenaed, Secretary of State, McNair & Associates -- and by the way, who is McNair & Associates?

A They're an accounting firm here in Las Vegas.

Q You tried to work with Texas counsel as well as subpoena documents in Texas, is that correct?

A That's correct. The Texas firms listed on Ms. Ahern's accounting that she filed in March of 2015, we subpoenaed their records.

Q Can you tell the Court how successful you were in obtaining records in the State of Texas?

A Again, I think I'll refer to the Court's record on that matter. We sought cooperation with Counsel. We sought waiver agreements. I instigated legal proceedings in Texas to determine the extent of trust funds in trust accounts of various counsels. We sought records in the subpoena with respect to trust instructions and directions that were, we believed, provided to Ms. Ahern as to charitable donations, as to restructuring or reforming the Trust as a means to determine where these funds may have ended up.

Q You did get some Texas documents, true?

A Very limited.

Q All right. For the most part, you were not successful getting the documents that you wanted in the State of Texas.

A That is correct.

Q All right. Can you tell the Court about your involvement with what I will refer to as the Mann litigation in front of Judge Johnson here in the 8th Judicial District

Court?

A Given that I was not provided with the records that were represented to this Court, existed, and through limited disclosures from Mr. Mann, we knew he had, at one point, exhaustive records on the Trust, we sought intervention, if you will, in that case to obtain records. That matter was vigorously opposed by Mr. Shapiro who appeared on behalf of Ms. Ahern, and I believe Ms. Nounna. They were both parties in that case, and that matter is still pending with Judge Johnson. He has not issued his final orders on the release of those records.

Q Okay. I want to fast-forward now to what has transpired since Mr. Lenhard withdrew, Mr. Lenhard and his firm, withdrew from the case. Can you tell the Court, this Court, what your interactions with Ms. Ahern have been?

A They were somewhat -- have been somewhat limited. I conferred with Mr. Lenhard at the end of the year because he actually withdrew from this case at the District Court level, but he has not withdrawn at -- with respect to the Supreme Court case. And so, I knew he was still somewhat involved in the matter.

I contacted him to inquire if he had heard from Eleanor, what her medical needs were, what other needs she may have. I still have ongoing fiduciary responsibilities to her, and so I have been in contact with him in November, December,

and in January.

Q Did you perform a well-check on Ms. Ahern?

A Yes. After speaking with Mr. Lenhard, he thought it would be advisable that I go to Mesquite. I went to Mesquite. I knocked on Ms. Ahern's residence, the same residence I had been to before with Mr. Lenhard. She did not answer the door. I checked with neighbors. They said she was there. Neither Mr. Lenhard -- and for that matter, I had spoken with Mr. Semenza earlier and he had not heard from her.

So I proceeded to call Metro, excuse me, the Mesquite Police Department to come with me to perform a well check and that was accomplished.

Q Mr. Lenhard provided an address, a mailing address, for Ms. Ahern when he withdrew from this case. Can you tell the Court whether service on that address has been successful with our firm?

A I believe all of the certificates of service that were addressed to the 400 street address were returned as undeliverable. I've since learned that that is -- well, I knew that was not the actual physical residence where Ms. Ahern resided. She resides at 111. Mail was being delivered to 400 and it has subsequently been returned. Ms. Ahern has now provided the Court and our office, my office, with a new address. I believe it's a postal service mailbox facility there in Mesquite.

Q And that was just provided, yesterday, to us for the first time, is that correct?

A Perhaps Monday.

Q Okay.

A Monday or Tuesday.

Q Okay. Mr. Waid, are you willing to pay for Ms. Ahern's medical needs?

A Since this Court authorized the expense of coverage of certain medical expenses, absolutely. I have paid some. I've paid some to Mesa Medical where Mesa Medical contacted me, confirmed an appointment, and said these are the charges. We have paid those expenses.

Q What requests have you made, both to Mr. Lenhard before he withdrew and to Ms. Ahern since his withdrawal, in order to pay those expenses?

A I have made numerous requests, both in writing and in telephonic conversations with Mr. Lenhard for any information on any medical or other physical need that Ms. Ahern would have. Mr. Lenhard and Ms. Peterson, for that matter, repeatedly indicated that they have not received nor have they provided; hence, they have not been able to provide me with any invoices to pay. But I remain ready, willing, and able to comply with the Court's order. And, in fact, if you will, I -- that's one of the reasons I went to Mesquite as well and attempted to visit with Ms. Ahern, but I was asked to

leave.

Q Can you tell the Court where we are on the Trust's tax returns, please?

A Just last week I filed amended returns for 2013, '14, and '15, and we have a pending now refund request, which will ultimately determine the final allocations and adjustments for the tax accounting. I am hopeful that the IRS will honor their refund requests, but given the complexities and given the large dollar amounts, we are in a statistical probability for either an audit or at least an inquiry as -- and request for additional information.

So I'm anticipating it may take another three to six months to have the Internal Revenue issues resolved completely.

Q Finally, I'd like you to turn to Exhibit 43, please. Mr. Waid, is this the Accounting and Report of Trust Activity from 2013 to 2015 that was filed on February 1, 2017?

A Yes.

Q Did you have the benefit of information that you desired from Ms. Ahern that you hoped to get through her deposition when you filed this Accounting and Report?

A No, I did not.

Q Can you tell the Court what weaknesses there were as a result of you not being able to ask Ms. Ahern the questions you would've liked?

A I believe the best way to answer that is to describe the trust records that I was able to obtain either from the financial institutions, from her then-counsel, and other sources. It was very difficult to reconcile what the oil and gas companies had paid; difficult to reconcile with what was on deposit with what those companies reported to the IRS, with what was previously reported to the IRS.

And also, by comparison, using the other royalty beneficiaries who receive a similar distribution, and ultimately reconciling what trust funds were available and what I recovered. It was simply not easy to match.

I engaged the services of Johnson, Chris Wilcox -- Johnson, Jacobson, and Wilcox, noted accounting firm in this town and have done a lot of work for the courts. They were incredibly perplexed at the inability to reconcile the information that was provided to us.

Q With the information that you had as of February 1, 2017, is this the best you could do by way of an Accounting and Report?

A Yes, and I'm confident in its accuracy to that extent.

MR. MOODY: All right. That's all I have for him at this point, Your Honor.

THE COURT: Thank you.

MR. POWELL: Your Honor, would you like to take that

break now? We're about fifteen minutes, I think, in front of the time you said you needed for the recess. I'm just thinking conceptually it might be easier to have continuous testimony of our sole witness, Mr. Waid. Would it be appropriate to stop now?

THE COURT: Well, we really aren't going to be able to come back any earlier than we'd already discussed. Unfortunately, you know, we have to be there at noon. So, I mean, I don't mind breaking now, but we'll be -- we won't be back until 1:30.

MR. POWELL: Understood. And that's fine with us if you'd just like to head out early, that's fine with us and --

THE COURT: Okay.

MR. POWELL: -- we can prepare for -

THE COURT: All right. So, Ms. Ahern, what we're talking about here, again, is the fact that I have to be somewhere at noon at the federal building. And so, since Mr. Waid is going to next be questioned by Counsel for Ms. Montoya and Ms. Bouvier, rather than interrupt his testimony for me to leave in 10 or 15 minutes here, we're just going to break now. We will resume at 1:30. So we will be in recess until 1:30.

And, Kerry, do we need to set something up for the people to come back and --

THE COURT RECORDER: I'll be here, Judge, and let them know.

THE COURT: Get it reset up?

THE COURT RECORDER: Yes, I'll let them know.

THE COURT: All right. So what they're going to do -- Kerry will communicate with the IT people to get your computer link back up and running after the lunch break. Because if, because if we're dead for more than 30 minutes it disconnects. So we'll have to reconnect you. We'll do that in order to resume at 1:30. So we'll be in recess until then. Thank you very much.

THE WITNESS: Thank you.

MS. AHERN: Understood.

THE COURT: Thank you.

[Recess at 11:17 a.m.]

[Resumed at 1:38 p.m.]

THE COURT: Video link open, Kerry?

THE COURT RECORDER: Yes.

THE COURT: Okay. Great.

THE COURT RECORDER: Would you like me to turn to it?

THE COURT: Yes. Okay. So we'll reopen the video link and we'll be ready to make sure everybody's back on the record.

MR. POWELL: Your Honor, the movements -- Movants would like to call --

THE COURT: Just a minute.

MR. POWELL: Yeah.

THE COURT: Okay. Everybody ready to go back on the record? Hello, Ms. Ahern, we're ready to go back on the record if you are?

MS. AHERN: Yes, I am.

THE COURT: All right. Thank you very much. So the record should reflect that the parties are present with their respective Counsel here in the courtroom and Ms. Ahern is with us via video link. So we're ready then to -- I think we had Mr. Waid on the stand, and Mr. Moody you had completed your examination?

MR. MOODY: Yes, Your Honor.

THE COURT: All right, fine, thanks. And then we were going -- Mr. Powell, to you next.

MR. POWELL: Yes, Your Honor --

THE COURT: Okay. Just a moment. Ms. Ahern has a question. Yes, Ms. Ahern?

MS. AHERN: May I ask - may I ask the Court a question?

THE COURT: Sure.

MS. AHERN: I would ask the Court -- received an accounting from Fred Waid. As a beneficiary, I would like to know if you have received?

THE COURT: Yes, that was filed. The first accounting and report -- the Accounting and Report of Trust Activity from 2013 to 2015 was filed on February 1st, and it was mailed to you at two different addresses that Mr. Waid referenced.

One being, 111 Paradise Parkway and the other one being 400 Paradise Parkway, Unit 111, so both of those addresses. It was sent to both of those on the 1st.

MS. AHERN: Judge, I am asking for an accounting from 12/31st '16. I would like to know why I have not been provided with an accounting of the money in and the money out for the period of 12/13 2016?

THE COURT: Oh.

MS. AHERN: Fred has been Acting Trustee for two years. What funds has he expended?

THE COURT: Okay. All right. Mr. Moody, we have an accounting and the Report on Trust Activity for the two year period through 2015 -- so through 2016, do we have an update yet or have you closed the books on 2016?

MR. MOODY: Your Honor, we have not. We are still -- one of the questions that I asked of Mr. Waid was, where we were on the tax returns. So there are some loose ends we are wrapping up for tax purposes. And then, once that happens, we'll be able to provide the final accounting.

THE COURT: Okay. All right. So --

MS. AHERN: How long will that take?

THE COURT: So the final accounting, is there any -- do you have to wait for the tax returns in order to do the 2016 accounting or is there -- going to take any -- possible to get it any sooner? Just -- what are we looking at?

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MR. MOODY: No, we will need that. We have provided the accounting for the income to the Trust during 2016, but as far as expenditures, what's going to be allowed, that's what we're still waiting on.

MR. WAID: And that was provided to Mr. Lenhard.

MS. AHERN: I have not had that paperwork, could you please submit it to me? I have not had that paperwork for 2016 given to me.

THE COURT: Okay. So the 2016 income was reported to Mr. Lenhard. And I would just ask that you mail a copy to Ms. Ahern, because I don't know that Mr. Lenhard has turned his file over yet. Okay. All right.

MS. AHERN: I need to let you know that since the middle -- when Lenhard left, I have received no documents. And I'm wondering, would you please get documents to me from the time he left and the preparation of this particular hearing. I have received no documents at all except for the one letter.

THE COURT: Okay. Well, as I indicated, the report that the Trustee did in preparation for today's hearing, that was mailed to the two addresses in Mesquite. Mr. Powell, you also did a Brief -- a Pretrial Memorandum for today's hearing, was that served?

MR. POWELL: Yes, Your Honor. That was mailed to the same mailing address that Mr. Waid had as the address, and

then we also mailed, as well to -- if I'm not mistaken, I think we mailed, also, as well to the other address that Ms. Ahern had put in her correspondence to this Court so.

THE COURT: Okay. And so, Ms. Ahern, I think --

MS. AHERN: Yes, I have received that. I have received that, but I have received nothing prior from the time of Kirk leaving until those two letters came in. Can I have all the other documents --

THE COURT: I don't think anything else was really done.

MR. MOODY: So Judge, attached is Exhibit 4 to the Trustee's Exhibit 44, are the return envelopes that we keep getting back from the post office -

THE COURT: Uh-huh.

MR. MOODY: -- after we've attempted service at the last known address Mr. Lenhard gave.

THE COURT: Yeah.

MR. MOODY: Now, that Ms. Ahern has provided a new address, everything now that we file, obviously, will - will be served to that address.

THE COURT: Okay. So yeah, Ms. Ahern --

MS. AHERN: I would appreciate that. Thank you.

THE COURT: -- because we had two addresses. One that was the official address provided by Counsel when he withdrew and that was 111 -- no, it was 400 Paradise Parkway, Unit 111. We understand that's not a good address --

MS. AHERN: There's no mail dropped there. There is no mail dropped there.

THE COURT: Yeah, that's not a good address, so --

MS. AHERN: There never has been. He gave an incorrect address.

THE COURT: Yeah. And then there's also the 111 Paradise Parkway address, but even mail sent to that address, Mr. Moody, is indicating has been returned.

MS. AHERN: That is the same address and it is incorrect. There is no mail drop there --

THE COURT: Okay.

MS. AHERN: -- for me.

THE COURT: Okay. All right. So then -- now that we've got the new address, the four - there, I think there were four items of correspondence that were returned, and I'm sure Mr. Powell will also re-mail now that we have a new address for you. And just for the record, I don't know -- does anybody have anything with that new address on it so we can put it in the record and --

MS. AHERN: I'd be happy to provide it.

THE COURT: -- we can -- okay.

MS. AHERN: 355 West Mesquite Blvd., D30, Mesquite, Nevada 89027.

THE COURT: We're going to -- we're going to update the official court records, Ms. Ahern, for the -- to have the

mailing address for you, as long as you are representing yourself, as 355 West Mesquite Blvd., D30, 3-0, 8 -- Mesquite, Nevada 89027.

So the clerk will update the records for that address, Ms. Clerk?

THE CLERK: Yes, ma'am.

THE COURT: Okay. We'll update the records to reflect that address.

MS. AHERN: Thank you. I very much appreciate that. I do need the income for 2016. Kirk Lenhard never gave that to me.

THE COURT: Okay. They'll update and send everything that was returned to them when they tried to mail it to your address. They'll update that and then, also, Mr. Moody, the things that we've agreed that will be provided after this hearing are the Exhibits 1 through 39 that were admitted. We'll provide those.

The Court's going to forward to you, because Mr. Waid has agreed the expense will be paid, a DVD, and as soon as it can be prepared, a transcript. Transcripts take a while, so please wait. It'll be a few days before that can be done.

So the DVD and the transcript will be forwarded. As Mr. Waid has indicated, they'll be paid for by the Trust. And then --

MS. AHERN: I need --

THE COURT: And then --

MS. AHERN: I need the expenditures. I'm sorry, Judge, I apologize. I had my hand raised.

THE COURT: Okay. And then the -- the other thing that we have agreed that will be provided, they're going to re-mail now that we have a new address -- Mr. Moody will re-mail those things he attempted to send to you that were returned. He'll also provide you a copy of the 2016 income. Mr. Waid, having represented that they cannot close the books on 2016 until they know what the tax consequences are, and that will be -- it's going to take some time. When -- and there's really no way to estimate. It's the IRS. We don't really have any way of knowing.

And then Mr. Barlow -- beg your pardon, Mr. Powell and Mr. Kiefer, you're going to send your stuff as well? Anything you've tried to send to Ms. Ahern, you'll resend it -

MR. POWELL: Yeah, I -

THE COURT: -- now that you've got the new address?

MR. POWELL: Yeah, I believe, Your Honor, if I'm not mistaken, I'm 99.9 percent certain we did mail the --

THE COURT: Okay.

MR. POWELL: -- Pretrial Memorandum to both addresses that we had.

MS. AHERN: Yes, I have received that. Yes, I have.

THE COURT: Okay. They have received that. So okay.

MS. AHERN: I do -- I do need, Judge. Judge, I hope that you'll allow me to speak.

THE COURT: Yes.

MS. AHERN: I do need to know what expenditures Fred Waid has done from 4/1/2015, to date -- to this date today. What expenditures has he created and done?

THE COURT: Mr. Waid are -- I know that you -- you aren't in a position to do any kind -- I appreciate your inquiry. Here's the problem that we have, because Mr. Waid is acting as a fiduciary. For the Court to order him to do an accounting, that's a term of art for us. And it has a special meaning and he's not in a position to do a formal accounting for you until the accountants can actually close the books. And we can't do that until we know what the tax liability is.

However, Mr. Moody, is there some sort of interim report we could provide that would just be -- not an official accounting, because we don't want Mr. Waid to have to make any representations as a fiduciary, because it carries with it certain -- it's got certain requirements, and we are not yet ready to put him on that -- under the obligations he has to.

MS. AHERN: I'm just asking for expenditures.

THE COURT: So we'll get an updated Report of Income and Expenditures.

MR. MOODY: Sure, 30 days?

THE COURT: Within - within the next 30 days.

MR. MOODY: You bet.

THE COURT: Okay.

MS. AHERN: Thank you.

THE COURT: All right.

MR. MOODY: Judge, since this is being recorded, can we ask Ms. Ahern to tilt the camera down so that she can be recorded as --

THE COURT: Yeah, we -

MR. MOODY: -- as she speaks?

THE COURT: It's -- the camera has a gotten a little cattywampus on us here, Ms. Ahern. All we can see is the tippy top of your head. So -

MS. AHERN: Of -

THE COURT: -- there. Oh, there we go. There we go. Thank you. That - that worked. That's perfect. Thank you so much. We appreciate that.

MS. AHERN: I -- I could not see all. I mean, I can barely see you through a haze, because my cataracts are quite bad.

THE COURT: Okay. All right.

MS. AHERN: So you're hazy. So you can see me, all right, yes?

THE COURT: We -- we can now see you now. Yes. This is perfect. So thank you so much, we appreciate that

accommodation.

At that point, then, I think we've discussed our to do lists that everybody's got, and so I think Mr. Waid was going to retake the stand and Mister - Mr. Powell - Mr. Powell, you were going to do the questioning?

MR. POWELL: Yes, Your Honor.

THE COURT: All right. So we're ready then for Mr. Waid to retake the stand. Mr. Waid, you remain under oath.

MR. POWELL: Your Honor, would it be acceptable to the Court if I just simply ask questions --

THE COURT: Certainly.

MR. POWELL: -- from a seated position? Thank you, Your Honor.

THE COURT: Please do, yeah. Uh-huh.

MS. AHERN: Oh, may I ask who the name of the person asking questions?

THE COURT: This is Joseph Powell. He's going to be questioning Mr. Waid.

MS. AHERN: And who was the person earlier this morning?

THE COURT: That was Mr. Moody. Okay. We're ready to begin, Mr. Powell.

MR. POWELL: Okay. Thank you, Your Honor.

CROSS-EXAMINATION

BY MR. POWELL:

Q Mr. Waid, I'd like to go through some of your

testimony to get clarification for myself and also for the Court on some of these issues. But before doing so, I would like to go through some preliminary things to establish your background and experience with the position that you are in.

You previously testified to being the Court Appointed Trustee for the Trust, the subject matter trust, the W.N. and Marjorie Connell Trust. Could you please provide for me your post high school -- your secondary, effectively, educational background?

A Certainly. I hold a degree from Brigham Young University in American Studies and Economics. I received a law degree from Baylor University in 1997.

Q Thank you, Mr. Waid. As to your legal experience, are you currently a licensed attorney in any jurisdiction?

A I am in the State of Texas.

Q What year did you become barred in the State of Texas?

A 1997.

Q Could you give me an explanation of any - any and all fiduciary experience that you've acquired through your time?

A Certainly. I served as Vice President and Trust Officer of Farmers and Merchants Bank and its holding company Farmers and Merchants Bank Shares. I've served on the board of directors as a corporate secretary, as a trust officer, as

a compliance officer for Red Rock Community Bank, for the Bank of Las Vegas, and its affiliates and its holding company.

I have served, under appointment, by both this jurisdiction in the state courts. I've also accepted appointments at the federal level. I have been appointed as successor trustee, as initial trustee, as a guardian over estates for the better part of the last 15 years.

Q Could you give me an estimate as to how many -- approximately how many times you've been appointed and/or served as a trustee?

A Someone asked me that question recently and I calculated somewhere near a hundred. Some very small cases, some very large complex matters. Some -- one case could have multiple cases underneath it with respect to lending institutions, but it's been quite a few.

Q Would you, based on your background and experience as being a trustee, would you consider yourself to be a -- for lack of a better term -- a professional trustee or fiduciary?

A Generally, yes.

Q Generally speaking, are you compensated for serving as a trustee?

A Yes. I also serve as a receiver, which has similar aspects to it.

Q That segues into my next question for you, you indicated you've been a receiver, you've indicated that you

have also banking experience. Do you have -- based on those professional experiences -- do you have a special knowledge or ability to track and trace funds? Monies?

A I do. Both serving in a corporate officer role over bank compliance, and especially in light of the recent changes in the governmental regulations and the downturn of the economy, I was intimately involved with them. Part of that being responsible for the Patriot Act and tracing funds, accounting for funds, suspicious activity reports, currency transaction reports. Those were part of my responsibility for many years.

Q So I would assume that it'd be a logical assumption that you've reviewed numerous accounts over the course of your years of experience?

A I have. Generally, I'm appointed or selected or invited by attorneys here in the Las Vegas -- the western region. I handle cases in Salt Lake, Phoenix, Los Angeles, San Francisco, Seattle, by individuals who are looking for someone with a legal background, but also who understands the accounting intricacies and then the banking complexities. I've done work, again, for the SEC and others in relation to finding missing funds or other matters related to that.

Q So it's safe to say that you know your way around what you are looking for when you review transactions and transaction reports?

A Yes.

Q Mr. Waid, in your prior testimony, if I'm not mistaken, you indicated you were appointed by this Court in approximately March of 2015?

A That's correct.

Q When you first became involved in the case, what was the first action you took?

A I provided Marquis and Aurbach information. They interviewed me first or wanted information before the appointment and I believe I provided them my resume and I answered a number of questions for them. Is your question after I was appointed? I apologize.

Q Your testimony is kind of what I was after if you --

MS. AHERN: Oh, I'm sorry. I have to go to the restroom. Please -- please wait.

THE COURT: Okay. We'll take a break. Go off the record.

[Recess at 1:56 p.m.]

[Resumed at 2:03 p.m.]

THE COURT: We're ready to go back on the record then, Kerry.

All right. So we'll resume. Ms. Ahern's back. And so Mr. Powell, you were questioning Mr. Waid.

BY MR. POWELL:

Q Yes, Mr. Waid. I think you paused midsentence in

terms of just explaining, I think, your initial discussions with Marquis Aurbach, so if you are -- want to just continue with your statement.

A Yes. And then upon my appointment, as I previously testified, I began examining records, interviewing anyone who had any relation to the case, current, prior and otherwise, either for MTC, for Ms. Ahern, prior counsel. I interviewed as many people as I could to marshal the assets and start understanding where the funds were and the reason for the tax matter that was facing the Trust at that time.

Q Around this time or as you're -- let me rephrase that. What sort of documentation were you looking at regarding the Trust when you, initially, took over?

A I was provided copies of some of the prior pleadings, copy of the accounting that Ms. Ahern had filed and some limited bank records.

Q The accounting. Would the accounting that you're referring to be an accounting that was filed by Ms. Ahern, I should say, on behalf of Ms. Ahern, by Marquis Aurbach Coffing?

A Yes.

Q When you were reviewing -- I'm going to just use an acronym for Marquis Aurbach Coffing so I don't have to repeat. I'll just refer to them as MAC, if that's okay?

A Certainly.

Q When you reviewed the accounting that was provided to the Court by MAC, did you find any issues with the accounting?

A I did. In relation to what Wells Fargo had informed me was on deposit, and I immediately was able to access the prior three months' history, I found significant discrepancies in what was reported and what was actually there.

Q Did you alert MAC to these discrepancies that you found?

A I did.

Q What was MAC's response?

A They were very concerned and as -- I committed to them that I would continue to inform them as information was made available to me. And the culmination of that was related to, I believe, the $500,000 Fidelity Capital matter -- and we had a hearing in the morning. By that afternoon, they had requested to withdraw from the case for ethical reasons.

Q So were ethical reasons, to the best of your understanding, the reasons -- the stated grounds for their withdrawal?

A That's my understanding, yes.

Q I'd like to discuss now the -- your interactions with Wells Fargo. Can you give me an explanation as to how your investigation related to Wells Fargo and their records? The Wells Fargo records, I should say.

A Yes. Initially, I was able to gain access, an online basis, to the account histories. However, it was immediately apparent that online information would be limited because there was a marked absence of imaged documents on the online system.

And what I mean by that is, when you make a deposit, usually the deposit ticket and the deposit instrument is visible. There were very few records available in an image component, which then led to the purpose of the subpoena to request their back office to provide whatever images and other supporting documentation could be found.

Q As to the subpoenas that you issued to Wells Fargo, how far, approximately, back in time were you seeking records from Wells Fargo? Or more -- better yet, what time period were you effectively seeking?

A Once we determined that there were issues with 2010, '11, '12, '13, '14 tax returns, we requested information as far back for all of those years. Some was available, some was -- Wells Fargo was simply not able to comply with the subpoenas.

Q How many subpoenas, approximately, do you recall being issued?

A I think there were three or four specific subpoenas and then there were multiple supplements, multiple requests for extensions from Wells Fargo, and multiple discussions

expanding the scope or clarifying the scope given the difficulty they had in finding the information.

Q In approximately a rough time frame, when were the, would you say the first subpoena was issued, and when was the last subpoena issued to Wells Fargo?

A If memory serves me right, it was April. It was early in the case of 2015 and I believe the last one was sometime in the late-summer early-fall of '15. And in actuality, that subpoena, I believe, is still open because we had requested Wells Fargo if they did, at any point in time, find additional information, they agreed to supplement at any time in the future.

Q I want to just clarify some of your previous testimony from earlier. Can you recap for me what divisions of Wells Fargo you dealt with in regard to these subpoenas?

A I first started with the private banker who was assigned to the account and when it was clear that his access level for cashier's checks and other related transactions, things that normally would not be posted on the account, required a higher level it was then, I believe, we were relegated to the Phoenix Legal Department in charge of back office productions.

And then we went to the Fraud Division because they found -- in my questions, in questions from counsel, in discussions with the bank, there were certain patterns and

other matters they felt warranted sending it to the Fraud Division. The Fraud Division then, ultimately, sent the matter to their Senior Legal Division, and so, I dealt with all of those departments.

Q What information, if any, did you wind up obtaining as a result of these subpoenas?

A We did receive the general bank statements. But the issue at hand was really in the transactional history that Ms. Ahern conducted with the various banks. There were transactions that occurred from branches of Wells Fargo from California to Nevada to Utah, I believe, Texas and multiple branches.

The reason the multiple branch became an issue is because she purchased a significant number of cashier's checks. Cashier's checks purchases generally aren't imaged on the individual monthly statements. For instance, if I go into a case I can usually look at a bank statement, look at deposits and instruments and expenditures, and the means and method, whether it be a wire transfer, an ACH transfer or a check that allowed it or caused those expenditures.

Much of that information was not to be found on the statements and in the records of Wells Fargo. There were inter-account transfers. There were circumstances, and this is in answer to your question. One of the things Wells Fargo produced was on the back of the check, many of the checks or

instruments were not even endorsed. They were simply stamped "credit to customer" which means, the customer was given cash that day.

Cash is recorded as a deposit, but there's no image of the actual check. The check is cashed. Wells Fargo cashes the check and obtains it from whoever issued the check, but the check is actually, technically and legally, not deposited into the account. The cash from the check is deposited into the account. It's these series of transactions and their, I'll call it abnormality, and a concern which raised more concerns with Wells Fargo. The deeper we dug, the more questions we asked, the more we tried to put the puzzle pieces together.

Q So based on what you are describing, would it be a fair assumption then that Wells Fargo was actively looking at these transaction logs?

A They had a number of individuals tasked to this project. Yes.

Q Any approximate number of individuals that you were aware of?

A I probably dealt with seven or eight different individuals over the course of the process.

Q Okay.

A And there were probably others behind the scene. Those were just the ones I had direct contact with.

Q How long, approximately, did your investigation focus on information, gaining information from Wells Fargo?

A Technically it's still ongoing. If there are issues that perhaps the IRS were to challenge in our amended returns, hence, the reason I'm hesitant at this point to produce final accountings is because, we are presenting certain expenditures, certain positions, that if overturned, I would have to amend. Or if the IRS were to request additional information that we don't have, I would go back to Wells Fargo. So we -- the matter regarding the Connell Trust is still an open matter with the bank.

Q So given that you issued, you believe, your first subpoena in approximately April of 2015, it's currently February of 2017. We're talking, approximately, an ongoing focus, investigation, however we want to term it, of about 22 months so far, into this process?

A About. That's correct.

Q And the reason this is taking so long is because of the nature of not being able to track deposits and withdrawals and transactions as normal banking practice would entail?

A That's correct.

Q Your previous testimony you indicated that Wells Fargo's Fraud Department had become involved or has become involved in the matter. To the best of your knowledge, what is the extent of that involvement?

A They have not disclosed to me their findings. They just simply indicated that they were reviewing the transactions because they have obligations to report suspicious activities if they deem fit. And those are confidential reports by federal statute, so even if they filed it I wouldn't know about it. So to answer your question, I know they're involved but I can't speak to the particulars.

Q You -- I believe you mentioned suspicious activities. What suspicious activities would we be referring to?

A Primarily the depositing and the cashier's check. In essence, money would come in and out of this Trust without supporting documentation. And so you - you -- I say you -- I was required then to go to different branches where the actual transaction occurred and seek an image of any particular cashier's check. We could easily see monies are being withdrawn.

Why there wasn't a normal check register for accounting purposes is beyond me -- that was one of the questions I had intended on asking Ms. Ahern in her deposition, because the overall administration -- you can pick your adjective, abnormal, non-businesslike, there's any host. You can characterize it any way you want, but it's certainly outside the norm of generally-accepted accounting principles or generally-accepted business practices where you can see

deposits and outflows of money, per their various instruments. In this case, it's a myth in many respects.

Q I believe you indicated that banking transactions occurred in California, Nevada, Utah, Texas. I'm not sure if you mentioned one other state.

A I believe there were one or two, don't quote me, but perhaps New Mexico.

Q The simple question for you is: Do you have any understanding why there would've been banking transactions in, let's say, four to five different jurisdictions, locations?

A My understanding is Ms. Ahern has a residence or she was residing for a period of time in southern Utah. She was residing here, was in Mesquite. I think she travelled to Texas for matters involving this Trust. And I don't know the California component. That occurred on the day she was removed as Trustee. So I can't speak to that. It was, again, one of the questions I intended on asking.

Q Okay. What occurred on the transaction you mentioned in California on the day she was removed?

A There's, I believe, approximately a $500,000 withdrawal from the trust account on the day she was removed. And we were able to trace back to the various branch. It occurred at a, I believe a grocery store. Normal branches close at 5 p.m. This was a late end of day transaction and it was a withdrawal. It was a purchase of a cashier's check.

Q Okay. Did your investigation focus on Ms. Ahern's handling of the various trust account or accounts?

A That was a secondary, call it motivation or I viewed my responsibility. My first priority was to protect the interest of the beneficiaries and collect and marshal and find the money first, and then ask the questions as to the how. My experience is, find the money first and ask the questions later.

Q What would you say you learned from your investigation regarding --

A I think I'll just repeat what I said earlier. The practices and administration of the Trust during the time period of which I've reviewed and accounted, I cannot find rhyme or reason as to the methodology, as to the, again, generally-accepted practices. They just simply are not present in this. It should not have been this hard to understand the history and the administration.

Q I'm assuming that Ms. Ahern received funds from these various oil companies on behalf of the Trust; is that correct?

A There is some question as to how Ms. Ahern received those funds, where, what addresses she was using. I was able to determine some checks were sent to a Sahara Avenue address. Some, I believe she made deposits or there's -- we were able to map certain deposits in different states in Utah. There

were other banking institutions that may have had one or two transactions. There was a bank in Texas. There was a Chase Bank. There was Town and Country Bank. So it was - it was difficult to trace them as it remains today.

Q During the course of your investigation, did you discover any situations in which direct wires from these various oil companies were deposited into an account for the Trust?

A I believe there were some, either ACH or wire transactions, but there were a significant number that still came in paper checks.

Q In regard to Ms. Ahern's practices relating to the oil company funds paid to the Trust, have you adopted those practices while you've been serving as Trustee?

A No, I have not.

Q Why not?

A I follow generally-accepted principles and follow standards that are industry-acceptable.

Q So based on that testimony, were Ms. Ahern's practices acceptable, generally? Would they generally be regarded as being acceptable practices for a Trustee?

A No, they would not.

Q Why not?

A That opinion is not shared just by me, but the accountants who have reviewed this matter, Wells Fargo

officials who have reviewed the matter, all opine that this was woefully mishandled from an accounting perspective.

Q I'd like to ask you more about your testimony regarding the discovery of cashier's checks. Do you have any understanding or knowledge that you gained from your investigation as to why trust funds would be in the form of a cashier's check?

A Again, that was one of the questions I intended to ask Ms. Ahern relating to, as I put in my report, in the interim report, the significant funds. I believe there's a $1.2 million check that was withdrawn, in the form of a cashier's check, made payable to the Trust. It was withdrawn in late February. Prior to --

MR. MOODY: Can you state the year?

THE WITNESS: I'm sorry. Excuse me. February of 2015, approximately $1.2 million was withdrawn from Wells Fargo Bank, and a cashier's check was made payable for that same $1.2 million to the Connell Trust. That check was withdrawn. The funds were withdrawn from the bank. Within two weeks, Ms. Ahern verified that those funds were on deposit. Marquis and Aurbach filed their accounting confirming those funds were on deposit.

And when I was appointed, I discovered that that was not the case. I later recovered that $1.2 million cashier's check. So it gives me grave concern as to why $1.2 million

was sitting in a check form, because a cashier's check is just that, it is cash and it can be endorsed, it can be negotiated. It was not protected by insurance.

The process for losing a multimillion dollar or a million dollar cashier's check is very onerous, the bond requirements. So I would, I'm trying to be very selective in my adjectives, but I would deem that conduct extremely reckless because I don't know, even to this day, I don't know where that check resided, sat, whether it was held in a bank, whether it was held in a vault or an attorney's office, from late-February when it was withdrawn, until I recovered it in April.

BY MR. POWELL:

Q How did you -

A Very concerning.

Q How did you recover that check -

A I -

Q -- or the equivalent funds?

A When I determined that the cashier's check had been issued but had not been cashed, I demanded Marquis and Aurbach recover that, and I believe they did within a few days, and I went to their office and obtained it.

Q Mr. Waid, I'd like to now discuss the Accounting and Report of Trust Activity from 2013 to 2015 which was filed on February 1st, 2017.

THE WITNESS: Is -- Counsel, is there some background? I'm hearing something.

THE COURT: I think that might be on your end, Ms. Ahern. If you want to mute your, is there a way to mute your microphone?

[Pause]

THE COURT: Okay.

THE WITNESS: I don't have the book.

MR. POWELL: Yeah, can we -

MR. MOODY: I'll take it.

MR. POWELL: May I approach, Your Honor.

THE COURT: You may, yeah.

MR. MOODY: Forty-three.

BY MR. POWELL:

Q Mr. Waid, in the book that you've just been handed, if you could turn to Tab 43, please.

A Forty-three.

MR. POWELL: Your Honor, I'd like the record to reflect that Mr. Waid is looking at a copy of the Accounting and Report of Trust Activity from 2013 to 2015, which was filed on February 1st, 2017.

BY MR. POWELL:

Q Mr. Waid, do you recognize this document in front of you?

A I do.

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Q What is it?

A It's my Accounting and Report of Trust Activity from 2013 to 2015.

Q And what does it contain?

A My report to the Court on those activities.

Q Who prepared the document?

A I did. It was edited by Counsel, but I prepared it.

Q Does this accounting provide a summary of the financial information revealed by your investigation?

A It does, yes --

Q Could you --

A -- as exhibit, I believe Exhibit B.

Q Could you give me an explanation, further explanation of that?

A Certainly.

Q Of your summary? I should be more clear.

A Because of the lack of records, because of the inability to review these and discuss these and interview Ms. Ahern, under oath, we -- myself and the accounting firm that I engaged, reviewed bank records. We reviewed disbursement records and logs from the oil and gas companies. We looked at what was reported to the IRS. We had subpoenaed IRS records, as well, and culminated to try and match each calendar year.

As I previously reported and as I believe I wrote, the Miller family received the identical share of 25 percent

of the royalty interest. We were able to compare, after the Millers cooperated and provided their records, and we used that as the baseline.

So in 2013, '14, and '15, I used the entire calendar years here because that presents the most accurate picture, because some of the individual transactions we simply could not provide enough basis or enough information to reconcile completely.

Q Did you reach any conclusions regarding any amounts withheld from the MTC Trust by Ms. Ahern?

A Yes.

MR. POWELL: Mr. Waid, hold on for a second.

I think, Your Honor, we're hearing the reverb from us because the volume is too high on Ms. Ahern's end. If there's a way she could possibly turn that down.

THE COURT: Ms. Ahern, we're getting feedback. We're getting feedback. It sounds like our voices echoing back at us that I think is on your end.

MS. AHERN: I'm moving - it was at, at 70 not 100. I'll move it to 60 and see if I can still hear.

THE COURT: Okay. Thanks very much. We appreciate that.

MS. AHERN: They'll have - they'll have to not talk so fast.

THE COURT: Okay.

MS. AHERN: Talk slower.

THE COURT: Okay, all right. We'll make an effort. Thank you. We appreciate it.

[Pause]

BY MR. POWELL:

Q Sorry, Mr. Waid, if you would continue.

A As I indicated, we created a baseline for each year. 2013 was particularly challenging because we were able to determine, at some point towards the latter part of 2013, Ms. Ahern instructed Apache Corporation to hold and not distribute certain funds. When Apache issues a dollar in a royalty payment, 50 cents goes to the Connell Cowton [phonetic] Trust, 25 percent - 25 cents goes to Miller family, and 25 cents go here to the Connell Trust.

In this instance, we found an anomaly of records with the IRS, with Apache, and then what was also reported. Because if you look into 2014, it is approximately $500,000 difference. That difference between the Connell and the Miller Trust was ultimately explained when Apache indicated -- we don't know the reasoning why Ms. Ahern stopped the distribution, had them hold those funds. They were all deposited in January. Again, one of the questions --

MR. MOODY: January of what year?

MR. POWELL: What year?

THE WITNESS: I'm sorry, January of 2014. Again, one of the questions I intended on asking Ms. Ahern.

THE COURT: Does that make a difference, Mr. Waid, for tax purposes? I mean, the income is earned in the year it's earned, correct?

THE WITNESS: Correct. But in this instance, Apache withheld those funds and did not report them to the IRS.

THE COURT: Why?

THE WITNESS: They were in a suspense category. And I adopted the Court's approach and felt we should initially report it as income because we knew it was earned by the other royalty holders. And so, after consulting -- actually, I believe with an IRS letter ruling on the matter, and trying to understand from Apache what they did and why they did it. They just simply reported, we had the request, we suspended the payment and didn't issue it.

THE COURT: Okay.

THE WITNESS: But it has been reconciled today.

BY MR. POWELL:

Q Mr. Waid, for the benefit of the movements [sic] and also the Court, would you please walk us through, year by year, your breakdown and calculations of these figures that our found in your Exhibit E?

A Yes. Total trust income for 2013, $740,015. Sixty-five percent of that income attributable to the MTC Trust in that calendar year should have been either paid or segregated, pursuant to the Court order, was $481,010. MTC, through

January until June of 2013, received $299,875 leaving a deficiency owed to MTC of $181,135.

Likewise, in 2014, gross royalty income of $3,120,206. MTC share, 2,028,134 which is consistent, I'll add, with the Court's determinations as reflected in some of its orders, funds that should've been held. There were no disbursements in all of 2014 to the MTC Trust, leaving a deficiency of $2,028,134. In 2015 --

MS. AHERN: Hello. I have my hand raised.

THE COURT: Yes, Ms. Ahern. Yes, Ms. Ahern.

MS. AHERN: May I please have a copy of what he has just stated. I know, but can it be outlined or can it be given to me like, like what he's talking about right now? I'm, I'm very confused and cannot, cannot understand these figures.

THE WITNESS: I think she'll see it in the exhibits when we mail it to her.

THE COURT: Yeah, this is, this is what's going to be mailed to you. I don't know, Mr. Moody, was this, this was mailed beforehand and this is one of the matters that came back because of the problem with the address?

MR. MOODY: That's correct, Your Honor. This is one of the -- this was included in one of the, well, two of the envelopes that are marked as Exhibit 44 that were returned.

THE COURT: Yeah. These are -- this was attempted to be sent. Do you have a fax at your home, Ms. Ahern?

MS. AHERN: No, I do not.
THE COURT: Okay.
MS. AHERN: I do have a fax that -- a mail drop can receive faxes for me. I can give that to you.
THE COURT: No. This is another one of those pleadings -- was this under seal, Mr. Moody?
MR. MOODY: No, Your Honor.
THE COURT: All right.
MS. AHERN: I can scan.
THE COURT: Oh, scanning. Scanning is another option. Sure. We could scan and email it.
THE WITNESS: Do you have an email address, Eleanor?
THE COURT: Miss - Ms. Ahern.
MS. AHERN: It would be --
THE COURT: I think, does Linda have --
MS. AHERN: It would be --
THE COURT: Ms. Ahern -
MS. AHERN: It would be -
THE COURT: Ms. Ahern, does Linda have your email address?
MS. AHERN: It would be to the checks and mail. You all are breaking up terribly.
THE COURT: Okay. Ms. Ahern, does Linda have your email address? She can email this to you.
MS. AHERN: Yes, she does.

THE COURT: Okay. So we could do that. We'll email it.

[Colloquy between Court and Law Clerk]

MR. KIEFER: So, Your Honor, to clarify, are we breaking on the questioning, or may we continue?

MR. POWELL: May we continue?

THE COURT: Yeah, we can continue.

BY MR. POWELL:

Q Please proceed, Mr. Waid.

A Thank you. So there were zero distributions to MTC. There were no distributions in the first quarter of 2015. Upon my appointment and upon the Court's ruling in its March hearing where their 65 percent interest was no longer in a suspended or segregated state, I commenced those distributions once again.

So for the Calendar Year 2015, there were gross receipts of $2,226,779. MTC's 65 percent portion, $1,447,406. I distributed to them a portion of the funds which had been held and the totals for that year were $1,914,622.

If you go to the final column where it's totaled, for the time period 2013, 2014, 2015, there were royalty income of $6,087,000. MTC's share of those - of that income is $3,956,550.

Distributions made to MTC totaled $2,214,497 for a net still due and owing by the Trust of undistributed royalties of $1,742,053.

Q Thank you, Mr. Waid. Going back to the 2015 column, you indicated you took over the Trusteeship of the Trust in approximately April of 2015, correct?

A That's correct.

Q For the time period of January, February and March, with the understanding that Ms. Ahern was removed. I believe the Court record reflects its approximately March 20th, 20th or 26th, do you have a figure as to what the income owing to the Connell Trust for January, February and March of 2015 was?

A It's not reflected in my report. My recollection is somewhere between 3 and 400,000. You'll have to correct me if I'm wrong.

Q Just to clarify, owed to the MTC Trust?

A That's correct.

Q Okay. Mr. Waid, do you, do you recall providing me with a figure for that time period January, February and March of 2015? Do you recall providing me a figure of $372,725.92?

A As you state that number, I believe that to be correct.

Q So just to make all of this clear. For the period of 2013, the deficiency owing to the MTC Trust was $181,135, is that correct?

A That's correct.

Q For the Calendar Year of 2014, the MTC Trust was owed $2,028,134?

A That's correct.

Q For the first quarter of 2015 -- representing January, February and March -- the amount owing to the MTC Trust was approximately $372,725.92?

A That is correct.

Q Based on my addition, the total for the time period that we just discussed would be $2,581,994.92; does that sound accurate to you, Mr. Waid?

A That is correct. In undistributed royalties or segregated royalties pursuant to the Court order.

Q So, Mr. Waid, then when you took over in approximately late-March slash early-April of 2015, is it a fair statement that approximately $2,581,994.92 should have been sitting in a trust account for the MTC Trust?

A Yes.

Q And given your testimony that a balance of approximately $1,742,053 is still owing to the MTC Trust, the difference between the $2,581,994.92 figure and what is still owing, that was distributed to the MTC Trust beneficiaries, the movements [sic] by you, not Ms. Ahern, correct?

A That is correct.

Q I'd now like to take you to the time period, again, where you were first appointed as trustee and then had the ability to review the Wells Fargo account, Mr. Waid. This is the time period in which [sneeze heard]the questioning is

relating to as, as context. When you became appointed as Trustee of the Connell Trust, you reviewed the balance of the Wells Fargo Trust Account at that time, correct?

A I did, yes.

Q What was the balance at that time, approximately?

A I'm turning in the report to be accurate. It was less than $10,000 -- 9,000 and some change. $9,941.55 was the total balance that was in the Wells Fargo account.

Q For clarification purposes, could you explain for the record where you are, what you are currently looking at to get that figure?

A This is on page 4 of my Interim Trustee Report filed under seal, file stamped July 6th, 2015.

Q Thank you, Mr. Waid.

MS. AHERN: I'm raising my hand.

THE COURT: Yes. Yes?

MS. AHERN: Is it possible that I may have a copy of this even though it is sealed?

THE COURT: No. No, it should be in the --

MS. AHERN: Sorry I --

THE COURT: It should be in, in the records that you have from your Counsel. We're not going to send another copy. Without --

MS. AHERN: I don't have a counsel.

THE COURT: Right. But until we've got a signed

Confidentiality Agreement, I can't.

MS. AHERN: And I didn't have anything from Curt [sic] --

THE COURT: Okay.

MS. AHERN: -- for months.

THE COURT: But everybody -- everybody who has seen this has signed a Confidentiality Agreement, so until we have a signed Confidentiality Agreement, I'm not going to order they provide it. If, if you come to some accommodation with Mr. Moody after the fact, fine. But I'm not going to order it pending a Confidentiality Agreement.

MS. AHERN: What does that mean?

THE COURT: It means that everybody who has seen this document has agreed that it will be held in confidence and not disclosed to anyone who has not similarly signed that Confidentiality Agreement as a party, an attorney, or an expert for one of the parties. Other people --

MS. AHERN: So I am a party.

THE COURT: Right. But you -

MS. AHERN: So what do I have to sign to receive a copy?

THE COURT: You'll have to talk to Mister -- I have to talk to Mr. Moody, after the fact, and he'll get you the documentation.

MS. AHERN: Thank you.

THE COURT: You bet. Okay.

BY MR. POWELL:

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Q Mr. Waid, could you give me that figure again that you had just read, for the record?

A $9,941.55.

Q So, is it a fair assessment then that an amount significantly short of the two point, $2,581,994.92 that should have been in the Trust Account, was not there?

A Let me answer it this way. When I was provided copies of the Court orders, and I reviewed them prior to going to the bank, I had an expectation, based on information provided to me by Marquis and Aurbach, by your firm, by Mr. Warnick. I anticipated going to the bank and seeing those funds there. So I didn't have an independent assessment or opinion to the matter. I just, I followed what the Court was tracking, and I went to the bank and it was reported to me there was $9,000 in the account.

Q Okay. So more than $2.5 million was missing --

A That is correct.

Q -- from the account? Are you aware of any justification for the withholding of approximately $2.5 million from that account?

A I have been longing to ask that question for some time.

[Colloquy between Court and Counsel]

Q Mr. Waid, if you would turn to page 2 of your - of the Accounting and Report of Trust Activity from 2013 to 2015

please, page 2.

A That's Exhibit 43?

Q Yes, Mr. Waid.

A Page 2?

Q Page 2.

A Yes.

Q In this Accounting and Report of Trust Activity from 2013 to 2015 and you'll see on page 2 you have made a statement that is: "What is clear is that MTC did not receive a single distribution of royalty income from the Trust between June 2013 and April 2015."

A That's correct, at line 20.

Q Is that what your investigation has concluded?

A That is a factual and certain conclusion, yes.

Q Thank you, Mr. Waid. Going back to the Trust Account. When you took over as Trustee, was there just one Trust Account?

A No, there were three Trust Accounts.

Q Have you, and based on your investigation, did you ever discover why there were multiple Trust Accounts?

A I have not received an answer or a reasoning why. Sometimes it's common to have an Operating Account, a Holding Account or an Escrow Account for future taxes and insurance and other matters, if it's applicable. So I'm not going to say it's uncommon to have multiple bank accounts for an

Operating Trust for a business.

Q In your opinion, would that have been applicable here given --

A Generally not. If I can be more specific. This Trust is designed as a Pass-Through Trust. So income is to flow in and income is to flow out. Distributions are to flow out. And I would not, under ordinary circumstances, see a need for multiple bank accounts here. It's a passive interest, therefore, it lends itself to limited accounting, limited legal work, limited other aspects. It could be a fairly straightforward administration.

Q So just to summarize your belief on this then, there effectively was no real reasoning as to why there should've been more than just one account given the circumstances of this Trust and how it operates?

A No.

Q Mr. Waid, during your investigation, what did you discover, if anything, regarding Ms. Ahern's communications with the oil companies after her removal?

A After her removal and upon Mr. Lenhard's appearance in the case, there was an occasion I received a call from Apache Corporation, after I had provided them with my Court order indicating I was the Successor Trustee and that Ms. Ahern had been removed, that there was an attempt by Ms. Ahern to obtain information and to provide instructions.

Apache was somewhat confused. They contacted me. I then contacted Mr. Lenhard to investigate as to why Ms. Ahern would be contacting them, at all. And, thereafter, he assured me that it would not happen again.

Q So if I'm understanding your testimony correctly, after Ms. Ahern had been removed by this Court, she still had communications with the oil companies regarding distributions?

A I believe there was an attempt to provide instructions or other communication. Apache was concerned because they saw my Court order that that portion of the Disbursement Department, that whom she had contacted. So they, in turn, called me and said, "Why are we receiving instructions from her, what should we do?" I told them to stand down, take no action; I would contact her counsel. I did so. I called Apache back and indicated that they are instructed to follow the Court order and nothing more, and they agreed.

Q When you had this discussion that you previously mentioned or discussions with Mr. Lenhard, did he provide any explanation as to why Ms. Ahern --

A No, he did not.

Q -- had taken this action? During your investigation, did you discover that there were multiple accounts holding trust assets?

A As I testified just a few moments ago, we found

accounts in Texas; we found accounts in St. George, Utah, and we found accounts here in Las Vegas. US Bank was one of the accounts in addition to the Wells Fargo and Chase.

Q Mr. Waid, you just mentioned in your testimony there was multiple accounts. During your investigation, did you find at any time -- let me rephrase that question. Did you find trust funds were segregated, in any way, in these Wells Fargo accounts?

A No. If you're asking as outlined by the Court order and specified, no.

MS. AHERN: Could you repeat the question, please.

MR. POWELL: I can't remember what I --

THE COURT: Were the funds held in any kind of segregated account? And Mr. Waid's response was, "No."

MS. AHERN: Thank you.

BY MR. POWELL:

Q Mr. Waid, to your knowledge, was there a Court imposed obligation to segregate the Trust funds?

A Legal minds may differ, but my interpretation of the Court order was that, yes, those funds were to be held and segregated, safeguarded. Again, however, you want to describe them. But they should've clearly been earmarked and protected.

Q Are you aware of any justification for not having done that, by Ms. Ahern?

A No, I am not.

MR. POWELL: Your Honor, I'd like to ask the Court to take judicial notice of a conclusion reached by this Court in its order regarding Motion for Assessment of Damages, Enforcement of the No Contest Clause, and Surcharge of Trust Income dated September 13th, 2016, in which this Court concluded that Ms. Ahern, as Trustee, did not comply with the Court order to protect the 65 percent share of the Trust that was to be segregated under the terms of the Trust for the movements [sic], Ms. Montoya and Ms. Bouvier.

BY MR. POWELL:

Q Mr. Waid, in your previous testimony you indicated attempts to speak with Ms. Ahern about her different transactions involving the Trust account or accounts.

A Yes.

Q So, would it be a fair statement that you made multiple attempts to discuss these issues with Ms. Ahern?

A I believe I can answer that by saying I made multiple attempts, in the initial stages between her representation by Marquis and Aurbach and the time frame that they withdrew from the case, and Mr. Lenhard and Ms. Peterson were appointed, Ms. Ahern and I had a couple of phone conversations.

Thereafter, I attempted to work through counsel and we made multiple efforts, as this Court is well-aware, to

schedule, reschedule, order, and reorder the deposition. Mr. Lenhard and I had a meeting with Ms. Ahern, once in his law firm to discuss general matters, not account specifics, then we had a follow-up meeting some months later in her home in Mesquite where she resides today.

Other than those actions, the most recent, as I indicated in my report, were the well-check that I attempted to perform just a couple of weeks ago.

Q If we can just talk about that briefly, Mr. Wade. In your -- in the Accounting and Report of Trust Activity from 2013 to 2015, if you would turn to page 3 and let me know when you're there.

A I'm there.

Q Okay. You will see a statement that you have made that says that on Saturday, January 21st, 2017, the Successor Trustee coordinated and participated with the Mesquite Police Department in a well-check of Ms. Ahern. That remains a correct statement, Mr. Wade?

A Yes.

Q What was your purpose of visiting Ms. Ahern at that -- on that date?

A As I previously indicated, Mr. Lenhard had not heard from her and I was personally concerned. I have ongoing fiduciary responsibilities. There are still funds available in the blocked funds that the Court ordered me to pay for

health and other medical issues and well-being matters.

And, notwithstanding, my repeated request to Mr. Lenhard and his firm to assist me in that process, they were unable to deliver those. I knew this hearing was pending. I knew Mr. Semenza had not been retained. And so, based on my discussions with Mr. Lenhard, we decided a well-check would be appropriate. I had attempted to phone her to no answer. And I proceeded accordingly.

Q So when you made this visit on January 21st of 2017, your intent was to speak to Ms. Ahern face to face?

A Yes, for the purposes of discussing what her needs may be, to discuss the upcoming hearing, and that -- given the fact she's not represented by counsel, numerous settlement efforts have been made, failed, and reinstigated [sic] and failed. And I, candidly, wanted to give it one last shot.

Q Were you successful in speaking with Ms. Ahern on the date in question, January 21st, 2017?

A No, I was not.

Q Why not?

A I think the best way to describe it is, is when the officer was finally able to get Ms. Ahern to come outside, she demanded that he arrest me for trespassing and asked him to remove me from the property. He then went into the house and spoke with her for a period of time.

As I put in my report, he determined that there was

food, clothing, shelter, the normal things that occur in a well-check, and indicated that she did not want to speak to me. So the officer left, concluded his report. I provided additional information at his request and I left.

Q Okay. And the address of the property that you attempted to speak to Ms. Ahern at was 111 Paradise Parkway, Mesquite, Nevada, zip code of 89027?

A That's correct.

Q To the best of your understanding, is that where Ms. Ahern currently resides?

A Yes.

Q Mr. Waid, as part of your accounting and report -- I believe it is Exhibit A. If you could turn there and let me know when you're there.

A I'm there.

MS. AHERN: Could you repeat the exhibits, please, for me? I did not hear it.

THE WITNESS: Exhibit A.

MR. POWELL: Exhibit A.

MS. AHERN: Exhibit A, apple, A?

THE WITNESS: Yes, ma'am.

MS. AHERN: Thank you.

MR. POWELL: Just to be clear for the record and for Ms. Ahern, we're talking Exhibit A on the Accounting and Report submitted by Mr. Waid, on February 1st, 20 -- 2017.

BY MR. POWELL:

Q Mr. Wade, as you've included what I believe to be withdrawals from the trust account, I'd like to go through these with you in-depth. And I'd like to just start in the same order that they've been listed. Can you give me, under the category -- let me clarify. You -- on the left-hand side you have a column that says, "Type". Do you see that, Mr. Waid?

A Yes.

Q You then proceed to have a column that says, "Date". You then have a column that says, "Account". You then have a column that says, "Split". And you, lastly, have a column on the far right that says account - says, "Amount." Do you see all those, Mr. Waid?

A Yes.

Q Okay. I'd like to go through each of these by -- or approximately each of these through type.

A Yes. These are alphabetical. They were not designated by a type.

Q Okay. Mr. Waid, starting with American Express. It looks like there were transactions, withdrawals, or payments from the trust account or accounts -- I'm not sure which -- of $5,000, $10,000, and $10,000. So by my math, that would be $25,000. With that in mind - Mr. Waid, did the Trust ever have an American Express account associated with it, based on

your investigation?

A Yeah. During my tenure as Trustee, I have not found any accounts with American Express. No. In the Trust name.

Q So, do you have any understanding as to why there would be payments to American Express totaling $25,000 --

A No.

Q -- from the Trust account?

A No.

MS. AHERN: I'm sorry. I had to cut out the call.

THE COURT: All right. Thank you.

BY MR. POWELL:

Q Under the next category or type, I will say, American Patrols, Mr. Waid, do you see an expense for $1000?

A Yes.

Q Can you explain to me, if you know, based on your investigation, what was this charge to the Trust or payment from the Trust to American Patrols?

A It remains undetermined.

Q Based on your investigation, have you discovered what exactly is American Patrols?

A I believe it to be a security company.

Q Would there be any asset held by the Trust that would require a security company?

A Not here in the State of Nevada, no.

Q The next one is Bank of America for $2,000. Has

your investigation revealed any understanding of why there was a payment to Bank of America for $2,000?

A No information was available.

Q Does the Trust -- or has the Trust ever had a Bank of America Account that you're aware of?

A Not as I determined.

Q Barbara Shorts [phonetic], based on your numbers, there are payments of approximately 2300, 3,000, 3,000, and 8600. Do you see that, Mr. Waid?

A Yes.

Q Who is Barbara Shorts? I'm sorry. Let me rephrase that. Did your investigation ever determine -- did you come across the name Barbara Shorts in your investigation?

A Yes. And if you go to page 3 of the same report, there is Shorts Consulting. There were two other payments, 35,000 and $31,200. I attempted to contact Barbara Shorts. She's -- we found her on the internet. And she's a marriage and family therapist.

Q Any idea as to what a family and marriage therapist would have to do with this Trust?

A No, I do not.

Q So, just to clarify for the record, Barbara Shorts and Shorts Consulting is, effectively, the same payee?

A I believe so, yes.

Q Next payment is to Breath of Life Systems for

approximately just shy of $5200. You see that, Mr. Waid?

A Yes.

Q Based on your investigation, did you ever come across the name Breath of Life Systems?

A I believe -- yes.

Q What is Breath of Life Systems?

A I do not know definitively. I believe it to be a charitable organization of some kind or a religious organization.

Q Would either a religious organization or a charitable organization have anything to do with --

THE WITNESS: Sorry. There's a runner. It's in the chair. [Runner entered courtroom and exited].

BY MR. POWELL:

Q Sorry, Mr. Waid. Let me recalibrate here. Would a charitable or religious organization have anything to do with the Trust, to your knowledge?

A Pursuant to the terms of the Trust, there are no provisions for charitable donations, even within the discretion of the Trustee, as I read the Trust. It's a Mandatory Distribution Trust. And as such, there's no discretion for any such activity.

Q Next one is Brennan Legal Counsel, $2,000 payment to this entity. Did your invest -- did you -- during your investigation, did you come across the name Brennan Legal

Counsel?

A Yes. I believe she was former counsel of Ms. Ahern. He or she. I'm not sure. The firm Brennan was counsel to Ms. Ahern at some point.

Q Mr. Waid, if you would turn to that last page in your breakdown, if you --

MS. AHERN: I'm sorry. I had to shut off the phone. I had to shut off the phone.

THE COURT: Thank you.

BY MR. POWELL:

Q Mr. Waid --

A Page 3?

Q -- on the last page -- are you on the last page?

A Are you on page 3?

Q I'm sorry. I don't have it --

A Of the exhibit or the narrative?

Q Exhibit B. Exhibit B. I'm sorry. Exhibit B of the -- associated with the accounting. The last page. I'm sorry, A, looking at A. Sorry. Page 3, yes. Sorry. I've got different pagination on mine. There is a name, Shauna Brennan, that appears a -- looks like a check for $5,000.

A That's correct.

Q Is Shauna Brennan -- if you're aware, based on your investigation, would Shauna Brennan be the same entity as Brennan Legal Counsel?

A I believe it to be so. Yes.

MS. AHERN: Oh, good God. I'm sorry. I had to shut off the phone, again.

THE COURT: Uh-huh. Thank you.

MS. AHERN: I'm sorry.

BY MR. POWELL:

Q Mr. Waid. Now we're going to Burkes Security. It looks like there was a payment via check for $30,000 -- $30,400. Do you see that?

A I do.

Q In the course of your investigation, did you come across the name of Burkes Security?

A Yes, Burkes Security and Darryl Burkes [phonetic], a few lines down. There's an additional 5,000 paid. I believe them to be the same individual.

Q And did your investigation reveal what services were provided by Burkes Security and/or Darryl Burkes?

A The best I can determine, based on interviews with bank tellers, other individuals, is that Ms. Ahern had a personal bodyguard, and Mr. Burkes perhaps filled that role. And it was expensed to the Trust. But that is speculation on my part. I was unable to confirm that.

Q So just to clarify, as to security, this topic of security, there would be nothing that you're aware of that you discovered in your course of your investigation that would be

an asset of the Trust that would require security, correct?

A That's correct.

Q Turning to the next item, Century Link. There is a $1000 check.

A I believe there's a notation in the -- on that memo line of telephone expense.

Q Based on the course of your investigation, would there have been a need for the Trust to have a telephone expense?

A No.

MS. AHERN: I'm sorry. I can't hear you. Can you repeat?

THE WITNESS: I said, "No".

MS. AHERN: I - before, before that, sir.

THE COURT: The question, Mr. Powell. Can you repeat the question?

MR. POWELL: Sure.

BY MR. POWELL:

Q Mr. Waid, was there a -- I'm going to paraphrase I guess. Was -- based on your investigation, would there have been a need for the Trust to have a phone expense?

A No, there would not.

MS. AHERN: So what I think I just heard, because I really don't know - really don't know. Good heavens. I'm sorry. I don't know why this friend keeps calling me but she

does. A thousand dollars in the name of the Trust to have -- I don't know what you're talking about and I can't hear it. Can you please explain again, slowly and loudly? But not too loud, I'm having a trouble. I'm sorry.

THE WITNESS: There's a line item that was paid to Century Link in the amount of $1,000. And I responded that I did not feel, in my opinion, it was a either justified or necessary expense for the Trust to have a separate telephone line or account.

BY MR. POWELL:

Q Mr. Waid, Cyrus or Cirrus Aviation Services, there are expenses of $23,160.60, and also another expense for 70 -- $7,709.91. Do you see where I'm looking, Mr. Waid?

A Yes.

Q Under the split column, it claims that it is an airline expense on both of those.

A Yes.

Q Through the course of your investigation, did you discovery the name of Cyrus or Cirrus Aviation Services?

A I did. And then also, if you look at Expert Jet Charter Service, is a number of line items down, in alphabetical order, for $53,000. I determined that the Trust expended, if you add those three, approximately 80 -- or yeah, just over $80,000 in private jet charter service. I spoke to the companies and those were, in fact, for private jet charter

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services.

Q Were you able to confirm that those were for Ms. Ahern?

A That is correct.

Q Mr. Waid, in all the years that you've served as a Trustee, have you ever charged a private charter to fly anywhere?

A Not in my capacity as Trustee, no.

Q In your opinion, would that be reasonable to fly a charter plane as a Trustee?

A Not as it relates to the Connell Trust.

Q Okay. Mr. Waid, next item, City of Las Vegas Sewer Services. There is a expense for $612 under your split column. It states that it is a utilities expense. Do you see where I'm looking?

A Yes.

Q At this period in time, check being cut, apparently dated 12/31/14, did the Connell Trust own any property in Las Vegas, Nevada?

A Not pursuant to my investigation of real property records.

Q On the next item, Clark County Assessor, there is a check issued the same date, 12/31/14, for the amount of $7,000. And on your split column, it says taxes dash property; do you see that, Mr. Waid?

A That's correct, yes.

Q Based on your prior testimony, around this time period, December of 2014, if I'm understanding you correctly, the Connell Trust did not own any real property in Las Vegas, which would be in Clark County, Nevada?

A That is correct.

MS. AHERN: I'm sorry. Can you repeat that again? The hearing is very bad at this point.

THE COURT: The Trust did not own any property in Las Vegas --

MR. POWELL: Or Clark County.

THE COURT: -- or Clark County, for which property taxes of $7,000 would be due.

MS. AHERN: Thank you.

THE WITNESS: Mr. Powell, for Ms. Ahern's benefit -- I'm certainly not telling you how to handle your questioning, but for her benefit, knowing she'll receive this in advance --

THE COURT: It's been emailed to her.

MR. MOODY: She's already got it.

THE WITNESS: Perhaps -- I'm willing to stipulate to most of your questions, because I believe the answers are all going to be the same and --

MR. MOODY: Okay.

THE WITNESS: -- we could address any particulars you may have.

MR. MOODY: Okay.

THE WITNESS: I offer it as a suggestion.

MR. POWELL: Yeah. Let me see if I can go faster, Mr. Waid because I do want to get --

THE COURT: Yeah. We've been going about two hours and we can take a break. And then you can see what you could do to figure out how to --

MR. POWELL: Okay.

THE COURT: -- categorize these.

MR. POWELL: Sure.

THE COURT: So we'll just take a - it's 3:25 now, so we'll come back in 10 minutes.

MR. POWELL: Okay.

THE WITNESS: Thank you.

[Recess at 3:24 p.m.]

[Resumed at 3:41 p.m.]

THE COURT: All right. So we're going to go -- ready to go back on the record.

MR. POWELL: Your Honor, just very briefly.

THE COURT: Ms. Ahern - just give me a moment.

MR. POWELL: Oh, okay.

THE COURT: Are we ready? Okay. So, Ms. Ahern, we're getting a lot of feedback on our end and we think it might be, the sound that we're hearing that's making it difficult for the recording, might be your bird. Do you have a bird?

MS. AHERN: Yes. Yes, I have a bird but she's outside.

THE COURT: Because we're getting a chirping kind of noise.

MS. AHERN: Well, let me go close the front door, maybe you won't be able to hear her.

THE COURT: Let's give that a shot. Yeah, thanks.

[Pause]

MS. AHERN: All right. I hope that's better.

THE COURT: Thank you. Yes, yes. And do you have your phone on mute now, maybe, or vibrate or something so that we won't get the phone calls and we'll get through this. We'd appreciate that. Thanks very much.

MS. AHERN: Uh-huh.

THE COURT: All right. Thank you. Okay. So I believe we were -- Mr. Powell, you were going to take a look at maybe being able to categorize or --

MR. POWELL: Yes, Your Honor, and --

THE COURT: -- some of the questions.

MR. POWELL: -- before we get to that step, I think I missed a step. I'd like to move to admit -- I think the foundation has already been laid.

THE COURT: No, that's -- we're still hearing it. We're still, if --

MS. AHERN: We're still what?

THE COURT: It's a very loud squeaking or chirping kind

of a sound. Do you hear it on your end?

MS. AHERN: No, I do not.

THE COURT: Oh, yeah, it's --

MS. AHERN: I do not.

THE COURT: It's very loud and it's interfering with our reception on this end. Hmmm. Okay.

Kerry, maybe you can email the IT guys.

COURT RECORDER: I will, Judge.

THE COURT: Thank you.

MR. POWELL: Your Honor, as I was saying, I think I missed a step. I think the foundation has been laid. The Movants would like to admit what is marked as Exhibit 43 into the record, Your Honor, which is --

THE COURT: Well, it's filed.

MR. POWELL: Yeah, and that's why I wasn't sure if it, if we need to. I just want to make sure I didn't skip anything that needs to be taken care of. It is a filed document so --

THE COURT: All right. So it'll be admitted.

MR. POWELL: Okay.

BY MR. POWELL:

Q Mr. Waid, in an effort to go through your exhibits A, I believe quicker. Going through the rest of these statements, I do want to discuss some of them, the different, what we are calling types.

Could you summarize for me, out of all of these, are

there any of these that you have determined through your investigation, to be legitimate expenses that should have been paid from the Trust?

A Yes. My determination, based on reading the Trust, understanding the nature of the Trust assets, understanding the relationship between the other co-royalty holders as a Passive Trust, my belief is, the only expenses appropriate would be property taxes associated with the ranch itself, the ad valorem and other taxes assessed by the State of Texas on the royalty interest.

So real property taxes, a royalty tax, which is related to the real estate and the royalty therein, and insurance payments related to the property itself. Those as a practical are the primary. There are always limited legal and accounting services, as needed. However, I would view those to be fairly di minimis, because although the Trust has its own separate tax ID number, it is a taxpayer.

It should zero out the preparation of the return for a Trust even of this size, whether it's a dollar in royalty or a hundred million in royalty, if it passes through, the return is quite simple.

It's -- I've done them in a number of other Trusts where it's less than a thousand dollars a year. So, to put that in context, only appropriate expenses are insurance related, legal and accounting where appropriate.

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Q Thank you, Mr. Waid. Just so we can keep the record very clean on that, could you please point out to me, based on your last statement, what expenses in this list we would be talking about that you would deem to be justifiable under those categories?

For example, I see an Upton County Appraisal District charges under your split. Explanation it says, "taxes-property", are we talking --

A Yes.

Q -- those three payments?

A Yes.

Q Okay. Just for the record then, would we be talking about $3,200, $65,000, and just shy of $26,000, correct?

A Yes.

Q Okay. Also, Mr. Waid, I see a payment to the Internal Revenue Service of $55,000. It says on there -- under your split category, it says, "Income Taxes". Did your investigation reveal that this was a payment of taxes for the Trust or payment of taxes for Ms. Ahern, individually, given your testimony that this was a flow through entity?

A I can only conclude that it was not applicable to the Trust because the records received from the IRS directly showed no credit to any payment made in the amount of $55,000 to an associated tax liability of the Trust.

Not having the benefit of interviewing Ms. Ahern, I

can't determine where that $55,000 was credited to, because the IRS did not release the information on anyone else's account. But there's, there's no link. The money left the Trust, but it wasn't to the Trust benefit.

Q So based on your limited knowledge, then, your -- would it be fair to say that your conclusion then at that point would be that it -- your belief would be that - would it -that would have had to have been a payment, or would have been a payment by Ms. Ahern for her personal income taxes from the Trust?

A I think it's a reasonable conclusion.

Q Thank you, Mr. Waid. Are there any other expenses on here that, again, you believe would be Trust related and appropriate expenses?

A Gammett & King or Larry Pruka, there are a few accounting firms that I noticed in the history of payments, but again, the amount should be fairly small and limited in nature.

Q Mr. Waid, as to Gammett & King, I see an expense here of $5,000, a date of payment of February 24th, 2014. Based on your investigation, would this payment have been for the Marquis Aurbach accounting that was submitted to the Court?

A I believe that to be correct.

Q Okay. Mr. Waid, I'm going to try to expedite this

as fast as I can, but I believe that there are a few of these entries that we do require further discussion on, so I beg your pardon and patience with me in going through these quickly.

Mr. Waid, on what is your -- on what is page 1, there is a payment to David Mann for $10,000 occurring on 11/14/14. Do you see that, Mr. Waid?

A I do.

Q Based on your investigation, who is -- did you discover a David Mann involved with the Trust?

A Yes.

Q Who is David Mann?

A He's the same individual as James Mann on the following page. There's a total of $125,000 there and David Mann $10,000. I believe it's the *M*ann Law Firm who received the money, because Mr. Mann confirmed to me he received approximately $135,000.

Q Based on your investigation, was Mr. Mann conducting any business that was beneficial to the Trust?

A Not having received the records yet and Judge Johnson's ruling in that matter, I haven't been able to see all of his unredacted billing statements, but my -- what documents I have reviewed, I find no benefit to the Trust. It was primarily litigation based. I can't say that it provided any benefit.

Q Would that litigation be -- would that litigation be concerning this current litigation involving the movements [sic] and Ms. Ahern?

A Yes. When I -- when I answer your question about a legitimate or appropriate Trust expense, I answer that in terms of business operations and administration of the Trust.

When I reference the litigation, I'm referring to disputes amongst beneficiaries or trustees, those issues. I, I segregate those and characterize them as different types of legal expense.

Q Okay. Thank you, Mr. Waid. Doug Edwards, a $10,000 payment to him on 1/26/2015.

A Unable to determine. There are a lot of Doug Edwards in town. There's an attorney by the name of Edwards. I could not determine any -- with any specificity who this Edwards was.

Q Is it your conclusion then that this expense would not have been related to General Trust Administration?

A That's correct.

Q Okay. Forensic Specialists Limited, a payment of $9,600 approximately dated 10/27/14. What does your investigation reveal as to who Forensic Specialists Limited is?

A I believe that was related to the Will contest and other -- it coincides with Handwriting, LLC for $5,000 for --

yeah, 5,477 and other expenses related to litigation not directly related to the Trust business interests and royalty positions.

Q Jason Collins?

A Best we can ascertain from interviews with various individuals, that Mr. Collins was a personal assistant or a bodyguard, or performed some measure of service for Ms. Ahern directly.

Q Dropping below Mr. Collins, Jeffrey Burr Law Firm, expenses of 50,000, 60,000, and 125,000. What was your investigation reveal about payments to the Jeffrey Burr Law Firm?

A Without disclosing attorney-client privilege information, the Burr firm indicated that --

MR. MOODY: Then, I would ask you not to reveal anything about what the Burr firm said.

THE WITNESS: Okay.

BY MR. POWELL:

Q I understand your concern, Mr. Waid. Was it a legitimate Trust expense, in your opinion?

A No, it was not. And if I can clarify, The Burr Firm did speak to me, but they informed me, at the beginning of the conversation, we will not reveal any attorney-client information. Is it permissible to explain what they did tell me?

MR. MOODY: As long as you're confident that they told you information that was not attorney-client privilege I'm satisfied.

THE WITNESS: Yes. And their answer, when I questioned the fees and the relationship and the history, was that it was primarily related to this Trust dispute, not to oil and gas interests and other business of the Trust, as I previously characterized the two different types of legal fees.

BY MR. POWELL:

Q Mr. Waid, were you aware, in your review of this Court's record, were you aware, at any time, that the Court - this Court had prohibited the payment of attorney's fees from the Trust account, that was to be segregated for the MTC Trust beneficiaries?

A Yes.

MS. AHERN: Could you repeat that question, please?

MR. POWELL: Did this Court order at any -- was Mr. Waid aware at any time of this Trust ordering attorney's fees not to be paid from the 65 percent of the Trust to be segregated for the benefit of the MTC Trust beneficiaries? His answer was: Yes, he was aware.

MS. AHERN: I apologize. There seems to be a static break so that I can't hear the question. Can you try one more time for me?

THE COURT: Maybe if you speak right into the microphone,

Mr. Powell.

MR. POWELL: The question -- is that too loud?

MS. AHERN: No, uh-uh, no.

MR. POWELL: Okay. The question I had asked Mr. Waid was whether or not he was aware of any order from this Court prohibiting the use of funds representing the 65 percent that was to be segregated in the Trust account for the benefit of the MTC Trust beneficiaries, and prohibiting the payment of attorney's fees from that Trust account.

And Mr. Waid responded: Yes, he was aware of an order from the Court. Understood?

THE COURT: You can continue.

MR. POWELL: Okay.

MS. AHERN: Yes. I think -- I believe, if I played it back, attorney fees -- for any attorney fees not to be paid from this, the Trust 65 percent of -- is that a yes, it could be paid from 65 percent for attorney fees or not? And what attorney fees are you talking about?

MR. POWELL: I don't know how to respond, Your Honor.

THE COURT: Okay. The fees that we are currently talking about are those paid to the Jeffrey Burr Law Firm. The question was whether there was -- at the time of payment of these fees there was a limitation placed by the Court on payment of any attorney's fees from the 65 percent portion of the Trust, the MTC 65 percent. And the answer to that was:

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Yes, there was such a limitation.

THE WITNESS: I'd like to clarify my answer if I could.

MR. POWELL: Yes. Although I was going to ask, Your Honor, may I present Mr. Waid with a document that maybe he can look at to maybe refresh his memory, use that? It's already been provided to the Court. It's already been filed with the Court, so I'm not really offering it as an exhibit, I'm just -- I wanted to discuss it briefly with Mr. Waid, is that - may I approach, Mr. Waid with that?

THE COURT: Certainly.

MR. POWELL: Thank you, Your Honor.

BY MR. POWELL:

Q Mr. Waid, I've just handed you the order granting Petition for Release of Trust Funds for the payment of administrative expenses, insurance premium -- insurance premiums and taxes attributable to Trust property. Do you have that in front of you, Mr. Waid?

A Yes.

Q As you can see, that document was filed on May -- I'm sorry, May 16th of 2014. Mr. Waid, if you could turn to page 3 of that order under the heading, "Order".

A Yes.

Q For the sake of time, I will read what I'm referring to. Under the heading -- under Section 1 under the Order section states,

"During the pendency of this action, the income tax including quarterly estimate -- quarterly tax estimates, ad valorem taxes, property insurance premiums, and the administrative expenses of the Trust, including professional fees for accountants for services rendered on behalf of the Trust, but not including attorney's fees incurred, herein, by Eleanor as Trustee, or otherwise, shall be paid on a pro rata basis.

To wit, 35 percent of such expenses shall be paid from the Eleanor's share of the royalties and surface rent by Eleanor, and 65 percent of such expenses shall be paid by Eleanor, as Trustee of the Trust, from the amount held in trust per the order."

Mr. Waid, would this -- does this document -- let me rephrase that. Would this be the document that you reviewed to lead you to the conclusion that you had previously stated in your testimony, that you were aware that there was a Court order prohibiting the use of those Trust funds for the payment of Ms. Ahern's attorney's fees?

A Yes.

Q Okay. I'd like to jump briefly, Mr. Waid, Marquis Aurbach Coffing heading, if you're there.

A Are you back on --

Q Sorry, I'm back on your Exhibit A of your Accounting

and Report. Sorry.

A Yes.

Q Okay. Do you see that Marquis Aurbach Coffing heading?

A I do.

Q There were expenses of 15,000, 21,782.28, 21,000, 30,000, $394.22, and then $75,000.

A Yes.

Q Just to make clear for the record, these expenses were deemed to be -- did you determine any of these expenses to be reasonable or justifiable, I guess, expenses that were charged to the Trust?

A I think the record reflects that I brought this to the Court's attention in probably mid-2015, after my appointment, and we had a discussion about potential disgorgement of fees because of the violation of the Court's order as I saw it. And we effectively tabled that matter, and our focus has been on the unpaid royalties to the MTC Trust.

Q Mr. Waid, if you look at the dates of those payments and you compare them to that order that was just read, these payments occurred after that order was entered, correct?

A That is correct. And for the most part, for all the other fees that were incurred as reflected in this report as well, many of them.

Q So just briefly, to clarify for the record, that

would include then the payment of $125 to James Mann, that was made on 10/24/14?

A $125,000.

Q I'm sorry, $125,000.

A Yes.

Q That would include the payment to David Mann of $10,000 made on November 14th, 2014?

A Yes.

Q Would that then also include payments of $60,000 and $125,000 to the Jeffrey Burr Law Firm?

A Yes.

Q Mr. Waid, if you could just go back briefly, I'll be quick. The order granting Petition for Release that we were just discussing, could you put that back in front of you?

A Yes.

Q Mr. Waid, do you see that the day of that hearing on the right-hand side of the first page, the date of that hearing was April 22nd, 2014?

A Yes.

Q In turn, the payment of $50,000 of legal fees to Jeffrey Burr Law Firm occurring on May 8th, 2014?

A Yes.

Q So based on the hearing date and when that ruling would have been made, the payment on May 5th would have been after -- would that have been after Ms. Ahern would have been

aware that that act was prohibited of paying Trustee's fees from the Trust? I'm sorry, attorney's fees from the Trust, to the best of your --

A Not my place to make a judicial determination but, yes, I'll agree that they occurred after the date of the Court's order.

Q Let me rephrase that then. If you were acting at that point in time, would you have made that payment?

A I would have asked the Court for an order authorizing the payment.

Q Moving on, Johnson & Associates payment of $5,000, $20,000 and $50,000.

A In 2013, yes.

Q Correct. Just to be clear, your determination was that these were not legitimate expenses relating to Trust administration?

A I made what I would characterize as an exhaustive effort and commenced legal action to determine Mr. Johnson's involvement and the appropriateness of those fees. Based on my investigation of other counsel, my discussions with Apache and my discussions with Mr. Johnson, for that matter, as to work that was performed for Eleanor individually and the Trust; and he simply refused to cooperate with my requests.

Q Okay.

A So I can't make a definitive determination.

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Q If my memory served me correct, you attempted to get Mr. Johnson's records in Texas and ultimately you were blocked, effectively? Mr. Johnson was challenging your right to have those records?

A Well, I want to make it very clear for the record that, in my practice, when I'm appointed by courts, I usually leave the attorneys and the accountants in place because they are the most knowledgeable. I attempted, literally, on the first day I was appointed, I invited Mr. Johnson to provide an updated engagement agreement so that I could continue his representation, protect the privileges and keep a continuity; and I didn't want to reinvent the wheel or expend unnecessary fees in starting over with new counsel. He refused.

And from that point on, he refused to cooperate and provide me any information, so naturally I was suspect.

Q Did Mr. Johnson give you any explanation of why he was refusing? [Background noise louder].

A No.

Q Kingdom Title Solutions, a payment of $75,000. In your investigation, what did you - what did you determine Kingdom Title Solutions to be?

A They are a title real estate based company. I -- at some point I think it's important for the Court to know, I could have subpoenaed and issued us -- had a subpoena festival and gone after all of these companies for their records. I

just ultimately deemed it not prudent with Ms. Ahern not sitting for a deposition where I could ask the questions or I could subpoena them.

At this stage of the game, I was running up against a deadline for the filing of amended tax returns, and so, I stopped, and I had to make the best business decision and judgment in my capacity as Trustee. So, I apologize for not being able to answer all of your questions. I made a business decision not to pursue them.

Q I understand, Mr. Waid.

A I will -- to clarify my answer on that specific, Kingdom Title Solutions has nothing to do with the Connell Trust or its real estate in west Texas.

Q Okay. Thank, Your Honor -- thank you, Mr. Waid, that's what I was going to follow up with.

Mr. Waid, Lynch, Chappell & Alsup, payments of $4,000 and $5,000. What did your investigation reveal about what entity this is or what is - what is this, a business, an entity, a law firm? Do we know?

A A law firm. One of the partners, Harper Estes was involved in a mediation of the dispute amongst the beneficiaries. Again, I would characterize that as not an appropriate Trust expense, but a beneficiary expense.

Q Okay. Very briefly, Mr. Waid, Margaret Ordella [phonetic]. There's a $3,500 payment and $1,700 -- $1,750

payment to Margaret Ordella Living Trust. In your investigation, who is this individual?

A We attempted some limited efforts to find out who she is and we discovered nothing.

Q Omni Hotels & Resorts, $7,000 payment and a $6,500 payment. What did your investigation reveal as to what -- your split indicates it was a hotel expense. Is that - is the hotel expense for Ms. Ahern?

A It is. The hotel actually cooperated and provided the registry and the logs, and information associated with the various room service and multiple rooms reserved, but no explanation as to why.

Apache does not have operational staff in Fort Worth, so I couldn't draw a nexus between the Omni Hotel in Fort Worth and any Trust activity.

Q Operative Services $8,600 and $6,000 paid -- we have a rent expense. Did the Trust ever rent property?

A Ms. Ahern, in her earlier declarations to the Court, indicated that the Trust had rented properties. There's exhibits attached to Ms. Ahern's. I tried to link this property services with Joseph's Properties and others.

We took the deposition of the Joseph Properties employee who denied the documents that Ms. Ahern produced in her accounting were authenticated, or authentic or valid in any fashion whatsoever. And I found no office space leased.

I did pursue that matter because there were, per Ms. Ahern's testimony, multiple boxes of Trust records and they had to be stored and kept and property leased and space for them. To date, I've never been able to see those records or have access to them.

I found a lease property in Spanish Trails on the golf course that apparently matches some of the dollar amounts but, again, I find no Trust benefit or use, or justification for rent expense.

Q Thank you, Mr. Waid. Real Estate Services, $10,000, $90,000, $50,000 and $150,000. What did your investigation reveal as to what this entity is and why those payments would have been made?

A Real Estate Services is an entity owned, controlled, created or otherwise associated with a Ms. Nounna. There are -- who uses multiple aliases. Again, I find no information relevant or related to the Trust and its activities.

Joseph's Properties and its founder indicated they did some work for Real Estate Services, that it is an entity, it does exist. And candidly, I -- we weren't getting very far with recovering those monies.

That's a large enough sum where I felt if, if we could get more information, if we had Ms. Ahern's cooperation, those are funds I would seek to have disgorged because they're

not legal or otherwise related. But we were met with continuous closed doors, so I, again, made a business decision just to move on.

Q Understood. I'm almost done. I appreciate your patience with me, Mr. Waid.

Ryan Charbauer [phonetic], $10,000 and $20,000. Who -- what did your investigation reveal as to who Ryan Charbauer is?

A Ryan Charbauer -- and I've spoken with him on the phone and his partners. He was an attorney with Anthony & Middlebrook. He now holds his own shingle in his own firm. He's a CPA and an attorney. He also, through counsel, rejected our requests and denied our requests and filed pretty contentious motions opposing our subpoenas, in Texas, to determine.

My thought was, if he was advising Eleanor on Trust matters, that I could find what happened to the Trust funds, I could, again, put these puzzle pieces together. He simply refused. I ultimately just recently non-suited those subpoena requests and the Court granted them.

Q Tony Dave & Associates, $5,000. Your investigation revealed what? Is this an entity? Is this a person?

A No information.

Q W/M Connell Trust payments of $45,000 and change. One --

MS. AHERN: I'm sorry, an airplane went over, could you repeat, please?

MR. POWELL: We are discussing the W/M Connell trust entry.

BY MR. POWELL:

Q There are distributions of $45,336.10. A distribution of $1,287,580.85, and a distribution of $5,000.

A $500,000.

Q $500,000, thank you, Mr. Waid. And what did your investigation reveal as to why these funds were withdrawn?

A If you look at the memo line, it indicates these are cashier's checks. Again, I refer to my prior testimony regarding the reckless nature of these. I ultimately was able to recover the $1,287,000 cashier's check. That's the one that -- it was issued on February 18th. I recovered it in April.

The other check which was for $500,000, if you correlate the date March 23rd, 2015, that was in the same week and time frame in which this Court removed Ms. Ahern as Trustee. That also related to testimony that Ms. Ahern and her counsel provided to the Court relating to Fidelity Capital.

The Court ordered, very specifically, upon my oral motion in open court, that Fidelity Capital was not a financial institution and that those funds should be returned.

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We then went on what I would characterize as a, as a bit of a chase to find the 500,000. I ultimately found it at U.S. Bank. I was able to recover those funds and, again, the record back in April and May of 2015 will reflect my findings and my concerns expressed to the Court.

Ultimately, Mr. Lenhard was deeply involved in the $500,000 matter because he made numerous attempts to find out who the individuals were. The gentleman who was the managing member or the founder of the entity was a -- sometimes lawyer in California, sometimes his bar license was active, sometimes it wasn't. Again, it was another dead end.

But the 500,000 as represented in the accounting filed by Ms. Ahern, has yet to, and has never been recovered.

Q Okay. And lastly, Mr. Waid --

MS. AHERN: [Ms. Ahern's phone buzzing]. Oh, I'm sorry, again.

THE COURT: Uh-huh. Thank you.

MS. AHERN: I'm sorry. I'm sorry. I shut them off. I'm sorry.

BY MR. POWELL:

Q Lastly, Mr. Waid, Wells Fargo expenses of 25,000 and $10,000, you've listed, "Unknown Expense". I'm assuming you haven't been able to decipher what these withdrawals were?

A Actually, if you look on the memo line these were, I believe, ACH transactions to a MasterCard. And I found no

MasterCard or other open accounts in the name of the Trust. They obviously satisfied a MasterCard account.

I believe Ms. Ahern did have a MasterCard account. Some of the records that we were provided did indicate she held an account with them, but certainly not in the name of the Trust.

Q Thank you, Mr. Waid. I'm done with that report, your report and accounting. I would like to clarify, however - I'm sorry, I shouldn't make that statement. I'd like to clarify some of your previous testimony in regards to taxes that are still pending for the Trust.

Given your previous testimony, you indicated that you had filed an Amended Return for the Trust, is that correct?

A Filed amended returns for three years.

Q What was the -- what was the need to file amended returns? I'm sorry. Let's go back. What years were those?

A For 2013, '14 and '15. The basic summation that I can give is that under Ms. Ahern's Trust Administration, the terms of the Trust were not followed. As a Pass-Through Trust it's vitally important, from an Internal Revenue code perspective, that if you're a Pass-Through Trust, the account needs to be zeroed at the end of the year. Whatever remaining funds are in the account, if you don't either expense them or distribute them, it's taxable income to the trust.

Trusts are taxed at the highest level permitted under the current code. There is a 65-day rule safe harbor provision. And my investigation determined that in those years, Ms. Ahern did not properly distribute or expense any funds according to the Court's order. When the Court ordered that the Trust could pay any associated income taxes, quarterly taxes or the rest.

In my, call it recalculation, the 65 percent due the MTC Trust should have sat in a segregated account, as if it were distributed. Quarterly income tax payments, exactly consistent with Judge Sturman's order, should have been advanced and distributed to the MTC Trust.

But what happened is, on December 31st, 2014, the clock struck 12 and the year 2015 commenced, there were significant funds in the Trust on account, or in cashier's checks, but they weren't characterized as distributed or expensed. That created, upon Gammett & King's analysis, an $800,000 tax liability that I had to satisfy within the first two weeks of my appointment. And as you can imagine, the first two weeks I had no funds on account to make such payment.

I brought that to the Court's attention. So since that time frame, we have endeavored to -- when I say we, myself, the accounting firm -- we have endeavored to recreate, to take the best possible tax positions available. But

without Ms. Ahern's cooperation and following general tax principles and accounting principles, I have had to make certain calculations and certain allocations of expenses of distributions. And I was running up against a deadline.

I have now filed those returns and I'm waiting for the IRS to either allow those allocations and permit them and refund certain monies, or they will disallow them and there is a potential that I could owe additional funds. It's remote, but until the IRS sends you the final closing letters, I have to reserve; I have to account for those. I know that was a long-winded answer, but I hope it clarified.

Q Sure. If I understood you correctly, you have applied, then, for refund from what you have had to pay to the IRS, which I understand was $800,000 --

A That is correct.

Q -- effectively very closely after you took position of Trustee?

A Yes.

Q What, what was the amount that you sought for the refund?

A It's just over 400,000. But in proper context that should be zero. Trusts should never have to pay tax at the trust level, which is the highest taxable rate. The structure is in place.

Q So if we turn to page 3 of your accounting and

report you make a statement, you say, "It is anticipated that the amended tax returns and refunds will be resolved and closed by mid-2017."

A Yes.

Q Until we get to this point in time, you can't really determine what the full extent of what I'm going to term, the damages to the Trust from a tax perspective, may or may not be; is that correct?

A I can reasonably estimate that in the range of 600- to $1 million dollars of, call it unnecessary tax payments, were made. And if that's a damage to the Trust, yes, because those funds should have been distributed to either Eleanor, her 35 percent lifetime income interest, or to the MTC. And when I give that number that's associated fees and costs with trying to fix this.

Q So just, if I'm understanding your testimony correctly, then, Ms. Ahern's actions in regard to the failure to properly pay taxes, has resulted in significant damage to the Trust that was unnecessary; is that a fair statement?

A I think it's a fair statement with the qualifier that proper trust administration, following the terms of the Trust itself, as outlined by the Settlors of the Trust, provides structure where there's no federal income tax ever due by the Trust. And I'm in the unfortunate position of now having to become the taxpayer.

And, as I've expressed to this Court and to you, and to Ms. Ahern's Counsel, I have grave concerns about the history. I have serious concerns whether or not Internal Revenue Service will accept the positions and the allocations taken. Because the same things that Wells Fargo and the accountants and everyone else looked at, the IRS is now going to look at; hence, my assumption that this will be audited.

Q Okay. Mr. Waid, in the course of your investigation, did you uncover any documents, leads or anything that have led you to conclude that Ms. Ahern has used aliases?

A Yes.

Q During the time that you've served as Trustee, have you ever used an alias?

A No.

Q Mr. Waid, in that booklet I have provided to you, if you would get in front of you. There is a Brief regarding accounting, fiduciary duties, and trust administration which was filed under seal on March 13, 2015.

A Yes.

Q Would you let me know when that's in front of you? Okay.

A I have it.

Q Just a moment, Mr. Waid.

MR. POWELL: Your Honor, can we just take about a

two-minute recess so I can get -

THE COURT: Okay.

MR. POWELL: -- organized?

THE COURT: How much longer do you need? Because, I don't know if we're -- are we going to be able to finish Mr. Waid, this afternoon?

MR. POWELL: Yeah, absolutely. What time do we need to conclude by, Your Honor?

THE COURT: About 15 more minutes.

MR. POWELL: Okay.

THE COURT: [indiscernible], if we can.

MS. AHERN: Excuse me, I have to go to the restroom.

THE COURT: And we're taking a break. Thank you.

[Recess at 4:28 p.m.]

{Resumed at 4:33 p.m.]

THE COURT: The feedback might be -- because the speakers have to be high for you to hear, there's feedback from your microphone. Is there - there's a - is there a button over -- on your screen that allows you to turn down the -- your microphone on your end so --

MS. AHERN: Yeah. I went down from 100 to 60.

THE COURT: No. That's -- I think that's your -- is that your speaker?

MS. AHERN: Yeah.

THE COURT: I'm talking about your microphone.

MS. AHERN: At 34. Would you speak something?

THE COURT: No, we're not talking about the speakers for you to hear, we're talking about the microphone for you to pick up when you speak. That's the problem --

MS. AHERN: Oh, I don't know.

THE COURT: -- it's on high as well.

MS. AHERN: I don't --

THE COURT: So --

MS. AHERN: -- know about that one.

THE COURT: Okay. Yeah. I don't know how to tell you to turn down the microphone. Okay. All right. Well, we'll try to tolerate it for a few more minutes.

Mr. Powell, you had a few questions to wrap up with Mr. Waid?

MR. POWELL: Yes.

BY MR. POWELL:

Q Mr. Waid, do you have the accounting document in front of you? It's the Marquis Aurbach, what I will call the accounting that was -- what is titled their brief accounting, fiduciary duties, and trust administration, which was filed on March 13th, 2015?

A Yes.

Q Okay. Mr. Waid, I didn't provide the entire document. It's approximately, I believe, 270 pages was what it was. But if you will see in that packet, I have produced

what is the Declaration of Eleanor C. Ahern, in support of Brief regarding accounting, fiduciary duties, and trust administration. I believe that is -- was Exhibit 5.

A Yes.

Q Can you go to that document, please?

A Yes.

Q Okay. Do you have it in front of you now?

A I do.

Q Okay. Just very briefly, page 3 of 3, if you turn to that, you'll see a Declaration pursuant to NRS 53.045:

> "I declare under penalty of perjury and the laws of the State of Nevada, that the foregoing is true and correct."

Do you see that, Mr. Waid?

A Yes.

Q Okay. If you'd turn back to page number 1.

A Yes.

Q In section number 4, Ms. Ahern says: The administrative expenses consist of a bank service charge in the amount of $165 and payment of support staff in the amount of $35,500.

MS. AHERN: I'm sorry. You all went garbled.

BY MR. POWELL:

Q Under section 4, Mr. Waid, it says the administrative expenses consist of a bank service charge in

the amount of $165 and payment of support staff in the amount of $35,500, do you see that, Mr. Waid?

A Yes.

Q Based on your investigation, did you include -- did you conclude that Ms. Ahern ever had a support staff for the Trust?

A Not to my knowledge.

Q Statement 5, Mr. Waid, the Trust paid a consulting fee of $30,000 to Fred Smith of Richardson, Texas, who consults for the Trust regarding management of trust property and how to best take advantage of any available tax savings. In your investigation, did you come across the name Fred Smith?

A Yes.

Q Who is Fred Smith?

A He is - he is an individual who is a certified tax preparer. He is neither a CPA nor an accountant by degree. He goes by different names other than Fred Smith. And my last contact with him was regarding his claim against the Trust or Eleanor for the remaining 25,000 that was not paid to him. And his last known whereabouts, based on his declaration to me, was somewhere in Central America.

Q Mr. Waid, under statement 6, the Trust rents office space for my assistance and I maintain the Trust records and perform Trust business. I'm understanding your previous

testimony, you've -- you did conclude your investigation to reveal the Trust did not rent office space?

A That is correct.

Q Mr. Waid, if we go -- statement 10, Mr. Waid, as of January 31st, 2015, the Trust funds are in three separate interest bearing Wells Fargo accounts, an account with Fidelity Capital Inc., and on deposit with Johnston and Associates, being held in their Trust account.

Based on your investigation, Mr. Waid, did you conclude that this was a true and correct statement, factual statement?

A It is not. Fidelity Capital is not a financial institution, it holds no licensing. And its founder and principal was incredibly invasive -- evasive.

Q Did Johnston and Associates hold money in their Trust account?

A They did.

Q Did they return that to you?

A Yes, they did.

Q Mr. Waid, if you would turn to page 3, what is under the heading of, "June accounting". There's a statement, the second sentence, beginning: The only difference is that the June accounting contains a consulting fee to Anthony in Middlebrook in the amount of $20,000. Anthony in Middlebrook is a law firm that consults for the Trust regarding charitable

projects and opportunities in which the Trust can invest to best realize the available tax benefits.

A I read that, yes.

Q Based on your investigation, Mr. Waid, what work did Anthony in Middlebrook do for the Trust?

A I was unable to determine that as they refused to cooperate and provide that information, upon my request and upon the subpoenas issued.

Q I believe you might have answered this, but I want to ask it in regards to Anthony in Middlebrook. What charitable projects and opportunities would have existed for the Trust in the 65% share?

A Under the terms of the Trust, neither the 65 nor the 35 were either permitted or authorized to engage in charitable activities.

Q Thank you, Mr. Waid. I have a final question for you, Mr. Waid. Questions I should say. Mr. Waid, based on your professional experience, and after this thorough investigation that you've endeavored on and discussed with us today in your testimony, have you reached any conclusions or opinions, for the time period of 2013 through 2015, as to the treatment of Ms. Ahern in regard to the MTC Trust beneficiaries?

A I want to make sure I understand your question. With the treatment of whom?

Q Ms. Ahern's treatment of the beneficiaries, the movement -- the Movants.

A I'll speak of it in terms of -- the treatment was governed and prescribed by this Court's orders. And as I've indicated, and as the facts and the records indicate, that those terms and conditions and orders were simply not followed.

Q Would it be a fair characterization that Ms. Ahern's actions in regard to the movements [sic] was reckless, in your opinion?

A I believe the adjective to be appropriate.

Q How about the adjective inappropriate?

A Yes.

Q Unjustified?

A Yes.

Q Fraudulent?

A Term of art, legal conclusion, but yes.

Q I have no further questions. Thank you, Mr. Waid.

THE COURT: Anything else, Mr. Moody?

MR. MOODY: Yes. Can I -- with the Court's permission, I do have a few follow-up questions.

THE COURT: Thank you.

REDIRECT EXAMINATION

BY MR. MOODY:

Q Mr. Waid, will you turn with me to Exhibit 41 in the

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Trustee's binder, please?

A Yes.

Q And if you'll forward through to Exhibit 5, which is the declaration of Eleanor C. Ahern, in support of Brief regarding accounting and fiduciary duties and trust administration.

A Yes.

Q If you will, turn to page 2 of that Declaration, please.

A Yes.

Q Let's start with paragraph 9. I'm going to go out of order. The Trust paid me Trustee's fees of $200,540.03, which is six percent of the total receipts from October 2013 through January 2015, you see that?

A Yes.

Q Can you tell the Court whether you believe it's reasonable for the Trustee of what you have described as a Passive Trust; is that correct?

A That is correct.

Q To charge fees of six percent of total receipts?

A It is not reasonable, no.

Q Why?

A Because the nature of these assets are such that they do not require daily administration. It is primarily an accounting function. There are, on occasion, lease renewals

and other orders that are required by Apache, but they are primarily administrative in duty -- in nature, and the duties associated with them are fairly de minimis.

Q And would a six percent fee be a reasonable fee for a Trustee to charge?

A Usually, when there are a voluminous amount of beneficiaries, as you find in royalty cases, a six percent fee is somewhat of a standard fee for banks in West Texas and other institutions where they have to handle a significant number of transactions and/or, they assume certain liabilities associated with serving as the Trustee.

In this instance, the Settlors of the Trust appointed their own family. And their own family, as beneficiaries, were to serve as Trustees. So I find no justification for that. And for the record, I'm -- as the current Trustee, am certainly not paid in a percentage fashion, nor would I ever support such.

Q You anticipated my next question. So let's now move to paragraph 6 of the same page that you're on. Mr. Powell already asked you questions about the office space, which Ms. Ahern claimed to be renting at 17 -- $1,750 per month. Do you see that?

A I do.

Q Will you forward to Exhibit 8 of the same document?

A Yes.

Q And is this an alleged receipt from Joseph's Properties, stating your office rent expense has been $1,750 a month since the beginning of 2013, it is paid as of the beginning of this month?

A Yes.

Q Turn back to Exhibit 21 with me. There on the first page this is a, a letter addressed to your attention, correct?

A Yes.

Q Dated October 1, 2015?

A Yes.

Q And does this state, from the same person that allegedly wrote the previous letter, that, "Nothing else - filed, copy of rent memo enclosed, nothing else on file, as Ms. Ahern did not rent from us."

A That's correct.

Q Does that completely contradict the previous letter that was submitted as part of her brief regarding accounting?

A You are correct.

Q All right. Finally, Mr. Waid, I'd like to ask you about the span of time after which Marquis Aurbach and Coffing withdrew, and before Mr. Lenhard's firm entered an appearance in this case; did you have an opportunity to speak with Ms. Ahern?

A I did, yes.

Q And did she ever admit to you whether she owed the

Trust any money in return?

A She did.

Q And what did she tell you?

A Just before I asked her not to make any admissions to me, she indicated she owed approximately $800,000 by her calculation.

MR. MOODY: Okay. That's all the questions I have.

THE COURT: Okay. All right. Thank you, Mr. Waid.

Now is that all of Mr. Waid's testimony?

MR. POWELL: Yes.

THE COURT: Okay, great. So, Mr. Waid, your testimony is complete. Thank you.

And then we're going to -- at this point in time, what's the plan? Are we coming back tomorrow? Do we have other witnesses who will be testifying tomorrow?

MR. POWELL: No, Your Honor. If the Court would indulge me I'm -- if the Court would like to hear, I'm prepared to make a closing.

THE COURT: No, I can't tonight. So what's your preference for making any kind of a closing statement or --

MR. POWELL: We could come back tomorrow, Your Honor. I think we have that scheduled, if that would be satisfactory with the Court.

THE COURT: Okay.

MR. MOODY: Your Honor, I don't plan to make any closing,

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and I'm happy to be here. With Mr. Waid's testimony being concluded, I would have asked for him to be excused.

THE COURT: Okay.

MR. MOODY: He has other business tomorrow. So I'll plan to be here but he will not be here with me.

THE COURT: Okay. Very well.

MR WAID: Will you start at 9?

THE COURT: I think we're scheduled to start at 10.

MR. KIEFER: The other option, Your Honor, and it's entirely up to you, we could submit a memorandum that summarizes the relief we're requesting based on the evidence. Either that or an oral, you know, an oral presentation of closing arguments. We're fine with either. We don't want to take up your time -

THE COURT: Okay.

MR. KIEFER: -- just for a closing argument of 10 minutes. If you'd prefer us to submit that memorandum, we could do it that way.

THE COURT: Okay. All right. So, Ms. Ahern, the issue that we're trying to work out is that we have completed the testimony, and the question simply remains, the concluding statements of counsel, which will have to be either in writing at a subsequent time or tomorrow. We could do that tomorrow, gives you time to prepare overnight. If you think you'll be ready to do that and don't need time to do something

subsequently, you don't need to get a transcript or anything.

MR. KIEFER: All right. My apologies.

THE COURT: I mean, if you prefer to wait and get a transcript and --

MR. KIEFER: No, we're fine to come tomorrow morning, Your Honor. I just didn't know if it, if it would free up your schedule to take us off for tomorrow but --

THE COURT: Okay, great.

MR. KIEFER: -- we'll come and present that, that's fine.

UNIDENTIFIED SPEAKER: Yeah, great.

THE COURT: Okay.

MR. MOODY: My clients would like to come back tomorrow.

THE COURT: Okay.

MR. POWELL: Okay. Got it.

THE COURT: Okay. All right. So we'll do closings tomorrow at 10 a.m. And, Ms. Ahern, we'll arrange to get you back online like you were today, so you can listen to that tomorrow at 10 a.m.

All right. We'll be in recess.

MS. AHERN: Thank you.

THE COURT: Thank you.

MR. KIEFER: Thank, Your Honor.

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MR. WAID: Thank, Your Honor.

MR. MOODY: Thanks, Judge.

[Proceedings adjourned at 4:48 p.m.]

ATTEST: I do hereby certify that I have truly and correctly transcribed the audiovisual recording of the proceeding in the above entitled case to the best of my ability.



Kerry Esparza, Court Recorder/Transcriber
Eighth District Court, Department XXVI

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RTRAN

CLERK OF THE COURT

DISTRICT COURT

CLARK COUNTY, NEVADA

In re the Matter of:	CASE NO. P-066425
THE W.N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST MAY 18, 1972	DEPT. XXVI

BEFORE THE HONORABLE GLORIA STURMAN, DISTRICT COURT JUDGE

FRIDAY, FEBRUARY 10, 2017

RECORDER'S TRANSCRIPT
EVIDENTIARY HEARING

APPEARANCES:

For Jacqueline Montoya & Kathryn Bouvier:	JOSEPH POWELL DANIEL P. KIEFER The Rushforth Firm, PLLC
For the Trustee:	TODD L. MOODY FREDRICK P. WAID Hutchison & Steffen, LLC

RECORDED BY: KERRY ESPARZA

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FRIDAY, FEBRUARY 10, 2017 AT 10:07 A.M.

THE COURT: Everybody state appearances for the record.

MR. KIEFER: Daniel Kiefer and Joey Powell on behalf of Movants. We also -- the Movants are also in the Court and a few other members of our firm are here, law clerk, and then Mr. Lee is already out there.

THE COURT: Okay. Thank you.

MR. MOODY: Good morning, Your Honor. Todd Moody, Bar Number 5430, for the Successor and Court-Appointed Trustee Fred Waid, who could not be present today.

THE COURT: Understood. Okay. And then we've got Ms. Ahern on the Wi - the audio/visual connection. Thank you, Ms. Ahern.

All right. So we're ready to start. I think -- did the Movants have any more witnesses?

MR. KIEFER: No, Your Honor. We've essentially rested our case -

THE COURT: Okay.

MR. KIEFER: -- as it relates to the evidence.

THE COURT: Okay.

MR. KIEFER: Mr. Moody wanted to take a few moments, if he could.

THE COURT: Okay. All right. So Ms. Ahern wishes to be heard. Ms. Ahern, did you have something you wanted to say?

MS. AHERN: Yes, I do.

THE COURT: Okay.

MS. AHERN: I would once again like to ask for Larry Semenza's retainer of $30,000 to be paid until this Court business is totally finished.

THE COURT: Okay.

MS. AHERN: I would like the Judge to ask a Temporary Trustee to make it happen.

THE COURT: Okay. What --

MS. AHERN: I also -- go ahead. I apologize.

THE COURT: No. I was going to -- never mind. Finish your request.

MS. AHERN: I sent a co-pay of my old glasses to everyone and it said they were about $680. And I was hoping that since Fred said: If I got him information on the cost, he would authorize that billing. I did send my -- all my bills for my needs, three times, to Brownstein, and Brownstein told me that he gave them to Fred, but now Fred has a bill from my Dr. Malik. I would like the Court to ask Fred to please allow this bill, for my glasses, to be paid.

THE COURT: Okay. All right. Well, Ms. Ahern, Mr. Waid's not here this morning so -- and that's the kind of thing that if you -- because the Court has authorized him to act in your best interest for your medical care, so I don't know if he's got those bills or doesn't have those bills. I

don't know anything about it --

MS. AHERN: Yes.

THE COURT: -- and he's not here to explain.

MS. AHERN: You do have that.

THE COURT: So if you can communicate -

MS. AHERN: Everybody in this courtroom has --

THE COURT: -- you'll have to -

MS. AHERN: -- a copy of my bill.

THE COURT: -- you'll have to communicate directly - you're going to have to communicate directly with Mr. Waid about that, because he's got the authority to act. So you'll just need to talk to him. He just doesn't happen to be here at the moment, so I can't ask him.

So if you just contact his office, and I'm sure he'll follow up.

With respect to Mr. Semenza, that's a different matter. The Court did authorize Mr. Waid to release funds to Mr. Semenza to appear for you at this hearing. Mr. Semenza, himself, came in and said: He did not feel that he had adequate time to prepare and would not be entering an appearance for you at this time.

If you want to hire Mr. Semenza, we do have your request. We have authorized Mr. Waid to communicate with him and that was done. I think Mr. Moody indicated that they did contact him about appearing for this hearing. So if the

question is a $50,000 retainer, I just think that Mr. Waid needs to investigate it.

I didn't understand it was a $50,000 retainer. I thought it was authorizing him to appear for this hearing, so just -- Mr. Waid just needs to investigate it, and if he thinks it's appropriate, he can certainly ask the Court for that authority. But, as of right now, we didn't have a request for -- I didn't see a request for a $50,000 retainer. I don't know if there's --

MS. AHERN: Yes. It was in the letter that I sent you, and I sent everybody that letter.

THE COURT: I, I knew that it was to appear for the hearing, and that's specifically what Mr. Semenza said. He didn't have enough notice to prepare for the hearing, so if -- then it's just a question -- I don't know, Mr. Moody, is the one, I believe, who communicated with Mr. Waid about -- and Mr. Waid about -- with Mr. Semenza.

I don't know -- I just thought he was -- I don't know if he was not willing to -- I don't know because that's your communication with him. I don't take part in any of that, so I know that, Mr. Moody, you and Mr. Waid did --

MS. AHERN: I need --

THE COURT: -- communicate to Mr. Semenza --

MS. AHERN: Judge.

MR. MOODY: We did, Your Honor.

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MS. AHERN: Judge, I need -- I need protection. I need --

THE COURT: Ms. Ahern, Ms. Ahern, Ms. Ahern. Stop talking now, Ms. Ahern. Mr. Moody's going to address the Court and tell us about his communication with Mr. Semenza, so just listen to Mr. Moody. Thank you.

MR. MOODY: Thank you, Your Honor. I believe the Court order came out this last Wednesday --

THE COURT: Correct.

MR. MOODY: -- about 3:30 in the afternoon. Immediately after receiving that, Mr. Waid and I sat down together, called Mr. Semenza, spoke to him. He was on his way to a doctor's appointment, and we told him that the Court had ordered that funds be released so that he could make an appearance and represent Ms. Ahern at yesterday and today's Evidentiary Hearing.

He was a little reluctant at that point. He said I'm going to show up tomorrow. I'm not sure what I'm going to do, and as the Court knows, although he appeared -- although he showed up yesterday, he did not enter an appearance. So, at this point, it's our position that, that no fees are owed to him.

Now, one of the things I will do, I will address in my closing argument, if you will, I'm going to talk about what -- how Mr. Waid sees things going forward from this

point, because this was an important day for purposes of his role as Trustee, and I want the Court to understand what his desires are with respect to Ms. Ahern, what it is that he would like to do on her behalf.

So if you'd like me to begin now, I'm, I'm happy to.

THE COURT: Okay. So, so Ms. Ahern, we're going to -- we'll hear from Mr. Moody, and we'll see where the request that the Trustee is making, where that might affect your request for $50,000 for Mr. Semenza. Since Mr. Semenza felt he didn't have enough notice to appear for this hearing, you may still want to retain him, and it may be that we can work something out.

So let's listen to what Mr. Moody has to tell us, and we'll circle back around to your request. I've made a note of it here, and we'll follow up on it when we've listened to Counsel.

So give us just a minute, and we'll get back to your request.

MR. MOODY: All right. Thank you very much, Your Honor.

On behalf of the Trustee, Fred Waid, I want to express our appreciation to the Court and to the parties for their patience and courtesies that have been extended to him in this matter.

Mr. Waid is keenly aware of his responsibilities and his fiduciary duties to Ms. Ahern, as well as the MTC Trust.

He takes no position in the assessment of damages in this matter and will dutifully follow any Court order on any judgment matter.

Mr. Waid also wants the Court and the parties to know, especially Ms. Ahern, that he stands ready, willing, and able to serve and meet her needs as directed by previous court orders and any future court orders, as well as what is contained in the Trust document itself.

Ms. Ahern needs to understand that, because of Mr. Waid's findings with respect to Trust funds in this case, he is reluctant to release any funds directly to Ms. Ahern for her medical needs; and, therefore, he has requested time and time again that if she has a medical need, if she will simply ask the doctor, the care provider, whomever it is, to write a simple letter and send an invoice to him, he will consider that.

He will also work with Medicare. Ms. Ahern has Medicare coverage, and he will work to coordinate benefits on her behalf because it doesn't make a lot of sense, for example, if she has hearing aids that will require $7500 that if Medicare will pay a good portion of that --

THE COURT: They don't --

MR. MOODY: -- to pay it directly out of -

THE COURT: -- yet.

MR. MOODY: -- Trust funds so --

THE COURT: They don't pay it.

MR. MOODY: -- he wants to be wise and exercise his fiduciary responsibility --

THE COURT: I'll tell you right now Medicare does not pay for hearing aids.

MR. MOODY: Okay.

THE COURT: It doesn't.

MR. MOODY: All right. Well, Mr. Waid probably knows that, I didn't.

Your Honor, given the -

THE COURT: Why?

MR. MOODY: -- still open and --

THE COURT: It doesn't make any sense, they don't consider it. They don't pay it.

MR. MOODY: Yeah. That surprises me. Okay. Well, then in that case we will simply await, you know, anything from an audiologist and, and make that payment directly to the provider.

THE COURT: Uh-huh.

MR. MOODY: Okay.

THE COURT: And that's about what they cost, 5 to 7,000.

MR. MOODY: Yeah. Yeah. It doesn't seem unreasonable.

THE COURT: Yeah.

MR. MOODY: But it will be paid to the provider, not to Ms. Ahern.

THE COURT: So the understanding with respect to medical bills is -- Mr. Waid being ready, willing, and able upon the medical provider contacting him with the information. For example, I think there's also mention of cataract surgery.

MR. MOODY: Yes.

THE COURT: Again, I've had a cataract surgery. I know that's what they cost, so just the medical provider contact Mr. Waid, and anything not covered by Medicare, Trust will cover it?

MR. MOODY: Absolutely. And --

THE COURT: Got it.

MR. MOODY: -- quickly, Your Honor, and --

THE COURT: And I don't know what the issue is with Brownstein Hyatt if -- I don't know, so -- but going forward, Ms. Ahern just needs to have the providers contact Mr. Waid directly with their bill, and anything not covered by Medicaid -- Medicare, he's -- the Trust stands ready to provide?

MR. MOODY: Yes. Absolutely.

THE COURT: Wonderful. Thank you, I appreciate that.

MR. MOODY: Finally, Your Honor, given the still open and complex tax issues based on the Trust, it is the beneficiary's affirmative and absolute duty to cooperate with Mr. Waid with respect to information and documentation, but his investigation is over.

That investigation, leading up to, you know, this

Evidentiary Hearing, for all intents and purposes, is closed. It is Mr. Waid's position that there is no need for him to speak through Counsel. We don't know what benefit going forward. And we're not saying that Ms. Ahern is not entitled to counsel -

THE COURT: Uh-huh.

MR. MOODY: -- but she needs to feel free to contact him directly, and we hope that she would be willing to receive contact from Mr. Waid directly, at least up until the time that she finds representation.

Mr. Waid respectfully asks the Court to monitor, to communicate directly with him and he will -- he plans to meet with her if she's willing, as soon as he returns, next week. But whatever the Court desires he's willing to follow that.

And, again, we thank the Court and the parties.

THE COURT: Okay. So I mean to the extent that -- after Mr. Waid and Ms. Ahern discuss what her need is for counsel going forward, he'll evaluate whether that is something that he thinks the Trust needs to advance?

MR. MOODY: He will. And, Your Honor, I know the way Mr. Waid thinks about these things and the way he operates. If he feels that she will benefit from counsel going forward, we will petition this Court for instructions to do, to do exactly that.

THE COURT: Okay. So, Ms. Ahern, what that means is, if

you can -- you're not presently represented by counsel. You're representing yourself. It's your right to do so.

If you speak directly with Mr. Waid, who could not be here today, but will be available next week. If you speak to Mr. Waid, talk to him about why you think you need your own attorney, if he agrees, he files a -- what's called a Petition for Instructions, meaning he asks the Court to authorize it. We can't just do this verbally. We have to have it in writing. So that's the process you need to follow and we'll proceed accordingly.

All right. Then --

MR. MOODY: Thank you, Judge.

THE COURT: -- at this point in time, do we have closing statements, I believe, from the Movants? This is their -- the proceeding that they had requested.

MR. KIEFER: Right.

THE COURT: Mr. Kiefer, thank you.

MR. KIEFER: Good morning, Your Honor. Thank you.

Yesterday's hearing -- it was a long time coming. And with that said, I don't think it revealed anything that everyone in this room or at least everyone participating in that hearing, didn't already know

Ms. Ahern deliberately and intentionally ignores this Court's orders for years while stealing more than $2.5 million from trust beneficiaries. Now, on top of that, she's

done whatever she could to obstruct Mr. Waid's investigation into her wrongdoing. Now, despite this, Mr. Waid was able to conduct a thorough investigation regarding Trust assets and expenses, and yesterday, Mr. Waid told the Court all about that investigation in great detail.

Now, before we jump down in and we look at Mr. Waid's testimony and the evidence presented, let's talk a little bit more about Mr. Waid and who he is and his knowledge base.

Mr. Waid's a Professional Trustee. He estimates that he served in that capacity approximately a hundred times. He has an educational background in economics and the law, and he spent years conducting similar financial investigations for financial institutions.

So in other words, when it comes to finding out where the money went, he's the guy to talk to --

MS. AHERN: I have to go to the restroom. I'll be right back.

THE COURT: Pardon?

THE CLERK: She's has to go to the restroom.

THE COURT: Okay. Give us a minute. Mr. Kiefer, we're going to take a break, brief break.

MR. KIEFER: Sure.

[Recess at 10:21 a.m.]

[Resumed at 10:24 a.m.]

THE COURT: Mr. Kiefer, you can resume. Thank you.

MR. KIEFER: Okay. So now that we've kind of talked a little bit about who Mr. Waid is and why he has the bonafides to essentially tell us what he did yesterday, let's talk about what he told us.

First he explained his accounting. So he presented an accounting from February 1st, 2017, and it was based on his intensive investigation. He told us that, from approximately June, 2013, through April, 2017, Ms. Ahern withheld about $2.5 million from the Trust beneficiaries.

Now, while explaining his accounting, Mr. Waid identified a huge number of alleged Trust expenses for which he could find no justification.

THE COURT: Wait a minute, Mr. Kiefer.

Ms. Ahern? Ch. She -- Ms. Ahern, you need to turn your mic on.

MS. AHERN: I'm --

THE COURT: We can't hear you.

MS. AHERN: He is going so fast, I can't hear his words.

THE COURT: Okay. We'll have Mr. --

MS. AHERN: Could you slow him down?

THE COURT: We'll slow down and speak, very carefully enunciate. Okay, thank you. We'll try that. Thank you, sir.

MR. KIEFER: Sure. So during his testimony, Mr. Waid identified a number of expenses that were paid out of the

Trust for which he could find no justification, and we discussed those, and I'll just hit the highlights. Tens of thousands of dollars for private jets, tens of thousands of dollars for family therapy sessions, and tens of thousands of dollars for personal security.

Next, Mr. Waid told us about Ms. Ahern's clear violations of court orders. For example, he told us that when he took over the Trust account, it had $9,000 in it. Not only is this a big deal because the money was missing, but there was also no segregation between the accounts and the 65/35 split.

He also saw huge payments to attorneys, during a period when the Court had instructed Ms. Ahern, specifically, do not pay your attorneys out of any portion of the beneficiary's 65 percent.

Then he told us about taxes, an $800,000 tax liability because Ms. Ahern did not follow the most basic of Trust provisions and used the Trust as a simple Pass-Through. Even now, based on his testimony, it sounds like there's going to be a recovery, at best, of about half of that.

Additionally, he told us about a variety of cashier's checks, including one for a whopping amount of $1.2 million that he had to actually personally retrieve.

Finally, Mr. Waid went through Ms. Ahern's Declaration, her sworn statement, and pointed out various lies

and mistruths that were provided to this Court by Ms. Ahern, including information about an alleged staff for the Trust and rental areas.

At each stage of the testimony, Mr. Waid was asked if he knew any legitimate reason Ms. Ahern might have for the actions she took, and his answer was always the same: No, I'm not aware of any legitimate reason. And, in fact, I asked Ms. Ahern, repeatedly, to explain herself and she ignored me.

Now, after going over every element of his accounting in his investigation, Mr. Waid was asked point blank if he thought Ms. Ahern's actions were reckless, intentional, deliberate, and even fraudulent, and he answered each inquiry -- was yes.

Now, I realize that it's a bit, it's a bit unusual for an Evidentiary Hearing to go one day with one witness and very limited testimony from a broad spectrum of witnesses, but this is a unique case where it wasn't necessary. We had the man who conducted the investigation. We had the man who's now in charge of the Trust. And we had the man who has been attempting for 22, 23, 24 months, to get Ms. Ahern to sit down and talk to him.

And on the flip side of that, we have nothing from Ms. Ahern, not because she's been silenced by the parties and Court, but because she refuses to participate in any level. She doesn't want to talk to Mr. Waid about questions about the

Trust. She won't release documents. Importantly, when I say won't release documents, she won't instruct third parties to release documents. She won't sit for deposition and she won't cooperate.

In short, Ms. Ahern had evidence to refute -- if she had any evidence to refute what we heard yesterday, we would have had it long ago. Her silence is truly damning.

Now, it's important to note, Your Honor, that yesterday's hearing, as I stated, it was not anything eye opening for any of the parties involved. We heard things we knew we were going to hear, but it was the day of reckoning. It was the day that we found out to what extent did Ms. Ahern actually hurt the beneficiaries.

Because we already knew that she had breached her fiduciary duties based on this Court's orders. We already knew that she had, at some level, committed fraud based on this Court's rulings regarding her accounting and other things.

What we needed to know was to quantify and monetize that damage, and that's what we've done, and that's what the evidence presents.

Now, so what do we do with this clear and convincing evidence, Your Honor? Well, it's simple, we award compensatory punitive damages. The compensatory damages are straightforward. The Movants believe, based on Mr. Waid's

testimony and the accounting that was authenticated, that Ms. Ahern withheld approximately 2.5 million during months -- during the time of June 2013, to April 2015.

Now, although Mr. Waid returned a portion of that money upon taking over as the Trustee, we believe that compensatory damages in the case should still be set at $2,581,994.92 because that is the total amount that was withheld and converted with a notation --

THE COURT: Well, okay. I see Ms. Ahern's hand, and I also kind of got lost on that math.

So, Ms. Ahern, you had a question about that number?

MS. AHERN: I - yes, because I don't understand. Again, he's terribly [indiscernible].

THE COURT: Okay. All right. So can you restate how you reached that number Mister --

MR. KIEFER: Absolutely.

THE COURT: -- Kiefer?

MR. KIEFER: Sure.

THE COURT: Because I kind of lost track of it too.

MR. KIEFER: Sure. So there was approximately -- if you look at the accounting, there was approximately $188,000 withheld from the beneficiaries in 2013. In 2014, there was approximately 2,022,000, I believe, withheld. Then, in the first quarter of 2015, there was an additional amount of somewhere in the neighborhood of 5 to $600,000, and this was

in the testimony yesterday. That total amount withheld for all three years -- again, the only full year of withholding was 2014, was $2,581,994.92. A portion of that has been repaid, but was only repaid after it was stolen by Mr. Waid, the third party, and he repaid 800,000 -- $839,941.92.

THE COURT: Okay. Let me get this straight so we know exactly what we're looking at here. You're referring us to Exhibit Number 43.

MR. KIEFER: Correct.

THE COURT: That's Mr. Waid's Accounting and Report of Trust Activity --

MR. KIEFER: And the sum --

THE COURT: -- and specifically you're looking at Exhibit B.

MR. KIEFER: Correct.

THE COURT: Okay. So Exhibit B tells us this is the -- from when the distributions to the 65 percent beneficiaries stopped, until when Mr. Waid took over. So that's 2013, 2014, and 2015, the first quarter of 2015.

So the amount -- when you say "repaid" -- I guess that's the thing that I didn't understood -- stand. I -- it seemed to me that Mr. Waid said the net that he had been unable to recover was about 600,000.

MR. KIEFER: So the total amount, right now, outstanding that has not been repaid to the beneficiaries is indicated at

the last line of the summary. It's approximately 1.7 million, all the way to the right.

THE COURT: 1.742?

MR. KIEFER: Correct.

THE COURT: Okay. And so, that's what I'm kind of missing here --

MR. KIEFER: Sure.

THE COURT: -- is -- so 65 percent of the Connell income, and this is based -- there's another 25 percent beneficiary of this Trust. And those -- distant family members have cooperated and told Mr. Waid how much they got for the full 25 percent.

MR. KIEFER: Correct.

THE COURT: He then based his analysis on the 65/35 split from the W.N. Connell Trust.

MR. KIEFER: Extrapolated from what the Millers received to understand what --

THE COURT: The Millers, thanks. That's their name, the Millers.

So from what the Millers received as a full 25 percent beneficiary, he did his analysis on 65/35 based on their numbers?

MR. KIEFER: Well, he --

THE COURT: I think he confirmed that with Apache?

MR. KIEFER: Correct. And he would have had one step in

between, because as I understand it, the Millers received 25 percent as does the Connell Trust. So when you say 65/35, you're splitting up 65/35 of the 25.

THE COURT: Correct. Okay.

MR. KIEFER: Does that make sense?

THE COURT: So that's where we got our number. That's how we -- that's the basis upon which we understand the total amount that should have been coming in to the -- the total amount coming into the --

MR. KIEFER: Correct.

THE COURT: -- W.N. Connell Marjorie Connell Trust. Okay. Got it.

So that's how he did his breakdown, so that when he says that: Over the same period of time the Millers and the Connell Trust -- there's about $90,000 difference in what the two Trusts apparently received.

So 65 percent of the Connell income, over that period of time was -- the 20 -- of the total amount, was $3,956,550. That's how much should have been going into the 60 -- 65 percent share of this Trust?

MR. KIEFER: Correct, Your Honor.

THE COURT: And the amount they actually received -- and by that -- is this $2,214,497, is that how much Mr. Waid has recovered?

MR. KIEFER: That's how much has actually been

distributed to the MTC Trust.

THE COURT: When you say "distributed to the Trust", what does that mean?

MR. KIEFER: Meaning the 65 percent has been allocated and given away.

THE COURT: By you say -- when you say "given away", given away to whom?

MR. KIEFER: The MTC Trust to distribute to its beneficiaries.

THE COURT: And has that been done?

MR. KIEFER: Yes, it has.

THE COURT: I'm sorry. And I think Ms. Ahern and I are both having trouble following this math.

So, Ms. Ahern, you've got your hand up?

MR. KIEFER: And I think I can --

MS. AHERN: I'm having a terrible time following it because his voice drops and when he gets to the last ten words, and I can't hear.

THE COURT: Okay. All right, Miss --

MS. AHERN: I just can't hear.

THE COURT: Okay. So we're going to try to work our way through this. We'll try to speak louder and --

MS. AHERN: Your Honor, he goes fast.

THE COURT: Okay.

MS. AHERN: He goes too fast and I can't catch it.

THE COURT: All right. All right. We're going to speak slowly and loudly.

Okay. So the 65 percent of Connell income over that entire period of time, roughly 27 -- 2013, 2014, and, and the first quarter of 2015. The 65 percent amount should have been $3,956,550. That's how much should have come in to the 65 percent portion and been segregated that's -- according to Court's Order.

What has been recovered and distributed is $2,214,497. That leaves us with $1,742,053.

MR. KIEFER: Correct.

THE COURT: Okay. So where does $1,742,000 go? I mean was it never recovered by Mr. Waid?

MR. KIEFER: Yeah. That's all the expenses that we went through yesterday. He --

THE COURT: Oh, okay.

MR. KIEFER: He --

THE COURT: So some of the -- so -- because it was a little unclear yesterday because Mr. Waid talked about how much money was still not recovered. That I understood to be about $600,000. That's just disappeared. It's just money that he can't find where it went --

MR. KIEFER: Right.

THE COURT: -- at all.

MR. KIEFER: And to the --

THE COURT: And the balance of it is money that it's -- the position was improperly expensed to the Trust should not have been Trust expenses?

MR. KIEFER: Yes. That's exactly --

THE COURT: Do we know what the exact -- how much is how much?

MR. KIEFER: Well, the --

THE COURT: Because there's two categories.

MR. KIEFER: The simplest way to look at it, Your Honor, is to --

THE COURT: Uh-huh.

MR. KIEFER: -- simply look at what was left in the account.

THE COURT: Uh-huh.

MR. KIEFER: He hasn't - he hasn't -- the account was left with 9,000 approximate dollars.

THE COURT: Right.

MR. KIEFER: And so, he just reverse engineered this. Instead of looking at what she spent and what she did -

THE COURT: Uh-huh.

MR. KIEFER: -- and he couldn't justify any of her expenses, he had to look at what was the total -- [Ms. Ahern waiving hand up and down].

THE COURT: Ms. Ahern, you have to stop. When I am asking Counsel a question, Counsel has to answer my question

before he can get to your question, so just wait.

MS. AHERN: I have no question. There's a lawnmower outside and I can't hear a word he's saying. Can we take a five-minute break?

THE COURT: Okay. We'll take a break. Give us a break. All right. We'll go off the record here for a minute. Okay.

[Recess at 10:37 a.m.]

[Resumed at 10:40 a.m.]

THE COURT: Let us know when the noise -- the background noise has stopped.

MS. AHERN: The noise stopped. Thank you, I appreciate that.

THE COURT: Can you hear now?

MS. AHERN: Yes, I can hear --

THE COURT: Okay, so --

MS. AHERN: -- very nicely.

MR. KIEFER: All right, so Mr. Kiefer, do you remember where we were, I forgot?

MR. KIEFER: I think the ball was in my court --

THE COURT: Uh-huh.

MR. KIEFER: -- to try and explain how the 1.742 -- $1.7 million number was obtained.

THE COURT: Okay. I just want to make sure that I understand, though that a portion -- for example, the $1.2 million cashier checks, several of these items that Mr. Waid

talked about were recovered, and the net that's left, the 1,742,000, that includes the money that is just gone. He has -- there's an amount of money, I seem to recall it being over $600,000 that he cannot figure out where it went. There's no record of where this money, that everything indicates was received, there's just no record that tells us where it went.

MR. KIEFER: And that's an element of the 1.7 --

THE COURT: And the rest of it is those funds that Mr. Waid identified as just having been -- these were not proper use of Trust funds.

MR. KIEFER: And most importantly, they had been spent. He just --

THE COURT: Correct. Yeah, they're unrecoverable.

MR. KIEFER: Exactly. So --

THE COURT: Correct.

MR. KIEFER: -- when he took over -- his testimony yesterday was, when he took over in April of 2015, the segregated 65 percent account should have contained $2,581,994, it didn't. It contained somewhere in the 9,000 range.

What he's been doing is -- now, I'm sure you're wondering, what's the difference between that number and the 1.7 million, and that's the fact that he has been able to recover some funds and return them to the MTC Trust. So he --

THE COURT: Now, did he ever do anything about figuring

out what happened to the 35 percent? Because there would have been roughly, what, $2 million over that period of time that was Mrs. Connell's to do with as she pleased. Did he take -- did he look at anything about her 35 percent?

MR. KIEFER: I, I just couldn't speak to that, I - I don't know.

THE COURT: I mean try to figure out where maybe some of this $600,000 got into her 35 percent?

MR. KIEFER: My understanding is that he looked at all aspects, because really, the total income for the Trust would have been over those three years, the 6 million.

THE COURT: Right.

MR. KIEFER: Whether or not he has specific knowledge of what she did with her approximate 2 million, I don't want to speak out of turn.

THE COURT: Okay. I just - I just didn't know. Okay.

MR. KIEFER: So with that said, did you want to discuss the chart more or did you want me to close up?

THE COURT: Oh, no. No. So I understand now this chart. And then the other thing that we had talked about I -- well, I think that Mr. Powell talked to -- that I flagged, but Mr. Powell talked to Mr. Waid about, was - okay. In his report -- this is --

MR. KIEFER: And I apologize, Mr. Waid's report?

THE COURT: Mr. Waid's Report. Uh-huh. Yeah. His 2015

Report on Page 10. You may not have this in front of you. But that's where I - that's where I got the $600,000 number --

MR. KIEFER: Uh-huh.

THE COURT: -- as what I understand is Miss, is what he termed "estimated shortfall" due by Ms. Ahern, was $664,132.05. So that's the money that it seems like it just disappeared.

MR. KIEFER: I believe that's correct, Your Honor.

THE COURT: So he -- and the third element of what's just gone or has been spent is this, the fact that we had to overpay taxes because we -- there should -- these taxes shouldn't have to have been paid if the Trust had been properly managed, and so, that was about an $800,000 tax liability that a portion may ultimately be recovered?

MR. KIEFER: Correct. And if it does, it would certainly go to satisfy any judgment that we get. What -- we wouldn't -- we wouldn't ever be arguing that recovery of those funds wouldn't satisfy the judgment separately. Anything he gets that could be then paid --

THE COURT: Right.

MR. KIEFER: -- to our client -

THE COURT: Okay.

MR. KIEFER: -- would be a satisfaction of that.

And I think the other confusing thing too, Your Honor, is that the 2015 column, unfortunately, is not broken

down by quarter, and Mr. Waid took over for the last three quarters of 2015 --

THE COURT: Correct.

MR. KIEFER: -- and so that's what kind of creates the confusion there.

THE COURT: Okay. Thank you. Yeah. And then there was like this whole long list. I think that's Exhibit A to Mr. Waid's Report for this - for the one that he just filed, Exhibit 43.

MR. KIEFER: Uh-huh.

THE COURT: The Accounting Report of Trust Activity that was just filed on February 1st. I don't know, is this an Excel spreadsheet or something?

MR. KIEFER: I think it is, I think it's -

THE COURT: Yeah.

MR. KIEFER: -- converted to Word or something.

THE COURT: Yeah, Exhibit A. Did anybody do the math --

MR. KIEFER: Well, here's how he got --

THE COURT: -- because it doesn't total.

MR. KIEFER: And I totally get that.

THE COURT: What's the total of this?

MR. KIEFER: He reverse engineered it.

THE COURT: Okay.

MR. KIEFER: Because what he did was, he went to the Millers to figure out what they got, used that to figure out

what the Connelly's [phonetic] got, and then used that to figure out what the MTC Trust should have gotten.

THE COURT: Uh-huh.

MR. KIEFER: He tried then to reconcile the number -- the 3.9 million that they should have received -- or sorry, the 2.5 million that should have been left over with what was spent. The problem is that, because Ms. Ahern wasn't cooperating, giving him information, all we know is what should have been received.

We don't necessarily -- where it went -- know where it went, and that's what a part of what he was explaining. He says: Look, a portion of it went to all these lavish expenses outlined in call -- in A. A portion of it went to paying this tax liability, and a portion of it no one knows, because that comes into the cashier's checks issue. We just don't know.

So he couldn't -- it had to be reverse engineered, which makes sense, because in most fraud cases, you're dealing with circumstantial evidence instead of direct admissions. And so he had to figure out what should have been paid and work it backwards, because he wasn't able to track everything that was paid, if that kind of helps.

THE COURT: No. But okay.

MR. KIEFER: Well, if I may? The summary of what he said was: From June 2013, to April 2015, the MTC Trust should have received 2.5 million 81,000 dollars, and it should have been

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sitting in a sweet little account when he took over.

THE COURT: Uh-huh.

MR. KIEFER: It wasn't.

THE COURT: Uh-huh.

MR. KIEFER: There was $9,000. He's been able to figure out where some of that money went and recover some of it, and the money he did recover, he gave to the MTC Trust, but the rest of it is gone.

So it -- in my mind it's less important to know where it went, because if we want to know where it went, we're all ears, Ms. Ahern could have told us, but we know what we should have received --

THE COURT: Uh-huh.

MR. KIEFER: -- and what we didn't, and that's how we based our damages amount.

THE COURT: Okay.

MR. KIEFER: And so, the outstanding balance still owed is the 1.742 million.

THE COURT: Okay.

MR. KIEFER: And the reason that I've mentioned so many times the 2.5 million is because that was the amount that was stolen.

And so, Your Honor, that -- we ask -- we understand that a portion of the 2.5 million has been satisfied leaving an outstanding balance of $1,742,053. That's the outstanding

amount owed on the compensatory damages.

Now, punitive damages. We created a little confusion in our Brief and we apologize for that. We kind of interchanged the idea of treble and punitive.

Treble is just a separate form of punitive damages. We're asking for punitive damages under NRS 42.005. Now, as you know, Your Honor, that's allowed when the party acts in malice, oppression, or fraud, and the Court has the discretion to award punitive damages. And they're often awarded when doing so will properly punish the wrongdoer while deterring others from similar conduct.

Now, Ms. Ahern's actions in this case, they speak for themselves. I think we're aware. Your Honor has articulated numerous times some of the mistakes that have been made, and if I say so, some of the fraud that's been committed.

THE COURT: Okay. We're going to take a moment here.

Ms. Ahern, you had a question?

MS. AHERN: He's once again talking too fast and dropping his voice.

THE COURT: Okay. All right. We'll try to remember to keep up our voices and speak very slowly. It's not easy for some of us.

MR. KIEFER: I apologize.

THE COURT: I feel your pain.

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MR. KIEFER: So, in this case, we believe, not only through yesterday's Evidentiary Hearing, but through other evidentiary hearings that have been held, and through this Court's orders; it has already been demonstrated that Ms. Ahern acted with recklessness, malice, and with fraud.

What we're asking, is that she be held accountable for that. She's unrepentant. She doesn't care that she lied, cheated, and stole, nor does she care that she has continually flouted this Court's orders. This Court has told her to do things on numerous occasions and she simply ignores them.

Now, what we'd like the Court to remember is that Nevada is a Trust-Friendly State. We are constantly adding new fiduciaries to the fold. We need to know, and they need to know, the level of diligence that is expected of a Trustee, and Ms. Ahern can serve as an example of what not to do, but only if the Court makes an example of her.

And that's why we're asking, Your Honor, for punitive damages three times the compensatory amount. And when I say three times, I'm referencing the amount stolen of 2.5 million.

THE COURT: Uh-huh.

MR. KIEFER: And so, with that, I will state as clearly as I can, the requested relief that I've written down.

THE COURT: Okay.

MR. KIEFER: The Movants ask that they be awarded

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compensatory damages in the amount of 2.581 -- $2,581,994.92 and punitive damages pursuant to NRS 42.005 in the amount of $7,745,994.76, for a total award of 10,327,979.68. Of course the judgment can reflect a satisfaction of $839,941.92 from the compensatory damages for the funds provided to the Movants by the Successor Trustee.

And that is what we're requesting, Your Honor. We're also requesting that applicable prejudgment interest be added and, of course, when the time is right, we will bring our Petition or Motion for Attorney's Fees and Costs.

We believe that the evidence and the facts of this case support such an award, especially in light of Ms. Ahern's continued misconduct and her willingness to repeatedly violate Court Order and shun her nose at this entire process.

Thank you.

THE COURT: Okay. If I could ask you some questions about these numbers? This is where, for me, some of the cat -- this is why I wanted to know how Mr. Waid categorized certain things.

MR. KIEFER: Sure.

THE COURT: For me, the thing that has been most troubling is that after being told to segregate the 65 percent and to hold it pending the Supreme Court decision that was finally received on January 26th, 2017; that decision confirmed that, in fact, the Court was correct in stating that

Marjorie's wishes that the 65 percent go to her daughter -- her granddaughters, was interfered with and that that was a breach of fiduciary duty on the part of Ms. Ahern.

And so, she is -- she's obligated to pay damages for the fact that she, without asking for -- petition for direction from this Court -- Petition for Instructions, just stopped making that payment of the 65 percent. So that's one part of it.

The second part of it is that, then she did certain things with the 65 percent that she shouldn't have done, particularly this flurry right at the end where she was about to be removed or had been removed, and there are all these weird financial transactions of moving money around.

Now, we know how much Mr. Waid ultimately recovered. The problem is, I don't know that he -- I'm having a hard time understanding when he recovered funds how -- if some of the funds he recovered -- because he got the check for $1.2 million, for example -- was some of that part of the 35 percent, and the other part 65 percent?

And then if -- because -- and the reason why this matters -- it doesn't matter to the ultimate amount that was owing to the MTC trust -- I don't have any problem with his calculations there. My problem is for figuring out damages.

So, he recovered a fairly substantial sum of money on behalf of the total Trust because he's acting for

everybody, not just for Ms. Ahern, but also -- not just for the 65 percent beneficiaries, he's acting for the entire Trust. And he recovered a huge amount of money that had been moved around to various financial institutions, some of which were not actually financial institutions, but seemed to be fronts for some sort of scheme.

So that's the problem that I have here is in figuring out -- when you say the net amount that was owed that should have been segregated for the MTC Trust, the 65 percent is $2,581,994. I get that math. I understand that in its entirety.

I'm not understanding how we went from the amount that Mr. Waid recovered to repaying the Trust beneficiaries 839,000. Now, I understand that a big chunk of what Mr. Waid recovered had to be sent to the IRS, and that's where we're hoping that some of the $800,000 that went to the IRS, and that we might get a refund back for the Trust, may be 50 percent -- may be 400,000 will come back into the Trust, so that leaves us with some $400,000 that went to the IRS that shouldn't have, if the Trust had been properly managed.

So some of this I understand is just gone. And then was the balance of it - it just - I mean, it's just sitting over there in the IRS and it can't be accounted for in this.

Did some of it go with the 35 percent of what Mr. Waid recovered?

MR. KIEFER: Well, and I think the important part to remember is that during this -- the last three quarters of 2015, because Mr. Waid was then managing the Trust. He was getting new income that was coming in and that shows the income that was distributed. And anything he was --

THE COURT: And so that's a problem for me, because I need to make sure that when we do this accounting that we are not giving credit to having recovered funds for the 65 percent beneficiaries that were, in fact, not from recovering what was lost or misused or misspent during Ms. Ahern's era, but is new money coming in. I mean, we all know there's been a problem with certain people using new money that comes into Trust accounts to pay --

MR. KIEFER: Sure.

THE COURT: Now, we won't do that. We want to make very clear that we are segregating what happened in the past --

MR. KIEFER: Uh-huh.

THE COURT: -- from the new money coming in. And I know Mr. Waid probably did this, he just didn't get into it, but -- so I'm assuming that there's been new money coming into the Trust account that he's not even talking to us about.

MR. KIEFER: Correct.

THE COURT: He is merely doing this -- the reports we have are retrospective. This is what happened, as best he can figure out, during those months from 2013 to first quarter

2015. He went back and recalculated all that and tried to rebuild it and tried to figure out what should have been there, what could he trace, where did it go that was probably improper, and I - and what's just missing?

MR. KIEFER: And -- exactly. And I think his testimony in that regard is clear, because what he's saying is: Take out - take out of the consideration what they've been getting in 2016 and what they're getting going forward.

THE COURT: Right. Exactly. He -- that's - that's --

MR. KIEFER: What they're still owed --

THE COURT: -- the future --

MR. KIEFER: -- for '13, '14, and '15 is 1.7 million.

THE COURT: Okay. So 1.7 million is still owed.

The report that we have that's Exhibit A --

MR. KIEFER: Uh-huh.

THE COURT: -- to Mr. Waid's testimony for today -- for this hearing, his spreadsheet -- these are all the -- and this is - this is not inclusive because there's $600,000 he just can't trace because of lack of cooperation, because of lack of records. It's just gone, and we don't know what happened to $600,000.

MR. KIEFER: Correct.

THE COURT: To the best that he can figure out, a chunk of money that he recovered had to go to pay the IRS, because there was a huge tax liability, huge tax liability, that

should never have been incurred.

And then the rest of this -- and that's not on here -- the rest of this is what he was able to reestablish through records he could gather. Against everybody's efforts to obstruct him, he was able to reconstruct this much on behalf of -- of the beneficiaries as to where money went during that 2013, '14, and '15 time period?

MR. KIEFER: Correct.

THE COURT: Okay. Got it. He doesn't total this up and tell us how much he was about to reconstruct --

MR. KIEFER: And here's why. Because even if Exhibit A was not submitted as part of this accounting --

THE COURT: Right.

MR. KIEFER: -- his ultimate conclusion of what is still owed would stand. Whether or not he can find where that missing 1.7 million is is not relevant. She's had the opportunity to come in and tell him this was a legitimate expense --

THE COURT: Okay. Now I'm going to tell you why I think this is relevant, because I understand that the total amount that remains owed -- that -- $2.5 million was -- should have been kept for the 65 percent and it's gone.

A portion of that was used for improper expenses over a period of time, and this is the thing I'm trying to figure out is, is the issue with the entire $2.5 million or is

the issue with just that? Because some of it, we know, was just spent for things that it's just bad trustee practice. You don't pay out of the Trust for your personal therapy, for your private jet, for -- you know, as nice a dog as Captain is or was, you don't pay for Captain out of our Trust, those kinds of things.

So is that fraudulent? Is that in -- willful? We don't have any testimony of that. We don't. We don't because Ms. Ahern wouldn't cooperate and give a deposition, so we don't know if this is just -- she's -- was really bad at this job and kept really poor records and the Trustee -- her Successor Trustee cannot figure out what happened, and there is no intent to defraud here or - because, clearly, a portion of this money is just gone, and it was gone in violation of an order saying: Hold the money in a trust account and don't touch it, it's just gone.

So in trying to figure out how much of this is appropriately segregated into, "The Court finds this much was intentional, willful, and absolutely punitive damages are warranted on this part. Oh, but over here on this other side this is just bad Trustee practice. The Trustee's been removed. The Supreme Court upheld removing the trustee because the Trustee was doing things badly, and that's just damages. They're absolutely entitled to those damages. They're --

MR. KIEFER: I think I totally get it now --

THE COURT: -- totally entitled to those damages. I don't question their --

MR. KIEFER: But it's whether or not those specific damages result in an effect for punitive damages

THE COURT: Correct.

MR. KIEFER: And my argument to that would be simple, and it may be over simplistic, so I apologize.

She's had ample opportunity to explain every expense and has chosen not to. I believe that a negative inference is appropriate --

THE COURT: Uh-huh.

MR. KIEFER: -- for all of her bad behavior that cannot be explained.

Mr. Waid, himself, believes that the actions were fraudulent. She's had every opportunity to come in and speak to that issue and has not participated once. Fraud is one of the most difficult things to prove with direct evidence. It's generally proven through circumstantial evidence.

We heard an expert talk to us about his experience in investigating financial fraud. He reached the ultimate conclusion that it was. My position would be that all of it may serve as a hook for punitive damages because the negative inference can apply to all of it simply due to her refusal to even answer his most basic questions and instruct attorney's

offices to turn over unredacted or even redacted billing statements.

THE COURT: Okay. So we have in Nevada an evidentiary presumption found in *Bass-Davis v. Davis*, 122 Nev. 442, 134, P.3d, 103. It's a 2006 decision. And it sets up for us two different presumptions.

The first presumption being:

> "Where relevant evidence which would properly be a part of this litigation is within the control of one party whose interest it would naturally be to produce it, and they fail to do so without a satisfactory explanation, the jury or the finder of fact in this case may draw an inference that such evidence would have been unfavorable to that party.
>
> An inference means a logical and reasonable conclusion of a fact not presented by direct evidence but which, by process of logic and reason, the fact finder may conclude exists from the established fact."

There's a second evidentiary presumption which is:

> "That where there has been willful suppression, the law creates a rebuttable presumption that the evidence would be adverse to the person or company suppressing it. Willful suppression means the willful or intentional spoliation of evidence and

requires the intent to harm another party through its destruction and not simply the intent to destroy the evidence.

When a party seeking the presumption's benefit has demonstrated that the evidence was destroyed with intent to harm another party, the presumption that the evidence was adverse applies, and the burden of proof shifts to the party who destroyed the evidence to rebut the presumption.

The destroying party must then prove, by a preponderance of the evidence, that the destroyed evidence was not unfavorable. If not rebutted, the jury or finder of fact is required to presume that the evidence was adverse to destroying party."

And it's your position that your clients are entitled to a rebuttal presumption here because there was a willful suppression of evidence?

MR. KIEFER: Exactly. And I'll give you an example.

THE COURT: Okay. We're going to take a question from Ms. Ahern here, and then you can give me your example. So if you'll just hold that thought for one moment.

Ms. Ahern, you had a question?

MS. AHERN: [No verbal response].

THE COURT: Oh, I'm sorry, again. We need your microphone turned on. I'm sorry. We can't hear you. We

can't hear. We've lost - we've lost your audio. Okay. I think you're saying you can't hear me. I -- have we lost the audio? We've lost her audio. I can't tell if we lost our audio on her end. Kerry can --

THE CLERK: Judge, it's just a matter of she hits her little mute button --

THE COURT: Okay.

COURT RECORDER: -- she can -

MR. MOODY: I think she --

THE COURT: You need to unmute us --

MR. POWELL: Your Honor, I think, if I'm not mistaken, reading her lips, I think she's saying, "I can't see you is what I believe she's saying with her lips."

THE COURT: Uh-huh.

COURT RECORDER: Judge, do you want me to email the Court Help Desk?

MR. MOODY: I cannot see you is what she's --

THE COURT: Okay.

MR. MOODY: -- mouthing.

COURT RECORDER: Okay. I'll email.

THE COURT: Okay. Give us a minute. We can't hear you, so you need to unmute on your end. Can you hear us?

MR. POWELL: I cannot.

THE COURT: I can't talk? We've lost -- we're having some issues. Give us a minute.

MR. KIEFER: Would you like to go off the record --

THE COURT: Yeah. We're going to go off the record. Hold on. I'll see. I can't tell.

[Recess taken at 11:05 a.m.]

[Resumed at 11:17 a.m.]

THE COURT: Okay. Ms. Ahern, do you have your audio and video back? You can see us?

MS. AHERN: Yup, I have it back.

THE COURT: Okay. Great. So we've taken advantage of the break. We're all back. We're ready to go again.

Okay. So, thank you.

MS. AHERN: So am I.

THE COURT: Did you have a question?

MS. AHERN: Thank you.

THE COURT: Okay. Well, then we're ready to resume? All right. Thanks.

MS. AHERN: I had asked for the regulation but she will get it to me.

THE COURT: She's emailing it to you. Yes.

MS. AHERN: Yes. She will.

THE COURT: Linda should have emailed it to you. Okay.

MS. AHERN: I don't want to go searching because I don't want to get out of where I am.

THE COURT: Okay. No, no problem, but she -- you should have it when you're done, because Linda will have emailed it

to you.

MS. AHERN: All right.

THE COURT: Okay. Thanks.

MS. AHERN: Thank you.

THE COURT: Uh-huh.

MR. KIEFER: I was in the process of, I believe, giving an example or two of the behavior that I believe allows the more severe inference.

The first example I would cite, Your Honor, is the subpoenas to the various counsel. So Fred -- Mr. Waid sent out these subpoenas to various attorneys based on these immense amount of monies that were given as retainers to the attorneys, and all Ms. Ahern would have had to do -- and it would have been to her financial advantage to do so to demonstrate that they were Trust expenses, was instruct those attorneys to comply with the subpoenas. And not only did she not, she actively sought against it.

The other example I would give, Your Honor, is the consistent use of cashier's checks. As we heard in the testimony, the most difficult part of tracking the funds was that Mr. Waid's testimony clarified that Ms. Ahern was receiving the funds directly from the oil company and then not depositing the checks, but making them out to cash and then converting them to cashier's checks. That is also indicative.

That's badger fraud, in a sense, because she was

instructed specifically by the Court to segregate funds in an account and not touch them, and she wasn't even allowing them to flow into the account, but instead, creating cashier's checks. And, in fact, if I'm understanding Mr. Waid's testimony correctly from the other day, the 1.2 million was after the order saying, "Don't touch it," and after she was replaced she went and got a $1.2 million cashier's check.

So I think all of those things together, along with her failure to provide any information whatsoever allow the negative inference that Your Honor has discussed from 122 Nev. 442.

THE COURT: Okay. Thanks.

All right. And, again, for my purposes, in my analysis of what's under the statute rises to the level of punitive damages versus what is just what the Supreme Court has already said appropriately -- the Trustee was appropriately removed and owes the money back. I mean they endorse that in the decision that came out on January 26th. Absolutely.

So I guess that's the concern. It says here that "Eleanor should not benefit from her own failure to perform her duties as a Trustee." And that's kind of the basic principle that they are affirming the decision to remove her on.

It's -- and it states that:

"Unilaterally ceasing distribution to Respondents, to the beneficiaries, without seeking court instructions, and when she advocated as a Trustee for a Trust interpretation favoring herself as a beneficiary, attorney's fees were warranted, and indicating that the Trustee may not advocate for either side in dispute between beneficiaries" I

I mean all these things -- they confirmed that these were inappropriate, you know, failures as a Trustee.

So I guess the kind of the problem that I have here is that it seems to me that some of these expenses that Mr. Waid has exhaustively tried to reconstruct -- and he has told us he's done. There is nothing more that he can do given the refusal to cooperate to try to reconstruct and figure out where the missing $600,064 is, it's just gone, and nobody knows where that went.

Of some of the funds that he's able to identify, there's like, 800,000 that we know went to the IRS, and we just don't know if it's recoverable or not. The rest is a lengthy spreadsheet that appears in Exhibit A and some of these, it appears to me, would be violations of the Court orders, but some of them are just, as was pointed out earlier, just bad Trustee practice which is why she was appropriately removed and, you know, she -- money has to be clawed back.

So that's my problem in saying this rises to the

level of punitive damages on the whole amount. I will tell you with all respect for your argument, I'm just not prepared to go there. For one thing, it's difficult for me to say that we need to award punitive damages on a treble amount when we don't yet know that it's final, and this is what Mr. Waid told us and Ms. Ahern's question the other day of: Where's the final accounting? Where's the 2016 accounting?

He doesn't know yet what the final numbers are because we have this tax liability that is being contested that ultimately some portion, we hope, through, you know, good accounting and advocacy, can be recovered for the Trust. So to award punitive damages on something we don't know how much that's going to be, it may not be the final damage amount --

MR. KIEFER: Well, and I can --

THE COURT: -- I'm kind of troubled by that.

MR. KIEFER: I think I can clarify that, as well. The $800,000 tax liability was not paid by Ms. Ahern. It was incurred by Ms. Ahern and paid by Mr. Waid.

THE COURT: Okay. So that's not part of the --

MR. KIEFER: Correct.

THE COURT: -- money that he recovered and paid out?

I thought he paid that tax liability upon clawing back, like, the $1.2 million. He paid the $800,000 --

MR. KIEFER: Correct. But what I'm saying is is that we can't give Ms. Ahern the benefit of saying, "Oh, well, there

was 2 point - there's supposed to be $2.5 million in the account, but there wasn't. You spent 800,000 of it on taxes, she didn't. She didn't spend any money on taxes, Mr. Waid did. She used it for something else, and he went and got it back. So we can't give her the benefit of saying, "Well, I understand you paid a -- she didn't pay a tax liability, she incurred it, he paid it. She paid it to someone else and he went and got it back.

THE COURT: Okay. I'm not -- think -- I'm not sure we're following -- we're on the same track here.

MR. KIEFER: Sure.

THE COURT: The total amount and I don't dispute this, and his math, I believe, is 100 percent correct. And he has done everything he can to reconstruct this. And it's very clear how much money should have been in the Trust account, $2.5 million. No question.

And my point is that we've been able to - if I have to look at which portions of that $2.5 million warrant the imposition of punitive damages. With all due respect, I'm not convinced the entire amount does.

MR. KIEFER: I understand that. And I understand --

THE COURT: And one of the things that troubles me is that out of that $2.58 million, a portion of that is these taxes that he had to -- when he recovered money -- when he recovered that check for $1.2 million, I'm sure he would have

liked to have just distributed it to the other beneficiaries. He couldn't. He had to pay $800,000 in income tax out of it. See what I'm saying?

MR. KIEFER: I do except --

THE COURT: So, you know, that's money that, because of bad Trustee practices, the Trust incurred. But I'm not -- I don't necessarily see that that was willful, that she meant to cause tax liability to the other beneficiaries. That's how I'm analyzing this.

MR. KIEFER: And I --

THE COURT: I don't think we're on the same page on that.

MR. KIEFER: And so here's the issue with the taxes, Your Honor. If I understand you correctly, what you're saying is, "At the time that Mr. Waid took over there should have been $2.5 million in the bank account."

THE COURT: Right. That's the damages, totally. Understood that.

MR. KIEFER: You're uncomfortable issuing punitive damages on all 2.5 because she --

THE COURT: Right.

MR. KIEFER: -- had legitimate reasons taking any of it out.

THE COURT: No. No.

MR. KIEFER: If she's not the one --

THE COURT: Not a legitimate reason. If I'm just saying

that some of it was not because of some intentional or willful act, quite honestly, I do not see that her activity -- some of these things she violated Court orders, for example, paying attorneys. I have a problem with that.

But the fact that because she was just moving this money around in a frantic and illogical fashion and ended up holding funds that she shouldn't have held, so -- and how much of this was because we told her you got to hold money in a trust account that resulted in this tax liability that nobody thought about? That's what's not been explained to me.

Is that tax liability her fault, or is it because she was told to hold money in a Trust account pending the outcome of an appeal that didn't happen for two more years?

MR. KIEFER: And I totally understand that, but it wouldn't change the fact that $2.5 million wasn't sitting in the account. There's nothing about that tax liability that changes that she willfully took all that money out, and if she had wanted to explain why she had a $1.2 million cashier's check, she's had adequate opportunity. That would be my point, Your Honor.

THE COURT: Okay. All right. Because exemplary and punitive damages under NRS 42.005 - 001, it talks about the conscious disregard, fraud, malice, or oppression and the standards for that. The 42.005 provides that a -- in an action for Breach of an Obligation not arising from a

contract, where it is proven by clear and convincing evidence that the defendant has been guilty of oppression, fraud, or malice, express or implied, the Plaintiff, in addition to compensatory damages, may recover damages for the sake of example and by way of punishing the defendant, except as otherwise provided in this section by specific statute and award of exemplary or punitive damages made pursuant to this section may not exceed if it's -- if you recover less than a hundred thousand dollars, then three times that, $300,000 or three times the amount of compensatory damages if more than a hundred thousand dollars.

So, because this obligation was imposed as a fiduciary and not the -- by the terms of the Trust itself, there is a violation that subjects, I believe, Ms. Ahern to some amount of punitive damages. I -- what I'm telling you is, I am not convinced it's the entire 2.5 million.

MR. KIEFER: Understood.

THE COURT: I'm not under -- and I understand that there -- to a certain extent there -- we have no choice but to impose either the adverse inference or the rebuttal of presumption, because this evidence and the opportunity to explain these things was in Ms. Ahern's hands and she chose not to go -- not to participate, not to provide the information that might have exonerated and explained her - self; I understand that.

But some of these things, it seems to me, that there was $2.5 million that wasn't there. I understand that, but a large portion of it was found -- traced by Mr. Waid. He was able to find it. He was able to claw it back, all except for 600,000 that is just simply gone. There is no explanation for where it went. He can't explain through, apparently -- if I'm understanding Exhibit A, this is not the missing $600,000. The $600,000 just can't be accounted for.

One explanation for what happened to the balance of the 2.5, like the other 1.9 million, is that, some of it was misspent on these items, improper, Trustee shouldn't have done it. And some of it is a tax liability of $800,000 that had to be paid. That's what I heard him say, "Make up the $2.5 million." If I misunderstood him, please explain it.

MR. KIEFER: So the $2.5 million, if it had been sitting in a segregated account -- it's my understanding of Mr. Waid's testimony, that if it had been sitting in a segregated account for the MTC Trust and was there, it would have simply passed through and not incurred a liability at all.

THE COURT: Correct. Uh-huh.

MR. KIEFER: The very fact --

MR. KIEFER: -- that it was gone is what created the liability --

THE COURT: Uh-huh.

MR. KIEFER: -- so that can't possibly work to her favor

that by taking the money she -- the only reason the liability was there, is that she disrupted the flow of the money through the Trust.

THE COURT: But here's my, my problem. I'm not -- I didn't hear him say, "If we had segregated the funds according to Court order -- my problem is, I don't know if it would have -- if by imposing the order saying segregate these funds, we led to the Trust incurring tax liabilities. No expert has come in and told me that, and that's a problem I have --

MR. KIEFER: Okay.

THE COURT: -- is, we told her hold these funds. And that's my concern, and we don't know how much of that fact that the Trust has incurred $800,000 is because of this litigation and the hold that was placed on the money --

MR. KIEFER: Sure.

THE COURT: -- because of the litigation.

MR. KIEFER: And I think we can find some common ground, and perhaps it's in the cashier's check.

THE COURT: Uh-huh.

MR. KIEFER: When you get a cashier's check it is -- it's a -- it's bare paper. You can take it and do anything you want with it. After knowing that she wasn't allowed to touch the money, she had a $1.2 million cashier's check in her possession. The fact that we got it back doesn't change what her intent was when she took it, and I would argue that that

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IN THE SUPREME COURT OF THE STATE OF NEVADA

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ELEANOR CONNELL HARTMAN AHERN, Appellant(s), vs. JACQUELINE M. MONTOYA; AND KATHRYN A. BOUVIER, Respondent(s),	

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THE W.N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST, DTD MAY 18, 1972

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8	03/26/2014	VERIFICATION FOR PETITION FOR CONSTRUCTION AND EFFECT OF PROBATE COURT ORDER	1589 - 1590
1	09/27/2013	VERIFICATION FOR PETITION FOR DECLARATORY JUDGMENT REGARDING LIMITED INTEREST OF TRUST ASSETS PURSUANT TO NRS 30.040, NRS 153.031(1)(E), AND NRS 164.033(1)(A)	82 - 83
9	03/27/2014	VERIFICATION FOR PETITION FOR DETERMINATION OF CONSTRUCTION AND INTERPRETATION OF LANGUAGE RELATING TO TRUST NO. 2	1608 - 1609
3	12/03/2013	VERIFICATION FOR PETITION TO COMPEL TRUSTEE TO DISTRIBUTE ACCRUED INCOME AND FUTURE INCOME RECEIVED FROM OIL, GAS, AND MINERAL LEASES AND	531 - 532

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

I N D E X

VOL	DATE	PLEADING	PAGE NUMBER:
		DECLARATION OF THE APPLICABILITY OF THE DOCTRINE OF LACHES	

EXHIBIT 2

EXHIBIT 2

Brownstein Hyatt Farber Schreck

Brownstein Hyatt Farber Schreck, LLP
100 North City Parkway
Suite 1600
Las Vegas, NV 89106
Phone: 702-382-2101
Facsimile: 702-382-8135
http://www.bhfs.com
TIN: 26-1367865

Eleanor Ahern
8635 W. Sahara Ave., #50
The Lakes, NV 89117-5858

Invoice Date: November 14, 2016
Invoice #: 659911
Client.Matter #: 018177.0001

Payable Upon Receipt

Re: The W.N. Connell and Marjorie T. Connell Living Trust

For Professional Services Rendered Through November 11, 2016

Previous Balance	$ 296,201.22
Less Credits	-
Balance Forward	**$ 296,201.22**
Total Fees	$ 15,119.50
Total Costs	463.40
Total Amount Due This Invoice	**$ 15,582.90**
TOTAL AMOUNT DUE	**$ 311,784.12**

PLEASE SEND WITH CHECK TO:

Brownstein Hyatt Farber Schreck, LLP
P.O. Box 172168
Denver, CO 80217-2168

NOTE: The above address is for regular mail delivery only
NO PAYMENTS SHOULD BE SENT CERTIFIED MAIL

OR via Courier Service To:

KeyBank Lockbox Operations
Brownstein Hyatt Farber Schreck, LLP
Lockbox #6025
11030 Circle Point Road
Westminster, CO 80021

WIRE FUNDS TO:

Brownstein Hyatt Farber Schreck, LLP
Bank Name: KeyBank of Colorado
Bank Address: 1675 Broadway
Denver, CO 80202
ABA#: 307070267
Account #: 769681047122
Ref: 018177.0001, Invoice No. 659911

EXHIBIT D

EXHIBIT D

7013 1710 0002 3637 3947

FIRST-CLASS
03 1P $ 007.15⁰
0000560268 NOV 14 2016
MAILED FROM ZIP CODE 89201

ND

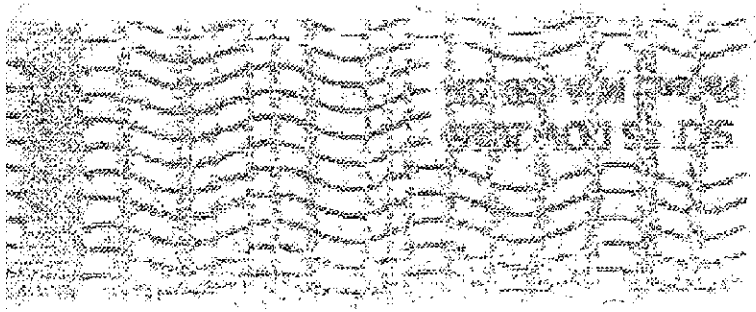
Brownstein Hyatt
Farber Schreck
100 North City Parkway, Suite 1600
Las Vegas, Nevada 89106

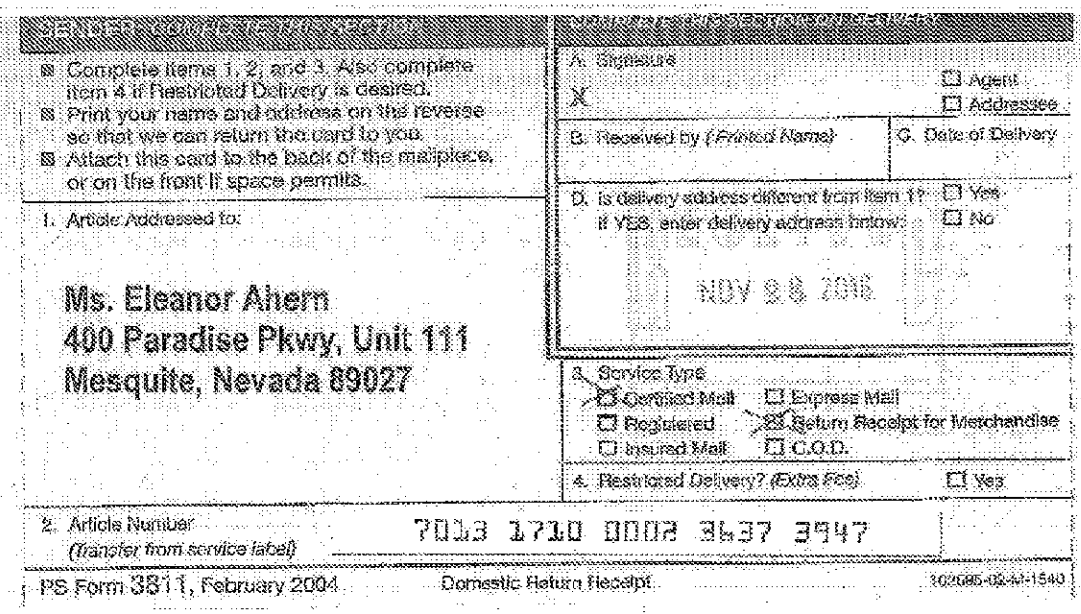
8604

Ms. Eleanor Ahern
400 Paradise Pkwy, Unit 111
Mesquite, Nevada 89027

NIXIE 890 275075-1N 11/25/16
RETURN TO SENDER
NO MAIL RECEPTACLE
UNABLE TO FORWARD
RETURN TO SENDER

brhfs.com Brownstein Hyatt Farber Schreck, LLP





SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Ms. Eleanor Ahern
400 Paradise Pkwy, Unit 111
Mesquite, Nevada 89027

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X
☐ Agent
☐ Addressee

B. Received by (Printed Name) | C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

NOV 08 2016

3. Service Type
☑ Certified Mail ☐ Express Mail
☐ Registered ☑ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

2. Article Number (Transfer from service label) 7013 1710 0002 3637 3947

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540

EXHIBIT E

EXHIBIT E

Kay, Paula

From: Lenhard, Kirk B.
Sent: Tuesday, November 29, 2016 9:50 AM
To: Eleanor@ConnellTrust.Lawyer; eca9282015@gmail.com
Subject: FW: In the Matter of the W.N. Connell and Marjorie T. Connell Living Trust
Attachments: Invoice_608814.pdf; Invoice_611312.pdf; Invoice_615194.pdf; Invoice_616822.pdf; Invoice_621331.pdf; Invoice_625438.pdf; Invoice_636790.pdf; Invoice_645568.pdf; Invoice No. 659911.pdf; 18177 - Statement of Account.pdf

Attached please find the requested invoices.

From: Kay, Paula
Sent: Tuesday, November 29, 2016 9:48 AM
To: Lenhard, Kirk B.
Subject: FW: In the Matter of the W.N. Connell and Marjorie T. Connell Living Trust

Kirk – attached are Ms. Ahern's invoices. She is mailed a bill every month. Do you want to email these to her?

From: Eleanor@ConnellTrust.Lawyer [mailto:Eleanor@ConnellTrust.Lawyer]
Sent: Tuesday, November 22, 2016 3:27 PM
To: Lenhard, Kirk B.
Cc: eca9282015@gmail.com
Subject: Re: In the Matter of the W.N. Connell and Marjorie T. Connell Living Trust

Do send me, via email, all the supporting entries so I know what was charged for. Was the credit here a payment ?

Eleanor, Beneficiary
The William N, Connell and Marjorie T. Connell Living Trust
Dated May 18, 1972.

On Nov 14, 2016, at 3:42 PM, "Lenhard, Kirk B." <KLenhard@BHFS.com> wrote:

> Ms. Ahern:
>
> Please find attached ***Notice of Attorneys' Lien***.

Paula M. Kay
Legal Secretary
Brownstein Hyatt Farber Schreck, LLP
100 North City Parkway, Suite 1600
Las Vegas, NV 89106
702.464.7036 tel
PKay@BHFS.com

To ensure compliance with requirements imposed by the IRS, we inform you that any federal tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for purposes of (i) avoiding penalties under the Internal Revenue Code, or (ii) promoting, marketing or recommending to another party any transaction or tax-related matter addressed herein.

STATEMENT OF CONFIDENTIALITY & DISCLAIMER: The information contained in this email message is attorney privileged and confidential, intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copy of this email is strictly prohibited. If you have received this email in error, please notify us immediately by calling (303)-223-1300 and delete the message. Thank you.

<2016.11.14 Notice of Attorneys' Lien.pdf>

Electronically Filed
01/24/2017 03:36:45 PM

CLERK OF THE COURT

DISTRICT COURT
CLARK COUNTY, NEVADA
****

In the Matter of the Trust of: The W.N. Connell and Marjorie T. Connell Living Trust, dtd May 18, 1972	Case No.: P-09-066425-T Family Domestic

NOTICE OF HEARING

Please be advised that the above-entitled matter has been scheduled for Motion to Adjudicate Attorneys Lien, to be heard by the Honorable Judge Sturman, at the Regional Justice Center, 200 Lewis Ave, Las Vegas, Nevada 89101, on the 22nd day of February, 2017, at the hour of 9:30 AM, in courtroom 10D.

YOUR PRESENCE IS NECESSARY.

STEVEN D. GRIERSON, CEO/Clerk of the Court

By: /s/ Diana Matson
Diana Matson
Deputy Clerk of the Court

CERTIFICATE OF SERVICE

I hereby certify that this 24th day of January, 2017

☒ The foregoing Notice of Hearing was electronically served to all registered parties for case number P-09-066425-T.

☒ I placed a copy of the foregoing Notice of Hearing in the appropriate attorney folder located in the Clerk of the Court's Office:

David L Mann, Esq

/s/ Diana Matson
Diana Matson
Deputy Clerk of the Court

Electronically Filed
02/01/2017 02:22:11 PM

CLERK OF THE COURT

ACCT
Todd L. Moody (5430)
Russel J. Geist (9030)
HUTCHISON & STEFFEN, LLC
10080 West Alta Drive, Suite 200
Las Vegas, Nevada 89145
(702) 385-2500
(702) 385-2086 FAX
tmoody@hutchlegal.com
rgeist@hutchlegal.com

Attorneys for Fredrick P. Waid Court-appointed Trustee

DISTRICT COURT

CLARK COUNTY, NEVADA

In the matter of

THE W.N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST DATED May 18, 1972, an Inter Vivos Irrevocable Trust.

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

ACCOUNTING AND REPORT OF TRUST ACTIVITY FROM 2013 TO 2015

Fredrick P. Waid, Successor Trustee of the W.N. Connell and Marjorie T. Connell Living Trust, dated May 18, 1972, (the "Trust"), hereby files this Accounting and Report of Trust Activity from 2013 to 2015 ("Report"). During most of this time period, Eleanor Ahern served as the sole trustee of the Trust and had exclusive access and control of all Trust checking, savings and other accounts. The Successor Trustee filed an Interim Report under seal on July 6, 2015.

The Court is well aware of the litigation history in this case and a narrative recital is not warranted in this Report. Since the Appointment of the Successor Trustee in April 2015, this Court has issued numerous orders requiring Ms. Ahern to produce records, comply with deposition notices and cooperate with the Successor Trustee's efforts to prepare an accounting for time periods when she served as Trustee. In response to the Court's orders Ms. Ahern has produced, through her various counsel, only limited records primarily consisting of forwarded mail. She did not appear for any scheduled or ordered depositions notwithstanding the findings

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A PROFESSIONAL LLC
PECCOLE PROFESSIONAL PARK
10080 WEST ALTA DRIVE, SUITE 200
LAS VEGAS, NV 89145

of the Court regarding fraud and other misconduct pursuant to hearings on the Motion to Enforce the Trust's No Contest Clause.

Due to her failure to appear and cooperate as ordered, a significant portion of the transactional history that occurred during Ms. Ahern's tenure as trustee cannot be reconciled or explained. As such, and pursuant to Generally Accepted Accounting Principles (GAAP), the Successor Trustee is unable to this provide the Court with definitive information or explain as to the greatly expanded Trust expenditures, either in dollars spent or to whom those dollars were paid, during the accounting period and Ms. Ahern's tenure as Trustee.

For clarification, in years prior to June 2013, the Trust expenditures were generally limited to three categories, including (1) property taxes, (2) liability insurance premiums and (3) limited professional fees for legal or accounting services. All other income/royalties were distributed to the Trust beneficiaries who were individually responsible for any associated tax liabilities. The Trust was designed to eliminate any taxable income at the Trust level with all income passing to the respective 65% beneficiary, the MTC Trust ("MTC"), and the 35% beneficiary, Eleanor Ahern as a lifetime beneficiary of income only.

During Ms. Ahern's tenure approximately thirty (30) other companies and/or individuals were paid with Trust funds. (A list of payees and amounts is attached as Exhibit A.) Again, due to Ms. Ahern's failure to answer questions under oath, the rationale and basis for the expenditures remain unanswered and unclear. What is clear is that MTC did not receive a single distribution of royalty income from the Trust between June 2013 and April 2015. Only after Ms. Ahern was removed as Trustee by the Court did MTC once again begin receiving its share of distributions. A significant number of expenses that were authorized by Ms. Ahern appear to have provided no benefit to the Trust and cannot be deemed appropriate, deductible business expenses as defined and permitted by the Internal Revenue Code.

After reviewing available records from the Internal Revenue Service, various banks, oil and gas producers, common royalty recipients (*i.e.*, the Miller family, which shares an equivalent 25% royalty interest as the Trust) and partial reconciliations completed by the accounting firm

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LAS VEGAS, NV 89145

of Gammet & King CPAs, the Successor Trustee prepared the chart attached as Exhibit B, which sets forth the best available basis for calculation of royalties not paid to the MTC Trust, as required by the terms of the Trust and as determined by this Court's previous findings and orders.

MTC should have received royalty payments of $481,010 for 2013, $2,028,134 for 2014 and $1,447,406 for 2015, totaling $3,956,550. MTC received for the three (3) year period a total of $2,214,497, with $1,914,622 of the amount being paid after Ms. Ahern was removed as Trustee. The total undistributed royalties for the period is $1,742,053.

The Successor Trustee takes no position as to the Court's imposition of damages relating to the conduct of Ms. Ahern. The Trustee has ongoing fiduciary duties to Ms. Ahern, notwithstanding her interest being temporarily suspended. Additionally, the Successor Trustee continues his efforts to recover certain tax payments made to the U.S. Treasury as a result of Ms. Ahern's failure to comply with and administer the Trust according to its terms and intent. It is anticipated that amended tax returns and refunds will be resolved and closed by mid-2017. As of the filing of this Report, Ms. Ahern has not identified or confirmed any successor counsel to represent her in this matter.

On Saturday, January 21, 2017, the Successor Trustee coordinated and participated with the Mesquite Police Department in a "well check" of Ms. Ahern. After inspecting her residence and interviewing her, the responding officer determined that Ms. Ahern had sufficient food, clothing and shelter and appeared to be in good health based on his observations and Ms. Ahern's declaration to the officer. It should be noted that the last mailing address provided by Ms. Ahern's former counsel is not the address where Ms. Ahern currently resides. She currently

///

///

///

HUTCHISON & STEFFEN
A PROFESSIONAL LLC
PECCOLE PROFESSIONAL PARK
10080 WEST ALTA DRIVE, SUITE 200
LAS VEGAS, NV 89145

resides at 111 Paradise Pkwy., Mesquite, Nevada, 89027.

Dated this 6 day of ~~January~~ February, 2017.

HUTCHISON & STEFFEN

Todd L. Moody (5430)
Russel J. Geist (9030)
10080 W. Alta Dr., Ste 200
Las Vegas, NV 89145
Phone: (702) 385-2500
tmoody@hutchlegal.com
rgeist@hutchlegal.com
Attorneys for Fredrick P. Waid
Court-appointed Trustee

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10080 WEST ALTA DRIVE, SUITE 200
LAS VEGAS, NV 89145

HUTCHISON & STEFFEN
A PROFESSIONAL LLC
PECCOLE PROFESSIONAL PARK
10080 WEST ALTA DRIVE, SUITE 200
LAS VEGAS, NV 89145

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of HUTCHISON & STEFFEN and that on this 1st day of February, 2017, I caused a true and correct copy of the above and foregoing **ACCOUNTING AND REPORT OF TRUST ACTIVITY FROM 2013 TO 2015** to be served as follows:

[X] by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada; and/or

[X] pursuant to EDCR 8.05(a) and 8.05(f), to be electronically served through the Eighth Judicial District Court's electronic filing system, with the date and time of the electronic service substituted for the date and place of deposit in the mail; and/or

[ ] Pursuant to EDCR 7.26, to be sent via facsimile; and/or

[ ] to be hand-delivered;

to the persons listed below at the address and/or facsimile number indicated below:

Via U.S. Mail Only:
Eleanor Ahern
111 Paradise Pkwy.
Mesquite, NV 89027

Via U.S. Mail Only:
Eleanor Ahern
400 Paradise Pkwy., Unit 111
Mesquite, NV 89027

Via Wiznet Only:
Joseph J. Powell, Esq.
The Rushforth Firm
1707 Village Center Circle, Ste. 150
Las Vegas, NV 89134
Attorneys for Kathryn A. Bouvier and Jacqueline M. Montoya

Via Wiznet Only:
Kirk Lenhard, Esq.
Tamara Beatty Peterson, Esq.
Brownstein Hyatt Farber Schreck, LLP
100 North City Parkway, Suite #1600
Las Vegas, NV 89106

Via Wiznet Only:
Daley A. Hayes, Esq.
Liane K. Wakayama, Esq.
Candice E. Rinka, Esq.
Marquis Aurbach Coffing
10001 Park Run Drive
Las Vegas, NV 89145

An Employee of Hutchison & Steffen, LLC

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EXHIBIT PAGE ONLY

EXHIBIT A

HUTCHISON & STEFFEN
A PROFESSIONAL LLC

WN CONNELL AND MARJORIE T CONNELL 1972 TRUST
CONNELL TRUST ACCTS #1254900135/8737649197/1985753274
January 2013 through December 2015

Type	Date	Memo	Account	Split	Amount
AMERICAN EXPRESS					
Check	04/07/2014	CSH CK #291...	CONNELL TRUST #8737649197	Unknown Expe...	-5,000.00
Check	07/03/2014	CSH CK #674...	CONNELL TRUST #8737649197	Unknown Expe...	-10,000.00
Check	12/26/2014	CSH CK #241...	CONNELL TRUST #1985753274	Unknown Expe...	-10,000.00
AMERICAN PATROLS					
Check	03/05/2014	RE: AIRAERI...	CONNELL TRUST #1985753274	Unknown Expe...	-1,000.00
BANK OF AMERICA					
Check	03/05/2014	CSH CK #241...	CONNELL TRUST #1985753274	Unknown Expe...	-2,000.00
BARBARA SHORTZ					
Check	04/07/2014	CSH CK #291...	CONNELL TRUST #8737649197	Counseling Ex...	-2,301.40
Check	10/17/2014	CSH CK #241...	CONNELL TRUST #1985753274	Counseling Ex...	-3,000.00
Check	10/17/2014	CASH / CSH ...	CONNELL TRUST #1985753274	Counseling Ex...	-3,000.00
Check	12/19/2014	REF #9166	CONNELL TRUST #1254900135	Counseling Ex...	-8,600.00
BREATH OF LIFE SYSTEMS					
Check	12/19/2014	REF #9167	CONNELL TRUST #1254900135	Unknown Expe...	-5,198.46
BRENNAN LEGAL COUNSEL					
Check	05/13/2013	CSH CK #745...	CONNELL TRUST #8737649197	Legal Expense	-2,000.00
BURKS SECURITY					
Check	12/26/2014	CSH CK #241...	CONNELL TRUST #1985753274	Security Expen...	-30,400.00
CENTURY LINK					
Check	12/31/2014	CSH CK #241...	CONNELL TRUST #1985753274	Telephone Exp...	-1,000.00
CIRRUS AVIATION SERVICES					
Check	03/17/2014		CONNELL TRUST #1985753274	Airline Expense	-23,160.60
Check	07/21/2014	CSH CK #674...	CONNELL TRUST #8737649197	Airline Expense	-7,709.91
CITY OF LAS VEGAS SEWER SERVICES					
Check	12/31/2014	CSH CK #241...	CONNELL TRUST #1985753274	Utilities Expense	-612.00
CLARK COUNTY ASSESSOR					
Check	12/31/2014	CSH CK #241...	CONNELL TRUST #1985753274	Taxes - Property	-7,000.00
CONNELL FAMILY FOUNDATION					
Check	05/08/2013	(NOT USED ...	CONNELL TRUST #8737649197	Unknown Expe...	-27,449.54
COX COMMUNICATIONS					
Check	12/31/2014	CSH CK #241...	CONNELL TRUST #1985753274	Cable Expense	-600.00
CURT BAGGETT					
Check	08/20/2013	CSH CK #745...	CONNELL TRUST #1985753274	Unknown Expe...	-1,000.00
Check	02/14/2014	RE: W/M CO...	CONNELL TRUST #8737649197	Unknown Expe...	-7,000.00
DAREL BURKS					
Check	10/17/2014	CSH CK #241...	CONNELL TRUST #1985753274	Security Expen...	-3,000.00
Check	12/19/2014	REF #9164	CONNELL TRUST #1254900135	Security Expen...	-2,000.00
DAVID MANN					
Check	11/14/2014	RE: REIMBU...	CONNELL TRUST #1985753274	Unknown Expe...	-10,000.00
DCP MIDSTREAM					
Deposit	08/07/2013	CK #818622	CONNELL TRUST #8737649197	Gas/Oil Leases	62.54
DEE DETAILING CLEANING					
Check	12/31/2014	CSH CK #24...	CONNELL TRUST #1985753274	Janitorial Expe...	-550.00
DOUG EDWARDS					
Check	01/26/2015	CSH CK #241...	CONNELL TRUST #1985753274	Legal Expense	-10,000.00
ELEANOR M AHERN					
Check	03/06/2013	CSH CK #745...	CONNELL TRUST #8737649197	ELEANOR M A...	-17,548.22
Check	03/06/2013	LESS 3899.5...	CONNELL TRUST #8737649197	(UNKNOWN) ...	-17,548.22
Check	09/11/2013	CSH CK #241...	CONNELL TRUST #1985753274	AHERN/POD ...	-2,000.00
Check	09/11/2013	CSH CK #241...	CONNELL TRUST #1985753274	(UNKNOWN) #...	-5,000.00
Check	09/11/2013	CSH CK #241...	CONNELL TRUST #1985753274	ELEANOR M A...	-5,000.00
Check	09/11/2013	CSH CK #241...	CONNELL TRUST #1985753274	AHERN/POD J...	-5,000.00
Check	09/11/2013	CSH CK #241...	CONNELL TRUST #1985753274	(UNKNOWN) ...	-5,000.00
Check	09/11/2013	CSH CK #241...	CONNELL TRUST #1985753274	AHERN/POD ...	-5,073.80
Check	09/11/2013	CSH CK #241...	CONNELL TRUST #1985753274	AHERN/POD ...	-7,000.00
Check	09/11/2013	CSH CK #241...	CONNELL TRUST #1985753274	AHERN/POD ...	-11,000.00
Check	03/23/2015	CSH CK #084...	CONNELL TRUST #1254900135	Unknown Expe...	-100,000.00
EXPERT JET CHARTER					
Check	09/06/2014	CSH CK #678...	CONNELL TRUST #8737649197	Airline Expense	-53,003.90
FORENSIC SPECIALIST LIMITED					
Check	10/27/2014	REF #8899	CONNELL TRUST #1254900135	Unknown Expe...	-9,613.94
GAMMETT AND KING CPA'S					
Check	02/24/2014	RE: W/M CO...	CONNELL TRUST #1985753274	Accounting Ex...	-5,000.00
HANDWRITING LLC					
Check	12/31/2014	RE: CURT BA...	CONNELL TRUST #1985753274	Unknown Expe...	-5,477.00
INTERNAL REVENUE SERVICE					

WN CONNELL AND MARJORIE T CONNELL 1972 TRUST
CONNELL TRUST ACCTS #1254900135/8737649197/1985753274
January 2013 through December 2015

Type	Date	Memo	Account	Split	Amount
Check	12/29/2014	CSH CK #241...	CONNELL TRUST #1985753274	Income Taxes	-55,000.00
JAMES MANN					
Check	10/24/2014	REF #3765	CONNELL TRUST #1254900135	Unknown Expe...	-125,000.00
JASON COLLINS					
Check	04/07/2014	CSH CK #291...	CONNELL TRUST #8737649197	Unknown Expe...	-2,200.00
Check	07/03/2014	CSH CK #674...	CONNELL TRUST #8737649197	Unknown Expe...	-2,200.00
Check	07/11/2014	OVERPD BY ...	CONNELL TRUST #8737649197	Unknown Expe...	-2,200.00
Check	08/04/2014	CSH CK #241...	CONNELL TRUST #8737649197	Unknown Expe...	-2,200.00
Check	10/17/2014	CSH CK #241...	CONNELL TRUST #1985753274	Unknown Expe...	-22,000.00
Check	12/19/2014	REF #9135	CONNELL TRUST #1254900135	Unknown Expe...	-9,250.00
Check	12/31/2014	CSH CK #241...	CONNELL TRUST #1985753274	Unknown Expe...	-4,400.00
Check	01/31/2015	CSH CK #/18...	CONNELL TRUST #1985753274	Unknown Expe...	-7,600.00
Check	02/18/2015	REF #1144	CONNELL TRUST #1985753274	Unknown Expe...	-6,600.00
JEFFREY BURR LAW FIRM					
Check	05/08/2014	CSH CK #649...	CONNELL TRUST #8737649197	Legal Expense	-50,000.00
Check	06/03/2014	REF #5032	CONNELL TRUST #8737649197	Legal Expense	-60,000.00
Check	10/17/2014	CSH CK #241...	CONNELL TRUST #1985753274	Legal Expense	-125,000.00
JEFFREY JOHNSTON & ASSOCIATES					
Check	06/10/2013	RE: LEGAL F...	CONNELL TRUST #8737649197	Legal Expense	-7,000.00
JET PARTNERS WORLDWIDE					
Check	11/06/2014	CSH CK #241...	CONNELL TRUST #1985753274	Airline Expense	-25,800.00
JOHNSTON & ASSOCIATES					
Check	06/05/2013	CSH CK #649...	CONNELL TRUST #8737649197	Legal Expense	-5,000.00
Check	08/07/2013	CONNELL TR...	CONNELL TRUST #8737649197	Legal Expense	-20,000.00
Check	08/15/2013	CSH CK #241...	CONNELL TRUST #1985753274	Legal Expense	-50,000.00
KINGDOM TITLE SOLUTIONS					
Check	12/29/2014	WIRE	CONNELL TRUST #1985753274	Unknown Expe...	-75,000.00
LARRY PRUCKA					
Check	04/07/2014	CPA / CSH C...	CONNELL TRUST #8737649197	Accounting Ex...	-4,000.00
Check	07/03/2014	CSH CK #674...	CONNELL TRUST #8737649197	Accounting Ex...	-2,000.00
LAURIE HOELTZEL					
Check	07/11/2014	CSH CK #674...	CONNELL TRUST #8737649197	Unknown Expe...	-740.00
LISA JOHNSON					
Check	06/10/2013	CSH CK #745...	CONNELL TRUST #8737649197	Unknown Expe...	-2,000.00
LYNCH, CHAPPELL & ALSUP					
Check	01/10/2013	RE: Legal Fe...	CONNELL TRUST #8737649197	Legal Expense	-4,000.00
Check	05/13/2013	RE: HARPER...	CONNELL TRUST #8737649197	Legal Expense	-5,000.00
MARGARET WURDELLA					
Check	05/08/2014	CSH CK #649...	CONNELL TRUST #8737649197	Unknown Expe...	-3,500.00
MARGARET WURDELLA LIVING TRUST					
Check	02/27/2015	CSH CK #848...	CONNELL TRUST #1985753274	Unknown Expe...	-1,750.00
MARQUIS AURBACH COFFING					
Check	11/24/2014	CSH CK #241...	CONNELL TRUST #1985753274	Legal Expense	-15,000.00
Check	12/26/2014	CSH CK #241...	CONNELL TRUST #1985753274	Legal Expense	-21,782.28
Check	12/31/2014	CSH CK #241...	CONNELL TRUST #1985753274	Legal Expense	-21,000.00
Check	01/26/2015	CSH CK #241...	CONNELL TRUST #1985753274	Legal Expense	-30,394.22
Check	02/20/2015	WIRE	CONNELL TRUST #1985753274	Legal Expense	-75,000.00
MCNAIR & ASSOCIATES					
Check	05/13/2013	CSH CK #745...	CONNELL TRUST #8737649197	Accounting Ex...	-1,200.00
Check	08/07/2013	CSH CK #745...	CONNELL TRUST #8737649197	Accounting Ex...	-900.00
Check	07/03/2014	RE: CPA / CS...	CONNELL TRUST #8737649197	Accounting Ex...	-2,144.18
MTC LIVING TRUST					
Check	02/15/2013	CSH CK #745...	CONNELL TRUST #8737649197	Unknown Expe...	-47,603.71
Check	05/09/2013	RE: LESS W...	CONNELL TRUST #8737649197	Unknown Expe...	-44,477.73
Check	06/11/2013	RE: GIFT 201...	CONNELL TRUST #8737649197	Unknown Expe...	-37,000.00
NEVADA POWER					
Check	12/31/2014	CSH CK #241...	CONNELL TRUST #1985753274	Utilities Expense	-1,000.00
OMNI HOTEL AND RESORTS					
Check	07/03/2014	REF: FORT ...	CONNELL TRUST #8737649197	Hotel Expense	-7,000.00
Check	07/11/2014	CSH CK #674...	CONNELL TRUST #8737649197	Hotel Expense	-6,500.00
PROPERTY SERVICES					
Check	10/27/2014	CSH CK #241...	CONNELL TRUST #1254900135	Rent Expense	-8,600.00
Check	12/31/2014	CSH CK #241...	CONNELL TRUST #1985753274	Rent Expense	-6,000.00
PRUDENTIAL AMERICANA GRP					
Check	03/05/2014	RE: CONNEL...	CONNELL TRUST #1985753274	Rent Expense	-2,250.00
REAL ESTATE SERVICES					
Check	03/05/2014	CSH CK #241...	CONNELL TRUST #1985753274	Unknown Expe...	-10,000.00

WN CONNELL AND MARJORIE T CONNELL 1972 TRUST
CONNELL TRUST ACCTS #1254900135/8737649197/1985753274
January 2013 through December 2015

Type	Date	Memo	Account	Split	Amount
Check	04/23/2014	CSH CK #241...	CONNELL TRUST #8737649197	Unknown Expe...	-90,000.00
Check	05/08/2014	CSH CK #649...	CONNELL TRUST #8737649197	Unknown Expe...	-50,000.00
Check	07/21/2014	CSH CK #574...	CONNELL TRUST #8737649197	Unknown Expe...	-150,000.00
REPUBLIC SERVICES					
Check	12/31/2014	CSH CK #241...	CONNELL TRUST #1985753274	Trash Expense	-420.00
ROBINSON REALTY					
Check	04/07/2014	CSH CK #291...	CONNELL TRUST #8737649197	Unknown Expe...	-2,500.00
RYAN SCHARAR					
Check	08/20/2013	REF #2561	CONNELL TRUST #1985753274	Legal Expense	-10,000.00
Check	08/20/2013	RE: ELEANO...	CONNELL TRUST #1985753274	Legal Expense	-20,000.00
SHAUNA BRENNAN					
Check	01/10/2013	RE: Legal Fe...	CONNELL TRUST #8737649197	Legal Expense	-5,000.00
SHERRY DOBER					
Check	06/10/2013	CSH CK #745...	CONNELL TRUST #8737649197	Unknown Expe...	-1,000.00
SHORTZ CONSULTING					
Check	08/15/2013	REF #5534	CONNELL TRUST #1985753274	AHERN/POD ...	-35,000.00
Check	12/26/2014	CSH CK #241...	CONNELL TRUST #1985753274	Counseling Ex...	-31,200.00
STAN CRAWFORD ESQUIRE					
Check	05/08/2014	CSH CK #649...	CONNELL TRUST #8737649197	Legal Expense	-2,000.00
STERLING CLARK					
Check	11/24/2014	CSH CK #241...	CONNELL TRUST #1985753274	Unknown Expe...	-500.00
T MOBILE					
Check	12/31/2014	CSH CK #241...	CONNELL TRUST #1985753274	Cellular Expense	-1,000.00
TONY DAVE & ASSOCIATES					
Check	10/27/2014	RE: CONSUL...	CONNELL TRUST #1254900135	Unknown Expe...	-5,000.00
UPTON COUNTY APPRAISAL DISTRICT					
Check	02/25/2014	RE: 2013 TA...	CONNELL TRUST #1985753274	Taxes - Property	-3,199.06
Check	12/26/2014	RE: 2014 TA...	CONNELL TRUST #1985753274	Taxes - Property	-65,000.00
Deposit	02/28/2015	Overpayment ...	CONNELL TRUST #1254900135	Taxes - Property	25,799.78
W/M CONNELL TRUST					
Check	04/09/2013	CSH CK #745...	CONNELL TRUST #8737649197	Unknown Expe...	-45,336.10
Check	02/18/2015	CSH CK #084...	CONNELL TRUST #1254900135	Unknown Expe...	-1,287,560.85
Check	03/23/2015	CSH CK #084...	CONNELL TRUST #1254900135	Unknown Expe...	-500,000.00
WATTS BUSINESS SERVICES					
Check	08/07/2013	CSH CK #745...	CONNELL TRUST #8737649197	Unknown Expe...	-500.00
WELLS FARGO					
Check	09/11/2013	MASTERCAR...	CONNELL TRUST #1985753274	Unknown Expe...	-25,000.00
Check	04/07/2014	RE: MASTER...	CONNELL TRUST #8737649197	Unknown Expe...	-10,000.00

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EXHIBIT PAGE ONLY

EXHIBIT B

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W.N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST

Royalty Calculations	2013	2014	2015	TOTALS
Connell Trust royalty income	$740,015	$3,120,206	$2,226,779	$6,087,000
Miller royalty income	-$1,319,276	-$2,585,096	-$2,090,389	-$5,994,761
differential	-$579,261	$535,110	$136,390	$92,239
65% of Connell income	$481,010	$2,028,134	$1,447,406	$3,956,550
Royalties received by MTC	$299,875	$0	$1,914,622	$2,214,497
Unpaid royalites due MTC	$181,135	$2,028,134	-$467,216	$1,742,053

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Attorneys for Fredrick P. Waid, Court-appointed Trustee

DISTRICT COURT

CLARK COUNTY, NEVADA

In the matter of THE W.N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST Dated May 18, 1972, an Inter Vivos Irrevocable Trust.	Case No.: P-09-066425-T Dept. 26

RESPONSE TO MOTION TO ADJUDICATE ATTORNEY'S LIEN

Fredrick P. Waid (Waid), Trustee of the W.N. Connell and Marjorie T. Connell Living Trust, dated May 18, 1972, (the "Trust"), hereby responds to the Motion to Adjudicate Attorneys' Lien ("Motion") filed by Brownstein Hyatt Farber Schreck, LLP ("BHFS").

In its Motion, BHFS asks this Court to determine that the fees in the amount of $311,784.12 which BHFS claims are due for the representation of Eleanor Ahern, the now-removed Trustee of the Trust, are valid, due and owing for representing "Ms. Ahern in connection with the above captioned matter".[1] BHFS further claims that this Court "has the authority to attach the Lien to Ms. Ahern's beneficial interest in the Trust and to order that distributions to Ms. Ahern made in the future be directly paid to BHFS to satisfy its Lien."[2] BHFS further argues that "by serving the notices and perfecting the Lien, the Lien against Ms. Ahern attaches to any verdict, judgment or decree, any money or property that is recorverd, or the corpus of the Trust that is the subject of this

[1] *See* **Motion to Adjudicate Attorneys' Lien**, page 8, line 12.

[2] *Id.* at page 12, lines 2-4, citing *Novak v. Fay*, 236 Cal. App. 4th 329, 339 (Cal. Ct. App. 2015).

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action and/or Ms. Ahern's beneficial interest therein that would satisfy the outstanding invoices that Ms. Ahern is required to pay under the Fee Agreement."[3]

However, BHFS has provided no controlling legal authority that supports its request that the Court order that Eleanor Ahern's legal fees be paid from the Trust, and has provided no evidence that Eleanor Ahern has agreed that her fees were to be paid from her beneficial interest in the Trust. In fact, Nevada law prohibits Eleanor Ahern from making such assignment of her beneficial interest to a creditor, as such assignment is prohibited by the spendthrift provision of the trust and NRS 166.170 *et seq*.

A. BHFS Has No Authority to Attach its Lien to the Trust

BHFS cites no Nevada law requiring its lien to be satisfied out of Eleanor Ahern's interest in the Trust. The only case cited by BHFS, *Novak v. Fay*, a California Appeals Court case, is inapposite to BHFS' lien against Eleanor Ahern. In *Novak* the attorney and the client, a pretermitted spouse omitted from a trust, entered into a fee agreement which specifically provided that "it is agreed that Attorney may retain his share in full out of the amount finally collected by settlement; and it is further agreed that Attorney shall have all general, possessory, or retaining liens, and all special or charging liens known to the common law." *Id.* at 332. The *Novak* fee agreement further indicated that "[the client] expressly assigns to Attorney to the extent of his fees and disbursements, all assets and sums realized by way of settlement, arbitration, or trial." *Id.* As a result of the attorney's services, the issue of the client's interest as a pretermitted spouse was resolved by settlement in which the client would receive a monthly payment in the amount of amount of $3,500 and a 40% interest in the trust. The client held the power to appoint his interest "by Will, Trust, or gift(s), as he chooses" and if he failed to appoint any of his interest, his share would be deemed to be assigned to his step-daughter, the grantor's sole beneficiary named in the trust. *Id.* at 333.

The client died within 3 months of the settlement and had not exercised his right to appoint any of the trust share by Will or Trust. The attorney sought to enforce his lien against the

[3] *Id.* at page 12, lines 18-21,

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remainder beneficiaries of the client's trust share. The *Novak* court permitted the enforcement of the lien against the trust share stating, "When an attorney's lien is tied to the client's contingent recovery, they lawyer cannot enforce it until the contingency (settlement and probate court approval in our case) occurs." *Id.* at 336. The court indicated that "as soon as [the client's] beneficial interest in the [trust] came into being (upon the ... settlement and ... probate court approval), [the attorney's] lien attached to it." *Id.* at 337. The court later indicated that "the contingency fee agreement is clear as to when plaintiff's charging lien attached to [the client's] interest in the [trust]," specifically, the client agreed to assign to the attorney all assets and sums realized by way of settlement, arbitration, or trial, permitting the attorney to attach his lien to the trust share. *Id.* at 339.

The Fee Agreement between BHFS and Eleanor Ahern contains no such language granting a right of retention by BHFS of any amount obtained on behalf of Eleanor Ahern, nor does it contain any language granting an assignment of her share to BHFS for fees incurred. Without a valid agreement and assignment of Eleanor Ahern's interest in the Trust to BHFS for attorney's fees, the *Novak* principle does not apply. Indeed, BHFS cites no provision in the engagement agreement in which Eleanor Ahern has assigned her interest to BHFS to pay outstanding the lien, contrary to *Novak*.

Indeed, Eleanor Ahern's share of the Trust is currently suspended and cannot be assigned by Eleanor Ahern or distributed to anyone. BHFS has no right to direct the disposition of the Trust to itself, contrary to the terms of the Trust and this Court's prior orders.

B. BHFS's Claim Violates Nevada Spendthrift Law and the Trust's Spendthrift Provision

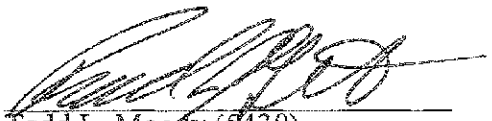
Finally, Mr. Waid, as Trustee, is required under NRS 166.120(4) to "disregard and defeat" BHFS's attempts to impose a lien on Eleanor Ahern's interest in the Trust. The Trust qualifies as a spendthrift trust under Nevada law. Article Sixth of the Trust explicitly provides that "the right, title, interest, or estate of any beneficiary [shall not be] subject to any right, claim, demand, lien or judgment of any creditor of any such beneficiary, nor shall be subject nor liable to any process of law or equity." BHFS's claim of a lien against Eleanor Ahern's interest is contrary to this provision, and the law affords the Trust protection against the claim. Further, this Court suspended

Eleanor's interest and has yet to consider the calculation of final damages against Eleanor Ahern and determine the imposition of an appropriate remedy. BHFS's demand, if valid and allowed, must be considered subordinate to any other determination of restitution owing from Eleanor Ahern's interest to the Trust and its other beneficiaries.

For these reasons, Mr. Waid asks this Court to deny BHFS's Motion in full.

Dated this 3 day of February, 2017.

HUTCHISON & STEFFEN, LLC



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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of HUTCHISON & STEFFEN, LLC, and on this 30th day of February, 2017, I caused the above and foregoing document entitled **RESPONSE TO MOTION TO ADJUDICATE ATTORNEY'S LIEN** to be served as follows:

- X by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada; and/or
- ☐ to be served via facsimile; and/or
- X pursuant to EDCR 8.05(a) and 8.05(f), to be electronically served through the Eighth Judicial District Court's electronic filing system, with the date and time of the electronic service submitted for the date and place of deposit in the mail; and/or
- ☐ to be hand-delivered;

to the attorneys and/or parties listed below at the address and/or facsimile number indicated below:

Via U.S. Mail Only:
Eleanor Ahern
111 Paradise Pkwy.
Mesquite, NV 89027

Via U.S. Mail Only:
Eleanor Ahern
400 Paradise Pkwy., Unit 111
Mesquite, NV 89027

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Via U.S. Mail Only:
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Via Wiznet Only:
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The Rushforth Firm
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Attorneys for Kathryn A. Bouvier and Jacqueline M. Montoya

Via Wiznet Only:
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Attorneys for Jacqueline M. Montoya
and Kathryn A. Bouvier ("Movants")

DISTRICT COURT

CLARK COUNTY, NEVADA

In the Matter of

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

A non-testamentary trust.

Case No. P-09-066425-T
Department: 26 (Probate)

Date of Hearing: February 9-10, 2017
Time of Hearing: 10:00 a.m.

PRE-TRIAL MEMORANDUM

Jacqueline M. Montoya and Kathryn A. Bouvier, by and through their counsel of record, The Rushforth Firm, Ltd., hereby submit their Pre-Trial Memorandum regarding the damages determination and award of exemplary damages raised in their "Motion for Assessment of Damages against Eleanor Ahern; Enforcement of No-Contest Clause; and, Surcharge of Eleanor's Trust Income" which was originally filed on June 3, 2015.

A. PARTIES AND TERMS

For ease of reference, the following parties and terms are used in this Memorandum:

A.1 Jacqueline M. Montoya and Kathryn A. Bouvier are referred to individually as

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"Jacqueline" and "Kathryn" and collectively as "Movants".

A.2 Eleanor Ahern is referred to as "Ms. Ahern".

A.3 "The Trust" refers to THE W.N. CONNELL and MARJORIE T. CONNELL LIVING TRUST, dated May 18, 1972 and includes Trust No.2 and the MTC Living Trust.

A.4 "The "MTC Trust" refers to the MTC LIVING TRUST, dated December 6, 1995, and as subsequently restated in its entirety on October 3, 2000.

B. Incorporation by Reference of Previous Filings

The Movants hereby incorporate by reference their previously filed "Motion for Assessment of Damages against Eleanor Ahern; Enforcement of No-Contest Clause; and, Surcharge of Eleanor's Trust Income" as well as their previously submitted "Pre-Trial Memorandum," which was filed on February 17, 2016.

C. Issues to Be Determined

There are only two issues to be determined at this evidentiary hearing. They are:

C.1 Determination of Compensatory Damages Owing. Fredrick P. Waid, the acting trustee of the Trust, has filed his "Accounting and Report of Trust Activity From 2013 to 2015", which is dated February 1, 2017 ("Accounting and Report"). Mr. Waid has reported in his Accounting and Report what the Trust received from June of 2013 through 2015. Mr. Waid has also included a breakdown of what the MTC Trust should have received during this same period, and what is currently owed to the MTC Trust by Ms. Ahern.

C.2 Determination of Exemplary Damages. Based on the conduct of Ms. Ahern in this matter, the Movants seek an award of exemplary damages in addition to the compensatory damages. Therefore, what must be addressed is the extent of the exemplary damages that Ms. Ahern must be responsible for given that this Court has already previously determined that Ms.

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Ahern's behavior and actions in this matter "must be punished"[1].

D. COMPENSATORY DAMAGES

D.1 The Movants have always expressed to this Court that only Mr. Waid, as trustee, who is the only party who has had access to all the necessary records, could determine the extent of the funds that Ms. Ahern withheld and misappropriated from them, via their beneficial interest in the MTC Trust, a time period that extended from June of 2013 through April of 2015.

D.2 For years, the Movants argued that Ms. Ahern inappropriately withheld Trust assets from them. Mr. Waid's recently filed Accounting completely corroborates the Movants' fears.

D.3 Mr. Waid, through his Accounting and Report, has now made the determination as to the amounts that were improperly and maliciously withheld from the Movants during this time period. Mr. Waid has concluded that between June of 2013 and the end of 2015 that the Movants, through distributions required to be given to the MTC Trust, were entitled to the sum of $3,956,550. Mr. Waid has further expressed to the Movants, through their counsel, Joseph J. Powell, that for the period of June of 2013 through March 31, 2015, the Movants were entitled to the sum of $2,581,994.92, with the combined sum of $372,725.92 owed to the MTC Trust for the months of January, February, and March of 2015.

D.4 Therefore, in total, the Movants are entitled to, and hereby seek, a determination from this Court that Ms. Ahern owes them, as beneficiaries of the MTC Trust, the amount of

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[1] Page 78 from March 3, 2016 hearing transcript in which this Court stated the following:

"I think there is liability here for, at a minimum, treble damages, and I say that seriously. I mean that at a minimum. I think this is punitive damage time. I do. I think that this is something that needs to be punished. No trustee should be allowed to behave this way without consequences. It's a very serious thing and I believe should be -- should subject the trustee to some kind of punishment and I think that's probably punitive damages."

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$2,581,994.92 for the time period spanning from June of 2013 through March 31, 2015[2].

D.5 After having made equitable adjustments of income obtained after his becoming trustee in early April of 2015, Mr. Waid has determined that the approximate current balance owed to the Movants for this time period, June of 2013 through December 31, 2015, is $1,742,053.

D.6 Based on the calculations of Mr. Waid, in lieu of the lost investment opportunity of the funds that were improperly taken from them by Ms. Ahern, along with the lost investment opportunity of their personal funds that they had invested during this time period, which the Movants were forced to withdraw for their living expenses since they relied entirely on the distributions of these funds from the Trust, the Movants seek merely to be awarded Nevada statutory interest on the sum owed to them on the funds that were withheld (which would equate to 5.25% under an analysis under NRS 17.130(2) and NRS 99.040(1) through the end of 2015, then bumping up to 5.50% from January 2016 forward). They further seek the imposition of Nevada statutory interest on the sum owed to them until the obligation to them has been satisfied in full. As such, the Movants request both pre-judgment and post-judgment interest be awarded.

D.7 To be clear, the Movants seek an award of pre-judgment interest against Ms. Ahern accruing from the time of her first failure to appropriately distribute Trust funds to the Movants (June of 2013). See *Ramada Inns, Inc. v. Sharp*, 101 Nev. 824, 711 P.2d 1 (1985) ("*Prejudgment interest is viewed as compensation for use by defendant of money to which plaintiff is entitled from the time the cause of action accrues until the time of judgment.*").

D.8 Additionally, in accordance with NRS 153.031(1)(m), the Movants seek an award of attorney's fees and costs that they have incurred in this matter as every penny of funds expended

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[2] The amount still owing to the Movants by Ms. Ahern has been subsequently reduced to $1,742,052 due to the actions of a third party, Fred Waid, in his capacity as trustee of the Trust, paying down such obligation of $2,581,994.92 by the amount of $839,941.92, which he has done by this fiduciary adjustment power/obligation to address the issue created by Ms. Ahern.

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for such were naturally and proximately caused by the actions of Ms. Ahern[3]. In other words, had Ms. Ahern never caused the need for this litigation to occur in the first place, the Movants would never have had to retain an attorney, and in turn incur any attorney's fees or costs. As such, it is only appropriate that Ms. Ahern be responsible, and in turn her share of the Trust, be responsible for the payment of every penny of attorney's fees and costs incurred by the Movants in this matter until the absolute conclusion of all matters and the recovery of all that is owed to them[4].

D.9 Such an award of fees and costs against Ms. Ahern personally, and in turn against her share of the Trust, is appropriate "to redress an injustice" (i.e. the theft of nearly $2.6 million) and because she was, at a minimum, "negligent in the performance of or breached [] her fiduciary duties." As stated, the Ms. Ahern's bad acts made this litigation necessary, making the Movants' attorneys' fees and costs the "natural and proximate consequence of [Ms. Ahern's] injurious conduct." *Sandy Valley Associates v. Sky Ranch Estates*, 117 Nev. 948, 957 35 P.3d 964,969 (2001) (receded from on other grounds *Horgan v. Felton*, 123 Nev. 577, 170 P.3d 982 (2007)).

E. Exemplary Damages Must Be Awarded

E.1 The Movants have previously asked for this Court to punish Ms. Ahern for her inappropriate and repulsive conduct by awarding them punitive damages. As this Court is aware, the Movants have already briefed these issues in detail and to this extent hereby incorporate all such previous filings in this matter by this reference.

E.2 Despite having previously addressed the subject at length, a brief review seems appropriate.

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[3] Since the initial filing in this matter, the Movants have had a standing request to be awarded all damages, which has included a request attorney's fees and costs.

[4] Upon an award of attorney's fees and costs, the Movants will submit a motion for fees and costs, which will include an analysis under *Brunzell*.

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Punitive Damages

E.3 Punitive damages are warranted against Ms. Ahern as she intentionally and fraudulently breached her fiduciary duty and committed tortious acts in converting and embezzling Trust funds.

E.4 This Court has the authority to award punitive damages "*in an action for the breach of an obligation not arising from contract, where it is proven by clear and convincing evidence that the defendant has been guilty of oppression, fraud, or malice.*" See NRS 42.005(1). Once shown, a petitioner, "*in addition to the compensatory damages, may recover damages for the sake of example and by way of punishing the defendant ..... an amount equal to three times the amount of compensatory damages awarded to [Petitioner] if the amount of compensatory damages is $100,000 or more.*" Id.

E.5 "Oppression" means the despicable conduct that subjects a person to cruel and unjust hardship with the conscious disregard of a person's rights. See NRS 42.001(4).

E.6 "Conscious disregard" means the knowledge of the probable harmful consequences of a wrongful act and a willful and deliberate failure to act to avoid those consequences. See NRS 42.001(1).

E.7 "Fraud" means the intentional misrepresentation, deception or concealment of a material fact known to the person with the intent to deprive another person of his rights or property or to otherwise injure another person. See NRS 42.001(2).

E.8 "Malice, express or implied" means conduct that is intended to injure a person or despicable conduct which is engaged in with a conscious disregard of the rights or safety of others. See NRS 42.001(3).

E.9 In short, punitive damages are reserved for bad actors who deserve to be punished. See *Coughlin v. Hilton Hotels Corp.*, 879 F.Supp. 1047 (D. Nev. 1995) ("*punitive damages are not designed to compensate the victim of a tortious act but rather* ***to punish and deter*** *oppressive,*

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fraudulent or malicious conduct") (emphasis added). Ms. Ahern's conduct fits the bill.

E.10 As has been previously conclusively established in this matter by Mr. Waid, both through his testimony and reporting to this Court, Ms. Ahern willfully and intentionally deceived this Court, and Jacqueline and Kathryn, by claiming all funds that she was responsible to keep in trust during the pendency of the dispute were "intact and are presently being held in trust". To this end, this Court has already ruled that Ms. Ahern deceived this Court. Mr. Waid has characterized this behavior as amounting to being "fraud".

E.11 From the Court's "Order Regarding Motion for Assessment of Damages; Enforcement of No Contest Clause; and Surcharge of Trust Income", dated September 13, 2016, this Court ruled that:

> *The Court found that the account Ahern filed, under penalty of perjury on March 13, 2015, titled "Brief Regarding Accounting Fiduciary Duties, and Trust Administration" was incomplete and* ***intentionally inaccurate.*** [Emphasis Added]

E.12 Further, this Court has already found that Ms. Ahern has repeatedly ignored this Court's orders throughout the litigation, including, but not limited to, failing to safeguard the 65% ultimately belonging to the MTC Trust. From the Court's "Order Regarding Motion for Assessment of Damages; Enforcement of No Contest Clause; and Surcharge of Trust Income", dated September 13, 2016, this Court concluded that:

> *Ms. Ahern, as Trustee, did not comply with the Court order to protect the 65% share of the Trust that was to be segregated under the terms of the Trust for the Movants, Ms. Montoya and Ms. Bouvier.*

E.13 This Court has already made extremely strong statements about the actions taken by Ms. Ahern and has stated that Ms. Ahern must be punished for what she has done. Importantly, this Court has repeatedly rejected Ms. Ahern's excuses and repeatedly reassured the Movants' that Ms. Ahern's "punishment" would shortly be delivered. A review of this Court's statements made at the March 3, 2016 hearing is certainly appropriate.

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E.14 At the March 3, 2016 evidentiary hearing, a continuation of the evidentiary hearing first begun on February 22, 2016, this Court, after having had reviewed all of the documentation submitted by Mr. Waid over his tenure as trustee and having listened to his testimony, made the following declarations:

> . . . . .*The fact that during that period of time, when she was solely in control of the 100 percent being told to maintain the 65 percent, pending the outcome of who was entitled to it,* ***just a gross misuse of those funds*** *during that period of time.* [Page 76 of March 3, 2016 hearing transcript]

> *I thought all along somebody probably needed to go to jail. Judge Gonzalez didn't send her to jail. That's her choice. She felt that that wasn't properly set up since there is that type of contempt of a Court order requires very specific findings before a person can be sent to jail, as I've said here today.* ***Somebody did something really wrong and something that may, in fact, justify criminal prosecution. It's pretty shocking to me what has happened here.*** [Page 76 of March 3, 2016 hearing transcript]

> *But that's why I asked very specifically -- the difference that I see between punitive damages and treble damages because I'm not sure, ultimately, what damages would be here if we're just looking at the surcharge, before we talk about the no-contest clause.* ***Punitive damages are intended to punish and this seems to me to be a very willful and malicious*** *-- if we read our jury instruction on liability for punitive damages, you know,* ***the conduct probably satisfies that. I don't have any real concern that we can satisfy the standard for punitive damages in this case.*** [Pages 76 and 77 of March 3, 2016 hearing transcript]

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. . . . . *because* ***it was a very gross misuse of trust funds*** *and they clear -- I still believe to this day, contempt of this Court's order, even though it was not punishable by confinement in jail,* ***I still think it's contempt of this Court's order.*** [Page 77 of March 3, 2016 hearing transcript]

She violated her duties as a trustee, which is a very serious thing, and that's why, for me, I ask -- and I want to make real clear that I don't think a surcharge is limited just to everything that it's taking for Mr. Waid to figure out where this money went and to reconstruct it and to figure out how much that all is. ***I think there is liability here for, at a minimum, treble damages, and I say that seriously. I mean that at a minimum. I think this is punitive damage time. I do. I think that this is something that needs to be punished. No trustee should be allowed to behave this way without consequences. It's a very serious thing and I believe should be -- should subject the trustee to some kind of punishment and I think that's probably punitive damages.*** [Page 78 of March 3, 2016 hearing transcript]

And so she did lose, but in the end, I think that the question is more appropriately handled through a surcharge and appropriate damages, as I said, for -- to be determined at a future date, whether that's punitive or trebling or both. ***I think it's pretty shocking and needs to be dealt with in a very serious fashion.*** [Page 79 of March 3, 2016 hearing transcript]

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I do think that just looking at the standard set forth in our jury instructions for jurors when they're to look at ***punitive damages, we've met it and I don't have any doubt that we have.*** [Pages 79-80 of March 3, 2016 hearing transcript]

E.15 The point of punitive damages is to punish a person for their bad acts. This Court, by its previous statements, certainly understands this. Ms. Ahern's conduct was malicious and despicable. She attempted to, and successfully did, financially cripple the Movants who relied on the Trust distributions and she left them without a single penny of a distribution from June of 2013 until approximately May of 2015, a period of nearly two years. Ms. Ahern had no regard for the fact that the Movants had children to support and bills to pay, having relied on and crafted their lifestyles around steady income distributions from the Trust. Ms. Ahern, while serving in a fiduciary capacity, sought to financially cripple the Movants with an apparent motive to pound them into submission, such that they would have to negotiate from a position of desperation, or, if not willing to succumb to these tactics and negotiate at all, would have that which they were owed continued to be taken from them-----that which was left to them through their beloved grandmother, Marjorie Connell.

E.16 Ms. Ahern must be punished and taught a stern lesson for callously and maliciously thumbing her nose both at the Movants as well as this Court and abusing the position that she was in as a trustee to not only financially ruin the Movants, but also to cause them severe emotional stress in the process.

E.17 Ms. Ahern must be left with a resounding message that she will never forget------ that her reprehensible conduct will not be tolerated in and by the State of Nevada------ and, as this Court has already stated, must realize that there are severe consequences for her actions. By doing so, it will also send a clear warning, which will act as a deterrent, to all Nevada trustees that the type

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of conduct engaged in by Ms. Ahern will not be tolerated and the consequences of such actions will be punishing and severe.

E.18 Simply stated, the Court has already determined that Ms. Ahern's bad acts demonstrate malice, fraud, and oppression. In fact, the Court has repeatedly announced that Ms. Ahern breached her fiduciary duties, intentionally mislead the Court, and failed to comply with various Court rulings. The Court only withheld its punishment because it had yet to issue a precursory award of compensatory damages, the preceding step necessary for punitive damages to be awarded. However, with the Accounting now complete, and Mr. Waid set to testify regarding the full scope of Ms. Ahern's wrongdoing, the time for punitive damages is now.

E.19 Further, the Movants seek post judgement interest be added onto the award of such punitive damages, as the Nevada Supreme Court has previously deemed permissible and proper. See *Powers v. United Servs. Auto Ass'n*, 114 Nev. 690, 705 (1998).

F. Movants' Witness

Fredrick P. Waid is expected to testify as to his knowledge of the facts and circumstances at issue in the instant matter, including, but not limited to, his knowledge of the matters set forth in his "Accounting and Report of Trust Activity From 2013 to 2015 " which is dated February 1, 2017.

G. Exhibits

The Exhibit the Movants expect to discuss in detail at the hearing is the "Accounting and Report of Trust Activity From 2013 to 2015 " of Fredrick P. Waid, which is dated February 1, 2017, which has been previously filed in this matter. By this reference, the Movants hereby incorporate Mr. Waid's "Accounting and Report of Trust Activity From 2013 to 2015".

H. Conclusion

The law and the facts will lead the Court to conclude that:

H.1 Between June of 2013 and the end of 2015 that the Movants, through distributions

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required to be given to the MTC Trust, were entitled to the sum of $3,956,550.

H.2 For the period of June of 2013 through March 31, 2015, the Movants, through distributions required to be given to the MTC Trust were entitled to the sum of $2,581,994.92, which represents the compensatory damages award they should receive from Ms. Ahern, through her share of the Trust. As such, Ms. Ahern maliciously, oppressively, and reprehensibly withheld and misappropriated funds in the amount of $2,581,994.92 from the Movants.

H.3 Ms. Ahern has repeatedly lied to the Movants, and this Court, and is deemed to have committed fraud. Further, Ms. Ahern has willfully disobeyed this Court's orders on multiple occasions. As such, the Movants are entitled to be awarded punitive damages, in accordance with NRS 42.005(1), taking the amount owing to $7,745,984.76, with $5,163,989.84 representing the treble/punitive damages, based off the compensatory damages owed of $2,581,994.92. This amount shall be awarded from Ms. Ahern's share of the Trust.

H.4 Further, the Movants, as beneficiaries of the MTC Trust, remain entitled to the sum of approximately $1,742,053 (as finally determined by Mr. Waid) from the Trust, from the share currently allocated to Eleanor Ahern.

H.5 Ms. Ahern's conduct is the direct and proximate cause of all of the Movants legal fees, including attorney's fees and costs, and she shall be responsible for all such costs and fees, which shall be paid from the share of the Trust currently allocated to Eleanor Ahern.

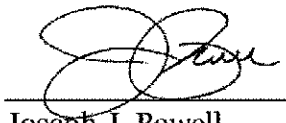
H.6 The Movants shall be granted pre-judgment, relating back to June of 2013, and post-judgment interest on the compensatory damages owed by Ms. Ahern to the MTC Trust on the principal amount of $2581,994.92. Ms. Ahern shall be responsible, from her share of the Trust, to pay interest on such amounts, with such interest being calculated in the same manner provided under NRS 17.130(2) /NRS 99.040(1) from June of 2013 until complete satisfaction of such owing amount.

H.7 The Movants shall be granted interest, calculated in the same manner provided

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under NRS 17.130(2) /NRS 99.040(1), on the punitive damages awarded in the amount of $5,163,989.84 until paid in their entirety.

Respectfully submitted by:



2/7/17

Joseph J. Powell
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Date

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Attorneys for Jacqueline M. Montoya
and Kathryn A. Bouvier

DISTRICT COURT
CLARK COUNTY, NEVADA

In the Matter of

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

A non-testamentary trust.

Case No. P-09-066425-T
Department: 26 (Probate)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of The Rushforth Firm, Ltd., and pursuant to NCRP 5(b), EDCR 8.05, Administrative Order 14-2, and NEFCR 9, I caused a true and correct copy of the **PRE-TRIAL MEMORANDUM** to be submitted electronically for filing and service with the Eighth Judicial District Court via the Court's Electronic Filing System on the 7th day of February, 2017, to the following:

Fredrick P. Waid
Russell Geist, Esq.
Todd Moody, Esq.
Hutchison & Steffen LLC
10080 W. Alta Drive #200
Las Vegas, Nevada 89145

An employee of The Rushforth Firm, Ltd.

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ORDR

CLERK OF THE COURT

DISTRICT COURT

CLARK COUNTY, NEVADA

IN THE MATTER OF THE W.N. CONNELL and MARJORIE T. CONNELL LIVING TRUST, dated May 18, 1972	Case No.: P-09-066425-T Department XXVI

DECISION AND ORDER
Re: Marquis Aurbach Coffing's Motion to Adjudicate Attorney's Lien

The above referenced matter came on for hearing on Marquis Aurbach Coffing's (MAC) Motion to Adjudicate Attorney's Lien on September 7, 2016, and November 23, 2016. As the initial filing provided only redacted billings the counsel for the Successor Trustee, and Beneficiaries objected, the matter was continued to allow time for counsel for the Successor Trustee to review and comment on un-redacted billings. The primary objection raised by counsel for the Successor Trustee, as well as the Beneficiaries, was to the attorney's lien attaching to the MTC trust (100% of the total income) as opposed to prior trustee Eleanor Ahern's beneficial interest (35%), on the grounds that the attorneys representation benefitted only Eleanor in her individual capacity and not the MTC trust. The parties returned on January 18, 2017, at which time the Court took the matter under advisement to review *in camera* submissions from the parties (including the beneficiaries who have not reviewed the un-redacted billing statements). The Court, having reviewed the un-redacted billing statements together with the letter in support of the lien from MAC, the letter outlining the Successor Trustee's position on the proper party to pay the fees, and the letter from counsel for the beneficiaries, and the pleadings and papers on file herein the Court hereby enters the following decision:

The litigation herein has gone on for some time, and Eleanor has been represented by several different law firms. The litigation arises out of the WN and Marjorie Connell Trust which held Mr. Connell's separate property consisting primarily of Texas oil and

GLORIA J. STURMAN
DISTRICT JUDGE
DEPT XXVI
LAS VEGAS, NV 89155

gas lease royalties. The trust provided that upon WN's death, Eleanor would receive 35% of the proceeds for her lifetime, with Marjorie Connell receiving 65% for her lifetime. Prior to her death in 2009, Marjorie exercised her power of appointment to leave her share to her granddaughters, Jacqueline Montoya and Kathryn Bouvier, Eleanor was the Successor Trustee. In 2013 Eleanor unilaterally stopped distributions to her daughters, who filed a petition to compel distribution of the 65% to them. The Court found that Marjorie had authority to leave the 65% to her granddaughters, thus Eleanor had wrongfully withheld the funds from her daughters, which Eleanor appealed. Pending resolution of the appeal the Court ordered Eleanor hold the 65% in trust. A settlement was negotiated in the interim, but Eleanor terminated her counsel and hired MAC to successfully oppose enforcement of the settlement. Subsequently MAC withdrew and the law firm of Brownstein Hyatt began representing Eleanor. The Court found that Eleanor had wrongfully failed to hold the 65% in trust, and removed her as trustee. Fred Waid was appointed Successor Trustee for all of the beneficiaries, and attempted to identify how much was missing from the trust, and whether any funds could be recovered. The NV Supreme Court recently affirmed the finding that Eleanor had wrongfully withheld the 65% from her daughters. See, In the matter of the W.N. Connell and Marjorie T. Connell Living Trust, (unpublished Case No. 66231 & 68046 decided 1/26/2017).

MAC has properly perfected its attorney's lien pursuant to NRS 18.015. One of the objections raised by the Successor Trustee was that the lien cannot attach to proceeds because none were "recovered" by Eleanor. The court has authority to enter a judgment for attorney's fees where the client has submitted herself to the court's jurisdiction. See, Argentena Consolidated Mining Co. v Jolley Urga, et al, 125 Nev. 527, 216 P.3d 779 (2009). Here, Eleanor has submitted herself to jurisdiction of Court as a party, the Court also has jurisdiction over MAC, having appeared as counsel in the action. A charging lien does not attach where a party did not file an affirmative claim, rather it attaches "to the tangible fruits of the attorneys services." Id. In Argentena the plaintiff's claim against the defendant was dismissed, the defendant had not filed any claims against the plaintiff so there was nothing for the charging lien to attach to.

Here, Eleanor did file counter petitions, seeking to confirm her claim to the disputed 65%, as well as enforcement of the no contest clause against Jacqueline and Kathryn. The attorney's fees must arise on account of the suit. Id. Withdrawal by

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counsel before settlement does not prevent enforcement of its charging lien. See, McDonald Carrion et al v Bourassa Law Group, LLC. Unpublished, WL 57739793 (2015). The requirement that an attorney lien is enforced against an "affirmative recovery" is a generalized requirement so that the lien may attach to something of value. Id. Here, the fees charged by MAC arise from their defense of Eleanor's claim to the disputed 65%, as well defending her right to continued receipt of her 35% share.

A charging lien may have priority over other liens if notice is perfected before a settlement or judgment. See Golightly and Vannah v TJ Allen, LLC., 372 P.3d 103 (2016). Attorneys may perfect their attorney's lien after a settlement is reached but before funds are received. Id. Here, MAC successfully defeated enforcement of a settlement agreement disputed by Eleanor, and litigation has continued as to the amounts to be charged against Eleanor for breach of fiduciary duty, and enforcement of the no-contest clause against her beneficial interest. Thus the lien may attach to the sums she is affirmatively defending and/or claiming.

The Successor Trustee objects to the lien attaching to Eleanor's beneficial interest as this would violate the Spendthrift provisions of the Trust. As discussed herein, the unique nature of an attorney's charging lien allows a judgment to be entered against the "affirmative recovery" sought by a party to litigation. No distinction is made in the cases interpreting NRS 18.015 which would suggest that a party who is affirmatively defending their right to continue to receive funds from a Trust would have a defense to paying her attorneys by virtue of the fact that the Trust contains a spendthrift clause. To read such a defense into NRS 18.015 would place attorneys who take on Trust litigation at a disadvantage, an outcome which there is no indication the Legislature intended.

The Court has considered the MAC lien claim in light of the factors identified in Brunzell v. Golden Gate National Bank, 85 Nev. 345, 455 P. 2d 31 (1969) factors and finds that the rates charged are reasonable in the community given the (1) qualities of the advocate(s) who have expertise, experience, and specialization in the field of Trusts and Estates litigation; (2) the character of the work which was complex and difficult, important to the outcome of the case, requiring significant time and skill and the need for counsel to familiarize themselves with the history of the case within a relatively shortened timeframe; (3) the work performed required skill time and attention; and (4) the successful outcome objecting to enforcement of a settlement agreement, until such time as the relationship broke down over Eleanor's misrepresentations regarding the

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DISTRICT JUDGE
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funds ordered to be held in trust. Counsel for the Successor Trustee does not challenge the rate or amount billed, nor do the beneficiaries.

MAC billed for three separate matters, Eleanor's lawsuit against her former attorney David Mann to recover the retainer paid to him; the will contest; and the instant Trust litigation. The retainer agreement was signed by Eleanor in her individual capacity and trustee. Eleanor opposing enforcement of the settlement agreement did not benefit any of the parties, especially not the Trust. Mr. Mann has taken the position that he only represented Eleanor, so seeking recovery of the fee did not benefit the Trust, nor did the Will Contest.

Based on a review of the un-redacted billings, it appears that all of the work undertaken by MAC was exclusively related to Eleanor's interests and not for the benefit of the Trust and could only be assessed against Eleanor's beneficial interest.

MAC also seeks costs in its charging lien. The documentation attached does not approach the specificity required pursuant to Cadle Co. v. Woods & Erickson, LLP, 131 Nev. Adv. Op. 15, 345 P.3d 1049 (2015) for an award of costs by the Court. Filing fees, transcript and recording fees can be confirmed upon a review of the Court's records, so any costs charged for those items will be allowed as part of the judgment. Any other costs, including but not limited to charges "scanning" and "copying" will not be allowed as part of the judgment.

Wherefore, the Court hereby GRANTS the Motion for Attorney's Lien, fees are awarded in their entirety, and costs are awarded in accordance with Cadle. The lien shall be a judgment only against Eleanor's beneficial interest in the Trust.

Dated this 9th day of February, 2017.

GLORIA STURMAN
DISTRICT JUDGE
DEPARTMENT 26

GLORIA STURMAN
DISTRICT JUDGE
DEPT XXVI
LAS VEGAS, NV 89155

CERTIFICATE OF SERVICE

I hereby certify that on or about the date filed, a copy of the foregoing **DECISION AND ORDER** Re: Marquis Aurbach Coffing's Motion to Adjudicate Attorney's Lien was E-Served, mailed or a copy was placed in the attorney's folder in the Clerk's Office as follows:

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Candice Renka, Esq.
Marquis Aurbach Coffing
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Linda Denman
Judicial Executive Assistant
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Former Attorneys for Eleanor Connell Hartman Ahern

DISTRICT COURT

CLARK COUNTY, NEVADA

In the Matter of THE W.N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST DATED May 18, 1972, An Inter Vivos Irrevocable Trust	CASE NO.: P-09-066425-T DEPT. NO.: XXVI **REPLY IN SUPPORT OF MOTION TO ADJUDICATE ATTORNEYS' LIEN** Date of Hearing: February 22, 2017 Time of Hearing: 9:30 a.m.

KIRK B. LENHARD, ESQ. ("Counsel"), of BROWNSTEIN HYATT FARBER SCHRECK, LLP ("BHFS"), hereby replies to the Trustee of the W.N. Connell and Marjorie T. Connell Living Trust, dated May 18, 1972, Frederick P. Waid's ("Trust"), opposition ("Opposition") to BHFS' Motion to Adjudicate Attorneys' Lien ("Motion"). This Reply is based on the Points and Authorities herein, together with all pleadings and papers on file in this matter, and the oral argument of Counsel during the hearing on the Motion.

DATED this 14th day of February, 2017.

BROWNSTEIN HYATT FARBER SCHRECK, LLP

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

As established in the Motion, because of Ms. Ahern's refusal to pay her attorneys' fees and disregard for her obligations under the Fee Agreement, BHFS is left with no alternative but to seek this Court's intervention to adjudicate its Attorneys Lien in the amount of **$311,784.12.** In addition to clearly satisfying all of the statutory requirements, BHFS has demonstrated that its fees and costs are reasonable – points that are undisputed. However, in an attempt to thwart BHFS' ability to be appropriately compensated for providing legal representation to Ms. Ahern, the Trust filed an opposition to the Motion arguing that the Court does not have the authority to attach the Lien to Ms. Ahern's beneficial interest in the Trust because (i) she did not sign a contingency fee agreement, and (ii) such attachment would violate the spendthrift provision of the Trust. Not only are the Trust's arguments completely unjust, but such arguments are in direct contravention to this Court's recent order wherein it adjudicated one of Ms. Ahern's former attorneys' lien and held that the lien was a judgment against Ms. Ahern's beneficial interest in the Trust.

Thus, the Court should reject the Trust's arguments and grant the Motion in its entirety.

II. DISCUSSION

A. The Trust Does Not Dispute That The Court Has Jurisdiction To Adjudicate BHFS' Lien[1], That BHFS Has Satisfied The Requisite Statutory Factors, And That BHFS' Fees And Costs Are Reasonable.

As an initial matter, it is important to note that the Trust does not oppose, or even address, the following key points of the Motion: (i) in personam jurisdiction exists because Ms. Ahern has "already submitted…herself to the court's jurisdiction" and undersigned Counsel, as well as the other attorneys who worked on behalf of Ms. Ahern, appeared in this action as Ms. Ahern's counsel of record (*see generally,* Docket); *see also Argentena Consol. Mining Co. v. Jolley Urga Wirth Woodbury & Standish*, 125 Nev. 527, 533, 216 P.3d 779, 783 (2009) (citation omitted), (ii) this Court has subject matter jurisdiction to resolve this dispute regarding attorneys' fees because

[1] Unless otherwise defined, capitalized terms herein shall have the same meaning as provided in the Motion.

the fees that are the basis for the Lien are recovered on account of the instant action (*see* Motion, at Section II); *see also Argentena Consol. Mining Co.*, 125 Nev. at 533, (iii) BHFS has satisfied the four steps required to obtain an attorneys' lien under NRS 18.015, *see Leventhal v. Black & LoBello*, 305 P.3d 907, 909 (Nev. 2013) (holding that "[t]he four requirements of NRS 18.015 must be met for a court to adjudicate and enforce a charging lien."), and (iv) BHFS' fees and costs are reasonable when measured by the factors set forth in *Brunzell v. Golden Gate Nat'l Bank*, 85 Nev. 345, 455 P.2d 31 (1969). (*See generally,* Opposition.)

Thus, the Trust has conceded the foregoing and the Motion should be granted in this regard. *See* EDCR 2.20(e) ("Failure of the opposing party to serve and file written opposition may be construed as an admission that the motion and/or joinder is meritorious and a consent to granting the same.")

B. This Court Should Impose The Attorney's Lien On Ms. Ahern's Beneficiary Interest In The Trust And The Trust's Arguments To The Contrary Fail.

The Trust challenges this Court's ability to attach the Lien to Ms. Ahern's beneficial interest in the Trust and to order that distributions to Ms. Ahern made in the future be directly paid to BHFS to satisfy its Lien. (*See* Opposition at 2:9-3:19.) Specifically, the Trust contends that because Ms. Ahern did not agree to the assignment of her interest in the Trust to BHFS and the Fee Agreement does not contain a provision "granting a right of retention by BHFS of any amount obtained on behalf of" Ms. Ahern, *i.e.*, a contingency fee agreement, the Lien cannot attach to Ms. Ahern's beneficial interest in the Trust. The defect in the Trust's argument is three-fold.

First, and most glaring, is the fact that last week this Court issued a Decision and Order Re: Marquis Aurbach Coffing's Motion to Adjudicate Attorney's Lien ("Adjudication Order") in this very matter granting Marquis Aurbach Coffing's ("MAC") request to adjudicate its attorney's lien against Ms. Ahern and finding that "[t]he lien shall be a judgment only against [Ms. Ahern's] ***beneficial interest in the Trust.***" (*See* Adjudication Order, dated February 9, 2017, at 4:17-19) (emphasis added). Importantly, the Adjudication Order evidences that, just as here, MAC entered into an agreement with Ms. Ahern providing for hourly fees, as opposed to a contingency fee

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agreement. (*See id, generally.*) Thus, the Court has already determined that it has the ability to do precisely what BHFS seeks – to adjudicate an attorney's lien and to order that the lien shall be a judgment against Ms. Ahern's beneficial interest in the Trust, without the existence of a contingency fee agreement. As such, the Trust's argument fails.

Second, the Trust's attempt to distinguish the ruling in *Novak v. Fay* falls flat. That is, while the facts of *Novak v. Fay* involved a contingency fee agreement, the Court expressly recognized that a charging lien, like the Lien here, "may be used to secure either an *hourly fee* or a contingency fee." *Novak v. Fay*, 236 Cal. App. 4th 329, 336, 186 Cal. Rptr. 3d 451, 456 (2015) (citation omitted) (emphasis added). Thus, the fact that the Fee Agreement here was not a contingency fee agreement and does not contain a provision expressly granting BHFS an interest in the Trust is not detrimental to the Court's ability to adjudicate the Lien and to attach the Lien to Ms. Ahern's beneficial interest in the Trust. As this Court held in the Adjudication Order, the Lien "may attach to the sums [Ms. Ahern] is affirmatively defending and/or claiming," and, in fact, may be properly made a judgment against Ms. Ahern's "beneficial interest in the Trust." (*See* Adjudication Order at 3:11-12.) Therefore, the Trust fails to refute the fact that the Court has the authority to attach the Lien to Ms. Ahern's beneficial interest in the Trust.

Third, and finally, the Trust's assertion that Ms. Ahern's "share of the Trust is currently suspended and cannot be assigned...or distributed to anyone" ignores the relief BHFS seeks in the Motion, namely, that "distributions to Ms. Ahern made in the future be directly paid to BHFS to satisfy its Lien." (*See* Motion at 13:3-4.) To be clear, BHFS is not seeking to be immediately paid from the Trust; rather, just as the Adjudication Order mandates, BHFS is seeking that the Lien be a judgment against Ms. Ahern's beneficial interest in the Trust. (*See* Adjudication Order at 4:17-19.) Thus, the Motion should be granted in its entirety.

C. The Spendthrift Provision Of The Trust Would Not Be Violated By The Adjudication Of BHFS' Lien.

The Trust's argument regarding the spendthrift provision of the Trust is equally as un-compelling as the foregoing arguments. Not surprisingly, the Trust made the same argument in opposition to MAC's request for the adjudication of its attorney's lien, and this Court outright

BROWNSTEIN HYATT FARBER SCHRECK, LLP
100 North City Parkway, Suite 1600
Las Vegas, NV 89106-4614
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rejected it:

> The Successor Trustee objects to the lien attaching to Eleanor's beneficial interest as this would violate the Spendthrift provisions of the Trust. As discussed herein, the unique nature of an attorney's charging lien allows a judgment to be entered against the "affirmative recovery" sought by a party to litigation. No distinction is made in the cases interpreting NRS 18.015 which would suggest that a party who is affirmatively defending their right to continue to receive funds from a Trust would have a defense to paying her attorneys by virtue of the fact that the Trust contains a spendthrift clause. To read such a defense into NRS 18.015 would place attorneys who take on Trust litigation at a disadvantage, an outcome which there is no indication the Legislature intended.

(*See* Adjudication Order at 3:12-19.) As such, the Trust's argument fails and the Motion should be granted.

IV. CONCLUSION

Based on the foregoing, BHFS respectfully requests that the Court grant the Motion and adjudicate its Lien in the amount of $311,784.12.

DATED this 14th day of February, 2017.

BROWNSTEIN HYATT FARBER SCHRECK, LLP

By: /s/ Kirk B. Lenhard
KIRK B. LENHARD, ESQ., Bar No. 1437
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Attorneys for Eleanor Connell Hartman Ahern

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of Brownstein Hyatt Farber Schreck, LLP, and pursuant to NRCP 5(b), EDCR 8.05, Administrative Order 14-2, and NEFCR 9, I caused a true and correct copy of the foregoing **REPLY IN SUPPORT OF MOTION TO ADJUDICATE ATTORNEY'S LIEN** be submitted electronically for filing and service with the Eighth Judicial District Court via the Court's Electronic Filing System on the 14th day of February, 2017, to the following:

TODD L. MOODY, ESQ.
tmoody@hutchlegal.com
RUSSEL J. GEIST, ESQ.
rgeist@hutchlegal.com
HUTCHISON & STEFFEN, LLC
10080 West Alta Drive, Suite 200
Las Vegas, NV 89145
Attorneys for Fredrick P. Waid, Court-appointed Trustee

JOSEPH J. POWELL, ESQ.
probate@rushforthfirm.com
THE RUSHFORTH FIRM, LTD.
P.O. Box 371655
Las Vegas, NV 89137-1655
Attorneys for Jacqueline M. Montoya and Kathryn A. Bouvier

/s/ Elizabeth Barnwell
an employee of Brownstein Hyatt Farber Schreck, LLP

Marquis Aurbach Coffing
Dale A. Hayes, Esq.
Nevada Bar No. 3430
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CLERK OF THE COURT

DISTRICT COURT

CLARK COUNTY, NEVADA

In the Matter of THE W.N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST DATED May 18, 1972, An Inter Vivos Irrevocable Trust.	Case No.: P-09-066425-T Dept. No.: 26

NOTICE OF ENTRY OF ORDER

Please take notice that a Decision and Order re Marquis Aurbach Coffing's Motion to Adjudicate Attorney's Lien was entered in the above-captioned matter on the 9th day of February, 2017, a copy of which is attached hereto.

Dated this 16th day of February, 2017.

MARQUIS AURBACH COFFING

By _____
Dale A. Hayes, Esq.
Nevada Bar No. 3430
Liane K. Wakayama, Esq.
Nevada Bar No. 11313
Candice E. Renka, Esq.
Nevada Bar No. 11447
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CERTIFICATE OF SERVICE

I hereby certify that the foregoing **NOTICE OF ENTRY OF ORDER** was submitted electronically for filing and/or service with the Eighth Judicial District Court on the 16th day of February, 2017. Electronic service of the foregoing document shall be made in accordance with the E-Service List as follows:[1]

Albright Stoddard Warnick & Albright	
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Joseph J. Powell	probate@rushforthfirm.com

I further certify that I served a copy of this document by mailing a true and correct copy

[1] Pursuant to EDCR 8.05(a), each party who submits an E-Filed document through the E-Filing System consents to electronic service in accordance with NRCP 5(b)(2)(D).

thereof, postage prepaid, addressed to:

Eleanor Ahern
400 Paradise Pkwy, Unit 111
Mesquite, Nevada 89027
Pro Se

An employee of Marquis Aurbach Coffing

MARQUIS AURBACH COFFING
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ORDR

CLERK OF THE COURT

DISTRICT COURT

CLARK COUNTY, NEVADA

IN THE MATTER OF THE W.N. CONNELL and MARJORIE T. CONNELL LIVING TRUST, dated May 18, 1972	Case No.: P-09-066425-T Department XXVI

DECISION AND ORDER
Re: Marquis Aurbach Coffing's Motion to Adjudicate Attorney's Lien

The above referenced matter came on for hearing on Marquis Aurbach Coffing's (MAC) Motion to Adjudicate Attorney's Lien on September 7, 2016, and November 23, 2016. As the initial filing provided only redacted billings the counsel for the Successor Trustee, and Beneficiaries objected, the matter was continued to allow time for counsel for the Successor Trustee to review and comment on un-redacted billings. The primary objection raised by counsel for the Successor Trustee, as well as the Beneficiaries, was to the attorney's lien attaching to the MTC trust (100% of the total income) as opposed to prior trustee Eleanor Ahern's beneficial interest (35%), on the grounds that the attorneys representation benefitted only Eleanor in her individual capacity and not the MTC trust. The parties returned on January 18, 2017, at which time the Court took the matter under advisement to review *in camera* submissions from the parties (including the beneficiaries who have not reviewed the un-redacted billing statements). The Court, having reviewed the un-redacted billing statements together with the letter in support of the lien from MAC, the letter outlining the Successor Trustee's position on the proper party to pay the fees, and the letter from counsel for the beneficiaries, and the pleadings and papers on file herein the Court hereby enters the following decision:

The litigation herein has gone on for some time, and Eleanor has been represented by several different law firms. The litigation arises out of the WN and Marjorie Connell Trust which held Mr. Connell's separate property consisting primarily of Texas oil and

GLORIA T. STURMAN
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gas lease royalties. The trust provided that upon WN's death, Eleanor would receive 35% of the proceeds for her lifetime, with Marjorie Connell receiving 65% for her lifetime. Prior to her death in 2009, Marjorie exercised her power of appointment to leave her share to her granddaughters, Jacqueline Montoya and Kathryn Bouvier, Eleanor was the Successor Trustee. In 2013 Eleanor unilaterally stopped distributions to her daughters, who filed a petition to compel distribution of the 65% to them. The Court found that Marjorie had authority to leave the 65% to her granddaughters, thus Eleanor had wrongfully withheld the funds from her daughters, which Eleanor appealed. Pending resolution of the appeal the Court ordered Eleanor hold the 65% in trust. A settlement was negotiated in the interim, but Eleanor terminated her counsel and hired MAC to successfully oppose enforcement of the settlement. Subsequently MAC withdrew and the law firm of Brownstein Hyatt began representing Eleanor. The Court found that Eleanor had wrongfully failed to hold the 65% in trust, and removed her as trustee. Fred Waid was appointed Successor Trustee for all of the beneficiaries, and attempted to identify how much was missing from the trust, and whether any funds could be recovered. The NV Supreme Court recently affirmed the finding that Eleanor had wrongfully withheld the 65% from her daughters. See, In the matter of the W.N. Connell and Marjorie T. Connell Living Trust, (unpublished Case No. 66231 & 68046 decided 1/26/2017).

MAC has properly perfected its attorney's lien pursuant to NRS 18.015. One of the objections raised by the Successor Trustee was that the lien cannot attach to proceeds because none were "recovered" by Eleanor. The court has authority to enter a judgment for attorney's fees where the client has submitted herself to the court's jurisdiction. See, Argentena Consolidated Mining Co. v Jolley Urga, et al, 125 Nev. 527, 216 P.3d 779 (2009). Here, Eleanor has submitted herself to jurisdiction of Court as a party, the Court also has jurisdiction over MAC, having appeared as counsel in the action. A charging lien does not attach where a party did not file an affirmative claim, rather it attaches "to the tangible fruits of the attorneys services." Id. In Argentena the plaintiff's claim against the defendant was dismissed, the defendant had not filed any claims against the plaintiff so there was nothing for the charging lien to attach to.

Here, Eleanor did file counter petitions, seeking to confirm her claim to the disputed 65%, as well as enforcement of the no contest clause against Jacqueline and Kathryn. The attorney's fees must arise on account of the suit. Id. Withdrawal by

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DISTRICT JUDGE
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counsel before settlement does not prevent enforcement of its charging lien. See, McDonald Carrion et al v Bourassa Law Group, LLC. Unpublished, WL 57739793 (2015). The requirement that an attorney lien is enforced against an "affirmative recovery" is a generalized requirement so that the lien may attach to something of value. Id. Here, the fees charged by MAC arise from their defense of Eleanor's claim to the disputed 65%, as well defending her right to continued receipt of her 35% share.

A charging lien may have priority over other liens if notice is perfected before a settlement or judgment. See Golightly and Vannah v TJ Allen, LLC., 372 P.3d 103 (2016). Attorneys may perfect their attorney's lien after a settlement is reached but before funds are received. Id. Here, MAC successfully defeated enforcement of a settlement agreement disputed by Eleanor, and litigation has continued as to the amounts to be charged against Eleanor for breach of fiduciary duty, and enforcement of the no-contest clause against her beneficial interest. Thus the lien may attach to the sums she is affirmatively defending and/or claiming.

The Successor Trustee objects to the lien attaching to Eleanor's beneficial interest as this would violate the Spendthrift provisions of the Trust. As discussed herein, the unique nature of an attorney's charging lien allows a judgment to be entered against the "affirmative recovery" sought by a party to litigation. No distinction is made in the cases interpreting NRS 18.015 which would suggest that a party who is affirmatively defending their right to continue to receive funds from a Trust would have a defense to paying her attorneys by virtue of the fact that the Trust contains a spendthrift clause. To read such a defense into NRS 18.015 would place attorneys who take on Trust litigation at a disadvantage, an outcome which there is no indication the Legislature intended.

The Court has considered the MAC lien claim in light of the factors identified in Brunzell v. Golden Gate National Bank, 85 Nev. 345, 455 P. 2d 31 (1969) factors and finds that the rates charged are reasonable in the community given the (1) qualities of the advocate(s) who have expertise, experience, and specialization in the field of Trusts and Estates litigation; (2) the character of the work which was complex and difficult, important to the outcome of the case, requiring significant time and skill and the need for counsel to familiarize themselves with the history of the case within a relatively shortened timeframe; (3) the work performed required skill time and attention; and (4) the successful outcome objecting to enforcement of a settlement agreement, until such time as the relationship broke down over Eleanor's misrepresentations regarding the

GLORIA L. STURMAN
DISTRICT JUDGE
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funds ordered to be held in trust. Counsel for the Successor Trustee does not challenge the rate or amount billed, nor do the beneficiaries.

MAC billed for three separate matters, Eleanor's lawsuit against her former attorney David Mann to recover the retainer paid to him; the will contest; and the instant Trust litigation. The retainer agreement was signed by Eleanor in her individual capacity and trustee. Eleanor opposing enforcement of the settlement agreement did not benefit any of the parties, especially not the Trust. Mr. Mann has taken the position that he only represented Eleanor, so seeking recovery of the fee did not benefit the Trust, nor did the Will Contest.

Based on a review of the un-redacted billings, it appears that all of the work undertaken by MAC was exclusively related to Eleanor's interests and not for the benefit of the Trust and could only be assessed against Eleanor's beneficial interest.

MAC also seeks costs in its charging lien. The documentation attached does not approach the specificity required pursuant to Cadle Co. v. Woods & Erickson, LLP, 131 Nev. Adv. Op. 15, 345 P.3d 1049 (2015) for an award of costs by the Court. Filing fees, transcript and recording fees can be confirmed upon a review of the Court's records, so any costs charged for those items will be allowed as part of the judgment. Any other costs, including but not limited to charges "scanning" and "copying" will not be allowed as part of the judgment.

Wherefore, the Court hereby GRANTS the Motion for Attorney's Lien, fees are awarded in their entirety, and costs are awarded in accordance with Cadle. The lien shall be a judgment only against Eleanor's beneficial interest in the Trust.

Dated this 9th day of February, 2017.

GLORIA STURMAN
DISTRICT JUDGE
DEPARTMENT 26

GLORIA STURMAN
DISTRICT JUDGE
DEPT. XXVI
LAS VEGAS, NV 89155

CERTIFICATE OF SERVICE

I hereby certify that on or about the date filed, a copy of the foregoing **DECISION AND ORDER** Re: Marquis Aurbach Coffing's Motion to Adjudicate Attorney's Lien was E-Served, mailed or a copy was placed in the attorney's folder in the Clerk's Office as follows:

Dale Hayes, Esq.
Liane Wakayama, Esq.
Candice Renka, Esq.
Marquis Aurbach Coffing
10001 Park Run Drive
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Joseph Powell, Esq.
The Rushforth Firm
1707 Village Center Circle, Ste. 150
Las Vegas, NV 89134

Kirk Lenhard, Esq.
Brownstein Hyatt Farber Schrek, LLP
100 North City Parkway, Suite #1600
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Eleanor Ahern
111 Paradise Pkwy.
Mequite, NV 89027
And
400 Paradise Pkwy, Unit 111
Mequite, NV 89027
And
8635 W. Sahara Ave., #50
Las Vegas, NV 89117
And
355 W. Mesquite Blvd., D30 #176
Mesquite, NV 8902~~7~~

Linda Denman
Judicial Executive Assistant
Department 26

GLORIA J. STURMAN
DISTRICT JUDGE
DEPT XXVI
LAS VEGAS, NV 89155

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CLERK OF THE COURT

CSERV
Todd L. Moody (5430)
Russel J. Geist (9030)
HUTCHISON & STEFFEN, LLC
10080 West Alta Drive, Suite 200
Las Vegas, Nevada 89145
(702) 385-2500
(702) 385-2086 FAX
tmoody@hutchlegal.com
rgeist@hutchlegal.com

Attorneys for Fredrick P. Waid Court-appointed Trustee

DISTRICT COURT

CLARK COUNTY, NEVADA

In the matter of

THE W.N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST DATED May 18, 1972, an Inter Vivos Irrevocable Trust.

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

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of HUTCHISON & STEFFEN and that on this 16 day of February, 2017, I caused a true and correct copy of the foregoing:

A) **Order Dismissing Appeal (Docket No. 66231) and Order of Affirmance (Docket Nos. 67782 and 68046);**

B) **Letter to the Honorable Gloria Sturman from Todd L. Moody, Esq., Dated January 23, 2017;**

C) **Letter via Facsimile to Eleanor Ahern from Russel J. Geist, J.D., LLM. Dated February 3, 2017;**

D) **Accounting and Report of Trust Activity from 2013 to 2015;**

E) **Response to Motion to Adjudicate Attorney's Lien;**

F) **Trustee's Exhibits Introduced at Evidentiary Hearing:**

1) **Wells Fargo;**

2) **Suzanne Nounna, Susan Noumna, Joy, Sue Newman;**

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LAS VEGAS, NV 89145

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3) **Ariella Noumna;**

4) **Fred Brown;**

5) **Jason Collins;**

6) **Barbara Shortz;**

7) **Darel Burks, Burks Security;**

8) **Zhora Tujani;**

9) **Curt Baggett;**

10) **Jeffrey M. Johnston;**

11) **Lisa Johnson;**

12) **Ryan Scharar;**

13) **Jerry Savelle;**

14) **Sandee Mann;**

15) **Sherry Dober;**

16) **Margaret Wardella;**

17) **Larry Prucka;**

18) **Sterling Clark;**

19) **Eleanor (Ellie) Ahern Foundation;**

20) **Expert Jet Charter;**

21) **Joseph's Properties;**

22) **McNair CPA;**

23) **Fox Spy Outlet of Nevada;**

24) **Desert Oasis Clinic;**

25) **Dog care and grooming;**

26) **The Nevada Consultants Incorporated;**

27) **Captains Ship;**

28) **Omni Hotel & Resorts;**

29) **American Express;**

30) **Cirrus Aviation Services;**

31) **Blue Star Jets;**

32) **New Horizons Ministry;**

33) **Lynch, Chappell & Alsup;**

34) **RC Willey;**

35) **Connell Family Foundation;**

36) **Wells Fargo;**

37) **Eleanor Ahern;**

38) **Ahern Declaration; and**

39) **W.N. Connell & Marjorie T. Connell Trust.**

to be served as follows:

[X] by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada; and/or

[X] pursuant to EDCR 8.05(a) and 8.05(f), to be electronically served through the Eighth Judicial District Court's electronic filing system, with the date and time of the electronic service substituted for the date and place of deposit in the mail; and/or

[ ] Pursuant to EDCR 7.26, to be sent via facsimile; and/or

[ ] to be hand-delivered;

to the persons listed below at the address and/or facsimile number indicated below:

Via U.S. Mail:
Eleanor Ahern
355 West Mesquite, D30, #176
Mesquite, NV 89027

Via Wiznet Only: (Certificate of Service Only)
Joseph J. Powell, Esq.
The Rushforth Firm
1707 Village Center Circle, Ste. 150
Las Vegas, NV 89134
Attorneys for Kathryn A. Bouvier and Jacqueline M. Montoya

An Employee of Hutchison & Steffen, LLC

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ORDR

CLERK OF THE COURT

DISTRICT COURT

CLARK COUNTY, NEVADA

IN THE MATTER OF THE W.N. CONNELL and MARJORIE T. CONNELL LIVING TRUST, dated May 18, 1972	Case No.: P-09-066425-T Department XXVI

DECISION AND ORDER
Re: Brownstein Hyatt Farber Schreck, LLP's
Motion to Adjudicate Attorney's Lien

The above referenced matter came on for hearing on Brownstein Hyatt Farber Schreck, LLP's (BHFS) Motion to Adjudicate Attorney's Lien on February 22nd, 2017. The primary objection raised by counsel for the Successor Trustee was to the attorney's lien attaching to the MTC trust (100% of the total income) or Eleanor Ahern's beneficial interest (35%), on the grounds that Ms. Ahern did not agree to her fees being paid from her beneficial interest, an assignment of her interest is prohibited by the spendthrift provision, and Ms. Ahern's share is currently suspended and cannot be assigned. The Court, having reviewed the pleadings and papers on file, and having heard oral argument from counsel, herein hereby enters the following decision:

The litigation herein has gone on for some time, and Eleanor has been represented by several different law firms. The litigation arises out of the WN and Marjorie Connell Trust which held Mr. Connell's separate property consisting primarily of Texas oil and gas lease royalties. The trust provided that upon WN's death, Eleanor would receive 35% of the proceeds for her lifetime, with Marjorie Connell receiving 65% for her lifetime. Prior to her death in 2009, Marjorie exercised her power of appointment to leave her share to her granddaughters, Jacqueline Montoya and Kathryn Bouvier, Eleanor was the Successor Trustee. In 2013 Eleanor unilaterally stopped distributions to her daughters, who filed a petition to compel distribution of the 65% to them. The Court found that Marjorie had authority to leave the 65% to her granddaughters, thus

GLORIA A. STURMAN
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Eleanor had wrongfully withheld the funds from her daughters, which Eleanor appealed. Pending resolution of the appeal the Court ordered Eleanor hold the 65% in trust. A settlement was negotiated in the interim, but Eleanor terminated her counsel and hired MAC to successfully oppose enforcement of the settlement. Subsequently MAC withdrew and the law firm of BHFS began representing Eleanor. The Court found that Eleanor had wrongfully failed to hold the 65% in trust, and removed her as trustee. Fred Waid was appointed Successor Trustee for all of the beneficiaries, and attempted to identify how much was missing from the trust, and whether any funds could be recovered. The NV Supreme Court recently affirmed the finding that Eleanor had wrongfully withheld the 65% from her daughters. See, In the matter of the W.N. Connell and Marjorie T. Connell Living Trust, (unpublished Case No. 66231 & 68046 decided 1/26/2017).

BHFS has properly perfected its attorney's lien pursuant to NRS 18.015. One of the objections raised by the Successor Trustee was that the lien cannot attach to proceeds because none were "recovered" by Eleanor. The court has authority to enter a judgment for attorney's fees where the client has submitted herself to the court's jurisdiction. See, Argentena Consolidated Mining Co. v Jolley Urga, et al, 125 Nev. 527, 216 P.3d 779 (2009). Here, Eleanor has submitted herself to jurisdiction of Court as a party, the Court also has jurisdiction over BHFS, having appeared as counsel in the action. A charging lien does not attach where a party did not file an affirmative claim, rather it attaches "to the tangible fruits of the attorneys services." Id. In Argentena the plaintiff's claim against the defendant was dismissed, the defendant had not filed any claims against the plaintiff so there was nothing for the charging lien to attach to.

Here, Eleanor did file counter petitions, seeking to confirm her claim to the disputed 65%, as well as enforcement of the no contest clause against Jacqueline and Kathryn. The attorney's fees must arise on account of the suit. Id. Withdrawal by counsel before settlement does not prevent enforcement of its charging lien. See, McDonald Carrion et al v Bourassa Law Group, LLC. Unpublished, WL 57739793 (2015). The requirement that an attorney lien is enforced against an "affirmative recovery" is a generalized requirement so that the lien may attach to something of value. Id. Here, the fees charged by BHFS arise from their defense of Eleanor in defeating a motion to hold her in contempt, a motion to forfeit her interest in the Trust, and a motion to impose punitive damages.

GLORIA J. STURMAN
DISTRICT JUDGE
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LAS VEGAS, NV 89155

A charging lien may have priority over other liens if notice is perfected before a settlement or judgment. See Golightly and Vannah v TJ Allen, LLC., 372 P.3d 103 (2016). Attorneys may perfect their attorney's lien after a settlement is reached but before funds are received. Id. Here litigation has continued as to the amounts to be charged against Eleanor for breach of fiduciary duty, and enforcement of the no-contest clause against her beneficial interest. Thus the lien may attach to the sums she is affirmatively defending and/or claiming.

The Successor Trustee objects to the lien attaching to Eleanor's beneficial interest as this would violate the Spendthrift provisions of the Trust. As discussed herein, the unique nature of an attorney's charging lien allows a judgment to be entered against the "affirmative recovery" sought by a party to litigation. No distinction is made in the cases interpreting NRS 18.015 which would suggest that a party who is affirmatively defending their right to continue to receive funds from a Trust would have a defense to paying her attorneys by virtue of the fact that the Trust contains a spendthrift clause. To read such a defense into NRS 18.015 would place attorneys who take on Trust litigation at a disadvantage, an outcome which there is no indication the Legislature intended.

The Court has considered the BHFS lien claim in light of the factors identified in Brunzell v. Golden Gate National Bank, 85 Nev. 345, 455 P. 2d 31 (1969) factors and finds that the rates charged are reasonable in the community given the (1) qualities of the advocate(s) who have expertise, experience, and specialization in the field of commercial and complex litigation; (2) the character of the work which was complex and difficult, important to the outcome of the case, requiring significant time and skill and the need for counsel to familiarize themselves with the history of the case within a relatively shortened timeframe; (3) the work performed required skill time and attention; and (4) the successful outcome defeating a motion to hold her in contempt, a motion to forfeit her interest in the trust, and a motion to impose punitive damages, until such time as the relationship broke down over Eleanor's refusal to follow the advice of BHFS.

The fee and cost request accurately reflects the amounts described in the retainer agreement, which was signed by Eleanor in her individual capacity. Counsel for the Successor Trustee does not challenge the rate or amount billed, nor do the beneficiaries. While the Court did not review the billing entries, having considered the *Brunzell* factors, the retainer agreement, and Counsel for the Successor Trustee affirmatively stating at the

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hearing that he is not challenging the amount requested, the Court finds the fees requested to be reasonable.

BHFS also seeks costs in its charging lien. The documentation attached does not approach the specificity required pursuant to Cadle Co. v. Woods & Erickson, LLP, 131 Nev. Adv. Op. 15, 345 P.3d 1049 (2015) for an award of costs by the Court. Costs will be awarded upon receipt of supplemental documentation.

Wherefore, the Court hereby GRANTS the Motion for Attorney's Lien, fees are awarded in their entirety, and costs are awarded subject to supplemental documentation in accordance with Cadle. The lien shall be a judgment only against Eleanor's beneficial interest in the Trust.

Dated this 22nd day of February, 2017.

GLORIA STURMAN
DISTRICT JUDGE
DEPARTMENT 26

GLORIA J. STURMAN
DISTRICT JUDGE
DEPT XXVI
LAS VEGAS, NV 89155

CERTIFICATE OF SERVICE

I hereby certify that on or about the date filed, a copy of the foregoing **DECISION AND ORDER** Re: Brownstein Hyatt Farber Schrek, LLP's Motion to Adjudicate Attorney's Lien was E-Served, mailed or a copy was placed in the attorney's folder in the Clerk's Office as follows:

Dale Hayes, Esq.
Liane Wakayama, Esq.
Candice Renka, Esq.
Marquis Aurbach Coffing
10001 Park Run Drive
Las Vegas, NV 89145

Kirk Lenhard, Esq.
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Joseph Powell, Esq.
The Rushforth Firm
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Las Vegas, NV 89134

Eleanor Ahern
355 W. Mesquite Blvd., D30 #176
Mesquite, NV 89027

Linda Denman
Judicial Executive Assistant
Department 26

GLORIA J. STURMAN
DISTRICT JUDGE
DEPT XXVI
LAS VEGAS, NV 89155

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CLERK OF THE COURT

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KIRK B. LENHARD, ESQ., Bar No. 1437
klenhard@bhfs.com
BROWNSTEIN HYATT FARBER SCHRECK, LLP
100 North City Parkway, Suite 1600
Las Vegas, NV 89106-4614
Telephone: 702.382.2101
Facsimile: 702.382.8135

DISTRICT COURT

CLARK COUNTY, NEVADA

In the Matter of THE W.N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST DATED May 18, 1972, An Inter Vivos Irrevocable Trust	CASE NO.: P-09-066425-T DEPT. NO.: XXVI **NOTICE OF ENTRY OF DECISION AND ORDER RE: BHFS MOTION TO ADJUDICATE ATTORNEY'S LIEN** **Date of Hearing: February 22, 2017** **Time of Hearing: 9:30 a.m.**

PLEASE TAKE NOTICE that the Decision and Order Re: Brownstein Hyatt Farber Schreck, LLP's Motion to Adjudicate Attorney's Lien was entered on February 23, 2017. A copy of said Decision and Order is attached hereto.

DATED this 27th day of February, 2017.

BROWNSTEIN HYATT FARBER SCHRECK, LLP

By: /s/ Kirk B. Lenhard
KIRK B. LENHARD, ESQ., Bar No. 1437
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BROWNSTEIN HYATT FARBER SCHRECK, LLP
100 North City Parkway, Suite 1600
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702.382.2101

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of Brownstein Hyatt Farber Schreck, LLP, and pursuant to NRCP 5(b), EDCR 8.05, Administrative Order 14-2, and NEFCR 9, I caused a true and correct copy of the foregoing **NOTICE OF ENTRY OF DECISION AND ORDER RE: BHFS MOTION TO ADJUDICATE ATTORNEY'S LIEN** to be submitted electronically for filing and service with the Eighth Judicial District Court via the Court's Electronic Filing System on the 27th day of February, 2017, to the following:

TODD L. MOODY, ESQ.
tmoody@hutchlegal.com
RUSSEL J. GEIST, ESQ.
rgeist@hutchlegal.com
HUTCHISON & STEFFEN, LLC
10080 West Alta Drive, Suite 200
Las Vegas, NV 89145
Attorneys for Fredrick P. Waid, Court-appointed Trustee

JOSEPH J. POWELL, ESQ.
probate@rushforthfirm.com
THE RUSHFORTH FIRM, LTD.
P.O. Box 371655
Las Vegas, NV 89137-1655
Attorneys for Jacqueline M. Montoya and Kathryn A. Bouvier

/s/ Paula Kay
an employee of Brownstein Hyatt Farber Schreck, LLP

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ORDR

CLERK OF THE COURT

DISTRICT COURT

CLARK COUNTY, NEVADA

IN THE MATTER OF THE W.N. CONNELL and MARJORIE T. CONNELL LIVING TRUST, dated May 18, 1972	Case No.: P-09-066425-T Department XXVI

DECISION AND ORDER
Re: Brownstein Hyatt Farber Schreck, LLP's Motion to Adjudicate Attorney's Lien

The above referenced matter came on for hearing on Brownstein Hyatt Farber Schreck, LLP's (BHFS) Motion to Adjudicate Attorney's Lien on February 22nd, 2017. The primary objection raised by counsel for the Successor Trustee was to the attorney's lien attaching to the MTC trust (100% of the total income) or Eleanor Ahern's beneficial interest (35%), on the grounds that Ms. Ahern did not agree to her fees being paid from her beneficial interest, an assignment of her interest is prohibited by the spendthrift provision, and Ms. Ahern's share is currently suspended and cannot be assigned. The Court, having reviewed the pleadings and papers on file, and having heard oral argument from counsel, herein hereby enters the following decision:

The litigation herein has gone on for some time, and Eleanor has been represented by several different law firms. The litigation arises out of the WN and Marjorie Connell Trust which held Mr. Connell's separate property consisting primarily of Texas oil and gas lease royalties. The trust provided that upon WN's death, Eleanor would receive 35% of the proceeds for her lifetime, with Marjorie Connell receiving 65% for her lifetime. Prior to her death in 2009, Marjorie exercised her power of appointment to leave her share to her granddaughters, Jacqueline Montoya and Kathryn Bouvier, Eleanor was the Successor Trustee. In 2013 Eleanor unilaterally stopped distributions to her daughters, who filed a petition to compel distribution of the 65% to them. The Court found that Marjorie had authority to leave the 65% to her granddaughters, thus

GLORIA A. STURMAN
DISTRICT JUDGE
DEPT XXVI
LAS VEGAS, NV 89155

Eleanor had wrongfully withheld the funds from her daughters, which Eleanor appealed. Pending resolution of the appeal the Court ordered Eleanor hold the 65% in trust. A settlement was negotiated in the interim, but Eleanor terminated her counsel and hired MAC to successfully oppose enforcement of the settlement. Subsequently MAC withdrew and the law firm of BHFS began representing Eleanor. The Court found that Eleanor had wrongfully failed to hold the 65% in trust, and removed her as trustee. Fred Waid was appointed Successor Trustee for all of the beneficiaries, and attempted to identify how much was missing from the trust, and whether any funds could be recovered. The NV Supreme Court recently affirmed the finding that Eleanor had wrongfully withheld the 65% from her daughters. See, In the matter of the W.N. Connell and Marjorie T. Connell Living Trust, (unpublished Case No. 66231 & 68046 decided 1/26/2017).

BHFS has properly perfected its attorney's lien pursuant to NRS 18.015. One of the objections raised by the Successor Trustee was that the lien cannot attach to proceeds because none were "recovered" by Eleanor. The court has authority to enter a judgment for attorney's fees where the client has submitted herself to the court's jurisdiction. See, Argentena Consolidated Mining Co. v Jolley Urga, et al, 125 Nev. 527, 216 P.3d 779 (2009). Here, Eleanor has submitted herself to jurisdiction of Court as a party, the Court also has jurisdiction over BHFS, having appeared as counsel in the action. A charging lien does not attach where a party did not file an affirmative claim, rather it attaches "to the tangible fruits of the attorneys services." Id. In Argentena the plaintiff's claim against the defendant was dismissed, the defendant had not filed any claims against the plaintiff so there was nothing for the charging lien to attach to.

Here, Eleanor did file counter petitions, seeking to confirm her claim to the disputed 65%, as well as enforcement of the no contest clause against Jacqueline and Kathryn. The attorney's fees must arise on account of the suit. Id. Withdrawal by counsel before settlement does not prevent enforcement of its charging lien. See, McDonald Carrion et al v Bourassa Law Group, LLC. Unpublished, WL 57739793 (2015). The requirement that an attorney lien is enforced against an "affirmative recovery" is a generalized requirement so that the lien may attach to something of value. Id. Here, the fees charged by BHFS arise from their defense of Eleanor in defeating a motion to hold her in contempt, a motion to forfeit her interest in the Trust, and a motion to impose punitive damages.

GLORIA J. STURMAN
DISTRICT JUDGE
DEPT XXVI
LAS VEGAS, NV 89155

A charging lien may have priority over other liens if notice is perfected before a settlement or judgment. See Golightly and Vannah v TJ Allen, LLC, 372 P.3d 103 (2016). Attorneys may perfect their attorney's lien after a settlement is reached but before funds are received. Id. Here litigation has continued as to the amounts to be charged against Eleanor for breach of fiduciary duty, and enforcement of the no-contest clause against her beneficial interest. Thus the lien may attach to the sums she is affirmatively defending and/or claiming.

The Successor Trustee objects to the lien attaching to Eleanor's beneficial interest as this would violate the Spendthrift provisions of the Trust. As discussed herein, the unique nature of an attorney's charging lien allows a judgment to be entered against the "affirmative recovery" sought by a party to litigation. No distinction is made in the cases interpreting NRS 18.015 which would suggest that a party who is affirmatively defending their right to continue to receive funds from a Trust would have a defense to paying her attorneys by virtue of the fact that the Trust contains a spendthrift clause. To read such a defense into NRS 18.015 would place attorneys who take on Trust litigation at a disadvantage, an outcome which there is no indication the Legislature intended.

The Court has considered the BHFS lien claim in light of the factors identified in Brunzell v. Golden Gate National Bank, 85 Nev. 345, 455 P. 2d 31 (1969) factors and finds that the rates charged are reasonable in the community given the (1) qualities of the advocate(s) who have expertise, experience, and specialization in the field of commercial and complex litigation; (2) the character of the work which was complex and difficult, important to the outcome of the case, requiring significant time and skill and the need for counsel to familiarize themselves with the history of the case within a relatively shortened timeframe; (3) the work performed required skill time and attention; and (4) the successful outcome defeating a motion to hold her in contempt, a motion to forfeit her interest in the trust, and a motion to impose punitive damages, until such time as the relationship broke down over Eleanor's refusal to follow the advice of BHFS.

The fee and cost request accurately reflects the amounts described in the retainer agreement, which was signed by Eleanor in her individual capacity. Counsel for the Successor Trustee does not challenge the rate or amount billed, nor do the beneficiaries. While the Court did not review the billing entries, having considered the *Brunzell* factors, the retainer agreement, and Counsel for the Successor Trustee affirmatively stating at the

GLORIA J. STURMAN
DISTRICT JUDGE
DEPT XXVI
LAS VEGAS, NV 89155

hearing that he is not challenging the amount requested, the Court finds the fees requested to be reasonable.

BHFS also seeks costs in its charging lien. The documentation attached does not approach the specificity required pursuant to Cadle Co. v. Woods & Erickson, LLP, 131 Nev. Adv. Op. 15, 345 P.3d 1049 (2015) for an award of costs by the Court. Costs will be awarded upon receipt of supplemental documentation.

Wherefore, the Court hereby GRANTS the Motion for Attorney's Lien, fees are awarded in their entirety, and costs are awarded subject to supplemental documentation in accordance with Cadle. The lien shall be a judgment only against Eleanor's beneficial interest in the Trust.

Dated this 22nd day of February, 2017.

GLORIA STURMAN
DISTRICT JUDGE
DEPARTMENT 26

GLORIA J. STURMAN
DISTRICT JUDGE
DEPT XXVI
LAS VEGAS, NV 89155

CERTIFICATE OF SERVICE

I hereby certify that on or about the date filed, a copy of the foregoing **DECISION AND ORDER** Re: Brownstein Hyatt Farber Schrek, LLP's Motion to Adjudicate Attorney's Lien was E-Served, mailed or a copy was placed in the attorney's folder in the Clerk's Office as follows:

Dale Hayes, Esq.
Liane Wakayama, Esq.
Candice Renka, Esq.
Marquis Aurbach Coffing
10001 Park Run Drive
Las Vegas, NV 89145

Kirk Lenhard, Esq.
Brownstein Hyatt Farber Schrek, LLP
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Joseph Powell, Esq.
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1707 Village Center Circle, Ste. 150
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Eleanor Ahern
355 W. Mesquite Blvd., D30 #176
Mesquite, NV 89027

Linda Denman
Judicial Executive Assistant
Department 26

GLORIA J. STURMAN
DISTRICT JUDGE
DEPT XXVI
LAS VEGAS, NV 89155

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CLERK OF THE COURT

Marquis Aurbach Coffing
Dale A. Hayes, Esq.
Nevada Bar No. 3430
Liane K. Wakayama, Esq.
Nevada Bar No. 11313
Candice E. Renka, Esq.
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DISTRICT COURT

CLARK COUNTY, NEVADA

In the Matter of THE W.N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST DATED May 18, 1972, An Inter Vivos Irrevocable Trust.	Case No.: P-09-066425-T Dept. No.: 26

JUDGMENT

Judgment is hereby entered in favor of Marquis Aurbach Coffing and against Eleanor Ahern for attorney fees in the amount of $151,228.69 and costs in the amount of $9,726.43 for a total judgment of $160,955.12, which amount shall accrue interest at the legal rate until such time it is paid in full.

Dated this 22 day of February, 2017.

DISTRICT COURT JUDGE

Submitted by:

MARQUIS AURBACH COFFING

By
Dale A. Hayes, Esq., Nevada Bar No. 3430
Liane K. Wakayama, Esq., Nevada Bar No. 11313
Candice E. Renka, Esq., Nevada Bar No. 11447
10001 Park Run Drive
Las Vegas, Nevada 89145

MAC:207-002 3015624_1

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CLERK OF THE COURT

DISTRICT COURT

CLARK COUNTY, NEVADA

In the Matter of THE W.N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST DATED May 18, 1972, An Inter Vivos Irrevocable Trust.	Case No.: P-09-066425-T Dept. No.: 26

NOTICE OF ENTRY OF JUDGMENT

Please take notice that a Judgment in favor of Marquis Aurbach Coffing and against Eleanor Ahern for attorney fees and costs was entered in the above-captioned matter on the 28th day of February, 2017, a copy of which is attached hereto.

Dated this 1st day of March, 2017.

MARQUIS AURBACH COFFING

By
Dale A. Hayes, Esq.
Nevada Bar No. 3430
Liane K. Wakayama, Esq.
Nevada Bar No. 11313
Candice E. Renka, Esq.
Nevada Bar No. 11447
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CERTIFICATE OF SERVICE

I hereby certify that the foregoing **NOTICE OF ENTRY OF JUDGMENT** was submitted electronically for filing and/or service with the Eighth Judicial District Court on the 1st day of March, 2017. Electronic service of the foregoing document shall be made in accordance with the E-Service List as follows:[1]

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I further certify that I served a copy of this document by mailing a true and correct copy

[1] Pursuant to EDCR 8.05(a), each party who submits an E-Filed document through the E-Filing System consents to electronic service in accordance with NRCP 5(b)(2)(D).

thereof, postage prepaid, addressed to:

Eleanor Ahern
400 Paradise Pkwy, Unit 111
Mesquite, Nevada 89027
Pro Se

An employee of Marquis Aurbach Coffing

MARQUIS AURBACH COFFING
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02/28/2017 10:02:56 AM

CLERK OF THE COURT

Marquis Aurbach Coffing
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DISTRICT COURT

CLARK COUNTY, NEVADA

In the Matter of THE W.N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST DATED May 18, 1972, An Inter Vivos Irrevocable Trust.	Case No.: P-09-066425-T Dept. No.: 26

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Dated this 22 day of February, 2017.

DISTRICT COURT JUDGE

Submitted by:

MARQUIS AURBACH COFFING

By
Dale A. Hayes, Esq., Nevada Bar No. 3430
Liane K. Wakayama, Esq., Nevada Bar No. 11313
Candice E. Renka, Esq., Nevada Bar No. 11447
10001 Park Run Drive
Las Vegas, Nevada 89145

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MARQUIS AURBACH COFFING
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Eleanor Ahern
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Mesquite NV 89027
702 266 5075

FILED
MAR 02 2017
CLERK OF COURT

District Court

Clark County, Nevada

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

Case No P-09066425-T
Department XXVI

EXHIBITS 1 – 4 & EXHIBITS 7 & 9 LETTERS S TO JUDGE STURMAN

EXHIBITS 5 – 9 LETTERS TO FRED WAID, Temporary Trustee

RECEIVED
March 2, 2017
~~FEB 2 0 2017~~
CLERK OF THE COURT

P – 09 – 066425 – T
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EXHIBIT 1

Transmission Report

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(reduced sample and details below)
Document size : 8.5"x11"

Case #. P-009-664257
Nov 23 2016. 9:30am

Good morning your honor

Today as you consider Kirk Lenhards motion to withdraw. Please do not leave me without counsel.

I am asking that you order the temporary trustee, Fred Waid, to pay for new counsel for me in a timely fashion as we move forward from today. I can not be without counsel. I have need of counsel.

Thank you your honor

Please read the attached / following pages. It's a quick read

Eleanor Connell Hartman Ahern

Judge Sturman

I am not doing well on my Social Security as Fred is telling everyone.

As you now know I have a place to receive mail. I do not have the money to pay for it. It is being gifted to me. Kirk never alerted me to have a place to receive mail he just kept threatening he was going to withdraw if I did not sign their most terrible settlement.

I do not have the money to pay for new glasses. With all the add on I need to see one pair is between **$500** and **$600**. The left lens has a worn smudge directly in my line of sight. The Optometrists who I have gone to since 1969 told me both lenses are badly damaged and must be replaced for me to see correctly. Seeing is very important at any age but especially it is important for me at 78. To stay active and continue to be a blessing to others I need new glasses.

Cataract Surgery has been scheduled four times as Fred refused to give me the money to pay for the surgery each time. Cataract Surgery may help some but I still may require reading or distance glasses. I must have the surgery the surgery and the new glasses.

I only have one pair of glasses. If my glasses get broken I have no back up. I would be up a creek with no paddle.. I need you to make Fred give me the money that you made available for me to receive **$20,000** in 2015 now. No more games Fred seems to be. Playing not to execute your order made so long ago.

There is never enough money money for clothes or shoes since Fred became Trustee. Caring friends are giving me clothes.

If it were not for generous friends I would not have enough food.

My pets do not get their vet check-ups or shots.

I see that my pets receives their food for 30 days first when I get my Social Security money. I make sure they are taken care of before I have food.

One friend has started buying me food three weeks before Social Security arrives because she cares.

I had to borrow money to get new tires . The original tires on my 2011 car were dangerous. I paid the money back little by little from my Social Security check.

I do not buy tooth paste. I use baking soda. It lasts longer and costs less.

I have not had any beef since April 2015

I can no longer eat the food bank food. My body requires fresh veggie. When I can, I buy Organic I cannot eat wheat. Carbs turn to sugars which are bad for a diabetic.

Dentists have told me I have gum disease. I am told I must have my teeth gleaned every 6 months. I have not had them cleaned since Fred Waid took my place as Trustee.

I have not had a manicure, pedicure or a professional hair cut since Fred took over. These costs are not in my price range at all.

My hearing is still not good. My hearing doctor said there are 14 sounds I do not hear. This lose of these 14 sounds make me hear words that are not said causing me to answer or join the conversation way off topic. This is very dangerous for me in a court or deposition setting. The problems created for me by not getting help for my hearing and my sight puts me at a huge

disadvantage.

My ink for my printer is **$76.00**. The black will not work without the color. I need the print enlarged on my computer so I can read all the many court documents that are printed off. Often I can not print because there is no money for ink. I. cannot see to read the documents because I have no money to purchase ink to make the documents print in a larger size print I can read.

Captain, is a highly trained service dog. He is a pedigreed German Shepard and has assisted me in walking since 2005. He needs grooming every 30 days. His nails clipped, his annul gland cleaned. He is suffering along wit me because Fred refuses to allow me normal living expenses.
I am at the mercy of .friends for food and clothes and other necessities.

My shoes are very worn and broken down. Because of my short left leg by 2 inches caused by not healing for 7 years caused by an ice skating accident in 1972. Dr's told me they must cut the leg off. I refused to accept their prognosis. I traveled to UCLA medical Center. My leg healed and remained solid till I stepped on a dog dish in my garage in 2012. This time it heals solid I a month. The built up of every shoe is over **$100.00**. New shoes are needed.

My father would be turning over in his grave to learn how his only daughter is suffering and dong without. In His trust he did not provide for my daughters. He only provided for me to enjoy the fruits of his sole and separate property. My father set out in his Trust for me to enjoy all the abundance produced on and under the land my grandparents passed on to him and his 3 sisters. My cousins are enjoying their money. Now I am being denied basic living expenses living in poverty.

Respectfully,

Transmission Report

Date/Time	11-23-2016	09:25:28 a.m.	Transmit Header Text	
Local ID 1	702-346-7909		Local Name 1	Checks -N- Mail

This document : Confirmed
(reduced sample and details below)
Document size : 8.5"x11"

Case #. P-009-664257
Nov 23 2016. 9:30am

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My father would be turning over in his grave to learn how his only daughter is suffering and dong without. In His trust he did not provide for my daughters. He only provided for me to enjoy the fruits of his sole and separate property. My father set out in his Trust for me to enjoy all the abundance produced on and under the land my grandparents passed on to him and his 3 sisters. My cousins are enjoying their money. Now I am being denied basic living expenses living in poverty.

Respectfully,

My pets do not get their vet check-ups or shots.

I see that my pets receives their food for 30 days first when I get my Social Security money. I make sure they are taken care of before I have food.

One friend has started buying me food three weeks before Social Security arrives because she cares.

I had to borrow money to get new tires . The original tires on my 2011 car were dangerous. I paid the money back little by little from my Social Security check.

I do not buy tooth paste. I use baking soda. It lasts longer and costs less.

I have not had any beef since April 2015

I can no longer eat the food bank food. My body requires fresh veggie. When I can, I buy Organic I cannot eat wheat. Carbs turn to sugars which are bad for a diabetic.

Dentists have told me I have gum disease. I am told I must have my teeth gleaned every 6 months. I have not had them cleaned since Fred Waid took my place as Trustee.

I have not had a manicure, pedicure or a professional hair cut since Fred took over. These costs are not in my price range at all.

My hearing is still not good. My hearing doctor said there are 14 sounds I do not hear. This lose of these 14 sounds make me hear words that are not said causing me to answer or join the conversation way off topic. This is very dangerous for me in a court or deposition setting. The problems created for me by not getting help for my hearing and my sight puts me at a huge

Transmission Report

Date/Time	11-23-2016	09:25:28 a.m.	Transmit Header Text	
Local ID 1	702-346-7909		Local Name 1	Checks -N- Mail

This document : Confirmed
(reduced sample and details below)
Document size : 8.5"x11"

Case #. P-009-66425T
Nov 23 2016. 9:30am

Good morning your honor

Today as you consider Kirk Lenhards motion to withdraw. Please do not leave me without counsel.

I am asking that you order the temporary trustee, Fred Waid, to pay for new counsel for me in a timely fashion as we move forward from today. I can not be without counsel. I have need of counsel.

Thank you your honor

Please read the attached / following pages. It's a quick read

Eleanor Connell Hartman Ahern

Judge Sturman
I am not doing well on my Social Security as Fred is telling everyone.

As you now know I have a place to receive mail. I do not have the money to pay for it. It is being gifted to me. Kirk never alerted me to have a place to receive mail he just kept threatening he was going to withdraw if I did not sign their most terrible settlement.

I do not have the money to pay for new glasses. With all the add on I need to see one pair is between **$500** and **$600**. The left lens has a worn smudge directly in my line of sight. The Optometrists who I have gone to since 1969 told me both lenses are badly damaged and must be replaced for me to see correctly. Seeing is very important at any age but especially it is important for me at 78. To stay active and continue to be a blessing to others I need new glasses.

Cataract Surgery has been scheduled four times as Fred refused to give me the money to pay for the surgery each time. Cataract Surgery may help some but I still may require reading or distance glasses. I must have the surgery the surgery and the new glasses.

I only have one pair of glasses. If my glasses get broken I have no back up. I would be up a creek with no paddle.. I need you to make Fred give me the money that you made available for me to receive **$20,000** in 2015 now. No more games Fred seems to be. Playing not to execute your order made so long ago.

There is never enough money money for clothes or shoes since Fred became Trustee. Caring friends are giving me clothes.

If it were not for generous friends I would not have enough food.

My pets do not get their vet check-ups or shots.

I see that my pets receives their food for 30 days first when I get my Social Security money. I make sure they are taken care of before I have food.

One friend has started buying me food three weeks before Social Security arrives because she cares.

I had to borrow money to get new tires . The original tires on my 2011 car were dangerous. I paid the money back little by little from my Social Security check.

I do not buy tooth paste. I use baking soda. It lasts longer and costs less.

I have not had any beef since April 2015

I can no longer eat the food bank food. My body requires fresh veggie. When I can, I buy Organic I cannot eat wheat. Carbs turn to sugars which are bad for a diabetic.

Dentists have told me I have gum disease. I am told I must have my teeth gleaned every 6 months. I have not had them cleaned since Fred Waid took my place as Trustee.

I have not had a manicure, pedicure or a professional hair cut since Fred took over. These costs are not in my price range at all.

My hearing is still not good. My hearing doctor said there are 14 sounds I do not hear. This lose of these 14 sounds make me hear words that are not said causing me to answer or join the conversation way off topic. This is very dangerous for me in a court or deposition setting. The problems created for me by not getting help for my hearing and my sight puts me at a huge

disadvantage.

My ink for my printer is **$76.00**. The black will not work without the color. I need the print enlarged on my computer so I can read all the many court documents that are printed off. Often I can not print because there is no money for ink. I. cannot see to read the documents because I have no money to purchase ink to make the documents print in a larger size print I can read.

Captain, is a highly trained service dog. He is a pedigreed German Shepard and has assisted me in walking since 2005. He needs grooming every 30 days. His nails clipped, his annul gland cleaned. He is suffering along wit me because Fred refuses to allow me normal living expenses.
I am at the mercy of .friends for food and clothes and other necessities.

My shoes are very worn and broken down. Because of my short left leg by 2 inches caused by not healing for 7 years caused by an ice skating accident in 1972. Dr's told me they must cut the leg off. I refused to accept their prognosis. I traveled to UCLA medical Center. My leg healed and remained solid till I stepped on a dog dish in my garage in 2012. This time it heals solid I a month. The built up of every shoe is over **$100.00**. New shoes are needed.

My father would be turning over in his grave to learn how his only daughter is suffering and dong without. In His trust he did not provide for my daughters. He only provided for me to enjoy the fruits of his sole and separate property. My father set out in his Trust for me to enjoy all the abundance produced on and under the land my grandparents passed on to him and his 3 sisters. My cousins are enjoying their money. Now I am being denied basic living expenses living in poverty.

Respectfully,

EXHIBIT 2

TRANSACTION REPORT

NOV/28/2016/MON 10:19 PM

FAX(TX)

#	DATE	START T.	RECEIVER	COM.TIME	PAGE	TYPE/NOTE	FILE
001	NOV/28	10:18PM	17023661399	0:00:32	1	MEMORY OK ECM	0563

November 28, 2016

Good Morning Your Honor,

I appreciate your quick response to my motion requesting a protective order and vacating the deposition. My original paperwork was given to the Clerk's Office at 9a.m this morning.

As you may know, Your Honor, Fred Waid as Temporary Trustee is holding over a million dollars of my money. On 11/4/2015 you instructed him to release money to me for specific purposes. Legal Fees and living evpenses . As of today, he has not complied.

I have been getting food from the local Food Bank and from generous neighbors. It has been well over a year that every month having enough money is a serious problem for me.

As of today, there is not money for gas, a new car battery and food for the rest of the month. My deepest apology, I do not have the resources to leave home.

Your Honor, as you well know, I do not have a lawyer. It would also be a waste of Trust resources for me to be there without legal representation.

Dear Judge Gloria, it has never been my attempt to offend you. It was never my Intent either personally or professionally to offend you. Please forgive me, if somehow, without my knowledge, I have offended you.

Would you please make an order allowing me to receive from the Trust a monthly payment to a new lawyer?

Also, please request for me from the Temporary Trustee complete access to all Trust documentation that has been in his possession since April 1, 2015 to this current date. It is my understanding I have a right as a Beneficiary to receive this information. I have requested this information almost monthly from the Temporary Trustee, Fred Waid since June of 2015. To no avail.

Eleanor Ahern

November 28, 2016

Good Morning Your Honor,

I appreciate your quick response to my motion requesting a protective order and vacating the deposition. My originat paperwork was given to the Clerk's Office at 9a.m this morning.

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Eleanor Ahern

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Would you please make an order allowing me to receive from the Trust a monthly payment to a new lawyer? r

Also, please request for me from the Temporary Trustee complete access to all Trust documentation that has been in his possession since April 1, 2015 to this current date. It is my understanding I have a right as a Beneficiary to receive this information. I have requested this information almost monthly from the Temporary Trustee, Fred Waid since June of 2015. To no avail.

Eleanor Ahern

EXHIBIT 3

Transmission Report

Date/Time 01-27-2017 03:40:52 p.m.
Local ID 1 702-346-7909
Transmit Header Text
Local Name 1
Checks -N- Mail

This document : Confirmed
(reduced sample and details below)
Document size : 8.5"x11"

Date: January 25, 2017

To: Judge Gloria Sturman

Fax: 702 366 1399

From: Eleanor Ahern

CASE NO: P-09-066425-T

DEPT. NO 26

Dear Judge,

November 4, 2015, you ordered from the Bench to have Fred Wald, Temporary Trustee, release $50,000 out of the millions he is holding, which was followed up by a written order. This money was to be for legal fees and for my much-needed medical attention.

I am requesting you cause him to release this money to me immediately so I can hire a lawyer.

I am thanking you in advance.

Eleanor Ahern

Eleanor Ahern, former Trustee of the W. N. Connell and Marjorie T. Connell Living Trust dated May 18, 1972

My mailing address
355 West Mesquite Blvd. 030 #176
Mesquite, Nevada 89027

Total Pages Scanned : 1 Total Pages Confirmed : 1

No.	Job	Remote Station	Start Time	Duration	Pages	Line	Mode	Job Type	Results
001	073	7026714305	03:39:53 p.m. 01-27-2017	00:00:20	1/1	1	EC	HS	CP14400

Abbreviations:
HS: Host send
HR: Host receive
WS: Waiting send
PL: Polled local
PR: Polled remote
MS: Mailbox save
MP: Mailbox print
RP: Report
FF: Fax Forward
CP: Completed
FA: Fail
TU: Terminated by user
TS: Terminated by system
G3: Group 3
EC: Error Correct

Date: January 25, 2017

To: Judge Gloria Sturman

Fax: 702 366 1399

From: Eleanor Ahern

CASE NO: P-09-066425-T

DEPT. NO #21

Dear Judge,

November 4, 2015, you ordered from the Bench to have Fred Waid, Temporary Trustee, release $90,000 out of the millions he is holding, which was followed up by a written order. This money was to be for legal fees and for my much-needed medical attention.

I am requesting you cause him to release this money to me immediately so I can hire a lawyer.

I am thanking you in advance.

Eleanor Ahern

Eleanor Ahern, former Trustee of the W. N. Connell and Marjorie T. Connell Living Trust dated May 18, 1972

My mailing address
355 West Mesquite Blvd. D30 #176
Mesquite, Nevada 89027

Date: January 25, 2017

To: Judge Gloria Sturman

Fax: 702 366 1399

From: Eleanor Ahern

CASE NO: P-09-066425-T

DEPT. NO #21

Dear Judge,

November 4, 2015, you ordered from the Bench to have Fred Waid, Temporary Trustee, release $90,000 out of the millions he is holding, which was followed up by a written order. This money was to be for legal fees and for my much-needed medical attention.

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Eleanor Ahern

Eleanor Ahern, former Trustee of the W. N. Connell and Marjorie T. Connell Living Trust dated May 18, 1972

My mailing address
355 West Mesquite Blvd. 030 #176
Mesquite, Nevada 89027

Date: January 25, 2017

To: Judge Gloria Sturman

Fax: 702 366 1399

From: Eleanor Ahern

CASE NO: P-09-066425-T

DEPT. NO #21

Dear Judge,

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I am requesting you cause him to release this money to me immediately so I can hire a lawyer.

I am thanking you in advance.

Eleanor Ahern

Eleanor Ahern, former Trustee of the W. N. Connell and Marjorie T. Connell Living Trust dated May 18, 1972

My mailing address
355 West Mesquite Blvd. D30 #176
Mesquite, Nevada 89027

EXHIBIT 4

Transmission Report

Date/Time	02-03-2017	02:35:07 p.m.	Transmit Header Text	
Local ID 1	702-346-7909		Local Name 1	Checks -N- Mail

This document : Confirmed
(reduced sample and details below)
Document size : 8.5"x11"

OOODate: February 3, 2017

To: Judge Gloria Sturman

Fax: 702 366 1399

From: Eleanor Ahern

Fax: 702 346 7909

CASE NO: P-09-066425-T

DEPT. NO #B

Re: *In the matter of The W. N. Connell and Marjorie T. Connell Living Trust dated May 18, 1972*

Dear Judge,

November 4, 2015, you ordered from the Bench to have Fred Wald, Temporary Trustee, release $90,000 to me out of the millions he is holding, which was followed up by a written order. This money was to be for legal fees and for my much-needed medical attention.

I am requesting you cause him to release this money to me immediately so I can hire a lawyer.

I have not received any information regarding the hearing on February 8th.

Eleanor Ahern

Eleanor Ahern, former Trustee of the W. N. Connell and Marjorie T. Connell Living Trust dated May 18, 1972

My mailing address
355 West Mesquite Blvd. D30 #176
Mesquite, Nevada 89027

cc: Joseph J Powell, Esq, via Fax 702 255 4552 4677 or 855-787-4329
Todd Moody,Esq. via Fax 702 3862085
395

Total Pages Scanned : 1 Total Pages Confirmed : 1

No.	Job	Remote Station	Start Time	Duration	Pages	Line	Mode	Job Type	Results
001	183	vFax	02:33:56 p.m. 02-03-2017	00:00:41	1/1	1	G3	HS	CP9600

Abbreviations:

HS: Host send	PL: Polled local	MP: Mailbox print	CP: Completed	TS: Terminated by system
HR: Host receive	PR: Polled remote	RP: Report	FA: Fail	G3: Group 3
WS: Waiting send	MS: Mailbox save	FF: Fax Forward	TU: Terminated by user	EC: Error Correct

000Date: February 3, 2017

To: Judge Gloria Sturman

Fax: 702 366 1399

From: Eleanor Ahern

Fax: 702 346 7909

CASE NO: P-09-066425-T

DEPT. NO #2~~0~~

Re: *In the matter of The W. N. Connell and Marjorie T. Connell Living Trust dated May 18, 1972*

Dear Judge,

November 4, 2015, you ordered from the Bench to have Fred Waid, Temporary Trustee, release $90,000 to me out of the millions he is holding, which was followed up by a written order. This money was to be for legal fees and for my much-needed medical attention.

I am requesting you cause him to release this money to me immediately so I can hire a lawyer.

I have not received any information regarding the hearing on February 8th.

Eleanor Ahern

Eleanor Ahern, former Trustee of the W. N. Connell and Marjorie T. Connell Living Trust dated May 18, 1972

My mailing address
355 West Mesquite Blvd. D30 #176
Mesquite, Nevada 89027

cc: Joseph J Powell, Esq, via Fax 702 255 4552 4677 or 855-787-4329
Todd Moody,Esq. via Fax 702 ~~386~~385 2086

000Date: February 3, 2017

To: Judge Gloria Sturman

Fax: 702 366 1399

From: Eleanor Ahern

Fax: 702 346 7909

CASE NO: P-09-066425-T

DEPT. NO #26

Re: *In the matter of The W. N. Connell and Marjorie T. Connell Living Trust dated May 18, 1972*

Dear Judge,

November 4, 2015, you ordered from the Bench to have Fred Waid, Temporary Trustee, release $90,000 to me out of the millions he is holding, which was followed up by a written order. This money was to be for legal fees and for my much-needed medical attention.

I am requesting you cause him to release this money to me immediately so I can hire a lawyer.

I have not received any information regarding the hearing on February 8th.

Eleanor Ahern

Eleanor Ahern, former Trustee of the W. N. Connell and Marjorie T. Connell Living Trust dated May 18, 1972

My mailing address
355 West Mesquite Blvd. D30 #176
Mesquite, Nevada 89027

cc: Joseph J Powell, Esq, via Fax 702 255 4552 4677 or 855-787-4329
Todd Moody,Esq. via Fax 702 386-2086
385

Transmission Report

Date/Time 02-03-2017 02:35:07 p.m. Transmit Header Text
Local ID 1 702-346-7909 Local Name 1 Checks -N- Mail

This document : Confirmed
(reduced sample and details below)
Document size : 8.5"x11"

000Date: February 3, 2017

To: Judge Gloria Sturman

Fax: 702 366 1399

From: Eleanor Ahern

Fax: 702 346 7909

CASE NO: P-09-066425-T

DEPT. NO #26

Re: *In the matter of The W. N. Connell and Marjorie T. Connell Living Trust dated May 18, 1972*

Dear Judge,

November 4, 2015, you ordered from the Bench to have Fred Wald, Temporary Trustee, release $90,000 to me out of the millions he is holding, which was followed up by a written order. This money was to be for legal fees and for any much-needed medical attention.

I am requesting you cause him to release this money to me immediately so I can hire a lawyer.

I have not received any information regarding the hearing on February 8th.

Eleanor Ahern

Eleanor Ahern, former Trustee of the W. N. Connell and Marjorie T. Connell Living Trust dated May 18, 1972

My mailing address
355 West Mesquite Blvd. D30 #176
Mesquite, Nevada 89027

cc: Joseph J Powell, Esq. via Fax 702 255 4552 4477 or 855-787-4329
Todd Moody,Esq. via Fax 702 386-2086
395

Total Pages Scanned : 1 Total Pages Confirmed : 1

No.	Job	Remote Station	Start Time	Duration	Pages	Line	Mode	Job Type	Results
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Abbreviations:
HS: Host send
HR: Host receive
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PL: Polled local
PR: Polled remote
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MP: Mailbox print
RP: Report
FF: Fax Forward
CP: Completed
FA: Fail
TU: Terminated by user
TS: Terminated by system
G3: Group 3
EC: Error Correct

EXHIBIT 5

To: Fred Waid

Fax: 702 385 2086

From: Eleanor Ahern

Fax: 702 346 7909

Tammy told me she sent the medical expenses and billing statements from all the Doctors [illegible] you. I faxed them to her three times.

Dr. Malik Optometrist for my bifocals cost **$650 plus $65** for testing for one pair includes all the protection I must have. Always better to have two sets of glasses in case one gets broken Double the cost **$1,300** cost of lens and add **$200** for second pair of frames. **$100**f or gas. Two Las Vegas Trips

New Eyes Cataract Surgery for left eye first cost approximately **$400** for left eye . You have the exact amounts given to you by Tammy 3 times. They will NOT do the operation if there is no driver. Driver is **$100** each time she drives to Vegas Gas **$50.00** round trip Perscriptions for both eyes one week apart **$270.40**

Must have money to stay over 2 times for a 9 am after surgery check up. In case of problems I must stay overnight Room can be $200 for two beds no smoking. **$100** will be put back on the credit card. This will happens again for the right eye check up **$500** plus room and food and driver.

I must have a driver or the operation will not take place. Cost **$100** each time she drives me to Surgery

Room with two beds **$100** plus **$100** for extra charges that will be put back on the card if not used

Cataract Surgery for right eye same costs as left eye listed as above **$400** plus **$200** for room, Food $200 and Driver $100 and Gas **$50**

Must have food money for three meals for the driver and me approximately $200

Paradental Disease cleaning **$275** recommends cleaning every 3 months It has been two years since my teeth have been cleaned

Hearing aids **$5,000** for two

Please pay me the money Judge Sturman allocated for medical out of the $90,000 $50,000 for Larry to represent me and money itemized above.

I would like some new clothes and new built up shoes for my left foot , Build ups are **$100** to $150 each build up shoe.

Thank you in advance

Eleanor Ahern

Eleanor Ahern

To: Fred Waid

Fax: 702 385 2086

From: Eleanor Ahern

Fax: 702 346 7909

Tammy told me she sent the medical expenses and billing statements from all the Doctors 3 times to you. I faxed them to her three times.

Dr. Malik Optometrist for my bifocals cost **$650 plus $65** for testing for one pair includes all the protection I must have. Always better to have two sets of glasses in case one gets broken Double the cost **$1,300** cost of lens and add **$200** for second pair of frames. **$100**f or gas. Two Las Vegas Trips

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Must have food money for three meals for the driver and me approximately **$200**

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Thank you in advance

Eleanor Ahern

Eleanor Ahern

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Fax: 702 385 2086

From: Eleanor Ahern

Fax: 702 346 7909

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Cataract Surgery for right eye same costs as left eye listed as above **$400** plus **$200** for room, Food **$200** and Driver $100 and Gas **$50**

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Hearing aids **$5,000** for two

Please pay me the money Judge Sturman allocated for medical out of the $90,000 $50,000 for Larry to represent me and money itemized above.

I would like some new clothes and new built up shoes for my left foot , Build ups are **$100** to **$150** each build up shoe.

Thank you in advance

Eleanor Ahern

Eleanor Ahern

EXHIBIT 6

Transmission Report

Date/Time 02-03-2017 02:37:09 p.m. Transmit Header Text
Local ID 1 702-346-7909 Local Name 1 Checks -N- Mail

This document : Confirmed
(reduced sample and details below)
Document size : 8.5"x11"

Date: February 3, 2017

To: Fred Wald

Fax: 702 386-2085 385

From: Eleanor Ahern Beneficiary of the W. N Connell and Marjorie T. Connell Living Trust dated May 18, 1972

Fax # 702 346 7909

Fred, please provide $50,000 for legal fees I require for Attorney Larry Semenza. Please contact Larry today to make arrangements to get a retainer to him for $50,000 to represent me in Court.

Please respond to me by my Fax 702 346 7909 today

Eleanor Ahern

Eleanor Ahern, Beneficiary

Total Pages Scanned : 1 Total Pages Confirmed : 1

No.	Job	Remote Station	Start Time	Duration	Pages	Line	Mode	Job Type	Results
001	185	vFax	02:36:09 p.m. 02-03-2017	00:00:25	1/1	1	G3	HS	CP9600

Abbreviations:

HS: Host send	PL: Polled local	MP: Mailbox print	CP: Completed	TS: Terminated by system
HR: Host receive	PR: Polled remote	RP: Report	FA: Fail	G3: Group 3
WS: Waiting send	MS: Mailbox save	FF: Fax Forward	TU: Terminated by user	EC: Error Correct

Date: February 3, 2017

To: Fred Waid

Fax: 702 385 1973

From: Eleanor Ahern

Fax: 702 346 7909

Fred, please provide $50,000 for legal fees I require for Attorney Larry Semenza. Please contact Larry Today to make arrangements to get a retainer to him for $50,000 to represent me in Court.

Please respond to me by my fax 702 346 7909

Eleanor Ahern, Beneficiary

Date: February 3, 2017

To: Fred Waid

Fax: 702 385 1973

From: Eleanor Ahern

Fax: 702 346 7909

Fred, please provide $50,000 for legal fees I require for Attorney Larry Semenza. Please contact Larry Today to make arrangements to get a retainer to him for $50,000 to represent me in Court.

Please respond to me by my fax 702 346 7909

Eleanor Ahern, Beneficiary

Date: February 3, 2017

To: Fred Waid

Fax: 702 385 1973

From: Eleanor Ahern

Fax: 702 346 7909

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Eleanor Ahern, Beneficiary

EXHIBIT 7

EMERGENCY REQUEST

Date:	February 8, 2017
To:	Judge Gloria Sturman
Fax:	702 366 1399
From:	Eleanor Ahern
Fax:	702 346 7909
CASE NO:	P-09-066425-T
DEPT. NO	#26

Re: *In the matter of The W. N. Connell and Marjorie T. Connell Living Trust dated May 18, 1972*

Dear Judge Sturman,

The attorney I had planned on using is very sick. It is my understanding he is willing to be my attorney. I signed a contract. Please release money for Attorney Larry Semesza and for my medical needs listed below:

I do not have gas money, $50.00, to do a round trip to Las Vegas to attend this Hearing should it be tomorrow. I can answer the TDY phone #702 345 3035. Please allow me to use the TDY phone. I need this confirmation to know when to answer. The TDY phone allows me to see the words spoken in very large print. You can let me know by my fax listed above when I can expect a call from court.

Saturday at 9am January 21, 2017 someone was knocking very demandingly at my front door. I was frightened as the pounding got louder. After a brief pause the pounding continued at my backyard door and patio. windows. I had my phone in my hand to call the police when my neighbor called and said "the police were at my home. I invited the policeman in. The Police Officer enterd and said "do you know you have a hearing next week". He repeated the words he had been told by Fred. I told him. I did not know about a hearing. He only asked me one question. "Do you have friends to help you? I answered yes.

I have a copy of the police report stating "I saw a healthy older woman", there are no more observations about me in the police report. Since Fred started, he has treated me as an enemy not a beneficiary and I am the only daughter of my father.

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My glasses are damaged. I have a problem seeing through them for reading. They need to be replaced now. Because of my eye problems, the last cost of my special glasses was $680.00 with Dr. Malik. His letter is attached with the dates of July 25, 2015 and February 12, 2016.

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Las Vegas and driving all the way to the Henderson Office for the post op appointment. Prescriptions for both eyes are $250.00

Through my Lawyers, Fred has been given the actual bills needing to be paid for the medical need s I have that are important to me. Paradental Cleaning i bill is $204.00 out of your order for $90,000. In the past I was required to have my teeth cleaned every 3 months to keep the disease under control. I have not had them clean since 1/4/15 I know my father did not expect me to experience any hardship or inconvenience because He made me the residual beneficiary for my lifetime. The order stated the money had to be spent for attorney fees and for living expenses within a certain period of time. My attorneys gave all the Bills I sent them to Fred. Yet he refused to honor the court's order. Medical shoes were always requested. Each left shoe is build up for $100 each shoe. Clothes were always requested for the season. Food for my three animals were also given to Fred by my attorneys yet he never gave me any part of what you authorized for attorney fees and for my medical needs and for food for my animals and me.

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As a Beneficiary, and the only daughter of my Father who made me Trustee and Residual Beneficiary for my lifetime over his sole and separate property, in Upton County, Texas, I have been denied the legal and medical care plus normal living expenses I need and require at soon to be 79 on May 13, 1917.

Fred Waid's current financial report shows I have $1,700,000 + in the account he is holding for me, there is ample funds to pay $50,000 for a legal retainer for me to have an Attorney represent me and to pay $30,000 for my medical and living expenses. There is very possibly another $3,000,000 from the years 2015 and 2016 in the account Fred Waid is hold for my benefit. Again, there should be more than ample Oil and Gas Royalty payments for me to have my request granted by Your Honor and withdrawn from the account Fred Waid, Temporary Trustee is holding for my benefit. This is called extreme elder abuse.

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My mailing address is 355 West Mesquite Blvd. D30 #176, Mesquite, Nevada 89027 Please use this address to mail anything to me. The Brownstein Law firm distributed the wrong address. This is the second time I noticed everyone what my mailing address is.

Eleanor Ahern

Eleanor Ahern,
Attachments
Anderson Audiology 1
New Eyes 2
Dr. Malik - Eyes Optics 2

Larry Semenza, Esq. via Fax 702
Semenza Law Firm
Todd Moody, Esq. via Fax 702 385 2086
The Hutchison Law Firm
Powell Esq. Via Fax 702 255 4677
The Rushforth Law Firm

eyes : optics

Edward Joseph Malik, OD
Downtown Summerlin
11035 Lavender Hill Dr Ste 180
Las Vegas, NV 89135
702-254-0332

12 February 2016

To whom it may concern:

Re: Eleanor Ahern

Over the last few years, Eleanor has experienced a gradual decline in her vision for several reasons, and is no longer able to accomplish her daily tasks with typical eyeglasses. Of her conditions, we feel cataract is the most treatable and that there is an excellent chance of improved vision following cataract surgery. I had Dr. Helga Pizio evaluate Eleanor and she concurred. Medically necessary cataract surgery has been advised. I included a copy of the specialty report. Following this, a spectacle lens change will be required as well.

I am available for further questions.

Respectfully,

Edward J Malik, O.D.

edward j. malik o.d. chtd. optometry

25 July 2015

To whom it may concern:

Re: Eleanor Ahern

Mrs. Ahern has been under our care for years with ongoing vision problems related to macular degeneration and cataract. Her current best possible vision is 20/50 with both eyes open using her best prescription. She reports stress and inability to read normal print at times and is concerned about her ability to maintain autonomy in her affairs, and is unable at times to see normal print on documents and bills. She is requesting low vision assistance and a personal assistant for this purpose. This request is reasonable given her prognosis. If I can be of further assistance, please call me at my office.

Respectfully submitted,

Edward J. Malik, O.D.

2261 south rainbow blvd., las vegas, nv 89146 • ph. 702 254 0332 • fax 702 242 8496 • eyesandopticslv.com

NEW EYES
www.neweyeslasvegas.com

Tel 702.485.5000
Fax 702.485.5001

Helga F. Pizio, MD
Ksenia Stafeeva, MD
Ilan Reizes, MD
Jeffrey K. Austin, OD

Corneal Topography to be done today.

Retina OCT to be done today for documentation of macular changes seen on fundus exam.

Dry eyes OU: recommend frequent use of artificial tears. Samples given. Discussed future plugs or Restasis.

Dry ARMD OU - Mild with no edema, thickening, or hemorrhage.

Discussed macular degeneration pathophysiology with patient. Recommend UV protection and daily anti-oxidant vitamins. Referral to Retinal Specialist if worsening.

Pterygium OS - stationary: advised patient to avoid UV exposure with a hat and sunglasses when outdoors. Use artificial tears PRN. Mild steroid eyedrops prescription if worse. Return for any change in size or decreased vision.

Peripheral corneal scarring OU - Sub epi haze. Discussed astigmatism and blurry vision related to this dx.

Rx printed today. Medications to be filled by printed Rx that was given to pt to hand deliver to their pharmacy.

We will keep you informed about surgery plans for Eleanor C. Ahern and the return visits back to you. If you wish to have the full report of our examination or have any questions, please contact us at our New Eyes office at 702.485.5000.

Sincerely,

K. Stafeeva

Ksenia A. Stafeeva MD
Electronically Generated

NEW EYES
www.neweyeslasvegas.com

Tel 702.485.5000
Fax 702.485.5001

Helga F. Pizio, MD
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Jeffrey K. Austin, OD

Edward Malik, OD
11035 Lavender Hills Dr #180
Las Vegas, NV 89135
702-254-0332 Fax 702-685-4112

RE: Eleanor Ahern
DOB: 5/13/1938

02-10-16

Dear Dr. Malik,

Thank you for trusting in our expertise to provide your patients with the highest quality eye care at New Eyes. We had the privilege of seeing Eleanor C. Ahern in our office for a cataract surgery consultation on 02-10-16.

Chief Complaint:
Eleanor Ahern 77 year old female. Patient presents for cataract evaluation. Patient complains of problems seeing to read menu at restaurant, small print / newspaper, books, magazine, small crafts, writing letters / checks, needs a magnifying glass to see, and double vision. Patient also presents for diabetic evaluation for non-insulin dependent DM.

Visual Acuity:
OD Method Snellen ccDva 20/60 -2 Pinhole cc 20/40 +2 Glare 20/70 Hi
OS Method Snellen ccDva 20/40 -1 Pinhole cc 20/30 -1 Glare HM Hi

Intraocular Pressure: OD 14 **OS** 12

Impressions:
H25.13 -- Age-Related Nuclear Cataract Bilateral
H35.31 -- Nonexudative Age-Related Macular Degeneration
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Risk, benefits, and alternatives discussed with patient. Answered all patient's questions. Patient desires cataract surgery to improve activities of daily living. IOL options discussed with patient and educated patient on multifocal IOL, Toric IOL, and mono vision types of correction when having cataract surgery. Pre-Op Rx's prescribed. Schedule cataract surgery with planned PC IOL OU. Reviewed with patient which eye is to have surgery first.

Patient instructed no make-up, eye rubbing, or under water swimming for 1 week after surgery.

Anderson Audiology

Committed to better hearing.
Committed to you.

Las Vegas Office
3120 S Rainbow Blvd
Ste 202
Las Vegas, NV 89146
p: 702.233.4327
f: 702.233.8837

Henderson Office
2642 W Horizon Ridge
Ste A11
Henderson, NV 89052
p: 702.933.9102
f: 702.933.9106

Alante/Centennial Office
6475 N Decatur Blvd
Ste 125
Las Vegas, NV 89131
p: 702.933.9103
f: 702.933.9104

Sun City/Summerlin Office
9430 W Lake Mead Blvd
Ste 11
Las Vegas, NV 89134
p: 702.527.6068
f: 702.527.6088

AudigyCertified™

December 29, 2015

Eleanor Ahern
6105 Elton Ave.
Las Vegas, NV 89107-2537

Dear Mrs. Ahern,

Per your request I am providing a description of the "Audiogram of Fam
Sounds". The O-O-O symbols represents hearing thresholds for the right
X-X-X symbols represent hearing thresholds for the left ear.
The chart suggests you are expected to have problems with audibility in
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Kindest regards,

David E. Anderson, Au.D.
Doctor of Audiology

EMERGENCY REQUEST

Date:	February 8, 2017
To:	Judge Gloria Sturman
Fax:	702 366 1399
From:	Eleanor Ahern
Fax:	702 346 7909
CASE NO:	P-09-066425-T
DEPT. NO	#26

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Ksenia A. Stafeeva MD
Electronically Generated

NEW EYES
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Ksenia Stafeeva, MD
Ilan Reizes, MD
Jeffrey K. Austin, OD

Edward Malik, OD
11035 Lavender Hills Dr #160
Las Vegas, NV 89135
702-254-0332 Fax 702-685-4112

RE: Eleanor Ahern
DOB: 5/13/1938

02-10-16

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Anderson Audiology

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Committed to you.

Las Vegas Office
3120 S Rainbow Blvd
Ste 202
Las Vegas, NV 89146
p: 702.233.4327
f: 702.239.8837

Henderson Office
2642 W Horizon Ridge
Ste A11
Henderson, NV 89052
p: 702.933.9102
f: 702.933.9106

Aliante/Centennial Office
6475 N Decatur Blvd
Ste 125
Las Vegas, NV 89131
p: 702.933.9103
f: 702.933.9104

Sun City/Summerlin Office
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Ste 11
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p: 702.527.6066
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AudigyCertified™

December 29, 2015

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6105 Elton Ave.
Las Vegas, NV 89107-2537

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Kindest regards,

David E. Anderson, Au.D.
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EMERGENCY REQUEST

Date: February 8, 2017
To: Judge Gloria Sturman
Fax: 702 366 1399
From: Eleanor Ahern
Fax: 702 346 7909
CASE NO: P-09-066425-T
DEPT. NO #26

Re: *In the matter of The W. N. Connell and Marjorie T. Connell Living Trust dated May 18, 1972*

Dear Judge Sturman,

The attorney I had planned on using is very sick. It is my understanding he is willing to be my attorney. I signed a contract. Please release money for Attorney Larry Semesza and for my medical needs listed below:

I do not have gas money, $50.00, to do a round trip to Las Vegas to attend this Hearing should it be tomorrow. I can answer the TDY phone #702 345 3035. Please allow me to use the TDY phone. I need this confirmation to know when to answer. The TDY phone allows me to see the words spoken in very large print. You can let me know by my fax listed above when I can expect a call from court.

Saturday at 9am January 21, 2017 someone was knocking very demandingly at my front door. I was frightened as the pounding got louder. After a brief pause the pounding continued at my backyard door and patio. windows. I had my phone in my hand to call the police when my neighbor called and said "the police were at my home. I invited the policeman in. The Police Officer enterd and said "do you know you have a hearing next week". He repeated the words he had been told by Fred. I told him. I did not know about a hearing. He only asked me one question. "Do you have friends to help you? I answered yes.

I have a copy of the police report stating "I saw a healthy older woman", there are no more observations about me in the police report. Since Fred started, he has treated me as an enemy not a beneficiary and I am the only daughter of my father.

Your ear phones in court only makes the sounds louder. I am not deaf. My problem is I do not hear many sounds of speech as listed on the attached Anderson Audiology letter of December 29, 2015. According to Dr. Anderson, special hearing aids will allow those sounds to be heard. Cost is $7,500 for both ears.

My glasses are damaged. I have a problem seeing through them for reading. They need to be replaced now. Because of my eye problems, the last cost of my special glasses was $680.00 with Dr. Malik. His letter is attached with the dates of July 25, 2015 and February 12, 2016.

The cataract surgery was scheduled with New Eyes three times because Fred Waid would not pay in advance, which is required, I cancelled 3 times. Surgery for both eyes is less than a $1,000. I need to pay Medicare again. I am unsure how much. But I do not have it. I am required to have a driver at $100 for the left eye and a week later a driver for $100 for the right eye. Without a driver, the Doctors refuse to do the surgery. In case of a problem, I need to stay overnight with the driver for a post operation checkup early the next morning. I will need food money for both of us for each of the two operations separate by a week and a nonsmoking room for two for each operation. Also gas money for the drive in and out of

Las Vegas and driving all the way to the Henderson Office for the post op appointment. Prescriptions for both eyes are $250.00

Through my Lawyers, Fred has been given the actual bills needing to be paid for the medical need s I have that are important to me. Paradental Cleaning i bill is $204.00 out of your order for $90,000. In the past I was required to have my teeth cleaned every 3 months to keep the disease under control. I have not had them clean since 1/4/15 I know my father did not expect me to experience any hardship or inconvenience because He made me the residual beneficiary for my lifetime. The order stated the money had to be spent for attorney fees and for living expenses within a certain period of time. My attorneys gave all the Bills I sent them to Fred. Yet he refused to honor the court's order. Medical shoes were always requested. Each left shoe is build up for $100 each shoe. Clothes were always requested for the season. Food for my three animals were also given to Fred by my attorneys yet he never gave me any part of what you authorized for attorney fees and for my medical needs and for food for my animals and me.

My father wanted me, as his only daughter, to receive the benefit of his sole and separate property in Upton County, Texas, during my life time. My daughters could have waited for me to die. I have to believe the two of them cannot wait for me to die so they can exercise the remainderman status I lovingly gave them when they were not mentioned in the Trust. Seems being nice and generous to both my mother and daughters has been a hazard to me.

My problems are all structural fixed for a minimal expense.

SUMMARY

I am asking for a continuance.

I am asking to participate telephonically.

All of my personal needs, in the moment, are resolved for less than an extremely small percentage of what Fred Waid is holding for my benefit.

Please consider this a formal legal request, as I have no personal legal experience or education.

I have received an "index" of filings. It appears to me that I have a very small percentage of what was filed with the court since mid-summer 2015 till now. There is a significant cost to obtaining copies.

I am asking again for a full accounting since 4/1/2015 of all revenues in and expenses out along with all related items that have accrued with full backup documentation since Fred became Temporary Trustee.

I am very pleased I do not need to take any drugs and my only medical problems are those listed above, with no happening unexpectedly during with pre-Diabetes, which I handle with food.

Thank you, Your Honor, for your Minute Order. It needs to be for $50,000 for Attorney Larry Semenza's retainer.

Your 1st order was for $90,000 November 2015, $60,000 for attorney fees and $30,000 for my medical and living expenses which is necessary for what I listed in my letter plus normal living expenses. Food for my 3 animals and myself has been denied. Fred Waid, Temporary Trustee of my Trust since April 1, 2015 never dispersed the funds you ordered for the attorney fees nor my medical and living expenses. Now I need the money for Legal, Medical and Normal living expenses more than ever.

As a Beneficiary, and the only daughter of my Father who made me Trustee and Residual Beneficiary for my lifetime over his sole and separate property, in Upton County, Texas, I have been denied the legal and medical care plus normal living expenses I need and require at soon to be 79 on May 13, 1917.

Fred Waid's current financial report shows I have $1,700,000 + in the account he is holding for me, there is ample funds to pay $50,000 for a legal retainer for me to have an Attorney represent me and to pay $30,000 for my medical and living expenses. There is very possibly another $3,000,000 from the years 2015 and 2016 in the account Fred Waid is hold for my benefit. Again, there should be more than ample Oil and Gas Royalty payments for me to have my request granted by Your Honor and withdrawn from the account Fred Waid, Temporary Trustee is holding for my benefit. This is called extreme elder abuse.

I have requested in writing a full accounting from Fred Waid since he became a court appointed Temporary Trustee April 1, 2015 to account to me as a beneficiary all income in and all expenses out including all back up material regarding the W. N. Connell and Marjorie T. Connell Living trust dated May 18, 1972 I have requested he provide me a record of any leases and contracts signed with the Oil Companies or anyone else regarding the Trust. Up to this date, he has refused, even though The Trust requires him to provide a yearly accounting.

Fred Waid, Temporary purposeful refusal to comply with Judge Gloria Sturman's order the November 4, 2016 to release $60,000 cased me the withdrawal of the Brownstein Law Firm months ago. Since of the withdrawal of the Brownstein Law Firm in 2016. I have gotten one letter from the Hutchison Law Firm and nothing from the Rushforth Law Firm. Since 11 i16 2016, I have not been kept informed regarding any documents. Nothing has been sent to me except one letter from The Hutchison Law Firm. I want to emphasize I have not been kept informed by the Hutchison or Rushforth Law Firms. Since being without council, it appears to me, after reviewing the index of filing even Brownstein did not give me everything that was filed.

My mailing address is 355 West Mesquite Blvd. D30 #176, Mesquite, Nevada 89027 Please use this address to mail anything to me. The Brownstein Law firm distributed the wrong address. This is the second time I noticed everyone what my mailing address is.

Eleanor Ahern

Eleanor Ahern,
Attachments
Anderson Audiology 1
New Eyes 2
Dr. Malik - Eyes Optics 2

Larry Semenza, Esq. via Fax 702
Semenza Law Firm
Todd Moody, Esq. via Fax 702 385 2086
The Hutchison Law Firm
Powell Esq. Via Fax 702 255 4677
The Rushforth Law Firm

eyes optics

Edward Joseph Malik, OD
Downtown Summerlin
11035 Lavender Hill Dr Ste 180
Las Vegas, NV 89135
702-254-0332

12 February 2016

To whom it may concern:

Re: Eleanor Ahern

Over the last few years, Eleanor has experienced a gradual decline in her vision for several reasons, and is no longer able to accomplish her daily tasks with typical eyeglasses. Of her conditions, we feel cataract is the most treatable and that there is an excellent chance of improved vision following cataract surgery. I had Dr. Helga Pizio evaluate Eleanor and she concurred. Medically necessary cataract surgery has been advised. I included a copy of the specialty report. Following this, a spectacle lens change will be required as well.

I am available for further questions.

Respectfully,

Edward J Malik, O.D.

edward j. malik o.d. chtd. optometry

25 July 2015

To whom it may concern:

Re: Eleanor Ahern

Mrs. Ahern has been under our care for years with ongoing vision problems related to macular degeneration and cataract. Her current best possible vision is 20/50 with both eyes open using her best prescription. She reports stress and inability to read normal print at times and is concerned about her ability to maintain autonomy in her affairs, and is unable at times to see normal print on documents and bills. She is requesting low vision assistance and a personal assistant for this purpose. This request is reasonable given her prognosis. If I can be of further assistance, please call me at my office.

Respectfully submitted,

Edward J. Malik, O.D.

2261 south rainbow blvd., las vegas, nv 89146 • ph. 702 254 0332 • fax 702 242 8496 • eyesandopticslv.com

NEW EYES
www.neweyeslasvegas.com

Tel 702.485.5000
Fax 702.485.5001

Helga F. Pizio, MD
Ksenia Stafeeva, MD
Ilan Reizes, MD
Jeffrey K. Austin, OD

Corneal Topography to be done today.

Retina OCT to be done today for documentation of macular changes seen on fundus exam.

Dry eyes OU: recommend frequent use of artificial tears. Samples given. Discussed future plugs or Restasis.

Dry ARMD OU - Mild with no edema, thickening, or hemorrhage.

Discussed macular degeneration pathophysiology with patient. Recommend UV protection and daily anti-oxidant vitamins. Referral to Retinal Specialist if worsening.

Pterygium OS - stationary: advised patient to avoid UV exposure with a hat and sunglasses when outdoors. Use artificial tears PRN. Mild steroid eyedrops prescription if worse. Return for any change in size or decreased vision.

Peripheral corneal scarring OU - Sub epi haze. Discussed astigmatism and blurry vision related to this dx.

Rx printed today. Medications to be filled by printed Rx that was given to pt to hand deliver to their pharmacy.

We will keep you informed about surgery plans for Eleanor C. Ahern and the return visits back to you. If you wish to have the full report of our examination or have any questions, please contact us at our New Eyes office at 702.485.5000.

Sincerely,

K. Stafeeva

Ksenia A. Stafeeva MD
Electronically Generated

NEW EYES
www.neweyeslasvegas.com

Tel 702.485.5000
Fax 702.485.5001

Helga F. Pizio, MD
Ksenia Stafeeva, MD
Ilan Reizes, MD
Jeffrey K. Austin, OD

Edward Malik, OD
11035 Lavender Hills Dr #180
Las Vegas, NV 89135
702-254-0332 Fax 702-685-4112

RE: Eleanor Ahern
DOB: 5/13/1938

02-10-16

Dear Dr. Malik,

Thank you for trusting in our expertise to provide your patients with the highest quality eye care at New Eyes. We had the privilege of seeing Eleanor C. Ahern in our office for a cataract surgery consultation on 02-10-16.

Chief Complaint:
Eleanor Ahern 77 year old female. Patient presents for cataract evaluation. Patient complains of problems seeing to read menu at restaurant, small print / newspaper, books, magazine, small crafts, writing letters / checks, needs a magnifying glass to see, and double vision. Patient also presents for diabetic evaluation for non-insulin dependent DM.

Visual Acuity:
OD Method Snellen ccDva 20/60 -2 Pinhole cc 20/40 +2 Glare 20/70 Hi
OS Method Snellen ccDva 20/40 -1 Pinhole cc 20/30 -1 Glare HM Hi

Intraocular Pressure: OD 14 OS 12

Impressions:
H25.13 -- Age-Related Nuclear Cataract Bilateral
H35.31 -- Nonexudative Age-Related Macular Degeneration
H11.042 -- Peripheral Pterygium Stationary Left Eye
H04.123 -- Dry Eye Syndrome Of Bilateral Lacrimal Glands
H18.452 -- Nodular Corneal Degeneration Left Eye
H17.823 -- Peripheral Opacity Of Cornea Bilateral

Plan:
Left Eye 1st then right eye 2nd Target DISTANCE OU. Patient understands they will still need glasses for near vision and to eliminate residual astigmatism. Viscoat possibly needed at time of surgery. Visual potential questionable due to macular changes.

Risk, benefits, and alternatives discussed with patient. Answered all patient's questions. Patient desires cataract surgery to improve activities of daily living. IOL options discussed with patient and educated patient on multifocal IOL, Toric IOL, and mono vision types of correction when having cataract surgery. Pre-Op Rx's prescribed. Schedule cataract surgery with planned PC IOL OU. Reviewed with patient which eye is to have surgery first.

Patient instructed no make-up, eye rubbing, or under water swimming for 1 week after surgery.

Anderson Audiology

Committed to better hearing.
Committed to you.

Las Vegas Office
9120 S Rainbow Blvd
Ste 202
Las Vegas, NV 89145
p: 702.233.4327
f: 702.233.8837

Henderson Office
2642 W Horizon Ridge
Ste A11
Henderson, NV 89052
p: 702.933.9102
f: 702.933.9108

Aliante/Centennial Office
6475 N Decatur Blvd
Ste 125
Las Vegas, NV 89131
p: 702.933.9103
f: 702.933.9104

Sun City/Summerlin Office
9430 W Lake Mead Blvd
Ste 11
Las Vegas, NV 89134
p: 702.527.6068
f: 702.527.6068

AudigyCertified™

December 29, 2015

Eleanor Ahern
6105 Elton Ave.
Las Vegas, NV 89107-2537

Dear Mrs. Ahern,

Per your request I am providing a description of the "Audiogram of Fam
Sounds". The O-O-O symbols represents hearing thresholds for the right
X-X-X symbols represent hearing thresholds for the left ear.
The chart suggests you are expected to have problems with audibility in
ear for the following sounds of speech: /k/, /f/, /s/, and /th/. It is suggeste
expected to have difficulties with audibility for the following sounds of s
the left ear: /j/, /m/, /d/, /z/, /v/, /p/, /h/, /g/, /k/, /f/, /s/, and /th/.

Kindest regards,

David E. Anderson, Au.D.
Doctor of Audiology

EXHIBIT 8

8th EMERGENCY REQUEST

Date:	February 27 2017
To:	Judge Gloria Sturman
Fax:	702 366 1399
From:	Eleanor Ahern
Fax:	702 346 7909
CASE NO:	P-09-066425-T
DEPT. NO	#26

Dear Judge Sturman,

Being in court February 9th and 10th showed me that I NEED Larry Semenza to be my attorney. He had to excuse himself, as he had no time to be brought up to speed on this case. I cannot represent myself. There were so many misstatements given in court that needed to be objected to. I need permanently paid legal representation. Not just attorney fees paid for 2 days of Court Time. I asked for a continuance, yet you denied my request and I was without representation. No one should be in court without representation. It was as if a bulldozer had run over me in your kangaroo court.

I have read nothing, got nothing, I found out about this February 28, 2017 Court Date by calling into the Calendar last week, HAVING NOT BEEN SERVED/NOTICED. Gloria, I am requesting a Continuance on the 28th due to my lack of Council.

I appreciate being accommodated with the audio and visual equipment but I still could not see well because of the cataracts and could not hear well because of so many missing sounds I do not hear well and hearing aids are needed for me to hear all the sounds. I was watching court with three huge disadvantages. #1; Not seeing well, #2; Not hearing well and #3; not having an attorney as I could not object to the lies being told.

This is my 8th time to plead with you to release my money for an attorney and my medical and living expenses. Please demand Fred Waid follow your court instructions, since there is $1,700,000 for 2015 in my account. My acct for 2016 could possibly be as much as $3,400,000. Surely you can find it in your heart to release the money to go for an attorney and for my medical needs and living expenses. November 2015, you ordered Fred Waid to pay $90,000 to be divided into $70,000 f(as you know, I lost my legal representation because they were not paid) and $20,000 for my medical and living expenses. Fred Waid did not and has not obeyed you. I have been telling him of my needs since that November 2015 Court Order by you. Since Fred Waid became the Court appointed Temporary Trustee, he has refused all my requests and your Court Order.

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care. I am in need of this therapy for my back to stay strong and healthy. I have not had any therapy since Fred Waid became Temporary Trustee. My shoes are worn and do not support me. This is extreme Elder Abuse and must stop now. I will be 79 May 13, 2017. Please I am begging you to have Fred Waid Temporary Trustee of my father's trust, provide for me as my father wanted me to be provided for during my lifetime.

Eleanor Ahern, Beneficiary

Eleanor Ahern, Beneficiary W.N. Connell & Marjorie T. Connell Living Trust Dated May 17, 1972

Cc: Todd Moody Fax # 702 385 2086
Joey Powell Fax # 702 255 4677

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Joey Powell Fax # 702 255 4677

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Cc: Todd Moody Fax # 702 385 2086
Joey Powell Fax # 702 255 4677

****
*** TX REPORT ***
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TRANSMISSION COMPLETED

TX/RX NO.	2452
DESTINATION NUMBER	7023467909
DESTINATION ID	
ST. TIME	03/02 14:08
COMMUNICATION TIME	01'02
PAGES SENT	2
RESULT	OK

Judge.

8th EMERGENCY REQUEST

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Fax: 702 366 1399
From: Eleanor Ahern
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CASE NO: P-09-066425-T
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*** TX REPORT ***
****

TRANSMISSION COMPLETED

TX/RX NO.	2454
DESTINATION NUMBER	7022554677
DESTINATION ID	
ST. TIME	03/02 14:13
COMMUNICATION TIME	00'46
PAGES SENT	2
RESULT	OK

Joey Powell

8th EMERGENCY REQUEST

Date: February 27 2017
To: Judge Gloria Sturman
Fax: 702 366 1399
From: Eleanor Ahern
Fax: 702 346 7909
CASE NO: P-09-066425-T
DEPT. NO #26

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*** TX REPORT ***
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TRANSMISSION COMPLETED

TX/RX NO.	2453
DESTINATION NUMBER	7023852086
DESTINATION ID	
ST. TIME	03/02 14:10
COMMUNICATION TIME	01'06
PAGES SENT	2
RESULT	OK

Todd Moody.

8th EMERGENCY REQUEST

Date: February 27 2017
To: Judge Gloria Sturman
Fax: 702 366 1399
From: Eleanor Ahern
Fax: 702 346 7909
CASE NO: P-09-066425-T
DEPT. NO #Z6

Dear Judge Sturman,

Being in court February 9th and 10th showed me that I NEED Larry Semenza to be my attorney. He had to excuse himself, as he had no time to be brought up to speed on this case. I cannot represent myself. There were so many misstatements given in court that needed to be objected to. I need permanently paid legal representation. Not just attorney fees paid for 2 days of Court Time. I asked for a continuance, yet you denied my request and I was without representation. No one should be in court without representation. It was as if a buildozer had run over me in your kangaroo court.

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I appreciate being accommodated with the audio and visual equipment but I still could not see well because of the cataracts and could not hear well because of so many missing sounds I do not hear well and hearing aids are needed for me to hear all the sounds. I was watching court with three huge disadvantages. #1; Not seeing well, #2; Not hearing well and #3; not having an attorney as I could not object to the lies being told.

This is my 8th time to plead with you to release my money for an attorney and my medical and living expenses. Please demand Fred Waid follow your court instructions, since there is $1,700,000 for 2015 in my account. My acct for 2016 could possibly be as much as $3,400,000. Surely you can find it in your heart to release the money to go for an attorney and for my medical needs and living expenses. November

EXHIBIT 9

Date: February 26 2017
To: Judge Sturman Fax 702 366 1399
To: Todd Moody, Attorney for Fred Waid, Temporary Trustee Fax 702 385 2086
To: Joey Powell Fax 702 255 4677
From: Eleanor Ahern Fax 702 346 7909

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Eleanor Ahern. Beneficiary

NEW EYES
www.neweyeslasvegas.com

Tel 702.485.5000
Fax 702.485.5001

Helga F. Pizio, MD
Ksenia Stafeeva, MD
Roman Fajardo, MD
Ilan Reizes, MD
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2-22-17

Regarding:
Eleanor C. Ahern
8635 W Sahara Ave Unit 549
Las Vegas, NV 89117

DOB: 5/13/1938

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To: Todd Waid, Trustee, or To Whom It May Concern Fred Waid Estate IT

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Sincerely,

Deanna C Heisey

Deanna C. Heisey, COE COT
Practice Administrator

02/10/16 Stafeeva, Ksenia A - Ahern, Eleanor C. 8753

OLD from last year

NEW EYES

Eleanor Ahern — Patient Name | MEDICARE — Insurance Policies | 2-10-16 — Date

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   Both eyes 250.00 250.00 501 Rose St Lt 110 L.V. 89106 702 386 9906

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   → 6655 West Sahara Ave St B200 L.V. NV 89146 Check to Desert Anesthesia $54

I understand the above cost and billing information regarding my surgical procedure.
Disclosure: Helga F. Pizio, MD has a partial ownership in Alta Rose Surgery Center.

Patient signature: Eleanor Ahern Date: 2/10/16

New Eyes employee initials: Qpe

Version 03252015

Date: February 26 2017

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Eleanor Ahern, Beneficiary

NEW EYES

OLD form last year

Eleanor Ahern — Patient Name | MEDICARE — Insurance Policies | 2-10-16 — Date

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   1st 0 250.00 per 250.00

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Patient signature: Eleanor Ahern Date: 2/10/16

New Eyes employee initials: Ape

Version 03252015

NEW EYES

OLD from last year

Eleanor Ahern — Patient Name | MEDICARE — Insurance Policies | 2-10-16 — Date

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Tel 702.485.5000
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2-22-17

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The purpose of this sheet is to present you with approximate costs associated with your upcoming surgery. New Eyes staff will make every effort to educate you and provide you with the best estimate of the costs associated with your surgery, but cannot guarantee you the final total amount that will be due.
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It is important for you to understand that while your New Eyes surgeon is contracted with your primary insurance or accepts assignment from Medicare, it does not mean that whatever amount insurance pays to your surgeon is to be considered payment in full. Your primary insurance may only pay a portion of the allowable charges for your surgery and you will be responsible for paying the balance. If you have a secondary insurance plan please be aware that in some instances the supplemental insurance plan may only cover a portion of the balance in which case you will still be responsible for paying the rest.

There will be several different charges and bills associated with your procedure:

1. **New Eyes Surgeon:** This bill will cover the fee for the surgeon who is performing your surgical procedure. **Payment to New Eyes is due no later than noon, the Friday before your surgery. Failure to pay the estimated cost to New Eyes may result in cancellation of your surgery.**

   The estimated out-of-pocket expense for New Eyes Surgeon is: 2020 Goldring Ave ST. H 402 89106 702 485 5000
   - ☒ $133.59 for the **First Eye** surgery.
   - ☒ $140.11 for the **Second Eye** surgery. **The estimate for the second eye may change depending on the time elapsed between the two surgeries.**
   - ☐ We will call you and let you know what the amount will be.

2. **Surgery Center:** This bill will cover the charges by the surgical facility licensed by the State of Nevada and Medicare. This facility fee is separate from New Eyes surgeon's fee. There may be a deposit required toward your co-insurance prior to your surgical procedure due at the time of your surgery.

   ☒ Please call the designated facility to find out the amount you will owe for your surgery:
   - ☒ **Alta Rose Surgery Center (702.395.9906)** ☐ Las Vegas Surgery Center (702.870.2090)
   - ☐ **Box Canyon Surgery Center (702.316.4400)** 501 Rock St St 110 L.V. 89106 702 386 9906

   Both eyes 250.00 250.00

3. **Anesthesia:** This bill will cover the charges by the person who administers and monitors anesthesia during your surgery. There may be a deposit required toward your co-insurance prior to your surgical procedure.

   ☒ Please call the designated anesthesia group to find out the amount you will owe for your surgery:
   - ☒ **Desert Anesthesia (702.222-3238)** ☐ **SW Anesthesia (702.877.8661)**

   270.00 → 6655 West Sahara Ave St B200 L.V. NV 89146 Check to Desert Anesthesia

   $540

I understand the above cost and billing information regarding my surgical procedure.
Disclosure: Helga F. Pizio, MD has a partial ownership in Alta Rose Surgery Center.

Patient signature: Eleanor Ahern Date: 2/10/16

New Eyes employee initials: Ape

Version 03252015

****
*** TX REPORT ***
****

TRANSMISSION COMPLETED

TX/RX NO.	2456
DESTINATION NUMBER	7023852086
DESTINATION ID	
ST. TIME	03/02 14:33
COMMUNICATION TIME	02'10
PAGES SENT	3
RESULT	OK

Todd Moody

Date: February 26 2017
To: Judge Sturman Fax 702 366 1399
To: Todd Moody, Attorney for Fred Wald, Temporary Trustee Fax 702 385 2086
To: Joey Powell Fax 702 255 4677
From: Eleanor Ahern Fax 702 346 7909

Please pay everyone first then I will make appointments. Hard copy me the cover letter and a copy of their check. Be sure to place my name and birth date 5/13/38 on the cover letter and check.

$50,000 **Attorney Larry Semenza** as a first Retainer plus **$10,000** retainer a month thereafter
$1000.00 **Medical care for Captain,** my Service Dog DVM Dr. Joanne Stefantos 1325 Vegas Valley Drive, L. V. Nv 89169 702 735 7184 . Could be more or less depending on exam & X-rays and prescriptions
$246.00 **Virgin Valley Dental** Dr. Gregory Dumitru X ray and exam 780 W. Pioneer Blvd. Mesquite, NV 89027 702 346 3880 More costs following xrays and exam.
$800.00 **Dillards Shoe Dept** 4 pairs of sturdy shoes that can be built up 2" Las Vegas, NV
$400.00 **Magic Shoe Store** 840 South Rancho Dr. L.V. NV 89106 702 880 7455 Puts the lift on to the 4 pairs of shoe I buy at Dillard's.
$50.00 **Gas** for round trip to L. V.
$300.00 an hr **Dr. Timothy Frances,** D.C. Chiropractor Kinesiology 7473 West Lake Meade L. V. NV 702 221 8870. He books 1st time for 2 hours at $600. Then I will need weekly treatments, then monthly treatments, then every 6 months. Credit Cards Ok.
$50.00 **Gas** for Round trip every time I have an appointment to Las Vegas Gas Card
$2000 **New Clothes** for this season from Dillard's or Nordstrom's in Las Vegas Nevada
$50.00 **Gas** for round trip to L. V. Gas Card
$80.00 **Bliss** Manicure and Pedicure Mesquite 355 West Mesquite Blvd Mesquite, NV 89027
$3,000 **Idaho Falls Audiology** for 2 Hearing Aids.
$600 **Gas** round trip and for the 10 days waiting for him to make the hearing aids.
$1,000 **10 day stayover** while hearing aids are made Room, Food,

Fred, I am requesting you send a check to each of the 3 payment address below for my cataract surgery. I want a copy of the cover letter to each provider and a copy of the check provided them in hard copy not electronically. Once everyone has their money, hopefully before the 8th of March, I will then schedule the appointments for my Cataract Surgery. Add my name and birth date 5/13/1938 to each check. All the cost below for New Eyes may be more after a new exam. 2 attachments: 1. New Eyes Letter 2. Old Costs Associated With Surgery

$197.72 **New Eyes new exam. Paid first to 2020 Goldring Ave. St 402 L. V. NV 89105 702 346 5000** New exam
$ 50.00 **Palace Station** right eye Overnight Card and food card for driver and me
$ 50.00 **Palace Station** left eye Overnight Card one week later Palace Station Card and food card driver and me
$ 50.00 **Gas** round trip to L. V. for one week post op right eye gas card
$50.-00 **Gas** round trip to L.V. for one week post op left eye gas card
$273.70 **Helga F. Pizio, MD** right eye $133. 59 **New Eyes Surgeon 2020 Goldring Av St402 L. V. Nv 89106**

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*** TX REPORT ***
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TRANSMISSION COMPLETED

TX/RX NO.	2455
DESTINATION NUMBER	7023467909
DESTINATION ID	
ST. TIME	03/02 14:30
COMMUNICATION TIME	02'05
PAGES SENT	3
RESULT	OK

Judge

Date: February 26 2017

To: Judge Sturman Fax 702 366 1399

To: Todd Moody, Attorney for Fred Waid, Temporary Trustee Fax 702 385 2086

To: Joey Powell Fax 702 255 4677

From: Eleanor Ahern Fax 702 346 7909

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$400.00 **Magic Shoe Store** 840 South Rancho Dr. L.V. NV 89106 702 880 7455 Puts the lift on to the 4 pairs of shoe I buy at Dillard's.

$50.00 **Gas** for round trip to L. V.

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$2000 **New Clothes** for this season from Dillard's or Nordstrom's in Las Vegas Nevada

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$273.70 **Helga F. Pizio, MD** right eye $133. 59 **New Eyes Surgeon 2020 Goldring Av St402 L. V. Nv 89106**

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*** TX REPORT ***
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TRANSMISSION COMPLETED

TX/RX NO.	2457
DESTINATION NUMBER	7022554677
DESTINATION ID	
ST. TIME	03/02 14:37
COMMUNICATION TIME	01'30
PAGES SENT	3
RESULT	OK

Joey . P .

Date: February 26 2017
To: Judge Sturman Fax 702 366 1399
To: Todd Moody, Attorney for Fred Wald, Temporary Trustee Fax 702 385 2086
To: Joey Powell Fax 702 255 4677
From: Eleanor Ahern Fax 702 346 7909

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$50.-00 **Gas** round trip to L.V. for one week post op left eye gas card
$273.70 **Helga F. Pizio, MD** right eye **$133. 59 New Eyes Surgeon 2020 Goldring Av St402 L. V. Nv 89106**

Electronically Filed
03/08/2017 04:51:16 PM

CLERK OF THE COURT

RSPN
Todd L. Moody (5430)
Russel J. Geist (9030)
HUTCHISON & STEFFEN, LLC
10080 West Alta Drive, Suite 200
Las Vegas, Nevada 89145
(702) 385-2500
(702) 385-2086 FAX
tmoody@hutchlegal.com
rgeist@hutchlegal.com

Attorneys for Fredrick P. Waid, Court-appointed Trustee

DISTRICT COURT

CLARK COUNTY, NEVADA

In the matter of THE W.N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST Dated May 18, 1972, an Inter Vivos Irrevocable Trust.	Case No.: P-09-066425-T Dept. 26

RESPONSE TO ELEANOR AHERN'S CORRESPONDENCE ADDRESSED TO THE HONORABLE GLORIA STURMAN DATED FEBRUARY 26, 2017 AND FEBRUARY 27, 2017

Fredrick P. Waid ("Mr. Waid"), Trustee of the W.N. Connell and Marjorie T. Connell Living Trust, dated May 18, 1972, (the "Trust"), hereby responds to two faxes sent to the Court by Eleanor Ahern ("Ms. Ahern") that resulted in left-side filings. The first is dated February 26, 2017 (Ex. 1), and the second is dated February 27, 2017 (Ex. 2). Although both documents are dated almost a week before, neither was faxed to the Court until March 2, 2017.

An evidentiary hearing in this matter was held last month at which time the following point was made:

> MR. MOODY: Mr. Waid also wants the Court and the parties to know, especially Ms. Ahern, that he stands ready, willing, and able to serve and meet her needs as directed by previous court order and any future court orders, as well as what is contained in the trust document itself.
>
> Ms. Ahern needs to understand that because of Mr. Waid's findings with respect to trust funds in this case, he is reluctant to release any funds directly to Ms. Ahern for her medical needs; and, therefore, he has requested time and time again that if she has a medical need, if she will simply ask the doctor, the care provider, whomever it is, to write a simple letter and send an invoice to him, he will consider that.

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* * *

THE COURT: So the understanding with respect to medical bills is–Mr. Waid being ready, willing, and able upon the medical provider contacting him with the information. For example, I think there's also mention of cataract surgery.

MR. MOODY: Yes.

THE COURT: ....so just the medical provider contact Mr. Waid and anything not covered by Medicare, trust will cover it?

MR. MOODY: Absolutely.

THE COURT: And I don't know what the issue is with Brownstein Hyatt if–I don't know, so–but going forward, Ms. Ahern just needs to have the providers contact Mr. Waid directly with their bill, and anything not covered by Medicaid–Medicare, he's–the trust stands ready to provide?

MR. MOODY: Yes. Absolutely.

THE COURT: Wonderful. Thank you. I appreciate that.

(*See* preliminary draft Recorder's Transcript, attached as Ex. 3, pages 7-10.)

Three weeks later, despite a clear record of how Ms. Ahern's expenses will be paid, Ms. Ahern turned to the Court instead of Mr. Waid for help. The purpose of this response is to respond to Ms. Ahern's faxes, clarify again how Mr. Waid will handle these payments, and to ask the Court to direct Ms. Ahern to work with Mr. Waid on matters that do not need the Court's involvement.

A. Fax dated February 26, 2017

1. "Please pay everyone first then I will make appointments."

On March 2, 2017, Eleanor Ahern faxed an untitled document dated February 26, 2017 to this Court. (Ex. 1.) The fax begins with a request that directly contravenes how Ms. Ahern's expenses will be handled: "Please pay everyone first then I will make appointments." *Id.* Ms. Ahern has already been directed to provide invoices or to have her providers contact Mr. Waid directly so he can arrange payment. Mr. Waid believes this directive may need to be memorialized in an order.

*2. "**$50,000** to Attorney Larry Semenza as a first retainer plus **$10,000** retainer a month thereafter."*

Ms. Ahern then requests that Larry Semenza be paid a $50,000 retainer plus an additional $10,000/month thereafter. This is not the first time that Ms. Ahern has requested money for Mr.

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Semenza's fees. She made an ex parte request to release funds to hire him on February 3, 2017. (Ex. 4.) As represented during the evidentiary hearing, Mr. Waid contacted Mr. Semenza immediately after receiving the Court's Minute Order and advised him that funds were available so that he could make an appearance and represent Ms. Ahern at the evidentiary hearing. Although Mr. Semenza showed up on the next morning, he declined to enter an appearance. The Court explained all of this to Ms. Ahern on February 10, 2017:

> THE COURT: With respect to Mr. Semenza, that's a different matter. The Court did authorize Mr. Waid to release funds to Mr. Semenza to appear for you at this hearing. Mr. Semenza, himself, came in and said he did not feel that he had adequate time to prepare and would not be entering an appearance for you at this time.
>
> If you want to hire Mr. Semenza, we do have your request. We have authorized Mr. Waid to communicate with him, and that was done. I think Mr. Moody indicated that they did contact him about appearing for this hearing. So if the question is a $50,000 retainer, I just think that Mr. Waid needs to investigate it.
>
> I didn't understand it was a $50,000 retainer. I thought it was authorizing him to appear for this hearing, so I just -- Mr. Waid needs to investigate it, and if he thinks it's appropriate, he can certainly ask the Court for that authority, but as of right now, we didn't have a request for -- I didn't see a request for a $50,000 retainer. I don't know if it was --
>
> MS. AHERN: Yes. It was in the letter that I sent you, and I sent everybody that letter.
>
> THE COURT: Okay. I knew that it was to appear for the hearing, and that specifically what Mr. Semenza said. He didn't have enough notice to prepare for the hearing, so if -- then it's just a question -- I don't know, Mr. Moody, is the one, I believe, who communicated with Mr. Waid about -- and Mr. Waid about -- with Mr. Semenza.
>
> I don't know -- I just thought he was -- I don't know he was not willing to -- I don't know because that's your communication with him. I don't take part in any of that, so I know that, Mr. Moody, you and Mr. Waid did --
>
> MS. AHERN: I need --
>
> THE COURT: -- communicate to Mr. Semenza --
>
> MS. AHERN: Judge?
>
> MR. MOODY: We did, Your Honor.
>
> MS. AHERN: Judge, I need -- I need protection --
>
> THE COURT: Ms. Ahern, Ms. Ahern, Ms. Ahern. Stop talking now, Ms. Ahern. Mr. Moody's going to address the Court and tell us about his communication with Mr. Semenza, so just listen to Mr. Moody. Thank you.

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MR. MOODY: Thank you, Your Honor. I believe the Court order came out this last Wednesday --

THE COURT: Correct.

MR. MOODY: -- about 3:30 in the afternoon. Immediately after receiving that, Mr. Waid and I sat down together, called Mr. Semenza, and spoke to him. He was on his way to a doctor's appointment, and we told him that the Court had ordered that funds be released so that he could make an appearance and represent Ms. Ahern at yesterday and today's evidentiary hearing.

He was a little reluctant at that point. He said I'm going to show up tomorrow. I'm not sure what I'm going to do, and as the Court knows, although he appeared -- although he showed up yesterday, he did not enter an appearance.

So at this point, it's our position that no fees are owed to him.

(Ex. 3, pages 4-6.)

Because the Minute Order specifically directs that funds be paid to Mr. Semenza "for his reasonable attorney's fees incurred for his representation of Ms. Ahern *at the February 9th and 10th evidentiary hearing,*"[1] Ms. Ahern currently owes the MTC Trust $1,742,053[2] in compensatory damages plus $3.6 million in punitive damages. She also owes to the MTC Trust for its attorney's fees.[3] Once these amounts are paid back, Ms. Ahern then owes an additional $160,955.12 for past attorney's fees to Marquis Aurbach Coffing[4] and $311,784.12 to Brownstein Hyatt Farber Schreck.[5]

The evidentiary hearing is now behind us. As a fiduciary, Mr. Waid cannot recommend that Ms. Ahern incur additional attorney's fees and, unless directed otherwise, Mr. Waid will not pay Mr. Semenza (or anyone else) to represent Ms. Ahern from Trust funds.

*3. "**$1,000** medical care for Captain, my service dog."*

Mr. Waid is not willing to pay for Captain's medical care from Trust funds. Ms. Ahern receives monthly benefits from Social Security of almost $3,000/month that should be sufficient

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[1] Ex. 5 (emphasis added).

[2] Ex. 3, pages 22, 56-59.

[3] Ex. 3, page 59.

[4] *See* Judgment, filed on February 28, 2017.

[5] *See* Motion to Adjudicate Attorney's Lien filed January 18, 2017 and Decision and Order, filed February 23, 2017.

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for Ms. Ahern to pay for groceries, rent, utilities, and her service dog. (Ex. 6.) If her Social Security benefits are not enough to pay for her service dog, Mr. Waid is willing to sit down with Ms. Ahern, review her budget and provide some assistance if necessary.

4. *$246 to Virgin Valley Dental for x-rays and exam; $800 Dillards Shoe Department for four pairs of sturdy shoes; $400 to Magic Shoe Store to put lifts on four pairs of shoes; $300/hour to Timothy Frances, D.C. for weekly, monthly and then every six months for chiropractic treatment; and $3,000 to Idaho Falls Audiology for two hearing aids.*

Most (and perhaps all) of these expenses appear reasonable. Mr. Waid will speak with any provider and review actual invoices or receipts for payment. It probably makes more sense to have Ms. Ahern purchase her shoes and have the lifts installed and provide receipts to Mr. Waid for reimbursement. With respect to chiropractic treatment, Mr. Waid will need medical confirmation that the frequency of treatment is justified and is hopeful that he can arrange a "cash-pay" discount with Dr. Frances.

5. *"$50 gas for round trip to Las Vegas (x3); $2,000 for new clothes 'for this season' from Dillard's or Nordstrom; $80 to Bliss Manicure and Pedicure; $600 gas for round trip to Idaho Falls for hearing aids; $1,000 for 10-day stayover in Idaho Falls while hearing aids are made for room and food."*

Mr. Waid does not believe the Trust is responsible for "seasonal" clothes and to have her nails done. Furthermore, a quick Google search revealed that there 18 hearing clinics within 85 miles of Mesquite, Nevada. Unless there's a good explanation, it makes no sense to spend $600 for gas and $1,000 for food and ten days lodging in Idaho when hearing aids are available in Southern Nevada or Southern Utah.

6. *"$192.72 to New Eyes for eye exam; $50 to Palace Station (x2) for overnight stays; $50 gas for round trip (x3); $273.70 to Helga Pizio, MD for right eye; $133.59 to New Eyes Surgeon; $140.11 to Helga Pizio, MD for left eye; $54 to Desert Anesthesia; $210 to Smith's Pharmacy for pre-op medication; $100 for driver following surgery (x2); $400 non-smoking room at Palace Station (x2); $400 food card for meals during stay over following surgery; $50 for gas to pick up glasses (x2)."*

Because Ms. Ahern provided the requested information, Mr. Waid already paid the $192.72 for her initial eye exam with New Eyes (Ex. 7), and will pay the other expenses if Ms. Ahern will similarly provide the requested documentation.

///

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B. Fax dated February 27, 2017

On March 2, 2017, Eleanor Ahern faxed a document entitled "8th Emergency Request" to this Court dated February 27, 2017. (Ex. 2.) The first three paragraphs of this fax are general complaints about the Court denying her request for a continuance, not having proper notice of hearings, and not being able to see or hear during the evidentiary hearing despite having been accommodated with audio and visual equipment. Mr. Waid takes no position on these issues but does point out that during the two-day evidentiary hearing on February 9-10, 2017, whenever Ms. Ahern complained about not being able to see or hear, the Court made sure she was accommodated.

The fourth paragraph is a plea for the Court to release money for an attorney and her medical and living expenses. While some of this was already addressed above, some points need to be specifically discussed. For example, Ms. Ahern correctly states that "[in] November 2015, [the Court] ordered Fred Waid to pay $90,000..., $70,000 [for attorney's fees]...and $20,000 for [her] medical and living expenses."[6] However, Ms. Ahern incorrectly states that "Fred Waid did not and has not obeyed you." (Ex. 2.)

Mr. Waid paid Brownstein Farber Hyatt Schreck $70,000 on March 4, 2016 as ordered (Ex. 8); therefore, the majority of the distributions are not in issue.

Regarding the $20,000, Ms. Ahern forgets (1) that an evidentiary hearing was held on February 22, 2016 that resulted in a surcharge against Ms. Ahern's 35% share of the Trust and a suspension of her Trust distributions,[7] and (2) that Mr. Waid petitioned the Court for further instruction which was heard on March 3, 2016. In its order regarding that hearing, the Court clarified that "...the advance of Trust funds to Eleanor Ahern in the amount of $20,000 for living expenses pursuant to this Court's December 29, 2015 order, shall be held by the Trustee in further Trust, *to be distributed in the Trustee's sole and absolute discretion to pay for the living expenses*

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[6] *See* Order Instructing Trustee to Advance Funds, filed January 5, 2016.

[7] *See* Order Regarding Motion for Assessment of Damages; Enforcement of No Contest Clause; and Surcharge of Trust Income, filed September 19, 2016.

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as the Trustee deems is necessary."[8] (Emphasis added.)

Mr. Waid has $20,000 set aside for Ms. Ahern's needs and remains willing and able to meet those needs if she will cooperate with him.

C. Mr. Waid is more than willing to pay for Ms. Ahern's medical and dental needs if Ms. Ahern will do her part.

Mr. Waid made it clear to Kirk Lenhard when he was still acting as Ms. Ahern's attorney that he is is willing to exercise his "sole and absolute discretion" as Trustee and pay for Ms. Ahern's medical, dental and other expenses if she will simply provide invoices or put providers in touch with him. This point was made on the record during the most recent evidentiary hearing when counsel for Mr. Waid stated that he stands ready, willing, and able to meet her needs if she will provide a letter, an invoice or contact him.[9] This is why New Eyes' invoice was paid. (Ex. 7.)

D. Mr. Waid asks this Court to instruct Ms. Ahern to communicate with Mr. Waid directly and to stop the "left side" communications with the Court.

Local Rule 2.02, Use of the E-Filing System, requires that "All filings made in matters assigned as civil actions must be electronically filed in accordance with Part VIII of these rules." (E.J.D.C.R. 2.02.) Local Rule 8.09 provides some exceptions for conventional filing when electronic filing is not otherwise possible, but Ms. Ahern's faxes to the Court do not fit within these exceptions. (E.J.D.C.R. 8.09(a).)

The problem is that Ms. Ahern's "filings" have been neither E-Filed nor conventional filed, forcing the Court to use "left side filing" to accommodate her. Her faxes are a burden on the Court and its staff, do not comply with our local rules and create confusion on the record. For these reasons, Mr. Waid respectfully requests that the Court instruct Ms. Ahern to stop communicating

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[8] *See* Order on Petition for Instructions Regarding Allocation of Eleanor Ahern's 2015 Trust Unpaid Distributions, filed on June 2, 2016.

[9] *See* preliminary draft Recorder's Transcript, attached as Ex. 3, pages 7-10.

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10080 WEST ALTA DRIVE, SUITE 200
LAS VEGAS, NV 89145

with the Court via fax. In the interest of conserving Trust and Court resources, Mr. Waid does not believe a hearing is necessary.

Dated this 8th day of March, 2017.

HUTCHISON & STEFFEN, LLC

/s/ Todd L. Moody

Todd L. Moody (5430)
Russel J. Geist (9030)
10080 West Alta Drive, Suite 200
Las Vegas, Nevada 89145

Attorneys for Fredrick P. Waid, Court-appointed Trustee

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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of HUTCHISON & STEFFEN, LLC, and on this 8th day of March , 2017, I caused the above and foregoing document entitled **RESPONSE TO ELEANOR AHERN'S CORRESPONDENCE ADDRESSED TO THE HONORABLE GLORIA STURMAN DATED FEBRUARY 26, 2017 AND FEBRUARY 27, 2017** to be served as follows:

X by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada; and/or

☐ to be served via facsimile; and/or

X pursuant to EDCR 8.05(a) and 8.05(f), to be electronically served through the Eighth Judicial District Court's electronic filing system, with the date and time of the electronic service submitted for the date and place of deposit in the mail; and/or

☐ to be hand-delivered;

to the attorneys and/or parties listed below at the address and/or facsimile number indicated below:

Via U.S. Mail & facsimile:

Eleanor Ahern
355 W. Mesquite Blvd., D30 #176
Mesquite, NV 89027
Fax: (702) 346-7909

Via Wiznet Only:

Joseph J. Powell, Esq.
The Rushforth Firm
1707 Village Center Circle, Ste. 150
Las Vegas, NV 89134
Attorneys for Kathryn A. Bouvier and Jacqueline M. Montoya

/s/ Shaun Bruce

An employee of Hutchison & Steffen, LLC

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EXHIBIT PAGE ONLY

EXHIBIT 1

HUTCHISON & STEFFEN
A PROFESSIONAL LLC

Date: February 26 2017
To: Judge Sturman Fax 702 366 1399
To: Todd Moody, Attorney for Fred Wald, Temporary Trustee Fax 702 385 2086
To: Joey Powell Fax 702 255 4677
From: Eleanor Ahern Fax 702 346 7909

Please pay everyone first then I will make appointments. Hard copy me the cover letter and a copy of their check. Be sure to place my name and birth date 5/13/38 on the cover letter and check.

$50,000 Attorney Larry Semenza as a first Retainer plus $10,000 retainer a month thereafter
$1000.00 Medical care for Captain, my Service Dog DVM Dr. Joanne Stefantos 1325 Vegas Valley Drive, L. V. Nv 89169 702 735 7184 . Could be more or less depending on exam & X-rays and prescriptions
$246.00 Virgin Valley Dental Dr. Gregory Dumitru X ray and exam 760 W. Pioneer Blvd. Mesquite, NV 89027 702 346 3880 More costs following xrays and exam.
$800.00 Dillards Shoe Dept 4 pairs of sturdy shoes that can be built up 2" Las Vegas, NV
$400.00 Magic Shoe Store 840 South Rancho Dr. L.V. NV 89106 702 880 7455 Puts the lift on to the 4 pairs of shoe I buy at Dillard's.
$50.00 Gas for round trip to L. V.
$300.00 an hr Dr. Timothy Frances, D.C. Chiropractor Kinesiology 7473 West Lake Meade L. V. NV 702 221 8870. He books 1st time for 2 hours at $600. Then I will need weekly treatments, then monthly treatments, then every 6 months. Credit Cards Ok.
$50.00 Gas for Round trip every time I have an appointment to Las Vegas Gas Card
$2000 New Clothes for this season from Dillard's or Nordstrom's in Las Vegas Nevada
$50.00 Gas for round trip to L. V. Gas Card
$80.00 Bliss Manicure and Pedicure Mesquite 355 West Mesquite Blvd Mesquite, NV 89027
$3,000 Idaho Falls Audiology for 2 Hearing Aids.
$600 Gas round trip and for the 10 days waiting for him to make the hearing aids.
$1,000 10 day stayover while hearing aids are made Room, Food,

Fred, I am requesting you send a check to each of the 3 payment address below for my cataract surgery. I want a copy of the cover letter to each provider and a copy of the check provided them in hard copy not electronically. Once everyone has their money, hopefully before the 8th of March, I will then schedule the appointments for my Cataract Surgery. Add my name and birth date 5/13/1938 to each check. All the cost below for New Eyes may be more after a new exam. 2 attachments: 1. New Eyes Letter 2. Old Costs Associated With Surgery

$197.72 New Eyes new exam. Paid first to 2020 Goldring Ave. St 402 L. V. NV 89105 702 346 5000 New exam
$ 50.00 Palace Station right eye Overnight Card and food card for driver and me
$ 50.00 Palace Station left eye Overnight Card one week later Palace Station Card and food card driver and me
$ 50.00 Gas round trip to L. V. for one week post op right eye gas card
$50.-00 Gas round trip to L.V. for one week post op left eye gas card
$273.70 Helga F. Pizio, MD right eye $133. 59 New Eyes Surgeon 2020 Goldring Av St402 L. V. Nv 89106
Helga F. Pizio, MD left eye $140,11 702 386 9906
$500.00 $250 each eye Surgery Center 501 Rose St # 110 L. V. NV 89106 702 386 9906
$ 54.00 Desert Anesthesia Total for both eyes check to 6655 W Sahara Av St3200 L.V. NV 89146 702 222 3238
$210.00 Before Surgery Prescriptions both eyes Smith Pharmacy 300 No Sandhill Blvd, Mesquite NV 89027 702 346 8652
$100.00 Animal care for two trips for surgery
$100.00 Driver- Doctor will not do surgery if I do not have a driver right eye
$100.00 Driver - Doctor will not do surgery if I do not have a driver left eye
$400.00 Non smoking 2 bed Room at Palace Station in case of emergency – post op exam early next day for each cataract surgery separated by a week includes mandatory $100 on card for each stayover.
$ 400.00 Food Card lunch, dinner, breakfast, lunch for driver and me during stay over
Billing Medicare for exam. Dr. Edward J. Malik, OD 11035 Lavender Hills Dr. ST 180 L. V.NV 89135 702 245 0332 After Cataract Surgery Exam. I will need Distance or reading glasses. 2 pairs of glasses and frames. Dr. Malik will send you exact cost for 2 pairs of glasses after surgery exam.
$100.00 Gas 2 times. For exam and to pick up glasses a week later Gas Card

Eleanor Ahern Beneficiary

NEW EYES
www.neweyeslasvegas.com

Tel 702.485.5000
Fax 702.485.5001

Helga F. Pizio, MD
Ksenia Stafeeva, MD
Romna Fajardo, MD
Ilan Raizes, MD
Jeffrey K. Austin, OD

2-22-17

Regarding:
Eleanor C. Ahern DOB: 5/13/1938
8635 W Sahara Ave Unit 549
Las Vegas, NV 89117

Also mailed copy to this address, per patients request in the past:
355 W Mesuite Blvd. #D50 [illegible], NV 89125

To: Todd Waid, Trustee, or To Whom It May Concern [illegible]

Eleanor C. Ahern has only been seen once in our office, which was on 2-10-2016. She has cancelled or rescheduled approximate 20 times for either her cataract surgery or for other cataract evaluations since 2-10-2016. This is partly due to the issue of her being out of the time frame from her initial visit to proceed with surgery, so she needs an updated evaluation. She states that she needs this letter written to the trustee of her estate, Todd Waid, helping to explain the costs of her surgical procedure, and repeat cataract evaluation, so that the money can be obtained from her estate in order to pay her out of pocket costs to get her eyes operated on.

We have attached the cost associated sheets pertaining to what this patient has been quoted in the past, and will attach them once again with this letter. But until she is seen for an updated evaluation, we will not be able to give exact quotes of costs until she is re-evaluated, and we know at that time what her insurance coverage will be and/or if any deductible amounts have changed.

Also, her estimated out of pocket costs for her cataract evaluation as of yesterday will be $197.42, which is payable at the time of her appointment.

Due to the many times she has not been able to keep her appointments, we will not be able to schedule her again until she has all of her financial and transportation issues worked out so that she can commit to making an appointment here in Las Vegas. We will honor her one more chance to be seen here, but if that appointment is not kept, we feel she should seek care elsewhere since we have other patients needing to use the appointment slots that have been cancelled at the last moment, or no showed by this patient in the past.

This letter is being sent to the patient so she can submit it the people she feels can help her to facilitate paying for her eye exams and surgery.

Sincerely,

Deanna C Heisey

Deanna C. Heisey, COE COT
Practice Administrator

OLD from last year

NEW EYES

Eleanor Ahern (Patient Name) Medicare (Insurance Policies) 2-10-16 (Date)

COSTS ASSOCIATED WITH SURGERY FOR PATIENTS WITH INSURANCE PLAN

The purpose of this sheet is to present you with approximate costs associated with your upcoming surgery. New Eyes staff will make every effort to educate you and provide you with the best estimate of the costs associated with your surgery, but cannot guarantee you the final total amount that will be due.
New Eyes is contracted with most of the major insurance companies and accepts assignment for Medicare patients. However, each patient is responsible for payment of all non-covered costs. Examples of non-covered services would be the annual insurance deductible, and any remaining balance of allowable fees for your surgery that are not covered by a supplemental insurance plan.

It is important for you to understand that while your New Eyes surgeon is contracted with your primary insurance or accepts assignment from Medicare, it does not mean that whatever amount insurance pays to your surgeon is to be considered payment in full. Your primary insurance may only pay a portion of the allowable charges for your surgery and you will be responsible for paying the balance. If you have a secondary insurance plan please be aware that in some instances the supplemental insurance plan may only cover a portion of the balance in which case you will still be responsible for paying the rest.

There will be several different charges and bills associated with your procedure:

1. **New Eyes Surgeon:** This bill will cover the fee for the surgeon who is performing your surgical procedure. Payment to New Eyes is due no later than noon, the Friday before your surgery. Failure to pay the estimated cost to New Eyes may result in cancellation of your surgery.

   The estimated out-of-pocket expense for New Eyes Surgeon is: 7020 Goldring Ave #402 89106 702 485 5000

   ☒ $133.59 for the First Eye surgery.

   ☒ $140.11 for the Second Eye surgery. The estimate for the second eye may change depending on the time elapsed between the two surgeries.

   ☐ We will call you and let you know what the amount will be.

2. **Surgery Center:** This bill will cover the charges by the surgical facility licensed by the State of Nevada and Medicare. This facility fee is separate from New Eyes surgeon's fee. There may be a deposit required toward your co-insurance prior to your surgical procedure due at the time of your surgery.

   ☒ Please call the designated facility to find out the amount you will owe for your surgery:

   Both eyes 250.00 250.00 ☒ Alta Rose Surgery Center (702.385.9906) ☐ Las Vegas Surgery Center (702.870.2090)

   ☐ Box Canyon Surgery Center (702.316.4400) 501 Rock St #110 L.V. 89106 702 396 7906

3. **Anesthesia:** This bill will cover the charges by the person who administers and monitors anesthesia during your surgery. There may be a deposit required toward your co-insurance prior to your surgical procedure.

   27.50 ☒ Please call the designated anesthesia group to find out the amount you will owe for your surgery:

   27.50 ☒ Desert Anesthesia (702.222-3238) ☐ SW Anesthesia (702.877.8681)

   6655 West Sahara St B200 L.V. NV 89146 Check to Desert Anesthesia

   054 I understand the above cost and billing information regarding my surgical procedure.

Disclosure: Helge F. Pizio, MD has a partial ownership in Alta Rose Surgery Center.

Patient signature: Eleanor Ahern Date: 2/10/16

New Eyes employee initials: Qfe

Version 03262015

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EXHIBIT PAGE ONLY

EXHIBIT 2

HUTCHISON & STEFFEN

A PROFESSIONAL LLC

8th EMERGENCY REQUEST

Date:	February 27 2017
To:	Judge Gloria Sturman
Fax:	702 366 1399
From:	Eleanor Ahern
Fax:	702 346 7909
CASE NO:	P-09-066425-T
DEPT. NO	#26

Dear Judge Sturman,

Being in court February 9th and 10th showed me that I NEED Larry Semenza to be my attorney. He had to excuse himself, as he had no time to be brought up to speed on this case. I cannot represent myself. There were so many misstatements given in court that needed to be objected to. I need permanently paid legal representation. Not just attorney fees paid for 2 days of Court Time. I asked for a continuance, yet you denied my request and I was without representation. No one should be in court without representation. It was as if a bulldozer had run over me in your kangaroo court.

I have read nothing, got nothing. I found out about this February 28, 2017 Court Date by calling into the Calendar last week, HAVING NOT BEEN SERVED/NOTICED. Gloria, I am requesting a Continuance on the 28th due to my lack of Council.

I appreciate being accommodated with the audio and visual equipment but I still could not see well because of the cataracts and could not hear well because of so many missing sounds I do not hear well and hearing aids are needed for me to hear all the sounds. I was watching court with three huge disadvantages. #1; Not seeing well, #2; Not hearing well and #3; not having an attorney as I could not object to the lies being told.

This is my 8th time to plead with you to release my money for an attorney and my medical and living expenses. Please demand Fred Waid follow your court instructions, since there is $1,700,000 for 2015 in my account. My acct for 2016 could possibly be as much as $3,400,000. Surely you can find it in your heart to release the money to go for an attorney and for my medical needs and living expenses. November 2015, you ordered Fred Waid to pay $90,000 to be divided into $70,000 f(as you know, I lost my legal representation because they were not paid) and $20,000 for my medical and living expenses. Fred Waid did not and has not obeyed you. I have been telling him of my needs since that November 2015 Court Order by you. Since Fred Waid became the Court appointed Temporary Trustee, he has refused all my requests and your Court Order.

I am asking you again. Please write an order that Fred Waid has to obey, regarding my Medical – Cataract Surgery, it should be about $1,500. I must have Fred also pay for Medicare deductible which for 2017. Most of the charges for the Cataract Surgery is picked up by Medicare. After surgery, I will need either glasses for reading or for distance. I may need both. Hearing aids will enable me to be able to hear the sounds I am missing, the cost is $7,500.00. My shoe build up is necessary and mandatory for me to walk safely . As you know my left leg is 2 inches shorter than the right. My shoes are terribly worn and I need four new pair. Because of my short leg caused by a broken leg due to a fall in 1972, I received chiropractic

care. I am in need of this therapy for my back to stay strong and healthy. I have not had any therapy since Fred Waid became Temporary Trustee. My shoes are worn and do not support me. This is extreme Elder Abuse and must stop now. I will be 79 May 13, 2017. Please I am begging you to have Fred Waid Temporary Trustee of my father's trust, provide for me as my father wanted me to be provided for during my lifetime.

Eleanor Ahern, Beneficiary

Eleanor Ahern, Beneficiary W.N. Connell & Marjorie T. Connell Living Trust Dated May 17, 1972

Cc: Todd Moody Fax # 702 385 2086
Joey Powell Fax # 702 255 4677

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EXHIBIT 3

HUTCHISON & STEFFEN

A PROFESSIONAL LLC

RTRAN

DISTRICT COURT

CLARK COUNTY, NEVADA

In re the Matter of:	CASE NO. P-066425
THE W.N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST MAY 18, 1972	DEPT. XX

BEFORE THE HONORABLE GLORIA STURMAN, DISTRICT COURT JUDGE

FRIDAY, FEBRUARY 10, 2017

RECORDER'S TRANSCRIPT
ALL PENDING MOTIONS

APPEARANCES:

For Jacquelyn Montoya & Katherine Bouvier:	JOSEPH POWELL DANIEL P. KIEFER The Rushforth Firm, PLLC
For the Trustee:	TODD L. MOODY FREDRICK P. WAID Hutchison & Steffen, LLC

RECORDED BY: KELLY ESPARZA

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THE COURT: -- and he's not here to explain.

MS. AHERN: You have that. Everybody in this courtroom has a copy --

THE COURT: You'll have to communicate --

MS. AHERN: -- of my bill.

THE COURT: -- directly with Mr. Waid about that because he's got the authority to act. So you'll just need to talk to him. He just doesn't happen to be here at the moment, so I can't ask him.

So if you just contact his office, and I'm sure he'll follow up.

With respect to Mr. Semenza, that's a different matter. The Court did authorize Mr. Waid to release funds to Mr. Semenza to appear for you at this hearing. Mr. Semenza, himself, came in and said he did not feel that he had adequate time to prepare and would not be entering an appearance for you at this time.

If you want to hire Mr. Semenza, we do have your request. We have authorized Mr. Waid to communicate with him, and that was done. I think Mr. Moody indicated that they did contact him about appearing for this hearing. So if the question is a $50,000 retainer, I just think that Mr. Waid needs to investigate it.

I didn't understand it was a $50,000 retainer. I thought it was authorizing him to appear for this hearing, so

I just -- Mr. Waid needs to investigate it, and if he thinks it's appropriate, he can certainly ask the Court for that authority, but as of right now, we didn't have a request for -- I didn't see a request for a $50,000 retainer. I don't know if it was --

MS. AHERN: Yes. It was in the letter that I sent you, and I sent everybody that letter.

THE COURT: Okay. I knew that it was to appear for the hearing, and that specifically what Mr. Semenza said. He didn't have enough notice to prepare for the hearing, so if -- then it's just a question -- I don't know, Mr. Moody, is the one, I believe, who communicated with Mr. Waid about -- and Mr. Waid about -- with Mr. Semenza.

I don't know -- I just thought he was -- I don't know he was not willing to -- I don't know because that's your communication with him. I don't take part in any of that, so I know that, Mr. Moody, you and Mr. Waid did --

MS. AHERN: I need --

THE COURT: -- communicate to Mr. Semenza --

MS. AHERN: Judge?

MR. MOODY: We did, Your Honor.

MS. AHERN: Judge, I need -- I need protection --

THE COURT: Ms. Ahern, Ms. Ahern, Ms. Ahern. Stop talking now, Ms. Ahern. Mr. Moody's going to address the Court and tell us about his communication with Mr. Semenza, so

just listen to Mr. Moody. Thank you.

MR. MOODY: Thank you, Your Honor. I believe the Court order came out this last Wednesday --

THE COURT: Correct.

MR. MOODY: -- about 3:30 in the afternoon. Immediately after receiving that, Mr. Waid and I sat down together, called Mr. Semenza, spoke to him. He was on his way to a doctor's appointment, and we told him that the Court had ordered that funds be released so that he could make an appearance and represent Ms. Ahern at yesterday and today's evidentiary hearing.

He was a little reluctant at that point. He said I'm going to show up tomorrow. I'm not sure what I'm going to do, and as the Court knows, although he appeared -- although he showed up yesterday, he did not enter an appearance.

So at this point, it's our position that no fees are owed to him.

Now, one of the things I will do, I will address in my closing argument, if you will, I'm going to talk about what -- how Mr. Waid sees things going forward from this point because this was an important day for purposes of his role as trustee, and I want the Court to understand what his desires are with respect to Ms. Ahern, what it is that he would like to do on her behalf.

So if you'd like me to begin now, I'm ready.

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THE COURT: Okay. So, Ms. Ahern, we're going to -- we'll hear from Mr. Moody, and we'll see where the request that the trustee is making, where that might affect your request for $50,000 for Mr. Semenza. Since Mr. Semenza felt he didn't have enough notice to appear for this hearing, you may still want to retain him, and it may be that we can work something out.

So let's listen to what Mr. Moody has to tell us, and we'll circle back around to your request. I've made a note of it here, and we'll follow up on it when we've listened to counsel.

So give us just a minute, and we'll get back to your request.

MR. MOODY: All right. Thank you very much, Your Honor.

On behalf of the trustee, Fred Waid, I want to express our appreciation to the Court and to the parties for their patience and courtesies that have been extended to him in this matter.

Mr. Waid is keenly aware of his responsibilities and his fiduciary duties to Ms. Ahern, as well as the MTC Trust. He takes no position in the assessment of damages in this matter and will dutifully follow any Court order on any judgment matter.

Mr. Waid also wants the Court and the parties to know, especially Ms. Ahern, that he stands ready, willing, and

able to serve and meet her needs as directed by previous court order and any future court orders, as well as what is contained in the trust document itself.

Ms. Ahern needs to understand that because of Mr. Waid's findings with respect to trust funds in this case, he is reluctant to release any funds directly to Ms. Ahern for her medical needs; and, therefore, he has requested time and time again that if she has a medical need, if she will simply ask the doctor, the care provider, whomever it is, to write a simple letter and send an invoice to him, he will consider that.

He will also work with Medicare. Ms. Ahern has Medicare coverage, and he will work to coordinate benefits on her behalf because it doesn't make a lot of sense, for example, if she has hearing aids that will require $7500 that if Medicare will pay a good portion of that --

THE COURT: They don't.

MR. MOODY: -- to pay it directly out of trust funds --

THE COURT: They don't.

MR. MOODY: -- so he wants to be wise and exercise his fiduciary responsibility --

THE COURT: I'll tell you right now Medicare does not pay for hearing aids.

MR. MOODY: Okay.

THE COURT: It doesn't.

MR. MOODY: All right. Well, Mr. Waid probably knows that, I didn't.

Your Honor, given the still open --

THE COURT: It doesn't make any sense. They don't consider it. They don't pay it.

MR. MOODY: Yeah. That surprises me. Okay. Well, then in that case, we will simply await, you know, anything from an audiologist and make that payment directly to the provider.

THE COURT: Uh-huh.

MR. MOODY: Okay.

THE COURT: And that's about what they cost, 5-to 7,000.

MR. MOODY: Yeah. Yeah. It doesn't seem unreasonable --

THE COURT: Yeah.

MR. MOODY: -- but it will be paid to the provider, not to Ms. Ahern.

THE COURT: So the understanding with respect to medical bills is -- Mr. Waid being ready, willing, and able upon the medical provider contacting him with the information. For example, I think there's also mention of cataract surgery.

MR. MOODY: Yes.

THE COURT: Again, I've had a cataract surgery. I know that's what they cost, so just the medical provider contact Mr. Waid and anything not covered by Medicare, trust will cover it?

MR. MOODY: Absolutely.

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THE COURT: Got it.

MR. MOODY: And quickly, Your Honor, and --

THE COURT: And I don't know what the issue is with Brownstein Hyatt if -- I don't know, so -- but going forward, Ms. Ahern just needs to have the providers contact Mr. Waid directly with their bill, and anything not covered by Medicaid -- Medicare, he's -- the trust stands ready to provide?

MR. MOODY: Yes. Absolutely.

THE COURT: Wonderful. Thank you. I appreciate that.

MR. MOODY: Finally, Your Honor, given the still open and complex tax issues based on the trust, it is the beneficiary's affirmative and absolute duty to cooperate with Mr. Waid with respect to information and documentation, but his investigation is over.

That investigation, leading up to, you know, this evidentiary hearing for all intents and purposes is closed. It is Mr. Waid's position that there is no need for him to speak through counsel. We don't know what benefit going forward, and we're not saying that Ms. Ahern is not entitled to counsel, but she needs to feel free to contact him directly, and we hope that she would be willing to receive contact from Mr. Waid directly at least up until the time that she finds representation.

Mr. Waid respectfully asks the Court to monitor and to communicate directly with him, and he will -- he plans to

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because his voice drops -- and when he gets to the last ten words, and I can't hear.

THE COURT: Okay. All right, Ms. --

MS. AHERN: I just can't hear.

THE COURT: Okay. So we're going to try to work our way through this. We'll try to speak louder, and --

MS. AHERN: Your Honor, he goes fast.

THE COURT: Okay.

MS. AHERN: He goes too fast, and I can't --

THE COURT: All right.

MS. AHERN: -- catch it.

THE COURT: All right. We're going to speak slowly and loudly.

Okay. So the 65 percent of Connell income over that entire period of time, roughly 27 -- 2013, 2014, 2000 -- and the first quarter of 2015. The 65 percent amount should have been $3,956,550. That's how much should have come in to the 65 percent portion and been segregated according to the Court's order.

What has been recovered and distributed is $2,214,497. That leaves us with $1,742,053.

MR. KEIFER: Correct.

THE COURT: Okay. So where does $1,742,000 go? I mean was it never recovered by Mr. Waid?

MR. KEIFER: Yeah. That's all the expenses that we went

yesterday --

THE COURT: Yeah.

MR. MOODY: -- he said that at the end of one year, rather than running the trust down to zero, which would have almost eliminated any tax liability, that Ms. Ahern carried over a balance into the next year.

THE COURT: Uh-huh. Yep. Okay.

MR. MOODY: That is where that enormous tax liability came from because those funds were not properly distributed.

THE COURT: Was that the 2013?

MR. MOODY: It -- they were held from -- let me just say that $800,000 tax liability was for 2014 and 2014 only.

THE COURT: Uh-huh.

MR. MOODY: The remain outstanding tax liabilities from 2011, 2012, and 2013, which adds to the complexity of all this, but I can state based on Mr. Waid's representations and testimony yesterday that the tax liability that was incurred was because those funds -- not just because they weren't properly segregated, but because they were held over and, therefore, that trust did incur a liability that it should not have.

THE COURT: Thank you. All right.

The Court will award damages as follows: Compensatory damages in the amount of $2,581,994. This is the amount that the trust was harmed by Ms. Ahern's action and

that need to be recovered.

A portion of that has been recovered and paid, and as I understand the amount that Mr. Waid has paid back to the 65 percent beneficiaries is $839,941; am I correct in that? And that should be deducted from the 2.5?

MR. KEIFER: I apologize, Your Honor. Could you say that number one more time?

THE COURT: That amount has been satisfied, $839,941.

MR. KEIFER: And 92 cents. Correct, Your Honor.

THE COURT: And 92 cents.

MR. KEIFER: Yep.

THE COURT: Has been satisfied of that amount.

MR. KEIFER: Correct, Your Honor.

THE COURT: However, certain actions appear to warrant punitive damages, additional damages intended to punish and discourage this kind of conduct because that's the thing that has concerned me and it's concerned me since 2015 when Ms. Ahern was removed that there was this flurry of activity, which appears intended at hiding the money, and it's difficult to understand how much of the 2.5 million because Ms. Ahern has refused to cooperate in this inquiry and has obstructed it and adverse inference should be imposed on her, and the belief of the Court is that if discovery had been had into these matters it would have been adverse to Ms. Ahern, and the problem that I have here is that because we were in

litigation, some of these funds had to be held, some of them had to be segregated. So I am reluctant to impose punitive damages on the entire $2.5 million because I don't know yet how much is the final tax liability is going to be. I don't know how much of that might have been influenced by the litigation hold, so I'm reluctant to impose punitive damages on the entire $2.5 million.

However, Mr. Keifer did point out a very interesting fact and something that was really disturbing to Mr. Waid as a trustee is holding funds in the form of a cashier's check, totally improper. Not trustee should ever do that. Very bad practice. Needs to be discouraged, and clearly appears to have been intended to defraud the trust.

The fact that Mr. Waid was able to recover that money is something for which we can be thankful, but which does not excuse the fact that it never should have been done in the first place. That appears, to me, to have been undertaken with conscious disregard of the rights of the remainder beneficiaries, appears to have been fraudulent. While it may not have been, and that's a very high standard to meet, because of the lack of evidence Mrs. Ahern has been -- refused to cooperate or provide, we have to infer that it would have been adverse to her and so fraud would have been proven. It appears to have been done with malice, intentional malice, and oppression. Again, we have no evidence

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[indiscernible] the Court of this belief because Ms. Ahern has refused to cooperate in this inquiry.

So I am going to award punitive damages pursuant to NRS 42.005 on a portion of the total damages. That would be on the $1,200 that was held in the cashier's check, which appears to have been intentionally withdrawn on the day of or the day after the Ms. Ahern was removed as trustee and in an attempt to hide the money, so I'll award punitive damages on the 1,200,000 in the form of treble damages for $3,600 -- 3,600,000 in punitive damages.

Further, I believe that the remainder beneficiaries are entitled to their attorney's fees and costs for this hearing, so we'll entertain whatever you've had to do to prepare from when we entered the decision -- not for the appeal itself. I don't think that's appropriate, but for whatever discovery efforts you've had to cooperate in and work with Mr. Waid and the hearings leading up to today's hearing, I'll entertain a motion for fees and costs for everything unrelated to the appeal. If you were seeking damages for the -- attorney's fees for the appeal, that'd be -- there's a separate procedure to look for attorney's fees for the appeal. This is just for what's gone on separate from the appeal getting us up to today.

And the issue, as you've know we've got, not only Marquis Aurbach attorney's fees request, but also Mr.

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EXHIBIT 4

HUTCHISON & STEFFEN

A PROFESSIONAL LLC

000Date: February 3, 2017

To: Judge Gloria Sturman

Fax: 702 366 1399

From: Eleanor Ahern

Fax: 702 346 7909

CASE NO: P-09-066425-T

DEPT. NO #20

Re: *In the matter of The W. N. Connell and Marjorie T. Connell Living Trust dated May 18, 1972*

Dear Judge,

November 4, 2015, you ordered from the Bench to have Fred Waid, Temporary Trustee, release $90,000 to me out of the millions he is holding, which was followed up by a written order. This money was to be for legal fees and for my much-needed medical attention.

I am requesting you cause him to release this money to me immediately so I can hire a lawyer.

I have not received any information regarding the hearing on February 8th.

Eleanor Ahern

Eleanor Ahern, former Trustee of the W. N. Connell and Marjorie T. Connell Living Trust dated May 18, 1972

My mailing address
355 West Mesquite Blvd. D30 #176
Mesquite, Nevada 89027

cc: Joseph J Powell, Esq, via Fax 702 255 4552 4677 or 855-787-4329
Todd Moody,Esq. via Fax 702 386-2086
395

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EXHIBIT 5

HUTCHISON & STEFFEN

A PROFESSIONAL LLC

DISTRICT COURT
CLARK COUNTY, NEVADA

Probate - Trust/Conservatorships	COURT MINUTES	February 08, 2017

ELECTRONICALLY SERVED
02/08/2017 03:32:35 PM

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

February 08, 2017 3:10 PM Minute Order

HEARD BY: Sturman, Gloria COURTROOM: Chambers

COURT CLERK: Tena Jolley

PARTIES: **None. Minute Order Only - no hearing held.**

JOURNAL ENTRIES

- Pursuant to Eleanor Ahern's ex parte request for an order releasing funds, the Court hereby grants the request and orders that the Trustee, Fred Waid, shall release funds from Ms. Ahern's share of the Trust directly to attorney Lawrence Semenza, Esq., for his reasonable attorney's fees incurred for his representation of Ms. Ahern at the February 9th and 10th evidentiary hearing.

Notice: Journal entries are prepared by the courtroom clerk and are not the official record of the Court.

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EXHIBIT 6

HUTCHISON & STEFFEN

A PROFESSIONAL LLC

Your New Benefit Amount

BENEFICIARY'S NAME: ELEANOR C AHERN

Your Social Security benefits will increase by 1.5 percent in 2014 because of a rise in the cost of living. **You can use this letter when you need proof of your benefit amount to receive food, rent, or energy assistance; bank loans; or for other business.** Keep this letter with your other important financial documents.

How Much Will I Get And When?

• Your monthly amount (before deductions) is	$2,892.90
• The amount we deduct for Medicare medical insurance is (If you did not have Medicare as of Nov. 14, 2013 or if someone else pays your premium, we show $0.00.)	$104.90
• The amount we deduct for your Medicare prescription drug plan is (If you did not elect withholding as of Nov. 1, 2013, we show $0.00.)	$0.00
• The amount we deduct for voluntary federal tax withholding is (If you did not elect voluntary tax withholding as of Nov. 14, 2013, we show $0.00.)	$0.00
• After we take any other deductions, you will receive on Jan. 15, 2014.	$2,788.00

If you disagree with any of these amounts, you must write to us within 60 days from the date you receive this letter. We would be happy to review the amounts.

You may receive your benefits through direct deposit, a Direct Express® card, or an Electronic Transfer Account. If you still receive a paper check and would like to switch to an electronic payment, please visit *www.godirect.org* or call **1-800-333-1795**.

What If I Have Questions?

Please visit our website at *www.socialsecurity.gov* for more information and a variety of online services. You also can call **1-800-772-1213** and speak to a representative from 7 a.m. until 7 p.m., Monday through Friday. Recorded information and services are available 24 hours a day. Our lines are busiest early in the week, early in the month, as well as during the week between Christmas and New Year's Day; it is best to call at other times. If you are deaf or hard of hearing, call our TTY number, **1-800-325-0778**. If you are outside the United States, you can contact any U.S. embassy or consulate office. Please have your Social Security claim number available when you call or visit and include it on any letter you send to Social Security. If you are inside the United States and need assistance of any kind, you also can visit your local office.

SUITE 150
1250 S BUFFALO DR
LAS VEGAS NV

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EXHIBIT 7

HUTCHISON & STEFFEN
A PROFESSIONAL LLC

PLEADING CONTINUES IN NEXT VOLUME

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF THE W.N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST, DATED MAY 18, 1972,	Case No: P-09-066425-T Docket No: 73837
ELEANOR CONNELL HARTMAN AHERN, Appellant(s), vs. JACQUELINE M. MONTOYA; AND KATHRYN A. BOUVIER, Respondent(s),	

RECORD ON APPEAL
VOLUME
43

ATTORNEY FOR APPELLANT
ELEANOR C. AHERN, PROPER PERSON
355 W. MESQUITE BLVD., D30 #176
MESQUITE, NV 89027

ATTORNEY FOR RESPONDENT
JOSEPH J. POWELL
1707 VILLAGE CENTER CIR., STE. 150
LAS VEGAS, NV 89134

P-09-660425-T IN THE MATTER OF THE TRUST OF:
THE W.N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST, DTD MAY 18, 1972

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

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32	07/31/2015	RESPONSE TO MOTION TO DISMISS CONTEMPT PROCEEDING (CONTINUATION)	6201 - 6209
2	11/07/2013	RESPONSE TO MOTION TO REFER CONTESTED PROBATE MATTER TO MASTER-PROBATE COMMISSIONER PER EDCR 4.16	328 - 342
43	11/23/2016	RESPONSE TO MOTION TO WITHDRAW	8523 - 8524
34	10/09/2015	RESPONSE TO MOTION TO WITHDRAW AS COUNSEL ON ORDER SHORTENING TIME	6635 - 6640
34	10/28/2015	RESPONSE TO MS. AHERN'S REPLY IN SUPPORT OF MOTION FOR DISTRIBUTION OF TRUST INCOME (PARTIALLY STRICKEN DECEMBER 4, 2015)	6709 - 6714
10	05/08/2014	RESPONSE TO OBJECTION OF ELEANOR C. AHERN TO JACQUELINE M. MONTOYA'S PETITION AND ADDENDUM TO PETITION TO COMPEL TRUSTEE TO DISTRIBUTE ACCRUED INCOME AND FUTURE INCOME RECEIVED FROM OIL, GAS, AND MINERAL LEASES AND DECLARATION OF THE APPLICABILITY OF THE DOCTRINE OF LACHES	1944 - 1986
5	01/09/2014	RESPONSE TO OBJECTION OF TRUSTEE ELEANOR C. AHERN TO JACQUELINE M. MONTOYA'S PETITION TO COMPEL TRUSTEE TO DISTRIBUTE ACCRUED INCOME AND FUTURE INCOME RECEIVED FROM OIL, GAS, AND MINERALS AND DECLARATION OF THE APPLICABILITY OF THE DOCTRINE OF LACHES	898 - 915
42	08/31/2016	RESPONSE TO PETITION FOR ORDER DIRECTING TRANSFER OF TENANCY IN COMMON INTEREST IN UPTON COUNTY, TEXAS PROPERTY TO THE MTC LIVING TRUST	8325 - 8327

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VOL	DATE	PLEADING	PAGE NUMBER:
34	10/08/2015	SECOND AMENDED NOTICE OF TAKING OUT-OF-STATE DEPOSITION OF LAWRENCE PRUCKA	6630 - 6632
43	11/07/2016	SECOND NOTICE OF TAKING VIDEO DEPOSITION OF ELEANOR AHERN	8512 - 8514
25	03/19/2015	SECOND SUPPLEMENT TO BRIEF REGARDING PENDING ISSUES (SEALED)	4858 - 4864
35	11/03/2015	SECOND SUPPLEMENT TO REPLY IN SUPPORT OF MOTION FOR DISTRIBUTION OF TRUST INCOME	6816 - 6820
47	08/08/2017	STAY THE ORDER OF GUARDIAN AD LITEM	9393 - 9394
13	09/10/2014	STIPULATION AND ODER FOR RELEASE OF MEDICAL INFORMATION	2511 - 2515
14	10/13/2014	STIPULATION AND ORDER FOR RELEASE OF MEDICAL INFORMATION	2721 - 2726
43	09/23/2016	STIPULATION AND ORDER TO CONTINUE STATUS CHECK REGARDING MARQUIS AURBACH COFFING'S MOTION TO ADJUDICATE ATTORNEY'S LIEN	8457 - 8461
6	03/11/2014	STIPULATION AND ORDER TO EXTEND TIME TO REPLY OR OTHERWISE PLEAD TO COUNTERCLAIMS ASSERTED BY ELEANOR C. AHERN	1155 - 1156
38	03/02/2016	STIPULATION AND ORDER TO FILE PETITION FOR INSTRUCTION REGARDING ALLOCATION OF ELEANOR AHERN'S 2015 TRUST UNPAID DISTRIBUTIONS UNDER SEAL	7514 - 7518
22	02/13/2015	STIPULATION AND ORDER TO FILE UNDER SEAL	4245 - 4247
35	12/04/2015	STIPULATION AND ORDER TO STRIKE EXHIBIT A FROM 10/28/15 RESPONSE SEALED PLEADING FROM RECORD	6920 - 6923
27	04/21/2015	SUBPOENA - CIVIL DUCES TECUM	5348 - 5351
33	10/02/2015	SUBPOENA - SHELLY L. TABACZYNSKI	6584 - 6587
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12	07/22/2014	SUBPOENA DUCES TECUM FOR BUSINESS RECORDS	2222 - 2227
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13	09/11/2014	SUBPOENA DUCES TECUM FOR BUSINESS RECORDS	2516 - 2522
33	09/24/2015	SUBPOENA DUCES TECUM TO CUSTODIAN OF RECORDS FOR MAIL FOR YOU, INC.	6521 - 6525
14	10/21/2014	SUBPOENA TO DAVID A. STRAUS, ESQUIRE	2742 - 2746
14	10/21/2014	SUBPOENA TO JOSEFINA C. JONES	2747 - 2751
14	10/21/2014	SUBPOENA TO SHARON BROWN	2737 - 2741
14	11/03/2014	SUBSTITUTION OF ATTORNEY	2758 - 2759
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15	11/26/2014	SUBSTITUTION OF ATTORNEYS	2802 - 2805
27	04/16/2015	SUMMARY JUDGMENT	5284 - 5300
25	03/18/2015	SUPPLEMENT TO BRIEF REGARDING ACCOUNTING, FIDUCIARY DUTIES, AND TRUST ADMINISTRATION (FILED UNDER SEAL)	4844 - 4857
24	03/18/2015	SUPPLEMENT TO BRIEF REGARDING PENDING ISSUES (SEALED) (CONTINUED)	4784 - 4800
25	03/18/2015	SUPPLEMENT TO BRIEF REGARDING PENDING ISSUES (SEALED) (CONTINUATION)	4801 - 4843
32	07/31/2015	SUPPLEMENT TO MOTION FOR ASSESSMENT OF DAMAGES AGAINST ELEANOR AHERN; ENFORCEMENT OF NO CONTEST CLAUSE; AND SURCHARGE OF ELEANOR'S TRUST INCOME	6210 - 6258
21	01/20/2015	SUPPLEMENT TO MOTION TO AMEND PLEADINGS	4094 - 4118
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		FOR SUMMARY JUDGMENT ON PETITION FOR DECLARATORY JUDGMENT, FOR DAMAGES AND ASSESSMENT OF PENALTIES, AND FOR OTHER RELIEF; AND, OPPOSITION TO ELEANOR'S COUNTERMOTION FOR SUMMARY JUDGMENT (CONTINUED)	
21	01/12/2015	SUPPLEMENT TO REPLY IN SUPPORT OF COUNTERMOTION OF KATHRYN A. BOUVIER AND JACQUELINE M. MONTOYA FOR SUMMARY JUDGMENT ON PETITION FOR DECLARATORY JUDGMENT, FOR DAMAGES AND ASSESSMENT OF PENALTIES, AND FOR OTHER RELIEF; AND, OPPOSITION TO ELEANOR'S COUNTERMOTION FOR SUMMARY JUDGMENT (CONTINUATION)	4001 - 4032
35	11/02/2015	SUPPLEMENT TO REPLY IN SUPPORT OF MOTION FOR DISTRIBUTION OF TRUST INCOME	6809 - 6815
28	05/12/2015	SUR-REPLY TO MONTOYA AND BOUVIER'S REPLY IN SUPPORT OF MOTION FOR AWARD OF ATTORNEYS' FEES AND COSTS	5456 - 5460
34	10/12/2015	THIRD AMENDED NOTICE OF TAKING OUT-OF-STATE DEPOSITION OF JEFFREY JOHNSTON	6670 - 6672
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27	04/27/2015	TRANSCRIPT OF HEARING HELD ON APRIL 14, 2015	5365 - 5390
28	06/04/2015	TRANSCRIPT OF HEARING HELD ON APRIL 20, 2015	5535 - 5565
9	04/28/2014	TRANSCRIPT OF HEARING HELD ON APRIL 22, 2014	1640 - 1647
28	06/09/2015	TRANSCRIPT OF HEARING HELD ON APRIL 22, 2015 (CONTINUED)	5572 - 5600
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33	08/25/2015	TRANSCRIPT OF HEARING HELD ON AUGUST 18, 2015	6409 - 6421
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6	03/13/2014	TRANSCRIPT OF HEARING HELD ON FEBRUARY 12, 2014	1162 - 1189
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29	06/19/2015	TRANSCRIPT OF HEARING HELD ON FEBRUARY 18, 2015	5662 - 5668
38	03/29/2016	TRANSCRIPT OF HEARING HELD ON FEBRUARY 22, 2016 (CONTINUED)	7552 - 7600
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45	03/10/2017	TRANSCRIPT OF HEARING HELD ON FEBRUARY 9, 2017	8804 - 8945
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29	07/06/2015	TRANSCRIPT OF HEARING HELD ON JANUARY 14, 2015 (CONTINUED)	5768 - 5800
30	07/06/2015	TRANSCRIPT OF HEARING HELD ON JANUARY 14, 2015 (CONTINUATION)	5801 - 5810
5	02/04/2014	TRANSCRIPT OF HEARING HELD ON JANUARY 24, 2014	957 - 967
36	02/17/2016	TRANSCRIPT OF HEARING HELD ON JANUARY 27, 2016	7117 - 7168
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40	06/10/2016	TRANSCRIPT OF HEARING HELD ON JUNE 1, 2016 (CONTINUED)	7992 - 8000
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29	06/29/2015	TRANSCRIPT OF HEARING HELD ON JUNE 22, 2015	5688 - 5747
29	06/30/2015	TRANSCRIPT OF HEARING HELD ON JUNE 25, 2015	5756 - 5765
25	03/31/2015	TRANSCRIPT OF HEARING HELD ON MARCH 20, 2015 (CONTINUED)	4937 - 5000
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26	04/10/2015	TRANSCRIPT OF HEARING HELD ON MARCH 26, 2015 (CONTINUED)	5200 - 5200
27	04/10/2015	TRANSCRIPT OF HEARING HELD ON MARCH 26, 2015 (CONTINUATION)	5201 - 5222
40	05/20/2016	TRANSCRIPT OF HEARING HELD ON MARCH 3, 2016 (SEALED)	7884 - 7979
11	05/20/2014	TRANSCRIPT OF HEARING HELD ON MAY 13, 2014	2106 - 2165
29	06/12/2015	TRANSCRIPT OF HEARING HELD ON MAY 13, 2015	5602 - 5634
46	05/30/2017	TRANSCRIPT OF HEARING HELD ON MAY 24, 2017	9142 - 9177
3	12/06/2013	TRANSCRIPT OF HEARING HELD ON NOVEMBER 12, 2013 (CONTINUED)	564 - 600
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43	12/06/2016	TRANSCRIPT OF HEARING HELD ON NOVEMBER 23, 2016	8540 - 8562
35	11/18/2015	TRANSCRIPT OF HEARING HELD ON NOVEMBER 4, 2015	6828 - 6904
35	12/07/2015	TRANSCRIPT OF HEARING HELD ON OCTOBER 14, 2015	6924 - 6936
33	09/25/2015	TRANSCRIPT OF HEARING HELD ON SEPTEMBER 16, 2015	6545 - 6562
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13	09/19/2014	TRANSCRIPT OF HEARING HELD ON SEPTEMBER 3, 2014	2558 - 2569
37	02/19/2016	TRIAL MEMORANDUM (FILED UNDER SEAL) (CONTINUED)	7290 - 7400
38	02/19/2016	TRIAL MEMORANDUM (FILED UNDER SEAL) (CONTINUATION)	7401 - 7484
5	02/11/2014	TRIAL SUBPOENA	996 - 998
37	02/19/2016	TRIAL SUBPOENA - JACQUELINE MONTOYA	7280 - 7284
37	02/19/2016	TRIAL SUBPOENA - KATHRYN BOUVIER	7275 - 7279
32	08/12/2015	TRUSTEE, FREDRICK P. WAID'S, PRODUCTION OF DOCUMENTS	6280 - 6282
46	05/11/2017	UNFILED DOCUMENT(S) - AUDIOVISUAL TRANSMISSION EQUIPMENT APPEARANCE REQUEST	9063 - 9066
8	03/26/2014	VERIFICATION FOR PETITION FOR CONSTRUCTION AND EFFECT OF PROBATE COURT ORDER	1589 - 1590
1	09/27/2013	VERIFICATION FOR PETITION FOR DECLARATORY JUDGMENT REGARDING LIMITED INTEREST OF TRUST ASSETS PURSUANT TO NRS 30.040, NRS 153.031(1)(E), AND NRS 164.033(1)(A)	82 - 83
9	03/27/2014	VERIFICATION FOR PETITION FOR DETERMINATION OF CONSTRUCTION AND INTERPRETATION OF LANGUAGE RELATING TO TRUST NO. 2	1608 - 1609
3	12/03/2013	VERIFICATION FOR PETITION TO COMPEL TRUSTEE TO DISTRIBUTE ACCRUED INCOME AND FUTURE INCOME RECEIVED FROM OIL, GAS, AND MINERAL LEASES AND	531 - 532

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

I N D E X

VOL	DATE	PLEADING	PAGE NUMBER:
		DECLARATION OF THE APPLICABILITY OF THE DOCTRINE OF LACHES	

EXHIBIT 2

EXHIBIT 2

Brownstein Hyatt Farber Schreck

Brownstein Hyatt Farber Schreck, LLP
100 North City Parkway
Suite 1600
Las Vegas, NV 89106
Phone: 702-382-2101
Facsimile: 702-382-8135
http://www.bhfs.com
TIN: 26-1367865

Eleanor Ahern
8635 W. Sahara Ave., #50
The Lakes, NV 89117-5858

Invoice Date: November 14, 2016
Invoice #: 659911
Client.Matter #: 018177.0001

Payable Upon Receipt

Re: The W.N. Connell and Marjorie T. Connell Living Trust

For Professional Services Rendered Through November 11, 2016

Previous Balance	$ 296,201.22
Less Credits	-
Balance Forward	**$ 296,201.22**
Total Fees	$ 15,119.50
Total Costs	463.40
Total Amount Due This Invoice	**$ 15,582.90**
TOTAL AMOUNT DUE	**$ 311,784.12**

PLEASE SEND WITH CHECK TO:

Brownstein Hyatt Farber Schreck, LLP
P.O. Box 172168
Denver, CO 80217-2168

NOTE: The above address is for regular mail delivery only
NO PAYMENTS SHOULD BE SENT CERTIFIED MAIL

OR via Courier Service To:

KeyBank Lockbox Operations
Brownstein Hyatt Farber Schreck, LLP
Lockbox #6025
11030 Circle Point Road
Westminster, CO 80021

WIRE FUNDS TO:

Brownstein Hyatt Farber Schreck, LLP
Bank Name: KeyBank of Colorado
Bank Address: 1675 Broadway
Denver, CO 80202
ABA#: 307070267
Account #: 769681047122
Ref: 018177.0001, Invoice No. 659911

EXHIBIT D

EXHIBIT D

7013 1710 0002 3637 3947

FIRST-CLASS
03 1P $ 007.15⁰
0000560268 NOV 14 2016
MAILED FROM ZIP CODE 89201

ND

Brownstein Hyatt Farber Schreck
100 North City Parkway, Suite 1600
Las Vegas, Nevada 89106

8404

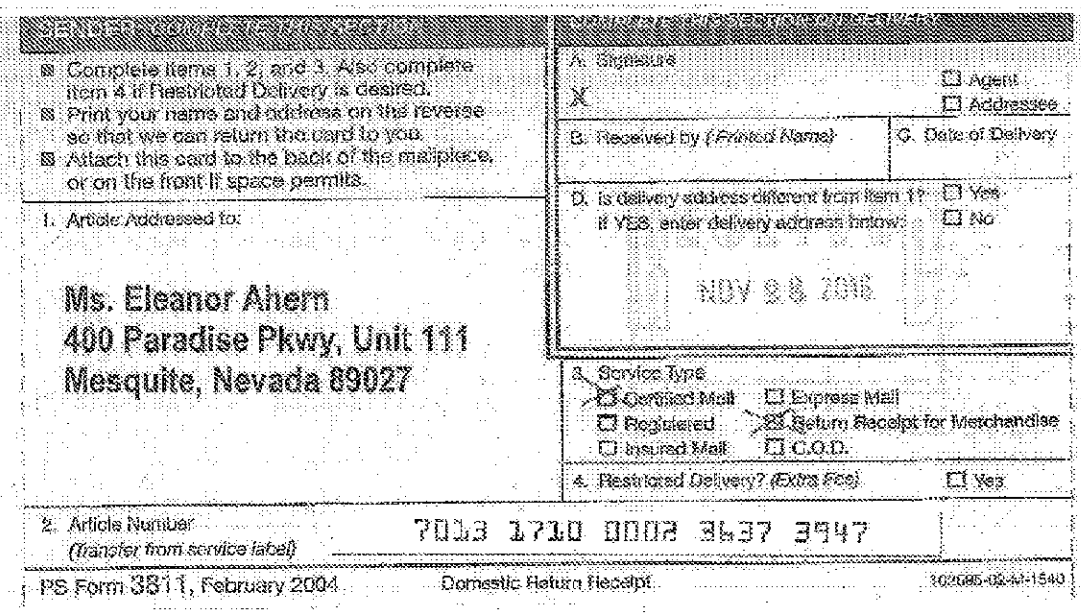
Ms. Eleanor Ahern
400 Paradise Pkwy, Unit 111
Mesquite, Nevada 89027

NIXIE 890 275075-1N 11/25/16
RETURN TO SENDER
NO MAIL RECEPTACLE
UNABLE TO FORWARD
RETURN TO SENDER

[redacted]

Brownstein Hyatt Farber Schreck, LLP

[redacted]



SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Ms. Eleanor Ahern
400 Paradise Pkwy, Unit 111
Mesquite, Nevada 89027

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X
☐ Agent
☐ Addressee

B. Received by (Printed Name) | C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

NOV 2 8 2016

3. Service Type
☑ Certified Mail ☐ Express Mail
☐ Registered ☑ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

2. Article Number (Transfer from service label) 7013 1710 0002 3637 3947

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540

EXHIBIT E

EXHIBIT E

Kay, Paula

From: Lenhard, Kirk B.
Sent: Tuesday, November 29, 2016 9:50 AM
To: Eleanor@ConnellTrust.Lawyer; eca9282015@gmail.com
Subject: FW: In the Matter of the W.N. Connell and Marjorie T. Connell Living Trust
Attachments: Invoice_608814.pdf; Invoice_611312.pdf; Invoice_615194.pdf; Invoice_616822.pdf; Invoice_621331.pdf; Invoice_625438.pdf; Invoice_636790.pdf; Invoice_645568.pdf; Invoice No. 659911.pdf; 18177 - Statement of Account.pdf

Attached please find the requested invoices.

From: Kay, Paula
Sent: Tuesday, November 29, 2016 9:48 AM
To: Lenhard, Kirk B.
Subject: FW: In the Matter of the W.N. Connell and Marjorie T. Connell Living Trust

Kirk – attached are Ms. Ahern's invoices. She is mailed a bill every month. Do you want to email these to her?

From: Eleanor@ConnellTrust.Lawyer [mailto:Eleanor@ConnellTrust.Lawyer]
Sent: Tuesday, November 22, 2016 3:27 PM
To: Lenhard, Kirk B.
Cc: eca9282015@gmail.com
Subject: Re: In the Matter of the W.N. Connell and Marjorie T. Connell Living Trust

Do send me, via email, all the supporting entries so I know what was charged for. Was the credit here a payment ?

Eleanor, Beneficiary
The William N, Connell and Marjorie T. Connell Living Trust
Dated May 18, 1972.

On Nov 14, 2016, at 3:42 PM, "Lenhard, Kirk B." <KLenhard@BHFS.com> wrote:

> Ms. Ahern:
>
> Please find attached ***Notice of Attorneys' Lien***.

Paula M. Kay
Legal Secretary
Brownstein Hyatt Farber Schreck, LLP
100 North City Parkway, Suite 1600
Las Vegas, NV 89106
702.464.7036 tel
PKay@BHFS.com

To ensure compliance with requirements imposed by the IRS, we inform you that any federal tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for purposes of (i) avoiding penalties under the Internal Revenue Code, or (ii) promoting, marketing or recommending to another party any transaction or tax-related matter addressed herein.

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<2016.11.14 Notice of Attorneys' Lien.pdf>

Electronically Filed
01/24/2017 03:36:45 PM

CLERK OF THE COURT

DISTRICT COURT
CLARK COUNTY, NEVADA
****

In the Matter of the Trust of: The W.N. Connell and Marjorie T. Connell Living Trust, dtd May 18, 1972	Case No.: P-09-066425-T Family Domestic

NOTICE OF HEARING

Please be advised that the above-entitled matter has been scheduled for Motion to Adjudicate Attorneys Lien, to be heard by the Honorable Judge Sturman, at the Regional Justice Center, 200 Lewis Ave, Las Vegas, Nevada 89101, on the 22nd day of February, 2017, at the hour of 9:30 AM, in courtroom 10D.

YOUR PRESENCE IS NECESSARY.

STEVEN D. GRIERSON, CEO/Clerk of the Court

By: /s/ Diana Matson
Diana Matson
Deputy Clerk of the Court

CERTIFICATE OF SERVICE

I hereby certify that this 24th day of January, 2017

☒ The foregoing Notice of Hearing was electronically served to all registered parties for case number P-09-066425-T.

☒ I placed a copy of the foregoing Notice of Hearing in the appropriate attorney folder located in the Clerk of the Court's Office:

David L Mann, Esq

/s/ Diana Matson
Diana Matson
Deputy Clerk of the Court

Electronically Filed
02/01/2017 02:22:11 PM

CLERK OF THE COURT

ACCT
Todd L. Moody (5430)
Russel J. Geist (9030)
HUTCHISON & STEFFEN, LLC
10080 West Alta Drive, Suite 200
Las Vegas, Nevada 89145
(702) 385-2500
(702) 385-2086 FAX
tmoody@hutchlegal.com
rgeist@hutchlegal.com

Attorneys for Fredrick P. Waid Court-appointed Trustee

DISTRICT COURT

CLARK COUNTY, NEVADA

In the matter of

THE W.N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST DATED May 18, 1972, an Inter Vivos Irrevocable Trust.

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

HUTCHISON & STEFFEN
A PROFESSIONAL LLC
PECCOLE PROFESSIONAL PARK
10080 WEST ALTA DRIVE, SUITE 200
LAS VEGAS, NV 89145

ACCOUNTING AND REPORT OF TRUST ACTIVITY FROM 2013 TO 2015

Fredrick P. Waid, Successor Trustee of the W.N. Connell and Marjorie T. Connell Living Trust, dated May 18, 1972, (the "Trust"), hereby files this Accounting and Report of Trust Activity from 2013 to 2015 ("Report"). During most of this time period, Eleanor Ahern served as the sole trustee of the Trust and had exclusive access and control of all Trust checking, savings and other accounts. The Successor Trustee filed an Interim Report under seal on July 6, 2015.

The Court is well aware of the litigation history in this case and a narrative recital is not warranted in this Report. Since the Appointment of the Successor Trustee in April 2015, this Court has issued numerous orders requiring Ms. Ahern to produce records, comply with deposition notices and cooperate with the Successor Trustee's efforts to prepare an accounting for time periods when she served as Trustee. In response to the Court's orders Ms. Ahern has produced, through her various counsel, only limited records primarily consisting of forwarded mail. She did not appear for any scheduled or ordered depositions notwithstanding the findings

of the Court regarding fraud and other misconduct pursuant to hearings on the Motion to Enforce the Trust's No Contest Clause.

Due to her failure to appear and cooperate as ordered, a significant portion of the transactional history that occurred during Ms. Ahern's tenure as trustee cannot be reconciled or explained. As such, and pursuant to Generally Accepted Accounting Principles (GAAP), the Successor Trustee is unable to this provide the Court with definitive information or explain as to the greatly expanded Trust expenditures, either in dollars spent or to whom those dollars were paid, during the accounting period and Ms. Ahern's tenure as Trustee.

For clarification, in years prior to June 2013, the Trust expenditures were generally limited to three categories, including (1) property taxes, (2) liability insurance premiums and (3) limited professional fees for legal or accounting services. All other income/royalties were distributed to the Trust beneficiaries who were individually responsible for any associated tax liabilities. The Trust was designed to eliminate any taxable income at the Trust level with all income passing to the respective 65% beneficiary, the MTC Trust ("MTC"), and the 35% beneficiary, Eleanor Ahern as a lifetime beneficiary of income only.

During Ms. Ahern's tenure approximately thirty (30) other companies and/or individuals were paid with Trust funds. (A list of payees and amounts is attached as Exhibit A.) Again, due to Ms. Ahern's failure to answer questions under oath, the rationale and basis for the expenditures remain unanswered and unclear. What is clear is that MTC did not receive a single distribution of royalty income from the Trust between June 2013 and April 2015. Only after Ms. Ahern was removed as Trustee by the Court did MTC once again begin receiving its share of distributions. A significant number of expenses that were authorized by Ms. Ahern appear to have provided no benefit to the Trust and cannot be deemed appropriate, deductible business expenses as defined and permitted by the Internal Revenue Code.

After reviewing available records from the Internal Revenue Service, various banks, oil and gas producers, common royalty recipients (*i.e.*, the Miller family, which shares an equivalent 25% royalty interest as the Trust) and partial reconciliations completed by the accounting firm

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A PROFESSIONAL LLC
PECCOLE PROFESSIONAL PARK
10080 WEST ALTA DRIVE, SUITE 200
LAS VEGAS, NV 89145

of Gammet & King CPAs, the Successor Trustee prepared the chart attached as Exhibit B, which sets forth the best available basis for calculation of royalties not paid to the MTC Trust, as required by the terms of the Trust and as determined by this Court's previous findings and orders.

MTC should have received royalty payments of $481,010 for 2013, $2,028,134 for 2014 and $1,447,406 for 2015, totaling $3,956,550. MTC received for the three (3) year period a total of $2,214,497, with $1,914,622 of the amount being paid after Ms. Ahern was removed as Trustee. The total undistributed royalties for the period is $1,742,053.

The Successor Trustee takes no position as to the Court's imposition of damages relating to the conduct of Ms. Ahern. The Trustee has ongoing fiduciary duties to Ms. Ahern, notwithstanding her interest being temporarily suspended. Additionally, the Successor Trustee continues his efforts to recover certain tax payments made to the U.S. Treasury as a result of Ms. Ahern's failure to comply with and administer the Trust according to its terms and intent. It is anticipated that amended tax returns and refunds will be resolved and closed by mid-2017. As of the filing of this Report, Ms. Ahern has not identified or confirmed any successor counsel to represent her in this matter.

On Saturday, January 21, 2017, the Successor Trustee coordinated and participated with the Mesquite Police Department in a "well check" of Ms. Ahern. After inspecting her residence and interviewing her, the responding officer determined that Ms. Ahern had sufficient food, clothing and shelter and appeared to be in good health based on his observations and Ms. Ahern's declaration to the officer. It should be noted that the last mailing address provided by Ms. Ahern's former counsel is not the address where Ms. Ahern currently resides. She currently

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HUTCHISON & STEFFEN
A PROFESSIONAL LLC
PECCOLE PROFESSIONAL PARK
10080 WEST ALTA DRIVE, SUITE 200
LAS VEGAS, NV 89145

resides at 111 Paradise Pkwy., Mesquite, Nevada, 89027.

Dated this 6 day of ~~January~~ February, 2017.

HUTCHISON & STEFFEN

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Court-appointed Trustee

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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of HUTCHISON & STEFFEN and that on this 1st day of February, 2017, I caused a true and correct copy of the above and foregoing **ACCOUNTING AND REPORT OF TRUST ACTIVITY FROM 2013 TO 2015** to be served as follows:

[X] by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada; and/or

[X] pursuant to EDCR 8.05(a) and 8.05(f), to be electronically served through the Eighth Judicial District Court's electronic filing system, with the date and time of the electronic service substituted for the date and place of deposit in the mail; and/or

[ ] Pursuant to EDCR 7.26, to be sent via facsimile; and/or

[ ] to be hand-delivered;

to the persons listed below at the address and/or facsimile number indicated below:

Via U.S. Mail Only:
Eleanor Ahern
111 Paradise Pkwy.
Mesquite, NV 89027

Via Wiznet Only:
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The Rushforth Firm
1707 Village Center Circle, Ste. 150
Las Vegas, NV 89134
Attorneys for Kathryn A. Bouvier and Jacqueline M. Montoya

Via Wiznet Only:
Daley A. Hayes, Esq.
Liane K. Wakayama, Esq.
Candice E. Rinka, Esq.
Marquis Aurbach Coffing
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Las Vegas, NV 89145

Via U.S. Mail Only:
Eleanor Ahern
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Mesquite, NV 89027

Via Wiznet Only:
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Tamara Beatty Peterson, Esq.
Brownstein Hyatt Farber Schreck, LLP
100 North City Parkway, Suite #1600
Las Vegas, NV 89106

An Employee of Hutchison & Steffen, LLC

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EXHIBIT PAGE ONLY

EXHIBIT A

HUTCHISON & STEFFEN
A PROFESSIONAL LLC

WN CONNELL AND MARJORIE T CONNELL 1972 TRUST
CONNELL TRUST ACCTS #1254900135/8737649197/1985753274
January 2013 through December 2015

Type	Date	Memo	Account	Split	Amount
AMERICAN EXPRESS					
Check	04/07/2014	CSH CK #291...	CONNELL TRUST #8737649197	Unknown Expe...	-5,000.00
Check	07/03/2014	CSH CK #674...	CONNELL TRUST #8737649197	Unknown Expe...	-10,000.00
Check	12/26/2014	CSH CK #241...	CONNELL TRUST #1985753274	Unknown Expe...	-10,000.00
AMERICAN PATROLS					
Check	03/05/2014	RE: AIRAERI...	CONNELL TRUST #1985753274	Unknown Expe...	-1,000.00
BANK OF AMERICA					
Check	03/05/2014	CSH CK #241...	CONNELL TRUST #1985753274	Unknown Expe...	-2,000.00
BARBARA SHORTZ					
Check	04/07/2014	CSH CK #291...	CONNELL TRUST #8737649197	Counseling Ex...	-2,301.40
Check	10/17/2014	CSH CK #241...	CONNELL TRUST #1985753274	Counseling Ex...	-3,000.00
Check	10/17/2014	CASH / CSH ...	CONNELL TRUST #1985753274	Counseling Ex...	-3,000.00
Check	12/19/2014	REF #9166	CONNELL TRUST #1254900135	Counseling Ex...	-8,600.00
BREATH OF LIFE SYSTEMS					
Check	12/19/2014	REF #9167	CONNELL TRUST #1254900135	Unknown Expe...	-5,198.46
BRENNAN LEGAL COUNSEL					
Check	05/13/2013	CSH CK #745...	CONNELL TRUST #8737649197	Legal Expense	-2,000.00
BURKS SECURITY					
Check	12/26/2014	CSH CK #241...	CONNELL TRUST #1985753274	Security Expen...	-30,400.00
CENTURY LINK					
Check	12/31/2014	CSH CK #241...	CONNELL TRUST #1985753274	Telephone Exp...	-1,000.00
CIRRUS AVIATION SERVICES					
Check	03/17/2014		CONNELL TRUST #1985753274	Airline Expense	-23,160.60
Check	07/21/2014	CSH CK #674...	CONNELL TRUST #8737649197	Airline Expense	-7,709.91
CITY OF LAS VEGAS SEWER SERVICES					
Check	12/31/2014	CSH CK #241...	CONNELL TRUST #1985753274	Utilities Expense	-612.00
CLARK COUNTY ASSESSOR					
Check	12/31/2014	CSH CK #241...	CONNELL TRUST #1985753274	Taxes - Property	-7,000.00
CONNELL FAMILY FOUNDATION					
Check	05/08/2013	(NOT USED ...	CONNELL TRUST #8737649197	Unknown Expe...	-27,449.54
COX COMMUNICATIONS					
Check	12/31/2014	CSH CK #241...	CONNELL TRUST #1985753274	Cable Expense	-600.00
CURT BAGGETT					
Check	08/20/2013	CSH CK #745...	CONNELL TRUST #1985753274	Unknown Expe...	-1,000.00
Check	02/14/2014	RE: W/M CO...	CONNELL TRUST #8737649197	Unknown Expe...	-7,000.00
DAREL BURKS					
Check	10/17/2014	CSH CK #241...	CONNELL TRUST #1985753274	Security Expen...	-3,000.00
Check	12/19/2014	REF #9164	CONNELL TRUST #1254900135	Security Expen...	-2,000.00
DAVID MANN					
Check	11/14/2014	RE: REIMBU...	CONNELL TRUST #1985753274	Unknown Expe...	-10,000.00
DCP MIDSTREAM					
Deposit	08/07/2013	CK #818622	CONNELL TRUST #8737649197	Gas/Oil Leases	62.54
DEE DETAILING CLEANING					
Check	12/31/2014	CSH CK #24...	CONNELL TRUST #1985753274	Janitorial Expe...	-550.00
DOUG EDWARDS					
Check	01/26/2015	CSH CK #241...	CONNELL TRUST #1985753274	Legal Expense	-10,000.00
ELEANOR M AHERN					
Check	03/06/2013	CSH CK #745...	CONNELL TRUST #8737649197	ELEANOR M A...	-17,548.22
Check	03/06/2013	LESS 3899.5...	CONNELL TRUST #8737649197	(UNKNOWN) ...	-17,548.22
Check	09/11/2013	CSH CK #241...	CONNELL TRUST #1985753274	AHERN/POD ...	-2,000.00
Check	09/11/2013	CSH CK #241...	CONNELL TRUST #1985753274	(UNKNOWN) #...	-5,000.00
Check	09/11/2013	CSH CK #241...	CONNELL TRUST #1985753274	ELEANOR M A...	-5,000.00
Check	09/11/2013	CSH CK #241...	CONNELL TRUST #1985753274	AHERN/POD J...	-5,000.00
Check	09/11/2013	CSH CK #241...	CONNELL TRUST #1985753274	(UNKNOWN) ...	-5,000.00
Check	09/11/2013	CSH CK #241...	CONNELL TRUST #1985753274	AHERN/POD ...	-5,073.80
Check	09/11/2013	CSH CK #241...	CONNELL TRUST #1985753274	AHERN/POD ...	-7,000.00
Check	09/11/2013	CSH CK #241...	CONNELL TRUST #1985753274	AHERN/POD ...	-11,000.00
Check	03/23/2015	CSH CK #084...	CONNELL TRUST #1254900135	Unknown Expe...	-100,000.00
EXPERT JET CHARTER					
Check	09/06/2014	CSH CK #678...	CONNELL TRUST #8737649197	Airline Expense	-53,003.90
FORENSIC SPECIALIST LIMITED					
Check	10/27/2014	REF #8899	CONNELL TRUST #1254900135	Unknown Expe...	-9,613.94
GAMMETT AND KING CPA'S					
Check	02/24/2014	RE: W/M CO...	CONNELL TRUST #1985753274	Accounting Ex...	-5,000.00
HANDWRITING LLC					
Check	12/31/2014	RE: CURT BA...	CONNELL TRUST #1985753274	Unknown Expe...	-5,477.00
INTERNAL REVENUE SERVICE					

WN CONNELL AND MARJORIE T CONNELL 1972 TRUST
CONNELL TRUST ACCTS #1254900135/8737649197/1985753274
January 2013 through December 2015

Type	Date	Memo	Account	Split	Amount
Check	12/29/2014	CSH CK #241...	CONNELL TRUST #1985753274	Income Taxes	-55,000.00
JAMES MANN					
Check	10/24/2014	REF #3765	CONNELL TRUST #1254900135	Unknown Expe...	-125,000.00
JASON COLLINS					
Check	04/07/2014	CSH CK #291...	CONNELL TRUST #8737649197	Unknown Expe...	-2,200.00
Check	07/03/2014	CSH CK #674...	CONNELL TRUST #8737649197	Unknown Expe...	-2,200.00
Check	07/11/2014	OVERPD BY ...	CONNELL TRUST #8737649197	Unknown Expe...	-2,200.00
Check	08/04/2014	CSH CK #241...	CONNELL TRUST #8737649197	Unknown Expe...	-2,200.00
Check	10/17/2014	CSH CK #241...	CONNELL TRUST #1985753274	Unknown Expe...	-22,000.00
Check	12/19/2014	REF #9135	CONNELL TRUST #1254900135	Unknown Expe...	-9,250.00
Check	12/31/2014	CSH CK #241...	CONNELL TRUST #1985753274	Unknown Expe...	-4,400.00
Check	01/31/2015	CSH CK #/18...	CONNELL TRUST #1985753274	Unknown Expe...	-7,600.00
Check	02/18/2015	REF #1144	CONNELL TRUST #1985753274	Unknown Expe...	-6,600.00
JEFFREY BURR LAW FIRM					
Check	05/08/2014	CSH CK #649...	CONNELL TRUST #8737649197	Legal Expense	-50,000.00
Check	06/03/2014	REF #5032	CONNELL TRUST #8737649197	Legal Expense	-60,000.00
Check	10/17/2014	CSH CK #241...	CONNELL TRUST #1985753274	Legal Expense	-125,000.00
JEFFREY JOHNSTON & ASSOCIATES					
Check	06/10/2013	RE: LEGAL F...	CONNELL TRUST #8737649197	Legal Expense	-7,000.00
JET PARTNERS WORLDWIDE					
Check	11/06/2014	CSH CK #241...	CONNELL TRUST #1985753274	Airline Expense	-25,800.00
JOHNSTON & ASSOCIATES					
Check	06/05/2013	CSH CK #649...	CONNELL TRUST #8737649197	Legal Expense	-5,000.00
Check	08/07/2013	CONNELL TR...	CONNELL TRUST #8737649197	Legal Expense	-20,000.00
Check	08/15/2013	CSH CK #241...	CONNELL TRUST #1985753274	Legal Expense	-50,000.00
KINGDOM TITLE SOLUTIONS					
Check	12/29/2014	WIRE	CONNELL TRUST #1985753274	Unknown Expe...	-75,000.00
LARRY PRUCKA					
Check	04/07/2014	CPA / CSH C...	CONNELL TRUST #8737649197	Accounting Ex...	-4,000.00
Check	07/03/2014	CSH CK #674...	CONNELL TRUST #8737649197	Accounting Ex...	-2,000.00
LAURIE HOELTZEL					
Check	07/11/2014	CSH CK #674...	CONNELL TRUST #8737649197	Unknown Expe...	-740.00
LISA JOHNSON					
Check	06/10/2013	CSH CK #745...	CONNELL TRUST #8737649197	Unknown Expe...	-2,000.00
LYNCH, CHAPPELL & ALSUP					
Check	01/10/2013	RE: Legal Fe...	CONNELL TRUST #8737649197	Legal Expense	-4,000.00
Check	05/13/2013	RE: HARPER...	CONNELL TRUST #8737649197	Legal Expense	-5,000.00
MARGARET WURDELLA					
Check	05/08/2014	CSH CK #649...	CONNELL TRUST #8737649197	Unknown Expe...	-3,500.00
MARGARET WURDELLA LIVING TRUST					
Check	02/27/2015	CSH CK #848...	CONNELL TRUST #1985753274	Unknown Expe...	-1,750.00
MARQUIS AURBACH COFFING					
Check	11/24/2014	CSH CK #241...	CONNELL TRUST #1985753274	Legal Expense	-15,000.00
Check	12/26/2014	CSH CK #241...	CONNELL TRUST #1985753274	Legal Expense	-21,782.28
Check	12/31/2014	CSH CK #241...	CONNELL TRUST #1985753274	Legal Expense	-21,000.00
Check	01/26/2015	CSH CK #241...	CONNELL TRUST #1985753274	Legal Expense	-30,394.22
Check	02/20/2015	WIRE	CONNELL TRUST #1985753274	Legal Expense	-75,000.00
MCNAIR & ASSOCIATES					
Check	05/13/2013	CSH CK #745...	CONNELL TRUST #8737649197	Accounting Ex...	-1,200.00
Check	08/07/2013	CSH CK #745...	CONNELL TRUST #8737649197	Accounting Ex...	-900.00
Check	07/03/2014	RE: CPA / CS...	CONNELL TRUST #8737649197	Accounting Ex...	-2,144.18
MTC LIVING TRUST					
Check	02/15/2013	CSH CK #745...	CONNELL TRUST #8737649197	Unknown Expe...	47,603.71
Check	05/09/2013	RE: LESS W...	CONNELL TRUST #8737649197	Unknown Expe...	-44,477.73
Check	06/11/2013	RE: GIFT 201...	CONNELL TRUST #8737649197	Unknown Expe...	-37,000.00
NEVADA POWER					
Check	12/31/2014	CSH CK #241...	CONNELL TRUST #1985753274	Utilities Expense	-1,000.00
OMNI HOTEL AND RESORTS					
Check	07/03/2014	REF: FORT ...	CONNELL TRUST #8737649197	Hotel Expense	-7,000.00
Check	07/11/2014	CSH CK #674...	CONNELL TRUST #8737649197	Hotel Expense	-6,500.00
PROPERTY SERVICES					
Check	10/27/2014	CSH CK #241...	CONNELL TRUST #1254900135	Rent Expense	-8,600.00
Check	12/31/2014	CSH CK #241...	CONNELL TRUST #1985753274	Rent Expense	-6,000.00
PRUDENTIAL AMERICANA GRP					
Check	03/05/2014	RE: CONNEL...	CONNELL TRUST #1985753274	Rent Expense	-2,250.00
REAL ESTATE SERVICES					
Check	03/05/2014	CSH CK #241...	CONNELL TRUST #1985753274	Unknown Expe...	-10,000.00

WN CONNELL AND MARJORIE T CONNELL 1972 TRUST
CONNELL TRUST ACCTS #1254900135/8737649197/1985753274
January 2013 through December 2015

Type	Date	Memo	Account	Split	Amount
Check	04/23/2014	CSH CK #241...	CONNELL TRUST #8737649197	Unknown Expe...	-90,000.00
Check	05/08/2014	CSH CK #649...	CONNELL TRUST #8737649197	Unknown Expe...	-50,000.00
Check	07/21/2014	CSH CK #574...	CONNELL TRUST #8737649197	Unknown Expe...	-150,000.00
REPUBLIC SERVICES					
Check	12/31/2014	CSH CK #241...	CONNELL TRUST #1985753274	Trash Expense	-420.00
ROBINSON REALTY					
Check	04/07/2014	CSH CK #291...	CONNELL TRUST #8737649197	Unknown Expe...	-2,500.00
RYAN SCHARAR					
Check	08/20/2013	REF #2561	CONNELL TRUST #1985753274	Legal Expense	-10,000.00
Check	08/20/2013	RE: ELEANO...	CONNELL TRUST #1985753274	Legal Expense	-20,000.00
SHAUNA BRENNAN					
Check	01/10/2013	RE: Legal Fe...	CONNELL TRUST #8737649197	Legal Expense	-5,000.00
SHERRY DOBER					
Check	06/10/2013	CSH CK #745...	CONNELL TRUST #8737649197	Unknown Expe...	-1,000.00
SHORTZ CONSULTING					
Check	08/15/2013	REF #5534	CONNELL TRUST #1985753274	AHERN/POD ...	-35,000.00
Check	12/26/2014	CSH CK #241...	CONNELL TRUST #1985753274	Counseling Ex...	-31,200.00
STAN CRAWFORD ESQUIRE					
Check	05/08/2014	CSH CK #649...	CONNELL TRUST #8737649197	Legal Expense	-2,000.00
STERLING CLARK					
Check	11/24/2014	CSH CK #241...	CONNELL TRUST #1985753274	Unknown Expe...	-500.00
T MOBILE					
Check	12/31/2014	CSH CK #241...	CONNELL TRUST #1985753274	Cellular Expense	-1,000.00
TONY DAVE & ASSOCIATES					
Check	10/27/2014	RE: CONSUL...	CONNELL TRUST #1254900135	Unknown Expe...	-5,000.00
UPTON COUNTY APPRAISAL DISTRICT					
Check	02/25/2014	RE: 2013 TA...	CONNELL TRUST #1985753274	Taxes - Property	-3,199.06
Check	12/26/2014	RE: 2014 TA...	CONNELL TRUST #1985753274	Taxes - Property	-65,000.00
Deposit	02/28/2015	Overpayment ...	CONNELL TRUST #1254900135	Taxes - Property	25,799.78
W/M CONNELL TRUST					
Check	04/09/2013	CSH CK #745...	CONNELL TRUST #8737649197	Unknown Expe...	-45,336.10
Check	02/18/2015	CSH CK #084...	CONNELL TRUST #1254900135	Unknown Expe...	-1,287,560.85
Check	03/23/2015	CSH CK #084...	CONNELL TRUST #1254900135	Unknown Expe...	-500,000.00
WATTS BUSINESS SERVICES					
Check	08/07/2013	CSH CK #745...	CONNELL TRUST #8737649197	Unknown Expe...	-500.00
WELLS FARGO					
Check	09/11/2013	MASTERCAR...	CONNELL TRUST #1985753274	Unknown Expe...	-25,000.00
Check	04/07/2014	RE: MASTER...	CONNELL TRUST #8737649197	Unknown Expe...	-10,000.00

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EXHIBIT B

HUTCHISON & STEFFEN
A PROFESSIONAL LLC

W.N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST

Royalty Calculations	2013	2014	2015	TOTALS
Connell Trust royalty income	$740,015	$3,120,206	$2,226,779	$6,087,000
Miller royalty income	-$1,319,276	-$2,585,096	-$2,090,389	-$5,994,761
differential	-$579,261	$535,110	$136,390	$92,239
65% of Connell income	$481,010	$2,028,134	$1,447,406	$3,956,550
Royalties received by MTC	$299,875	$0	$1,914,622	$2,214,497
Unpaid royalites due MTC	$181,135	$2,028,134	-$467,216	$1,742,053

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CLERK OF THE COURT

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Attorneys for Fredrick P. Waid, Court-appointed Trustee

DISTRICT COURT

CLARK COUNTY, NEVADA

In the matter of THE W.N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST Dated May 18, 1972, an Inter Vivos Irrevocable Trust.	Case No.: P-09-066425-T Dept. 26

RESPONSE TO MOTION TO ADJUDICATE ATTORNEY'S LIEN

Fredrick P. Waid (Waid), Trustee of the W.N. Connell and Marjorie T. Connell Living Trust, dated May 18, 1972, (the "Trust"), hereby responds to the Motion to Adjudicate Attorneys' Lien ("Motion") filed by Brownstein Hyatt Farber Schreck, LLP ("BHFS").

In its Motion, BHFS asks this Court to determine that the fees in the amount of $311,784.12 which BHFS claims are due for the representation of Eleanor Ahern, the now-removed Trustee of the Trust, are valid, due and owing for representing "Ms. Ahern in connection with the above captioned matter".[1] BHFS further claims that this Court "has the authority to attach the Lien to Ms. Ahern's beneficial interest in the Trust and to order that distributions to Ms. Ahern made in the future be directly paid to BHFS to satisfy its Lien."[2] BHFS further argues that "by serving the notices and perfecting the Lien, the Lien against Ms. Ahern attaches to any verdict, judgment or decree, any money or property that is recorverd, or the corpus of the Trust that is the subject of this

[1] *See* **Motion to Adjudicate Attorneys' Lien**, page 8, line 12.

[2] *Id.* at page 12, lines 2-4, citing *Novak v. Fay*, 236 Cal. App. 4th 329, 339 (Cal. Ct. App. 2015).

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action and/or Ms. Ahern's beneficial interest therein that would satisfy the outstanding invoices that Ms. Ahern is required to pay under the Fee Agreement."[3]

However, BHFS has provided no controlling legal authority that supports its request that the Court order that Eleanor Ahern's legal fees be paid from the Trust, and has provided no evidence that Eleanor Ahern has agreed that her fees were to be paid from her beneficial interest in the Trust. In fact, Nevada law prohibits Eleanor Ahern from making such assignment of her beneficial interest to a creditor, as such assignment is prohibited by the spendthrift provision of the trust and NRS 166.170 *et seq*.

A. BHFS Has No Authority to Attach its Lien to the Trust

BHFS cites no Nevada law requiring its lien to be satisfied out of Eleanor Ahern's interest in the Trust. The only case cited by BHFS, *Novak v. Fay*, a California Appeals Court case, is inapposite to BHFS' lien against Eleanor Ahern. In *Novak* the attorney and the client, a pretermitted spouse omitted from a trust, entered into a fee agreement which specifically provided that "it is agreed that Attorney may retain his share in full out of the amount finally collected by settlement; and it is further agreed that Attorney shall have all general, possessory, or retaining liens, and all special or charging liens known to the common law." *Id.* at 332. The *Novak* fee agreement further indicated that "[the client] expressly assigns to Attorney to the extent of his fees and disbursements, all assets and sums realized by way of settlement, arbitration, or trial." *Id.* As a result of the attorney's services, the issue of the client's interest as a pretermitted spouse was resolved by settlement in which the client would receive a monthly payment in the amount of amount of $3,500 and a 40% interest in the trust. The client held the power to appoint his interest "by Will, Trust, or gift(s), as he chooses" and if he failed to appoint any of his interest, his share would be deemed to be assigned to his step-daughter, the grantor's sole beneficiary named in the trust. *Id.* at 333.

The client died within 3 months of the settlement and had not exercised his right to appoint any of the trust share by Will or Trust. The attorney sought to enforce his lien against the

[3] *Id.* at page 12, lines 18-21,

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remainder beneficiaries of the client's trust share. The *Novak* court permitted the enforcement of the lien against the trust share stating, "When an attorney's lien is tied to the client's contingent recovery, they lawyer cannot enforce it until the contingency (settlement and probate court approval in our case) occurs." *Id.* at 336. The court indicated that "as soon as [the client's] beneficial interest in the [trust] came into being (upon the ... settlement and ... probate court approval), [the attorney's] lien attached to it." *Id.* at 337. The court later indicated that "the contingency fee agreement is clear as to when plaintiff's charging lien attached to [the client's] interest in the [trust]," specifically, the client agreed to assign to the attorney all assets and sums realized by way of settlement, arbitration, or trial, permitting the attorney to attach his lien to the trust share. *Id.* at 339.

The Fee Agreement between BHFS and Eleanor Ahern contains no such language granting a right of retention by BHFS of any amount obtained on behalf of Eleanor Ahern, nor does it contain any language granting an assignment of her share to BHFS for fees incurred. Without a valid agreement and assignment of Eleanor Ahern's interest in the Trust to BHFS for attorney's fees, the *Novak* principle does not apply. Indeed, BHFS cites no provision in the engagement agreement in which Eleanor Ahern has assigned her interest to BHFS to pay outstanding the lien, contrary to *Novak*.

Indeed, Eleanor Ahern's share of the Trust is currently suspended and cannot be assigned by Eleanor Ahern or distributed to anyone. BHFS has no right to direct the disposition of the Trust to itself, contrary to the terms of the Trust and this Court's prior orders.

B. BHFS's Claim Violates Nevada Spendthrift Law and the Trust's Spendthrift Provision

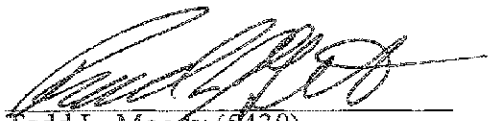
Finally, Mr. Waid, as Trustee, is required under NRS 166.120(4) to "disregard and defeat" BHFS's attempts to impose a lien on Eleanor Ahern's interest in the Trust. The Trust qualifies as a spendthrift trust under Nevada law. Article Sixth of the Trust explicitly provides that "the right, title, interest, or estate of any beneficiary [shall not be] subject to any right, claim, demand, lien or judgment of any creditor of any such beneficiary, nor shall be subject nor liable to any process of law or equity." BHFS's claim of a lien against Eleanor Ahern's interest is contrary to this provision, and the law affords the Trust protection against the claim. Further, this Court suspended

Eleanor's interest and has yet to consider the calculation of final damages against Eleanor Ahern and determine the imposition of an appropriate remedy. BHFS's demand, if valid and allowed, must be considered subordinate to any other determination of restitution owing from Eleanor Ahern's interest to the Trust and its other beneficiaries.

For these reasons, Mr. Waid asks this Court to deny BHFS's Motion in full.

Dated this 3 day of February, 2017.

HUTCHISON & STEFFEN, LLC



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Attorneys for Fredrick P. Waid, Court-appointed Trustee

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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of HUTCHISON & STEFFEN, LLC, and on this 30th day of February, 2017, I caused the above and foregoing document entitled **RESPONSE TO MOTION TO ADJUDICATE ATTORNEY'S LIEN** to be served as follows:

X by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada; and/or

☐ to be served via facsimile; and/or

X pursuant to EDCR 8.05(a) and 8.05(f), to be electronically served through the Eighth Judicial District Court's electronic filing system, with the date and time of the electronic service submitted for the date and place of deposit in the mail; and/or

☐ to be hand-delivered;

to the attorneys and/or parties listed below at the address and/or facsimile number indicated below:

Via U.S. Mail Only:
Eleanor Ahern
111 Paradise Pkwy.
Mesquite, NV 89027

Via U.S. Mail Only:
Eleanor Ahern
400 Paradise Pkwy., Unit 111
Mesquite, NV 89027

Via U.S. Mail Only:
Eleanor Ahern
8635 W. Sahara Ave., #50
Las Vegas, NV 89117

Via U.S. Mail Only:
Eleanor Ahern
355 W. Mesquite Blvd., D30 #176
Mesquite, NV 89027

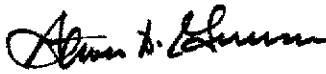
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An employee of Hutchison & Steffen, LLC

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Attorneys for Jacqueline M. Montoya
and Kathryn A. Bouvier ("Movants")

DISTRICT COURT

CLARK COUNTY, NEVADA

In the Matter of

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

A non-testamentary trust.

Case No. P-09-066425-T
Department: 26 (Probate)

Date of Hearing: February 9-10, 2017
Time of Hearing: 10:00 a.m.

PRE-TRIAL MEMORANDUM

Jacqueline M. Montoya and Kathryn A. Bouvier, by and through their counsel of record, The Rushforth Firm, Ltd., hereby submit their Pre-Trial Memorandum regarding the damages determination and award of exemplary damages raised in their "Motion for Assessment of Damages against Eleanor Ahern; Enforcement of No-Contest Clause; and, Surcharge of Eleanor's Trust Income" which was originally filed on June 3, 2015.

A. PARTIES AND TERMS

For ease of reference, the following parties and terms are used in this Memorandum:

A.1 Jacqueline M. Montoya and Kathryn A. Bouvier are referred to individually as

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"Jacqueline" and "Kathryn" and collectively as "Movants".

A.2 Eleanor Ahern is referred to as "Ms. Ahern".

A.3 "The Trust" refers to THE W.N. CONNELL and MARJORIE T. CONNELL LIVING TRUST, dated May 18, 1972 and includes Trust No.2 and the MTC Living Trust.

A.4 "The "MTC Trust" refers to the MTC LIVING TRUST, dated December 6, 1995, and as subsequently restated in its entirety on October 3, 2000.

B. INCORPORATION BY REFERENCE OF PREVIOUS FILINGS

The Movants hereby incorporate by reference their previously filed "Motion for Assessment of Damages against Eleanor Ahern; Enforcement of No-Contest Clause; and, Surcharge of Eleanor's Trust Income" as well as their previously submitted "Pre-Trial Memorandum," which was filed on February 17, 2016.

C. ISSUES TO BE DETERMINED

There are only two issues to be determined at this evidentiary hearing. They are:

C.1 Determination of Compensatory Damages Owing. Fredrick P. Waid, the acting trustee of the Trust, has filed his "Accounting and Report of Trust Activity From 2013 to 2015", which is dated February 1, 2017 ("Accounting and Report"). Mr. Waid has reported in his Accounting and Report what the Trust received from June of 2013 through 2015. Mr. Waid has also included a breakdown of what the MTC Trust should have received during this same period, and what is currently owed to the MTC Trust by Ms. Ahern.

C.2 Determination of Exemplary Damages. Based on the conduct of Ms. Ahern in this matter, the Movants seek an award of exemplary damages in addition to the compensatory damages. Therefore, what must be addressed is the extent of the exemplary damages that Ms. Ahern must be responsible for given that this Court has already previously determined that Ms.

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Ahern's behavior and actions in this matter "must be punished"[1].

D. COMPENSATORY DAMAGES

D.1 The Movants have always expressed to this Court that only Mr. Waid, as trustee, who is the only party who has had access to all the necessary records, could determine the extent of the funds that Ms. Ahern withheld and misappropriated from them, via their beneficial interest in the MTC Trust, a time period that extended from June of 2013 through April of 2015.

D.2 For years, the Movants argued that Ms. Ahern inappropriately withheld Trust assets from them. Mr. Waid's recently filed Accounting completely corroborates the Movants' fears.

D.3 Mr. Waid, through his Accounting and Report, has now made the determination as to the amounts that were improperly and maliciously withheld from the Movants during this time period. Mr. Waid has concluded that between June of 2013 and the end of 2015 that the Movants, through distributions required to be given to the MTC Trust, were entitled to the sum of $3,956,550. Mr. Waid has further expressed to the Movants, through their counsel, Joseph J. Powell, that for the period of June of 2013 through March 31, 2015, the Movants were entitled to the sum of $2,581,994.92, with the combined sum of $372,725.92 owed to the MTC Trust for the months of January, February, and March of 2015.

D.4 Therefore, in total, the Movants are entitled to, and hereby seek, a determination from this Court that Ms. Ahern owes them, as beneficiaries of the MTC Trust, the amount of

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[1] Page 78 from March 3, 2016 hearing transcript in which this Court stated the following:

"I think there is liability here for, at a minimum, treble damages, and I say that seriously. I mean that at a minimum. I think this is punitive damage time. I do. I think that this is something that needs to be punished. No trustee should be allowed to behave this way without consequences. It's a very serious thing and I believe should be -- should subject the trustee to some kind of punishment and I think that's probably punitive damages."

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$2,581,994.92 for the time period spanning from June of 2013 through March 31, 2015[2].

D.5 After having made equitable adjustments of income obtained after his becoming trustee in early April of 2015, Mr. Waid has determined that the approximate current balance owed to the Movants for this time period, June of 2013 through December 31, 2015, is $1,742,053.

D.6 Based on the calculations of Mr. Waid, in lieu of the lost investment opportunity of the funds that were improperly taken from them by Ms. Ahern, along with the lost investment opportunity of their personal funds that they had invested during this time period, which the Movants were forced to withdraw for their living expenses since they relied entirely on the distributions of these funds from the Trust, the Movants seek merely to be awarded Nevada statutory interest on the sum owed to them on the funds that were withheld (which would equate to 5.25% under an analysis under NRS 17.130(2) and NRS 99.040(1) through the end of 2015, then bumping up to 5.50% from January 2016 forward). They further seek the imposition of Nevada statutory interest on the sum owed to them until the obligation to them has been satisfied in full. As such, the Movants request both pre-judgment and post-judgment interest be awarded.

D.7 To be clear, the Movants seek an award of pre-judgment interest against Ms. Ahern accruing from the time of her first failure to appropriately distribute Trust funds to the Movants (June of 2013). See *Ramada Inns, Inc. v. Sharp*, 101 Nev. 824, 711 P.2d 1 (1985) ("*Prejudgment interest is viewed as compensation for use by defendant of money to which plaintiff is entitled from the time the cause of action accrues until the time of judgment.*").

D.8 Additionally, in accordance with NRS 153.031(1)(m), the Movants seek an award of attorney's fees and costs that they have incurred in this matter as every penny of funds expended

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[2] The amount still owing to the Movants by Ms. Ahern has been subsequently reduced to $1,742,052 due to the actions of a third party, Fred Waid, in his capacity as trustee of the Trust, paying down such obligation of $2,581,994.92 by the amount of $839,941.92, which he has done by this fiduciary adjustment power/obligation to address the issue created by Ms. Ahern.

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for such were naturally and proximately caused by the actions of Ms. Ahern[3]. In other words, had Ms. Ahern never caused the need for this litigation to occur in the first place, the Movants would never have had to retain an attorney, and in turn incur any attorney's fees or costs. As such, it is only appropriate that Ms. Ahern be responsible, and in turn her share of the Trust, be responsible for the payment of every penny of attorney's fees and costs incurred by the Movants in this matter until the absolute conclusion of all matters and the recovery of all that is owed to them[4].

D.9 Such an award of fees and costs against Ms. Ahern personally, and in turn against her share of the Trust, is appropriate "to redress an injustice" (i.e. the theft of nearly $2.6 million) and because she was, at a minimum, "negligent in the performance of or breached [] her fiduciary duties." As stated, the Ms. Ahern's bad acts made this litigation necessary, making the Movants' attorneys' fees and costs the "natural and proximate consequence of [Ms. Ahern's] injurious conduct." *Sandy Valley Associates v. Sky Ranch Estates*, 117 Nev. 948, 957 35 P.3d 964,969 (2001) (receded from on other grounds *Horgan v. Felton*, 123 Nev. 577, 170 P.3d 982 (2007)).

E. Exemplary Damages Must Be Awarded

E.1 The Movants have previously asked for this Court to punish Ms. Ahern for her inappropriate and repulsive conduct by awarding them punitive damages. As this Court is aware, the Movants have already briefed these issues in detail and to this extent hereby incorporate all such previous filings in this matter by this reference.

E.2 Despite having previously addressed the subject at length, a brief review seems appropriate.

---

[3] Since the initial filing in this matter, the Movants have had a standing request to be awarded all damages, which has included a request attorney's fees and costs.

[4] Upon an award of attorney's fees and costs, the Movants will submit a motion for fees and costs, which will include an analysis under *Brunzell*.

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Punitive Damages

E.3 Punitive damages are warranted against Ms. Ahern as she intentionally and fraudulently breached her fiduciary duty and committed tortious acts in converting and embezzling Trust funds.

E.4 This Court has the authority to award punitive damages "*in an action for the breach of an obligation not arising from contract, where it is proven by clear and convincing evidence that the defendant has been guilty of oppression, fraud, or malice.*" See NRS 42.005(1). Once shown, a petitioner, "*in addition to the compensatory damages, may recover damages for the sake of example and by way of punishing the defendant ..... an amount equal to three times the amount of compensatory damages awarded to [Petitioner] if the amount of compensatory damages is $100,000 or more.*" Id.

E.5 "Oppression" means the despicable conduct that subjects a person to cruel and unjust hardship with the conscious disregard of a person's rights. See NRS 42.001(4).

E.6 "Conscious disregard" means the knowledge of the probable harmful consequences of a wrongful act and a willful and deliberate failure to act to avoid those consequences. See NRS 42.001(1).

E.7 "Fraud" means the intentional misrepresentation, deception or concealment of a material fact known to the person with the intent to deprive another person of his rights or property or to otherwise injure another person. See NRS 42.001(2).

E.8 "Malice, express or implied" means conduct that is intended to injure a person or despicable conduct which is engaged in with a conscious disregard of the rights or safety of others. See NRS 42.001(3).

E.9 In short, punitive damages are reserved for bad actors who deserve to be punished. See *Coughlin v. Hilton Hotels Corp.*, 879 F.Supp. 1047 (D. Nev. 1995) ("*punitive damages are not designed to compensate the victim of a tortious act but rather* ***to punish and deter*** *oppressive,*

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fraudulent or malicious conduct") (emphasis added). Ms. Ahern's conduct fits the bill.

E.10 As has been previously conclusively established in this matter by Mr. Waid, both through his testimony and reporting to this Court, Ms. Ahern willfully and intentionally deceived this Court, and Jacqueline and Kathryn, by claiming all funds that she was responsible to keep in trust during the pendency of the dispute were "intact and are presently being held in trust". To this end, this Court has already ruled that Ms. Ahern deceived this Court. Mr. Waid has characterized this behavior as amounting to being "fraud".

E.11 From the Court's "Order Regarding Motion for Assessment of Damages; Enforcement of No Contest Clause; and Surcharge of Trust Income", dated September 13, 2016, this Court ruled that:

> *The Court found that the account Ahern filed, under penalty of perjury on March 13, 2015, titled "Brief Regarding Accounting Fiduciary Duties, and Trust Administration" was incomplete and* ***intentionally inaccurate.*** [Emphasis Added]

E.12 Further, this Court has already found that Ms. Ahern has repeatedly ignored this Court's orders throughout the litigation, including, but not limited to, failing to safeguard the 65% ultimately belonging to the MTC Trust. From the Court's "Order Regarding Motion for Assessment of Damages; Enforcement of No Contest Clause; and Surcharge of Trust Income", dated September 13, 2016, this Court concluded that:

> *Ms. Ahern, as Trustee, did not comply with the Court order to protect the 65% share of the Trust that was to be segregated under the terms of the Trust for the Movants, Ms. Montoya and Ms. Bouvier.*

E.13 This Court has already made extremely strong statements about the actions taken by Ms. Ahern and has stated that Ms. Ahern must be punished for what she has done. Importantly, this Court has repeatedly rejected Ms. Ahern's excuses and repeatedly reassured the Movants' that Ms. Ahern's "punishment" would shortly be delivered. A review of this Court's statements made at the March 3, 2016 hearing is certainly appropriate.

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E.14 At the March 3, 2016 evidentiary hearing, a continuation of the evidentiary hearing first begun on February 22, 2016, this Court, after having had reviewed all of the documentation submitted by Mr. Waid over his tenure as trustee and having listened to his testimony, made the following declarations:

> . . . . .*The fact that during that period of time, when she was solely in control of the 100 percent being told to maintain the 65 percent, pending the outcome of who was entitled to it,* ***just a gross misuse of those funds*** *during that period of time.* [Page 76 of March 3, 2016 hearing transcript]

> *I thought all along somebody probably needed to go to jail. Judge Gonzalez didn't send her to jail. That's her choice. She felt that that wasn't properly set up since there is that type of contempt of a Court order requires very specific findings before a person can be sent to jail, as I've said here today.* ***Somebody did something really wrong and something that may, in fact, justify criminal prosecution. It's pretty shocking to me what has happened here.*** [Page 76 of March 3, 2016 hearing transcript]

> *But that's why I asked very specifically -- the difference that I see between punitive damages and treble damages because I'm not sure, ultimately, what damages would be here if we're just looking at the surcharge, before we talk about the no-contest clause.* ***Punitive damages are intended to punish and this seems to me to be a very willful and malicious*** *-- if we read our jury instruction on liability for punitive damages, you know,* ***the conduct probably satisfies that. I don't have any real concern that we can satisfy the standard for punitive damages in this case.*** [Pages 76 and 77 of March 3, 2016 hearing transcript]

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. . . . . *because* ***it was a very gross misuse of trust funds*** *and they clear -- I still believe to this day, contempt of this Court's order, even though it was not punishable by confinement in jail,* ***I still think it's contempt of this Court's order.*** [Page 77 of March 3, 2016 hearing transcript]

She violated her duties as a trustee, which is a very serious thing, and that's why, for me, I ask -- and I want to make real clear that I don't think a surcharge is limited just to everything that it's taking for Mr. Waid to figure out where this money went and to reconstruct it and to figure out how much that all is. ***I think there is liability here for, at a minimum, treble damages, and I say that seriously. I mean that at a minimum. I think this is punitive damage time. I do. I think that this is something that needs to be punished. No trustee should be allowed to behave this way without consequences. It's a very serious thing and I believe should be -- should subject the trustee to some kind of punishment and I think that's probably punitive damages.*** [Page 78 of March 3, 2016 hearing transcript]

And so she did lose, but in the end, I think that the question is more appropriately handled through a surcharge and appropriate damages, as I said, for -- to be determined at a future date, whether that's punitive or trebling or both. ***I think it's pretty shocking and needs to be dealt with in a very serious fashion.*** [Page 79 of March 3, 2016 hearing transcript]

I do think that just looking at the standard set forth in our jury instructions for jurors when they're to look at ***punitive damages, we've met it and I don't have any doubt that we have.*** [Pages 79-80 of March 3, 2016 hearing transcript]

E.15 The point of punitive damages is to punish a person for their bad acts. This Court, by its previous statements, certainly understands this. Ms. Ahern's conduct was malicious and despicable. She attempted to, and successfully did, financially cripple the Movants who relied on the Trust distributions and she left them without a single penny of a distribution from June of 2013 until approximately May of 2015, a period of nearly two years. Ms. Ahern had no regard for the fact that the Movants had children to support and bills to pay, having relied on and crafted their lifestyles around steady income distributions from the Trust. Ms. Ahern, while serving in a fiduciary capacity, sought to financially cripple the Movants with an apparent motive to pound them into submission, such that they would have to negotiate from a position of desperation, or, if not willing to succumb to these tactics and negotiate at all, would have that which they were owed continued to be taken from them-----that which was left to them through their beloved grandmother, Marjorie Connell.

E.16 Ms. Ahern must be punished and taught a stern lesson for callously and maliciously thumbing her nose both at the Movants as well as this Court and abusing the position that she was in as a trustee to not only financially ruin the Movants, but also to cause them severe emotional stress in the process.

E.17 Ms. Ahern must be left with a resounding message that she will never forget------ that her reprehensible conduct will not be tolerated in and by the State of Nevada------ and, as this Court has already stated, must realize that there are severe consequences for her actions. By doing so, it will also send a clear warning, which will act as a deterrent, to all Nevada trustees that the type

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of conduct engaged in by Ms. Ahern will not be tolerated and the consequences of such actions will be punishing and severe.

E.18 Simply stated, the Court has already determined that Ms. Ahern's bad acts demonstrate malice, fraud, and oppression. In fact, the Court has repeatedly announced that Ms. Ahern breached her fiduciary duties, intentionally mislead the Court, and failed to comply with various Court rulings. The Court only withheld its punishment because it had yet to issue a precursory award of compensatory damages, the preceding step necessary for punitive damages to be awarded. However, with the Accounting now complete, and Mr. Waid set to testify regarding the full scope of Ms. Ahern's wrongdoing, the time for punitive damages is now.

E.19 Further, the Movants seek post judgement interest be added onto the award of such punitive damages, as the Nevada Supreme Court has previously deemed permissible and proper. See *Powers v. United Servs. Auto Ass'n*, 114 Nev. 690, 705 (1998).

F. Movants' Witness

Fredrick P. Waid is expected to testify as to his knowledge of the facts and circumstances at issue in the instant matter, including, but not limited to, his knowledge of the matters set forth in his "Accounting and Report of Trust Activity From 2013 to 2015 " which is dated February 1, 2017.

G. Exhibits

The Exhibit the Movants expect to discuss in detail at the hearing is the "Accounting and Report of Trust Activity From 2013 to 2015 " of Fredrick P. Waid, which is dated February 1, 2017, which has been previously filed in this matter. By this reference, the Movants hereby incorporate Mr. Waid's "Accounting and Report of Trust Activity From 2013 to 2015".

H. Conclusion

The law and the facts will lead the Court to conclude that:

H.1 Between June of 2013 and the end of 2015 that the Movants, through distributions

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required to be given to the MTC Trust, were entitled to the sum of $3,956,550.

H.2 For the period of June of 2013 through March 31, 2015, the Movants, through distributions required to be given to the MTC Trust were entitled to the sum of $2,581,994.92, which represents the compensatory damages award they should receive from Ms. Ahern, through her share of the Trust. As such, Ms. Ahern maliciously, oppressively, and reprehensibly withheld and misappropriated funds in the amount of $2,581,994.92 from the Movants.

H.3 Ms. Ahern has repeatedly lied to the Movants, and this Court, and is deemed to have committed fraud. Further, Ms. Ahern has willfully disobeyed this Court's orders on multiple occasions. As such, the Movants are entitled to be awarded punitive damages, in accordance with NRS 42.005(1), taking the amount owing to $7,745,984.76, with $5,163,989.84 representing the treble/punitive damages, based off the compensatory damages owed of $2,581,994.92. This amount shall be awarded from Ms. Ahern's share of the Trust.

H.4 Further, the Movants, as beneficiaries of the MTC Trust, remain entitled to the sum of approximately $1,742,053 (as finally determined by Mr. Waid) from the Trust, from the share currently allocated to Eleanor Ahern.

H.5 Ms. Ahern's conduct is the direct and proximate cause of all of the Movants legal fees, including attorney's fees and costs, and she shall be responsible for all such costs and fees, which shall be paid from the share of the Trust currently allocated to Eleanor Ahern.

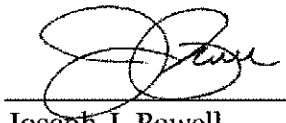
H.6 The Movants shall be granted pre-judgment, relating back to June of 2013, and post-judgment interest on the compensatory damages owed by Ms. Ahern to the MTC Trust on the principal amount of $2581,994.92. Ms. Ahern shall be responsible, from her share of the Trust, to pay interest on such amounts, with such interest being calculated in the same manner provided under NRS 17.130(2) /NRS 99.040(1) from June of 2013 until complete satisfaction of such owing amount.

H.7 The Movants shall be granted interest, calculated in the same manner provided

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under NRS 17.130(2) /NRS 99.040(1), on the punitive damages awarded in the amount of $5,163,989.84 until paid in their entirety.

Respectfully submitted by:



2/7/17

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Date

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and Kathryn A. Bouvier

DISTRICT COURT
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In the Matter of

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

A non-testamentary trust.

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Department: 26 (Probate)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of The Rushforth Firm, Ltd., and pursuant to NCRP 5(b), EDCR 8.05, Administrative Order 14-2, and NEFCR 9, I caused a true and correct copy of the **PRE-TRIAL MEMORANDUM** to be submitted electronically for filing and service with the Eighth Judicial District Court via the Court's Electronic Filing System on the 7th day of February, 2017, to the following:

Fredrick P. Waid
Russell Geist, Esq.
Todd Moody, Esq.
Hutchison & Steffen LLC
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CLERK OF THE COURT

DISTRICT COURT

CLARK COUNTY, NEVADA

IN THE MATTER OF THE W.N. CONNELL and MARJORIE T. CONNELL LIVING TRUST, dated May 18, 1972	Case No.: P-09-066425-T Department XXVI

DECISION AND ORDER
Re: Marquis Aurbach Coffing's Motion to Adjudicate Attorney's Lien

The above referenced matter came on for hearing on Marquis Aurbach Coffing's (MAC) Motion to Adjudicate Attorney's Lien on September 7, 2016, and November 23, 2016. As the initial filing provided only redacted billings the counsel for the Successor Trustee, and Beneficiaries objected, the matter was continued to allow time for counsel for the Successor Trustee to review and comment on un-redacted billings. The primary objection raised by counsel for the Successor Trustee, as well as the Beneficiaries, was to the attorney's lien attaching to the MTC trust (100% of the total income) as opposed to prior trustee Eleanor Ahern's beneficial interest (35%), on the grounds that the attorneys representation benefitted only Eleanor in her individual capacity and not the MTC trust. The parties returned on January 18, 2017, at which time the Court took the matter under advisement to review *in camera* submissions from the parties (including the beneficiaries who have not reviewed the un-redacted billing statements). The Court, having reviewed the un-redacted billing statements together with the letter in support of the lien from MAC, the letter outlining the Successor Trustee's position on the proper party to pay the fees, and the letter from counsel for the beneficiaries, and the pleadings and papers on file herein the Court hereby enters the following decision:

The litigation herein has gone on for some time, and Eleanor has been represented by several different law firms. The litigation arises out of the WN and Marjorie Connell Trust which held Mr. Connell's separate property consisting primarily of Texas oil and

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gas lease royalties. The trust provided that upon WN's death, Eleanor would receive 35% of the proceeds for her lifetime, with Marjorie Connell receiving 65% for her lifetime. Prior to her death in 2009, Marjorie exercised her power of appointment to leave her share to her granddaughters, Jacqueline Montoya and Kathryn Bouvier. Eleanor was the Successor Trustee. In 2013 Eleanor unilaterally stopped distributions to her daughters, who filed a petition to compel distribution of the 65% to them. The Court found that Marjorie had authority to leave the 65% to her granddaughters, thus Eleanor had wrongfully withheld the funds from her daughters, which Eleanor appealed. Pending resolution of the appeal the Court ordered Eleanor hold the 65% in trust. A settlement was negotiated in the interim, but Eleanor terminated her counsel and hired MAC to successfully oppose enforcement of the settlement. Subsequently MAC withdrew and the law firm of Brownstein Hyatt began representing Eleanor. The Court found that Eleanor had wrongfully failed to hold the 65% in trust, and removed her as trustee. Fred Waid was appointed Successor Trustee for all of the beneficiaries, and attempted to identify how much was missing from the trust, and whether any funds could be recovered. The NV Supreme Court recently affirmed the finding that Eleanor had wrongfully withheld the 65% from her daughters. See, In the matter of the W.N. Connell and Marjorie T. Connell Living Trust, (unpublished Case No. 66231 & 68046 decided 1/26/2017).

MAC has properly perfected its attorney's lien pursuant to NRS 18.015. One of the objections raised by the Successor Trustee was that the lien cannot attach to proceeds because none were "recovered" by Eleanor. The court has authority to enter a judgment for attorney's fees where the client has submitted herself to the court's jurisdiction. See, Argentena Consolidated Mining Co. v Jolley Urga, et al, 125 Nev. 527, 216 P.3d 779 (2009). Here, Eleanor has submitted herself to jurisdiction of Court as a party, the Court also has jurisdiction over MAC, having appeared as counsel in the action. A charging lien does not attach where a party did not file an affirmative claim, rather it attaches "to the tangible fruits of the attorneys services." Id. In Argentena the plaintiff's claim against the defendant was dismissed, the defendant had not filed any claims against the plaintiff so there was nothing for the charging lien to attach to.

Here, Eleanor did file counter petitions, seeking to confirm her claim to the disputed 65%, as well as enforcement of the no contest clause against Jacqueline and Kathryn. The attorney's fees must arise on account of the suit. Id. Withdrawal by

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counsel before settlement does not prevent enforcement of its charging lien. See, McDonald Carrion et al v Bourassa Law Group, LLC. Unpublished, WL 57739793 (2015). The requirement that an attorney lien is enforced against an "affirmative recovery" is a generalized requirement so that the lien may attach to something of value. Id. Here, the fees charged by MAC arise from their defense of Eleanor's claim to the disputed 65%, as well defending her right to continued receipt of her 35% share.

A charging lien may have priority over other liens if notice is perfected before a settlement or judgment. See Golightly and Vannah v TJ Allen, LLC., 372 P.3d 103 (2016). Attorneys may perfect their attorney's lien after a settlement is reached but before funds are received. Id. Here, MAC successfully defeated enforcement of a settlement agreement disputed by Eleanor, and litigation has continued as to the amounts to be charged against Eleanor for breach of fiduciary duty, and enforcement of the no-contest clause against her beneficial interest. Thus the lien may attach to the sums she is affirmatively defending and/or claiming.

The Successor Trustee objects to the lien attaching to Eleanor's beneficial interest as this would violate the Spendthrift provisions of the Trust. As discussed herein, the unique nature of an attorney's charging lien allows a judgment to be entered against the "affirmative recovery" sought by a party to litigation. No distinction is made in the cases interpreting NRS 18.015 which would suggest that a party who is affirmatively defending their right to continue to receive funds from a Trust would have a defense to paying her attorneys by virtue of the fact that the Trust contains a spendthrift clause. To read such a defense into NRS 18.015 would place attorneys who take on Trust litigation at a disadvantage, an outcome which there is no indication the Legislature intended.

The Court has considered the MAC lien claim in light of the factors identified in Brunzell v. Golden Gate National Bank, 85 Nev. 345, 455 P. 2d 31 (1969) factors and finds that the rates charged are reasonable in the community given the (1) qualities of the advocate(s) who have expertise, experience, and specialization in the field of Trusts and Estates litigation; (2) the character of the work which was complex and difficult, important to the outcome of the case, requiring significant time and skill and the need for counsel to familiarize themselves with the history of the case within a relatively shortened timeframe; (3) the work performed required skill time and attention; and (4) the successful outcome objecting to enforcement of a settlement agreement, until such time as the relationship broke down over Eleanor's misrepresentations regarding the

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funds ordered to be held in trust. Counsel for the Successor Trustee does not challenge the rate or amount billed, nor do the beneficiaries.

MAC billed for three separate matters, Eleanor's lawsuit against her former attorney David Mann to recover the retainer paid to him; the will contest; and the instant Trust litigation. The retainer agreement was signed by Eleanor in her individual capacity and trustee. Eleanor opposing enforcement of the settlement agreement did not benefit any of the parties, especially not the Trust. Mr. Mann has taken the position that he only represented Eleanor, so seeking recovery of the fee did not benefit the Trust, nor did the Will Contest.

Based on a review of the un-redacted billings, it appears that all of the work undertaken by MAC was exclusively related to Eleanor's interests and not for the benefit of the Trust and could only be assessed against Eleanor's beneficial interest.

MAC also seeks costs in its charging lien. The documentation attached does not approach the specificity required pursuant to Cadle Co. v. Woods & Erickson, LLP, 131 Nev. Adv. Op. 15, 345 P.3d 1049 (2015) for an award of costs by the Court. Filing fees, transcript and recording fees can be confirmed upon a review of the Court's records, so any costs charged for those items will be allowed as part of the judgment. Any other costs, including but not limited to charges "scanning" and "copying" will not be allowed as part of the judgment.

Wherefore, the Court hereby GRANTS the Motion for Attorney's Lien, fees are awarded in their entirety, and costs are awarded in accordance with Cadle. The lien shall be a judgment only against Eleanor's beneficial interest in the Trust.

Dated this 9th day of February, 2017.

GLORIA STURMAN
DISTRICT JUDGE
DEPARTMENT 26

GLORIA STURMAN
DISTRICT JUDGE
DEPT XXVI
LAS VEGAS, NV 89155

CERTIFICATE OF SERVICE

I hereby certify that on or about the date filed, a copy of the foregoing **DECISION AND ORDER** Re: Marquis Aurbach Coffing's Motion to Adjudicate Attorney's Lien was E-Served, mailed or a copy was placed in the attorney's folder in the Clerk's Office as follows:

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Liane Wakayama, Esq.
Candice Renka, Esq.
Marquis Aurbach Coffing
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Las Vegas, NV 89145

Joseph Powell, Esq.
The Rushforth Firm
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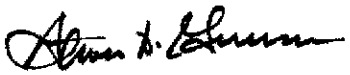
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And
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Linda Denman
Judicial Executive Assistant
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GLORIA J. STURMAN
DISTRICT JUDGE
DEPT XXVI
LAS VEGAS, NV 89155

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CLERK OF THE COURT

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Former Attorneys for Eleanor Connell Hartman Ahern

DISTRICT COURT

CLARK COUNTY, NEVADA

In the Matter of THE W.N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST DATED May 18, 1972, An Inter Vivos Irrevocable Trust	CASE NO.: P-09-066425-T DEPT. NO.: XXVI **REPLY IN SUPPORT OF MOTION TO ADJUDICATE ATTORNEYS' LIEN** Date of Hearing: February 22, 2017 Time of Hearing: 9:30 a.m.

KIRK B. LENHARD, ESQ. ("Counsel"), of BROWNSTEIN HYATT FARBER SCHRECK, LLP ("BHFS"), hereby replies to the Trustee of the W.N. Connell and Marjorie T. Connell Living Trust, dated May 18, 1972, Frederick P. Waid's ("Trust"), opposition ("Opposition") to BHFS' Motion to Adjudicate Attorneys' Lien ("Motion"). This Reply is based on the Points and Authorities herein, together with all pleadings and papers on file in this matter, and the oral argument of Counsel during the hearing on the Motion.

DATED this 14th day of February, 2017.

BROWNSTEIN HYATT FARBER SCHRECK, LLP

BY: /s/ Kirk B. Lenhard
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Attorneys for Eleanor Connell Hartman Ahern

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

As established in the Motion, because of Ms. Ahern's refusal to pay her attorneys' fees and disregard for her obligations under the Fee Agreement, BHFS is left with no alternative but to seek this Court's intervention to adjudicate its Attorneys Lien in the amount of **$311,784.12.** In addition to clearly satisfying all of the statutory requirements, BHFS has demonstrated that its fees and costs are reasonable – points that are undisputed. However, in an attempt to thwart BHFS' ability to be appropriately compensated for providing legal representation to Ms. Ahern, the Trust filed an opposition to the Motion arguing that the Court does not have the authority to attach the Lien to Ms. Ahern's beneficial interest in the Trust because (i) she did not sign a contingency fee agreement, and (ii) such attachment would violate the spendthrift provision of the Trust. Not only are the Trust's arguments completely unjust, but such arguments are in direct contravention to this Court's recent order wherein it adjudicated one of Ms. Ahern's former attorneys' lien and held that the lien was a judgment against Ms. Ahern's beneficial interest in the Trust.

Thus, the Court should reject the Trust's arguments and grant the Motion in its entirety.

II. DISCUSSION

A. The Trust Does Not Dispute That The Court Has Jurisdiction To Adjudicate BHFS' Lien[1], That BHFS Has Satisfied The Requisite Statutory Factors, And That BHFS' Fees And Costs Are Reasonable.

As an initial matter, it is important to note that the Trust does not oppose, or even address, the following key points of the Motion: (i) in personam jurisdiction exists because Ms. Ahern has "already submitted…herself to the court's jurisdiction" and undersigned Counsel, as well as the other attorneys who worked on behalf of Ms. Ahern, appeared in this action as Ms. Ahern's counsel of record (*see generally,* Docket); *see also Argentena Consol. Mining Co. v. Jolley Urga Wirth Woodbury & Standish*, 125 Nev. 527, 533, 216 P.3d 779, 783 (2009) (citation omitted), (ii) this Court has subject matter jurisdiction to resolve this dispute regarding attorneys' fees because

[1] Unless otherwise defined, capitalized terms herein shall have the same meaning as provided in the Motion.

the fees that are the basis for the Lien are recovered on account of the instant action (*see* Motion, at Section II); *see also Argentena Consol. Mining Co.*, 125 Nev. at 533, (iii) BHFS has satisfied the four steps required to obtain an attorneys' lien under NRS 18.015, *see Leventhal v. Black & LoBello*, 305 P.3d 907, 909 (Nev. 2013) (holding that "[t]he four requirements of NRS 18.015 must be met for a court to adjudicate and enforce a charging lien."), and (iv) BHFS' fees and costs are reasonable when measured by the factors set forth in *Brunzell v. Golden Gate Nat'l Bank*, 85 Nev. 345, 455 P.2d 31 (1969). (*See generally,* Opposition.)

Thus, the Trust has conceded the foregoing and the Motion should be granted in this regard. *See* EDCR 2.20(e) ("Failure of the opposing party to serve and file written opposition may be construed as an admission that the motion and/or joinder is meritorious and a consent to granting the same.")

B. This Court Should Impose The Attorney's Lien On Ms. Ahern's Beneficiary Interest In The Trust And The Trust's Arguments To The Contrary Fail.

The Trust challenges this Court's ability to attach the Lien to Ms. Ahern's beneficial interest in the Trust and to order that distributions to Ms. Ahern made in the future be directly paid to BHFS to satisfy its Lien. (*See* Opposition at 2:9-3:19.) Specifically, the Trust contends that because Ms. Ahern did not agree to the assignment of her interest in the Trust to BHFS and the Fee Agreement does not contain a provision "granting a right of retention by BHFS of any amount obtained on behalf of" Ms. Ahern, *i.e.*, a contingency fee agreement, the Lien cannot attach to Ms. Ahern's beneficial interest in the Trust. The defect in the Trust's argument is three-fold.

First, and most glaring, is the fact that last week this Court issued a Decision and Order Re: Marquis Aurbach Coffing's Motion to Adjudicate Attorney's Lien ("Adjudication Order") in this very matter granting Marquis Aurbach Coffing's ("MAC") request to adjudicate its attorney's lien against Ms. Ahern and finding that "[t]he lien shall be a judgment only against [Ms. Ahern's] ***beneficial interest in the Trust.***" (*See* Adjudication Order, dated February 9, 2017, at 4:17-19) (emphasis added). Importantly, the Adjudication Order evidences that, just as here, MAC entered into an agreement with Ms. Ahern providing for hourly fees, as opposed to a contingency fee

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agreement. (*See id, generally.*) Thus, the Court has already determined that it has the ability to do precisely what BHFS seeks – to adjudicate an attorney's lien and to order that the lien shall be a judgment against Ms. Ahern's beneficial interest in the Trust, without the existence of a contingency fee agreement. As such, the Trust's argument fails.

Second, the Trust's attempt to distinguish the ruling in *Novak v. Fay* falls flat. That is, while the facts of *Novak v. Fay* involved a contingency fee agreement, the Court expressly recognized that a charging lien, like the Lien here, "may be used to secure either an *hourly fee* or a contingency fee." *Novak v. Fay*, 236 Cal. App. 4th 329, 336, 186 Cal. Rptr. 3d 451, 456 (2015) (citation omitted) (emphasis added). Thus, the fact that the Fee Agreement here was not a contingency fee agreement and does not contain a provision expressly granting BHFS an interest in the Trust is not detrimental to the Court's ability to adjudicate the Lien and to attach the Lien to Ms. Ahern's beneficial interest in the Trust. As this Court held in the Adjudication Order, the Lien "may attach to the sums [Ms. Ahern] is affirmatively defending and/or claiming," and, in fact, may be properly made a judgment against Ms. Ahern's "beneficial interest in the Trust." (*See* Adjudication Order at 3:11-12.) Therefore, the Trust fails to refute the fact that the Court has the authority to attach the Lien to Ms. Ahern's beneficial interest in the Trust.

Third, and finally, the Trust's assertion that Ms. Ahern's "share of the Trust is currently suspended and cannot be assigned...or distributed to anyone" ignores the relief BHFS seeks in the Motion, namely, that "distributions to Ms. Ahern made in the future be directly paid to BHFS to satisfy its Lien." (*See* Motion at 13:3-4.) To be clear, BHFS is not seeking to be immediately paid from the Trust; rather, just as the Adjudication Order mandates, BHFS is seeking that the Lien be a judgment against Ms. Ahern's beneficial interest in the Trust. (*See* Adjudication Order at 4:17-19.) Thus, the Motion should be granted in its entirety.

C. The Spendthrift Provision Of The Trust Would Not Be Violated By The Adjudication Of BHFS' Lien.

The Trust's argument regarding the spendthrift provision of the Trust is equally as un-compelling as the foregoing arguments. Not surprisingly, the Trust made the same argument in opposition to MAC's request for the adjudication of its attorney's lien, and this Court outright

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rejected it:

> The Successor Trustee objects to the lien attaching to Eleanor's beneficial interest as this would violate the Spendthrift provisions of the Trust. As discussed herein, the unique nature of an attorney's charging lien allows a judgment to be entered against the "affirmative recovery" sought by a party to litigation. No distinction is made in the cases interpreting NRS 18.015 which would suggest that a party who is affirmatively defending their right to continue to receive funds from a Trust would have a defense to paying her attorneys by virtue of the fact that the Trust contains a spendthrift clause. To read such a defense into NRS 18.015 would place attorneys who take on Trust litigation at a disadvantage, an outcome which there is no indication the Legislature intended.

(*See* Adjudication Order at 3:12-19.) As such, the Trust's argument fails and the Motion should be granted.

IV. CONCLUSION

Based on the foregoing, BHFS respectfully requests that the Court grant the Motion and adjudicate its Lien in the amount of $311,784.12.

DATED this 14th day of February, 2017.

BROWNSTEIN HYATT FARBER SCHRECK, LLP

By: /s/ Kirk B. Lenhard
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of Brownstein Hyatt Farber Schreck, LLP, and pursuant to NRCP 5(b), EDCR 8.05, Administrative Order 14-2, and NEFCR 9, I caused a true and correct copy of the foregoing **REPLY IN SUPPORT OF MOTION TO ADJUDICATE ATTORNEY'S LIEN** be submitted electronically for filing and service with the Eighth Judicial District Court via the Court's Electronic Filing System on the 14th day of February, 2017, to the following:

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Attorneys for Jacqueline M. Montoya and Kathryn A. Bouvier

/s/ Elizabeth Barnwell
an employee of Brownstein Hyatt Farber Schreck, LLP

Marquis Aurbach Coffing
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Liane K. Wakayama, Esq.
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CLERK OF THE COURT

DISTRICT COURT

CLARK COUNTY, NEVADA

In the Matter of THE W.N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST DATED May 18, 1972, An Inter Vivos Irrevocable Trust.	Case No.: P-09-066425-T Dept. No.: 26

NOTICE OF ENTRY OF ORDER

Please take notice that a Decision and Order re Marquis Aurbach Coffing's Motion to Adjudicate Attorney's Lien was entered in the above-captioned matter on the 9th day of February, 2017, a copy of which is attached hereto.

Dated this 16th day of February, 2017.

MARQUIS AURBACH COFFING

By _____
Dale A. Hayes, Esq.
Nevada Bar No. 3430
Liane K. Wakayama, Esq.
Nevada Bar No. 11313
Candice E. Renka, Esq.
Nevada Bar No. 11447
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CERTIFICATE OF SERVICE

I hereby certify that the foregoing **NOTICE OF ENTRY OF ORDER** was submitted electronically for filing and/or service with the Eighth Judicial District Court on the 16th day of February, 2017. Electronic service of the foregoing document shall be made in accordance with the E-Service List as follows:[1]

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I further certify that I served a copy of this document by mailing a true and correct copy

[1] Pursuant to EDCR 8.05(a), each party who submits an E-Filed document through the E-Filing System consents to electronic service in accordance with NRCP 5(b)(2)(D).

thereof, postage prepaid, addressed to:

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CLERK OF THE COURT

DISTRICT COURT

CLARK COUNTY, NEVADA

IN THE MATTER OF THE W.N. CONNELL and MARJORIE T. CONNELL LIVING TRUST, dated May 18, 1972	Case No.: P-09-066425-T Department XXVI

DECISION AND ORDER
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The litigation herein has gone on for some time, and Eleanor has been represented by several different law firms. The litigation arises out of the WN and Marjorie Connell Trust which held Mr. Connell's separate property consisting primarily of Texas oil and

GLORIA T. STURMAN
DISTRICT JUDGE
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MAC has properly perfected its attorney's lien pursuant to NRS 18.015. One of the objections raised by the Successor Trustee was that the lien cannot attach to proceeds because none were "recovered" by Eleanor. The court has authority to enter a judgment for attorney's fees where the client has submitted herself to the court's jurisdiction. See, Argentena Consolidated Mining Co. v Jolley Urga, et al, 125 Nev. 527, 216 P.3d 779 (2009). Here, Eleanor has submitted herself to jurisdiction of Court as a party, the Court also has jurisdiction over MAC, having appeared as counsel in the action. A charging lien does not attach where a party did not file an affirmative claim, rather it attaches "to the tangible fruits of the attorneys services." Id. In Argentena the plaintiff's claim against the defendant was dismissed, the defendant had not filed any claims against the plaintiff so there was nothing for the charging lien to attach to.

Here, Eleanor did file counter petitions, seeking to confirm her claim to the disputed 65%, as well as enforcement of the no contest clause against Jacqueline and Kathryn. The attorney's fees must arise on account of the suit. Id. Withdrawal by

GLORIA J. STURMAN
DISTRICT JUDGE
DEPT XXVI
LAS VEGAS, NV 89155

counsel before settlement does not prevent enforcement of its charging lien. See, McDonald Carrion et al v Bourassa Law Group, LLC. Unpublished, WL 57739793 (2015). The requirement that an attorney lien is enforced against an "affirmative recovery" is a generalized requirement so that the lien may attach to something of value. Id. Here, the fees charged by MAC arise from their defense of Eleanor's claim to the disputed 65%, as well defending her right to continued receipt of her 35% share.

A charging lien may have priority over other liens if notice is perfected before a settlement or judgment. See Golightly and Vannah v TJ Allen, LLC., 372 P.3d 103 (2016). Attorneys may perfect their attorney's lien after a settlement is reached but before funds are received. Id. Here, MAC successfully defeated enforcement of a settlement agreement disputed by Eleanor, and litigation has continued as to the amounts to be charged against Eleanor for breach of fiduciary duty, and enforcement of the no-contest clause against her beneficial interest. Thus the lien may attach to the sums she is affirmatively defending and/or claiming.

The Successor Trustee objects to the lien attaching to Eleanor's beneficial interest as this would violate the Spendthrift provisions of the Trust. As discussed herein, the unique nature of an attorney's charging lien allows a judgment to be entered against the "affirmative recovery" sought by a party to litigation. No distinction is made in the cases interpreting NRS 18.015 which would suggest that a party who is affirmatively defending their right to continue to receive funds from a Trust would have a defense to paying her attorneys by virtue of the fact that the Trust contains a spendthrift clause. To read such a defense into NRS 18.015 would place attorneys who take on Trust litigation at a disadvantage, an outcome which there is no indication the Legislature intended.

The Court has considered the MAC lien claim in light of the factors identified in Brunzell v. Golden Gate National Bank, 85 Nev. 345, 455 P. 2d 31 (1969) factors and finds that the rates charged are reasonable in the community given the (1) qualities of the advocate(s) who have expertise, experience, and specialization in the field of Trusts and Estates litigation; (2) the character of the work which was complex and difficult, important to the outcome of the case, requiring significant time and skill and the need for counsel to familiarize themselves with the history of the case within a relatively shortened timeframe; (3) the work performed required skill time and attention; and (4) the successful outcome objecting to enforcement of a settlement agreement, until such time as the relationship broke down over Eleanor's misrepresentations regarding the

GLORIA L. STURMAN
DISTRICT JUDGE
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funds ordered to be held in trust. Counsel for the Successor Trustee does not challenge the rate or amount billed, nor do the beneficiaries.

MAC billed for three separate matters, Eleanor's lawsuit against her former attorney David Mann to recover the retainer paid to him; the will contest; and the instant Trust litigation. The retainer agreement was signed by Eleanor in her individual capacity and trustee. Eleanor opposing enforcement of the settlement agreement did not benefit any of the parties, especially not the Trust. Mr. Mann has taken the position that he only represented Eleanor, so seeking recovery of the fee did not benefit the Trust, nor did the Will Contest.

Based on a review of the un-redacted billings, it appears that all of the work undertaken by MAC was exclusively related to Eleanor's interests and not for the benefit of the Trust and could only be assessed against Eleanor's beneficial interest.

MAC also seeks costs in its charging lien. The documentation attached does not approach the specificity required pursuant to Cadle Co. v. Woods & Erickson, LLP, 131 Nev. Adv. Op. 15, 345 P.3d 1049 (2015) for an award of costs by the Court. Filing fees, transcript and recording fees can be confirmed upon a review of the Court's records, so any costs charged for those items will be allowed as part of the judgment. Any other costs, including but not limited to charges "scanning" and "copying" will not be allowed as part of the judgment.

Wherefore, the Court hereby GRANTS the Motion for Attorney's Lien, fees are awarded in their entirety, and costs are awarded in accordance with Cadle. The lien shall be a judgment only against Eleanor's beneficial interest in the Trust.

Dated this 9th day of February, 2017.

GLORIA STURMAN
DISTRICT JUDGE
DEPARTMENT 26

GLORIA STURMAN
DISTRICT JUDGE
DEPT. XXVI
LAS VEGAS, NV 89155

CERTIFICATE OF SERVICE

I hereby certify that on or about the date filed, a copy of the foregoing **DECISION AND ORDER** Re: Marquis Aurbach Coffing's Motion to Adjudicate Attorney's Lien was E-Served, mailed or a copy was placed in the attorney's folder in the Clerk's Office as follows:

Dale Hayes, Esq.
Liane Wakayama, Esq.
Candice Renka, Esq.
Marquis Aurbach Coffing
10001 Park Run Drive
Las Vegas, NV 89145

Joseph Powell, Esq.
The Rushforth Firm
1707 Village Center Circle, Ste. 150
Las Vegas, NV 89134

Kirk Lenhard, Esq.
Brownstein Hyatt Farber Schrek, LLP
100 North City Parkway, Suite #1600
Las Vegas, NV 89106

Eleanor Ahern
111 Paradise Pkwy.
Mequite, NV 89027
And
400 Paradise Pkwy, Unit 111
Mequite, NV 89027
And
8635 W. Sahara Ave., #50
Las Vegas, NV 89117
And
355 W. Mesquite Blvd., D30 #176
Mesquite, NV 8902~~7~~

Linda Denman
Judicial Executive Assistant
Department 26

GLORIA J. STURMAN
DISTRICT JUDGE
DEPT XXVI
LAS VEGAS, NV 89155

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CLERK OF THE COURT

CSERV
Todd L. Moody (5430)
Russel J. Geist (9030)
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Las Vegas, Nevada 89145
(702) 385-2500
(702) 385-2086 FAX
tmoody@hutchlegal.com
rgeist@hutchlegal.com

Attorneys for Fredrick P. Waid Court-appointed Trustee

DISTRICT COURT

CLARK COUNTY, NEVADA

In the matter of

THE W.N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST DATED May 18, 1972, an Inter Vivos Irrevocable Trust.

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

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of HUTCHISON & STEFFEN and that on this 16 day of February, 2017, I caused a true and correct copy of the foregoing:

A) **Order Dismissing Appeal (Docket No. 66231) and Order of Affirmance (Docket Nos. 67782 and 68046);**

B) **Letter to the Honorable Gloria Sturman from Todd L. Moody, Esq., Dated January 23, 2017;**

C) **Letter via Facsimile to Eleanor Ahern from Russel J. Geist, J.D., LLM. Dated February 3, 2017;**

D) **Accounting and Report of Trust Activity from 2013 to 2015;**

E) **Response to Motion to Adjudicate Attorney's Lien;**

F) **Trustee's Exhibits Introduced at Evidentiary Hearing:**

1) **Wells Fargo;**

2) **Suzanne Nounna, Susan Noumna, Joy, Sue Newman;**

HUTCHISON & STEFFEN
A PROFESSIONAL LLC
PECCOLE PROFESSIONAL PARK
10080 WEST ALTA DRIVE, SUITE 200
LAS VEGAS, NV 89145

HUTCHISON & STEFFEN
A PROFESSIONAL LLC
PECCOLE PROFESSIONAL PARK
10080 WEST ALTA DRIVE, SUITE 200
LAS VEGAS, NV 89145

3) **Ariella Nounna;**

4) **Fred Brown;**

5) **Jason Collins;**

6) **Barbara Shortz;**

7) **Darel Burks, Burks Security;**

8) **Zhora Tujani;**

9) **Curt Baggett;**

10) **Jeffrey M. Johnston;**

11) **Lisa Johnson;**

12) **Ryan Scharar;**

13) **Jerry Savelle;**

14) **Sandee Mann;**

15) **Sherry Dober;**

16) **Margaret Wardella;**

17) **Larry Prucka;**

18) **Sterling Clark;**

19) **Eleanor (Ellie) Ahern Foundation;**

20) **Expert Jet Charter;**

21) **Joseph's Properties;**

22) **McNair CPA;**

23) **Fox Spy Outlet of Nevada;**

24) **Desert Oasis Clinic;**

25) **Dog care and grooming;**

26) **The Nevada Consultants Incorporated;**

27) **Captains Ship;**

28) **Omni Hotel & Resorts;**

29) **American Express;**

30) **Cirrus Aviation Services;**

31) **Blue Star Jets;**

32) **New Horizons Ministry;**

33) **Lynch, Chappell & Alsup;**

34) **RC Willey;**

35) **Connell Family Foundation;**

36) **Wells Fargo;**

37) **Eleanor Ahern;**

38) **Ahern Declaration; and**

39) **W.N. Connell & Marjorie T. Connell Trust.**

to be served as follows:

[X] by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada; and/or

[X] pursuant to EDCR 8.05(a) and 8.05(f), to be electronically served through the Eighth Judicial District Court's electronic filing system, with the date and time of the electronic service substituted for the date and place of deposit in the mail; and/or

[ ] Pursuant to EDCR 7.26, to be sent via facsimile; and/or

[ ] to be hand-delivered;

to the persons listed below at the address and/or facsimile number indicated below:

Via U.S. Mail:
Eleanor Ahern
355 West Mesquite, D30, #176
Mesquite, NV 89027

Via Wiznet Only: (Certificate of Service Only)
Joseph J. Powell, Esq.
The Rushforth Firm
1707 Village Center Circle, Ste. 150
Las Vegas, NV 89134
Attorneys for Kathryn A. Bouvier and Jacqueline M. Montoya

An Employee of Hutchison & Steffen, LLC

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ORDR

CLERK OF THE COURT

DISTRICT COURT

CLARK COUNTY, NEVADA

IN THE MATTER OF THE W.N. CONNELL and MARJORIE T. CONNELL LIVING TRUST, dated May 18, 1972	Case No.: P-09-066425-T Department XXVI

DECISION AND ORDER
Re: Brownstein Hyatt Farber Schreck, LLP's
Motion to Adjudicate Attorney's Lien

The above referenced matter came on for hearing on Brownstein Hyatt Farber Schreck, LLP's (BHFS) Motion to Adjudicate Attorney's Lien on February 22nd, 2017. The primary objection raised by counsel for the Successor Trustee was to the attorney's lien attaching to the MTC trust (100% of the total income) or Eleanor Ahern's beneficial interest (35%), on the grounds that Ms. Ahern did not agree to her fees being paid from her beneficial interest, an assignment of her interest is prohibited by the spendthrift provision, and Ms. Ahern's share is currently suspended and cannot be assigned. The Court, having reviewed the pleadings and papers on file, and having heard oral argument from counsel, herein hereby enters the following decision:

The litigation herein has gone on for some time, and Eleanor has been represented by several different law firms. The litigation arises out of the WN and Marjorie Connell Trust which held Mr. Connell's separate property consisting primarily of Texas oil and gas lease royalties. The trust provided that upon WN's death, Eleanor would receive 35% of the proceeds for her lifetime, with Marjorie Connell receiving 65% for her lifetime. Prior to her death in 2009, Marjorie exercised her power of appointment to leave her share to her granddaughters, Jacqueline Montoya and Kathryn Bouvier, Eleanor was the Successor Trustee. In 2013 Eleanor unilaterally stopped distributions to her daughters, who filed a petition to compel distribution of the 65% to them. The Court found that Marjorie had authority to leave the 65% to her granddaughters, thus

GLORIA A. STURMAN
DISTRICT JUDGE
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Eleanor had wrongfully withheld the funds from her daughters, which Eleanor appealed. Pending resolution of the appeal the Court ordered Eleanor hold the 65% in trust. A settlement was negotiated in the interim, but Eleanor terminated her counsel and hired MAC to successfully oppose enforcement of the settlement. Subsequently MAC withdrew and the law firm of BHFS began representing Eleanor. The Court found that Eleanor had wrongfully failed to hold the 65% in trust, and removed her as trustee. Fred Waid was appointed Successor Trustee for all of the beneficiaries, and attempted to identify how much was missing from the trust, and whether any funds could be recovered. The NV Supreme Court recently affirmed the finding that Eleanor had wrongfully withheld the 65% from her daughters. See, In the matter of the W.N. Connell and Marjorie T. Connell Living Trust, (unpublished Case No. 66231 & 68046 decided 1/26/2017).

BHFS has properly perfected its attorney's lien pursuant to NRS 18.015. One of the objections raised by the Successor Trustee was that the lien cannot attach to proceeds because none were "recovered" by Eleanor. The court has authority to enter a judgment for attorney's fees where the client has submitted herself to the court's jurisdiction. See, Argentena Consolidated Mining Co. v Jolley Urga, et al, 125 Nev. 527, 216 P.3d 779 (2009). Here, Eleanor has submitted herself to jurisdiction of Court as a party, the Court also has jurisdiction over BHFS, having appeared as counsel in the action. A charging lien does not attach where a party did not file an affirmative claim, rather it attaches "to the tangible fruits of the attorneys services." Id. In Argentena the plaintiff's claim against the defendant was dismissed, the defendant had not filed any claims against the plaintiff so there was nothing for the charging lien to attach to.

Here, Eleanor did file counter petitions, seeking to confirm her claim to the disputed 65%, as well as enforcement of the no contest clause against Jacqueline and Kathryn. The attorney's fees must arise on account of the suit. Id. Withdrawal by counsel before settlement does not prevent enforcement of its charging lien. See, McDonald Carrion et al v Bourassa Law Group, LLC. Unpublished, WL 57739793 (2015). The requirement that an attorney lien is enforced against an "affirmative recovery" is a generalized requirement so that the lien may attach to something of value. Id. Here, the fees charged by BHFS arise from their defense of Eleanor in defeating a motion to hold her in contempt, a motion to forfeit her interest in the Trust, and a motion to impose punitive damages.

GLORIA J. STURMAN
DISTRICT JUDGE
DEPT XXVI
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A charging lien may have priority over other liens if notice is perfected before a settlement or judgment. See Golightly and Vannah v TJ Allen, LLC., 372 P.3d 103 (2016). Attorneys may perfect their attorney's lien after a settlement is reached but before funds are received. Id. Here litigation has continued as to the amounts to be charged against Eleanor for breach of fiduciary duty, and enforcement of the no-contest clause against her beneficial interest. Thus the lien may attach to the sums she is affirmatively defending and/or claiming.

The Successor Trustee objects to the lien attaching to Eleanor's beneficial interest as this would violate the Spendthrift provisions of the Trust. As discussed herein, the unique nature of an attorney's charging lien allows a judgment to be entered against the "affirmative recovery" sought by a party to litigation. No distinction is made in the cases interpreting NRS 18.015 which would suggest that a party who is affirmatively defending their right to continue to receive funds from a Trust would have a defense to paying her attorneys by virtue of the fact that the Trust contains a spendthrift clause. To read such a defense into NRS 18.015 would place attorneys who take on Trust litigation at a disadvantage, an outcome which there is no indication the Legislature intended.

The Court has considered the BHFS lien claim in light of the factors identified in Brunzell v. Golden Gate National Bank, 85 Nev. 345, 455 P. 2d 31 (1969) factors and finds that the rates charged are reasonable in the community given the (1) qualities of the advocate(s) who have expertise, experience, and specialization in the field of commercial and complex litigation; (2) the character of the work which was complex and difficult, important to the outcome of the case, requiring significant time and skill and the need for counsel to familiarize themselves with the history of the case within a relatively shortened timeframe; (3) the work performed required skill time and attention; and (4) the successful outcome defeating a motion to hold her in contempt, a motion to forfeit her interest in the trust, and a motion to impose punitive damages, until such time as the relationship broke down over Eleanor's refusal to follow the advice of BHFS.

The fee and cost request accurately reflects the amounts described in the retainer agreement, which was signed by Eleanor in her individual capacity. Counsel for the Successor Trustee does not challenge the rate or amount billed, nor do the beneficiaries. While the Court did not review the billing entries, having considered the *Brunzell* factors, the retainer agreement, and Counsel for the Successor Trustee affirmatively stating at the

GLORIA J. STURMAN
DISTRICT JUDGE
DEPT XXVI
LAS VEGAS, NV 89155

hearing that he is not challenging the amount requested, the Court finds the fees requested to be reasonable.

BHFS also seeks costs in its charging lien. The documentation attached does not approach the specificity required pursuant to Cadle Co. v. Woods & Erickson, LLP, 131 Nev. Adv. Op. 15, 345 P.3d 1049 (2015) for an award of costs by the Court. Costs will be awarded upon receipt of supplemental documentation.

Wherefore, the Court hereby GRANTS the Motion for Attorney's Lien, fees are awarded in their entirety, and costs are awarded subject to supplemental documentation in accordance with Cadle. The lien shall be a judgment only against Eleanor's beneficial interest in the Trust.

Dated this 22nd day of February, 2017.

GLORIA STURMAN
DISTRICT JUDGE
DEPARTMENT 26

GLORIA J. STURMAN
DISTRICT JUDGE
DEPT XXVI
LAS VEGAS, NV 89155

CERTIFICATE OF SERVICE

I hereby certify that on or about the date filed, a copy of the foregoing **DECISION AND ORDER** Re: Brownstein Hyatt Farber Schrek, LLP's Motion to Adjudicate Attorney's Lien was E-Served, mailed or a copy was placed in the attorney's folder in the Clerk's Office as follows:

Dale Hayes, Esq.
Liane Wakayama, Esq.
Candice Renka, Esq.
Marquis Aurbach Coffing
10001 Park Run Drive
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Kirk Lenhard, Esq.
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Joseph Powell, Esq.
The Rushforth Firm
1707 Village Center Circle, Ste. 150
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Eleanor Ahern
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Mesquite, NV 89027

Linda Denman
Judicial Executive Assistant
Department 26

GLORIA J. STURMAN
DISTRICT JUDGE
DEPT XXVI
LAS VEGAS, NV 89155

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CLERK OF THE COURT

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BROWNSTEIN HYATT FARBER SCHRECK, LLP
100 North City Parkway, Suite 1600
Las Vegas, NV 89106-4614
Telephone: 702.382.2101
Facsimile: 702.382.8135

DISTRICT COURT

CLARK COUNTY, NEVADA

In the Matter of THE W.N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST DATED May 18, 1972, An Inter Vivos Irrevocable Trust	CASE NO.: P-09-066425-T DEPT. NO.: XXVI **NOTICE OF ENTRY OF DECISION AND ORDER RE: BHFS MOTION TO ADJUDICATE ATTORNEY'S LIEN** **Date of Hearing: February 22, 2017** **Time of Hearing: 9:30 a.m.**

PLEASE TAKE NOTICE that the Decision and Order Re: Brownstein Hyatt Farber Schreck, LLP's Motion to Adjudicate Attorney's Lien was entered on February 23, 2017. A copy of said Decision and Order is attached hereto.

DATED this 27th day of February, 2017.

BROWNSTEIN HYATT FARBER SCHRECK, LLP

By: /s/ Kirk B. Lenhard
KIRK B. LENHARD, ESQ., Bar No. 1437
klenhard@bhfs.com
Las Vegas, NV 89106-4614
Telephone: 702.382.2101
Facsimile: 702.382.8135

BROWNSTEIN HYATT FARBER SCHRECK, LLP
100 North City Parkway, Suite 1600
Las Vegas, NV 89106-4614
702.382.2101

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of Brownstein Hyatt Farber Schreck, LLP, and pursuant to NRCP 5(b), EDCR 8.05, Administrative Order 14-2, and NEFCR 9, I caused a true and correct copy of the foregoing **NOTICE OF ENTRY OF DECISION AND ORDER RE: BHFS MOTION TO ADJUDICATE ATTORNEY'S LIEN** to be submitted electronically for filing and service with the Eighth Judicial District Court via the Court's Electronic Filing System on the 27th day of February, 2017, to the following:

TODD L. MOODY, ESQ.
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RUSSEL J. GEIST, ESQ.
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Attorneys for Fredrick P. Waid, Court-appointed Trustee

JOSEPH J. POWELL, ESQ.
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Las Vegas, NV 89137-1655
Attorneys for Jacqueline M. Montoya and Kathryn A. Bouvier

/s/ Paula Kay
an employee of Brownstein Hyatt Farber Schreck, LLP

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ORDR

CLERK OF THE COURT

DISTRICT COURT

CLARK COUNTY, NEVADA

IN THE MATTER OF THE W.N. CONNELL and MARJORIE T. CONNELL LIVING TRUST, dated May 18, 1972	Case No.: P-09-066425-T Department XXVI

DECISION AND ORDER
Re: Brownstein Hyatt Farber Schreck, LLP's Motion to Adjudicate Attorney's Lien

The above referenced matter came on for hearing on Brownstein Hyatt Farber Schreck, LLP's (BHFS) Motion to Adjudicate Attorney's Lien on February 22nd, 2017. The primary objection raised by counsel for the Successor Trustee was to the attorney's lien attaching to the MTC trust (100% of the total income) or Eleanor Ahern's beneficial interest (35%), on the grounds that Ms. Ahern did not agree to her fees being paid from her beneficial interest, an assignment of her interest is prohibited by the spendthrift provision, and Ms. Ahern's share is currently suspended and cannot be assigned. The Court, having reviewed the pleadings and papers on file, and having heard oral argument from counsel, herein hereby enters the following decision:

The litigation herein has gone on for some time, and Eleanor has been represented by several different law firms. The litigation arises out of the WN and Marjorie Connell Trust which held Mr. Connell's separate property consisting primarily of Texas oil and gas lease royalties. The trust provided that upon WN's death, Eleanor would receive 35% of the proceeds for her lifetime, with Marjorie Connell receiving 65% for her lifetime. Prior to her death in 2009, Marjorie exercised her power of appointment to leave her share to her granddaughters, Jacqueline Montoya and Kathryn Bouvier, Eleanor was the Successor Trustee. In 2013 Eleanor unilaterally stopped distributions to her daughters, who filed a petition to compel distribution of the 65% to them. The Court found that Marjorie had authority to leave the 65% to her granddaughters, thus

GLORIA A. STURMAN
DISTRICT JUDGE
DEPT XXVI
LAS VEGAS, NV 89155

Eleanor had wrongfully withheld the funds from her daughters, which Eleanor appealed. Pending resolution of the appeal the Court ordered Eleanor hold the 65% in trust. A settlement was negotiated in the interim, but Eleanor terminated her counsel and hired MAC to successfully oppose enforcement of the settlement. Subsequently MAC withdrew and the law firm of BHFS began representing Eleanor. The Court found that Eleanor had wrongfully failed to hold the 65% in trust, and removed her as trustee. Fred Waid was appointed Successor Trustee for all of the beneficiaries, and attempted to identify how much was missing from the trust, and whether any funds could be recovered. The NV Supreme Court recently affirmed the finding that Eleanor had wrongfully withheld the 65% from her daughters. See, In the matter of the W.N. Connell and Marjorie T. Connell Living Trust, (unpublished Case No. 66231 & 68046 decided 1/26/2017).

BHFS has properly perfected its attorney's lien pursuant to NRS 18.015. One of the objections raised by the Successor Trustee was that the lien cannot attach to proceeds because none were "recovered" by Eleanor. The court has authority to enter a judgment for attorney's fees where the client has submitted herself to the court's jurisdiction. See, Argentena Consolidated Mining Co. v Jolley Urga, et al, 125 Nev. 527, 216 P.3d 779 (2009). Here, Eleanor has submitted herself to jurisdiction of Court as a party, the Court also has jurisdiction over BHFS, having appeared as counsel in the action. A charging lien does not attach where a party did not file an affirmative claim, rather it attaches "to the tangible fruits of the attorneys services." Id. In Argentena the plaintiff's claim against the defendant was dismissed, the defendant had not filed any claims against the plaintiff so there was nothing for the charging lien to attach to.

Here, Eleanor did file counter petitions, seeking to confirm her claim to the disputed 65%, as well as enforcement of the no contest clause against Jacqueline and Kathryn. The attorney's fees must arise on account of the suit. Id. Withdrawal by counsel before settlement does not prevent enforcement of its charging lien. See, McDonald Carrion et al v Bourassa Law Group, LLC. Unpublished, WL 57739793 (2015). The requirement that an attorney lien is enforced against an "affirmative recovery" is a generalized requirement so that the lien may attach to something of value. Id. Here, the fees charged by BHFS arise from their defense of Eleanor in defeating a motion to hold her in contempt, a motion to forfeit her interest in the Trust, and a motion to impose punitive damages.

GLORIA J. STURMAN
DISTRICT JUDGE
DEPT XXVI
LAS VEGAS, NV 89155

A charging lien may have priority over other liens if notice is perfected before a settlement or judgment. See Golightly and Vannah v TJ Allen, LLC., 372 P.3d 103 (2016). Attorneys may perfect their attorney's lien after a settlement is reached but before funds are received. Id. Here litigation has continued as to the amounts to be charged against Eleanor for breach of fiduciary duty, and enforcement of the no-contest clause against her beneficial interest. Thus the lien may attach to the sums she is affirmatively defending and/or claiming.

The Successor Trustee objects to the lien attaching to Eleanor's beneficial interest as this would violate the Spendthrift provisions of the Trust. As discussed herein, the unique nature of an attorney's charging lien allows a judgment to be entered against the "affirmative recovery" sought by a party to litigation. No distinction is made in the cases interpreting NRS 18.015 which would suggest that a party who is affirmatively defending their right to continue to receive funds from a Trust would have a defense to paying her attorneys by virtue of the fact that the Trust contains a spendthrift clause. To read such a defense into NRS 18.015 would place attorneys who take on Trust litigation at a disadvantage, an outcome which there is no indication the Legislature intended.

The Court has considered the BHFS lien claim in light of the factors identified in Brunzell v. Golden Gate National Bank, 85 Nev. 345, 455 P. 2d 31 (1969) factors and finds that the rates charged are reasonable in the community given the (1) qualities of the advocate(s) who have expertise, experience, and specialization in the field of commercial and complex litigation; (2) the character of the work which was complex and difficult, important to the outcome of the case, requiring significant time and skill and the need for counsel to familiarize themselves with the history of the case within a relatively shortened timeframe; (3) the work performed required skill time and attention; and (4) the successful outcome defeating a motion to hold her in contempt, a motion to forfeit her interest in the trust, and a motion to impose punitive damages, until such time as the relationship broke down over Eleanor's refusal to follow the advice of BHFS.

The fee and cost request accurately reflects the amounts described in the retainer agreement, which was signed by Eleanor in her individual capacity. Counsel for the Successor Trustee does not challenge the rate or amount billed, nor do the beneficiaries. While the Court did not review the billing entries, having considered the *Brunzell* factors, the retainer agreement, and Counsel for the Successor Trustee affirmatively stating at the

GLORIA J. STURMAN
DISTRICT JUDGE
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LAS VEGAS, NV 89155

hearing that he is not challenging the amount requested, the Court finds the fees requested to be reasonable.

BHFS also seeks costs in its charging lien. The documentation attached does not approach the specificity required pursuant to Cadle Co. v. Woods & Erickson, LLP, 131 Nev. Adv. Op. 15, 345 P.3d 1049 (2015) for an award of costs by the Court. Costs will be awarded upon receipt of supplemental documentation.

Wherefore, the Court hereby GRANTS the Motion for Attorney's Lien, fees are awarded in their entirety, and costs are awarded subject to supplemental documentation in accordance with Cadle. The lien shall be a judgment only against Eleanor's beneficial interest in the Trust.

Dated this 22nd day of February, 2017.

GLORIA STURMAN
DISTRICT JUDGE
DEPARTMENT 26

GLORIA J. STURMAN
DISTRICT JUDGE
DEPT XXVI
LAS VEGAS, NV 89155

CERTIFICATE OF SERVICE

I hereby certify that on or about the date filed, a copy of the foregoing **DECISION AND ORDER** Re: Brownstein Hyatt Farber Schrek, LLP's Motion to Adjudicate Attorney's Lien was E-Served, mailed or a copy was placed in the attorney's folder in the Clerk's Office as follows:

Dale Hayes, Esq.
Liane Wakayama, Esq.
Candice Renka, Esq.
Marquis Aurbach Coffing
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GLORIA J. STURMAN
DISTRICT JUDGE
DEPT XXVI
LAS VEGAS, NV 89155

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CLERK OF THE COURT

Marquis Aurbach Coffing
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DISTRICT COURT

CLARK COUNTY, NEVADA

In the Matter of THE W.N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST DATED May 18, 1972, An Inter Vivos Irrevocable Trust.	Case No.: P-09-066425-T Dept. No.: 26

JUDGMENT

Judgment is hereby entered in favor of Marquis Aurbach Coffing and against Eleanor Ahern for attorney fees in the amount of $151,228.69 and costs in the amount of $9,726.43 for a total judgment of $160,955.12, which amount shall accrue interest at the legal rate until such time it is paid in full.

Dated this 22 day of February, 2017.

DISTRICT COURT JUDGE

Submitted by:

MARQUIS AURBACH COFFING

By
Dale A. Hayes, Esq., Nevada Bar No. 3430
Liane K. Wakayama, Esq., Nevada Bar No. 11313
Candice E. Renka, Esq., Nevada Bar No. 11447
10001 Park Run Drive
Las Vegas, Nevada 89145

MAC:207-002 3015624_1

MARQUIS AURBACH COFFING
10001 Park Run Drive
Las Vegas, Nevada 89145
(702) 382-0711 FAX: (702) 382-5816

Marquis Aurbach Coffing
Dale A. Hayes, Esq.
Nevada Bar No. 3430
Liane K. Wakayama, Esq.
Nevada Bar No. 11313
Candice E. Renka, Esq.
Nevada Bar No. 11447
10001 Park Run Drive
Las Vegas, Nevada 89145
Telephone: (702) 382-0711
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dhayes@maclaw.com
lwakayama@maclaw.com
crenka@maclaw.com

Electronically Filed
03/01/2017 09:53:45 AM

CLERK OF THE COURT

DISTRICT COURT

CLARK COUNTY, NEVADA

In the Matter of THE W.N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST DATED May 18, 1972, An Inter Vivos Irrevocable Trust.	Case No.: P-09-066425-T Dept. No.: 26

NOTICE OF ENTRY OF JUDGMENT

Please take notice that a Judgment in favor of Marquis Aurbach Coffing and against Eleanor Ahern for attorney fees and costs was entered in the above-captioned matter on the 28th day of February, 2017, a copy of which is attached hereto.

Dated this 1st day of March, 2017.

MARQUIS AURBACH COFFING

By
Dale A. Hayes, Esq.
Nevada Bar No. 3430
Liane K. Wakayama, Esq.
Nevada Bar No. 11313
Candice E. Renka, Esq.
Nevada Bar No. 11447
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CERTIFICATE OF SERVICE

I hereby certify that the foregoing **NOTICE OF ENTRY OF JUDGMENT** was submitted electronically for filing and/or service with the Eighth Judicial District Court on the 1st day of March, 2017. Electronic service of the foregoing document shall be made in accordance with the E-Service List as follows:[1]

Albright Stoddard Warnick & Albright	
Contact	**Email**
Barbara Clark, Legal Assistant	bclark@albrightstoddard.com
G. Mark Albright, Esq.	gma@albrightstoddard.com
Whitney B. Warnick	wbw@albrightstoddard.com
Brownstein Hyatt Farber Schreck, LLP	
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Todd Moody	TMoody@hutchlegal.com
Hutchison & Steffen	
Contact	**Email**
Fredrick P. Waid, Esq.	fwaid@hutchlegal.com
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Contact	**Email**
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Jeffrey Burr, Ltd.	
Contact	**Email**
John R. Mugan, Esquire	john@jeffreyburr.com
Michael D. Lum, Esquire	michael@jeffreyburr.com
The Rushforth Firm	
Contact	**Email**
Probate	probate@rushforthfirm.com
The Rushforth Firm, Ltd.	
Contact	**Email**
Joseph J. Powell	probate@rushforthfirm.com

I further certify that I served a copy of this document by mailing a true and correct copy

[1] Pursuant to EDCR 8.05(a), each party who submits an E-Filed document through the E-Filing System consents to electronic service in accordance with NRCP 5(b)(2)(D).

thereof, postage prepaid, addressed to:

Eleanor Ahern
400 Paradise Pkwy, Unit 111
Mesquite, Nevada 89027
Pro Se

An employee of Marquis Aurbach Coffing

MARQUIS AURBACH COFFING
10001 Park Run Drive
Las Vegas, Nevada 89145
(702) 382-0711 FAX: (702) 382-5816

MAC:00207-002 3021686_1 3/1/2017 9:17 AM

Electronically Filed
02/28/2017 10:02:56 AM

CLERK OF THE COURT

Marquis Aurbach Coffing
Dale A. Hayes, Esq.
Nevada Bar No. 3430
Liane K. Wakayama, Esq.
Nevada Bar No. 11313
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DISTRICT COURT

CLARK COUNTY, NEVADA

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Dated this 22 day of February, 2017.

DISTRICT COURT JUDGE

Submitted by:

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Las Vegas, Nevada 89145
(702) 382-0711 FAX: (702) 382-5816

Eleanor Ahern
355 W. Mesquite Blvd #230
#176
Mesquite NV 89027
702 266 5075

FILED
MAR 02 2017
CLERK OF COURT

District Court

Clark County, Nevada

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

Case No P-09066425-T
Department XXVI

EXHIBITS 1 – 4 & EXHIBITS 7 & 9 LETTERS S TO JUDGE STURMAN

EXHIBITS 5 – 9 LETTERS TO FRED WAID, Temporary Trustee

RECEIVED
March 2, 2017
~~FEB 2 0 2017~~
CLERK OF THE COURT

P – 09 – 066425 – T
EXHS
Exhibits
4628494

85

EXHIBIT 1

Transmission Report

Date/Time	11-23-2016	09:25:28 a.m.	Transmit Header Text	
Local ID 1	702-346-7909		Local Name 1	Checks -N- Mail

This document : Confirmed
(reduced sample and details below)
Document size : 8.5"x11"

Case #. P-009-664257
Nov 23 2016. 9:30am

Good morning your honor

Today as you consider Kirk Lenhards motion to withdraw. Please do not leave me without counsel.

I am asking that you order the temporary trustee, Fred Waid, to pay for new counsel for me in a timely fashion as we move forward from today. I can not be without counsel. I have need of counsel.

Thank you your honor

Please read the attached / following pages. It's a quick read

Eleanor Connell Hartman Ahern

Judge Sturman

I am not doing well on my Social Security as Fred is telling everyone.

As you now know I have a place to receive mail. I do not have the money to pay for it. It is being gifted to me. Kirk never alerted me to have a place to receive mail he just kept threatening he was going to withdraw if I did not sign their most terrible settlement.

I do not have the money to pay for new glasses. With all the add on I need to see one pair is between **$500** and **$600**. The left lens has a worn smudge directly in my line of sight. The Optometrists who I have gone to since 1969 told me both lenses are badly damaged and must be replaced for me to see correctly. Seeing is very important at any age but especially it is important for me at 78. To stay active and continue to be a blessing to others I need new glasses.

Cataract Surgery has been scheduled four times as Fred refused to give me the money to pay for the surgery each time. Cataract Surgery may help some but I still may require reading or distance glasses. I must have the surgery the surgery and the new glasses.

I only have one pair of glasses. If my glasses get broken I have no back up. I would be up a creek with no paddle.. I need you to make Fred give me the money that you made available for me to receive **$20,000** in 2015 now. No more games Fred seems to be. Playing not to execute your order made so long ago.

There is never enough money money for clothes or shoes since Fred became Trustee. Caring friends are giving me clothes.

If it were not for generous friends I would not have enough food.

My pets do not get their vet check-ups or shots.

I see that my pets receives their food for 30 days first when I get my Social Security money. I make sure they are taken care of before I have food.

One friend has started buying me food three weeks before Social Security arrives because she cares.

I had to borrow money to get new tires . The original tires on my 2011 car were dangerous. I paid the money back little by little from my Social Security check.

I do not buy tooth paste. I use baking soda. It lasts longer and costs less.

I have not had any beef since April 2015

I can no longer eat the food bank food. My body requires fresh veggie. When I can, I buy Organic I cannot eat wheat. Carbs turn to sugars which are bad for a diabetic.

Dentists have told me I have gum disease. I am told I must have my teeth gleaned every 6 months. I have not had them cleaned since Fred Waid took my place as Trustee.

I have not had a manicure, pedicure or a professional hair cut since Fred took over. These costs are not in my price range at all.

My hearing is still not good. My hearing doctor said there are 14 sounds I do not hear. This lose of these 14 sounds make me hear words that are not said causing me to answer or join the conversation way off topic. This is very dangerous for me in a court or deposition setting. The problems created for me by not getting help for my hearing and my sight puts me at a huge

disadvantage.

My ink for my printer is **$76.00**. The black will not work without the color. I need the print enlarged on my computer so I can read all the many court documents that are printed off. Often I can not print because there is no money for ink. I. cannot see to read the documents because I have no money to purchase ink to make the documents print in a larger size print I can read.

Captain, is a highly trained service dog. He is a pedigreed German Shepard and has assisted me in walking since 2005. He needs grooming every 30 days. His nails clipped, his annul gland cleaned. He is suffering along wit me because Fred refuses to allow me normal living expenses.
I am at the mercy of .friends for food and clothes and other necessities.

My shoes are very worn and broken down. Because of my short left leg by 2 inches caused by not healing for 7 years caused by an ice skating accident in 1972. Dr's told me they must cut the leg off. I refused to accept their prognosis. I traveled to UCLA medical Center. My leg healed and remained solid till I stepped on a dog dish in my garage in 2012. This time it heals solid I a month. The built up of every shoe is over **$100.00**. New shoes are needed.

My father would be turning over in his grave to learn how his only daughter is suffering and dong without. In His trust he did not provide for my daughters. He only provided for me to enjoy the fruits of his sole and separate property. My father set out in his Trust for me to enjoy all the abundance produced on and under the land my grandparents passed on to him and his 3 sisters. My cousins are enjoying their money. Now I am being denied basic living expenses living in poverty.

Respectfully,

Transmission Report

Date/Time	11-23-2016	09:25:28 a.m.	Transmit Header Text	
Local ID 1	702-346-7909		Local Name 1	Checks -N- Mail

This document : Confirmed
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Document size : 8.5"x11"

Case #. P-009-664257
Nov 23 2016. 9:30am

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I see that my pets receives their food for 30 days first when I get my Social Security money. I make sure they are taken care of before I have food.

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EXHIBIT 2

TRANSACTION REPORT

NOV/28/2016/MON 10:19 PM

FAX(TX)

#	DATE	START T.	RECEIVER	COM.TIME	PAGE	TYPE/NOTE	FILE
001	NOV/28	10:18PM	17023661399	0:00:32	1	MEMORY OK ECM	0563

November 28, 2016

Good Morning Your Honor,

I appreciate your quick response to my motion requesting a protective order and vacating the deposition. My original paperwork was given to the Clerk's Office at 9a.m this morning.

As you may know, Your Honor, Fred Waid as Temporary Trustee is holding over a million dollars of my money. On 11/4/2015 you instructed him to release money to me for specific purposes. Legal Fees and living evpenses . As of today, he has not complied.

I have been getting food from the local Food Bank and from generous neighbors. It has been well over a year that every month having enough money is a serious problem for me.

As of today, there is not money for gas, a new car battery and food for the rest of the month. My deepest apology, I do not have the resources to leave home.

Your Honor, as you well know, I do not have a lawyer. It would also be a waste of Trust resources for me to be there without legal representation.

Dear Judge Gloria, it has never been my attempt to offend you. It was never my Intent either personally or professionally to offend you. Please forgive me, if somehow, without my knowledge, I have offended you.

Would you please make an order allowing me to receive from the Trust a monthly payment to a new lawyer?

Also, please request for me from the Temporary Trustee complete access to all Trust documentation that has been in his possession since April 1, 2015 to this current date. It is my understanding I have a right as a Beneficiary to receive this information. I have requested this information almost monthly from the Temporary Trustee, Fred Waid since June of 2015. To no avail.

Eleanor Ahern

November 28, 2016

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Eleanor Ahern

EXHIBIT 3

Transmission Report

Date/Time 01-27-2017 03:40:52 p.m.
Local ID 1 702-346-7909
Transmit Header Text
Local Name 1
Checks -N- Mail

This document : Confirmed
(reduced sample and details below)
Document size : 8.5"x11"

Date: January 25, 2017

To: Judge Gloria Sturman

Fax: 702 366 1399

From: Eleanor Ahern

CASE NO: P-09-066425-T

DEPT. NO 26

Dear Judge,

November 4, 2015, you ordered from the Bench to have Fred Wald, Temporary Trustee, release $50,000 out of the millions he is holding, which was followed up by a written order. This money was to be for legal fees and for my much-needed medical attention.

I am requesting you cause him to release this money to me immediately so I can hire a lawyer.

I am thanking you in advance.

Eleanor Ahern

Eleanor Ahern, former Trustee of the W. N. Connell and Marjorie T. Connell Living Trust dated May 18, 1972

My mailing address
355 West Mesquite Blvd. 030 #176
Mesquite, Nevada 89027

Total Pages Scanned : 1 Total Pages Confirmed : 1

No.	Job	Remote Station	Start Time	Duration	Pages	Line	Mode	Job Type	Results
001	073	7026714305	03:39:53 p.m. 01-27-2017	00:00:20	1/1	1	EC	HS	CP14400

Abbreviations:
HS: Host send
HR: Host receive
WS: Waiting send
PL: Polled local
PR: Polled remote
MS: Mailbox save
MP: Mailbox print
RP: Report
FF: Fax Forward
CP: Completed
FA: Fail
TU: Terminated by user
TS: Terminated by system
G3: Group 3
EC: Error Correct

Date: January 25, 2017

To: Judge Gloria Sturman

Fax: 702 366 1399

From: Eleanor Ahern

CASE NO: P-09-066425-T

DEPT. NO #21

Dear Judge,

November 4, 2015, you ordered from the Bench to have Fred Waid, Temporary Trustee, release $90,000 out of the millions he is holding, which was followed up by a written order. This money was to be for legal fees and for my much-needed medical attention.

I am requesting you cause him to release this money to me immediately so I can hire a lawyer.

I am thanking you in advance.

Eleanor Ahern

Eleanor Ahern, former Trustee of the W. N. Connell and Marjorie T. Connell Living Trust dated May 18, 1972

My mailing address
355 West Mesquite Blvd. D30 #176
Mesquite, Nevada 89027

Date: January 25, 2017

To: Judge Gloria Sturman

Fax: 702 366 1399

From: Eleanor Ahern

CASE NO: P-09-066425-T

DEPT. NO #21

Dear Judge,

November 4, 2015, you ordered from the Bench to have Fred Waid, Temporary Trustee, release $90,000 out of the millions he is holding, which was followed up by a written order. This money was to be for legal fees and for my much-needed medical attention.

I am requesting you cause him to release this money to me immediately so I can hire a lawyer.

I am thanking you in advance.

Eleanor Ahern

Eleanor Ahern, former Trustee of the W. N. Connell and Marjorie T. Connell Living Trust dated May 18, 1972

My mailing address
355 West Mesquite Blvd. 030 #176
Mesquite, Nevada 89027

Date: January 25, 2017

To: Judge Gloria Sturman

Fax: 702 366 1399

From: Eleanor Ahern

CASE NO: P-09-066425-T

DEPT. NO #21

Dear Judge,

November 4, 2015, you ordered from the Bench to have Fred Waid, Temporary Trustee, release $90.000 out of the millions he is holding, which was followed up by a written order. This money was to be for legal fees and for my much-needed medical attention.

I am requesting you cause him to release this money to me immediately so I can hire a lawyer.

I am thanking you in advance.

Eleanor Ahern

Eleanor Ahern, former Trustee of the W. N. Connell and Marjorie T. Connell Living Trust dated May 18, 1972

My mailing address
355 West Mesquite Blvd. D30 #176
Mesquite, Nevada 89027

EXHIBIT 4

Transmission Report

Date/Time	02-03-2017	02:35:07 p.m.	Transmit Header Text	
Local ID 1	702-346-7909		Local Name 1	Checks -N- Mail

This document : Confirmed
(reduced sample and details below)
Document size : 8.5"x11"

OOODate: February 3, 2017

To: Judge Gloria Sturman

Fax: 702 366 1399

From: Eleanor Ahern

Fax: 702 346 7909

CASE NO: P-09-066425-T

DEPT. NO #B

Re: *In the matter of The W. N. Connell and Marjorie T. Connell Living Trust dated May 18, 1972*

Dear Judge,

November 4, 2015, you ordered from the Bench to have Fred Wald, Temporary Trustee, release $90,000 to me out of the millions he is holding, which was followed up by a written order. This money was to be for legal fees and for my much-needed medical attention.

I am requesting you cause him to release this money to me immediately so I can hire a lawyer.

I have not received any information regarding the hearing on February 8th.

Eleanor Ahern

Eleanor Ahern, former Trustee of the W. N. Connell and Marjorie T. Connell Living Trust dated May 18, 1972

My mailing address
355 West Mesquite Blvd. D30 #176
Mesquite, Nevada 89027

cc: Joseph J Powell, Esq. via Fax 702 255 4552 4677 or 855-787-4329
Todd Moody,Esq. via Fax 702 3862088
395

Total Pages Scanned : 1 Total Pages Confirmed : 1

No.	Job	Remote Station	Start Time	Duration	Pages	Line	Mode	Job Type	Results
001	183	vFax	02:33:56 p.m. 02-03-2017	00:00:41	1/1	1	G3	HS	CP9600

Abbreviations:
HS: Host send
HR: Host receive
WS: Waiting send
PL: Polled local
PR: Polled remote
MS: Mailbox save
MP: Mailbox print
RP: Report
FF: Fax Forward
CP: Completed
FA: Fail
TU: Terminated by user
TS: Terminated by system
G3: Group 3
EC: Error Correct

000Date: February 3, 2017

To: Judge Gloria Sturman

Fax: 702 366 1399

From: Eleanor Ahern

Fax: 702 346 7909

CASE NO: P-09-066425-T

DEPT. NO #2~~0~~

Re: *In the matter of The W. N. Connell and Marjorie T. Connell Living Trust dated May 18, 1972*

Dear Judge,

November 4, 2015, you ordered from the Bench to have Fred Waid, Temporary Trustee, release $90,000 to me out of the millions he is holding, which was followed up by a written order. This money was to be for legal fees and for my much-needed medical attention.

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I have not received any information regarding the hearing on February 8th.

Eleanor Ahern

Eleanor Ahern, former Trustee of the W. N. Connell and Marjorie T. Connell Living Trust dated May 18, 1972

My mailing address
355 West Mesquite Blvd. D30 #176
Mesquite, Nevada 89027

cc: Joseph J Powell, Esq, via Fax 702 255 4552 4677 or 855-787-4329
Todd Moody,Esq. via Fax 702 ~~386~~385 2086

000Date: February 3, 2017

To: Judge Gloria Sturman

Fax: 702 366 1399

From: Eleanor Ahern

Fax: 702 346 7909

CASE NO: P-09-066425-T

DEPT. NO #26

Re: *In the matter of The W. N. Connell and Marjorie T. Connell Living Trust dated May 18, 1972*

Dear Judge,

November 4, 2015, you ordered from the Bench to have Fred Waid, Temporary Trustee, release $90,000 to me out of the millions he is holding, which was followed up by a written order. This money was to be for legal fees and for my much-needed medical attention.

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Eleanor Ahern

Eleanor Ahern, former Trustee of the W. N. Connell and Marjorie T. Connell Living Trust dated May 18, 1972

My mailing address
355 West Mesquite Blvd. D30 #176
Mesquite, Nevada 89027

cc: Joseph J Powell, Esq, via Fax 702 255 4552 4677 or 855-787-4329
Todd Moody,Esq. via Fax 702 386-2086
385

Transmission Report

Date/Time	02-03-2017 02:35:07 p.m.	Transmit Header Text	
Local ID 1	702-346-7909	Local Name 1	Checks -N- Mail

This document : Confirmed
(reduced sample and details below)
Document size : 8.5"x11"

000Date: February 3, 2017

To: Judge Gloria Sturman

Fax: 702 366 1399

From: Eleanor Ahern

Fax: 702 346 7909

CASE NO: P-09-066425-T

DEPT. NO #26

Re: *In the matter of The W. N. Connell and Marjorie T. Connell Living Trust dated May 18, 1972*

Dear Judge,

November 4, 2015, you ordered from the Bench to have Fred Wald, Temporary Trustee, release $90,000 to me out of the millions he is holding, which was followed up by a written order. This money was to be for legal fees and for any much-needed medical attention.

I am requesting you cause him to release this money to me immediately so I can hire a lawyer.

I have not received any information regarding the hearing on February 8th.

Eleanor Ahern

Eleanor Ahern, former Trustee of the W. N. Connell and Marjorie T. Connell Living Trust dated May 18, 1972

My mailing address
355 West Mesquite Blvd. D30 #176
Mesquite, Nevada 89027

cc: Joseph J Powell, Esq. via Fax 702 255 4552 4477 or 855-787-4329
Todd Moody,Esq. via Fax 702 386-2086
395

Total Pages Scanned : 1 Total Pages Confirmed : 1

No.	Job	Remote Station	Start Time	Duration	Pages	Line	Mode	Job Type	Results
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Abbreviations:

HS: Host send	PL: Polled local	MP: Mailbox print	CP: Completed	TS: Terminated by system
HR: Host receive	PR: Polled remote	RP: Report	FA: Fail	G3: Group 3
WS: Waiting send	MS: Mailbox save	FF: Fax Forward	TU: Terminated by user	EC: Error Correct

EXHIBIT 5

To: Fred Waid

Fax: 702 385 2086

From: Eleanor Ahern

Fax: 702 346 7909

Tammy told me she sent the medical expenses and billing statements from all the Doctors [illegible] you. I faxed them to her three times.

Dr. Malik Optometrist for my bifocals cost **$650 plus $65** for testing for one pair includes all the protection I must have. Always better to have two sets of glasses in case one gets broken Double the cost **$1,300** cost of lens and add **$200** for second pair of frames. **$100**f or gas. Two Las Vegas Trips

New Eyes Cataract Surgery for left eye first cost approximately **$400** for left eye . You have the exact amounts given to you by Tammy 3 times. They will NOT do the operation if there is no driver. Driver is **$100** each time she drives to Vegas Gas **$50.00** round trip Perscriptions for both eyes one week apart **$270.40**

Must have money to stay over 2 times for a 9 am after surgery check up. In case of problems I must stay overnight Room can be $200 for two beds no smoking. **$100** will be put back on the credit card. This will happens again for the right eye check up **$500** plus room and food and driver.

I must have a driver or the operation will not take place. Cost **$100** each time she drives me to Surgery

Room with two beds **$100** plus **$100** for extra charges that will be put back on the card if not used

Cataract Surgery for right eye same costs as left eye listed as above **$400** plus **$200** for room, Food $200 and Driver $100 and Gas **$50**

Must have food money for three meals for the driver and me approximately $200

Paradental Disease cleaning **$275** recommends cleaning every 3 months It has been two years since my teeth have been cleaned

Hearing aids **$5,000** for two

Please pay me the money Judge Sturman allocated for medical out of the $90,000 $50,000 for Larry to represent me and money itemized above.

I would like some new clothes and new built up shoes for my left foot , Build ups are **$100** to $150 each build up shoe.

Thank you in advance

Eleanor Ahern

Eleanor Ahern

To: Fred Waid

Fax: 702 385 2086

From: Eleanor Ahern

Fax: 702 346 7909

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Thank you in advance

Eleanor Ahern

Eleanor Ahern

To: Fred Waid

Fax: 702 385 2086

From: Eleanor Ahern

Fax: 702 346 7909

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Hearing aids **$5,000** for two

Please pay me the money Judge Sturman allocated for medical out of the $90,000 $50,000 for Larry to represent me and money itemized above.

I would like some new clothes and new built up shoes for my left foot , Build ups are **$100** to **$150** each build up shoe.

Thank you in advance

Eleanor Ahern

Eleanor Ahern

EXHIBIT 6

Transmission Report

Date/Time 02-03-2017 02:37:09 p.m. Transmit Header Text
Local ID 1 702-346-7909 Local Name 1 Checks -N- Mail

This document : Confirmed
(reduced sample and details below)
Document size : 8.5"x11"

Date: February 3, 2017

To: Fred Wald

Fax: 702 386-2885 385

From: Eleanor Ahern Beneficiary of the W. N Connell and Marjorie T. Connell Living Trust dated May 18, 1972

Fax # 702 346 7909

Fred, please provide $50,000 for legal fees I require for Attorney Larry Semenza. Please contact Larry today to make arrangements to get a retainer to him for $50,000 to represent me in Court.

Please respond to me by my Fax 702 346 7909 today

Eleanor Ahern

Eleanor Ahern, Beneficiary

Total Pages Scanned : 1 Total Pages Confirmed : 1

No.	Job	Remote Station	Start Time	Duration	Pages	Line	Mode	Job Type	Results
001	185	vFax	02:36:09 p.m. 02-03-2017	00:00:25	1/1	1	G3	HS	CP9600

Abbreviations:
HS: Host send PL: Polled local MP: Mailbox print CP: Completed TS: Terminated by system
HR: Host receive PR: Polled remote RP: Report FA: Fail G3: Group 3
WS: Waiting send MS: Mailbox save FF: Fax Forward TU: Terminated by user EC: Error Correct

Date: February 3, 2017

To: Fred Waid

Fax: 702 385 1973

From: Eleanor Ahern

Fax: 702 346 7909

Fred, please provide $50,000 for legal fees I require for Attorney Larry Semenza. Please contact Larry Today to make arrangements to get a retainer to him for $50,000 to represent me in Court.

Please respond to me by my fax 702 346 7909

Eleanor Ahern, Beneficiary

Date: February 3, 2017

To: Fred Waid

Fax: 702 385 1973

From: Eleanor Ahern

Fax: 702 346 7909

Fred, please provide $50,000 for legal fees I require for Attorney Larry Semenza. Please contact Larry Today to make arrangements to get a retainer to him for $50,000 to represent me in Court.

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Eleanor Ahern, Beneficiary

Date: February 3, 2017

To: Fred Waid

Fax: 702 385 1973

From: Eleanor Ahern

Fax: 702 346 7909

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Please respond to me by my fax 702 346 7909

Eleanor Ahern, Beneficiary

EXHIBIT 7

EMERGENCY REQUEST

Date:	February 8, 2017
To:	Judge Gloria Sturman
Fax:	702 366 1399
From:	Eleanor Ahern
Fax:	702 346 7909
CASE NO:	P-09-066425-T
DEPT. NO	#26

Re: *In the matter of The W. N. Connell and Marjorie T. Connell Living Trust dated May 18, 1972*

Dear Judge Sturman,

The attorney I had planned on using is very sick. It is my understanding he is willing to be my attorney. I signed a contract. Please release money for Attorney Larry Semesza and for my medical needs listed below:

I do not have gas money, $50.00, to do a round trip to Las Vegas to attend this Hearing should it be tomorrow. I can answer the TDY phone #702 345 3035. Please allow me to use the TDY phone. I need this confirmation to know when to answer. The TDY phone allows me to see the words spoken in very large print. You can let me know by my fax listed above when I can expect a call from court.

Saturday at 9am January 21, 2017 someone was knocking very demandingly at my front door. I was frightened as the pounding got louder. After a brief pause the pounding continued at my backyard door and patio. windows. I had my phone in my hand to call the police when my neighbor called and said "the police were at my home. I invited the policeman in. The Police Officer enterd and said "do you know you have a hearing next week". He repeated the words he had been told by Fred. I told him. I did not know about a hearing. He only asked me one question. "Do you have friends to help you? I answered yes.

I have a copy of the police report stating "I saw a healthy older woman", there are no more observations about me in the police report. Since Fred started, he has treated me as an enemy not a beneficiary and I am the only daughter of my father.

Your ear phones in court only makes the sounds louder. I am not deaf. My problem is I do not hear many sounds of speech as listed on the attached Anderson Audiology letter of December 29, 2015. According to Dr. Anderson, special hearing aids will allow those sounds to be heard. Cost is $7,500 for both ears.

My glasses are damaged. I have a problem seeing through them for reading. They need to be replaced now. Because of my eye problems, the last cost of my special glasses was $680.00 with Dr. Malik. His letter is attached with the dates of July 25, 2015 and February 12, 2016.

The cataract surgery was scheduled with New Eyes three times because Fred Waid would not pay in advance, which is required, I cancelled 3 times. Surgery for both eyes is less than a $1,000. I need to pay Medicare again. I am unsure how much. But I do not have it. I am required to have a driver at $100 for the left eye and a week later a driver for $100 for the right eye. Without a driver, the Doctors refuse to do the surgery. In case of a problem, I need to stay overnight with the driver for a post operation checkup early the next morning. I will need food money for both of us for each of the two operations separate by a week and a nonsmoking room for two for each operation. Also gas money for the drive in and out of

Las Vegas and driving all the way to the Henderson Office for the post op appointment. Prescriptions for both eyes are $250.00

Through my Lawyers, Fred has been given the actual bills needing to be paid for the medical need s I have that are important to me. Paradental Cleaning i bill is $204.00 out of your order for $90,000. In the past I was required to have my teeth cleaned every 3 months to keep the disease under control. I have not had them clean since 1/4/15 I know my father did not expect me to experience any hardship or inconvenience because He made me the residual beneficiary for my lifetime. The order stated the money had to be spent for attorney fees and for living expenses within a certain period of time. My attorneys gave all the Bills I sent them to Fred. Yet he refused to honor the court's order. Medical shoes were always requested. Each left shoe is build up for $100 each shoe. Clothes were always requested for the season. Food for my three animals were also given to Fred by my attorneys yet he never gave me any part of what you authorized for attorney fees and for my medical needs and for food for my animals and me.

My father wanted me, as his only daughter, to receive the benefit of his sole and separate property in Upton County, Texas, during my life time. My daughters could have waited for me to die. I have to believe the two of them cannot wait for me to die so they can exercise the remainderman status I lovingly gave them when they were not mentioned in the Trust. Seems being nice and generous to both my mother and daughters has been a hazard to me.

My problems are all structural fixed for a minimal expense.

SUMMARY

I am asking for a continuance.

I am asking to participate telephonically.

All of my personal needs, in the moment, are resolved for less than an extremely small percentage of what Fred Waid is holding for my benefit.

Please consider this a formal legal request, as I have no personal legal experience or education.

I have received an "index" of filings. It appears to me that I have a very small percentage of what was filed with the court since mid-summer 2015 till now. There is a significant cost to obtaining copies.

I am asking again for a full accounting since 4/1/2015 of all revenues in and expenses out along with all related items that have accrued with full backup documentation since Fred became Temporary Trustee.

I am very pleased I do not need to take any drugs and my only medical problems are those listed above, with IBS happening unexpectedly along with pre-diabetes, which I handle with food.

Thank you, Your Honor, for your Minute Order. It needs to be for $50,000 for Attorney Larry Semenza's retainer.

Your 1st order was for $90,000 November 2015, $60,000 for attorney fees and $30,000 for my medical and living expenses which is necessary for what I listed in my letter plus normal living expenses. Food for my 3 animals and myself has been denied. Fred Waid, Temporary Trustee of my Trust since April 1, 2015 never dispersed the funds you ordered for the attorney fees nor my medical and living expenses. Now I need the money for Legal, Medical and Normal living expenses more than ever.

As a Beneficiary, and the only daughter of my Father who made me Trustee and Residual Beneficiary for my lifetime over his sole and separate property, in Upton County, Texas, I have been denied the legal and medical care plus normal living expenses I need and require at soon to be 79 on May 13, 1917.

Fred Waid's current financial report shows I have $1,700,000 + in the account he is holding for me, there is ample funds to pay $50,000 for a legal retainer for me to have an Attorney represent me and to pay $30,000 for my medical and living expenses. There is very possibly another $3,000,000 from the years 2015 and 2016 in the account Fred Waid is hold for my benefit. Again, there should be more than ample Oil and Gas Royalty payments for me to have my request granted by Your Honor and withdrawn from the account Fred Waid, Temporary Trustee is holding for my benefit. This is called extreme elder abuse.

I have requested in writing a full accounting from Fred Waid since he became a court appointed Temporary Trustee April 1, 2015 to account to me as a beneficiary all income in and all expenses out including all back up material regarding the W. N. Connell and Marjorie T. Connell Living trust dated May 18, 1972 I have requested he provide me a record of any leases and contracts signed with the Oil Companies or anyone else regarding the Trust. Up to this date, he has refused, even though The Trust requires him to provide a yearly accounting.

Fred Waid, Temporary purposéful refusal to comply with Judge Gloria Sturman's order the November 4, 2016 to release $60,000 cased me the withdrawal of the Brownstein Law Firm months ago. Since of the withdrawal of the Brownstein Law Firm in 2016. I have gotten one letter from the Hutchison Law Firm and nothing from the Rushforth Law Firm. Since 11 i16 2016, I have not been kept informed regarding any documents. Nothing has been sent to me except one letter from The Hutchison Law Firm. I want to emphasize I have not been kept informed by the Hutchison or Rushforth Law Firms. Since being without council, it appears to me, after reviewing the index of filing even Brownstein did not give me everything that was filed.

My mailing address is 355 West Mesquite Blvd. D30 #176, Mesquite, Nevada 89027 Please use this address to mail anything to me. The Brownstein Law firm distributed the wrong address. This is the second time I noticed everyone what my mailing address is.

Eleanor Ahern

Eleanor Ahern,
Attachments
Anderson Audiology 1
New Eyes 2
Dr. Malik - Eyes Optics 2

Larry Semenza, Esq. via Fax 702
Semenza Law Firm
Todd Moody, Esq. via Fax 702 385 2086
The Hutchison Law Firm
Powell Esq. Via Fax 702 255 4677
The Rushforth Law Firm

eyes : optics

Edward Joseph Malik, OD
Downtown Summerlin
11035 Lavender Hill Dr Ste 180
Las Vegas, NV 89135
702-254-0332

12 February 2016

To whom it may concern:

Re: Eleanor Ahern

Over the last few years, Eleanor has experienced a gradual decline in her vision for several reasons, and is no longer able to accomplish her daily tasks with typical eyeglasses. Of her conditions, we feel cataract is the most treatable and that there is an excellent chance of improved vision following cataract surgery. I had Dr. Helga Pizio evaluate Eleanor and she concurred. Medically necessary cataract surgery has been advised. I included a copy of the specialty report. Following this, a spectacle lens change will be required as well.

I am available for further questions.

Respectfully,

Edward J Malik, O.D.

edward j. malik o.d. chtd. optometry

25 July 2015

To whom it may concern:

Re: Eleanor Ahern

Mrs. Ahern has been under our care for years with ongoing vision problems related to macular degeneration and cataract. Her current best possible vision is 20/50 with both eyes open using her best prescription. She reports stress and inability to read normal print at times and is concerned about her ability to maintain autonomy in her affairs, and is unable at times to see normal print on documents and bills. She is requesting low vision assistance and a personal assistant for this purpose. This request is reasonable given her prognosis. If I can be of further assistance, please call me at my office.

Respectfully submitted,

Edward J. Malik, O.D.

2261 south rainbow blvd., las vegas, nv 89146 • ph. 702 254 0332 • fax 702 242 8496 • eyesandopticslv.com

NEW EYES
www.neweyeslasvegas.com

Tel 702.485.5000
Fax 702.485.5001

Helga F. Pizio, MD
Ksenia Stafeeva, MD
Ilan Reizes, MD
Jeffrey K. Austin, OD

Corneal Topography to be done today.

Retina OCT to be done today for documentation of macular changes seen on fundus exam.

Dry eyes OU: recommend frequent use of artificial tears. Samples given. Discussed future plugs or Restasis.

Dry ARMD OU - Mild with no edema, thickening, or hemorrhage.

Discussed macular degeneration pathophysiology with patient. Recommend UV protection and daily anti-oxidant vitamins. Referral to Retinal Specialist if worsening.

Pterygium OS - stationary: advised patient to avoid UV exposure with a hat and sunglasses when outdoors. Use artificial tears PRN. Mild steroid eyedrops prescription if worse. Return for any change in size or decreased vision.

Peripheral corneal scarring OU - Sub epi haze. Discussed astigmatism and blurry vision related to this dx.

Rx printed today. Medications to be filled by printed Rx that was given to pt to hand deliver to their pharmacy.

We will keep you informed about surgery plans for Eleanor C. Ahern and the return visits back to you. If you wish to have the full report of our examination or have any questions, please contact us at our New Eyes office at 702.485.5000.

Sincerely,

K. Stafeeva

Ksenia A. Stafeeva MD
Electronically Generated

NEW EYES
www.neweyeslasvegas.com

Tel 702.485.5000
Fax 702.485.5001

Helga F. Pizio, MD
Ksenia Stafeeva, MD
Ilan Reizes, MD
Jeffrey K. Austin, OD

Edward Malik, OD
11035 Lavender Hills Dr #180
Las Vegas, NV 89135
702-254-0332 Fax 702-685-4112

RE: Eleanor Ahern
DOB: 5/13/1938

02-10-16

Dear Dr. Malik,

Thank you for trusting in our expertise to provide your patients with the highest quality eye care at New Eyes. We had the privilege of seeing Eleanor C. Ahern in our office for a cataract surgery consultation on 02-10-16.

Chief Complaint:
Eleanor Ahern 77 year old female. Patient presents for cataract evaluation. Patient complains of problems seeing to read menu at restaurant, small print / newspaper, books, magazine, small crafts, writing letters / checks, needs a magnifying glass to see, and double vision. Patient also presents for diabetic evaluation for non-insulin dependent DM.

Visual Acuity:
OD Method Snellen ccDva 20/60 -2 Pinhole cc 20/40 +2 Glare 20/70 Hi
OS Method Snellen ccDva 20/40 -1 Pinhole cc 20/30 -1 Glare HM Hi

Intraocular Pressure: OD 14 **OS** 12

Impressions:
H25.13 -- Age-Related Nuclear Cataract Bilateral
H35.31 -- Nonexudative Age-Related Macular Degeneration
H11.042 -- Peripheral Pterygium Stationary Left Eye
H04.123 -- Dry Eye Syndrome Of Bilateral Lacrimal Glands
H18.452 -- Nodular Corneal Degeneration Left Eye
H17.823 -- Peripheral Opacity Of Cornea Bilateral

Plan:
Left Eye 1st then right eye 2nd Target DISTANCE OU. Patient understands they will still need glasses for near vision and to eliminate residual astigmatism. Vivcoat possibly needed at time of surgery. Visual potential questionable due to macular changes.

Risk, benefits, and alternatives discussed with patient. Answered all patient's questions. Patient desires cataract surgery to improve activities of daily living. IOL options discussed with patient and educated patient on multifocal IOL, Toric IOL, and mono vision types of correction when having cataract surgery. Pre-Op Rx's prescribed. Schedule cataract surgery with planned PC IOL OU. Reviewed with patient which eye is to have surgery first.

Patient instructed no make-up, eye rubbing, or under water swimming for 1 week after surgery.

Anderson Audiology

Committed to better hearing.
Committed to you.

Las Vegas Office
3120 S Rainbow Blvd
Ste 202
Las Vegas, NV 89146
p: 702.233.4327
f: 702.233.8837

Henderson Office
2642 W Horizon Ridge
Ste A11
Henderson, NV 89052
p: 702.933.9102
f: 702.933.9106

Allante/Centennial Office
6475 N Decatur Blvd
Ste 125
Las Vegas, NV 89131
p: 702.933.9103
f: 702.933.9104

Sun City/Summerlin Office
9430 W Lake Mead Blvd
Ste 11
Las Vegas, NV 89134
p: 702.527.6068
f: 702.527.6088

AudigyCertified™

December 29, 2015

Eleanor Ahern
6105 Elton Ave.
Las Vegas, NV 89107-2537

Dear Mrs. Ahern,

Per your request I am providing a description of the "Audiogram of Fam
Sounds". The O-O-O symbols represents hearing thresholds for the right
X-X-X symbols represent hearing thresholds for the left ear.
The chart suggests you are expected to have problems with audibility in
ear for the following sounds of speech: /k/, /f/, /s/, and /th/. It is suggeste
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the left ear: /j/, /m/, /d/, /z/, /v/, /p/, /h/, /g/, /k/, /f/, /s/, and /th/.

Kindest regards,

David E. Anderson, Au.D.
Doctor of Audiology

EMERGENCY REQUEST

Date:	February 8, 2017
To:	Judge Gloria Sturman
Fax:	702 366 1399
From:	Eleanor Ahern
Fax:	702 346 7909
CASE NO:	P-09-066425-T
DEPT. NO	#26

Re: *In the matter of The W. N. Connell and Marjorie T. Connell Living Trust dated May 18, 1972*

Dear Judge Sturman,

The attorney I had planned on using is very sick. It is my understanding he is willing to be my attorney. I signed a contract. Please release money for Attorney Larry Semesza and for my medical needs listed below:

I do not have gas money, $50.00, to do a round trip to Las Vegas to attend this Hearing should it be tomorrow. I can answer the TDY phone #702 345 3035. Please allow me to use the TDY phone. I need this confirmation to know when to answer. The TDY phone allows me to see the words spoken in very large print. You can let me know by my fax listed above when I can expect a call from court.

Saturday at 9am January 21, 2017 someone was knocking very demandingly at my front door. I was frightened as the pounding got louder. After a brief pause the pounding continued at my backyard door and patio. windows. I had my phone in my hand to call the police when my neighbor called and said "the police were at my home. I invited the policeman in. The Police Officer enterd and said "do you know you have a hearing next week". He repeated the words he had been told by Fred. I told him. I did not know about a hearing. He only asked me one question. "Do you have friends to help you? I answered yes.

I have a copy of the police report stating "I saw a healthy older woman", there are no more observations about me in the police report. Since Fred started, he has treated me as an enemy not a beneficiary and I am the only daughter of my father.

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Las Vegas and driving all the way to the Henderson Office for the post op appointment. Prescriptions for both eyes are $250.00

Through my Lawyers, Fred has been given the actual bills needing to be paid for the medical need s I have that are important to me. Paradental Cleaning i bill is $204.00 out of your order for $90,000. In the past I was required to have my teeth cleaned every 3 months to keep the disease under control. I have not had them clean since 1/4/15 I know my father did not expect me to experience any hardship or inconvenience because He made me the residual beneficiary for my lifetime. The order stated the money had to be spent for attorney fees and for living expenses within a certain period of time. My attorneys gave all the Bills I sent them to Fred. Yet he refused to honor the court's order. Medical shoes were always requested. Each left shoe is build up for $100 each shoe. Clothes were always requested for the season. Food for my three animals were also given to Fred by my attorneys yet he never gave me any part of what you authorized for attorney fees and for my medical needs and for food for my animals and me.

My father wanted me, as his only daughter, to receive the benefit of his sole and separate property in Upton County, Texas, during my life time. My daughters could have waited for me to die. I have to believe the two of them cannot wait for me to die so they can exercise the remainderman status I lovingly gave them when they were not mentioned in the Trust. Seems being nice and generous to both my mother and daughters has been a hazard to me.

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As a Beneficiary, and the only daughter of my Father who made me Trustee and Residual Beneficiary for my lifetime over his sole and separate property, in Upton County, Texas, I have been denied the legal and medical care plus normal living expenses I need and require at soon to be 79 on May 13, 1917.

Fred Waid's current financial report shows I have $1,700,000 + in the account he is holding for me, there is ample funds to pay $50,000 for a legal retainer for me to have an Attorney represent me and to pay $30,000 for my medical and living expenses. There is very possibly another $3,000,000 from the years 2015 and 2016 in the account Fred Waid is hold for my benefit. Again, there should be more than ample Oil and Gas Royalty payments for me to have my request granted by Your Honor and withdrawn from the account Fred Waid, Temporary Trustee is holding for my benefit. This is called extreme elder abuse.

I have requested in writing a full accounting from Fred Waid since he became a court appointed Temporary Trustee April 1, 2015 to account to me as a beneficiary all income in and all expenses out including all back up material regarding the W. N. Connell and Marjorie T. Connell Living trust dated May 18, 1972 I have requested he provide me a record of any leases and contracts signed with the Oil Companies or anyone else regarding the Trust. Up to this date, he has refused, even though The Trust requires him to provide a yearly accounting.

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My mailing address is 355 West Mesquite Blvd. D30 #176, Mesquite, Nevada 89027 Please use this address to mail anything to me. The Brownstein Law firm distributed the wrong address. This is the second time I noticed everyone what my mailing address is.

Eleanor Ahern

Eleanor Ahern,
Attachments
Anderson Audiology 1
New Eyes 2
Dr. Malik - Eyes Optics 2

Larry Semenza, Esq. via Fax 702
Semenza Law Firm
Todd Moody, Esq. via Fax 702 385 2086
The Hutchison Law Firm
Powell Esq. Via Fax 702 255 4677
The Rushforth Law Firm

eyes optics

Edward Joseph Malik, OD
Downtown Summerlin
11035 Lavender Hill Dr Ste 180
Las Vegas, NV 89135
702-254-0332

12 February 2016

To whom it may concern:

Re: Eleanor Ahern

Over the last few years, Eleanor has experienced a gradual decline in her vision for several reasons, and is no longer able to accomplish her daily tasks with typical eyeglasses. Of her conditions, we feel cataract is the most treatable and that there is an excellent chance of improved vision following cataract surgery. I had Dr. Helga Pizio evaluate Eleanor and she concurred. Medically necessary cataract surgery has been advised. I included a copy of the specialty report. Following this, a spectacle lens change will be required as well.

I am available for further questions.

Respectfully,

Edward J Malik, O.D.

edward j. malik o.d. chtd. optometry

25 July 2015

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Mrs. Ahern has been under our care for years with ongoing vision problems related to macular degeneration and cataract. Her current best possible vision is 20/50 with both eyes open using her best prescription. She reports stress and inability to read normal print at times and is concerned about her ability to maintain autonomy in her affairs, and is unable at times to see normal print on documents and bills. She is requesting low vision assistance and a personal assistant for this purpose. This request is reasonable given her prognosis. If I can be of further assistance, please call me at my office.

Respectfully submitted,

Edward J. Malik, O.D.

2261 south rainbow blvd., las vegas, nv 89146 • ph. 702 254 0332 • fax 702 242 8496 • eyesandopticslv.com

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www.neweyeslasvegas.com

Tel 702.485.5000
Fax 702.485.5001

Helga F. Pizio, MD
Ksenia Stafeeva, MD
Ilan Reizes, MD
Jeffrey K. Austin, OD

Corneal Topography to be done today.

Retina OCT to be done today for documentation of macular changes seen on fundus exam.

Dry eyes OU: recommend frequent use of artificial tears. Samples given. Discussed future plugs or Restasis.

Dry ARMD OU - Mild with no edema, thickening, or hemorrhage.

Discussed macular degeneration pathophysiology with patient. Recommend UV protection and daily anti-oxidant vitamins. Referral to Retinal Specialist if worsening.

Pterygium OS - stationary: advised patient to avoid UV exposure with a hat and sunglasses when outdoors. Use artificial tears PRN. Mild steroid eyedrops prescription if worse. Return for any change in size or decreased vision.

Peripheral corneal scarring OU - Sub epi haze. Discussed astigmatism and blurry vision related to this dx.

Rx printed today. Medications to be filled by printed Rx that was given to pt to hand deliver to their pharmacy.

We will keep you informed about surgery plans for Eleanor C. Ahern and the return visits back to you. If you wish to have the full report of our examination or have any questions, please contact us at our New Eyes office at 702.485.5000.

Sincerely,

K. Stafeeva

Ksenia A. Stafeeva MD
Electronically Generated

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www.neweyeslasvegas.com

Tel 702.485.5000
Fax 702.485.5001

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Edward Malik, OD
11035 Lavender Hills Dr #160
Las Vegas, NV 89135
702-254-0332 Fax 702-685-4112

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DOB: 5/13/1938

02-10-16

Dear Dr. Malik,

Thank you for trusting in our expertise to provide your patients with the highest quality eye care at New Eyes. We had the privilege of seeing Eleanor C. Ahern in our office for a cataract surgery consultation on 02-10-16.

Chief Complaint:
Eleanor Ahern 77 year old female. Patient presents for cataract evaluation. Patient complains of problems seeing to read menu at restaurant, small print / newspaper, books, magazine, small crafts, writing letters / checks, needs a magnifying glass to see, and double vision. Patient also presents for diabetic evaluation for non-insulin dependent DM.

Visual Acuity:
OD Method Snellen ccDva 20/60 -2 Pinhole cc 20/40 +2 Glare 20/70 Hi
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Intraocular Pressure: OD 14 **OS** 12

Impressions:
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Patient instructed no make-up, eye rubbing, or under water swimming for 1 week after surgery.

Anderson Audiology

Committed to better hearing.
Committed to you.

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To: Judge Gloria Sturman
Fax: 702 366 1399
From: Eleanor Ahern
Fax: 702 346 7909
CASE NO: P-09-066425-T
DEPT. NO #26

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11035 Lavender Hills Dr #180
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702-254-0332 Fax 702-685-4112

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02-10-16

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Intraocular Pressure: OD 14 OS 12

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X-X-X symbols represent hearing thresholds for the left ear.
The chart suggests you are expected to have problems with audibility in
ear for the following sounds of speech: /k/, /f/, /s/, and /th/. It is suggeste
expected to have difficulties with audibility for the following sounds of s
the left ear: /j/, /m/, /d/, /z/, /v/, /p/, /h/, /g/, /k/, /f/, /s/, and /th/.

Kindest regards,

David E. Anderson, Au.D.
Doctor of Audiology

EXHIBIT 8

8th EMERGENCY REQUEST

Date:	February 27 2017
To:	Judge Gloria Sturman
Fax:	702 366 1399
From:	Eleanor Ahern
Fax:	702 346 7909
CASE NO:	P-09-066425-T
DEPT. NO	#26

Dear Judge Sturman,

Being in court February 9th and 10th showed me that I NEED Larry Semenza to be my attorney. He had to excuse himself, as he had no time to be brought up to speed on this case. I cannot represent myself. There were so many misstatements given in court that needed to be objected to. I need permanently paid legal representation. Not just attorney fees paid for 2 days of Court Time. I asked for a continuance, yet you denied my request and I was without representation. No one should be in court without representation. It was as if a bulldozer had run over me in your kangaroo court.

I have read nothing, got nothing, I found out about this February 28, 2017 Court Date by calling into the Calendar last week, HAVING NOT BEEN SERVED/NOTICED. Gloria, I am requesting a Continuance on the 28th due to my lack of Council.

I appreciate being accommodated with the audio and visual equipment but I still could not see well because of the cataracts and could not hear well because of so many missing sounds I do not hear well and hearing aids are needed for me to hear all the sounds. I was watching court with three huge disadvantages. #1; Not seeing well, #2; Not hearing well and #3; not having an attorney as I could not object to the lies being told.

This is my 8th time to plead with you to release my money for an attorney and my medical and living expenses. Please demand Fred Waid follow your court instructions, since there is $1,700,000 for 2015 in my account. My acct for 2016 could possibly be as much as $3,400,000. Surely you can find it in your heart to release the money to go for an attorney and for my medical needs and living expenses. November 2015, you ordered Fred Waid to pay $90,000 to be divided into $70,000 f(as you know, I lost my legal representation because they were not paid) and $20,000 for my medical and living expenses. Fred Waid did not and has not obeyed you. I have been telling him of my needs since that November 2015 Court Order by you. Since Fred Waid became the Court appointed Temporary Trustee, he has refused all my requests and your Court Order.

I am asking you again. Please write an order that Fred Waid has to obey, regarding my Medical—Cataract Surgery, it should be about $1,500. I must have Fred also pay for Medicare deductible which for 2017. Most of the charges for the Cataract Surgery is picked up by Medicare. After surgery, I will need either glasses for reading or for distance. I may need both. Hearing aids will enable me to be able to hear the sounds I am missing, the cost is $7,500.00. My shoe build up is necessary and mandatory for me to walk safely . As you know my left leg is 2 inches shorter than the right. My shoes are terribly worn and I need four new pair. Because of my short leg caused by a broken leg due to a fall in 1972, I received chiropractic

care. I am in need of this therapy for my back to stay strong and healthy. I have not had any therapy since Fred Waid became Temporary Trustee. My shoes are worn and do not support me. This is extreme Elder Abuse and must stop now. I will be 79 May 13, 2017. Please I am begging you to have Fred Waid Temporary Trustee of my father's trust, provide for me as my father wanted me to be provided for during my lifetime.

Eleanor Ahern, Beneficiary

Eleanor Ahern, Beneficiary W.N. Connell & Marjorie T. Connell Living Trust Dated May 17, 1972

Cc: Todd Moody Fax # 702 385 2086
Joey Powell Fax # 702 255 4677

8th EMERGENCY REQUEST

Date:	February 27 2017
To:	Judge Gloria Sturman
Fax:	702 366 1399
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CASE NO:	P-09-066425-T
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Joey Powell Fax # 702 255 4677

****
*** TX REPORT ***
****

TRANSMISSION COMPLETED

TX/RX NO.	2452
DESTINATION NUMBER	7023467909
DESTINATION ID	
ST. TIME	03/02 14:08
COMMUNICATION TIME	01'02
PAGES SENT	2
RESULT	OK

Judge.

8th EMERGENCY REQUEST

Date: February 27 2017
To: Judge Gloria Sturman
Fax: 702 366 1399
From: Eleanor Ahern
Fax: 702 346 7909
CASE NO: P-09-066425-T
DEPT. NO #26

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****
*** TX REPORT ***
****

TRANSMISSION COMPLETED

TX/RX NO.	2454
DESTINATION NUMBER	7022554677
DESTINATION ID	
ST. TIME	03/02 14:13
COMMUNICATION TIME	00'46
PAGES SENT	2
RESULT	OK

Joey Powell

8th EMERGENCY REQUEST

Date: February 27 2017
To: Judge Gloria Sturman
Fax: 702 366 1399
From: Eleanor Ahern
Fax: 702 346 7909
CASE NO: P-09-066425-T
DEPT. NO #26

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****
*** TX REPORT ***
****

TRANSMISSION COMPLETED

TX/RX NO.	2453
DESTINATION NUMBER	7023852086
DESTINATION ID	
ST. TIME	03/02 14:10
COMMUNICATION TIME	01'06
PAGES SENT	2
RESULT	OK

Todd Moody.

8th EMERGENCY REQUEST

Date: February 27 2017
To: Judge Gloria Sturman
Fax: 702 366 1399
From: Eleanor Ahern
Fax: 702 346 7909
CASE NO: P-09-066425-T
DEPT. NO #Z6

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Being in court February 9th and 10th showed me that I NEED Larry Semenza to be my attorney. He had to excuse himself, as he had no time to be brought up to speed on this case. I cannot represent myself. There were so many misstatements given in court that needed to be objected to. I need permanently paid legal representation. Not just attorney fees paid for 2 days of Court Time. I asked for a continuance, yet you denied my request and I was without representation. No one should be in court without representation. It was as if a buildozer had run over me in your kangaroo court.

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EXHIBIT 9

Date: February 26 2017

To: Judge Sturman Fax 702 366 1399

To: Todd Moody, Attorney for Fred Waid, Temporary Trustee Fax 702 385 2086

To: Joey Powell Fax 702 255 4677

From: Eleanor Ahern Fax 702 346 7909

Please pay everyone first then I will make appointments. Hard copy me the cover letter and a copy of their check. Be sure to place my name and birth date 5/13/38 on the cover letter and check.

$50,000 **Attorney Larry Semenza** as a first Retainer plus **$10,000** retainer a month thereafter

$1000.00 **Medical care for Captain**, my Service Dog DVM Dr. Joanne Stefantos 1325 Vegas Valley Drive, L. V. Nv 89169 702 735 7184 . Could be more or less depending on exam & X-rays and prescriptions

$246.00 **Virgin Valley Dental** Dr. Gregory Dumitru X ray and exam 760 W. Pioneer Blvd. Mesquite, NV 89027 702 346 3880 More costs following xrays and exam.

$800.00 **Dillards Shoe Dept** 4 pairs of sturdy shoes that can be built up 2" Las Vegas, NV

$400.00 **Magic Shoe Store** 840 South Rancho Dr. L.V. NV 89106 702 880 7455 Puts the lift on to the 4 pairs of shoe I buy at Dillard's.

$50.00 **Gas** for round trip to L. V.

$300.00 an hr **Dr. Timothy Frances, D.C.** Chiropractor Kinesiology 7473 West Lake Meade L. V. NV 702 221 8870. He books 1st time for 2 hours at $600. Then I will need weekly treatments, then monthly treatments, then every 6 months. Credit Cards Ok.

$50.00 **Gas** for Round trip every time I have an appointment to Las Vegas Gas Card

$2000 **New Clothes** for this season from Dillard's or Nordstrom's in Las Vegas Nevada

$50.00 **Gas** for round trip to L. V. Gas Card

$80.00 **Bliss** Manicure and Pedicure Mesquite 355 West Mesquite Blvd Mesquite, NV 89027

$3,000 **Idaho Falls Audiology** for 2 Hearing Aids.

$600 **Gas** round trip and for the 10 days waiting for him to make the hearing aids.

$1,000 **10 day stayover** while hearing aids are made Room, Food,

Fred, I am requesting you send a check to each of the 3 payment address below for my cataract surgery. I want a copy of the cover letter to each provider and a copy of the check provided them in hard copy not electronically. Once everyone has their money, hopefully before the 8th of March, I will then schedule the appointments for my Cataract Surgery. Add my name and birth date 5/13/1938 to each check. All the cost below for New Eyes may be more after a new exam. 2 attachments: 1. New Eyes Letter 2. Old Costs Associated With Surgery

$197.72 New Eyes new exam. Paid first to 2020 Goldring Ave. St 402 L. V. NV 89105 702 346 5000 New exam

$ 50.00 **Palace Station** right eye Overnight Card and food card for driver and me

$ 50.00 **Palace Station** left eye Overnight Card one week later Palace Station Card and food card driver and me

$ 50.00 **Gas** round trip to L. V. for one week post op right eye gas card

$50.-00 **Gas** round trip to L.V. for one week post op left eye gas card

$273.70 **Helga F. Pizio, MD** right eye $133. **59 New Eyes Surgeon 2020 Goldring Av St402 L. V. Nv 89106**
Helga F. Pizio, MD left eye $140,11 702 386 9906

$500.00 $250 each eye **Surgery Center 501 Rose St # 110 L. V. NV 89106** 702 386 9906

$ 54.00 **Desert Anesthesia** Total for both eyes check to **6655 W Sahara Av St3200 L.V. NV 89146** 702 222 3238

$210.00 **Before Surgery Prescriptions** both eyes Smith Pharmacy 300 No Sandhill Blvd, Mesquite NV 89027 702 346 8652

$100.00 **Animal care** for two trips for surgery

$100.00 **Driver**- Doctor will not do surgery if I do not have a driver right eye

$100.00 **Driver** - Doctor will not do surgery if I do not have a driver left eye

$400.00 **Non smoking 2 bed Room at Palace Station** in case of emergency – post op exam early next day for each cataract surgery separated by a week includes mandatory $100 on card for each stayover.

$ 400.00 **Food Card** lunch, dinner, breakfast, lunch for driver and me during stay over

Billing Medicare for exam. Dr. Edward J. Malik, OD 11035 Lavender Hills Dr. ST 180 L. V.NV 89135 702 245 0332 After Cataract Surgery Exam. I will need Distance or reading glasses. 2 pairs of glasses and frames. Dr. Malik will send you exact cost for 2 pairs of glasses after surgery exam.

$100.00 **Gas** 2 times. For exam and to pick up glasses a week later Gas Card

Eleanor Ahern. Beneficiary

NEW EYES
www.neweyeslasvegas.com

Tel 702.485.5000
Fax 702.485.5001

Helga F. Pizio, MD
Ksenia Stafeeva, MD
Roman Fajardo, MD
Ilan Reizes, MD
Jeffrey K. Austin, OD

2-22-17

Regarding:
Eleanor C. Ahern
8635 W Sahara Ave Unit 549
Las Vegas, NV 89117

DOB: 5/13/1938

Also mailed copy to this address, per patients request in the past:
355 W Mesuite Blvd. #D30 Mesquite, NV 89027

To: Todd Waid, Trustee, or To Whom It May Concern Fred Waid Estate TT

Eleanor C. Ahern has only been seen once in our office, which was on 2-10-2016. She has cancelled or rescheduled approximate 20 times for either her cataract surgery or for other cataract evaluations since 2-10-2016. This is partly due to the issue of her being out of the time frame from her initial visit to proceed with surgery, so she needs an updated evaluation. She states that she needs this letter written to the trustee of her estate, Todd Waid, helping to explain the costs of her surgical procedure, and repeat cataract evaluation, so that the money can be obtained from her estate in order to pay her out of pocket costs to get her eyes operated on.

We have attached the cost associated sheets pertaining to what this patient has been quoted in the past, and will attach them once again with this letter. But until she is seen for an updated evaluation, we will not be able to give exact quotes of costs until she is re-evaluated, and we know at that time what her insurance coverage will be and/or if any deductible amounts have changed.

Also, her estimated out of pocket costs for her cataract evaluation as of yesterday will be **$197.42**, which is payable at the time of her appointment.

Due to the many times she has not been able to keep her appointments, we will not be able to schedule her again until she has all of her financial and transportation issues worked out so that she can commit to making an appointment here in Las Vegas. We will honor her one more chance to be seen here, but if that appointment is not kept, we feel she should seek care elsewhere since we have other patients needing to use the appointment slots that have been canceled at the last moment, or no showed by this patient in the past.

This letter is being sent to the patient so she can submit it the people she feels can help her to facilitate paying for her eye exams and surgery.

Sincerely,

Deanna C Heisey

Deanna C. Heisey, COE COT
Practice Administrator

OLD from last year

NEW EYES

Eleanor Ahern — Patient Name | MEDICARE — Insurance Policies | 2-10-16 — Date

COSTS ASSOCIATED WITH SURGERY FOR PATIENTS WITH INSURANCE PLAN

The purpose of this sheet is to present you with approximate costs associated with your upcoming surgery. New Eyes staff will make every effort to educate you and provide you with the best estimate of the costs associated with your surgery, but cannot guarantee you the final total amount that will be due.
New Eyes is contracted with most of the major insurance companies and accepts assignment for Medicare patients. However, each patient is responsible for payment of all non-covered costs. Examples of non-covered services would be the annual insurance deductible, and any remaining balance of allowable fees for your surgery that are not covered by a supplemental insurance plan.

It is important for you to understand that while your New Eyes surgeon is contracted with your primary insurance or accepts assignment from Medicare, it does not mean that whatever amount insurance pays to your surgeon is to be considered payment in full. Your primary insurance may only pay a portion of the allowable charges for your surgery and you will be responsible for paying the balance. If you have a secondary insurance plan please be aware that in some instances the supplemental insurance plan may only cover a portion of the balance in which case you will still be responsible for paying the rest.

There will be several different charges and bills associated with your procedure:

1. **New Eyes Surgeon:** This bill will cover the fee for the surgeon who is performing your surgical procedure. **Payment to New Eyes is due no later than noon, the Friday before your surgery. Failure to pay the estimated cost to New Eyes may result in cancellation of your surgery.**

   The estimated out-of-pocket expense for New Eyes Surgeon is: 2020 Goldring Ave #402 89106 702 485 5000
   - ☒ $133.59 for the **First Eye** surgery.
   - ☒ $140.11 for the **Second Eye** surgery. **The estimate for the second eye may change depending on the time elapsed between the two surgeries.**
   - ☐ We will call you and let you know what the amount will be.

2. **Surgery Center:** This bill will cover the charges by the surgical facility licensed by the State of Nevada and Medicare. This facility fee is separate from New Eyes surgeon's fee. There may be a deposit required toward your co-insurance prior to your surgical procedure due at the time of your surgery.

   ☒ Please call the designated facility to find out the amount you will owe for your surgery:
   - ☒ **Alta Rose Surgery Center** (702.386.9906) ☐ Las Vegas Surgery Center (702.870.2090)
   - ☐ **Box Canyon Surgery Center** (702.316.4400)

   Both eyes 250.00 250.00 — 501 Rose St Lt 110 L.V. 89106 702 386 9906

3. **Anesthesia:** This bill will cover the charges by the person who administers and monitors anesthesia during your surgery. There may be a deposit required toward your co-insurance prior to your surgical procedure.

   27.00 ☒ Please call the designated anesthesia group to find out the amount you will owe for your surgery:
   - 27.00 ☒ **Desert Anesthesia** (702.222-3238) ☐ SW Anesthesia (702.877.8661)

   → 6655 West Sahara Ave St B200 L.V. NV 89146 Check to Desert Anesthesia — $54

I understand the above cost and billing information regarding my surgical procedure.
Disclosure: Helga F. Pizio, MD has a partial ownership in Alta Rose Surgery Center.

Patient signature: Eleanor Ahern Date: 2/10/16

New Eyes employee initials: Qpe

Version 03252015

Date: February 26 2017

To: Judge Sturman Fax 702 366 1399

To: Todd Moody, Attorney for Fred Waid, Temporary Trustee Fax 702 385 2086

To: Joey Powell Fax 702 255 4677

From: Eleanor Ahern Fax 702 346 7909

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Helga F. Pizio, MD left eye $140,11 702 386 9906

$500.00 $250 each eye **Surgery Center 501 Rose St # 110 L. V. NV 89106** 702 386 9906

$ 54.00 **Desert Anesthesia** Total for both eyes check to **6655 W Sahara Av St3200 L.V. NV 89146** 702 222 3238

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$100.00 **Gas** 2 times. For exam and to pick up glasses a week later Gas Card

Eleanor Ahern, Beneficiary

NEW EYES

OLD from last year

Eleanor Ahern — Patient Name | MEDICARE — Insurance Policies | 2-10-16 — Date

COSTS ASSOCIATED WITH SURGERY FOR PATIENTS WITH INSURANCE PLAN

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There will be several different charges and bills associated with your procedure:

1. **New Eyes Surgeon:** This bill will cover the fee for the surgeon who is performing your surgical procedure. **Payment to New Eyes is due no later than noon, the Friday before your surgery. Failure to pay the estimated cost to New Eyes may result in cancellation of your surgery.**

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   ☒ Please call the designated facility to find out the amount you will owe for your surgery:
   ☒ Alta Rose Surgery Center (702.386.9906) ☐ Las Vegas Surgery Center (702.870.2090)
   ☐ Box Canyon Surgery Center (702.316.4400) 501 Rock St St 110 L.V. 89106 702 386 9906

   1st 0 250.00 per 250.00

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   6655 West Sahara Ave ST B200 L.V. NV 89146 Check to Desert Anesthesia

27.00 27.00 54.00

I understand the above cost and billing information regarding my surgical procedure.
Disclosure: Helga F. Pizio, MD has a partial ownership in Alta Rose Surgery Center.

Patient signature: Eleanor Ahern Date: 2/10/16

New Eyes employee initials: Ape

Version 03252015

NEW EYES

OLD from last year

Eleanor Ahern — Patient Name | MEDICARE — Insurance Policies | 2-10-16 — Date

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Patient signature: Eleanor Ahern Date: 2/10/16

New Eyes employee initials: Qpe

Version 03252015

Date: February 26 2017

To: Judge Sturman Fax 702 366 1399

To: Todd Moody, Attorney for Fred Waid, Temporary Trustee Fax 702 385 2086

To: Joey Powell Fax 702 255 4677

From: Eleanor Ahern Fax 702 346 7909

Please pay everyone first then I will make appointments. Hard copy me the cover letter and a copy of their check. Be sure to place my name and birth date 5/13/38 on the cover letter and check.

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Eleanor Ahern, Beneficiary

NEW EYES
www.neweyeslasvegas.com

Tel 702.485.5000
Fax 702.485.5001

Helga F. Pizio, MD
Ksenia Stafeeva, MD
Roman Fajardo, MD
Ilan Reizes, MD
Jeffrey K. Austin, OD

2-22-17

Regarding:
Eleanor C. Ahern
8635 W Sahara Ave Unit 549
Las Vegas, NV 89117

DOB: 5/13/1938

Also mailed copy to this address, per patients request in the past:
355 W Mesquite Blvd. #D30 Mesquite, NV 89027

To: Todd Waid, Trustee, or To Whom It May Concern Fred Waid Estate TT

Eleanor C. Ahern has only been seen once in our office, which was on 2-10-2016. She has cancelled or rescheduled approximate 20 times for either her cataract surgery or for other cataract evaluations since 2-10-2016. This is partly due to the issue of her being out of the time frame from her initial visit to proceed with surgery, so she needs an updated evaluation. She states that she needs this letter written to the trustee of her estate, Todd Waid, helping to explain the costs of her surgical procedure, and repeat cataract evaluation, so that the money can be obtained from her estate in order to pay her out of pocket costs to get her eyes operated on.

We have attached the cost associated sheets pertaining to what this patient has been quoted in the past, and will attach them once again with this letter. But until she is seen for an updated evaluation, we will not be able to give exact quotes of costs until she is re-evaluated, and we know at that time what her insurance coverage will be and/or if any deductible amounts have changed.

Also, her estimated out of pocket costs for her cataract evaluation as of yesterday will be **$197.42**, which is payable at the time of her appointment.

Due to the many times she has not been able to keep her appointments, we will not be able to schedule her again until she has all of her financial and transportation issues worked out so that she can commit to making an appointment here in Las Vegas. We will honor her one more chance to be seen here, but if that appointment is not kept, we feel she should seek care elsewhere since we have other patients needing to use the appointment slots that have been canceled at the last moment or no showed by this patient in the past.

This letter is being sent to the patient so she can submit it the people she feels can help her to facilitate paying for her eye exams and surgery.

Sincerely,

Deanna C Heisey

Deanna C. Heisey, COE COT
Practice Administrator

02/10/16 Stafeeva, Ksenia A - Ahern, Eleanor C.

OLD from last year

NEW EYES

Eleanor Ahern — Patient Name

MEDICARE — Insurance Policies

2-10-16 — Date

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   Both eyes 250.00 250.00

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Disclosure: Helga F. Pizio, MD has a partial ownership in Alta Rose Surgery Center.

Patient signature: Eleanor Ahern Date: 2/10/16

New Eyes employee initials: Ape

Version 03252015

****
*** TX REPORT ***
****

TRANSMISSION COMPLETED

TX/RX NO.	2456
DESTINATION NUMBER	7023852086
DESTINATION ID	
ST. TIME	03/02 14:33
COMMUNICATION TIME	02'10
PAGES SENT	3
RESULT	OK

Todd Moody

Date: February 26 2017
To: Judge Sturman Fax 702 366 1399
To: Todd Moody, Attorney for Fred Wald, Temporary Trustee Fax 702 385 2086
To: Joey Powell Fax 702 255 4677
From: Eleanor Ahern Fax 702 346 7909

Please pay everyone first then I will make appointments. Hard copy me the cover letter and a copy of their check. Be sure to place my name and birth date 5/13/38 on the cover letter and check.

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TRANSMISSION COMPLETED

TX/RX NO.	2455
DESTINATION NUMBER	7023467909
DESTINATION ID	
ST. TIME	03/02 14:30
COMMUNICATION TIME	02'05
PAGES SENT	3
RESULT	OK

Judge

Date: February 26 2017
To: Judge Sturman Fax 702 366 1399
To: Todd Moody, Attorney for Fred Waid, Temporary Trustee Fax 702 385 2086
To: Joey Powell Fax 702 255 4677
From: Eleanor Ahern Fax 702 346 7909

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TRANSMISSION COMPLETED

TX/RX NO.	2457
DESTINATION NUMBER	7022554677
DESTINATION ID	
ST. TIME	03/02 14:37
COMMUNICATION TIME	01'30
PAGES SENT	3
RESULT	OK

Joey . P .

Date: February 26 2017
To: Judge Sturman Fax 702 366 1399
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Electronically Filed
03/08/2017 04:51:16 PM

CLERK OF THE COURT

RSPN
Todd L. Moody (5430)
Russel J. Geist (9030)
HUTCHISON & STEFFEN, LLC
10080 West Alta Drive, Suite 200
Las Vegas, Nevada 89145
(702) 385-2500
(702) 385-2086 FAX
tmoody@hutchlegal.com
rgeist@hutchlegal.com

Attorneys for Fredrick P. Waid, Court-appointed Trustee

DISTRICT COURT

CLARK COUNTY, NEVADA

In the matter of THE W.N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST Dated May 18, 1972, an Inter Vivos Irrevocable Trust.	Case No.: P-09-066425-T Dept. 26

RESPONSE TO ELEANOR AHERN'S CORRESPONDENCE ADDRESSED TO THE HONORABLE GLORIA STURMAN DATED FEBRUARY 26, 2017 AND FEBRUARY 27, 2017

Fredrick P. Waid ("Mr. Waid"), Trustee of the W.N. Connell and Marjorie T. Connell Living Trust, dated May 18, 1972, (the "Trust"), hereby responds to two faxes sent to the Court by Eleanor Ahern ("Ms. Ahern") that resulted in left-side filings. The first is dated February 26, 2017 (Ex. 1), and the second is dated February 27, 2017 (Ex. 2). Although both documents are dated almost a week before, neither was faxed to the Court until March 2, 2017.

An evidentiary hearing in this matter was held last month at which time the following point was made:

> MR. MOODY: Mr. Waid also wants the Court and the parties to know, especially Ms. Ahern, that he stands ready, willing, and able to serve and meet her needs as directed by previous court order and any future court orders, as well as what is contained in the trust document itself.
>
> Ms. Ahern needs to understand that because of Mr. Waid's findings with respect to trust funds in this case, he is reluctant to release any funds directly to Ms. Ahern for her medical needs; and, therefore, he has requested time and time again that if she has a medical need, if she will simply ask the doctor, the care provider, whomever it is, to write a simple letter and send an invoice to him, he will consider that.

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LAS VEGAS, NV 89145

* * *

THE COURT: So the understanding with respect to medical bills is–Mr. Waid being ready, willing, and able upon the medical provider contacting him with the information. For example, I think there's also mention of cataract surgery.

MR. MOODY: Yes.

THE COURT: ....so just the medical provider contact Mr. Waid and anything not covered by Medicare, trust will cover it?

MR. MOODY: Absolutely.

THE COURT: And I don't know what the issue is with Brownstein Hyatt if–I don't know, so–but going forward, Ms. Ahern just needs to have the providers contact Mr. Waid directly with their bill, and anything not covered by Medicaid–Medicare, he's–the trust stands ready to provide?

MR. MOODY: Yes. Absolutely.

THE COURT: Wonderful. Thank you. I appreciate that.

(*See* preliminary draft Recorder's Transcript, attached as Ex. 3, pages 7-10.)

Three weeks later, despite a clear record of how Ms. Ahern's expenses will be paid, Ms. Ahern turned to the Court instead of Mr. Waid for help. The purpose of this response is to respond to Ms. Ahern's faxes, clarify again how Mr. Waid will handle these payments, and to ask the Court to direct Ms. Ahern to work with Mr. Waid on matters that do not need the Court's involvement.

A. Fax dated February 26, 2017

1. "Please pay everyone first then I will make appointments."

On March 2, 2017, Eleanor Ahern faxed an untitled document dated February 26, 2017 to this Court. (Ex. 1.) The fax begins with a request that directly contravenes how Ms. Ahern's expenses will be handled: "Please pay everyone first then I will make appointments." *Id.* Ms. Ahern has already been directed to provide invoices or to have her providers contact Mr. Waid directly so he can arrange payment. Mr. Waid believes this directive may need to be memorialized in an order.

*2. "**$50,000** to Attorney Larry Semenza as a first retainer plus **$10,000** retainer a month thereafter."*

Ms. Ahern then requests that Larry Semenza be paid a $50,000 retainer plus an additional $10,000/month thereafter. This is not the first time that Ms. Ahern has requested money for Mr.

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Semenza's fees. She made an ex parte request to release funds to hire him on February 3, 2017. (Ex. 4.) As represented during the evidentiary hearing, Mr. Waid contacted Mr. Semenza immediately after receiving the Court's Minute Order and advised him that funds were available so that he could make an appearance and represent Ms. Ahern at the evidentiary hearing. Although Mr. Semenza showed up on the next morning, he declined to enter an appearance. The Court explained all of this to Ms. Ahern on February 10, 2017:

> THE COURT: With respect to Mr. Semenza, that's a different matter. The Court did authorize Mr. Waid to release funds to Mr. Semenza to appear for you at this hearing. Mr. Semenza, himself, came in and said he did not feel that he had adequate time to prepare and would not be entering an appearance for you at this time.
>
> If you want to hire Mr. Semenza, we do have your request. We have authorized Mr. Waid to communicate with him, and that was done. I think Mr. Moody indicated that they did contact him about appearing for this hearing. So if the question is a $50,000 retainer, I just think that Mr. Waid needs to investigate it.
>
> I didn't understand it was a $50,000 retainer. I thought it was authorizing him to appear for this hearing, so I just -- Mr. Waid needs to investigate it, and if he thinks it's appropriate, he can certainly ask the Court for that authority, but as of right now, we didn't have a request for -- I didn't see a request for a $50,000 retainer. I don't know if it was --
>
> MS. AHERN: Yes. It was in the letter that I sent you, and I sent everybody that letter.
>
> THE COURT: Okay. I knew that it was to appear for the hearing, and that specifically what Mr. Semenza said. He didn't have enough notice to prepare for the hearing, so if -- then it's just a question -- I don't know, Mr. Moody, is the one, I believe, who communicated with Mr. Waid about -- and Mr. Waid about -- with Mr. Semenza.
>
> I don't know -- I just thought he was -- I don't know he was not willing to -- I don't know because that's your communication with him. I don't take part in any of that, so I know that, Mr. Moody, you and Mr. Waid did --
>
> MS. AHERN: I need --
>
> THE COURT: -- communicate to Mr. Semenza --
>
> MS. AHERN: Judge?
>
> MR. MOODY: We did, Your Honor.
>
> MS. AHERN: Judge, I need -- I need protection --
>
> THE COURT: Ms. Ahern, Ms. Ahern, Ms. Ahern. Stop talking now, Ms. Ahern. Mr. Moody's going to address the Court and tell us about his communication with Mr. Semenza, so just listen to Mr. Moody. Thank you.

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MR. MOODY: Thank you, Your Honor. I believe the Court order came out this last Wednesday --

THE COURT: Correct.

MR. MOODY: -- about 3:30 in the afternoon. Immediately after receiving that, Mr. Waid and I sat down together, called Mr. Semenza, and spoke to him. He was on his way to a doctor's appointment, and we told him that the Court had ordered that funds be released so that he could make an appearance and represent Ms. Ahern at yesterday and today's evidentiary hearing.

He was a little reluctant at that point. He said I'm going to show up tomorrow. I'm not sure what I'm going to do, and as the Court knows, although he appeared -- although he showed up yesterday, he did not enter an appearance.

So at this point, it's our position that no fees are owed to him.

(Ex. 3, pages 4-6.)

Because the Minute Order specifically directs that funds be paid to Mr. Semenza "for his reasonable attorney's fees incurred for his representation of Ms. Ahern *at the February 9th and 10th evidentiary hearing,*"[1] Ms. Ahern currently owes the MTC Trust $1,742,053[2] in compensatory damages plus $3.6 million in punitive damages. She also owes to the MTC Trust for its attorney's fees.[3] Once these amounts are paid back, Ms. Ahern then owes an additional $160,955.12 for past attorney's fees to Marquis Aurbach Coffing[4] and $311,784.12 to Brownstein Hyatt Farber Schreck.[5]

The evidentiary hearing is now behind us. As a fiduciary, Mr. Waid cannot recommend that Ms. Ahern incur additional attorney's fees and, unless directed otherwise, Mr. Waid will not pay Mr. Semenza (or anyone else) to represent Ms. Ahern from Trust funds.

*3. "**$1,000** medical care for Captain, my service dog."*

Mr. Waid is not willing to pay for Captain's medical care from Trust funds. Ms. Ahern receives monthly benefits from Social Security of almost $3,000/month that should be sufficient

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[1] Ex. 5 (emphasis added).

[2] Ex. 3, pages 22, 56-59.

[3] Ex. 3, page 59.

[4] *See* Judgment, filed on February 28, 2017.

[5] *See* Motion to Adjudicate Attorney's Lien filed January 18, 2017 and Decision and Order, filed February 23, 2017.

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for Ms. Ahern to pay for groceries, rent, utilities, and her service dog. (Ex. 6.) If her Social Security benefits are not enough to pay for her service dog, Mr. Waid is willing to sit down with Ms. Ahern, review her budget and provide some assistance if necessary.

4. *$246 to Virgin Valley Dental for x-rays and exam; $800 Dillards Shoe Department for four pairs of sturdy shoes; $400 to Magic Shoe Store to put lifts on four pairs of shoes; $300/hour to Timothy Frances, D.C. for weekly, monthly and then every six months for chiropractic treatment; and $3,000 to Idaho Falls Audiology for two hearing aids.*

Most (and perhaps all) of these expenses appear reasonable. Mr. Waid will speak with any provider and review actual invoices or receipts for payment. It probably makes more sense to have Ms. Ahern purchase her shoes and have the lifts installed and provide receipts to Mr. Waid for reimbursement. With respect to chiropractic treatment, Mr. Waid will need medical confirmation that the frequency of treatment is justified and is hopeful that he can arrange a "cash-pay" discount with Dr. Frances.

5. *"$50 gas for round trip to Las Vegas (x3); $2,000 for new clothes 'for this season' from Dillard's or Nordstrom; $80 to Bliss Manicure and Pedicure; $600 gas for round trip to Idaho Falls for hearing aids; $1,000 for 10-day stayover in Idaho Falls while hearing aids are made for room and food."*

Mr. Waid does not believe the Trust is responsible for "seasonal" clothes and to have her nails done. Furthermore, a quick Google search revealed that there 18 hearing clinics within 85 miles of Mesquite, Nevada. Unless there's a good explanation, it makes no sense to spend $600 for gas and $1,000 for food and ten days lodging in Idaho when hearing aids are available in Southern Nevada or Southern Utah.

6. *"$192.72 to New Eyes for eye exam; $50 to Palace Station (x2) for overnight stays; $50 gas for round trip (x3); $273.70 to Helga Pizio, MD for right eye; $133.59 to New Eyes Surgeon; $140.11 to Helga Pizio, MD for left eye; $54 to Desert Anesthesia; $210 to Smith's Pharmacy for pre-op medication; $100 for driver following surgery (x2); $400 non-smoking room at Palace Station (x2); $400 food card for meals during stay over following surgery; $50 for gas to pick up glasses (x2)."*

Because Ms. Ahern provided the requested information, Mr. Waid already paid the $192.72 for her initial eye exam with New Eyes (Ex. 7), and will pay the other expenses if Ms. Ahern will similarly provide the requested documentation.

/ / /

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B. Fax dated February 27, 2017

On March 2, 2017, Eleanor Ahern faxed a document entitled "8th Emergency Request" to this Court dated February 27, 2017. (Ex. 2.) The first three paragraphs of this fax are general complaints about the Court denying her request for a continuance, not having proper notice of hearings, and not being able to see or hear during the evidentiary hearing despite having been accommodated with audio and visual equipment. Mr. Waid takes no position on these issues but does point out that during the two-day evidentiary hearing on February 9-10, 2017, whenever Ms. Ahern complained about not being able to see or hear, the Court made sure she was accommodated.

The fourth paragraph is a plea for the Court to release money for an attorney and her medical and living expenses. While some of this was already addressed above, some points need to be specifically discussed. For example, Ms. Ahern correctly states that "[in] November 2015, [the Court] ordered Fred Waid to pay $90,000..., $70,000 [for attorney's fees]...and $20,000 for [her] medical and living expenses."[6] However, Ms. Ahern incorrectly states that "Fred Waid did not and has not obeyed you." (Ex. 2.)

Mr. Waid paid Brownstein Farber Hyatt Schreck $70,000 on March 4, 2016 as ordered (Ex. 8); therefore, the majority of the distributions are not in issue.

Regarding the $20,000, Ms. Ahern forgets (1) that an evidentiary hearing was held on February 22, 2016 that resulted in a surcharge against Ms. Ahern's 35% share of the Trust and a suspension of her Trust distributions,[7] and (2) that Mr. Waid petitioned the Court for further instruction which was heard on March 3, 2016. In its order regarding that hearing, the Court clarified that "...the advance of Trust funds to Eleanor Ahern in the amount of $20,000 for living expenses pursuant to this Court's December 29, 2015 order, shall be held by the Trustee in further Trust, *to be distributed in the Trustee's sole and absolute discretion to pay for the living expenses*

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[6] *See* Order Instructing Trustee to Advance Funds, filed January 5, 2016.

[7] *See* Order Regarding Motion for Assessment of Damages; Enforcement of No Contest Clause; and Surcharge of Trust Income, filed September 19, 2016.

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as the Trustee deems is necessary."[8] (Emphasis added.)

Mr. Waid has $20,000 set aside for Ms. Ahern's needs and remains willing and able to meet those needs if she will cooperate with him.

C. Mr. Waid is more than willing to pay for Ms. Ahern's medical and dental needs if Ms. Ahern will do her part.

Mr. Waid made it clear to Kirk Lenhard when he was still acting as Ms. Ahern's attorney that he is is willing to exercise his "sole and absolute discretion" as Trustee and pay for Ms. Ahern's medical, dental and other expenses if she will simply provide invoices or put providers in touch with him. This point was made on the record during the most recent evidentiary hearing when counsel for Mr. Waid stated that he stands ready, willing, and able to meet her needs if she will provide a letter, an invoice or contact him.[9] This is why New Eyes' invoice was paid. (Ex. 7.)

D. Mr. Waid asks this Court to instruct Ms. Ahern to communicate with Mr. Waid directly and to stop the "left side" communications with the Court.

Local Rule 2.02, Use of the E-Filing System, requires that "All filings made in matters assigned as civil actions must be electronically filed in accordance with Part VIII of these rules." (E.J.D.C.R. 2.02.) Local Rule 8.09 provides some exceptions for conventional filing when electronic filing is not otherwise possible, but Ms. Ahern's faxes to the Court do not fit within these exceptions. (E.J.D.C.R. 8.09(a).)

The problem is that Ms. Ahern's "filings" have been neither E-Filed nor conventional filed, forcing the Court to use "left side filing" to accommodate her. Her faxes are a burden on the Court and its staff, do not comply with our local rules and create confusion on the record. For these reasons, Mr. Waid respectfully requests that the Court instruct Ms. Ahern to stop communicating

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[8] *See* Order on Petition for Instructions Regarding Allocation of Eleanor Ahern's 2015 Trust Unpaid Distributions, filed on June 2, 2016.

[9] *See* preliminary draft Recorder's Transcript, attached as Ex. 3, pages 7-10.

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with the Court via fax. In the interest of conserving Trust and Court resources, Mr. Waid does not believe a hearing is necessary.

Dated this 8th day of March, 2017.

HUTCHISON & STEFFEN, LLC

/s/ Todd L. Moody

Todd L. Moody (5430)
Russel J. Geist (9030)
10080 West Alta Drive, Suite 200
Las Vegas, Nevada 89145

Attorneys for Fredrick P. Waid, Court-appointed Trustee

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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of HUTCHISON & STEFFEN, LLC, and on this 8th day of March , 2017, I caused the above and foregoing document entitled **RESPONSE TO ELEANOR AHERN'S CORRESPONDENCE ADDRESSED TO THE HONORABLE GLORIA STURMAN DATED FEBRUARY 26, 2017 AND FEBRUARY 27, 2017** to be served as follows:

X by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada; and/or

☐ to be served via facsimile; and/or

X pursuant to EDCR 8.05(a) and 8.05(f), to be electronically served through the Eighth Judicial District Court's electronic filing system, with the date and time of the electronic service submitted for the date and place of deposit in the mail; and/or

☐ to be hand-delivered;

to the attorneys and/or parties listed below at the address and/or facsimile number indicated below:

Via U.S. Mail & facsimile:

Eleanor Ahern
355 W. Mesquite Blvd., D30 #176
Mesquite, NV 89027
Fax: (702) 346-7909

Via Wiznet Only:

Joseph J. Powell, Esq.
The Rushforth Firm
1707 Village Center Circle, Ste. 150
Las Vegas, NV 89134
Attorneys for Kathryn A. Bouvier and Jacqueline M. Montoya

/s/ Shaun Bruce

An employee of Hutchison & Steffen, LLC

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EXHIBIT PAGE ONLY

EXHIBIT 1

HUTCHISON & STEFFEN
A PROFESSIONAL LLC

Date: February 26 2017
To: Judge Sturman Fax 702 366 1399
To: Todd Moody, Attorney for Fred Wald, Temporary Trustee Fax 702 385 2086
To: Joey Powell Fax 702 255 4677
From: Eleanor Ahern Fax 702 346 7909

Please pay everyone first then I will make appointments. Hard copy me the cover letter and a copy of their check. Be sure to place my name and birth date 5/13/38 on the cover letter and check.

$50,000 Attorney Larry Semenza as a first Retainer plus $10,000 retainer a month thereafter
$1000.00 Medical care for Captain, my Service Dog DVM Dr. Joanne Stefantos 1325 Vegas Valley Drive, L. V. Nv 89169 702 735 7184 . Could be more or less depending on exam & X-rays and prescriptions
$246.00 Virgin Valley Dental Dr. Gregory Dumitru X ray and exam 760 W. Pioneer Blvd. Mesquite, NV 89027 702 346 3880 More costs following xrays and exam.
$800.00 Dillards Shoe Dept 4 pairs of sturdy shoes that can be built up 2" Las Vegas, NV
$400.00 Magic Shoe Store 840 South Rancho Dr. L.V. NV 89106 702 880 7455 Puts the lift on to the 4 pairs of shoe I buy at Dillard's.
$50.00 Gas for round trip to L. V.
$300.00 an hr Dr. Timothy Frances, D.C. Chiropractor Kinesiology 7473 West Lake Meade L. V. NV 702 221 8870. He books 1st time for 2 hours at $600. Then I will need weekly treatments, then monthly treatments, then every 6 months. Credit Cards Ok.
$50.00 Gas for Round trip every time I have an appointment to Las Vegas Gas Card
$2000 New Clothes for this season from Dillard's or Nordstrom's in Las Vegas Nevada
$50.00 Gas for round trip to L. V. Gas Card
$80.00 Bliss Manicure and Pedicure Mesquite 355 West Mesquite Blvd Mesquite, NV 89027
$3,000 Idaho Falls Audiology for 2 Hearing Aids.
$600 Gas round trip and for the 10 days waiting for him to make the hearing aids.
$1,000 10 day stayover while hearing aids are made Room, Food,

Fred, I am requesting you send a check to each of the 3 payment address below for my cataract surgery. I want a copy of the cover letter to each provider and a copy of the check provided them in hard copy not electronically. Once everyone has their money, hopefully before the 8th of March, I will then schedule the appointments for my Cataract Surgery. Add my name and birth date 5/13/1938 to each check. All the cost below for New Eyes may be more after a new exam. 2 attachments: 1. New Eyes Letter 2. Old Costs Associated With Surgery

$197.72 New Eyes new exam. Paid first to 2020 Goldring Ave. St 402 L. V. NV 89105 702 346 5000 New exam
$ 50.00 Palace Station right eye Overnight Card and food card for driver and me
$ 50.00 Palace Station left eye Overnight Card one week later Palace Station Card and food card driver and me
$ 50.00 Gas round trip to L. V. for one week post op right eye gas card
$50.-00 Gas round trip to L.V. for one week post op left eye gas card
$273.70 Helga F. Pizio, MD right eye $133. 59 New Eyes Surgeon 2020 Goldring Av St402 L. V. Nv 89106
Helga F. Pizio, MD left eye $140,11 702 386 9906
$500.00 $250 each eye Surgery Center 501 Rose St # 110 L. V. NV 89106 702 386 9906
$ 54.00 Desert Anesthesia Total for both eyes check to 6655 W Sahara Av St3200 L.V. NV 89146 702 222 3238
$210.00 Before Surgery Prescriptions both eyes Smith Pharmacy 300 No Sandhill Blvd, Mesquite NV 89027 702 346 8652
$100.00 Animal care for two trips for surgery
$100.00 Driver- Doctor will not do surgery if I do not have a driver right eye
$100.00 Driver - Doctor will not do surgery if I do not have a driver left eye
$400.00 Non smoking 2 bed Room at Palace Station in case of emergency – post op exam early next day for each cataract surgery separated by a week includes mandatory $100 on card for each stayover.
$ 400.00 Food Card lunch, dinner, breakfast, lunch for driver and me during stay over
Billing Medicare for exam. Dr. Edward J. Malik, OD 11035 Lavender Hills Dr. ST 180 L. V.NV 89135 702 245 0332 After Cataract Surgery Exam. I will need Distance or reading glasses. 2 pairs of glasses and frames. Dr. Malik will send you exact cost for 2 pairs of glasses after surgery exam.
$100.00 Gas 2 times. For exam and to pick up glasses a week later Gas Card

Eleanor Ahern Beneficiary

NEW EYES
www.neweyeslasvegas.com

Tel 702.485.5000
Fax 702.485.5001

Helga F. Pizio, MD
Ksenia Stafeeva, MD
Ronnie Fajardo, MD
Ilan Raizes, MD
Jeffrey K. Austin, OD

2-22-17

Regarding:
Eleanor C. Ahern DOB: 5/13/1938
8635 W Sahara Ave Unit 549
Las Vegas, NV 89117

Also mailed copy to this address, per patients request in the past:
355 W Mesquite Blvd. #D50 Mesquite, NV 89027

To: Todd Waid, Trustee, or To Whom It May Concern Todd Waid Las Vegas NV

Eleanor C. Ahern has only been seen once in our office, which was on 2-10-2016. She has cancelled or rescheduled approximate 20 times for either her cataract surgery or for other cataract evaluations since 2-10-2016. This is partly due to the issue of her being out of the time frame from her initial visit to proceed with surgery, so she needs an updated evaluation. She states that she needs this letter written to the trustee of her estate, Todd Waid, helping to explain the costs of her surgical procedure, and repeat cataract evaluation, so that the money can be obtained from her estate in order to pay her out of pocket costs to get her eyes operated on.

We have attached the cost associated sheets pertaining to what this patient has been quoted in the past, and will attach them once again with this letter. But until she is seen for an updated evaluation, we will not be able to give exact quotes of costs until she is re-evaluated, and we know at that time what her insurance coverage will be and/or if any deductible amounts have changed.

Also, her estimated out of pocket costs for her cataract evaluation as of yesterday will be $197.42, which is payable at the time of her appointment.

Due to the many times she has not been able to keep her appointments, we will not be able to schedule her again until she has all of her financial and transportation issues worked out so that she can commit to making an appointment here in Las Vegas. We will honor her one more chance to be seen here, but if that appointment is not kept, we feel she should seek care elsewhere since we have other patients needing to use the appointment slots that have been cancelled at the last moment, or no showed by this patient in the past.

This letter is being sent to the patient so she can submit it the people she feels can help her to facilitate paying for her eye exams and surgery.

Sincerely,

Deanna C Heisey

Deanna C. Heisey, COE COT
Practice Administrator

OLD from last year

NEW EYES

Eleanor Ahern — Patient Name | Medicare — Insurance Policies | 2-10-16 — Date

COSTS ASSOCIATED WITH SURGERY FOR PATIENTS WITH INSURANCE PLAN

The purpose of this sheet is to present you with approximate costs associated with your upcoming surgery. New Eyes staff will make every effort to educate you and provide you with the best estimate of the costs associated with your surgery, but cannot guarantee you the final total amount that will be due.
New Eyes is contracted with most of the major insurance companies and accepts assignment for Medicare patients. However, each patient is responsible for payment of all non-covered costs. Examples of non-covered services would be the annual insurance deductible, and any remaining balance of allowable fees for your surgery that are not covered by a supplemental insurance plan.

It is important for you to understand that while your New Eyes surgeon is contracted with your primary insurance or accepts assignment from Medicare, it does not mean that whatever amount insurance pays to your surgeon is to be considered payment in full. Your primary insurance may only pay a portion of the allowable charges for your surgery and you will be responsible for paying the balance. If you have a secondary insurance plan please be aware that in some instances the supplemental insurance plan may only cover a portion of the balance in which case you will still be responsible for paying the rest.

There will be several different charges and bills associated with your procedure:

1. **New Eyes Surgeon:** This bill will cover the fee for the surgeon who is performing your surgical procedure. Payment to New Eyes is due no later than noon, the Friday before your surgery. Failure to pay the estimated cost to New Eyes may result in cancellation of your surgery.

   The estimated out-of-pocket expense for New Eyes Surgeon is: 7020 Goldring Ave #402 89106 702 485 5000

   ☒ $133.59 for the First Eye surgery.

   ☒ $140.11 for the Second Eye surgery. The estimate for the second eye may change depending on the time elapsed between the two surgeries.

   ☐ We will call you and let you know what the amount will be.

2. **Surgery Center:** This bill will cover the charges by the surgical facility licensed by the State of Nevada and Medicare. This facility fee is separate from New Eyes surgeon's fee. There may be a deposit required toward your co-insurance prior to your surgical procedure due at the time of your surgery.

   ☒ Please call the designated facility to find out the amount you will owe for your surgery:

   Both eyes 250.00 250.00 ☒ Alta Rose Surgery Center (702.385.9906) ☐ Las Vegas Surgery Center (702.870.2090)

   ☐ Box Canyon Surgery Center (702.316.4400) 501 Rock St #110 L.V. 89106 702 396 7906

3. **Anesthesia:** This bill will cover the charges by the person who administers and monitors anesthesia during your surgery. There may be a deposit required toward your co-insurance prior to your surgical procedure.

   27.50 ☒ Please call the designated anesthesia group to find out the amount you will owe for your surgery:

   27.50 ☒ Desert Anesthesia (702.222-3238) ☐ SW Anesthesia (702.877.8681)

   6655 West Sahara St B200 L.V. NV 89146 Check to Desert Anesthesia

   0542 I understand the above cost and billing information regarding my surgical procedure.

Disclosure: Helge F. Pizio, MD has a partial ownership in Alta Rose Surgery Center.

Patient signature: Eleanor Ahern Date: 2/10/16

New Eyes employee initials: Qfe

Version 03262015

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EXHIBIT PAGE ONLY

EXHIBIT 2

HUTCHISON & STEFFEN

A PROFESSIONAL LLC

8th EMERGENCY REQUEST

Date:	February 27 2017
To:	Judge Gloria Sturman
Fax:	702 366 1399
From:	Eleanor Ahern
Fax:	702 346 7909
CASE NO:	P-09-066425-T
DEPT. NO	#26

Dear Judge Sturman,

Being in court February 9th and 10th showed me that I NEED Larry Semenza to be my attorney. He had to excuse himself, as he had no time to be brought up to speed on this case. I cannot represent myself. There were so many misstatements given in court that needed to be objected to. I need permanently paid legal representation. Not just attorney fees paid for 2 days of Court Time. I asked for a continuance, yet you denied my request and I was without representation. No one should be in court without representation. It was as if a bulldozer had run over me in your kangaroo court.

I have read nothing, got nothing. I found out about this February 28, 2017 Court Date by calling into the Calendar last week, HAVING NOT BEEN SERVED/NOTICED. Gloria, I am requesting a Continuance on the 28th due to my lack of Council.

I appreciate being accommodated with the audio and visual equipment but I still could not see well because of the cataracts and could not hear well because of so many missing sounds I do not hear well and hearing aids are needed for me to hear all the sounds. I was watching court with three huge disadvantages. #1; Not seeing well, #2; Not hearing well and #3; not having an attorney as I could not object to the lies being told.

This is my 8th time to plead with you to release my money for an attorney and my medical and living expenses. Please demand Fred Waid follow your court instructions, since there is $1,700,000 for 2015 in my account. My acct for 2016 could possibly be as much as $3,400,000. Surely you can find it in your heart to release the money to go for an attorney and for my medical needs and living expenses. November 2015, you ordered Fred Waid to pay $90,000 to be divided into $70,000 f(as you know, I lost my legal representation because they were not paid) and $20,000 for my medical and living expenses. Fred Waid did not and has not obeyed you. I have been telling him of my needs since that November 2015 Court Order by you. Since Fred Waid became the Court appointed Temporary Trustee, he has refused all my requests and your Court Order.

I am asking you again. Please write an order that Fred Waid has to obey, regarding my Medical – Cataract Surgery, it should be about $1,500. I must have Fred also pay for Medicare deductible which for 2017. Most of the charges for the Cataract Surgery is picked up by Medicare. After surgery, I will need either glasses for reading or for distance. I may need both. Hearing aids will enable me to be able to hear the sounds I am missing, the cost is $7,500.00. My shoe build up is necessary and mandatory for me to walk safely . As you know my left leg is 2 inches shorter than the right. My shoes are terribly worn and I need four new pair. Because of my short leg caused by a broken leg due to a fall in 1972, I received chiropractic

care. I am in need of this therapy for my back to stay strong and healthy. I have not had any therapy since Fred Waid became Temporary Trustee. My shoes are worn and do not support me. This is extreme Elder Abuse and must stop now. I will be 79 May 13, 2017. Please I am begging you to have Fred Waid Temporary Trustee of my father's trust, provide for me as my father wanted me to be provided for during my lifetime.

Eleanor Ahern, Beneficiary

Eleanor Ahern, Beneficiary W.N. Connell & Marjorie T. Connell Living Trust Dated May 17, 1972

Cc: Todd Moody Fax # 702 385 2086
Joey Powell Fax # 702 255 4677

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EXHIBIT 3

HUTCHISON & STEFFEN

A PROFESSIONAL LLC

RTRAN

DISTRICT COURT

CLARK COUNTY, NEVADA

In re the Matter of:	CASE NO. P-066425
THE W.N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST MAY 18, 1972	DEPT. XX

BEFORE THE HONORABLE GLORIA STURMAN, DISTRICT COURT JUDGE

FRIDAY, FEBRUARY 10, 2017

RECORDER'S TRANSCRIPT
ALL PENDING MOTIONS

APPEARANCES:

For Jacquelyn Montoya & Katherine Bouvier:	JOSEPH POWELL DANIEL P. KIEFER The Rushforth Firm, PLLC
For the Trustee:	TODD L. MOODY FREDRICK P. WAID Hutchison & Steffen, LLC

RECORDED BY: KELLY ESPARZA

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THE COURT: -- and he's not here to explain.

MS. AHERN: You have that. Everybody in this courtroom has a copy --

THE COURT: You'll have to communicate --

MS. AHERN: -- of my bill.

THE COURT: -- directly with Mr. Waid about that because he's got the authority to act. So you'll just need to talk to him. He just doesn't happen to be here at the moment, so I can't ask him.

So if you just contact his office, and I'm sure he'll follow up.

With respect to Mr. Semenza, that's a different matter. The Court did authorize Mr. Waid to release funds to Mr. Semenza to appear for you at this hearing. Mr. Semenza, himself, came in and said he did not feel that he had adequate time to prepare and would not be entering an appearance for you at this time.

If you want to hire Mr. Semenza, we do have your request. We have authorized Mr. Waid to communicate with him, and that was done. I think Mr. Moody indicated that they did contact him about appearing for this hearing. So if the question is a $50,000 retainer, I just think that Mr. Waid needs to investigate it.

I didn't understand it was a $50,000 retainer. I thought it was authorizing him to appear for this hearing, so

I just -- Mr. Waid needs to investigate it, and if he thinks it's appropriate, he can certainly ask the Court for that authority, but as of right now, we didn't have a request for -- I didn't see a request for a $50,000 retainer. I don't know if it was --

MS. AHERN: Yes. It was in the letter that I sent you, and I sent everybody that letter.

THE COURT: Okay. I knew that it was to appear for the hearing, and that specifically what Mr. Semenza said. He didn't have enough notice to prepare for the hearing, so if -- then it's just a question -- I don't know, Mr. Moody, is the one, I believe, who communicated with Mr. Waid about -- and Mr. Waid about -- with Mr. Semenza.

I don't know -- I just thought he was -- I don't know he was not willing to -- I don't know because that's your communication with him. I don't take part in any of that, so I know that, Mr. Moody, you and Mr. Waid did --

MS. AHERN: I need --

THE COURT: -- communicate to Mr. Semenza --

MS. AHERN: Judge?

MR. MOODY: We did, Your Honor.

MS. AHERN: Judge, I need -- I need protection --

THE COURT: Ms. Ahern, Ms. Ahern, Ms. Ahern. Stop talking now, Ms. Ahern. Mr. Moody's going to address the Court and tell us about his communication with Mr. Semenza, so

just listen to Mr. Moody. Thank you.

MR. MOODY: Thank you, Your Honor. I believe the Court order came out this last Wednesday --

THE COURT: Correct.

MR. MOODY: -- about 3:30 in the afternoon. Immediately after receiving that, Mr. Waid and I sat down together, called Mr. Semenza, spoke to him. He was on his way to a doctor's appointment, and we told him that the Court had ordered that funds be released so that he could make an appearance and represent Ms. Ahern at yesterday and today's evidentiary hearing.

He was a little reluctant at that point. He said I'm going to show up tomorrow. I'm not sure what I'm going to do, and as the Court knows, although he appeared -- although he showed up yesterday, he did not enter an appearance.

So at this point, it's our position that no fees are owed to him.

Now, one of the things I will do, I will address in my closing argument, if you will, I'm going to talk about what -- how Mr. Waid sees things going forward from this point because this was an important day for purposes of his role as trustee, and I want the Court to understand what his desires are with respect to Ms. Ahern, what it is that he would like to do on her behalf.

So if you'd like me to begin now, I'm ready.

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THE COURT: Okay. So, Ms. Ahern, we're going to -- we'll hear from Mr. Moody, and we'll see where the request that the trustee is making, where that might affect your request for $50,000 for Mr. Semenza. Since Mr. Semenza felt he didn't have enough notice to appear for this hearing, you may still want to retain him, and it may be that we can work something out.

So let's listen to what Mr. Moody has to tell us, and we'll circle back around to your request. I've made a note of it here, and we'll follow up on it when we've listened to counsel.

So give us just a minute, and we'll get back to your request.

MR. MOODY: All right. Thank you very much, Your Honor.

On behalf of the trustee, Fred Waid, I want to express our appreciation to the Court and to the parties for their patience and courtesies that have been extended to him in this matter.

Mr. Waid is keenly aware of his responsibilities and his fiduciary duties to Ms. Ahern, as well as the MTC Trust. He takes no position in the assessment of damages in this matter and will dutifully follow any Court order on any judgment matter.

Mr. Waid also wants the Court and the parties to know, especially Ms. Ahern, that he stands ready, willing, and

able to serve and meet her needs as directed by previous court order and any future court orders, as well as what is contained in the trust document itself.

Ms. Ahern needs to understand that because of Mr. Waid's findings with respect to trust funds in this case, he is reluctant to release any funds directly to Ms. Ahern for her medical needs; and, therefore, he has requested time and time again that if she has a medical need, if she will simply ask the doctor, the care provider, whomever it is, to write a simple letter and send an invoice to him, he will consider that.

He will also work with Medicare. Ms. Ahern has Medicare coverage, and he will work to coordinate benefits on her behalf because it doesn't make a lot of sense, for example, if she has hearing aids that will require $7500 that if Medicare will pay a good portion of that --

THE COURT: They don't.

MR. MOODY: -- to pay it directly out of trust funds --

THE COURT: They don't.

MR. MOODY: -- so he wants to be wise and exercise his fiduciary responsibility --

THE COURT: I'll tell you right now Medicare does not pay for hearing aids.

MR. MOODY: Okay.

THE COURT: It doesn't.

MR. MOODY: All right. Well, Mr. Waid probably knows that, I didn't.

Your Honor, given the still open --

THE COURT: It doesn't make any sense. They don't consider it. They don't pay it.

MR. MOODY: Yeah. That surprises me. Okay. Well, then in that case, we will simply await, you know, anything from an audiologist and make that payment directly to the provider.

THE COURT: Uh-huh.

MR. MOODY: Okay.

THE COURT: And that's about what they cost, 5-to 7,000.

MR. MOODY: Yeah. Yeah. It doesn't seem unreasonable --

THE COURT: Yeah.

MR. MOODY: -- but it will be paid to the provider, not to Ms. Ahern.

THE COURT: So the understanding with respect to medical bills is -- Mr. Waid being ready, willing, and able upon the medical provider contacting him with the information. For example, I think there's also mention of cataract surgery.

MR. MOODY: Yes.

THE COURT: Again, I've had a cataract surgery. I know that's what they cost, so just the medical provider contact Mr. Waid and anything not covered by Medicare, trust will cover it?

MR. MOODY: Absolutely.

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THE COURT: Got it.

MR. MOODY: And quickly, Your Honor, and --

THE COURT: And I don't know what the issue is with Brownstein Hyatt if -- I don't know, so -- but going forward, Ms. Ahern just needs to have the providers contact Mr. Waid directly with their bill, and anything not covered by Medicaid -- Medicare, he's -- the trust stands ready to provide?

MR. MOODY: Yes. Absolutely.

THE COURT: Wonderful. Thank you. I appreciate that.

MR. MOODY: Finally, Your Honor, given the still open and complex tax issues based on the trust, it is the beneficiary's affirmative and absolute duty to cooperate with Mr. Waid with respect to information and documentation, but his investigation is over.

That investigation, leading up to, you know, this evidentiary hearing for all intents and purposes is closed. It is Mr. Waid's position that there is no need for him to speak through counsel. We don't know what benefit going forward, and we're not saying that Ms. Ahern is not entitled to counsel, but she needs to feel free to contact him directly, and we hope that she would be willing to receive contact from Mr. Waid directly at least up until the time that she finds representation.

Mr. Waid respectfully asks the Court to monitor and to communicate directly with him, and he will -- he plans to

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because his voice drops -- and when he gets to the last ten words, and I can't hear.

THE COURT: Okay. All right, Ms. --

MS. AHERN: I just can't hear.

THE COURT: Okay. So we're going to try to work our way through this. We'll try to speak louder, and --

MS. AHERN: Your Honor, he goes fast.

THE COURT: Okay.

MS. AHERN: He goes too fast, and I can't --

THE COURT: All right.

MS. AHERN: -- catch it.

THE COURT: All right. We're going to speak slowly and loudly.

Okay. So the 65 percent of Connell income over that entire period of time, roughly 27 -- 2013, 2014, 2000 -- and the first quarter of 2015. The 65 percent amount should have been $3,956,550. That's how much should have come in to the 65 percent portion and been segregated according to the Court's order.

What has been recovered and distributed is $2,214,497. That leaves us with $1,742,053.

MR. KEIFER: Correct.

THE COURT: Okay. So where does $1,742,000 go? I mean was it never recovered by Mr. Waid?

MR. KEIFER: Yeah. That's all the expenses that we went

yesterday --

THE COURT: Yeah.

MR. MOODY: -- he said that at the end of one year, rather than running the trust down to zero, which would have almost eliminated any tax liability, that Ms. Ahern carried over a balance into the next year.

THE COURT: Uh-huh. Yep. Okay.

MR. MOODY: That is where that enormous tax liability came from because those funds were not properly distributed.

THE COURT: Was that the 2013?

MR. MOODY: It -- they were held from -- let me just say that $800,000 tax liability was for 2014 and 2014 only.

THE COURT: Uh-huh.

MR. MOODY: The remain outstanding tax liabilities from 2011, 2012, and 2013, which adds to the complexity of all this, but I can state based on Mr. Waid's representations and testimony yesterday that the tax liability that was incurred was because those funds -- not just because they weren't properly segregated, but because they were held over and, therefore, that trust did incur a liability that it should not have.

THE COURT: Thank you. All right.

The Court will award damages as follows: Compensatory damages in the amount of $2,581,994. This is the amount that the trust was harmed by Ms. Ahern's action and

that need to be recovered.

A portion of that has been recovered and paid, and as I understand the amount that Mr. Waid has paid back to the 65 percent beneficiaries is $839,941; am I correct in that? And that should be deducted from the 2.5?

MR. KEIFER: I apologize, Your Honor. Could you say that number one more time?

THE COURT: That amount has been satisfied, $839,941.

MR. KEIFER: And 92 cents. Correct, Your Honor.

THE COURT: And 92 cents.

MR. KEIFER: Yep.

THE COURT: Has been satisfied of that amount.

MR. KEIFER: Correct, Your Honor.

THE COURT: However, certain actions appear to warrant punitive damages, additional damages intended to punish and discourage this kind of conduct because that's the thing that has concerned me and it's concerned me since 2015 when Ms. Ahern was removed that there was this flurry of activity, which appears intended at hiding the money, and it's difficult to understand how much of the 2.5 million because Ms. Ahern has refused to cooperate in this inquiry and has obstructed it and adverse inference should be imposed on her, and the belief of the Court is that if discovery had been had into these matters it would have been adverse to Ms. Ahern, and the problem that I have here is that because we were in

litigation, some of these funds had to be held, some of them had to be segregated. So I am reluctant to impose punitive damages on the entire $2.5 million because I don't know yet how much is the final tax liability is going to be. I don't know how much of that might have been influenced by the litigation hold, so I'm reluctant to impose punitive damages on the entire $2.5 million.

However, Mr. Keifer did point out a very interesting fact and something that was really disturbing to Mr. Waid as a trustee is holding funds in the form of a cashier's check, totally improper. Not trustee should ever do that. Very bad practice. Needs to be discouraged, and clearly appears to have been intended to defraud the trust.

The fact that Mr. Waid was able to recover that money is something for which we can be thankful, but which does not excuse the fact that it never should have been done in the first place. That appears, to me, to have been undertaken with conscious disregard of the rights of the remainder beneficiaries, appears to have been fraudulent. While it may not have been, and that's a very high standard to meet, because of the lack of evidence Mrs. Ahern has been -- refused to cooperate or provide, we have to infer that it would have been adverse to her and so fraud would have been proven. It appears to have been done with malice, intentional malice, and oppression. Again, we have no evidence

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[indiscernible] the Court of this belief because Ms. Ahern has refused to cooperate in this inquiry.

So I am going to award punitive damages pursuant to NRS 42.005 on a portion of the total damages. That would be on the $1,200 that was held in the cashier's check, which appears to have been intentionally withdrawn on the day of or the day after the Ms. Ahern was removed as trustee and in an attempt to hide the money, so I'll award punitive damages on the 1,200,000 in the form of treble damages for $3,600 -- 3,600,000 in punitive damages.

Further, I believe that the remainder beneficiaries are entitled to their attorney's fees and costs for this hearing, so we'll entertain whatever you've had to do to prepare from when we entered the decision -- not for the appeal itself. I don't think that's appropriate, but for whatever discovery efforts you've had to cooperate in and work with Mr. Waid and the hearings leading up to today's hearing, I'll entertain a motion for fees and costs for everything unrelated to the appeal. If you were seeking damages for the -- attorney's fees for the appeal, that'd be -- there's a separate procedure to look for attorney's fees for the appeal. This is just for what's gone on separate from the appeal getting us up to today.

And the issue, as you've know we've got, not only Marquis Aurbach attorney's fees request, but also Mr.

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EXHIBIT 4

HUTCHISON & STEFFEN
A PROFESSIONAL LLC

000Date: February 3, 2017

To: Judge Gloria Sturman

Fax: 702 366 1399

From: Eleanor Ahern

Fax: 702 346 7909

CASE NO: P-09-066425-T

DEPT. NO #20

Re: *In the matter of The W. N. Connell and Marjorie T. Connell Living Trust dated May 18, 1972*

Dear Judge,

November 4, 2015, you ordered from the Bench to have Fred Waid, Temporary Trustee, release $90,000 to me out of the millions he is holding, which was followed up by a written order. This money was to be for legal fees and for my much-needed medical attention.

I am requesting you cause him to release this money to me immediately so I can hire a lawyer.

I have not received any information regarding the hearing on February 8th.

Eleanor Ahern

Eleanor Ahern, former Trustee of the W. N. Connell and Marjorie T. Connell Living Trust dated May 18, 1972

My mailing address
355 West Mesquite Blvd. D30 #176
Mesquite, Nevada 89027

cc: Joseph J Powell, Esq, via Fax 702 255 4552 4677 or 855-787-4329
Todd Moody,Esq. via Fax 702 386-2086
395

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EXHIBIT 5

HUTCHISON & STEFFEN

A PROFESSIONAL LLC

DISTRICT COURT
CLARK COUNTY, NEVADA

Probate - Trust/Conservatorships	COURT MINUTES	February 08, 2017

ELECTRONICALLY SERVED
02/08/2017 03:32:35 PM

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

February 08, 2017 3:10 PM Minute Order

HEARD BY: Sturman, Gloria COURTROOM: Chambers

COURT CLERK: Tena Jolley

PARTIES: **None. Minute Order Only - no hearing held.**

JOURNAL ENTRIES

- Pursuant to Eleanor Ahern's ex parte request for an order releasing funds, the Court hereby grants the request and orders that the Trustee, Fred Waid, shall release funds from Ms. Ahern's share of the Trust directly to attorney Lawrence Semenza, Esq., for his reasonable attorney's fees incurred for his representation of Ms. Ahern at the February 9th and 10th evidentiary hearing.

Notice: Journal entries are prepared by the courtroom clerk and are not the official record of the Court.

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EXHIBIT 6

HUTCHISON & STEFFEN

A PROFESSIONAL LLC

Your New Benefit Amount

BENEFICIARY'S NAME: ELEANOR C AHERN

Your Social Security benefits will increase by 1.5 percent in 2014 because of a rise in the cost of living. **You can use this letter when you need proof of your benefit amount to receive food, rent, or energy assistance; bank loans; or for other business.** Keep this letter with your other important financial documents.

How Much Will I Get And When?

• Your monthly amount (before deductions) is	$2,892.90
• The amount we deduct for Medicare medical insurance is (If you did not have Medicare as of Nov. 14, 2013 or if someone else pays your premium, we show $0.00.)	$104.90
• The amount we deduct for your Medicare prescription drug plan is (If you did not elect withholding as of Nov. 1, 2013, we show $0.00.)	$0.00
• The amount we deduct for voluntary federal tax withholding is (If you did not elect voluntary tax withholding as of Nov. 14, 2013, we show $0.00.)	$0.00
• After we take any other deductions, you will receive on Jan. 15, 2014.	$2,788.00

If you disagree with any of these amounts, you must write to us within 60 days from the date you receive this letter. We would be happy to review the amounts.

You may receive your benefits through direct deposit, a Direct Express® card, or an Electronic Transfer Account. If you still receive a paper check and would like to switch to an electronic payment, please visit *www.godirect.org* or call **1-800-333-1795**.

What If I Have Questions?

Please visit our website at *www.socialsecurity.gov* for more information and a variety of online services. You also can call **1-800-772-1213** and speak to a representative from 7 a.m. until 7 p.m., Monday through Friday. Recorded information and services are available 24 hours a day. Our lines are busiest early in the week, early in the month, as well as during the week between Christmas and New Year's Day; it is best to call at other times. If you are deaf or hard of hearing, call our TTY number, **1-800-325-0778**. If you are outside the United States, you can contact any U.S. embassy or consulate office. Please have your Social Security claim number available when you call or visit and include it on any letter you send to Social Security. If you are inside the United States and need assistance of any kind, you also can visit your local office.

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LAS VEGAS NV

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EXHIBIT 7

HUTCHISON & STEFFEN
A PROFESSIONAL LLC

PLEADING CONTINUES IN NEXT VOLUME

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF THE W.N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST, DATED MAY 18, 1972,	Case No: P-09-066425-T Docket No: 73837
ELEANOR CONNELL HARTMAN AHERN, Appellant(s), vs. JACQUELINE M. MONTOYA; AND KATHRYN A. BOUVIER, Respondent(s),	

RECORD ON APPEAL
VOLUME
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ATTORNEY FOR APPELLANT
ELEANOR C. AHERN, PROPER PERSON
355 W. MESQUITE BLVD., D30 #176
MESQUITE, NV 89027

ATTORNEY FOR RESPONDENT
JOSEPH J. POWELL
1707 VILLAGE CENTER CIR., STE. 150
LAS VEGAS, NV 89134

P-09-660425-T IN THE MATTER OF THE TRUST OF:
THE W.N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST, DTD MAY 18, 1972

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

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

I N D E X

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43	12/06/2016	TRANSCRIPT OF HEARING HELD ON NOVEMBER 23, 2016	8540 - 8562
35	11/18/2015	TRANSCRIPT OF HEARING HELD ON NOVEMBER 4, 2015	6828 - 6904
35	12/07/2015	TRANSCRIPT OF HEARING HELD ON OCTOBER 14, 2015	6924 - 6936
33	09/25/2015	TRANSCRIPT OF HEARING HELD ON SEPTEMBER 16, 2015	6545 - 6562
33	09/25/2015	TRANSCRIPT OF HEARING HELD ON SEPTEMBER 2, 2015	6530 - 6544
13	09/19/2014	TRANSCRIPT OF HEARING HELD ON SEPTEMBER 3, 2014	2558 - 2569
37	02/19/2016	TRIAL MEMORANDUM (FILED UNDER SEAL) (CONTINUED)	7290 - 7400
38	02/19/2016	TRIAL MEMORANDUM (FILED UNDER SEAL) (CONTINUATION)	7401 - 7484
5	02/11/2014	TRIAL SUBPOENA	996 - 998
37	02/19/2016	TRIAL SUBPOENA - JACQUELINE MONTOYA	7280 - 7284
37	02/19/2016	TRIAL SUBPOENA - KATHRYN BOUVIER	7275 - 7279
32	08/12/2015	TRUSTEE, FREDRICK P. WAID'S, PRODUCTION OF DOCUMENTS	6280 - 6282
46	05/11/2017	UNFILED DOCUMENT(S) - AUDIOVISUAL TRANSMISSION EQUIPMENT APPEARANCE REQUEST	9063 - 9066
8	03/26/2014	VERIFICATION FOR PETITION FOR CONSTRUCTION AND EFFECT OF PROBATE COURT ORDER	1589 - 1590
1	09/27/2013	VERIFICATION FOR PETITION FOR DECLARATORY JUDGMENT REGARDING LIMITED INTEREST OF TRUST ASSETS PURSUANT TO NRS 30.040, NRS 153.031(1)(E), AND NRS 164.033(1)(A)	82 - 83
9	03/27/2014	VERIFICATION FOR PETITION FOR DETERMINATION OF CONSTRUCTION AND INTERPRETATION OF LANGUAGE RELATING TO TRUST NO. 2	1608 - 1609
3	12/03/2013	VERIFICATION FOR PETITION TO COMPEL TRUSTEE TO DISTRIBUTE ACCRUED INCOME AND FUTURE INCOME RECEIVED FROM OIL, GAS, AND MINERAL LEASES AND	531 - 532

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

I N D E X

VOL	DATE	PLEADING	PAGE NUMBER:
		DECLARATION OF THE APPLICABILITY OF THE DOCTRINE OF LACHES	

Date	Atty	Description	Hours	Amount
07/20/15	LKW	Assess, analyze and review emails from Mrs. Ahern regarding [redacted]	0.20	60.00
07/24/15	LKW	Follow up with Tammy Peterson on [redacted]	0.10	30.00
07/24/15	CER	Assess, analyze and review pleadings and emails from client; draft email analyzing [redacted]	0.50	150.00
07/24/15	LKW	Correspond with Mrs. Ahern regarding [redacted]	0.20	60.00
07/27/15	CER	Draft substitution of counsel; draft email correspondence to Ellie regarding [redacted]; draft email correspondence to J. Shapiro regarding [redacted]	0.40	120.00
07/28/15	CER	Exchange email correspondence with J. Shapiro regarding [redacted]	0.20	60.00
07/28/15	CER	Telephone conference with J. Shapiro's office regarding [redacted]	0.20	60.00
07/28/15	CER	Exchange email correspondence with J. Shapiro's office regarding [redacted]	0.20	60.00
01/05/16	DAH	Meeting with Liane regarding [redacted]	0.50	150.00
01/05/16	DAH	Review of assignment of rents.	0.50	150.00
01/05/16	DAH	Review of confession of judgment.	0.30	90.00
01/05/16	DAH	Meeting with Liane regarding [redacted]	0.10	30.00
		Total Fees	**79.50**	**22,896.00**

Disbursements

Date	Description	Amount
[redacted]		
	Total Disbursements	

Marquis Aurbach Coffing
Dale A. Hayes, Esq.
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Liane K. Wakayama, Esq.
Nevada Bar No. 11313
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lwakayama@maclaw.com
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DISTRICT COURT

CLARK COUNTY, NEVADA

In the Matter of THE W.N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST DATED May 18, 1972, An Inter Vivos Irrevocable Trust.	Case No.: P-09-066425-T Dept. No.: 26

MARQUIS AURBACH COFFING'S VERIFIED MEMORANDUM OF COSTS

Marquis Aurbach Coffing, former counsel for Eleanor Ahern, hereby submits the following Memorandum of Costs as follows:

EXHIBIT	DESCRIPTION	AMOUNT	NRS AUTHORIZED
1.	Copies	$4,605.02	NRS 18.005(12)
2.	Postage	$74.98	NRS 18.005(14)
3.	Scanning	$1,065.75	NRS 18.005(12)
4.	Long distance and conference calls	$353.04	NRS 18.005(13)
5.	Westlaw research	$1,706.01	NRS 18.005(17)
6.	Messenger service	$695.32	NRS 18.005(17)
7.	Telex	$9.00	NRS 18.005(13)
8.	Clark County filing fees	$247.00	NRS 18.005(1)
9.	Online filing fees	$133.00	NRS 18.005(1)
10.	Telephonic court appearance fees	$90.00	NRS 18.005(1)

MARQUIS AURBACH COFFING
10001 Park Run Drive
Las Vegas, Nevada 89145
(702) 382-0711 FAX: (702) 382-5816

11.	Clark County Bond	$500.00	NRS 18.005(9)
12.	Nevada Supreme Court filing fees	$250.00	NRS 18.005(1)
13.	Deposition costs	$5,299.85	NRS 18.005(2)
14.	Transcripts	$1,373.40	NRS 18.005(2) & (17)
15.	Exhibit board	$ 59.02	NRS 18.005(17)
16.	Parking fees	$84.00	NRS 18.005(17)
	TOTAL	**$16,545.39**	

MARQUIS AURBACH COFFING
10001 Park Run Drive
Las Vegas, Nevada 89145
(702) 382-0711 FAX: (702) 382-5816

207-002 costs

Accounting Date	Cost Code	Units	Amount	Payee	Description
4/7/2015	Clark County Clerk	0	$ 24.00		Filing Fees
	Clark County Clerk Total	**0**	**$ 24.00**		

Accounting Date	Cost Code	Units	Amount	Payee	Description
1/19/2015	Check Issued	0	$ 1,003.45	Oasis Reporting Services	Deposition of Eleanor Ahern
1/21/2015	Check Issued	0	$ 55.00	Clark County Treasurer	Transcript of 01/14/15 hearing
1/29/2015	Check Issued	0	$ 2,157.20	Manning, Hall & Salisbury	Deposition of Jacqueline Montoya, Vol. 1
1/31/2015	Check Issued	0	$ 2,139.20	Manning, Hall & Salisbury	Deposition of Jacqueline Montoya, Vol 2 & Kathyrn Bouvier
1/31/2015	Check Issued	0	$ 80.00	Clark County Treasurer	Transcript Fee
2/17/2015	Check Issued	0	$ 83.02	Lawyer Solutions Group, LLC	Copies
2/20/2015	Check Issued	0	$ 663.85	Brittany Diane Mangelson	Transcript fee
3/23/2015	Check Issued	0	$ 55.00	Clark County Treasurer	Transcript of 03/20/2015 hearing
3/30/2015	Check Issued	0	$ 30.00	Clark County Treasurer	Transcript of 03/20/15 hearing
3/30/2015	Check Issued	0	$ 319.50	Gal Friday Secretarial Services, Inc.	Transcript from 03/20/15 hearing
3/31/2015	Check Issued	0	$ 59.02	Lawyer Solutions Group, LLC	Exhibit board
4/1/2015	Check Issued	0	$ 90.00	Court Call	Telephonic court appearance fee
4/6/2015	Check Issued	0	$ 500.00	Clerk of the Court - Clark County	Bond
4/6/2015	Check Issued	0	$ 250.00	Clerk of the Supreme Court	Appeal
4/9/2015	Check Issued	0	$ 81.65	Gal Friday Secretarial Services, Inc.	Transcript of 3/26/15 hearing
4/9/2015	Check Issued	0	$ 30.00	Clark County Treasurer	Transcript of 03/26/15 hearing
4/15/2015	Check Issued	0	$ 48.19	Premiere Global Services	Conference call from 03/25/15
	Check Issued Total	**0**	**$ 7,645.08**		

Accounting Date	Cost Code	Units	Amount	Payee	Description
1/2/2015	Copies	350	$ 87.50		
1/2/2015	Copies	3	$ 0.75		
1/2/2015	Copies	20	$ 5.00		
1/2/2015	Copies	38	$ 9.50		
1/2/2015	Copies	1	$ 0.25		
1/2/2015	Copies	34	$ 8.50		
1/2/2015	Copies	36	$ 9.00		
1/2/2015	Copies	1	$ 0.25		
1/2/2015	Copies	1	$ 0.25		
1/2/2015	Copies	1	$ 0.25		
1/2/2015	Copies	2	$ 0.50		
1/2/2015	Copies	2	$ 0.50		
1/2/2015	Copies	2	$ 0.50		
1/2/2015	Copies	5	$ 1.25		
1/2/2015	Copies	5	$ 1.25		
1/2/2015	Copies	2	$ 0.50		
1/2/2015	Copies	1	$ 0.25		
1/2/2015	Copies	284	$ 71.00		
1/2/2015	Copies	1	$ 0.25		
1/2/2015	Copies	178	$ 44.50		
1/2/2015	Copies	36	$ 9.00		
1/2/2015	Copies	2	$ 0.50		
1/2/2015	Copies	5	$ 1.25		
1/2/2015	Copies	8	$ 2.00		
1/2/2015	Copies	1	$ 0.25		
1/2/2015	Copies	1	$ 0.25		
1/2/2015	Copies	1	$ 0.25		
1/2/2015	Copies	1	$ 0.25		
1/2/2015	Copies	36	$ 9.00		
1/2/2015	Copies	1	$ 0.25		
1/2/2015	Copies	1	$ 0.25		
1/2/2015	Copies	476	$ 119.00		
1/2/2015	Copies	8	$ 2.00		
1/2/2015	Copies	1	$ 0.25		
1/2/2015	Copies	5	$ 1.25		
1/2/2015	Copies	37	$ 9.25		
1/5/2015	Copies	43	$ 10.75		
1/5/2015	Copies	36	$ 9.00		
1/5/2015	Copies	240	$ 60.00		
1/5/2015	Copies	236	$ 59.00		
1/5/2015	Copies	1	$ 0.25		
1/5/2015	Copies	1	$ 0.25		
1/5/2015	Copies	140	$ 35.00		
1/5/2015	Copies	36	$ 9.00		
1/5/2015	Copies	2	$ 0.50		
1/5/2015	Copies	1	$ 0.25		
1/5/2015	Copies	123	$ 30.75		
1/5/2015	Copies	1	$ 0.25		
1/5/2015	Copies	5	$ 1.25		
1/5/2015	Copies	2	$ 0.50		
1/5/2015	Copies	2	$ 0.50		

Accounting Date	Cost Code	Units	Amount	Payee	Description
1/5/2015	Copies	76	$ 19.00		
1/5/2015	Copies	137	$ 34.25		
1/5/2015	Copies	59	$ 14.75		
1/5/2015	Copies	24	$ 6.00		
1/5/2015	Copies	2	$ 0.50		
1/5/2015	Copies	2	$ 0.50		
1/5/2015	Copies	14	$ 3.50		
1/5/2015	Copies	4	$ 1.00		
1/5/2015	Copies	1	$ 0.25		
1/5/2015	Copies	61	$ 15.25		
1/5/2015	Copies	7	$ 1.75		
1/5/2015	Copies	1	$ 0.25		
1/5/2015	Copies	7	$ 1.75		
1/5/2015	Copies	5	$ 1.25		
1/5/2015	Copies	2	$ 0.50		
1/5/2015	Copies	49	$ 12.25		
1/5/2015	Copies	2	$ 0.50		
1/5/2015	Copies	5	$ 1.25		
1/5/2015	Copies	2	$ 0.50		
1/5/2015	Copies	30	$ 7.50		
1/5/2015	Copies	33	$ 8.25		
1/5/2015	Copies	3	$ 0.75		
1/5/2015	Copies	2	$ 0.50		
1/5/2015	Copies	16	$ 4.00		
1/5/2015	Copies	4	$ 1.00		
1/5/2015	Copies	1	$ 0.25		
1/5/2015	Copies	3	$ 0.75		
1/5/2015	Copies	2	$ 0.50		
1/5/2015	Copies	19	$ 4.75		
1/5/2015	Copies	68	$ 17.00		
1/5/2015	Copies	1682	$ 420.50		
1/5/2015	Copies	22	$ 5.50		
1/6/2015	Copies	183	$ 45.75		
1/6/2015	Copies	9	$ 2.25		
1/6/2015	Copies	27	$ 6.75		
1/6/2015	Copies	3	$ 0.75		
1/6/2015	Copies	2	$ 0.50		
1/6/2015	Copies	10	$ 2.50		
1/6/2015	Copies	18	$ 4.50		
1/6/2015	Copies	2	$ 0.50		
1/6/2015	Copies	2	$ 0.50		
1/6/2015	Copies	1	$ 0.25		
1/6/2015	Copies	1	$ 0.25		
1/6/2015	Copies	4	$ 1.00		
1/6/2015	Copies	1	$ 0.25		
1/7/2015	Copies	130	$ 32.50		
1/7/2015	Copies	29	$ 7.25		
1/7/2015	Copies	128	$ 32.00		
1/7/2015	Copies	1	$ 0.25		
1/7/2015	Copies	42	$ 10.50		
1/7/2015	Copies	1	$ 0.25		

Accounting Date	Cost Code	Units	Amount	Payee	Description
1/7/2015	Copies	1	$ 0.25		
1/7/2015	Copies	3	$ 0.75		
1/7/2015	Copies	2	$ 0.50		
1/7/2015	Copies	17	$ 4.25		
1/8/2015	Copies	1	$ 0.25		
1/9/2015	Copies	14	$ 3.50		
1/9/2015	Copies	147	$ 36.75		
1/9/2015	Copies	3	$ 0.75		
1/9/2015	Copies	1	$ 0.25		
1/9/2015	Copies	1	$ 0.25		
1/9/2015	Copies	84	$ 21.00		
1/9/2015	Copies	84	$ 21.00		
1/9/2015	Copies	1	$ 0.25		
1/9/2015	Copies	2	$ 0.50		
1/9/2015	Copies	35	$ 8.75		
1/9/2015	Copies	34	$ 8.50		
1/9/2015	Copies	10	$ 2.50		
1/9/2015	Copies	6	$ 1.50		
1/9/2015	Copies	13	$ 3.25		
1/9/2015	Copies	14	$ 3.50		
1/9/2015	Copies	1	$ 0.25		
1/9/2015	Copies	22	$ 5.50		
1/9/2015	Copies	22	$ 5.50		
1/9/2015	Copies	2	$ 0.50		
1/9/2015	Copies	1	$ 0.25		
1/9/2015	Copies	1	$ 0.25		
1/9/2015	Copies	4	$ 1.00		
1/9/2015	Copies	147	$ 36.75		
1/9/2015	Copies	2	$ 0.50		
1/9/2015	Copies	2	$ 0.50		
1/9/2015	Copies	3	$ 0.75		
1/9/2015	Copies	1	$ 0.25		
1/9/2015	Copies	34	$ 8.50		
1/9/2015	Copies	5	$ 1.25		
1/9/2015	Copies	48	$ 12.00		
1/9/2015	Copies	114	$ 28.50		
1/9/2015	Copies	2	$ 0.50		
1/9/2015	Copies	2	$ 0.50		
1/9/2015	Copies	2	$ 0.50		
1/9/2015	Copies	2	$ 0.50		
1/9/2015	Copies	35	$ 8.75		
1/9/2015	Copies	35	$ 8.75		
1/9/2015	Copies	1	$ 0.25		
1/9/2015	Copies	2	$ 0.50		
1/9/2015	Copies	2	$ 0.50		
1/9/2015	Copies	4	$ 1.00		
1/9/2015	Copies	2	$ 0.50		
1/9/2015	Copies	1	$ 0.25		
1/9/2015	Copies	2	$ 0.50		
1/9/2015	Copies	2	$ 0.50		
1/9/2015	Copies	4	$ 1.00		

Accounting Date	Cost Code	Units	Amount	Payee	Description
1/9/2015	Copies	3	$ 0.75		
1/9/2015	Copies	1	$ 0.25		
1/9/2015	Copies	1	$ 0.25		
1/11/2015	Copies	114	$ 28.50		
1/12/2015	Copies	35	$ 8.75		
1/12/2015	Copies	2	$ 0.50		
1/12/2015	Copies	3	$ 0.75		
1/12/2015	Copies	71	$ 17.75		
1/12/2015	Copies	179	$ 44.75		
1/12/2015	Copies	2	$ 0.50		
1/12/2015	Copies	2	$ 0.50		
1/12/2015	Copies	2	$ 0.50		
1/12/2015	Copies	1	$ 0.25		
1/12/2015	Copies	1	$ 0.25		
1/12/2015	Copies	1	$ 0.25		
1/12/2015	Copies	1	$ 0.25		
1/13/2015	Copies	13	$ 3.25		
1/13/2015	Copies	1	$ 0.25		
1/15/2015	Copies	11	$ 2.75		
1/16/2015	Copies	179	$ 44.75		
1/16/2015	Copies	4	$ 1.00		
1/16/2015	Copies	1	$ 0.25		
1/16/2015	Copies	2	$ 0.50		
1/16/2015	Copies	2	$ 0.50		
1/16/2015	Copies	2	$ 0.50		
1/16/2015	Copies	1	$ 0.25		
1/16/2015	Copies	1	$ 0.25		
1/16/2015	Copies	1	$ 0.25		
1/16/2015	Copies	1	$ 0.25		
1/16/2015	Copies	2	$ 0.50		
1/16/2015	Copies	49	$ 12.25		
1/16/2015	Copies	2	$ 0.50		
1/19/2015	Copies	35	$ 8.75		
1/19/2015	Copies	1	$ 0.25		
1/20/2015	Copies	2	$ 0.50		
1/20/2015	Copies	9	$ 2.25		
1/20/2015	Copies	1	$ 0.25		
1/20/2015	Copies	25	$ 6.25		
1/20/2015	Copies	25	$ 6.25		
1/20/2015	Copies	1	$ 0.25		
1/22/2015	Copies	327	$ 81.75		
1/22/2015	Copies	1	$ 0.25		
1/22/2015	Copies	2	$ 0.50		
1/23/2015	Copies	1	$ 0.25		
1/23/2015	Copies	46	$ 11.50		
1/23/2015	Copies	1	$ 0.25		
1/23/2015	Copies	1	$ 0.25		
1/23/2015	Copies	27	$ 6.75		
1/23/2015	Copies	3	$ 0.75		
1/23/2015	Copies	10	$ 2.50		
1/23/2015	Copies	11	$ 2.75		

Accounting Date	Cost Code	Units	Amount	Payee	Description
1/23/2015	Copies	4	$ 1.00		
1/25/2015	Copies	1	$ 0.25		
1/25/2015	Copies	1	$ 0.25		
1/25/2015	Copies	3	$ 0.75		
1/25/2015	Copies	1	$ 0.25		
1/25/2015	Copies	6	$ 1.50		
1/26/2015	Copies	12	$ 3.00		
1/26/2015	Copies	9	$ 2.25		
1/26/2015	Copies	84	$ 21.00		
1/26/2015	Copies	9	$ 2.25		
1/26/2015	Copies	10	$ 2.50		
1/26/2015	Copies	9	$ 2.25		
1/26/2015	Copies	5	$ 1.25		
1/26/2015	Copies	4	$ 1.00		
1/26/2015	Copies	4	$ 1.00		
1/26/2015	Copies	2	$ 0.50		
1/26/2015	Copies	7	$ 1.75		
1/26/2015	Copies	1	$ 0.25		
1/26/2015	Copies	2	$ 0.50		
1/26/2015	Copies	7	$ 1.75		
1/26/2015	Copies	4	$ 1.00		
1/26/2015	Copies	1	$ 0.25		
1/26/2015	Copies	1	$ 0.25		
1/26/2015	Copies	10	$ 2.50		
1/26/2015	Copies	1	$ 0.25		
1/26/2015	Copies	2	$ 0.50		
1/26/2015	Copies	27	$ 6.75		
1/26/2015	Copies	67	$ 16.75		
1/26/2015	Copies	8	$ 2.00		
1/27/2015	Copies	55	$ 13.75		
1/27/2015	Copies	8	$ 2.00		
1/27/2015	Copies	1	$ 0.25		
1/27/2015	Copies	2	$ 0.50		
1/27/2015	Copies	1	$ 0.25		
1/27/2015	Copies	2	$ 0.50		
1/27/2015	Copies	26	$ 6.50		
1/27/2015	Copies	2	$ 0.50		
1/27/2015	Copies	1	$ 0.25		
1/27/2015	Copies	2	$ 0.50		
1/27/2015	Copies	3	$ 0.75		
1/27/2015	Copies	1	$ 0.25		
1/27/2015	Copies	6	$ 1.50		
1/27/2015	Copies	2	$ 0.50		
1/28/2015	Copies	14	$ 3.50		
1/29/2015	Copies	1	$ 0.25		
1/29/2015	Copies	1	$ 0.25		
1/29/2015	Copies	4	$ 1.00		
1/29/2015	Copies	2	$ 0.50		
2/2/2015	Copies	1	$ 0.25		
2/2/2015	Copies	81	$ 20.25		
2/3/2015	Copies	19	$ 4.75		

Accounting Date	Cost Code	Units	Amount	Payee	Description
2/3/2015	Copies	7	$ 1.75		
2/6/2015	Copies	49	$ 12.25		
2/6/2015	Copies	3	$ 0.75		
2/6/2015	Copies	5	$ 1.25		
2/6/2015	Copies	8	$ 2.00		
2/6/2015	Copies	3	$ 0.75		
2/11/2015	Copies	3	$ 0.75		
2/11/2015	Copies	3	$ 0.75		
2/11/2015	Copies	2	$ 0.50		
2/11/2015	Copies	2	$ 0.50		
2/11/2015	Copies	9	$ 2.25		
2/11/2015	Copies	29	$ 7.25		
2/11/2015	Copies	1	$ 0.25		
2/12/2015	Copies	29	$ 7.25		
2/12/2015	Copies	1	$ 0.25		
2/12/2015	Copies	1	$ 0.25		
2/13/2015	Copies	9	$ 2.25		
2/17/2015	Copies	3	$ 0.75		
2/17/2015	Copies	2	$ 0.50		
2/17/2015	Copies	2	$ 0.50		
2/17/2015	Copies	49	$ 12.25		
2/17/2015	Copies	35	$ 8.75		
2/17/2015	Copies	29	$ 7.25		
2/17/2015	Copies	22	$ 5.50		
2/17/2015	Copies	42	$ 10.50		
2/17/2015	Copies	3	$ 0.75		
2/17/2015	Copies	9	$ 2.25		
2/17/2015	Copies	2	$ 0.50		
2/17/2015	Copies	1	$ 0.25		
2/17/2015	Copies	2	$ 0.50		
2/17/2015	Copies	26	$ 6.50		
2/17/2015	Copies	2	$ 0.50		
2/17/2015	Copies	1	$ 0.25		
2/17/2015	Copies	2	$ 0.50		
2/17/2015	Copies	26	$ 6.50		
2/17/2015	Copies	3	$ 0.75		
2/17/2015	Copies	1	$ 0.25		
2/17/2015	Copies	3	$ 0.75		
2/17/2015	Copies	3	$ 0.75		
2/17/2015	Copies	5	$ 1.25		
2/23/2015	Copies	1	$ 0.25		
2/23/2015	Copies	1	$ 0.25		
3/2/2015	Copies	3	$ 0.75		
3/3/2015	Copies	3	$ 0.75		
3/3/2015	Copies	196	$ 49.00		
3/3/2015	Copies	196	$ 49.00		
3/10/2015	Copies	2	$ 0.50		
3/10/2015	Copies	2	$ 0.50		
3/10/2015	Copies	1	$ 0.25		
3/11/2015	Copies	2	$ 0.50		
3/11/2015	Copies	4	$ 1.00		

Accounting Date	Cost Code	Units	Amount	Payee	Description
3/11/2015	Copies	3	$ 0.75		
3/11/2015	Copies	7	$ 1.75		
3/11/2015	Copies	2	$ 0.50		
3/11/2015	Copies	1	$ 0.25		
3/11/2015	Copies	3	$ 0.75		
3/12/2015	Copies	5	$ 1.25		
3/12/2015	Copies	222	$ 55.50		
3/12/2015	Copies	18	$ 4.50		
3/12/2015	Copies	8	$ 2.00		
3/12/2015	Copies	1	$ 0.25		
3/12/2015	Copies	1	$ 0.25		
3/12/2015	Copies	2	$ 0.50		
3/12/2015	Copies	1	$ 0.25		
3/12/2015	Copies	1	$ 0.25		
3/12/2015	Copies	16	$ 4.00		
3/12/2015	Copies	245	$ 61.25		
3/12/2015	Copies	2	$ 0.50		
3/12/2015	Copies	1	$ 0.25		
3/12/2015	Copies	4	$ 1.00		
3/13/2015	Copies	266	$ 66.50		
3/13/2015	Copies	266	$ 66.50		
3/13/2015	Copies	3	$ 0.75		
3/13/2015	Copies	2	$ 0.50		
3/13/2015	Copies	3	$ 0.75		
3/13/2015	Copies	2	$ 0.50		
3/13/2015	Copies	6	$ 1.50		
3/13/2015	Copies	1	$ 0.25		
3/13/2015	Copies	1	$ 0.25		
3/13/2015	Copies	1	$ 0.25		
3/16/2015	Copies	3	$ 0.75		
3/16/2015	Copies	23	$ 5.75		
3/16/2015	Copies	13	$ 3.25		
3/16/2015	Copies	1	$ 0.25		
3/16/2015	Copies	35	$ 8.75		
3/16/2015	Copies	267	$ 66.75		
3/16/2015	Copies	1	$ 0.25		
3/16/2015	Copies	267	$ 66.75		
3/16/2015	Copies	267	$ 66.75		
3/16/2015	Copies	2	$ 0.50		
3/18/2015	Copies	8	$ 2.00		
3/18/2015	Copies	8	$ 2.00		
3/18/2015	Copies	8	$ 2.00		
3/18/2015	Copies	1	$ 0.25		
3/18/2015	Copies	5	$ 1.25		
3/18/2015	Copies	1	$ 0.25		
3/18/2015	Copies	5	$ 1.25		
3/18/2015	Copies	8	$ 2.00		
3/18/2015	Copies	2	$ 0.50		
3/18/2015	Copies	60	$ 15.00		
3/18/2015	Copies	10	$ 2.50		
3/18/2015	Copies	1	$ 0.25		

Accounting Date	Cost Code	Units	Amount	Payee	Description
3/19/2015	Copies	5	$ 1.25		
3/19/2015	Copies	36	$ 9.00		
3/19/2015	Copies	40	$ 10.00		
3/19/2015	Copies	14	$ 3.50		
3/19/2015	Copies	14	$ 3.50		
3/19/2015	Copies	35	$ 8.75		
3/19/2015	Copies	60	$ 15.00		
3/19/2015	Copies	2	$ 0.50		
3/19/2015	Copies	14	$ 3.50		
3/19/2015	Copies	35	$ 8.75		
3/19/2015	Copies	5	$ 1.25		
3/19/2015	Copies	5	$ 1.25		
3/19/2015	Copies	5	$ 1.25		
3/19/2015	Copies	5	$ 1.25		
3/19/2015	Copies	5	$ 1.25		
3/19/2015	Copies	1	$ 0.25		
3/19/2015	Copies	5	$ 1.25		
3/19/2015	Copies	2	$ 0.50		
3/19/2015	Copies	4	$ 1.00		
3/19/2015	Copies	1	$ 0.25		
3/19/2015	Copies	1	$ 0.25		
3/19/2015	Copies	1	$ 0.25		
3/19/2015	Copies	1	$ 0.25		
3/19/2015	Copies	1	$ 0.25		
3/19/2015	Copies	1	$ 0.25		
3/19/2015	Copies	1	$ 0.25		
3/19/2015	Copies	1	$ 0.25		
3/19/2015	Copies	14	$ 3.50		
3/19/2015	Copies	2	$ 0.50		
3/19/2015	Copies	10	$ 2.50		
3/19/2015	Copies	5	$ 1.25		
3/19/2015	Copies	7	$ 1.75		
3/19/2015	Copies	10	$ 2.50		
3/19/2015	Copies	2	$ 0.50		
3/19/2015	Copies	1	$ 0.25		
3/19/2015	Copies	5	$ 1.25		
3/19/2015	Copies	5	$ 1.25		
3/19/2015	Copies	1	$ 0.25		
3/19/2015	Copies	1	$ 0.25		
3/19/2015	Copies	2	$ 0.50		
3/19/2015	Copies	1	$ 0.25		
3/19/2015	Copies	1	$ 0.25		
3/19/2015	Copies	1	$ 0.25		
3/19/2015	Copies	1	$ 0.25		
3/19/2015	Copies	1	$ 0.25		
3/19/2015	Copies	10	$ 2.50		
3/19/2015	Copies	3	$ 0.75		
3/19/2015	Copies	2	$ 0.50		
3/19/2015	Copies	4	$ 1.00		
3/19/2015	Copies	6	$ 1.50		
3/19/2015	Copies	5	$ 1.25		

Accounting Date	Cost Code	Units	Amount	Payee	Description
3/19/2015	Copies	7	$ 1.75		
3/19/2015	Copies	35	$ 8.75		
3/19/2015	Copies	24	$ 6.00		
3/19/2015	Copies	384	$ 96.00		
3/19/2015	Copies	109	$ 27.25		
3/19/2015	Copies	9	$ 2.25		
3/19/2015	Copies	6	$ 1.50		
3/19/2015	Copies	35	$ 8.75		
3/19/2015	Copies	2	$ 0.50		
3/19/2015	Copies	2	$ 0.50		
3/19/2015	Copies	5	$ 1.25		
3/19/2015	Copies	5	$ 1.25		
3/19/2015	Copies	65	$ 16.25		
3/19/2015	Copies	1	$ 0.25		
3/20/2015	Copies	11	$ 2.75		
3/20/2015	Copies	2	$ 0.50		
3/20/2015	Copies	7	$ 1.75		
3/20/2015	Copies	4	$ 1.00		
3/20/2015	Copies	5	$ 1.25		
3/20/2015	Copies	5	$ 1.25		
3/20/2015	Copies	10	$ 2.50		
3/20/2015	Copies	5	$ 1.25		
3/20/2015	Copies	5	$ 1.25		
3/20/2015	Copies	15	$ 3.75		
3/20/2015	Copies	5	$ 1.25		
3/20/2015	Copies	5	$ 1.25		
3/20/2015	Copies	10	$ 2.50		
3/20/2015	Copies	5	$ 1.25		
3/20/2015	Copies	5	$ 1.25		
3/20/2015	Copies	6	$ 1.50		
3/20/2015	Copies	5	$ 1.25		
3/20/2015	Copies	5	$ 1.25		
3/24/2015	Copies	16	$ 4.00		
3/24/2015	Copies	15	$ 3.75		
3/24/2015	Copies	1	$ 0.25		
3/24/2015	Copies	2	$ 0.50		
3/24/2015	Copies	6	$ 1.50		
3/24/2015	Copies	1	$ 0.25		
3/24/2015	Copies	2	$ 0.50		
3/24/2015	Copies	2	$ 0.50		
3/24/2015	Copies	1	$ 0.25		
3/24/2015	Copies	1	$ 0.25		
3/24/2015	Copies	1	$ 0.25		
3/24/2015	Copies	1	$ 0.25		
3/24/2015	Copies	1	$ 0.25		
3/24/2015	Copies	1	$ 0.25		
3/24/2015	Copies	1	$ 0.25		
3/25/2015	Copies	4	$ 1.00		
3/25/2015	Copies	2	$ 0.50		
3/25/2015	Copies	15	$ 3.75		
3/25/2015	Copies	16	$ 4.00		

Accounting Date	Cost Code	Units	Amount	Payee	Description
3/25/2015	Copies	3	$ 0.75		
3/25/2015	Copies	3	$ 0.75		
3/25/2015	Copies	4	$ 1.00		
3/26/2015	Copies	3	$ 0.75		
3/26/2015	Copies	5	$ 1.25		
3/26/2015	Copies	5	$ 1.25		
3/26/2015	Copies	2	$ 0.50		
3/26/2015	Copies	2	$ 0.50		
3/26/2015	Copies	2	$ 0.50		
3/26/2015	Copies	4	$ 1.00		
3/26/2015	Copies	1	$ 0.25		
3/26/2015	Copies	1	$ 0.25		
3/26/2015	Copies	15	$ 3.75		
3/27/2015	Copies	2	$ 0.50		
3/27/2015	Copies	2	$ 0.50		
3/27/2015	Copies	2	$ 0.50		
3/27/2015	Copies	3	$ 0.75		
3/30/2015	Copies	6	$ 1.50		
3/30/2015	Copies	5	$ 1.25		
3/30/2015	Copies	2	$ 0.50		
3/30/2015	Copies	1	$ 0.25		
3/31/2015	Copies	90	$ 22.50		
3/31/2015	Copies	2	$ 0.50		
3/31/2015	Copies	2	$ 0.50		
3/31/2015	Copies	2	$ 0.50		
3/31/2015	Copies	10	$ 2.50		
3/31/2015	Copies	1	$ 0.25		
3/31/2015	Copies	90	$ 22.50		
4/1/2015	Copies	90	$ 22.50		
4/1/2015	Copies	86	$ 21.50		
4/1/2015	Copies	5	$ 1.25		
4/2/2015	Copies	131	$ 32.75		
4/2/2015	Copies	2	$ 0.50		
4/2/2015	Copies	2	$ 0.50		
4/2/2015	Copies	2	$ 0.50		
4/2/2015	Copies	50	$ 12.50		
4/2/2015	Copies	1	$ 0.25		
4/2/2015	Copies	2	$ 0.50		
4/2/2015	Copies	11	$ 2.75		
4/2/2015	Copies	2	$ 0.50		
4/3/2015	Copies	22	$ 5.50		
4/3/2015	Copies	12	$ 3.00		
4/3/2015	Copies	2	$ 0.50		
4/3/2015	Copies	2	$ 0.50		
4/3/2015	Copies	13	$ 3.25		
4/6/2015	Copies	2	$ 0.50		
4/6/2015	Copies	1	$ 0.25		
4/6/2015	Copies	1	$ 0.25		
4/6/2015	Copies	2	$ 0.50		
4/7/2015	Copies	48	$ 12.00		
4/7/2015	Copies	4	$ 1.00		

Accounting Date	Cost Code	Units	Amount	Payee	Description
4/7/2015	Copies	5	$ 1.25		
4/7/2015	Copies	15	$ 3.75		
4/7/2015	Copies	2	$ 0.50		
4/7/2015	Copies	5	$ 1.25		
4/7/2015	Copies	5	$ 1.25		
4/7/2015	Copies	7	$ 1.75		
4/8/2015	Copies	48	$ 12.00		
4/8/2015	Copies	15	$ 3.75		
4/8/2015	Copies	2	$ 0.50		
4/8/2015	Copies	2	$ 0.50		
4/8/2015	Copies	1	$ 0.25		
4/8/2015	Copies	2	$ 0.50		
4/8/2015	Copies	8	$ 2.00		
4/9/2015	Copies	4	$ 1.00		
4/9/2015	Copies	7	$ 1.75		
4/9/2015	Copies	4	$ 1.00		
4/9/2015	Copies	1	$ 0.25		
4/9/2015	Copies	2	$ 0.50		
4/9/2015	Copies	24	$ 6.00		
4/9/2015	Copies	2	$ 0.50		
4/9/2015	Copies	48	$ 12.00		
4/9/2015	Copies	2	$ 0.50		
4/9/2015	Copies	1	$ 0.25		
4/10/2015	Copies	23	$ 5.75		
4/10/2015	Copies	7	$ 1.75		
4/10/2015	Copies	2	$ 0.50		
4/10/2015	Copies	5	$ 1.25		
4/10/2015	Copies	2	$ 0.50		
4/10/2015	Copies	5	$ 1.25		
4/10/2015	Copies	23	$ 5.75		
4/13/2015	Copies	96	$ 24.00		
4/13/2015	Copies	6	$ 1.50		
4/13/2015	Copies	7	$ 1.75		
4/13/2015	Copies	5	$ 1.25		
4/13/2015	Copies	1	$ 0.25		
4/13/2015	Copies	7	$ 1.75		
4/13/2015	Copies	13	$ 3.25		
4/13/2015	Copies	1	$ 0.25		
4/13/2015	Copies	1	$ 0.25		
4/13/2015	Copies	2	$ 0.50		
4/13/2015	Copies	2	$ 0.50		
4/13/2015	Copies	5	$ 1.25		
4/13/2015	Copies	2	$ 0.50		
4/13/2015	Copies	1	$ 0.25		
4/13/2015	Copies	2	$ 0.50		
4/13/2015	Copies	1	$ 0.25		
4/13/2015	Copies	8	$ 2.00		
4/13/2015	Copies	1	$ 0.25		
4/13/2015	Copies	12	$ 3.00		
4/13/2015	Copies	12	$ 3.00		
4/14/2015	Copies	52	$ 13.00		

Accounting Date	Cost Code	Units	Amount	Payee	Description
4/14/2015	Copies	26	$ 6.50		
4/14/2015	Copies	2	$ 0.50		
4/14/2015	Copies	1	$ 0.25		
4/14/2015	Copies	2	$ 0.50		
4/14/2015	Copies	1	$ 0.25		
4/14/2015	Copies	1	$ 0.25		
4/15/2015	Copies	3	$ 0.75		
4/15/2015	Copies	2	$ 0.50		
4/15/2015	Copies	1	$ 0.25		
4/15/2015	Copies	3	$ 0.75		
4/15/2015	Copies	3	$ 0.75		
4/15/2015	Copies	6	$ 1.50		
4/15/2015	Copies	2	$ 0.50		
4/15/2015	Copies	2	$ 0.50		
4/15/2015	Copies	1	$ 0.25		
4/15/2015	Copies	8	$ 2.00		
4/15/2015	Copies	2	$ 0.50		
4/15/2015	Copies	1	$ 0.25		
4/16/2015	Copies	1	$ 0.25		
4/16/2015	Copies	1	$ 0.25		
4/16/2015	Copies	8	$ 2.00		
4/16/2015	Copies	4	$ 1.00		
4/16/2015	Copies	35	$ 8.75		
4/16/2015	Copies	9	$ 2.25		
4/16/2015	Copies	45	$ 11.25		
4/16/2015	Copies	45	$ 11.25		
4/16/2015	Copies	9	$ 2.25		
4/16/2015	Copies	2	$ 0.50		
4/16/2015	Copies	8	$ 2.00		
4/16/2015	Copies	8	$ 2.00		
4/16/2015	Copies	2	$ 0.50		
4/16/2015	Copies	2	$ 0.50		
4/16/2015	Copies	2	$ 0.50		
4/16/2015	Copies	2	$ 0.50		
4/16/2015	Copies	1	$ 0.25		
4/16/2015	Copies	2	$ 0.50		
4/16/2015	Copies	1	$ 0.25		
4/16/2015	Copies	2	$ 0.50		
4/16/2015	Copies	1	$ 0.25		
4/16/2015	Copies	1	$ 0.25		
4/16/2015	Copies	1	$ 0.25		
4/16/2015	Copies	3	$ 0.75		
4/16/2015	Copies	1	$ 0.25		
4/16/2015	Copies	1	$ 0.25		
4/16/2015	Copies	1	$ 0.25		
4/16/2015	Copies	1	$ 0.25		
4/16/2015	Copies	2	$ 0.50		
4/16/2015	Copies	2	$ 0.50		
4/16/2015	Copies	4	$ 1.00		
4/17/2015	Copies	6	$ 1.50		
4/17/2015	Copies	3	$ 0.75		

Accounting Date	Cost Code	Units	Amount	Payee	Description
4/17/2015	Copies	3	$ 0.75		
4/17/2015	Copies	4	$ 1.00		
4/17/2015	Copies	4	$ 1.00		
4/17/2015	Copies	8	$ 2.00		
4/17/2015	Copies	8	$ 2.00		
4/17/2015	Copies	2	$ 0.50		
4/17/2015	Copies	2	$ 0.50		
4/17/2015	Copies	4	$ 1.00		
4/17/2015	Copies	4	$ 1.00		
4/20/2015	Copies	7	$ 1.75		
4/20/2015	Copies	5	$ 1.25		
4/20/2015	Copies	6	$ 1.50		
4/20/2015	Copies	6	$ 1.50		
4/20/2015	Copies	4	$ 1.00		
4/20/2015	Copies	4	$ 1.00		
4/20/2015	Copies	1	$ 0.25		
4/20/2015	Copies	5	$ 1.25		
4/20/2015	Copies	2	$ 0.50		
4/20/2015	Copies	2	$ 0.50		
4/20/2015	Copies	2	$ 0.50		
4/20/2015	Copies	7	$ 1.75		
4/20/2015	Copies	4	$ 1.00		
4/20/2015	Copies	1	$ 0.25		
4/22/2015	Copies	4	$ 1.00		
4/22/2015	Copies	2	$ 0.50		
4/22/2015	Copies	8	$ 2.00		
4/22/2015	Copies	5	$ 1.25		
4/22/2015	Copies	2	$ 0.50		
4/22/2015	Copies	1	$ 0.25		
4/22/2015	Copies	8	$ 2.00		
4/22/2015	Copies	9	$ 2.25		
4/22/2015	Copies	9	$ 2.25		
4/23/2015	Copies	9	$ 2.25		
4/23/2015	Copies	9	$ 2.25		
4/23/2015	Copies	2	$ 0.50		
4/23/2015	Copies	1	$ 0.25		
4/23/2015	Copies	1	$ 0.25		
4/23/2015	Copies	1	$ 0.25		
4/23/2015	Copies	1	$ 0.25		
4/23/2015	Copies	1	$ 0.25		
4/23/2015	Copies	1	$ 0.25		
4/23/2015	Copies	51	$ 12.75		
4/23/2015	Copies	51	$ 12.75		
4/23/2015	Copies	152	$ 38.00		
4/27/2015	Copies	2	$ 0.50		
4/28/2015	Copies	1	$ 0.25		
4/28/2015	Copies	1	$ 0.25		
4/28/2015	Copies	1	$ 0.25		
4/28/2015	Copies	1	$ 0.25		
4/29/2015	Copies	4	$ 1.00		
4/29/2015	Copies	7	$ 1.75		

Accounting Date	Cost Code	Units	Amount	Payee	Description
4/29/2015	Copies	5	$ 1.25		
4/30/2015	Copies	170	$ 42.50		
5/5/2015	Copies	14	$ 3.50		
5/5/2015	Copies	27	$ 6.75		
5/7/2015	Copies	3	$ 0.75		
5/8/2015	Copies	15	$ 3.75		
5/8/2015	Copies	2	$ 0.50		
5/8/2015	Copies	3	$ 0.75		
5/8/2015	Copies	2	$ 0.50		
5/8/2015	Copies	1	$ 0.25		
5/8/2015	Copies	1	$ 0.25		
5/8/2015	Copies	1	$ 0.25		
5/8/2015	Copies	2	$ 0.50		
5/8/2015	Copies	1	$ 0.25		
7/10/2015	Copies	1	$ 0.25		
7/10/2015	Copies	1	$ 0.25		
7/10/2015	Copies	1	$ 0.25		
7/10/2015	Copies	1	$ 0.25		
7/10/2015	Copies	1	$ 0.25		
7/10/2015	Copies	1	$ 0.25		
7/10/2015	Copies	1	$ 0.25		
7/10/2015	Copies	1	$ 0.25		
7/10/2015	Copies	1	$ 0.25		
7/10/2015	Copies	1	$ 0.25		
7/24/2015	Copies	14	$ 3.50		
7/24/2015	Copies	1	$ 0.25		
7/24/2015	Copies	1	$ 0.25		
7/24/2015	Copies	1	$ 0.25		
7/30/2015	Copies	1	$ 0.25		
7/30/2015	Copies	1	$ 0.25		
7/30/2015	Copies	2	$ 0.50		
7/30/2015	Copies	1	$ 0.25		
7/30/2015	Copies	4	$ 1.00		
7/30/2015	Copies	1	$ 0.25		
7/30/2015	Copies	3	$ 0.75		
9/16/2015	Copies	9	$ 2.25		
9/16/2015	Copies	4	$ 1.00		
9/16/2015	Copies	2	$ 0.50		
9/16/2015	Copies	6	$ 1.50		
9/16/2015	Copies	1	$ 0.25		
10/22/2015	Copies	1	$ 0.25		
10/22/2015	Copies	1	$ 0.25		
10/22/2015	Copies	1	$ 0.25		
10/22/2015	Copies	1	$ 0.25		
1/25/2016	Copies	1	$ 0.25		
1/28/2016	Copies	2	$ 0.50		
2/19/2016	Copies	2	$ 0.50		
2/19/2016	Copies	17	$ 4.25		
7/7/2016	Copies	12	$ 3.00		
7/7/2016	Copies	6	$ 1.50		
7/13/2016	Copies	13	$ 3.25		

Accounting Date	Cost Code	Units	Amount	Payee	Description
7/13/2016	Copies	3	$ 0.75		
	Copies Total	**14734**	**$ 3,683.50**		

Accounting Date	Cost Code	Units	Amount	Payee	Description
2/2/2015	Laser Color Copies	2	$ 2.00		
	Laser Color Copies Total	**2**	**$ 2.00**		

Accounting Date	Cost Code	Units	Amount	Payee	Description
1/6/2015	Long Distance	1	$ 0.35		
1/6/2015	Long Distance	1	$ 6.30		
1/7/2015	Long Distance	1	$ 0.35		
1/7/2015	Long Distance	1	$ 1.75		
1/13/2015	Long Distance	1	$ 0.35		
1/14/2015	Long Distance	1	$ 3.15		
1/14/2015	Long Distance	1	$ 7.00		
1/28/2015	Long Distance	1	$ 9.80		
1/28/2015	Long Distance	1	$ 1.40		
1/30/2015	Long Distance	1	$ 1.05		
1/30/2015	Long Distance	1	$ 0.70		
1/30/2015	Long Distance	1	$ 7.35		
2/2/2015	Long Distance	1	$ 5.25		
2/18/2015	Long Distance	1	$ 16.10		
2/18/2015	Long Distance	1	$ 6.30		
2/19/2015	Long Distance	1	$ 24.85		
2/23/2015	Long Distance	1	$ 3.85		
3/10/2015	Long Distance	1	$ 12.60		
3/10/2015	Long Distance	1	$ 4.55		
3/10/2015	Long Distance	1	$ 0.35		
3/11/2015	Long Distance	1	$ 0.70		
3/11/2015	Long Distance	1	$ 23.45		
3/12/2015	Long Distance	1	$ 1.40		
3/12/2015	Long Distance	1	$ 3.85		
3/12/2015	Long Distance	1	$ 2.10		
3/12/2015	Long Distance	1	$ 0.35		
3/12/2015	Long Distance	1	$ 1.05		
3/12/2015	Long Distance	1	$ 1.05		
3/12/2015	Long Distance	1	$ 0.70		
3/12/2015	Long Distance	1	$ 7.00		
3/17/2015	Long Distance	1	$ 0.70		
3/17/2015	Long Distance	1	$ 1.05		
3/19/2015	Long Distance	1	$ 0.35		
3/19/2015	Long Distance	1	$ 10.15		
3/19/2015	Long Distance	1	$ 5.60		
3/20/2015	Long Distance	1	$ 4.55		
3/20/2015	Long Distance	1	$ 0.35		
3/20/2015	Long Distance	1	$ 17.50		
3/26/2015	Long Distance	1	$ 0.70		
3/27/2015	Long Distance	1	$ 3.15		
3/30/2015	Long Distance	1	$ 0.35		
4/1/2015	Long Distance	1	$ 0.35		
4/1/2015	Long Distance	1	$ 0.35		
4/2/2015	Long Distance	1	$ 0.35		
4/3/2015	Long Distance	1	$ 3.50		
4/7/2015	Long Distance	1	$ 5.60		
4/7/2015	Long Distance	1	$ 13.65		
4/8/2015	Long Distance	1	$ 1.40		
4/8/2015	Long Distance	1	$ 3.15		
4/8/2015	Long Distance	1	$ 1.75		
4/8/2015	Long Distance	1	$ 0.70		

Accounting Date	Cost Code	Units	Amount	Payee	Description
4/9/2015	Long Distance	1	$ 1.75		
4/13/2015	Long Distance	1	$ 3.15		
4/13/2015	Long Distance	1	$ 0.35		
4/13/2015	Long Distance	1	$ 0.35		
4/13/2015	Long Distance	1	$ 4.55		
4/14/2015	Long Distance	1	$ 0.35		
4/14/2015	Long Distance	1	$ 30.10		
4/15/2015	Long Distance	1	$ 0.35		
4/16/2015	Long Distance	1	$ 3.15		
4/16/2015	Long Distance	1	$ 1.05		
4/16/2015	Long Distance	1	$ 0.70		
4/16/2015	Long Distance	1	$ 11.55		
4/16/2015	Long Distance	1	$ 4.20		
4/17/2015	Long Distance	1	$ 3.85		
4/17/2015	Long Distance	1	$ 2.45		
4/17/2015	Long Distance	1	$ 0.35		
4/22/2015	Long Distance	1	$ 1.40		
4/23/2015	Long Distance	1	$ 3.15		
1/20/2016	Long Distance	1	$ 1.75		
	Long Distance Total	**70**	**$ 304.85**		

Accounting Date	Cost Code	Units	Amount	Payee	Description
1/20/2015	Messenger Service	0	$ 20.00		
1/20/2015	Messenger Service	0	$ 40.00		
1/20/2015	Messenger Service	0	$ 52.00		
1/20/2015	Messenger Service	0	$ 12.00		
1/31/2015	Messenger Service	0	$ 40.00		
2/23/2015	Messenger Service	0	$ 40.00		
3/20/2015	Messenger Service	0	$ 12.00		
3/31/2015	Messenger Service	0	$ 1.00		
3/31/2015	Messenger Service	0	$ 1.00		
3/31/2015	Messenger Service	0	$ 1.00		
3/31/2015	Messenger Service	0	$ 1.00		
3/31/2015	Messenger Service	0	$ 1.00		
3/31/2015	Messenger Service	0	$ 1.00		
3/31/2015	Messenger Service	0	$ 1.00		
3/31/2015	Messenger Service	0	$ 1.00		
3/31/2015	Messenger Service	0	$ 1.00		
3/31/2015	Messenger Service	0	$ 1.00		
3/31/2015	Messenger Service	0	$ 1.00		
3/31/2015	Messenger Service	0	$ 1.00		
3/31/2015	Messenger Service	0	$ 1.00		
3/31/2015	Messenger Service	0	$ 1.00		
3/31/2015	Messenger Service	0	$ 1.00		
3/31/2015	Messenger Service	0	$ 1.00		
3/31/2015	Messenger Service	0	$ 1.00		
3/31/2015	Messenger Service	0	$ 1.00		
3/31/2015	Messenger Service	0	$ 1.00		
3/31/2015	Messenger Service	0	$ 1.00		
3/31/2015	Messenger Service	0	$ 1.00		
3/31/2015	Messenger Service	0	$ 1.00		
3/31/2015	Messenger Service	0	$ 1.00		
3/31/2015	Messenger Service	0	$ 1.00		
3/31/2015	Messenger Service	0	$ 1.00		
3/31/2015	Messenger Service	0	$ 1.00		
3/31/2015	Messenger Service	0	$ 1.00		
3/31/2015	Messenger Service	0	$ 1.00		
4/17/2015	Messenger Service	0	$ 42.00		
4/17/2015	Messenger Service	0	$ 62.00		
4/17/2015	Messenger Service	0	$ 32.00		
4/30/2015	Messenger Service	0	$ 12.00		
4/30/2015	Messenger Service	0	$ 1.00		
4/30/2015	Messenger Service	0	$ 1.00		
4/30/2015	Messenger Service	0	$ 1.00		
4/30/2015	Messenger Service	0	$ 1.00		
4/30/2015	Messenger Service	0	$ 1.00		
4/30/2015	Messenger Service	0	$ 1.00		
4/30/2015	Messenger Service	0	$ 1.00		
4/30/2015	Messenger Service	0	$ 1.00		
6/30/2015	Messenger Service	0	$ 22.00		
6/30/2015	Messenger Service	0	$ 42.00		
6/30/2015	Messenger Service	0	$ 12.00		
6/30/2015	Messenger Service	0	$ 92.00		
	Messenger Service Total	**0**	**$ 565.00**		

Accounting Date	Cost Code	Units	Amount	Payee	Description
1/22/2015	Parking Fee	0	$ 8.00		R
2/28/2015	Parking Fee	0	$ 12.00		PC - 02/18/2015 hearing
2/28/2015	Parking Fee	0	$ 20.00		PC - 01/14/2015 hearing
2/28/2015	Parking Fee	0	$ 20.00		PC - 01/30/2015 hearing
5/14/2015	Parking Fee	0	$ 12.00		PC - 04/14/2015 hearing
	Parking Fee Total	**0**	**$ 72.00**		

Accounting Date	Cost Code	Units	Amount	Payee	Description
1/2/2015	Postage	0	$ 2.24		
1/9/2015	Postage	0	$ 2.32		
1/12/2015	Postage	0	$ 0.48		
1/16/2015	Postage	0	$ 3.40		
1/27/2015	Postage	0	$ 4.69		
1/27/2015	Postage	0	$ 0.48		
2/12/2015	Postage	0	$ 2.03		
2/12/2015	Postage	0	$ 1.82		
3/13/2015	Postage	0	$ 0.96		
4/15/2015	Postage	0	$ 2.32		
4/20/2015	Postage	0	$ 0.48		
4/20/2015	Postage	0	$ 1.40		
4/23/2015	Postage	0	$ 6.72		
5/8/2015	Postage	0	$ 18.99		
5/8/2015	Postage	0	$ 6.54		
7/24/2015	Postage	0	$ 0.93		
	Postage Total	**0**	**$ 55.80**		

Accounting Date	Cost Code	Units	Amount	Payee	Description
1/2/2015	Scanning	285	$ 71.25		
1/2/2015	Scanning	178	$ 44.50		
1/2/2015	Scanning	8	$ 2.00		
1/2/2015	Scanning	8	$ 2.00		
1/2/2015	Scanning	12	$ 3.00		
1/2/2015	Scanning	5	$ 1.25		
1/2/2015	Scanning	36	$ 9.00		
1/2/2015	Scanning	1	$ 0.25		
1/2/2015	Scanning	38	$ 9.50		
1/5/2015	Scanning	35	$ 8.75		
1/5/2015	Scanning	161	$ 40.25		
1/5/2015	Scanning	185	$ 46.25		
1/5/2015	Scanning	59	$ 14.75		
1/5/2015	Scanning	7	$ 1.75		
1/5/2015	Scanning	24	$ 6.00		
1/5/2015	Scanning	4	$ 1.00		
1/5/2015	Scanning	229	$ 57.25		
1/5/2015	Scanning	67	$ 16.75		
1/7/2015	Scanning	43	$ 10.75		
1/7/2015	Scanning	41	$ 10.25		
1/8/2015	Scanning	1	$ 0.25		
1/8/2015	Scanning	1	$ 0.25		
1/9/2015	Scanning	6	$ 1.50		
1/9/2015	Scanning	112	$ 28.00		
1/9/2015	Scanning	31	$ 7.75		
1/9/2015	Scanning	36	$ 9.00		
1/9/2015	Scanning	1	$ 0.25		
1/12/2015	Scanning	5	$ 1.25		
1/12/2015	Scanning	5	$ 1.25		
1/12/2015	Scanning	4	$ 1.00		
1/12/2015	Scanning	4	$ 1.00		
1/13/2015	Scanning	1	$ 0.25		
1/16/2015	Scanning	1	$ 0.25		
1/16/2015	Scanning	8	$ 2.00		
1/20/2015	Scanning	3	$ 0.75		
1/20/2015	Scanning	3	$ 0.75		
1/22/2015	Scanning	9	$ 2.25		
1/22/2015	Scanning	2	$ 0.50		
1/23/2015	Scanning	153	$ 38.25		
1/23/2015	Scanning	3	$ 0.75		
1/23/2015	Scanning	6	$ 1.50		
1/23/2015	Scanning	3	$ 0.75		
1/25/2015	Scanning	8	$ 2.00		
1/26/2015	Scanning	42	$ 10.50		
1/27/2015	Scanning	3	$ 0.75		
1/28/2015	Scanning	23	$ 5.75		
1/29/2015	Scanning	1	$ 0.25		
1/29/2015	Scanning	1	$ 0.25		
1/29/2015	Scanning	2	$ 0.50		
1/29/2015	Scanning	1	$ 0.25		
1/29/2015	Scanning	1	$ 0.25		

Accounting Date	Cost Code	Units	Amount	Payee	Description
1/30/2015	Scanning	11	$ 2.75		
1/30/2015	Scanning	11	$ 2.75		
1/30/2015	Scanning	3	$ 0.75		
1/30/2015	Scanning	2	$ 0.50		
2/11/2015	Scanning	8	$ 2.00		
2/11/2015	Scanning	30	$ 7.50		
2/18/2015	Scanning	4	$ 1.00		
2/18/2015	Scanning	6	$ 1.50		
2/20/2015	Scanning	7	$ 1.75		
2/23/2015	Scanning	2	$ 0.50		
3/3/2015	Scanning	3	$ 0.75		
3/9/2015	Scanning	6	$ 1.50		
3/10/2015	Scanning	1	$ 0.25		
3/12/2015	Scanning	229	$ 57.25		
3/12/2015	Scanning	5	$ 1.25		
3/12/2015	Scanning	3	$ 0.75		
3/12/2015	Scanning	2	$ 0.50		
3/12/2015	Scanning	2	$ 0.50		
3/12/2015	Scanning	14	$ 3.50		
3/13/2015	Scanning	3	$ 0.75		
3/16/2015	Scanning	267	$ 66.75		
3/18/2015	Scanning	14	$ 3.50		
3/19/2015	Scanning	1	$ 0.25		
3/19/2015	Scanning	14	$ 3.50		
3/19/2015	Scanning	1	$ 0.25		
3/19/2015	Scanning	6	$ 1.50		
3/23/2015	Scanning	5	$ 1.25		
3/24/2015	Scanning	16	$ 4.00		
3/24/2015	Scanning	5	$ 1.25		
3/24/2015	Scanning	2	$ 0.50		
3/24/2015	Scanning	95	$ 23.75		
3/24/2015	Scanning	70	$ 17.50		
3/24/2015	Scanning	1	$ 0.25		
3/24/2015	Scanning	1	$ 0.25		
3/26/2015	Scanning	1	$ 0.25		
3/26/2015	Scanning	2	$ 0.50		
3/27/2015	Scanning	2	$ 0.50		
3/27/2015	Scanning	2	$ 0.50		
3/30/2015	Scanning	3	$ 0.75		
3/30/2015	Scanning	3	$ 0.75		
3/30/2015	Scanning	6	$ 1.50		
3/31/2015	Scanning	2	$ 0.50		
4/6/2015	Scanning	7	$ 1.75		
4/6/2015	Scanning	7	$ 1.75		
4/7/2015	Scanning	5	$ 1.25		
4/7/2015	Scanning	2	$ 0.50		
4/8/2015	Scanning	7	$ 1.75		
4/9/2015	Scanning	3	$ 0.75		
4/9/2015	Scanning	24	$ 6.00		
4/12/2015	Scanning	131	$ 32.75		
4/13/2015	Scanning	1	$ 0.25		

Accounting Date	Cost Code	Units	Amount	Payee	Description
4/13/2015	Scanning	1	$ 0.25		
4/13/2015	Scanning	14	$ 3.50		
4/13/2015	Scanning	4	$ 1.00		
4/13/2015	Scanning	20	$ 5.00		
4/13/2015	Scanning	5	$ 1.25		
4/14/2015	Scanning	2	$ 0.50		
4/14/2015	Scanning	3	$ 0.75		
4/15/2015	Scanning	8	$ 2.00		
4/15/2015	Scanning	2	$ 0.50		
4/15/2015	Scanning	8	$ 2.00		
4/16/2015	Scanning	1	$ 0.25		
4/17/2015	Scanning	20	$ 5.00		
4/20/2015	Scanning	2	$ 0.50		
4/20/2015	Scanning	5	$ 1.25		
4/20/2015	Scanning	4	$ 1.00		
4/22/2015	Scanning	13	$ 3.25		
4/22/2015	Scanning	13	$ 3.25		
4/23/2015	Scanning	17	$ 4.25		
4/23/2015	Scanning	17	$ 4.25		
5/8/2015	Scanning	6	$ 1.50		
7/15/2015	Scanning	7	$ 1.75		
7/24/2015	Scanning	12	$ 3.00		
7/30/2015	Scanning	11	$ 2.75		
9/28/2015	Scanning	5	$ 1.25		
10/23/2015	Scanning	2	$ 0.50		
	Scanning Total	**3166**	**$ 791.50**		

Accounting Date	Cost Code	Units	Amount	Payee	Description
1/31/2015	Telex	3	$ 1.50		
3/30/2015	Telex	7	$ 3.50		
	Telex Total	**10**	**$ 5.00**		

Accounting Date	Cost Code	Units	Amount	Payee	Description
1/23/2015	Online Filing Fees	0	$ 3.50		
1/23/2015	Online Filing Fees	0	$ 3.50		
1/23/2015	Online Filing Fees	0	$ 3.50		
1/23/2015	Online Filing Fees	0	$ 3.50		
1/23/2015	Online Filing Fees	0	$ 3.50		
1/23/2015	Online Filing Fees	0	$ 3.50		
1/23/2015	Online Filing Fees	0	$ 3.50		
2/26/2015	Online Filing Fees	0	$ 3.50		
2/26/2015	Online Filing Fees	0	$ 3.50		
2/26/2015	Online Filing Fees	0	$ 3.50		
2/26/2015	Online Filing Fees	0	$ 3.50		
2/26/2015	Online Filing Fees	0	$ 3.50		
2/26/2015	Online Filing Fees	0	$ 3.50		
2/26/2015	Online Filing Fees	0	$ 3.50		
4/16/2015	Online Filing Fees	0	$ 3.50		
4/16/2015	Online Filing Fees	0	$ 3.50		
4/16/2015	Online Filing Fees	0	$ 3.50		
4/16/2015	Online Filing Fees	0	$ 3.50		
4/16/2015	Online Filing Fees	0	$ 3.50		
4/16/2015	Online Filing Fees	0	$ 3.50		
4/16/2015	Online Filing Fees	0	$ 3.50		
4/30/2015	Online Filing Fees	0	$ 3.50		
4/30/2015	Online Filing Fees	0	$ 3.50		
4/30/2015	Online Filing Fees	0	$ 3.50		
4/30/2015	Online Filing Fees	0	$ 3.50		
4/30/2015	Online Filing Fees	0	$ 3.50		
4/30/2015	Online Filing Fees	0	$ 3.50		
4/30/2015	Online Filing Fees	0	$ 3.50		
4/30/2015	Online Filing Fees	0	$ 3.50		
	Online Filing Fees Total	**0**	**$ 101.50**		

Accounting Date	Cost Code	Units	Amount	Payee	Description
1/31/2015	Westlaw Research	0	$ 442.57		
2/28/2015	Westlaw Research	0	$ 19.59		
3/31/2015	Westlaw Research	0	$ 91.86		
4/30/2015	Westlaw Research	0	$ 778.86		
9/30/2015	Westlaw Research	0	$ 14.67		
6/30/2016	Westlaw Research	0	$ 57.54		
	Westlaw Research Total	**0**	**$ 1,405.09**		

Accounting Date	Cost Code	Units	Amount	Payee	Description
	Grand Total	**17982**	**$ 14,655.32**		

207-003 costs

Accounting Date	Cost Code	Units	Amount	Payee	Description
1/5/2015	Copies	2	$ 0.50		
1/5/2015	Copies	4	$ 1.00		
1/5/2015	Copies	2	$ 0.50		
7/30/2015	Copies	1	$ 0.25		
	Copies Total	**9**	**$ 2.25**		

Accounting Date	Cost Code	Units	Amount	Payee	Description
1/20/2015	Messenger Service	0	$ 52.00		
3/31/2015	Messenger Service	0	$ 1.00		
3/31/2015	Messenger Service	0	$ 1.00		
	Messenger Service Total	**0**	**$ 54.00**		

Accounting Date	Cost Code	Units	Amount	Payee	Description
1/12/2015	Postage	0	$ 0.48		
	Postage Total	**0**	**$ 0.48**		

Accounting Date	Cost Code	Units	Amount	Payee	Description
1/23/2015	Online Filing Fees	0	$ 3.50		
1/23/2015	Online Filing Fees	0	$ 3.50		
1/23/2015	Online Filing Fees	0	$ 3.50		
4/30/2015	Online Filing Fees	0	$ 3.50		
4/30/2015	Online Filing Fees	0	$ 3.50		
	Online Filing Fees Total	**0**	**$ 17.50**		

Accounting Date	Cost Code	Units	Amount	Payee	Description
	Grand Total	**9**	**$ 74.23**		

207-004 Costs

Accounting Date	Cost Code	Units	Amount	Payee
12/23/2014	Check Issued	0	$ 223.00	Clerk of the Court - Clark County
1/31/2015	Check Issued	0	$ 58.40	Clark County Treasurer
	Check Issued Total	**0**	**$ 281.40**	

Accounting Date	Cost Code	Units	Amount	Payee
12/22/2014	Copies	654	$ 163.50	
12/22/2014	Copies	308	$ 77.00	
12/22/2014	Copies	346	$ 86.50	
12/23/2014	Copies	4	$ 1.00	
12/23/2014	Copies	4	$ 1.00	
1/15/2015	Copies	327	$ 81.75	
1/21/2015	Copies	30	$ 7.50	
1/21/2015	Copies	9	$ 2.25	
1/26/2015	Copies	16	$ 4.00	
1/26/2015	Copies	2	$ 0.50	
1/26/2015	Copies	1	$ 0.25	
1/27/2015	Copies	9	$ 2.25	
1/27/2015	Copies	327	$ 81.75	
1/27/2015	Copies	16	$ 4.00	
1/27/2015	Copies	2	$ 0.50	
1/27/2015	Copies	1	$ 0.25	
1/27/2015	Copies	1	$ 0.25	
1/27/2015	Copies	1	$ 0.25	
1/27/2015	Copies	1	$ 0.25	
1/27/2015	Copies	1	$ 0.25	
1/27/2015	Copies	2	$ 0.50	
1/28/2015	Copies	1	$ 0.25	
2/5/2015	Copies	3	$ 0.75	
2/5/2015	Copies	1	$ 0.25	
2/5/2015	Copies	1	$ 0.25	
2/5/2015	Copies	4	$ 1.00	
2/5/2015	Copies	2	$ 0.50	
2/5/2015	Copies	4	$ 1.00	
2/5/2015	Copies	4	$ 1.00	
2/9/2015	Copies	1	$ 0.25	
2/9/2015	Copies	1	$ 0.25	
2/11/2015	Copies	4	$ 1.00	
2/11/2015	Copies	2	$ 0.50	
2/11/2015	Copies	1	$ 0.25	
2/18/2015	Copies	4	$ 1.00	
2/18/2015	Copies	4	$ 1.00	
2/18/2015	Copies	4	$ 1.00	
2/18/2015	Copies	2	$ 0.50	
2/18/2015	Copies	1	$ 0.25	
2/18/2015	Copies	1	$ 0.25	
2/18/2015	Copies	6	$ 1.50	
3/12/2015	Copies	8	$ 2.00	
3/12/2015	Copies	16	$ 4.00	
3/12/2015	Copies	9	$ 2.25	
3/12/2015	Copies	4	$ 1.00	
3/13/2015	Copies	11	$ 2.75	
3/17/2015	Copies	4	$ 1.00	
3/17/2015	Copies	10	$ 2.50	
3/17/2015	Copies	8	$ 2.00	
3/17/2015	Copies	24	$ 6.00	
3/17/2015	Copies	16	$ 4.00	

Accounting Date	Cost Code	Units	Amount	Payee
3/17/2015	Copies	9	$ 2.25	
3/17/2015	Copies	2	$ 0.50	
3/17/2015	Copies	3	$ 0.75	
3/17/2015	Copies	11	$ 2.75	
3/17/2015	Copies	3	$ 0.75	
3/17/2015	Copies	6	$ 1.50	
3/19/2015	Copies	11	$ 2.75	
3/19/2015	Copies	11	$ 2.75	
3/23/2015	Copies	5	$ 1.25	
3/26/2015	Copies	2	$ 0.50	
3/26/2015	Copies	264	$ 66.00	
3/26/2015	Copies	2	$ 0.50	
3/26/2015	Copies	2	$ 0.50	
3/26/2015	Copies	2	$ 0.50	
3/26/2015	Copies	2	$ 0.50	
3/26/2015	Copies	1	$ 0.25	
3/27/2015	Copies	2	$ 0.50	
3/27/2015	Copies	95	$ 23.75	
3/27/2015	Copies	132	$ 33.00	
3/30/2015	Copies	17	$ 4.25	
3/30/2015	Copies	9	$ 2.25	
3/30/2015	Copies	1	$ 0.25	
3/30/2015	Copies	8	$ 2.00	
3/30/2015	Copies	1	$ 0.25	
3/30/2015	Copies	1	$ 0.25	
3/30/2015	Copies	2	$ 0.50	
3/30/2015	Copies	2	$ 0.50	
3/30/2015	Copies	17	$ 4.25	
3/30/2015	Copies	17	$ 4.25	
3/30/2015	Copies	9	$ 2.25	
3/30/2015	Copies	2	$ 0.50	
3/30/2015	Copies	1	$ 0.25	
3/30/2015	Copies	17	$ 4.25	
3/30/2015	Copies	1	$ 0.25	
4/1/2015	Copies	132	$ 33.00	
4/1/2015	Copies	2	$ 0.50	
4/13/2015	Copies	2	$ 0.50	
4/13/2015	Copies	170	$ 42.50	
4/14/2015	Copies	24	$ 6.00	
4/22/2015	Copies	1	$ 0.25	
4/22/2015	Copies	10	$ 2.50	
4/22/2015	Copies	3	$ 0.75	
4/22/2015	Copies	1	$ 0.25	
4/22/2015	Copies	2	$ 0.50	
4/22/2015	Copies	1	$ 0.25	
4/22/2015	Copies	5	$ 1.25	
4/22/2015	Copies	1	$ 0.25	
4/22/2015	Copies	5	$ 1.25	
4/22/2015	Copies	1	$ 0.25	
4/22/2015	Copies	1	$ 0.25	
4/22/2015	Copies	5	$ 1.25	

Accounting Date	Cost Code	Units	Amount	Payee
5/4/2015	Copies	5	$ 1.25	
5/4/2015	Copies	2	$ 0.50	
5/4/2015	Copies	25	$ 6.25	
5/13/2015	Copies	3	$ 0.75	
5/13/2015	Copies	2	$ 0.50	
5/13/2015	Copies	3	$ 0.75	
5/13/2015	Copies	3	$ 0.75	
6/26/2015	Copies	2	$ 0.50	
6/26/2015	Copies	3	$ 0.75	
6/29/2015	Copies	10	$ 2.50	
6/29/2015	Copies	2	$ 0.50	
6/29/2015	Copies	1	$ 0.25	
7/16/2015	Copies	3	$ 0.75	
7/30/2015	Copies	8	$ 2.00	
7/30/2015	Copies	4	$ 1.00	
7/30/2015	Copies	1	$ 0.25	
7/30/2015	Copies	1	$ 0.25	
	Copies Total	**3337**	**$ 834.25**	

Accounting Date	Cost Code	Units	Amount	Payee
1/31/2015	Messenger Service	0	$ 12.00	
3/31/2015	Messenger Service	0	$ 1.00	
3/31/2015	Messenger Service	0	$ 1.00	
3/31/2015	Messenger Service	0	$ 1.00	
3/31/2015	Messenger Service	0	$ 1.00	
3/31/2015	Messenger Service	0	$ 1.00	
3/31/2015	Messenger Service	0	$ 1.00	
3/31/2015	Messenger Service	0	$ 1.00	
3/31/2015	Messenger Service	0	$ 1.00	
3/31/2015	Messenger Service	0	$ 1.00	
4/17/2015	Messenger Service	0	$ 12.00	
4/17/2015	Messenger Service	0	$ 12.00	
4/30/2015	Messenger Service	0	$ 1.00	
4/30/2015	Messenger Service	0	$ 1.00	
5/29/2015	Messenger Service	0	$ 10.00	
6/30/2015	Messenger Service	0	$ 12.00	
6/30/2015	Messenger Service	0	$ 5.32	
10/20/2015	Messenger Service	0	$ 1.00	
10/20/2015	Messenger Service	0	$ 1.00	
	Messenger Service Total	**0**	**$ 76.32**	

Accounting Date	Cost Code	Units	Amount	Payee
2/28/2015	Parking Fee	0	$ 6.00	
5/14/2015	Parking Fee	0	$ 6.00	
	Parking Fee Total	**0**	**$ 12.00**	

Accounting Date	Cost Code	Units	Amount	Payee
12/23/2014	Postage	0	$ 0.48	
12/24/2014	Postage	0	$ 6.16	
1/21/2015	Postage	0	$ 0.69	
2/5/2015	Postage	0	$ 0.48	
2/18/2015	Postage	0	$ 0.69	
3/26/2015	Postage	0	$ 0.96	
3/26/2015	Postage	0	$ 5.95	
3/30/2015	Postage	0	$ 1.61	
4/22/2015	Postage	0	$ 0.48	
6/29/2015	Postage	0	$ 0.71	
7/30/2015	Postage	0	$ 0.49	
	Postage Total	**0**	**$ 18.70**	

Accounting Date	Cost Code	Units	Amount	Payee
12/23/2014	Scanning	4	$ 1.00	
12/24/2014	Scanning	2	$ 0.50	
1/15/2015	Scanning	327	$ 81.75	
1/26/2015	Scanning	1	$ 0.25	
1/28/2015	Scanning	1	$ 0.25	
2/3/2015	Scanning	3	$ 0.75	
2/3/2015	Scanning	8	$ 2.00	
2/5/2015	Scanning	4	$ 1.00	
2/6/2015	Scanning	4	$ 1.00	
2/11/2015	Scanning	8	$ 2.00	
2/11/2015	Scanning	2	$ 0.50	
2/11/2015	Scanning	19	$ 4.75	
2/18/2015	Scanning	4	$ 1.00	
3/12/2015	Scanning	273	$ 68.25	
3/13/2015	Scanning	11	$ 2.75	
3/17/2015	Scanning	89	$ 22.25	
3/24/2015	Scanning	9	$ 2.25	
3/26/2015	Scanning	2	$ 0.50	
3/26/2015	Scanning	132	$ 33.00	
3/26/2015	Scanning	4	$ 1.00	
3/27/2015	Scanning	132	$ 33.00	
3/30/2015	Scanning	17	$ 4.25	
4/24/2015	Scanning	5	$ 1.25	
5/4/2015	Scanning	5	$ 1.25	
6/26/2015	Scanning	3	$ 0.75	
6/26/2015	Scanning	4	$ 1.00	
6/29/2015	Scanning	5	$ 1.25	
6/29/2015	Scanning	3	$ 0.75	
6/30/2015	Scanning	5	$ 1.25	
7/16/2015	Scanning	7	$ 1.75	
7/30/2015	Scanning	4	$ 1.00	
	Scanning Total	**1097**	**$ 274.25**	

Accounting Date	Cost Code	Units	Amount	Payee
5/15/2015	Telex	4	$ 2.00	
6/8/2015	Telex	4	$ 2.00	
	Telex Total	**8**	**$ 4.00**	

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CLERK OF THE COURT

Marquis Aurbach Coffing
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Liane K. Wakayama, Esq.
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DISTRICT COURT

CLARK COUNTY, NEVADA

In the Matter of

THE W.N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST DATED May 18, 1972, An Inter Vivos Irrevocable Trust.

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

CERTIFICATE OF MAILING
OF MOTION TO ADJUDICATE ATTORNEY'S LIEN

I hereby certify that on the 4th day of August, 2016, I served a copy of the foregoing **MOTION TO ADJUDICATE ATTORNEY'S LIEN** upon each of the parties by depositing a copy of the same in a sealed envelope in the United States Mail, Las Vegas, Nevada, Certified Mail, return receipt requested, fully prepaid, and addressed to:

Tamara Beatty Peterson
Peterson Hope, PLLC
10001 Park Run Drive
Las Vegas, Nevada 89145
Attorney for Eleanor Connell Hartman Ahern

Kirk B. Lenhard
Brownstein Hyatt Farber Schreck, LLP
100 N. City Parkway
Las Vegas, Nevada 89106
Attorney for Eleanor Connell Hartman Ahern

Joseph J. Powell, Esq.
The Rushforth Firm, Ltd.
1707 Village Center Circle, Suite 150
Las Vegas, NV 89134
Attorney for Jacqueline M. Montoya and Kathryn A. Bouvier

Fredrick P. Waid
Hutchison & Steffen
Peccole Professional Park
10080 West Alta Drive, Suite 200
Las Vegas, Nevada 89145
Interim Trustee of the W.N. Connell and Marjorie T. Connell Living Trust Dated May 18, 1972

///

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MARQUIS AURBACH COFFING
10001 Park Run Drive
Las Vegas, Nevada 89145
(702) 382-0711 FAX: (702) 382-5816

and that there is a regular communication by mail between the place of mailing and the place(s) so addressed.

Kim Dean, an employee of
Marquis Aurbach Coffing

MARQUIS AURBACH COFFING
10001 Park Run Drive
Las Vegas, Nevada 89145
(702) 382-0711 FAX: (702) 382-5816

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CLERK OF THE COURT

ORDG
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tpeterson@petersonhope.com
PETERSON HOPE, PLLC
10001 Park Run Drive
Las Vegas, NV 89145
Telephone: 702.786.1001
Facsimile: 702.786.1002

DISTRICT COURT

CLARK COUNTY, NEVADA

In the Matter of

THE W.N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST DATED May 18, 1972, An Inter Vivos Irrevocable Trust.

CASE NO.: P-09-066425-T
DEPT. NO.: 26

ORDER GRANTING MOTION TO WITHDRAW AS COUNSEL

Date of Hearing: August 3, 2016

Time of Hearing: In Chambers

Tamara Beatty Peterson, Esq.'s Motion to Withdraw as Counsel for Eleanor Connell Hartman Ahern ("Motion to Withdraw") having come on in advance of the September 5, 2016 hearing before this Honorable Court on August 3, 2016; Kirk B. Lenhard, Esq. of the law firm Brownstein Hyatt Farber Schreck, LLP appearing on behalf of Eleanor Connell Hartman Ahern; Richard L. Wade, Esq. of the law firm of Hutchison & Steffen, LLC appearing on behalf of Fredrick Waid, Esq.; Daniel P. Kiefer, Esq. of The Rushforth Firm, Ltd. appearing on behalf of Jacqueline Montoya; and upon the Count's consideration of the pleadings and papers on file herein, noting no opposition by counsel, and good cause appearing therefore,

IT IS HEREBY ORDERED that Tamara Beatty Peterson, Esq.'s Motion to Withdraw as Counsel for Eleanor Connell Hartman Ahern is GRANTED.

PETERSON HOPE, PLLC
10001 Park Run Drive
Las Vegas, NV 89145
702.786.1001

IT IS FURTHER ORDERED that the September 5, 2016 hearing on the Motion to Withdraw is hereby VACATED.

DATED this 9th day of August, 2016.

DISTRICT COURT JUDGE

Submitted by:

By:

TAMARA BEATTY PETERSON, ESQ.
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CLERK OF THE COURT

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DISTRICT COURT

CLARK COUNTY, NEVADA

In the Matter of

THE W.N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST DATED May 18, 1972, An Inter Vivos Irrevocable Trust.

CASE NO.: P-09-066425-T
DEPT. NO.: 26

NOTICE OF ENTRY OF ORDER GRANTING MOTION TO WITHDRAW AS COUNSEL

Date of Hearing: August 3, 2016

Time of Hearing: In Chambers

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PETERSON HOPE, PLLC
10001 Park Run Drive
Las Vegas, NV 89145
702.786.1001

PLEASE TAKE NOTICE that an Order Granting Motion to Withdraw as Counsel ("Order") was entered on August 11, 2016. A copy of said Order is attached hereto.

DATED this 15th day of August, 2016.

PETERSON HOPE, PLLC

By: /s/ Tamara Beatty Peterson
TAMARA BEATTY PETERSON, ESQ., Bar No. 5218
tpeterson@petersonhope.com
10001 Park Run Drive
Las Vegas, NV 89145
Telephone: 702.786.1001
Facsimile: 702.786.1002

PETERSON HOPE, PLLC
10001 Park Run Drive
Las Vegas, NV 89145
702.786.1001

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of Peterson Hope, PLLC, and pursuant to NRCP 5(b), EDCR 8.05, Administrative Order 14-2, and NEFCR 9, I caused a true and correct copy of the foregoing **NOTICE OF ENTRY OF ORDER GRANTING MOTION TO WITHDRAW AS COUNSEL** to be submitted electronically for filing and service with the Eighth Judicial District Court via the Court's Electronic Filing System on the 15th day of August, 2016, to the following:

JOSEPH J. POWELL, ESQ.
probate@rushforthfirm.com
THE RUSHFORTH FIRM, LTD.
P.O. Box 371655
Las Vegas, NV 89137-1655
Attorneys for Jacqueline M. Montoya and Kathryn A. Bouvier

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klenhard@bhfs.com
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Las Vegas, NV 89105
Attorneys for Eleanor Connell Hartman Ahern

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RUSSEL J. GEIST
rgeist@hutchlegal.com
HUTCHISON & STEFFEN, LLC
10080 West Alta Drive, Suite 200
Las Vegas, NV 89145
Attorneys for Fredrick P. Waid

/s/ Erin Parcells
An employee of Peterson Hope, PLLC

PETERSON HOPE, PLLC
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CLERK OF THE COURT

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DISTRICT COURT

CLARK COUNTY, NEVADA

In the Matter of

THE W.N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST DATED May 18, 1972, An Inter Vivos Irrevocable Trust.

CASE NO.: P-09-066425-T
DEPT. NO.: 26

ORDER GRANTING MOTION TO WITHDRAW AS COUNSEL

Date of Hearing: August 3, 2016

Time of Hearing: In Chambers

Tamara Beatty Peterson, Esq.'s Motion to Withdraw as Counsel for Eleanor Connell Hartman Ahern ("Motion to Withdraw") having come on in advance of the September 5, 2016 hearing before this Honorable Court on August 3, 2016; Kirk B. Lenhard, Esq. of the law firm Brownstein Hyatt Farber Schreck, LLP appearing on behalf of Eleanor Connell Hartman Ahern; Richard L. Wade, Esq. of the law firm of Hutchison & Steffen, LLC appearing on behalf of Fredrick Waid, Esq.; Daniel P. Kiefer, Esq. of The Rushforth Firm, Ltd. appearing on behalf of Jacqueline Montoya; and upon the Count's consideration of the pleadings and papers on file herein, noting no opposition by counsel, and good cause appearing therefore,

IT IS HEREBY ORDERED that Tamara Beatty Peterson, Esq.'s Motion to Withdraw as Counsel for Eleanor Connell Hartman Ahern is GRANTED.

PETERSON HOPE, PLLC
10001 Park Run Drive
Las Vegas, NV 89145
702.786.1001

IT IS FURTHER ORDERED that the September 5, 2016 hearing on the Motion to Withdraw is hereby VACATED.

DATED this 8th day of August, 2016.

DISTRICT COURT JUDGE

Submitted by:

By:

TAMARA BEATTY PETERSON, ESQ.
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CLERK OF THE COURT

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Attorneys for Eleanor Connell Hartman Ahern

DISTRICT COURT

CLARK COUNTY, NEVADA

In the Matter of THE W.N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST DATED May 18, 1972, An Inter Vivos Irrevocable Trust	CASE NO.: P-09-066425-T DEPT. NO.: XXVI **ELEANOR AHERN'S RESPONSE TO PETITION FOR ORDER DIRECTING TRANSFER OF TENANCY IN COMMON INTEREST IN UPTON, COUNTY, TEXAS PROPERTY TO THE MTC LIVING TRUST** **Date of Hearing: September 7, 2016** **Time of Hearing: 9:30 a.m.**

Eleanor Ahern, by and through her counsel of record, the law firm of Brownstein Hyatt Farber Schreck, LLP, hereby responds to Jacqueline Montoya and Kathryn Bouvier's (the "Sisters") P etition for Order Directing Transfer of Tenancy In Common Interest In Upton County, Texas Property To The MTC Living Trust ("MTC Trust"), from the W.N. Connell and Marjorie T. Connell Living Trust (the "Trust").

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On April 1, 2015, this Court appointed a neutral third-party, Mr. Fredrick P. Waid, Esq., as acting temporary Trustee of the Trust, with full authority to manage the Trust and its assets, including the Trust's interests in the Texas oil, gas and mineral property and interests in Upton County, Texas. (*See* Order Appointing New Temporary Trustee dated Apr. 1, 2015, on file herein.) The Court stated that "Mr. Waid shall function as the sole acting Trustee of the Trust." *Id.* By appointing Mr. Waid, the Court rightly recognized the distrust between the parties to this action. As no complaints have been lodged by the Sisters regarding Mr. Waid's performance as the Court-appointed Trustee, it is Ms. Ahern's position that Mr. Waid should remain in control of the Trust until the rights of the parties are decided "once and for all," as the Sisters put it. (Pet. at 3:3.)

As the Court is aware, the summary judgment order granting the Sisters a 35% stake in the Trust is currently on appeal. On May 2, 2016, the Nevada Supreme Court submitted the matter for decision without oral argument; in other words, the decision could come down at any moment. The Supreme Court's decision could call into question the Sisters' rights to the property in Upton County, Texas, at issue in this case. Nonetheless, after waiting seven years, the Sisters implore this Court that this is the perfect time to "clea[n] up" title to the property "once and for all." (Pet. at 3:3.) Nothing could be further from the truth. The Court is under no mandate to grant the Sisters' Petition prior to the final decision on appeal. Indeed, to do so would be an unnecessary gamble of judicial and party resources, and would convolute the administrative processes established by this Court through the Court-appointed temporary Trustee, Mr. Waid.

In addition, the Sisters fail to provide any compelling reason why their requested transfer of the property must be affected "now, not later." (Pet. at 3:7.) First, they provide no law or rationale supporting their baseless contention that the current trust structure does not provide asset protection. (Pet. at 10:13-11:8.) (In fact, in briefing their motion for summary judgment, the Sisters argued to the Court

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that the current structure is permissible under Nevada law.) Second, they complain at length that their income currently must pass first through the Connell Trust, but then, ironically, they propose a new structure that would require their income to pass first through a Texas limited liability company. (Pet. at 5:19-22, 9:3-5.) Finally, they request the transfer of the property, but then suggest that after the transfer, Mr. Waid will still be in charge of negotiating and collecting on the oil contracts. (Pet. at 8:28.) These discussions beg the question: why must this transfer be affected today, rather than at the final resolution of this dispute between the parties?

The Court has discretion to table this new issue until the Supreme Court's decision comes down. The case law cited by the Sisters regarding finality is irrelevant because this Court never ruled on the issues raised in the Sisters' present Petition. (Pet. at 11.) This Court has control of its docket to decide new matters, such as this one, that appear before it. The Court should postpone its decision until the parties' rights are truly settled "once and for all" and permit the Court-appointed Trustee to continue performing his duties until the end of this dispute.

DATED this 17th day of August, 2016.

BROWNSTEIN HYATT FARBER SCHRECK, LLP

By: */s/Kirk B. Lenhard*
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of Brownstein Hyatt Farber Schreck, LLP, and pursuant to NRCP 5(b), EDCR 8.05, Administrative Order 14-2, and NEFCR 9, I caused a true and correct copy of the foregoing **E LEANOR AHERN'S RESPONSE TO PETITION FOR ORDER DIRECTING TRANSFER OF TENANCY IN COMMON INTEREST IN UPTON, COUNTY, TEXAS PROPERTY TO THE MTC LIVING TRUST** to be submitted electronically for filing and service with the Eighth Judicial District Court via the Court's Electronic Filing System on the 17th day of August, 2016, to the following:

TODD L. MOODY, ESQ.
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Attorneys for Fredrick P. Waid, Court-appointed Trustee

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Attorneys for Jacqueline M. Montoya and Kathryn A. Bouvier

/s/ Karen Wiehl
an employee of Brownstein Hyatt Farber Schreck, LLP

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CLERK OF THE COURT

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Attorneys for Eleanor Connell Hartman Ahern

DISTRICT COURT

CLARK COUNTY, NEVADA

In the Matter of THE W.N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST DATED May 18, 1972, An Inter Vivos Irrevocable Trust	CASE NO.: P-09-066425-T DEPT. NO.: XXVI **RESPONSE TO MARQUIS AURBACH COFFING'S MOTION TO ADJUDICATE ATTORNEY'S LIEN** **Date of Hearing: Sept. 7, 2016** **Time of Hearing: 9:30 a.m.**

BROWNSTEIN HYATT FARBER SCHRECK, LLP
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Eleanor Ahern, by and through her counsel of record, the law firm of Brownstein Hyatt Farber Schreck, LLP, hereby responds to the Motion to Adjudicate Attorney's Lien submitted by the law firm of Marquis Arbach Coffing ("MAC"). This Response is supported by the Memorandum of Points and Authorities below, the pleadings and papers on file herein, and any oral argument by counsel.

DATED this 18th day of August, 2016.

BROWNSTEIN HYATT FARBER SCHRECK, LLP

By: /s/ Kirk B. Lenhard
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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

MAC requests an attorney's lien on either (1) the corpus of the W.N. Connell and Marjorie T. Connell Living Trust (the "Trust") or (2) Ms. Ahern's 35% beneficial interest in the Trust. To the extent the Court orders a lien on or payment from the corpus of the Trust, Ms. Ahern has no objection. However, Ms. Ahern objects to any lien on her beneficial interest.

Ms. Ahern was a defendant in this action who obtained no affirmative benefit upon which an attorney's lien may attach. (Cf. Mot. at 9:4.) From the outset, Ms. Ahern's position was that she is entitled to 100% of the Trust income. The Sisters[1] disagreed, and filed suit claiming that Ms. Ahern is entitled to only 35%. That Ms. Ahern is entitled to at least 35% under the Trust documents was never in dispute. Ultimately, this Court found for the Sisters.

That is, rather than result in a benefit to Ms. Ahern, this case has resulted in (i) a 65% decrease in Ms. Ahern's Trust interest, (ii) a judgment against Ms. Ahern for over $400,000 in attorneys' fees, (iii) a determination that Ms. Ahern may not receive any income from the Trust until such time as this Court and/or the Trustee determine that the Sisters have received their due percentage of distributed funds, and (iv) a dismissal of Ms. Ahern's counterclaims. Under Nevada law, this result is not "tangible fruit" upon which MAC's attorney's lien may attach. Thus, to the extent MAC requests a charging attorney's lien on Ms. Ahern's future beneficial interest pursuant to NRS 18.015, the Court should deny the Motion.

II. DISCUSSION

In Nevada, an attorney may hold a lien to ensure that clients pay their attorney's fees. NRS 18.015. Two types of liens are available:

> (1) a **special or charging lien** on the judgment or settlement the attorney has obtained for the client; and (2) a **general or retaining**

[1] The term "Sisters" refers to Ms. Ahern's daughters, Jacqueline Montoya and Kathryn Bouvier.

> **lien** that entitles an attorney, if discharged by the client, to retain the client's papers, property or money until a court, at the request of the client, requires the attorney to deliver the retained items upon the client's furnishing of payment or security for the attorney's fees.

Figliuzzi v. Eighth Judicial Dist. Court In & For Cty. of Clark, 111 Nev. 338, 342, 890 P.2d 798, 801 (1995) (citing NRS 18.015(1); Morse v. Eighth Judicial District Court, 65 Nev. 275, 281, 286, 195 P.2d 199, 202 (1948); In re Grand Jury Proceedings, 727 F.2d 941 (10th Cir.), cert. denied, Vargas v. United States, 469 U.S. 819, 105 S.Ct. 90, 83 L.Ed.2d 37 (1984)).

Here, MAC requests the first type of lien, a special or charging lien. However, because MAC (and every other firm) did not obtain a beneficial judgment or settlement for Ms. Ahern, a charging lien is unavailable and "only the general or retaining lien is at issue." See Figliuzzi, 111 Nev. at 342.

The notion that a special or charging lien is unavailable if proceeds are not created from the judgment arises from NRS 18.015(3). Under NRS 18.015(3), an attorney must serve written notice of an attorney's lien "upon the party against whom the client has a cause of action, claiming the lien and stating the amount of the lien."[2] (Emphasis added.) In Leventhal v. Black & LoBello, the Nevada Supreme Court stated that, "[f]undamentally, NRS 18.015(3) requires a client to assert an affirmative claim to relief, from which some affirmative recovery can result. A charging lien cannot attach to the benefit gained for the client by securing dismissal; it attaches to 'the tangible fruits' of the attorney's services." 129 Nev. Adv. Op. 50, 305 P.3d 907, 910 (2013); see also Langerman Law Offices PA v. Glen Eagles at Princess Resort LLC, 204 P.3d 1101 (Ariz. Ct. App. 2009) ("A

[2] This puts the opposing party on notice that any payment of a judgment to the attorney's prevailing client must first satisfy the lien. See Berrum v. Georgetta, 60 Nev. 1, 98 P.2d 479, 481 (1940) (stating that a judgment debtor who satisfies a judgment without regard to the attorney's lien "does so at his own risk and is liable"). Here, the Sisters are not paying any judgment that could be liened; instead, MAC requests a lien on Ms. Ahern's future income (income that has never been disputed in this case).

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lawyer must show that a judgment was 'positive' and a lien will not attach if a counterclaim makes the client a 'net loser.'"); Goldstein, Goldman, Kessler & Underberg v. 4000 E. River Rd. Assocs., 409 N.Y.S.2d 886 (N.Y. App. Div. 1978) ("By way of illustration, 'proceeds' are not created by successful litigation which results in: enhancing the value of real estate by securing a zoning change from residential to commercial; a declaration that reconnection fees charged to gas users were illegal and uncollectible; a declaration that a real property mortgage is invalid, and staying its foreclosure").

Here, while MAC undoubtedly provided quality legal services, the reality is that Ms. Ahern was a net loser in this action. The Sister's brought a declaratory relief claim requesting the Court interpret the Trust documents such that Ms. Ahern receives 35% of the Trust income, rather than the 100% that Ms. Ahern contends she is owed. From the filing of the petition to the Court's summary judgment, the Sisters never disputed that Ms. Ahern is entitled to at least 35% or that Ms. Ahern could continue to act as trustee over her 35% share at the culmination of this litigation.

As of today, Ms. Ahern has lost 65% of her interest in the Trust, has been ordered to forfeit her interest until the Sisters are paid in full, and has had her counterclaims dismissed. (See Summ. J. dated Apr. 16, 2015, on file herein; see Tr. from Hearing dated Mar. 3, 2016, at 81:9-17, on file herein.) The Sisters also obtained a judgment against Ms. Ahern for attorneys' fees for more than $400,000. (See Order dated Apr. 20, 2015, on file herein.) Since Ms. Ahern is not currently receiving any Trust income, she is now living on government assistance and receiving food deliveries from food banks. Clearly, there were no "tangible fruits" obtained in this action upon which MAC's attorney's lien may attach, and MAC's Motion should be denied.

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III. CONCLUSION

A special or charging attorney's lien under NRS 18.015 is not the proper debt collection mechanism for this case. In light of the foregoing, Ms. Ahern respectfully requests that the Court deny MAC's Motion to the extent MAC requests a lien on Ms. Ahern's beneficial interest in the Trust.

DATED this 18th day of August, 2016.

BROWNSTEIN HYATT FARBER SCHRECK, LLP

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of Brownstein Hyatt Farber Schreck, LLP, and pursuant to NRCP 5(b), EDCR 8.05, Administrative Order 14-2, and NEFCR 9, I caused a true and correct copy of the foregoing **RESPONSE TO MARQUIS AURBACH COFFING'S MOTION TO ADJUDICATE ATTORNEY'S LIEN** to be submitted electronically for filing and service with the Eighth Judicial District Court via the Court's Electronic Filing System on the 18th day of August, 2016, to the following:

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DISTRICT COURT

CLARK COUNTY, NEVADA

In the Matter of THE W.N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST DATED May 18, 1972, An Inter Vivos Irrevocable Trust.	Case No.: P-09-066425-T Dept. No.: 26

REPLY IN SUPPORT OF MARQUIS AURBACH COFFING'S MOTION TO ADJUDICATE ATTORNEY'S LIEN

The law firm of Marquis Aurbach Coffing ("MAC") hereby files this Reply in support of its motion to adjudicate its lien rights against The W.N. Connell And Marjorie T. Connell Living Trust (the "Trust") and/or Eleanor Connell Hartman Ahern's beneficial interest in the Trust in the amount of $194,487.26 for unpaid attorney fees, costs, and interest, which amounts continue to accrue pursuant to the legal services agreement that the Parties executed. This Reply is made and based upon the attached Memorandum of Points and Authorities, all papers and pleadings on file herein, and any oral argument allowed during the hearing on said matter.

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION.

MAC devoted over 800 hours to representing Eleanor Connell Hartman Ahern ("Ahern") in complex, fast-paced litigation regarding the trust that her late father established in 1972.[1]

[1] See Case No. P-09-066425, District Court, Eighth Judicial District Court, Clark County, Nevada

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During the time that MAC represented Ahern, both in her individual capacity and her capacity as Trustee, Ahern successfully defended a lawsuit by prior counsel and settled a will contest related to her late father's estate. Further, while the Court did not always find in favor of Ahern, MAC's advocacy allowed Ahern the best possible opportunity to present her arguments to the Court. Moreover, the Trust and even this Court also benefitted from MAC's representation, as the quality of the pleadings and arguments that MAC made on behalf of Ahern clarified any ambiguities (if not all ambiguities) in relation to the trust administration and the current trust beneficiaries.

Unfortunately, while Ahern had contractually agreed to "pay for all services," MAC is still owed compensation for its work. Although MAC attempted to resolve the issue privately, its efforts were futile. Accordingly, to recover the $194,487.26 in fees, costs, and interest that it is justly owed, MAC was forced to move this Court for an Attorney's Lien.

For the most part, the other parties to this case have voiced no objection to MAC's motion. Indeed, neither the Trustee nor Ahern's daughters have filed any response or opposition. Further, while Ahern filed a response to MAC's motion, she agrees that "MAC undoubtedly provided quality legal services."[2] More importantly, Ahern also does not question this Court's jurisdiction or object to "a lien on or payment from the corpus of the Trust."[3] Thus, because it is undisputed that MAC is entitled to payment from the Corpus of the Trust, this Court should grant MAC's Motion to Adjudicate Attorney's Lien.

II. LEGAL ARGUMENT.

An unopposed motion may be considered as an admission of merit and consent to grant the motion. See, e.g., Eighth Judicial District Court Rule 2.20(e); King v. Cartlidge, 121 Nev. 926, 927, 124 P.3d 1161, 1162 (2005). Here, the Trustee and Ahern's daughter did not oppose MAC's motion[4] and, as such, the Court should assume that they consent to grant the motion.

[2] Response at 5.

[3] Response at 3.

[4] Ahern makes a valid point that her daughters have no reason to oppose MAC's motion because a lien will not affect their beneficial interest in the Trust. See Response at 4.

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Moreover, while Ahern filed a response to the Motion, the substance of the response demonstrates that Ahern is not, for the most part, opposed to MAC's request for an attorney's lien. Accordingly, the Court should grant MAC's Motion to Adjudicate Attorney's Lien because: (A) It is undisputed that this Court has jurisdiction to adjudicate MAC's lien rights; (B) It is undisputed that MAC satisfied all the procedural requirements mandated by NRS 18.015; (C) Ahern does not object to a lien on or payment from the corpus of the Trust, be it as an advance from the Corpus of Trust or an advance on Ahern's beneficial interest; and (D) It is undisputed that MAC's attorney's fees and costs are reasonable.

Moreover, to the extent that Ahern objects to a lien on her beneficial interest argument, her contention lacks merit because: (E) The payment to which MAC is legally and equitably entitled must come from the Trust that is currently under the Court's jurisdiction.

A. IT IS UNDISPUTED THAT THIS COURT HAS JURISDICTION TO ADJUDICATE MAC'S LIEN RIGHTS.

This Court is vested with authority to resolve the fee dispute between MAC and Ahern because Ahern previously agreed, "In the event Client falls behind in payments to MAC with respect to any pending lawsuit, Client consents that the district court judge in that lawsuit may adjudicate the amount due MAC and enter an order designating that amount as due and as a lien on any sums Client may recover in that lawsuit."[5] In addition, this Court has both subject matter jurisdiction and personal jurisdiction to resolve the instant dispute because the fees, costs, and interest that MAC requests will be paid out of the Trust that is currently under the Court's jurisdiction. See Argentena Consol. Min. Co. v. Jolley Urga Wirth Woodbury & Standish, 125 Nev. 527, 532, 216 P.3d 779, 782-83 (2009) (discussing in personam and subject matter jurisdiction).

Because they did not file a response or opposition to MAC's motion, the Trustee and Ahern's daughters evidently are in agreement with MAC's analysis of this Court's jurisdiction. Further, Ahern's actions throughout the course of the underlying case and her limited response to MAC's motion demonstrate that Ahern also submits to the Court's jurisdiction. Accordingly,

[5] See Attorney's Fee Agreement Section 7.

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this Court has jurisdiction to adjudicate MAC's Attorney's Lien

B. IT IS UNDISPUTED THAT MAC SATISFIED ALL THE PROCEDURAL REQUIREMENTS MANDATED BY NRS 18.015.

To obtain an attorney's lien, an attorney must satisfy four requirements. See Leventhal v. Black & LoBello, 129 Nev., Adv. Op. 50, 305 P.3d 907, 909 (2013). First, there must be a "claim, demand or cause of action . . . which has been placed in the attorney's hands by a client for suit or collection, or upon which a suit or other action has been instituted." NRS 18.015(1). Second, an attorney must perfect the lien by serving "notice in writing, in person or by certified mail, return receipt requested, upon his or her client and, if applicable, upon the party against whom the client has a cause of action, claiming the lien and stating the amount of the lien." NRS 18.015(3). Third, once the lien is perfected, the lien attaches "to any verdict, judgment or decree entered and to any money or property which is recovered on account of the suit or other action." NRS 18.015(4)(a). Finally, after the first three steps are accomplished, the attorney must file and properly serve a motion to adjudicate the lien. NRS 18.015(6).

Here, it is undisputed that MAC has completed all of the requirements mandated by NRS 18.015. Indeed, while Ahern argues that this Court should not impose a lien on her beneficial interest in the Trust, she does not dispute that MAC followed the correct procedure. Similarly, by declining to oppose or otherwise respond to MAC's motion, Ahern's daughters and the Trustee also concede that MAC perfected its lien against Ahern by fully complying with NRS 18.015.

C. AHERN DOES NOT OBJECT TO A LIEN ON OR PAYMENT FROM THE CORPUS OF THE TRUST.

MAC represented Ahern in both her capacity as Trustee and in her individual capacity. In doing so, MAC provided a valuable and necessary[6] service to the Trust in resolving what this Court described as "clearly a confused mess."[7] Citing to numerous persuasive authorities, as well

[6] This Court stated that litigation regarding the trust was necessary. See Transcript of Proceedings dated Jan. 30, 2015, at 139 ("The thing just got so messed up that I think you had to come to Court and try to figure it out").

[7] Transcript of Proceedings dated Jan. 30, 2015, at 161.

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as the plain language of the Trust.[8] MAC thus submitted that it would be best to its pay attorney's fees from the corpus of the Trust because the underlying litigation benefitted all the parties to the Trust.

Neither the Trustee nor Ahern's daughters dispute that MAC's representation was beneficial to the Trust, the Court, and all of the parties involved. In her Response, Ahern also agrees with MAC, stating "[t]o the extent the Court orders a lien on or payment from the corpus of the Trust, Ms. Ahern has no objection."[9] Accordingly, this Court should instruct the Trustee to pay the attorney's lien out of the Trust's corpus because all of the parties agree that it would be appropriate to do so under the circumstances in this case.

D. IT IS UNDISPUTED THAT MAC'S ATTORNEY'S FEES AND COSTS ARE REASONABLE.

Pursuant to the Brunzell decision, trial courts must consider four factors when determining the appropriateness of an award for attorney fees:

> (1) the qualities of the advocate: his ability, his training, education, experience, professional standing and skill; (2) the character of the work to be done: its difficulty, its intricacy, its importance, time and skill required, the responsibility imposed and the prominence and character of the parties where they affect the importance of the litigation; (3) the work actually performed by the lawyer: the skill, time and attention given to the work; (4) the result: whether the attorney was successful and what benefits were derived.

Brunzell v. Golden Gate Nat'l Bank, 85 Nev. 345, 349–50, 455 P.2d 31, 33–34 (1969).

Here, Ahern agrees that MAC "undoubtedly provided quality legal services."[10] Ahern also does not dispute that the complex claims in this case required an advanced understanding of Nevada's probate and trust law as well as excellent legal research, writing, and oral advocacy skills. And, in addition, Ahern does not deny that MAC actually dedicated over 800 hours to litigating this matter for Ahern. In fact, Ahern does not dispute so much as a single task identified in the billing details attached to MAC's Declaration.

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[8] See Section 7, subsection F.

[9] Response at 3.

[10] Response at 5.

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Thus, it is undisputed that MAC's fees are reasonable under three of the Brunzell factors. As to the fourth factor, the result, MAC acknowledges that Ahern did not achieve all of the results that she desired. That being said, "no one element should predominate or be given undue weight," Brunzell, 85 Nev. at 350, 455 P.2d at 33, and Ahern did not—and cannot—deny that she derived benefits from MAC's representation because, at the very least, MAC settled the Will Contest, defended Ahern in litigation against Mr. Mann, and represented Ahern during critical litigation regarding her purported breaches of fiduciary duty.[11] Thus, while there is some disagreement regarding the fourth Brunzell factor, the undisputed evidence demonstrates that MAC's attorney's fees were reasonable.

With regard to costs, it is undisputed that Ahern agreed in Section 2 of the Attorney Fee Agreement that she would pay all costs and expenses, "including filing and recording fees, deposition costs, witness fees, long distance telephone charges, telefax and mail charges, copy charges, etc." Moreover, Ahern apparently agrees that the costs detailed in MAC's memorandum of costs were actually incurred and are permissible under NRS 18.005. Thus, there is no dispute that this Court should exercise its discretion to ward MAC reasonable the costs it necessarily incurred in representing Ahern. Cadle Co. v. Woods & Erickson, LLP., 131 Nev., Adv. Op. 15, 345 P.3d 1049, 1054 (2015) ("Without evidence to determine whether a cost was reasonable and necessary, a district court may not award costs."); Bobby Berosini, Ltd. v. People for the Ethical Treatment of Animals, 114 Nev. 1348, 1352, 971 P.2d 383. 385-86 (1998).

E. THE PAYMENT TO WHICH MAC IS LEGALLY AND EQUITABLY ENTITLED NEEDS TO COME FROM THE TRUST, BE IT AS AN ADVANCE FROM THE CORPUS OF TRUST OR AN ADVANCE ON AHERN'S BENEFICIAL INTEREST.

MAC appreciates Ahern's willingness to pay MAC's attorney's lien from the corpus of the Trust. Given that neither the Trustee nor Ahern's daughters objected to this approach, MAC is also hopeful that this Court will instruct the Trustee to pay MAC's reasonable attorney's fees,

[11] As a result of this representation, this Court held that Ahern did not breach any fiduciary duties related to the Court-ordered Accounting and that Ahern could resume serving as Trustee over her 35% share of the assets after the litigation is finally resolved. See Order Regarding the Accounting, Breach of Fiduciary Duty Claims and Award of Attorney Fees dated April 20, 2015.

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costs, and interests. After all, this approach would end MAC's involvement in these proceedings and obviate the expenditures that will follow if MAC is required to make additional filings and appearances in this matter. See J. Lindsey Short, Jr. Lynne, You've Earned It . . . Now How Do You Collect?, FAM. ADVOC., Fall 1988, at 26, 28 ("The charging lien protects the attorney's interests and prevents a subsequent suit between attorney and client. It therefore saves the time and resources required to prosecute and defend a separate suit for attorney's fees.").

That being said, MAC questions Ahern's logic in opposing a lien or payment on her beneficial interest because it would seem that Ahern, as a Beneficiary of the Trust, should have as great an interest in the Trust's assets as she has in the distributions to which she is entitled. Moreover, because it is beyond question that Ahern has a contractual obligation to pay MAC's attorney's fees, costs, and interest, it is also odd that she disputes the logistics of how MAC should be paid, especially given that Ahern's representations regarding her financial situation suggest that the payments to which MAC is entitled must come from the Trust.

More importantly, MAC questions, for reasons of equity, how Ahern can object to using an advance from the Trust to pay MAC's fees when the Court previously instructed the Trustee to advance $70,000 to Brownstein Hyatt Farber Schreck, LLP—MAC's successor—for payment of its attorney's fees in representing Ahern.[12] After all, an attorney's charging lien is "a unique method of protecting attorneys" that is "based upon natural equity," and it would be inequitable to award fees to Brownstein Hyatt Farber Schreck, LLP's while denying MAC payment for comparable services that it rendered pursuant to its Attorney Fee Agreement with Ahern.[13] Leventhal v. Black & LoBello, 129 Nev., Adv. Op. 50, 305 P.3d 907, 909 (2013); see also Sarman v. Goldwater, Taber and Hill, 80 Nev. 536, 396 P.2d 847, 849 (1964) ("The attorney's right to be paid is not based upon, or limited to, his lien. It is based upon a contract, express or implied. The lien is but security for his right."); BeroWachs v. Law Office of Logar & Pulver,

[12] See Order on Petition for Instructions Regarding Allocation of Eleanor Ahern's 2015 Trust Unpaid Distributions dated June 2, 2016.

[13] See Attorney's Fee Agreement, Section 7 ("In the event Client falls behind in payments to MAC . . . Client consents that the district court judge . . . may adjudicate the amount due MAC and enter an order designating that amount as due and as a lien on any sums Client may recover.")

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123 Nev. 71, 157 P.3d 704, 706–07 (2007) ("The purpose of N.R.S. [§] 18.015 is to secure attorney fees and to 'encourag[e] attorneys to take cases of those who could not otherwise afford to litigate'" quoting Muije v. A N. Las Vegas Cab Co., 106 Nev. 664, 799 P.2d 559, 561 (1990)).

Finally, while Ahern contends that she did not benefit from MAC's representation, the record belies her argument because MAC successfully represented Ahern in litigation against Mr. Mann. MAC also successfully negotiated a settlement of the will contest. In addition, MAC represented Ahern during critical litigation regarding her purported breaches of fiduciary duty, and, as a result of this representation, this Court held that Ahern did not breach any fiduciary duties related to the Court-ordered Accounting and that Ahern could resume serving as Trustee over her 35% share of the assets after the litigation is finally resolved.[14]

Thus, because Ahern personally benefitted from MAC's representation, it is only fair that Ahern satisfies her contractual obligation to pay MAC's fees, costs, and interest. Accordingly, if this Court declines to enter an attorney's lien against the Trust itself, the Court should enter an attorney's lien against Ahern's beneficial interest in the Trust to ensure that MAC receives the payment that it is contractually and justly owed.

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[14] See Order Regarding the Accounting, Breach of Fiduciary Duty Claims and Award of Attorney Fees dated April 20, 2015.

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III. CONCLUSION.

The action for which MAC represented Ahern was complex, fast-paced, and time-intensive. In zealously advocating for Ahern, both in her capacity as Trustee and as a beneficiary, MAC expended significant resources and efforts. For all of its efforts, MAC should be compensated for the work performed, which Ahern is contractually obligated to pay. Accordingly, MAC respectfully requests that this Court grant its Motion to Adjudicate Attorney's Lien.

Dated this 30th day of August, 2016.

MARQUIS AURBACH COFFING

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing **REPLY IN SUPPORT OF MARQUIS AURBACH COFFING'S MOTION TO ADJUDICATE ATTORNEY'S LIEN** was submitted electronically for filing and/or service with the Eighth Judicial District Court on the 30th day of August, 2016. Electronic service of the foregoing document shall be made in accordance with the E-Service List as follows:[15]

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[15] Pursuant to EDCR 8.05(a), each party who submits an E-Filed document through the E-Filing System consents to electronic service in accordance with NRCP 5(b)(2)(D).

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DISTRICT COURT

CLARK COUNTY, NEVADA

In re the Matter of the

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

A non-testamentary trust.

Case No.: P-09-066425-T
Department: 26 (Probate)
PC1 (Judge Sturman)

LIMITED OBJECTION TO MOTION TO ADJUDICATE ATTORNEY'S LIEN

Date of Hearing: September 7, 2016
Time of Hearing: 9:30 a.m.

JACQUELINE M. MONTOYA ("Jacqueline") and KATHRYN A. BOUVIER ("Kathryn"), by and through their counsel of record, JOSEPH J. POWELL, Esq., of THE RUSHFORTH FIRM, LTD., hereby Object, in part, to the "Motion to Adjudicate Attorney's Lien" filed by MARQUIS AURBACH COFFING ("MAC") on August 4, 2016 ("Motion"). Jacqueline and Kathryn Object, in part, to the Motion as follows:

A. MAC'S REFUSAL TO TURN OVER ITS FILE TO THE CURRENT TRUSTEE SAYS IT ALL

A.1 As this Court is well aware, MAC has steadfastly refused to turn over all of its file to

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Mr. Waid , despite this Court declaring that all actions relating to MAC's representation of Ms. Ahern in her capacity as trustee must be turned over to Mr. Waid.

A.2 This Court has previously declared that, despite MAC's protests/arguments with Mr. Waid, there is no attorney client privilege as it relates to a trustee. Mr. Waid has briefed this issue and this Court has repeatedly confirmed that Mr. Waid's position is correct.

A.3 Yet, MAC's refusal persists and Mr. Waid remains without the file.

A.4 Further, MAC has already been paid over $150,000 from trust funds (please see Exhibit "A" which is attached hereto and hereby incorporated by this reference), which is precisely why Mr. Waid wants and needs to review MAC's file to determine how much, if any, of that sum was appropriately expended by Ms. Ahern while acting as the trustee. Mr. Waid has expressed that he cannot make a determination on this issue until he is able to review MAC's file, which MAC refuses to produce to him.

A.5 MAC has already been paid from trust funds and is now seeking additional fees from the trust, all the while refusing to turn over its file to Mr. Waid. This is the proof in the pudding that their services benefitted only Ms. Ahern and not the trust as a whole, which is the applicable standard when seeking payment from trust funds.

B. SUMMARY OF KEY POINTS

1. MAC has never established "in exactly" what role they were providing representation to Eleanor Ahern in her capacity as trustee, nor how such representation was a "benefit" to the Trust. They have, however, expended great effort to redact a large number of descriptions of work provided to Ms. Ahern on a majority of their invoices.

2. Throughout this litigation, Jacqueline and Kathryn repeatedly asserted that Ms. Ahern was litigating these issues for her own benefit and self interest, and this Court

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agreed; hence the award of attorney's fees of approximately $400,0000.

3. To award MAC fees from the corpus of the Trust would harm and prejudice Jacqueline and Kathryn in the process while giving a benefit to Ms. Ahern. Such would be nonsensical.

4. MAC's remedy is simple and straightforward. MAC can sue Ms. Ahern personally and obtain a judgment on the debt owed. They can then make Mr. Waid aware of such judgment and seek to collect against any distributions made directly to her. MAC should be afforded nothing more, nothing less. Plainly, MAC's attorney's represented Ms. Ahern as a beneficiary of the Trust, and their claim is only against her personally.

C. OVERVIEW

C.1 Jacqueline and Kathryn's position on MAC's Motion is best summed up by using MAC's own words: "*Because Ahern personally benefitted from MAC's representation,* ***it is only fair that Ahern satisfies her*** *contractual* ***obligation to pay*** *MAC's fees, costs, and interest.*" [Emphasis Added]. Lines 16-17, page 9 of Motion. However, MAC admits in its Motion that "Ahern is unable to satisfy **her contractual obligations**, ..." [Emphasis Added]. Lines 18, page 5 of Motion.

C.2 Eleanor Ahern chose to thrust herself into litigation, and she, and only she, is responsible for the rabbit hole in which MAC finds itself. Ms. Ahern's liabilities should have zero adverse effect on Jacqueline and Kathryn, whom this Court has declared to be the damaged parties resulting from Ms. Ahern's wrongful actions. In other words, and MAC also correctly notes, this is a "fee dispute between MAC and Ahern". Line 7, page 6 of Motion.

D. MAC's MOTION SUPPORTS PERSONAL OBLIGATION OF MS. AHERN TO THEM

D.1 MAC's Motion is littered with statements confirming Jacqueline and Kathryn's

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position: Ms. Ahern has sought only to benefit herself and her interest.

D.2 This litigation had nothing to do with Ms. Ahern acting as an impartial trustee. Indeed, an impartial trustee would not act as Ms. Ahern did. This is why this Court concluded that Ms. Ahern breached her fiduciary duty "*as it relates to Eleanor cutting off their 65% distributions of the oil income in June 2013*". See "Order Regarding the Accounting, Breach of Fiduciary Claims, and Award of Attorney Fees" dated April 17, 2015. Further, if Ms. Ahern had acted appropriately this Court would not have punished her by declaring her to be personally responsible for Jacqueline and Kathryn attorney's fees.

D.3 The following are perfect illustrations which demonstrate that MAC's representation of Ms. Ahern was for her personal benefit of no benefit to Jacqueline and Kathryn:

> *And, because of MAC's diligence, Ahern successfully opposed her daughters' request to enforce a settlement.* lines 16 - 17, page 3 of Motion
>
> *. . . . in exchange for MAC serving as her attorneys* ***in several matters****, including but not limited to In the Matter Of . . . . . .* lines 4 - 5, page 4 of Motion [Emphasis added]
>
> *. . . . due to MAC's representation, the Court allowed Ahern to retain her 35% share of the Upton County, Texas oil assets . . . . .* line 10, page 4 of Motion
>
> *As a beneficiary of the Trust, ...* line 12, page 4 of Motion
>
> *MAC vigorously represented Ahern for over five months, in what proved to be complex, time-intensive litigation. Because Ahern is unable to satisfy* ***her contractual obligations****, ...* lines 17 - 18, page 5 of Motion [Emphasis added]
>
> *. . Ahern's Fee Agreement with MAC confirms that Ahern retained the firm to represent her both* ***in her capacity as*** *Trustee and as* ***a beneficiary*** *in the action.* lines 13 - 14, page 7 of Motion [Emphasis added]
>
> *. . . , MAC claimed the* ***lien*** *that it asserts* ***against Ahern****.* lines 16 - 17, page 7 of Motion [Emphasis added]
>
> *. . . satisfy the* ***fees and costs*** *that* ***Ahern*** *is contractually* ***obligated to pay*** *MAC.* lines 18 - 19, page 7 of Motion [Emphasis added]
>
> *. . ., MAC has perfected its lien against Ahern . . .* lines 19 - 20, page 7 of Motion
>
> *For one, MAC represented Ahern in litigation against Mr. Mann.* lines 7 - 8, page 9 of Motion

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. . . ***Ahern personally benefitted*** *from MAC's representation,* . . . line 16, page 9 of Motion [Emphasis added]

Ahern undoubtedly benefitted from MAC's services, as she retained her 35% beneficial interest in the Trust. lines 8 - 9, page 13 of Motion

D.4 As stated, this is a simple issue of Ms. Ahern's obligation to MAC. Accordingly, Jacqueline and Kathryn take no position as to MAC's assertion that "*MAC's attorney's lien should attach to Ahern's beneficial interest in the Trust so that future distributions may be directly made to MAC for payment of the services that it rendered*" to her. Ms. Ahern has her own counsel who is free to debate that topic with MAC. Further, Mr. Waid, as trustee, can also be heard on that issue.

E. MAC'S CASE LAW SUPPORTS JACQUELINE AND KATHRYN'S POSITION

E.1 If Ms. Ahern acted appropriately as a trustee, this Court would not have ordered her to pay her with the attorney fee's incurred by Jacqueline and Kathryn. In essence, this Court found that Ms. Ahern acted against the interests of Jacqueline and Kathryn and with bad faith. Therefore, it is puzzling, while also disingenuous, for MAC to cite to case law which stands for the notion that attorney fee's for a trustee may be paid from the trust corpus if such benefit is for <u>all</u> beneficiaries. It is beyond dispute that Ms. Ahern did not act in the interest of all beneficiaries, since she was punished for her bad faith actions. Yet, MAC is intent on citing case law its attorneys know cannot rationally support its position.

E.2 Specifically, MAC includes three very telling quotes from cases, all three of which present holdings contrary to the stated proposition that the Trust is responsible for all litigation fees. actually being against their proposition that the general trust fund should be responsible for their fees.

E.3 MAC first quotes a Minnesota decision, *In Matter of Campbell's Trusts*, which states:

Attorneys' fees and other expenses reasonably and necessarily incurred by all necessary parties to litigation may be allowed and properly charged to the trust estate where such litigation, with respect to substantial and material issues, is necessary in order to resolve

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the meaning and legal effect of ambiguous language used by the settlor in the trust instrument.

E.4 The situation presented in that case was far different from this case. There was no ambiguity in the Connell Trust instrument. This Court never found that there was any ambiguity in the trust instrument. Further, there are not multiple "necessary parties" involved in this matter. This case involves Jacqueline and Kathryn needing court assistance regarding Ms. Ahern's misconduct. Therefore, *Campbell'sTrusts* is inapplicable to this situation.

E.5 MAC then quotes a Florida Appellate Court, *Johnson v. Taylor*, for the proposition that:

awarding costs to a party who "was unsuccessful in achieving his prime objective" where as "a result of the proceedings undertaken the trust estate was benefitted."

E.6 MAC fails to address in its Motion how exactly the "trust estate was benefitted" in this matter. The reason is simple: It was not. No action taken by Ms. Ahern benefitted Jacqueline or Kathryn, as has been attested to by Mr. Waid. In fact, Ms. Ahern created numerous, harmful issues for Jacqueline and Kathryn and can cite to nothing that was beneficial for them that resulted under MAC's representation.

E.7 In its last desperate attempt, MAC quotes a US Court of Appeal decision from the District of Columbia, *Walsh v. Nat'l Sav. & Trust Co.*, which provides:

An attorney who creates, increases, preserves, or protects trust fund with accompanying benefit to all interested parties is entitled to receive his fee from corpus of trust.

E.8 Again, MAC cannot establish a single action which Ms. Ahern took that benefitted Jacqueline and Kathryn's interests.

E.9 The majority law relating to a trustee's ability to use general trust funds to pay attorney's fees is explained by Bogert's Trust and Trustees as follows:

Reasonable fees incurred by a trustee for legal services are payable by or reimbursable from the trust to the extent it is established that employing the attorney is proper and reasonable in the trustee's performance of its duties in administering the trust. This rule, often codified, has been applied in a wide variety of circumstances, including litigation

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among cotrustees and for instructions, and is not conditioned on the outcome of the legal services being favorable to the trust. For example, consistent with the trustee's duty to defend the trust, it will be indemnified for its legal fees prudently incurred in doing so, without regard to whether its defense is successful.

Conversely, the general rule stated above will not apply, and ***a trustee's legal fees will not be allowed, to the extent they are incurred in connection with a breach of duty by the trustee****, are unnecessarily incurred, are unreasonable in amount,* ***or are incurred for the trustee's own benefit or otherwise are not incurred for the benefit of the trust****. As stated by the California Court of Appeal, for a trustee's legal fees to be payable from the trust, "[l]ong-established principles of trust law impose a double-barreled reasonableness requirement: the fee award must be reasonable in amount and reasonably necessary to the conduct of the litigation, but* ***it also must be*** *reasonable and appropriate* ***for the benefit of the trust****."* [Emphasis added]

Reasonable attorney's fees incurred by the trustee in anticipation of, or in defending, a claim brought against it by a beneficiary for removal or surcharge alleging breach of duty generally will be allowed from the trust if the trustee's defense is successful, but usually will not be allowed if the beneficiary's claim succeeds.

In the court's discretion, fees incurred by the trustee in defending against a beneficiary's claim of breach may not be payable from the trust during the pendency of the litigation, and may not be allowed even if the trustee prevails. The trustee's legal fees incurred in connection with a beneficiary's claim against it that is partially successful may be allocated by the court, with part of it being allowed on the trustee's account as a proper charge to the trust and the remainder being payable by the trustee.

(Language taken from The Law Of Trusts And Trustees § 971, Bogert's Trusts And Trustees, Chapter 46. Accounting and Compensation)

E.10 Simply put, a trustee is "*not entitled to charge the trust estate with fees for defending his own maladministration against the [justifiable] complaint of the beneficiaries.*" See *Citizens and Southern Nat 'I Bank v. Haskins*, 327 S.E.2d 192, 203-04 (Ga. 1985) (co-trustee should bear its own expenses in defense of the accusations of breach of its fiduciary duties); *Harvey v. Leonard*, 268 N.W.2d 504, 517 (Iowa 1978) (trustee ordered to bear the costs of defending the lawsuit personally, and was not entitled to reimbursement from the trust estate as a result of trustee's breach of fiduciary duties); See *Wiglesworth*, 391 S.E.2d at 303 (stating that "*[a]lthough a trustee is entitled to reimbursement from the trust for reasonable attorney's fees expended in protecting the trust, a trustee should not receive such reimbursement when he caused the litigation.*") (citations omitted). Such law demonstrates that a trustee may only seek

reimbursement from the trust upon a finding that the trustee acted free of misconduct and for the benefit of the trust.

E.11 These principles are also followed by California courts as well. In *Donahue v. Donahue*, 182 Cal.App.4th 259 (2010), the Court stated the following:

> *In reviewing whether the trial court abused its discretion, "we are mindful that '[t]he underlying principle which guides the court in allowing costs and attorney fees incidental to litigation out of a trust estate is that such litigation is a benefit and a service to the trust.' [Citation.]" (Terry v. Conlan (2005) 131 Cal.App.4th 1445, 1461, 33 Cal.Rptr.3d 603 (Terry) [reversing fee award to trustee].) "If litigation is necessary for the preservation of the trust, the trustee is entitled to reimbursement for his or her expenditures from the trust; however, if the litigation is specifically for the benefit of the trustee, the trustee must bear his or her own costs incurred, and is not entitled to reimbursement from the trust."*
>
> 182 Cal.App.4th 259, 270

E.12 Another California decision clearly expresses the principle that attorney's fees cannot be payable from a trust where litigation is for the benefit of trustee, not for the trust. In *Whittlesey v. Aiello*, 104 Cal.App.4th 1221 (2002), the case involved a trustee who was also a beneficiary, like Ms. Ahern who claimed that he should be entitled to his attorney's fees in the litigation because interests in the trust were being disputed. The trustee was acting to prevent others from having an interest in the trust.

E.13 The Court concluded that the trustee/beneficiary was acting in his own self interest, as Ms. Ahern has here, by arguing his entitlement in the trust. In reaching this determination, the Court stated:

> *Because the underlying dispute was essentially between trust beneficiaries and the prevailing plaintiff had already been required to incur his own litigation expenses, it would have been unfair to saddle him with the defendants' expenses as well. In Duffill, the trust was preserved largely intact after the litigation, such that a charge on the trust was, in effect, a charge on the trust beneficiaries. In other words, the trust beneficiaries were required to foot their own litigation costs, not those of the losing defendants.*
> 104 Cal.App.4th 1221, 1229-1230.

E.14 The *Whittlsey* holding and rationale was adopted and explained by the Court in *the Terry v. Conlan*, 131 Cal.App.4th 1445 (2005) as follows:

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This case is very similar to Whittlesey v. Aiello (2002) 104 Cal.App.4th 1221, 128 Cal.Rptr.2d 742 (Whittlesey), in which the Court of Appeal for the Third District considered a related question. In that case, a trust was created that named the decedent's niece as the trustee and primary beneficiary. Later, an amendment was executed that named the decedent's second wife as the trustee and primary beneficiary. The niece challenged the amendment, and the second wife hired an attorney to defend it, claiming that she was acting as the trustee of the trust, and the attorney fees she incurred should be payable from the trust, because they were necessary to protect the trust's assets.

The Court of Appeal disagreed, finding that the heart of "the underlying action was not a challenge to the existence of the trust; it was a dispute over who would control and benefit from it." (Whittlesey, supra, 104 Cal.App.4th at p. 1226, 128 Cal.Rptr.2d 742.) The court found further that whether or not the challenge to the amendment prevailed, "the trust would remain intact." (Ibid.)

We see very little difference between the issue in Whittlesey, and that in the present case. Like Whittlesey, here, the disputing parties are competing heirs of Garth's estate. On one side of this dispute is Sholly and her siblings, the children of Garth Conlan, and on the other is Ione. Also like Whittlesey, Ione initiated the litigation to establish her rights under the trust. The Children, in turn asserted the contrary position that they had rights under the trust. The dispute was, and continues to be over who will enjoy the benefits and who will control the trust.

In Whittlesey, the court concluded that because the dispute between the parties was related to the benefits of the trust, rather than an attack on the validity of the trust itself, "there was no basis for the trustee to have taken other than a neutral position in the contest." (Whittlesey, supra, 104 Cal.App.4th at p. 1231, 128 Cal.Rptr.2d 742.) Therefore, the trustee was not entitled to reimbursement for her attorney fees. The court stated: "[t]o the extent [the attorney] defended the amendment, he was representing the interests of one side of the dispute over the other, not representing the interests of the trust or the trustee." (Ibid.) 131 Cal.App.4th 1445, 1462

F. CONCLUSION

F.1 Under no circumstances should MAC's fees and costs be taken from the Trust's corpus. MAC has wholly failed to establish how its representation of Ms. Ahern, which it concedes throughout its motion was multifaceted, provided any benefit to the Trust as a whole, or specifically to Jacqueline and Kathryn.

F.2 The law is exceedingly clear: Because Ms. Ahern did not benefit the Trust, she is personally responsible for her fees. As such, Jacqueline and Kathryn take no issue with MAC's lien attaching to Ms. Ahern's interest in the Trust (which may only be satisfied from distributions made

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directly to Ms. Ahern). But it is not acceptable for Jacqueline and Kathryn's interest, to be further harmed by an award of Ms. Ahern's fees incurred through needless litigation she pursued. Ms. Ahern caused this mess and she, alone, must be responsible for it.

F.3 In summary, MAC's lien can attach to Ms. Ahern's interest personally, as determined in the sole and absolute discretion of the trustee of the Trust.

F.4 For the reasons set forth herein, Jacqueline and Kathryn respectfully request that MAC's motion be denied, at least in part.

Respectfully submitted,

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EXHIBIT A

EXHIBIT A

MARQUIS AURBACH COFFING

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Eleanor Ahern
email: eleanor@connelltrust.lawyer

Invoice 291391 - 298892
July 30, 2015

ID: 207-002 - DAH

Re: Connell, W.N. & Marjorie T. Living Trust dated May 18, 1972 The

For Services Rendered Through July 14, 2015

Current Fees	273,026.50
Current Disbursements	18,890.18
Current Interest	2,558.16
Total Current Charges	294,474.84
Courtesy Discount	-15,319.25
Payments	-151,421.05
Balance Due	**127,734.54**

T-MAC011301

CSERV
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Attorneys for Jacqueline M. Montoya
and Kathryn A. Bouvier

DISTRICT COURT
CLARK COUNTY, NEVADA

In the Matter of

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

A non-testamentary trust.

Case No. P-09-066425-T
Department: 26 (Probate)

CERTIFICATE OF SERVICE

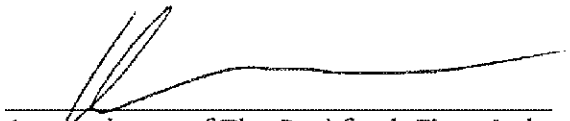
Date of Hearing: September 7, 2016
Time of Hearing: 9:30 a.m.

I HEREBY CERTIFY that I am an employee of The Rushforth Firm, Ltd., and pursuant to NCRP 5(b), EDCR 8.05, Administrative Order 14-2, and NEFCR 9, I caused a true and correct copy of the **OBJECTION, IN PART, TO MOTION TO ADJUDICATE ATTORNEY'S LIEN** to be submitted electronically for filing and service with the Eighth Judicial District Court via the Court's Electronic Filing System on the 30th day of August, 2016, to the following:

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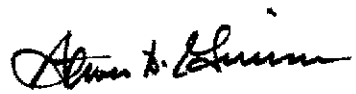
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DISTRICT COURT

CLARK COUNTY, NEVADA

In the Matter of

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

A non-testamentary trust.

Case No. P-09-066425-T
Department: 26 (Probate)

REPLY IN SUPPORT OF PETITION FOR ORDER DIRECTING TRANSFER OF TENANCY IN COMMON INTEREST IN UPTON COUNTY, TEXAS PROPERTY TO THE MTC LIVING TRUST

Jacqueline M. Montoya ("Jacqueline"), in her capacity as the acting trustee of the MTC Living Trust, dated December 6, 1995 ("MTC Trust"), and in her capacity as a beneficiary of the MTC Trust, and Kathryn A. Bouvier ("Kathryn"), in her capacity as a beneficiary of the MTC Trust, by and through their counsel of record, The Rushforth Firm, Ltd., hereby submit their Reply in Support of their petition for an order directing the transfer of the 65% interest in the Upton County, Texas property, along with the oil, gas, and mineral rights associated with such land, to the MTC Trust in satisfaction of the estate plan of Marjorie T. Connell. This Reply is prompted by Ms. Ahern's "Response to Petition for Order Directing Transfer of Tenancy in Common Interest in Upton County, Texas Property to the MTC Living Trust" which was filed by Ms. Ahern on August

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17, 2016 ("Response").

A. REPLY TO RESPONSE

A.1 It is clear that Ms. Ahern is asking this Court for a stay on MTC Trust's rights to the possession of the 65% of the interest in the Upton County Property.

A.2 However, it is unclear upon what groundsMs. Ahern is asking for such remedy as the Response is silent on this topic. Essentially, Ms. Ahern is asking the Court to wait to enforce a judgment that is not stayed, but refuses to set forth the roadmap as to her entitlement to such relief.

A.3 Ms. Ahern is either: 1) insinuating that she is entitled to a stay despite her failure to ever ask for one (which woudl require some sort of security/bond) or 2) insinuating that because the appeal is still pending this Court is without jurisdiction and cannot make a ruling on this issue. In either instance, she is flat out wrong and her desire to interfere with the enforcement of the judgment is completely inappropriate. Both of these issues are discussed herein.

B. "APPEAL" AND "STAY" ARE NOT SYNONYMOUS TERMS

B.1 As stated in the heading, the terms "appeal" and "stay" are not synonymous terms. In fact, they are from it.

B.2 A stay in an exception to the rule, not the rule.

B.3 The rules of justice require the enforcement of a judgment regardless of a pending appeal.

B.4 Without a stay in place, a judgment can and must be enforced. Otherwise, an appeal, by itself, would grind everything to a halt. This is not how the legal system works.

B.5 If the filing of an appeal by itself created an automatic stay and prevented the enforcement of a judgment, then it would be used repeatedly as a sword/leverage tactic to frustrate the victorious party from being able to move on with things. This has never been the point of an appeal. If a party believes that they have received a bad or unfair ruling from a district court then

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they must obtain a stay/injunctive remedy to keep the status quo in place for the several years that it may take for a final determination to be rendered by an appellate court. Hence, this is why a stay is an extraordinary remedy that is not to be routinely granted.

B.6 The legal principle that a judgement is enforceable absent a stay being in place is not simply mere conjecture, but is supported by undisputable case authority.

B.7 The following is a collection of quotes from three federal court of appeals decisions, one before the Ninth Circuit, one before the Seventh Circuit, and the other before the Fifth Circuit, in relation to FRCP 62(d) which is NRCP 62's federal counterpart:

> *If plaintiffs desired that the status quo be maintained pending appeal means were afforded in proper case by Rule 62, F.R.C.P., as heretofore pointed out. Plaintiffs failed to seek such protection.*
>
> Matter of Combined Metals Reduction Co., 557 F.2d 179, 190 (1977) (9th Cir. 1977)

> *The burden of obtaining stays of the district court's orders was on the appellant, and in view of the well-established rule that an appeal will not affect the validity of a judgment or order during the pendency of the appeal, absent a stay or supersedeas, we have no difficulty in rejecting appellant's first argument.* Id.

> *Supersedeas practice in the federal court system is a creature of statutory origin. From the inception of the federal judiciary, a judgment could be executed while an appeal therefrom was pending unless timely application was made by the appellant to the trial court or to a judge or justice of the appellate tribunal for a stay. The stay became effective when a bond or other sufficient security was approved by the court to secure faithful prosecution of the appeal and payment of the judgment if the appeal proved unsuccessful. For a discussion of the historic basis for the procedure see Hovey v. McDonald, 109 U.S. 150, 3 S.Ct. 136, 27 L.Ed. 888.*
>
> In re Federal Facilities Realty Trust, 227 F.2d 651, 654 (7th Cir. 1955)

> *An appeal of an order does not have the affect of an automatic stay. To hold that an appeal of an order operates as an automatic stay of that order is contrary to rule 62(d). The rule provides that "the appellant ... may obtain a stay," "[t]he bond may be given," and "[t]he stay is effective when the supersedeas bond is approved by the court." Fed.R.Civ.P. 62(d) (emphasis added). This language clearly illustrates that only upon application for a stay and approval of it will any related proceedings that are still pending be stayed. Therefore, Newball's argument that the appeal stayed the ninety-day time limit is without merit.*

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Newball v. Offshore Logistics Int'l, 803 F.2d 821, 827 (5th Cir. 1986)

B.8 The following are quotes from two United States District Courts on this same principle:

> *It is clear that a party seeking to avoid any impairment in its ability to realize the benefit of a successful appeal relating to the disposition of a subsidiary portion of the proceedings before the Court must seek to stay the progress of the proceedings by obtaining a stay or injunction pending appeal. Absent the grant of a stay or injunction and the approval of a bond, the status quo of the litigation is not fixed and the litigation is free to continue. Thus a party who chooses to appeal but who fails to obtain a stay or injunction pending appeal risks losing its ability to realize the benefit of a successful appeal. See, e. g., Sterling v. Blackwelder, 405 F.2d 884 (4th Cir. 1969); Knapp v. McFarland, 462 F.2d 935, 943 n. 7 (2d Cir. 1972); In Re Spier Aircraft Corp., 137 F.2d 736 (3d Cir. 1943); Wright & Miller, Federal Practice and Procedure § 2904.*
> *The purpose of obtaining a stay or injunction pending appeal is to preserve the status quo in the litigation.*
>
> In re Lewis Jones, Inc. 369 F.Supp. 111, 115-116 (E.D. Pa. 1973)

> *In this case, on March 3, 2008, the County appealed, but never requested a stay nor posted a bond of supersedeas, under Rule 62(d), in this Court,4 nor under Rule 62(g), in the Ninth Circuit. While Rule 62 waives the bond requirement for the United States, its officers, or its agencies, Fed.R.Civ.P. 62(e); Hoban v. Wash. Metro. Area Transit Auth., 841 F.2d 1157, 1159 (D.C.Cir.1988); Lightfoot v. Walker, 797 F.2d 505, 507 (7th Cir.1986), it contains no express waiver for the states or their subdivisions, see Fed.R.Civ.P. 62. Thus, under Rule 62, Leuzinger's judgment remains final and enforceable as of November 14, 2007.*
>
> Leuzinger v. Cty. of Lake, 253 F.R.D. 469, 473 (N.D. Cal. 2008)

C. JURISDICTION REMAINS WITH THIS COURT

C.1 Plain and simple, to the extent that Ms. Ahern argues that this Court cannot grant the relief to which Jacqueline and Kathryn are entitled because of the appeal, she is wrong. This Court maintains jurisdiction over this issue and the appeal has no effect on the requested relief.

C.2 Nevada law is clear about the district court's ability to maintain jurisdiction despite an appeal.

C.3 As this Court knows: "*when an appeal is perfected, the district court is divested of*

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jurisdiction to revisit issues that are pending before [the Supreme Court], [however] *the district court retains jurisdiction to enter orders on matters that are collateral to and independent from the appealed order, i.e., matters that in no way affect the appeal's merit.*" Mack-Manley v. Manley, 122 Nev. 849, 855, 138 P.3d 525, 529-30 (2006) (emphasis added).

D. THIS COURT PREVIOUSLY CONCLUDED THAT A 65% INTEREST IN THE TEXAS PROPERTY INTEREST BELONGS TO THE MTC TRUST

D.1 This Court has previously declared that the 65% interest in the Texas Property Interest belongs to the MTC Living Trust (which as this Court will recall was established by Marjorie T. Connell).

D.2 In the Summary Judgment Order dated April 15, 2015, this Court made the following declaration:

> *10. Prior to her death, on January 7, 2008, Marjorie executed her last Will and Testament, wherein she executed her Power of Appointment* ***over the assets and*** *benefits of subtrust 3,* ***appointing them to*** *Jacqueline and Kathryn as beneficiaries under* ***the MTC Living Trust.***
>
> [Emphasis added] Page 5 of Summary Judgment Order

D.3 This Court also declared:

> ***Clearly,*** *under the Trust provisions, the beneficiaries under subtrust 3 are* ***granted the right to remove their interest in the Texas oil property out of the main Trust and subtrust 3, to be owned independently by the MTC Living Trust*** *and Jacqueline and Kathryn are the beneficiaries thereunder.*
>
> [Emphasis added] Page 13 of Summary Judgment Order

D.4 As established, there can be no good faith dispute that this Court has declared that the 65% interest in the Texas Property is an asset of the MTC Living Trust. Therefore, there is no logical reason why the MTC Living Trust should not hold legal title to that which it owns.

E. CONCLUSION

For the many reasons set forth herein and in the underlying "Petition for Order Directing Transfer of Tenancy in Common Interest in Upton County, Texas Property to the MTC Living trust",

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Las Vegas, Nevada 89137-1655

Jacqueline, as the trustee of the MTC Living Trust, and as a beneficiary of such Trust, and Kathryn, as a beneficiary of the MTC Living Trust, respectfully request that Fred Waid, in his capacity as trustee of the Connell Trust, be ordered to immediately take the necessary steps to deed over the 65% (to be precise 64.493%) undivided interest in the Upton County Property to the MTC Trust, which as established herein, has rightfully and properly belonged to the MTC Trust since Marjorie's passing in 2009, as previously declared by this Court.

Respectfully submitted by:

AUG 3 1 2016

Joseph J. Powell
State Bar No. 8875
Layne T. Rushforth
State Bar. No. 1004
1707 Village Center Circle, Suite 150
Las Vegas, NV 89134-0597

Date

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Attorneys for Jacqueline M. Montoya
and Kathryn A. Bouvier

DISTRICT COURT
CLARK COUNTY, NEVADA

In the Matter of

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

A non-testamentary trust.

Case No. P-09-066425-T
Department: 26 (Probate)

CERTIFICATE OF SERVICE

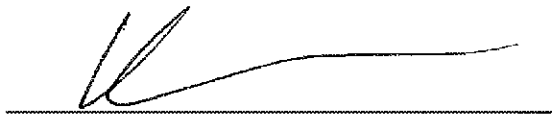
Date of Hearing: September 7, 2016
Time of Hearing: 9:30 a.m.

I HEREBY CERTIFY that I am an employee of The Rushforth Firm, Ltd., and pursuant to NCRP 5(b), EDCR 8.05, Administrative Order 14-2, and NEFCR 9, I caused a true and correct copy of the **REPLY IN SUPPORT OF PETITION FOR ORDER DIRECTING TRANSFER OF TENANCY IN COMMON INTEREST IN UPTON COUNTY, TEXAS PROPERTY TO THE MTC LIVING TRUST** to be submitted electronically for filing and service with the Eighth Judicial District Court via the Court's Electronic Filing System on the 31st day of August, 2016, to the following:

BROWNSTEIN HYATT FARBER SCHRECK, LLP
Kirk B. Lenhard, Esq.
100 North City Parkway, Suite 1600
Las Vegas, Nevada 89106

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10080 W. Alta Drive #200
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CLERK OF THE COURT

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Attorneys for Fredrick P. Waid Court-appointed Trustee

DISTRICT COURT

CLARK COUNTY, NEVADA

In the matter of THE W.N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST Dated May 18, 1972, an Inter Vivos Irrevocable Trust.	Case No.: P-09-066425-T Dept. 26 Date of Hearing: September 7, 2016 Time of Hearing: 9:30 a.m.

RESPONSE TO MOTION TO ADJUDICATE ATTORNEY'S LIEN

Fredrick P. Waid (Waid), Trustee of the W.N. Connell and Marjorie T. Connell Living Trust, dated May 18, 1972, (the "Trust"), hereby responds to the Motion to Adjudicate Attorney's Lien ("Motion") filed by Marquis Aurbach Coffing ("MAC").

In its Motion, MAC asks this Court to determine that the fees in the amount of $194,487.26 which MAC claims are due for the representation of Eleanor Ahern, the now-removed Trustee of the Trust, are valid, due and owing for representing "Ahern in her capacity as Trustee".[1] MAC further asks this Court to pay the attorney's lien on the fees out of the Trust's corpus because "MAC provided a valuable and necessary service to the Trust in resolving ... 'clearly a confused mess.' "[2] In the alternative, MAC asks the Court to order that the lien must be satisfied from "Ahern's beneficial interest because Ahern benefitted from

[1] *See* **Motion to Adjudicate Attorney's Lien**, page 7, line 24.

[2] *Id.* at page 8, lines 5-6.

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MAC's representation."[3] Finally, MAC argues that any future distributions of Ahern's interest in the Trust should be made directly to MAC for payment of its fees. Mr. Waid contends that the Court cannot determine whether MAC's claim for attorney's lien is valid because MAC has only provided an incomplete record on their services on behalf of the Trust. Further, MAC's claim against the Trust or Eleanor Ahern's interest therein violates Nevada's spendthrift law which prohibits the creditor of a beneficiary from obtaining a lien or judgment against the beneficiary's interest in a spendthrift trust.

A. MAC Has Not Fulfilled Its Duties as Attorneys for the Trust

MAC's arguments in support of its Motion are perplexing given the great lengths to which MAC has gone to withhold information about its representation of Eleanor Ahern and the Trust from Mr. Waid, who is charged with completing an accounting of Eleanor Ahern's actions as Trustee of the Trust which includes actions taken while MAC was representing her. Mr. Waid has repeatedly requested that MAC turn over unredacted billing statements of their work on the matter of the Trust, and all related documents to their representation of Eleanor Ahern as Trustee. Attached as **Exhibit 1** is a copy of the September 24, 2015 correspondence to MAC from Hutchison & Steffen requesting "billing records" and "unredacted copies of checks issued for payment of fees and costs". Attached as **Exhibit 2** is a copy of the January 28, 2016 correspondence to MAC from Hutchison & Steffen requesting the "itemized billing invoice" as ordered by this Court on January 26, 2016. Attached as **Exhibit 3** is a copy of the February 28, 2016 correspondence to MAC from Hutchison & Steffen requesting a privilege log or the detailed billing records. MAC has repeatedly refused to provide this information.

As of today, Mr. Waid still does not have all of the records requested, which he requires so he can conduct the deposition of Eleanor Ahern regarding her actions as Trustee with respect to the use of Trust funds during the pendency of this matter, and complete his accounting. MAC continues to claim that such information about the fees is privileged and confidential, and Mr. Waid is not entitled to such claiming that MAC would be violating ethical duties to Eleanor

[3] *Id.* at page 9, line 6-7.

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Ahern by turning such information over to Mr. Waid. Attached as **Exhibit 4** is a copy of the correspondence from MAC to Hutchison & Steffen rejecting a request for an unredacted billing statement for review. However, MAC has no hesitation coming before this Court and asserting that "MAC represented Ahern in her capacity as Trustee"[4] and therefore MAC is entitled to be compensated from the Trust for its services. MAC is playing a game of "heads I win, tails you lose" with the Trust's assets by refusing to give its unredacted billing statements to the Trustee so Mr. Waid can verify which fees are rightly attributable to the Trust and which should be allocated to Eleanor Ahern to be considered by the Court when determining damages as previously discussed. Now, in its Motion, MAC simply states that it represented Ahern in her capacity as Trustee.

With MAC's admission in the Motion, it is clear that MAC represented Eleanor Ahern in her capacity as Trustee, and that MAC is remiss in its duties to the Trust by failing to provide all of the documents and unredacted billing statements requested by Mr. Waid. Instead MAC claims that it represented Eleanor Ahern individually and that such communications between Eleanor Ahern and MAC are protected by attorney-client privilege, despite the law recognizing an exception to privilege for communications between a trustee and its attorneys. MAC should not be entitled to consideration of any of its fees being paid from the Trust until MAC provides a complete record to Mr. Waid. Only then can Mr. Waid determine what amount of Trust assets expended were for the benefit of the Trust or for Eleanor Ahern individually. Mr. Waid cannot do that so long as MAC continues to hide behind a fallacious privilege claim. Further, this Court h as found Ms. Ahern committed multiple act of fraud upon the Trust, some of which occurred during MAC's representation. In fact, MAC ultimately sought to withdraw from the case for ethical reasons.

The law is well settled that such communications between a trustee and its attorneys concerning the administration of the trust fall within the "fiduciary exception" to the attorney-client privilege. The "fiduciary exception" to the attorney client privilege was first recognized

[4] *Id.* at page 7, line 24.

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in this country by the Delaware Court of Chancery in a seminal 1976 opinion holding that trust beneficiaries are entitled to inspect opinions of counsel procured by the trustee to guide him in administration of the trust. *Cobell v. Norton*, 212 F.R.D. 24 (2002), (*quoting Riggs National Bank v. Zimmer*, 355 A.2d 709, 712 (Del.Ch.1976), and 2 SCOTT ON TRUSTS § 173, at 1407 (3d ed.1967)). Since that time, courts have uniformly recognized the existence of a fiduciary exception. *Id.*

The case of *Washington-Baltimore Newspaper Guild, Local 35 v. Washington Star Co.*, 543 F.Supp. 906 (D.D.C.1982) explained the rationale behind this exception:

> As a representative for the beneficiaries of the trust which he is administering, the trustee is not the real client in the sense that he is personally being served. And, the beneficiaries are not simply incidental beneficiaries who chance to gain from the professional services rendered. The very intention of the communication is to aid the beneficiaries. The trustee here cannot subordinate the fiduciary obligations owed to the beneficiaries to their own private interests under the guise of attorney-client privilege.

Id. at 909 (*quoting Zimmer*, 355 A.2d at 713-14.)

By asserting the existence of the attorney-client privilege, MAC possesses the burden of demonstrating its applicability by competent evidence which cannot be discharged by "mere conclusory or *ipse dixit* assertions." *Id. (quoting Federal Trade Commission v. TRW, Inc.*, 628 F.2d 207, 213 (D.C.Cir.1980), and *Martin v. Valley National Bank of Arizona*, 140 F.R.D. 291, 302 (S.D.N.Y.1991). It follows that where the "fiduciary exception" is at issue, the proponent of the privilege retains the burden to demonstrate the applicability of the privilege. *Id.*

Whether MAC can meet that burden hinges on a finding that Eleanor Ahern sought advice or engaged in communication that did *not* benefit the Trust or its beneficiaries. The burden is not on the Trust or its beneficiaries to demonstrate that Ms. Ahern was acting in a non-trustee capacity in order to defeat the privilege. *Id.*, at 28 (*citing Washington Star*, 543 F.Supp. at 909 n. 5 (rejecting a requirement of "good cause" to "pierce" the privilege in a trust context). Accordingly, communications between attorneys at MAC and Eleanor Ahern that exclusively concerned the administration of the trust are not entitled to attorney-client privilege because the trust beneficiaries were MAC's clients. *Id.*, at 28 (*citing Everett*, 165 F.R.D. at 4; In re Grand Jury Proceedings, Grand Jury No. 97-11-8, 162 F.3d 554, 556-57 (9th Cir.1998).)

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Clearly, the most heightened duty of loyalty is the one that the fiduciary owes its beneficiaries. *Cobell*, at 29 (*citing Varity Corporation v. Howe*, 516 U.S. 489, 506, 116 S.Ct. 1065, 134 L.Ed.2d 130 (1996), and it is that heightened duty that enjoins a trustee to act with an unswerving "eye single" to the interests of the beneficiaries, *Donovan v. Bierwirth*, 680 F.2d 263, 271 (2d Cir.1982), and with "complete and undivided loyalty" to them. *Freund v. Marshall & Ilsley Bank*, 485 F.Supp. 629, 639 (W.D.Wis.1979). Subordinating the interests of the beneficiaries to those of a trustee would offend this rule. *Cobell*, at 29.

Furthermore, any advice concerning legal compliance, alternatives, or strategy is part of the ordinary business of a trust and a trustee, and such legal communications and advice permit no claim of privilege. *Id.*, (citing *Martin*, 140 F.R.D. at 308). The reason for placing this burden on the trustee, rather than the trust beneficiaries, is to prevent trustees from shielding information about trust administration from the beneficiaries, who are entitled to that information. *Id.*

Even if MAC considered Eleanor Ahern and the Trust as "joint clients", one joint client cannot invoke the privilege against the other. *Id.* (*citing Garner v. Wolfinbarger*, 430 F.2d 1093, 1102 (5th Cir.1970), and *Martin*, 140 F.R.D. at 319; *see also Washington Star*, 543 F.Supp. at 910 ("An employer cannot, by retaining the same counsel as that used by the plan, defeat disclosure by a plan's attorney of communications between the plan's trustees and the employer. The case law clearly holds that when an attorney represents two parties who later become involved in litigation, neither party may assert the attorney-client privilege.").

MAC has repeatedly invoked this privilege, which does not apply in case, to only provide Mr. Waid with an incomplete record of its work on behalf of Eleanor Ahern. Accordingly, until MAC complies with Mr. Waid's requests to turn over the complete record of MAC's work on this matter, the Court should deny its Motion.

The incomplete record provided by MAC to Mr. Waid does not indicate whether all of the funds paid to MAC by the Trust were actually for the benefit of the Trust. In fact, some of the services rendered, such as the filing of a fraudulent accounting and subsequent certifications of assets which were later withdrawn as false, were provided in furtherance of the commission

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of fraudulent activity by Eleanor Ahern. Despite this, MAC claims that its services benefitted "the Trust and even this Court" (see Motion, page 13, lines 9-10). However, it is unclear how much of MAC's services were used to obfuscate Eleanor Ahern's activities as Trustee which ultimately led to her removal. Mr. Waid reserves the right to later review the complete files and unredacted billing records provided by MAC and move to disgorge fees from MAC if the circumstances warrant such.

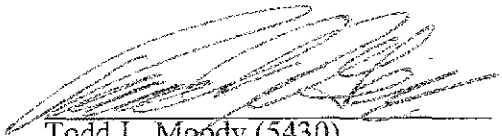
B. MAC's Claim Violates Nevada Spendthrift Law and the Trust's Spendthrift Provision

Finally, Mr. Waid, as Trustee, is required under NRS 166.120(4) to "disregard and defeat" MAC's attempts to impose a lien on Eleanor Ahern's interest in the Trust. The Trust qualifies as a spendthrift trust under Nevada law. Article Sixth of the Trust explicitly provides that "the right, title, interest, or estate of any beneficiary [shall not be] subject to any right, claim, demand, lien or judgment of any creditor of any such beneficiary, nor shall be subject nor liable to any process of law or equity." MAC's claim of a lien against Eleanor Ahern's interest is contrary to this provision, and the law affords the Trust protection against the claim. Further, this Court suspended Eleanor's interest and has yet to consider the calculation of final damages against Eleanor Ahern and determine the imposition of an appropriate remedy, whether it is reduction in her distributable interest or elimination of her interest entirely. MAC's demand, if valid and allowed, must be considered subordinate to any other determination of restitution owing from Eleanor Ahern's interest to the Trust and its other beneficiaries.

For these reasons, Mr. Waid asks this Court to deny MAC's Motion in full.

Dated this 31 day of August, 2016.

HUTCHISON & STEFFEN, LLC



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Russel J. Geist (9030)
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Attorneys for Fredrick P. Waid Court-appointed Trustee

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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of HUTCHISON & STEFFEN, LLC, and on this 31 day of August, 2016, I caused the above and foregoing document entitled **RESPONSE TO MOTION TO ADJUDICATE ATTORNEY'S LIEN** to be served as follows:

- ☐ by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada; and/or
- ☐ to be served via facsimile; and/or
- X pursuant to EDCR 8.05(a) and 8.05(f), to be electronically served through the Eighth Judicial District Court's electronic filing system, with the date and time of the electronic service submitted for the date and place of deposit in the mail; and/or
- ☐ to be hand-delivered;

to the attorneys and/or parties listed below at the address and/or facsimile number indicated below:

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Tamara Beatty Peterson, Esq.
Brownstein Hyatt Farber Schreck, LLP
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Daley A. Hayes, Esq.
Liane K. Wakayama, Esq.
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EXHIBIT PAGE ONLY

EXHIBIT 1

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OUR FILE NO.: 2355-211

September 24, 2015

Via Email & U.S. Mail

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Terry A. Coffing, Esq.
MARQUIS AURBACH COFFING
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Re: W.N. Connell and Marjorie T. Connell Living Trust Dated May 18, 1972, an Inter Vivos Irrevocable Trust

Dear Ms. Wakayama & Mr. Coffing:

This follows your limited production of documents pursuant to the subpoena duces tecum served on your office two months ago. We want to make one last effort to garner your cooperation before filing a motion to compel.

Your letter dated July 30, 2015, objected to the production of billing records (other than summary invoices) on the ground that "itemized invoices to the client contain attorney client privileged information." You also refused to provide unredacted copies of checks issued for payment of fees and costs because you deem them "confidential".

Attorney David Mann–for whom you took over as counsel for the Trust–recently argued the same position in an attempt to withhold information subpoenaed from him. As you will see by the attached Order, he did not prevail. Specifically, Mann claimed that at least some of the documents responsive to the subpoena were protected by attorney-client privilege and, therefore, could not be disclosed. Our response to his motion contains the same argument that Mr. Waid will use if he is forced to file a motion to compel.

The law is well settled that communications between a trustee and its attorneys concerning the administration of the trust fall within the "fiduciary exception" to the attorney-client privilege. The "fiduciary exception" to the attorney client privilege was first recognized in this country by the Delaware Court of Chancery in a seminal 1976 opinion holding that trust beneficiaries are entitled to inspect opinions of counsel procured by the trustee to guide him in administration of the trust. Cobell v. Norton, 212 F.R.D. 24 (2002), (*quoting* Riggs National Bank v. Zimmer, 355 A.2d 709, 712 (Del.Ch.1976), and 2 SCOTT ON TRUSTS § 173, at 1407 (3d ed.1967)). Since that time, courts have uniformly recognized the existence of a fiduciary exception. *Id.*

The case of Washington-Baltimore Newspaper Guild, Local 35 v. Washington Star Co., 543 F.Supp. 906 (D.D.C.1982) explained the rationale behind this exception:

> As a representative for the beneficiaries of the trust which he is administering, the trustee is not the real client in the sense that he is personally being served. And, the beneficiaries are not simply incidental beneficiaries who chance to gain from the professional services rendered. The very intention of the communication is to aid the beneficiaries. The trustee here cannot subordinate the fiduciary obligations owed to the beneficiaries to their own private interests under the guise of attorney-client privilege.

Id. at 909 (*quoting* Zimmer, 355 A.2d at 713-14.)

By asserting the existence of the attorney-client privilege, Marquis Aurbach Coffing possesses the burden of demonstrating its applicability by competent evidence which cannot be discharged by "mere conclusory or *ipse dixit* assertions." *Id. (quoting* Federal Trade Commission v. TRW, Inc., 628 F.2d 207, 213 (D.C.Cir.1980), and Martin v. Valley National Bank of Arizona, 140 F.R.D. 291, 302 (S.D.N.Y.1991). It follows that where the "fiduciary exception" is at issue, the proponent of the privilege retains the burden to demonstrate the applicability of the privilege. *Id.*

Whether you can meet that burden hinges on a finding that Eleanor Ahern (and in this case, Suzanne Nounna) sought advice or engaged in communication that did *not* benefit the Trust or its beneficiaries. The burden is not on the Trust or its beneficiaries to demonstrate that Ms. Ahern was acting in a non-trustee capacity in order to defeat the privilege. *Id.*, at 28 (*citing* Washington Star, 543 F.Supp. at 909 n. 5 (rejecting a requirement of "good cause" to "pierce" the privilege in a trust context). Accordingly, communications between attorneys in your office and Eleanor Ahern that exclusively concerned the administration of the trust are not entitled to attorney-client privilege because the trust beneficiaries were your clients. *Id.*, at 28 (*citing* Everett, 165 F.R.D. at 4; In re Grand Jury Proceedings, Grand Jury No. 97-11-8, 162 F.3d 554, 556-57 (9th Cir.1998).)

Clearly, the most heightened duty of loyalty is the one that the fiduciary owes her beneficiaries. Connell, at 29 (*citing* Varity Corporation v. Howe, 516 U.S. 489, 506, 116 S.Ct. 1065, 134 L.Ed.2d 130 (1996), and it is that heightened duty that enjoins a trustee to act with an unswerving "eye single" to the interests of the beneficiaries, Donovan v. Bierwirth, 680 F.2d 263, 271 (2d Cir.1982), and with "complete and undivided loyalty" to them. Freund v. Marshall & Ilsley Bank, 485 F.Supp. 629, 639 (W.D.Wis.1979). Subordinating the interests of the beneficiaries to those of a trustee would offend this rule. Connell, at 29.

Furthermore, any advice concerning legal compliance, alternatives, or strategy is part of the ordinary business of a trust and a trustee, and such legal communications and advice permit no claim of privilege. *Id.*, (citing Martin, 140 F.R.D. at 308). The reason for placing this burden on

the trustee, rather than the trust beneficiaries, is to prevent trustees from shielding information about trust administration from the beneficiaries, who are entitled to that information. *Id.*

Even if you considered Eleanor Ahern and the Trust as "joint clients", one joint client cannot invoke the privilege against the other. *Id.* (*citing* Garner v. Wolfinbarger, 430 F.2d 1093, 1102 (5th Cir.1970), and Martin, 140 F.R.D. at 319; *see also* Washington Star, 543 F.Supp. at 910 ("An employer cannot, by retaining the same counsel as that used by the plan, defeat disclosure by a plan's attorney of communications between the plan's trustees and the employer. The case law clearly holds that when an attorney represents two parties who later become involved in litigation, neither party may assert the attorney-client privilege.").

In addition to the financial documents subpoenaed from your office, we are requesting a copy of your entire file (and any associated matters), including Trust documents given to your office by David Mann.

Sincere regards,

HUTCHISON & STEFFEN, LLC

Todd L. Moody
For the Firm

TLM
Enclosures

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CLERK OF THE COURT

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Attorneys for Fredrick P. Waid, Trustee

DISTRICT COURT

CLARK COUNTY, NEVADA

In the matter of THE W.N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST DATED May 18, 1972, an Inter Vivos Irrevocable Trust.	Case No.: P-09-066425-T Dept. 26

taking off calendar

ORDER ~~DENYING~~ DAVID MANN'S MOTION TO ADJUDICATE ATTORNEY'S LIEN, AND COMPELLING DAVID MANN TO COMPLY WITH SUBPOENA DUCES TECUM

Date of Hearing: 09/16/15
Time of Hearing: 9:00 a.m.

A hearing was held on September 16, 2015 on David Mann's Motion to Adjudicate Attorney's Lien ("Motion"). Eleanor Ahern was represented by Kirk Lenhard of Brownstein, Hyatt, Farber & Schreck, LLP, and James E. Shapiro of Smith & Shapiro; and Fredrick P. Waid, acting Successor Trustee ("Trustee") of The W.N. Connell and Marjorie T. Connell Living Trust, dated May 18, 1972 ("Trust"), was represented by Todd L. Moody of Hutchison & Steffen, LLC. Having considered the Motion, the response thereto filed by Fredrick P. Waid, and the evidence and arguments presented at the time of hearing,

IT IS HEREBY ORDERED that David Mann's Motion to Adjudicate Attorney's Lien is off calendar ~~denied~~.

IT IS FURTHER ORDERED that David Mann is compelled to comply with the subpoena duces tecum served on him by the Trustee and shall provide to the Trustee, within 10

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days of service of this order, any and all records relating to the Trust; and

IT IS FURTHER ORDERED that if David Mann does not comply with this order, he will appear before this Court on October 14, 2015, at 9:00 a.m. to show cause why he should not be held in contempt of court.

Dated this 18th day of September, 2015.

District Court Judge

Submitted by:

HUTCHISON & STEFFEN, LLC

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Attorneys for Fredrick P. Waid, Trustee

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EXHIBIT 2

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OUR FILE NO.: 2355-211

January 28, 2016

Via Email & U.S. Mail

Liane K. Wakayama, Esq.
MARQUIS AURBACH COFFING
1001 Park Run Drive
Las Vegas, NV 89145
lwakayama@maclaw.com

Re: W.N. Connell and Marjorie T. Connell Living Trust Dated May 18, 1972, an Inter Vivos Irrevocable Trust

Dear Ms. Wakayama:

On October 26, 2015, we received from your office a letter and thumb drive containing your "entire, unprivileged electronic Trust file as well as the limited amount of original Trust documents delivered to [y]our office in late 2014 by David Mann." You refused to produce any of your itemized billing invoices.

Attached please find an order recently entered in which Judge Sturman orders that Mr. Waid is entitled to additional information and documents from your firm. The order is self-explanatory. Because an evidentiary hearing is scheduled for Monday, February 22, 2016, time is of the essence and we thank you advance for your anticipated cooperation.

Sincere regards,

HUTCHISON & STEFFEN, LLC

Todd L. Moody
For the Firm

TLM
Attachment

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CLERK OF THE COURT

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Attorneys for Fredrick P. Waid Court-appointed Trustee

DISTRICT COURT

CLARK COUNTY, NEVADA

In the matter of

THE W.N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST DATED May 18, 1972, an Inter Vivos Irrevocable Trust.

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

NOTICE OF ENTRY OF ORDER

NOTICE IS HEREBY GIVEN that an *Order Re: Motion for Order to Show Cause Re: Eleanor Ahern's Authorization* was entered in the above-entitled matter on January 27, 2016. A copy of the Order is attached hereto.

DATED this 27 day of January, 2016.

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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of HUTCHISON & STEFFEN and that on this 28 day of January, 2016, I caused a true and correct copy of the above and foregoing **NOTICE OF ENTRY OF ORDER** to be served as follows:

[ ] by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada; and/or

[X] pursuant to EDCR 8.05(a) and 8.05(f), to be electronically served through the Eighth Judicial District Court's electronic filing system, with the date and time of the electronic service substituted for the date and place of deposit in the mail; and/or

[ ] Pursuant to EDCR 7.26, to be sent via facsimile; and/or

[ ] to be hand-delivered;

to the persons listed below at the address and/or facsimile number indicated below:

Joseph J. Powell, Esq.
The Rushforth Firm
1707 Village Center Circle, Ste. 150
Las Vegas, NV 89134
Attorneys for Kathryn A. Bouvier and Jacqueline M. Montoya

Kirk Lenhard, Esq.
Tamara Beatty Peterson, Esq.
Brownstein Hyatt Farber Schreck, LLP
100 North City Parkway, Suite #1600
Las Vegas, NV 89106
Attorneys for Eleanor Connell Hartman Ahern

An Employee of Hutchison & Steffen, LLC

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Attorneys for Fredrick P. Waid, Court-appointed Trustee

DISTRICT COURT

CLARK COUNTY, NEVADA

In the matter of THE W.N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST DATED May 18, 1972, an Inter Vivos Irrevocable Trust.	Case No.: P-09-066425-T Dept. 26

ORDER RE: MOTION FOR ORDER TO SHOW CAUSE RE: ELEANOR AHERN'S AUTHORIZATION

Date of Hearing: 01/06/16
Time of Hearing: 9:00 a.m.

A hearing was held on January 6, 2016 on an order shortening time on Fredrick P. Waid's, acting Successor Trustee ("Trustee") of The W.N. Connell and Marjorie T. Connell Living Trust, dated May 18, 1972 ("Trust"), motion for order to show cause why Eleanor Ahern should not be held in contempt for failing to sign an authorization to allow the Trustee to obtain information from attorneys and other professionals. There were no filed objections or responses to the motion. The Trustee was represented by Todd L. Moody of Hutchison & Steffen, LLC; Eleanor Connell Hartman Ahern ("Eleanor") was represented by Kirk Lenhard and Tammy Peterson of Brownstein, Hyatt, Farber & Schreck, LLP; and Jacqueline M. Montoya and Kathryn A. Bouvier were represented by Joseph J. Powell of The Rushforth Firm. Having considered the motion and the evidence and arguments presented at the time of hearing,

///

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THE COURT FINDS that good cause exists for the Trustee to obtain on behalf of the Trust records from Jeffrey M. Johnston, Esq., and his firm, Johnston & Associates in Midland, Texas; Ryan Scharar, Esq., and his former law firm, Anthony & Middlebrook, P.C., in Grapevine, Texas; and Marquis Aurbach Coffing in Las Vegas, Nevada.

THE COURT FURTHER FINDS that professional services performed on behalf of Eleanor Ahern individually are protected by the attorney-client and accountant-client privileges.

THE COURT FURTHER FINDS that the fiduciary exception to the attorney-client and accountant-client privileges applies in this case, that services performed on behalf of the Trust are not privileged, and the Trustee and beneficiaries of the Trust are entitled to that information.

Having considered the same and good cause appearing,

IT IS HEREBY ORDERED that the motion is granted in that the Trustee is entitled to the following:

1. Any and all records relating or referring to payments for services provided to Eleanor Connell Hartman Ahern, individually;

2. Any and all records relating or referring to payments for services provided to Eleanor Connell Hartman Ahern in her capacity as former trustee of the Trust;

3. Detailed billing invoices reflecting work done or services performed on behalf of the Trust;

4. Redacted billing invoices reflecting work done or services performed on behalf of Eleanor Connell Hartman Ahern individually; and

5. And any and all records and documents relating to the Trust or Eleanor Connell Hartman Ahern in her capacity as former trustee, whether provided to or generated by the current custodian of records.

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LAS VEGAS, NV 89145

IT IS FURTHER ORDERED that the above documents and information shall be provided to the Trustee at:

Fredrick P. Waid
Trustee of the W.N. Connell & Marjorie T. Connell
Living Trust dated May 18, 1972
~~10080 West Alta Drive, Ste. 100~~
Las Vegas, NV 89145

Dated this 26 day of January, 2016.

District Court Judge

Submitted by:

HUTCHISON & STEFFEN, LLC

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Russel J. Geist (9030)
10080 W. Alta Dr., Ste 200
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Attorneys for Fredrick P. Waid, Court-appointed Trustee

Disapproved as to form and content:

BROWNSTEIN HYATT FARBER SCHRECK, LLP

Kirk B. Lenhard, Esq. (1437)
Tamara Beatty Peterson, Esq. (5218)
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Attorneys for Eleanor Ahern

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EXHIBIT PAGE ONLY

EXHIBIT 3

HUTCHISON & STEFFEN

A PROFESSIONAL LLC

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TODD L. MOODY
PARTNER
TMOODY@HUTCHLEGAL.COM

OUR FILE NO.: 2355-211

February 18, 2016

Via Email & U.S. Mail

Liane K. Wakayama, Esq.
MARQUIS AURBACH COFFING
1001 Park Run Drive
Las Vegas, NV 89145
lwakayama@maclaw.com

Re: W.N. Connell and Marjorie T. Connell Living Trust Dated May 18, 1972, an Inter Vivos Irrevocable Trust

Dear Ms. Wakayama:

Today we received from your office an email with redacted, itemized billing statements for Eleanor Ahern's litigation involving David L. Mann, the Estate of Marjorie T. Connell and the Trust. The purpose of this letter is to (1) request a privilege log for the redactions you made in the billings statements, and (2) request additional documents as required by Judge Sturman's order dated January 27, 2016.

According to Discovery Opinion #10, the redacted billing statements should have been produced with a privilege log, including a "[d]etailed, specific explanation as to why the document is privileged or otherwise immune from discovery, including a presentation of all factual grounds and legal analyses in a non-conclusory fashion." Vaughn v. Rosen, 484 F.2d 820 (D.C. Cir. 1973). Without this information, we have no idea what privilege you are claiming and why. To borrow language from Opinion #10, "[t]his is unacceptable."

I remind you that Judge Sturman already determined that the fiduciary exception applies in this case, that services performed on behalf of the Trust are not privileged, and the Trustee and beneficiaries are entitled to that information. Accordingly, your privilege log should also identify whether the work was performed on behalf of Eleanor individually or the in her capacity as Trustee. There should be no redactions for work performed on behalf of the Trust.

In addition to the billing statements, we expect additional documents pursuant to the order, including checks and/or wire confirmations (whether from Eleanor individually or the Trust) paid to your firm, and a complete payment history. This information is clearly contemplated by Judge Sturman's order which states that the Trustee is entitled to "[a]ny and all records relating or referring to payments for services provided to Eleanor Connell Hartman Ahern, individually" and "...in her capacity as former trustee of the Trust."

Finally, we expect a supplemental production of "any and all records and documents relating tothe Trust or Eleanor Connell Hartman Ahern in her capacity as former trustee, whether provided to or generated by the current custodian of records." If you claim a privilege for not producing a supplement, please provide a privilege log that satisfies all eight requirements set forth in Opinion #10.

Sincere regards,

HUTCHISON & STEFFEN, LLC

Todd L. Moody
For the Firm

TLM
Attachment

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EXHIBIT PAGE ONLY

EXHIBIT 4

HUTCHISON & STEFFEN
A PROFESSIONAL LLC

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TERRY A. MOORE
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BRIAN R. HARDY
TYE S. HANSEEN
LIANE K. WAKAYAMA
CANDICE E. RENKA
DAVID G. ALLEMAN

CODY S. MOUNTEER
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BRYAN M. VIELLION

JOHN M. SACCO
OF COUNSEL

February 22, 2016

Via Email: tmoody@hutchlegal.com
Todd L. Moody, Esq.
Hutchison & Steffen
10080 West Alta Drive, Suite 200
Las Vegas, Nevada 89145

Re: W.N. Connell and Marjorie T. Connell Living Trust Dated May 18, 1972, an Inter Vivos Irrevocable Trust
Our File No. 207-2

Dear Mr. Moody:

We are in receipt of your letter dated February 18, 2016. Please be advised that this law firm has fully complied with the Order entered by Judge Sturman on January 27, 2016. Your client, Fred Waid, is not entitled to any privileged information as it relates to our representation of Eleanor Ahern, in her individual capacity.

As to your request for financial documents from our firm, please be further advised that this information was previously provided to Mr. Waid approximately a year ago.

If you have any further questions, please do not hesitate to contact our office.

Sincerely,

MARQUIS AURBACH COFFING

Liane K. Wakayama, Esq.
Candice E. Renka, Esq.

LKW:jr

cc: Kirk Lenhard, Esq. (*Via Email: klenhard@bhfs.com*);
Tamara Peterson, Esq. (*Via Email: tpeterson@bhfs.com*);
Eleanor Ahern (*Via Email: Eleanor@ConnellTrust.Lawyer*)

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CLERK OF THE COURT

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Attorneys for Fredrick P. Waid Court-appointed Trustee

DISTRICT COURT

CLARK COUNTY, NEVADA

In the matter of THE W.N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST Dated May 18, 1972, an Inter Vivos Irrevocable Trust.	Case No.: P-09-066425-T Dept. 26 Date of Hearing: September 7, 2016 Time of Hearing: 9:30 a.m.

RESPONSE TO PETITION FOR ORDER DIRECTING TRANSFER OF TENANCY IN COMMON INTEREST IN UPTON COUNTY, TEXAS PROPERTY TO THE MTC LIVING TRUST

Fredrick P. Waid, Trustee of the W.N. Connell and Marjorie T. Connell Living Trust, dated May 18, 1972, (the "Trust"), hereby responds to the Petition for Order Directing Transfer of Tenancy in Common Interest in Upton County, Texas Property to the MTC Living Trust ("Petition") filed by Jacqueline M. Montoya and Kathryn A. Bouvier on behalf of the MTC Trust ("MTC Trust").

Mr. Waid, as the Court appointed Trustee of the Trust, responds to the Petition by stating that he will defer to the Court's decision and instruction on this matter, insofar as the beneficiaries have expressed their relative positions and that Mr. Waid owes a duty to each to administer the Trust according to the law and to the terms of the Trust. In fact, Mr. Waid is presently focused on completing the accounting as needed to move this matter along. Mr. Waid expresses his appreciation to Kirk Lenhard as counsel for Eleanor Ahern in his attempts to produce Ms. Ahern for a deposition and to obtain the necessary documents and information to complete the accounting. Mr. Waid has yet to receive the requested additional documents from

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Eleanor Ahern's previous professional legal and accounting advisors. Upon receipt of such information, Mr. Waid intends to complete the deposition of Eleanor Ahern to gather the necessary information to finalize his accounting and report.

Mr. Waid concurs that the facts support the division of the principal of the Trust as previously ordered by this Court in its Summary Judgment Order dated April 15, 2015. This Court ordered that Marjorie Connell exercised her Power of Appointment by her Last Will and Testament and effectively transferred ownership of the 65% principal interest to the MTC Trust. The remaining issue for the Court to determine is whether it is appropriate to effectuate the transfer now or wait until the Supreme Court decides the issues currently on appeal. Mr. Waid takes no position on this remaining issue. In the event the Court decides to effectuate the transfer as petitioned, Mr. Waid respectfully requests the Court enter an Order confirming his continued subpoena and other powers as they relate to the entire Trust so he can complete the accounting.

Dated this 31 day of August, 2016.

HUTCHISON & STEFFEN, LLC

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Russell J. Geist (9030)
10080 West Alta Drive, Suite 200
Las Vegas, Nevada 89145

Attorneys for Fredrick P. Waid Court-appointed Trustee

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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of HUTCHISON & STEFFEN, LLC, and on this 31 day of August, 2016, I caused the above and foregoing document entitled **RESPONSE TO MOTION TO ADJUDICATE ATTORNEY'S LIEN** to be served as follows:

- ☐ by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada; and/or
- ☐ to be served via facsimile; and/or
- X pursuant to EDCR 8.05(a) and 8.05(f), to be electronically served through the Eighth Judicial District Court's electronic filing system, with the date and time of the electronic service submitted for the date and place of deposit in the mail; and/or
- ☐ to be hand-delivered;

to the attorneys and/or parties listed below at the address and/or facsimile number indicated below:

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Tamara Beatty Peterson, Esq.
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Las Vegas, NV 89106
Attorneys for Eleanor Ahern

Joseph J. Powell, Esq.
The Rushforth Firm
1707 Village Center Circle, Ste. 150
Las Vegas, NV 89134
Attorneys for Jacqueline Montoya and Kathryn Bouvier

MARQUIS AURBACH COFFING

An employee of Hutchison & Steffen, LLC

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CLERK OF THE COURT

Marquis Aurbach Coffing
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DISTRICT COURT

CLARK COUNTY, NEVADA

In the Matter of THE W.N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST DATED May 18, 1972, An Inter Vivos Irrevocable Trust.	Case No.: P-09-066425-T Dept. No.: 26

REPLY TO JACQUELINE AND KATHRYN'S LIMITED OBJECTION TO MARQUIS AURBACH COFFING'S MOTION TO ADJUDICATE ATTORNEY'S LIEN

The law firm of Marquis Aurbach Coffing ("MAC") hereby files this Reply to Jacqueline M. Montoya and Kathryn A. Bouvier's Limited Objection to Motion to Adjudicate Attorney's Lien ("Reply"). This Reply is made and based upon the attached Memorandum of Points and Authorities, all papers and pleadings on file herein, and any oral argument allowed during the hearing on said matter.

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION.

MAC devoted over 800 hours to representing Eleanor Connell Hartman Ahern ("Ahern") in complex, fast-paced litigation regarding the trust that her late father established in 1972.[1] Although Ahern had contractually agreed to "pay for all services" as well as all costs and

[1] See Case No. P-09-066425, District Court, Eighth Judicial District Court, Clark County, Nevada.

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expenses, MAC is still owed compensation for its work. Because MAC's attempts to resolve the issue privately were futile, MAC was then forced to move this Court for an Attorney's Lien.

On August 18, 2016, Ahern filed a Response in which she agreed that MAC provided quality legal services and voiced no opposition to "a lien on or payment from the corpus of the Trust." Ahern also conceded that MAC satisfied the procedural requirements mandated by NRS 18.015 and that MAC's fees and costs are reasonable. In fact, the only issue about which Ahern expressed concern was imposition of a lien on her beneficial interest in the Trust.

Thereafter, when MAC filed its Reply to Ahern's Response, neither the Trustee nor Jacqueline and Kathryn[2] had filed a response or opposition. Thus, it appeared that there was little dispute regarding the merit and propriety of MAC's motion for an attorney's lien.

After MAC filed its Reply, Jacqueline and Kathryn filed the untimely "Limited Objection" that this Court should decline to consider. Nevertheless, even if this Court considers the "Limited Objection" it should reject the daughters' attempts to rehash old issues which have no bearing on the instant motion. Further, while the daughters' object to payment from the Corpus of the Trust, this Court should reject their argument and grant MAC's motion because the majority of MAC's arguments remain unchallenged and it would be inequitable to deny MAC its fees and costs.

II. LEGAL ARGUMENT.

Eighth Judicial District Court Rule ("EDCR") 2.20(e) provides, "Within 10 days after the service of the motion, . . . the opposing party must serve and file written notice of nonopposition or opposition thereto, together with a memorandum of points and authorities and supporting affidavits, if any, stating facts showing why the motion . . . should be denied." Here, Jacqueline and Kathryn failed to file their "Limited Objection" within the 10 day time limit and, as such, (A) this Court should not consider the untimely "limited objection."

Nevertheless, even if the Court is inclined to consider the untimely objection, it should reject the daughters' arguments because: (B) Jacqueline and Kathryn lack authority to make

[2] The instant Reply also addresses Jacqueline and Kathryn as "the daughters."

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representations on behalf of the Trustee and (C) the daughters needlessly rehash irrelevant issues. Further, because (D) the majority of MAC's arguments remain unrefuted and (E) MAC is legally and equitably entitled to its fees and costs, this Court should grant MAC's Motion to Adjudicate Attorney's Lien.

A. THIS COURT SHOULD NOT CONSIDER THE UNTIMELY LIMITED OBJECTION.

Courts have considerable discretion in determining whether to consider an untimely opposition. See, e.g., Las Vegas Fetish & Fantasy Halloween Ball, Inc. v. Ahern Rentals, Inc., 124 Nev. 272, 278, 182 P.3d 764, 768 (2008) (finding that the district court did not abuse its discretion where it applied EDCR 2.20 and disregarded an untimely opposition); Miranda v. S. Pac. Transp., 710 F.2d 516, 521 (9th Cir. 1983) (holding that district courts "have broad discretion in interpreting and applying their local rules.").

Here, the applicable local rule, EDCR 2.20(e), provides that any opposition to a motion must be filed within ten days after service of the motion. So, because MAC filed and served its motion on August 4, 2016, the absolute last day on which to file an opposition to the motion was August 22, 2016.[3] Thus, the "Limited Objection" that Jacqueline and Kathryn filed on August 30, 2016, was more than a week late. And, to make matters worse, Jacqueline and Kathryn filed the untimely "Limited Objection" after MAC filed its Reply to Ahern's timely response, thereby assuring that MAC would have to prepare a separate, last-minute Reply to their opposition.

Accordingly, because Jacqueline and Kathryn's "Limited Objection" is extremely untimely, this Court should exercise its discretion to disregard the "Limited Objection." After all, Jacqueline and Kathryn do not even attempt to provide an explanation for the untimely filing. Instead, they simply ignored the Court's rules and gave no regard for the inconvenience that is caused by untimely filings.

[3] This date is calculated pursuant NRCP 6(a) ("When the period of time prescribed or allowed is less than 11 days, intermediate Saturdays, Sundays, and nonjudicial days shall be excluded") and NRCP 6(e) ("Whenever a party has the right or is required to do some act or take some proceedings within a prescribed period after the service of a notice or other paper . . . and the notice or paper is served upon the party by mail or by electronic means, 3 days shall be added to the prescribed period.").

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B. JACQUELINE AND KATHRYN LACK AUTHORITY TO MAKE REPRESENTATIONS ON BEHALF OF THE TRUSTEE.

In Subsection A of their motion, Jacqueline and Kathryn make several claims regarding the documentation that Mr. Waid allegedly "wants and needs."[4] Although their arguments are wholly without merit for the reasons stated below, see Subsection C, infra, it bears noting that the daughters have no authority or basis upon which to make arguments on behalf of Mr. Waid. Further, given that Mr. Waid never responded to the February 22, 2016, letter in which MAC "advised that this law firm has fully complied with the Order entered by Judge Sturman on January 27, 2016," it appears that he is satisfied with MAC's response.[5]

C. THE DAUGHTERS NEEDLESSLY REHASH IRRELEVANT ISSUES.

Under Nevada Rule of Professional Conduct ("NRPC") 1.9(c): "A lawyer who has formerly represented a client in a matter . . . shall not thereafter: (1) Use information relating to the representation to the disadvantage of the former client . . . ; or (2) Reveal information relating to the representation except as these Rules would permit or require with respect to a client." See also Upjohn Co. v. United States, 449 U.S. 383, 389, 101 S. Ct. 677, 682 (1981) ("The attorney–client privilege is the oldest of the privileges for confidential communications known to the common law. Its purpose is to encourage full and frank communication between attorneys and their clients and thereby promote broader public interests in the observance of law and administration of justice." (internal citation omitted)).

Here, MAC has complied with its ethical obligations to Ahern by protecting her confidential information. At the same time, MAC has also furnished as much information as possible to Mr. Waid so that he can perform his duties as acting Trustee. In particular, MAC provided to counsel for Mr. Waid a thumb drive containing MAC's entire, unprivileged electronic Trust file and the original Trust documents that MAC received from Mr. Mann.[6] In addition, MAC also submitted to Mr. Waid copies of every check and wire transfer that it

[4] See Limited Objection at A.4.

[5] See Letter from MAC to Todd Moody dated February 22, 2016, attached hereto as **Exhibit 1**.

[6] See Letter from Todd Moody dated Jan. 28, 2016, attached hereto as **Exhibit 2**.

received from Ahern,[7] as well as itemized invoices that detail the services for which MAC received payment or is still owed payment. In fact, the only information that MAC did not provide to Mr. Waid were small portions of the aforementioned documents that were redacted to protect privileged information. And, as stated in this Court's Order Re: Motion for Order to Show Cause Re: Eleanor Ahern's Authorization, MAC had no obligation to disclose such matters because "professional services performed on behalf of Eleanor Ahern individually are protected by the attorney-client and accountant-client privileges."[8]

Nevertheless, the daughters suggest that MAC's "steadfast" refusal to breach its ethical duties is "the proof in the pudding" that MAC's services only benefitted Ahern.[9] Their argument is without merit, however, because Jacqueline and Kathryn distort the facts to rehash an old issue which has nothing to do with the motion currently before the Court.

At the outset, it is important to note the redactions are not nearly as problematic as Jacqueline and Kathryn would have this Court believe. For example, the only redactions to the cashier's checks from Ahern were to protect account numbers that are already known to the Trustee. Similarly, while MAC's invoices redact matters such as the topics of interoffice meetings or certain conversations with Ahern, the Court's docket plainly demonstrates the significant work that MAC performed in this case for the benefit of Ahern and the Trust.

At the same time, some of the difficulties with redaction are based on the fact that MAC could not have separated the services it rendered to Ahern in her individual capacity from the services it rendered to Ahern in her capacity as (former) Trustee. After all, the primary point of

[7] See Letter from MAC to Todd Moody dated July 30, 2015, attached hereto as **Exhibit 3**.

[8] See Order to Show Cause, attached hereto as **Exhibit 4**.

[9] See Limited Objection at A.1, A.5. Their reasoning appears to be that because fiduciary duty exception applies to confidential communications between a predecessor trustee and her attorney, MAC's unwillingness to release confidential information to Mr. Waid proves that MAC only represented Ahern in her individual capacity. The problem with this argument, however, is that the fiduciary duty exception only applies to matters of trust administration. So, where, as here, the parties to a Trust are adverse to one another, the exception is inapplicable. See, e.g., Garvy v. Seyfarth Shaw LLP, 966 N.E.2d 523 (Ill. Ct. App. 2012); Strougo v. BEA Assocs., 199 F.R.D. 515 (S.D. N.Y. 2001); Moeller v. Superior Court, 947 P.2d 279, 283 (Cal. 1997) ("[W]hen a successor trustee takes office it assumes all of the powers of trustee, including the power to assert the privilege with respect to confidential communications between a predecessor trustee and an attorney on matters of trust administration").

MARQUIS AURBACH COFFING
10001 Park Run Drive
Las Vegas, Nevada 89145
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the litigation was to construe the Trust document and determine whether Jacqueline and Kathryn were beneficiaries of the Trust – an issue that impacted Ahern as a Beneficiary and as the Trustee. Further, because MAC represented Ahern before this Court decided in favor of Jacqueline and Kathryn, the whole purpose of MAC's representation was to defend not only Ahern's interest in the Trust as a beneficiary and as the Trustee, but also to assist the Court in ultimately resolving the dispute over the decedent's intent, i.e. whether Jacqueline and Kathryn were beneficiaries.

And, on that note, there is also no reason that MAC's representation could not – and did not – benefit Ahern and the Trust because litigation regarding the Trust was inevitable and necessary.[10] Indeed, while the Court rejected many of Ahern's arguments, the fact remains that MAC's quality work helped the Court to resolve the heated family dispute. By contrast, if Ahern had represented herself or retained less skilled counsel, it would have been significantly more difficult, time consuming, and expensive for all parties involved to marshal the facts and analyze the applicable law.

Overall, MAC provided its entire file to Mr. Waid, except for privileged communications and the privileged content of its invoices which was redacted.

D. THE MAJORITY OF MAC'S ARGUMENTS REMAIN UNREFUTED.

As MAC explained in its reply to Ahern's Response, the majority of the arguments in MAC's motion remain unrefuted. Though MAC will not rehash those points here, it is important to note that the daughters' untimely "Limited Objection" also does not challenge MAC's compliance with the NRS 18.015 factors or the reasonableness of MAC's fees and costs.

E. MAC IS LEGALLY AND EQUITABLY ENTITLED TO ITS FEES AND COSTS.

It is ironic that Jacqueline and Kathryn express concern about the "fees incurred through needless litigation,"[11] given that their untimely opposition to MAC's motion forced MAC and

[10] See Transcript of Proceedings dated Jan. 30, 2015, at 139 ("The thing just got so messed up that I think you had to come to Court and try to figure it out"), relevant portion attached hereto as **Exhibit 5**.

[11] See Limited Objection at 10.

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this Court to expend additional resources by drafting a Reply on shortened time, and having to draft a Reply separately and in addition to the Reply already filed to Ahern's response. On a similar note, it is also odd that the daughters wish to leave payment of MAC's fees to "the sole and absolute discretion of the trustee," because this approach would undoubtedly complicate matters far worse than an order from this Court directing the Trustee to pay MAC for its fees and costs.

It is also illogical that Jacqueline and Kathryn oppose payment from the corpus of the Trust – even as an advance on Ahern's beneficial interest – given that they did not oppose using an advance to pay for Brownstein Hyatt Farber Schreck's attorney's fees.[12] After all, Brownstein "advocated for and defended Ms. Ahern on a wide front,"[13] by essentially providing the same types of services as those for which MAC seeks payment.

Thus, it would also be inefficient to drag out continued litigation regarding fees and costs when MAC simply seeks payment for services rendered. More importantly, it would also be unfair and inequitable to deny MAC its fees and costs.

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[12] See generally Transcript of Proceedings on October 14, 2015, attached hereto as **Exhibit 6** (demonstrating that Mr. Powell made no objection to charging Brownstein's fees against Ahern's interest); see also id. at 4 (noting that Mr. Powell did not file anything regarding Brownstein's motion to withdraw for lack of payment.

[13] See Motion to Withdraw as Counsel on Order Shorting Time, dated October 6, 2015, at 5.

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III. CONCLUSION.

The action for which MAC represented Ahern was complex, fast-paced, and time-intensive. In advocating for Ahern, both in her capacity as Trustee and as a Beneficiary, MAC expended significant resources, and for all of its efforts, MAC should be compensated, be it from the corpus of the Trust or Ahern's beneficial interest in the Trust. Accordingly, MAC respectfully requests that this Court grant its Motion to Adjudicate Attorney's Lien.

Dated this 2nd day of September, 2016.

MARQUIS AURBACH COFFING

By _____
Dale A. Hayes, Esq.
Nevada Bar No. 3430
Liane K. Wakayama, Esq.
Nevada Bar No. 11313
Candice E. Renka, Esq.
Nevada Bar No. 11447
10001 Park Run Drive
Las Vegas, Nevada 89145

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing **REPLY TO JACQUELINE AND KATHRYN'S LIMITED OBJECTION TO MARQUIS AURBACH COFFING'S MOTION TO ADJUDICATE ATTORNEY'S LIEN** was submitted electronically for filing and/or service with the Eighth Judicial District Court on the 2nd day of September, 2016. Electronic service of the foregoing document shall be made in accordance with the E-Service List as follows:[14]

Albright Stoddard Warnick & Albright

Contact	Email
Barbara Clark, Legal Assistant	bclark@albrightstoddard.com
G. Mark Albright, Esq.	gma@albrightstoddard.com
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Brownstein Hyatt Farber Schreck, LLP

Contact	Email
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Karen Wiehl	kwiehl@bhfs.com
Kirk B. Lenhard	klenhard@bhfs.com
Tamara Beatty Peterson	tpeterson@bhfs.com

Hutchison & Steffen

Contact	Email
Todd Moody	TMoody@hutchlegal.com
Fredrick P. Waid, Esq.	fwaid@hutchlegal.com
Shaun L. Bruce	sbruce@hutchlegal.com
Amber Anderson	aanderson@hutchlegal.com
Russel J.Geist	rgeist@hutchlegal.com

Jeffrey Burr, Ltd.

Contact	Email
John R. Mugan, Esquire	john@jeffreyburr.com
Michael D. Lum, Esquire	michael@jeffreyburr.com

The Rushforth Firm

Contact	Email
Probate	probate@rushforthfirm.com
Joseph J. Powell	probate@rushforthfirm.com

Julia Rodionova, an employee of
Marquis Aurbach Coffing

[14] Pursuant to EDCR 8.05(a), each party who submits an E-Filed document through the E-Filing System consents to electronic service in accordance with NRCP 5(b)(2)(D).

Exhibit 1

MARQUIS AURBACH COFFING

DIRECT LINE: (702) 207-6078
DIRECT FAX: (702) 856-8917
EMAIL: LWAKAYAMA@MACLAW.COM

ALBERT G. MARQUIS
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TERRY A. MOORE
GERALDINE TOMICH
NICHOLAS D. CROSBY
JASON M. GERBER
MICAH S. ECHOLS
ERIK W. FOX
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CHAD F. CLEMENT
BENJAMIN T. AUTEN
KRISTIN L. GIFFORD
CHRISTIAN T. BALDUCCI
VINCENT J. VITATOE
BRIANNA SMITH
NIKITA R. PIERCE
JARED M. MOSER
JONATHAN B. LEE
ADELE V. KAROUM
MICHAEL D. MAUPIN
PATRICK C. MCDONNELL
BRYAN M. VIELLION

JOHN M. SACCO
OF COUNSEL

February 22, 2016

Via Email: tmoody@hutchlegal.com
Todd L. Moody, Esq.
Hutchison & Steffen
10080 West Alta Drive, Suite 200
Las Vegas, Nevada 89145

Re: W.N. Connell and Marjorie T. Connell Living Trust Dated May 18, 1972, an Inter Vivos Irrevocable Trust
Our File No. 207-2

Dear Mr. Moody:

We are in receipt of your letter dated February 18, 2016. Please be advised that this law firm has fully complied with the Order entered by Judge Sturman on January 27, 2016. Your client, Fred Waid, is not entitled to any privileged information as it relates to our representation of Eleanor Ahern, in her individual capacity.

As to your request for financial documents from our firm, please be further advised that this information was previously provided to Mr. Waid approximately a year ago.

If you have any further questions, please do not hesitate to contact our office.

Sincerely,

MARQUIS AURBACH COFFING

Liane K. Wakayama, Esq.
Candice E. Renka, Esq.

LKW:jr

cc: Kirk Lenhard, Esq. (*Via Email: klenhard@bhfs.com*);
Tamara Peterson, Esq. (*Via Email: tpeterson@bhfs.com*);
Eleanor Ahern (*Via Email: Eleanor@ConnellTrust.Lawyer*)

MAC: 2728711_1 2/22/2016 4:00 PM

Exhibit 2

HUTCHISON & STEFFEN
ATTORNEYS

PECCOLE PROFESSIONAL PARK
10080 WEST ALTA DRIVE, SUITE 200
LAS VEGAS, NEVADA 89145
702.385.2500
FAX 702.385.2086
HUTCHLEGAL.COM

TODD L. MOODY
PARTNER
TMOODY@HUTCHLEGAL.COM

OUR FILE NO.: 2355-211

January 28, 2016

Via Email & U.S. Mail

Liane K. Wakayama, Esq.
MARQUIS AURBACH COFFING
1001 Park Run Drive
Las Vegas, NV 89145
lwakayama@maclaw.com

Re: W.N. Connell and Marjorie T. Connell Living Trust Dated May 18, 1972, an Inter Vivos Irrevocable Trust

Dear Ms. Wakayama:

On October 26, 2015, we received from your office a letter and thumb drive containing your "entire, unprivileged electronic Trust file as well as the limited amount of original Trust documents delivered to [y]our office in late 2014 by David Mann." You refused to produce any of your itemized billing invoices.

Attached please find an order recently entered in which Judge Sturman orders that Mr. Waid is entitled to additional information and documents from your firm. The order is self-explanatory. Because an evidentiary hearing is scheduled for Monday, February 22, 2016, time is of the essence and we thank you advance for your anticipated cooperation.

Sincere regards,

HUTCHISON & STEFFEN, LLC

Todd L. Moody
For the Firm

TLM
Attachment

Electronically Filed
01/28/2016 08:57:39 AM

CLERK OF THE COURT

NEOJ
Todd L. Moody (5430)
Russel J. Geist (9030)
HUTCHISON & STEFFEN, LLC
10080 West Alta Drive, Suite 200
Las Vegas, Nevada 89145
(702) 385-2500
(702) 385-2086 FAX
tmoody@hutchlegal.com
rgeist@hutchlegal.com

Attorneys for Fredrick P. Waid Court-appointed Trustee

DISTRICT COURT

CLARK COUNTY, NEVADA

In the matter of

THE W.N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST DATED May 18, 1972, an Inter Vivos Irrevocable Trust.

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

NOTICE OF ENTRY OF ORDER

NOTICE IS HEREBY GIVEN that an *Order Re: Motion for Order to Show Cause Re: Eleanor Ahern's Authorization* was entered in the above-entitled matter on January 27, 2016. A copy of the Order is attached hereto.

DATED this 27 day of January, 2016.

HUTCHISON & STEFFEN

Todd L. Moody (5430)
Russel J. Geist (9030)
10080 W. Alta Dr., Ste 200
Las Vegas, NV 89145
Phone: (702) 385-2500
tmoody@hutchlegal.com
rgeist@hutchlegal.com
Attorneys for Fredrick P. Waid Court-appointed Trustee

HUTCHISON & STEFFEN
A PROFESSIONAL LLC
PECCOLE PROFESSIONAL PARK
10080 WEST ALTA DRIVE, SUITE 200
LAS VEGAS, NV 89145

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of HUTCHISON & STEFFEN and that on this 29 day of January, 2016, I caused a true and correct copy of the above and foregoing **NOTICE OF ENTRY OF ORDER** to be served as follows:

[ ] by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada; and/or

[X] pursuant to EDCR 8.05(a) and 8.05(f), to be electronically served through the Eighth Judicial District Court's electronic filing system, with the date and time of the electronic service substituted for the date and place of deposit in the mail; and/or

[ ] Pursuant to EDCR 7.26, to be sent via facsimile; and/or

[ ] to be hand-delivered;

to the persons listed below at the address and/or facsimile number indicated below:

Joseph J. Powell, Esq.
The Rushforth Firm
1707 Village Center Circle, Ste. 150
Las Vegas, NV 89134
Attorneys for Kathryn A. Bouvier and Jacqueline M. Montoya

Kirk Lenhard, Esq.
Tamara Beatty Peterson, Esq.
Brownstein Hyatt Farber Schreck, LLP
100 North City Parkway, Suite #1600
Las Vegas, NV 89106
Attorneys for Eleanor Connell Hartman Ahern

An Employee of Hutchison & Steffen, LLC

HUTCHISON & STEFFEN
A PROFESSIONAL LLC
PECCOLE PROFESSIONAL PARK
10080 WEST ALTA DRIVE, SUITE 200
LAS VEGAS, NV 89145

Electronically Filed
01/27/2016 12:47:42 PM

CLERK OF THE COURT

ORDR
Todd L. Moody (5430)
Russel J. Geist (9030)
HUTCHISON & STEFFEN, LLC
10080 West Alta Drive, Suite 200
Las Vegas, Nevada 89145
(702) 385-2500
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tmoody@hutchlegal.com
rgeist@hutchlegal.com

Attorneys for Fredrick P. Waid, Court-appointed Trustee

DISTRICT COURT

CLARK COUNTY, NEVADA

In the matter of THE W.N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST DATED May 18, 1972, an Inter Vivos Irrevocable Trust.	Case No.: P-09-066425-T Dept. 26

ORDER RE: MOTION FOR ORDER TO SHOW CAUSE RE: ELEANOR AHERN'S AUTHORIZATION

Date of Hearing: 01/06/16
Time of Hearing: 9:00 a.m.

A hearing was held on January 6, 2016 on an order shortening time on Fredrick P. Waid's, acting Successor Trustee ("Trustee") of The W.N. Connell and Marjorie T. Connell Living Trust, dated May 18, 1972 ("Trust"), motion for order to show cause why Eleanor Ahern should not be held in contempt for failing to sign an authorization to allow the Trustee to obtain information from attorneys and other professionals. There were no filed objections or responses to the motion. The Trustee was represented by Todd L. Moody of Hutchison & Steffen, LLC; Eleanor Connell Hartman Ahern ("Eleanor") was represented by Kirk Lenhard and Tammy Peterson of Brownstein, Hyatt, Farber & Schreck, LLP; and Jacqueline M. Montoya and Kathryn A. Bouvier were represented by Joseph J. Powell of The Rushforth Firm. Having considered the motion and the evidence and arguments presented at the time of hearing,

///

HUTCHISON & STEFFEN
A PROFESSIONAL LLC
PECCOLE PROFESSIONAL PARK
10080 WEST ALTA DRIVE, SUITE 200
LAS VEGAS, NV 89145

THE COURT FINDS that good cause exists for the Trustee to obtain on behalf of the Trust records from Jeffrey M. Johnston, Esq., and his firm, Johnston & Associates in Midland, Texas; Ryan Scharar, Esq., and his former law firm, Anthony & Middlebrook, P.C., in Grapevine, Texas; and Marquis Aurbach Coffing in Las Vegas, Nevada.

THE COURT FURTHER FINDS that professional services performed on behalf of Eleanor Ahern individually are protected by the attorney-client and accountant-client privileges.

THE COURT FURTHER FINDS that the fiduciary exception to the attorney-client and accountant-client privileges applies in this case, that services performed on behalf of the Trust are not privileged, and the Trustee and beneficiaries of the Trust are entitled to that information.

Having considered the same and good cause appearing,

IT IS HEREBY ORDERED that the motion is granted in that the Trustee is entitled to the following:

1. Any and all records relating or referring to payments for services provided to Eleanor Connell Hartman Ahern, individually;

2. Any and all records relating or referring to payments for services provided to Eleanor Connell Hartman Ahern in her capacity as former trustee of the Trust;

3. Detailed billing invoices reflecting work done or services performed on behalf of the Trust;

4. Redacted billing invoices reflecting work done or services performed on behalf of Eleanor Connell Hartman Ahern individually; and

5. And any and all records and documents relating to the Trust or Eleanor Connell Hartman Ahern in her capacity as former trustee, whether provided to or generated by the current custodian of records.

///

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///

HUTCHISON & STEFFEN
A PROFESSIONAL LLC
PECCOLE PROFESSIONAL PARK
10080 WEST ALTA DRIVE, SUITE 200
LAS VEGAS, NV 89145

IT IS FURTHER ORDERED that the above documents and information shall be provided to the Trustee at:

Fredrick P. Waid
Trustee of the W.N. Connell & Marjorie T. Connell
Living Trust dated May 18, 1972
~~10080 West Alta Drive, Ste. 100~~
Las Vegas, NV 89145

Dated this 26 day of January, 2016.

District Court Judge

Submitted by:

HUTCHISON & STEFFEN, LLC

Todd L. Moody (5430)
Russel J. Geist (9030)
10080 W. Alta Dr., Ste 200
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tmoody@hutchlegal.com
rgeist@hutchlegal.com

Attorneys for Fredrick P. Waid, Court-appointed Trustee

Disapproved as to form and content:

BROWNSTEIN HYATT FARBER SCHRECK, LLP

Kirk B. Lenhard, Esq. (1437)
Tamara Beatty Peterson, Esq. (5218)
100 North City Parkway, Suite 1600
Las Vegas, NV 89106-4614
klenhard@bhfs.com
tpeterson@bhfs.com

Attorneys for Eleanor Ahern

HUTCHISON & STEFFEN
A PROFESSIONAL LLC
PECCOLE PROFESSIONAL PARK
10080 WEST ALTA DRIVE, SUITE 200
LAS VEGAS, NV 89145

Exhibit 3

MARQUIS AURBACH
COFFING

DIRECT LINE: (702) 942-2166
DIRECT FAX: (702) 856-8966
EMAIL: TCOFFING@MACLAW.COM

ALBERT G. MARQUIS
PHILLIP S. AURBACH
AVECE M. HIGBEE
DALE A. HAYES
TERRY A. COFFING
SCOTT A. MARQUIS
JACK CHEN MIN JUAN
CRAIG R. ANDERSON
DAVID A. COLVIN
TERRY A. MOORE
GERALDINE TOMICH
NICHOLAS D. CROSBY
JASON M. GERBER
MICAH S. ECHOLS
ERIK W. FOX
BRIAN R. HARDY
TYE S. HANSEEN
LIANE K. WAKAYAMA
CANDICE E. RENKA
DAVID G. ALLEMAN

JACK F. DEGREE
CODY S. MOUNTEER
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BENJAMIN T. AUTEN
KRISTIN L. GIFFORD
CHRISTIAN T. BALDUCCI
VINCENT J. VITATOE
JIMMY T. LEE
BRIANNA SMITH
JAMES J. RUGGEROLI
NIKITA R. PIERCE
JARED M. MOSER
JONATHAN B. LEE

JOHN M. SACCO
OF COUNSEL

July 30, 2015

Via Email: TMoody@hutchlegal.com

Todd L. Moody, Esq.
Hutchison & Steffen, LLC
10080 West Alta Drive, Suite 200
Las Vegas, NV 89145

Re: In the Matter of The W.N. Connell and Marjorie T. Connell Living Trust Dated May 18, 1972, an Inter Vivos Irrevocable Trust
Our File No. 207-002

Dear Mr. Moody:

This letter is in response to your email correspondences dated July 28, 2015 regarding the documents we provided in response to the subpoena duces tecum served upon the custodian of records of our office.

First, as to your request for our billing records, itemized invoices provided to the client contain attorney client privileged information. However, enclosed as **Exhibit 1** please find summary invoices for each file, totaling $153,931.40, which is the entire amount, as of today's date, that is due and owing to this firm. Please note that we continue to incur fees and costs on these matters in responding to requests of your office, and all fees and costs incurred in connection with your office on behalf of Mr. Waid as Trustee are Trust expenses that should be paid by the Trust. As to whether the Trust or Ms. Ahern individually owes the remainder of the fees, we represented Ms. Ahern individually and as the Trustee in several matters, and Ms. Ahern was always permitted to use her portion of the Trust funds as she saw fit. Therefore, we take no position as to whether Ms. Ahern individually or the Trust should pay the remaining outstanding fees and costs.

Second, as to your request for unredacted copies of the checks issued to this firm for payment of fees and costs, this is confidential information and there is no need to disclose it. See NRS 239B.030; 603A.040. For identification purposes, we have enclosed herein as **Exhibit 2**, copies of the checks with the account numbers redacted, except for the last four digits, to assist in your identification of the account. Mr. Waid, as the Court appointed Trustee, has access to all Trust bank accounts. Therefore, he can determine whether the checks were issued from a Trust bank account. If the checks were not issued from a Trust bank account, then

the account number to an account belonging to someone other than the Trust is irrelevant.

Thank you for your attention to these matters.

MARQUIS AURBACH COFFING

Terry A. Coffing, Esq.
Liane K. Wakayama, Esq.
Candice E. Renka, Esq.

:cer
cc: Fred Waid (*Via email: fwaid@hutchlegal.com*)
Enclosure: As stated
MAC:207-002 2571289_1 7/30/2015 10:35 AM

Exhibit 1

MARQUIS AURBACH COFFING

ATTORNEYS AT LAW

10001 PARK RUN DRIVE
LAS VEGAS, NEVADA 89145
Telephone 702-382-0711
Fax 702-382-5816

Eleanor Ahern
email: eleanor@connelltrust.lawyer

Invoice 291391 - 298892
July 30, 2015

ID: 207-002 - DAH

Re: Connell, W.N. & Marjorie T. Living Trust dated May 18, 1972 The

For Services Rendered Through July 14, 2015

Current Fees	273,026.50
Current Disbursements	18,890.18
Current Interest	2,558.16
Total Current Charges	294,474.84
Courtesy Discount	-15,319.25
Payments	-151,421.05
Balance Due	**127,734.54**

MARQUIS AURBACH COFFING

ATTORNEYS AT LAW

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LAS VEGAS, NEVADA 89145
Telephone 702-382-0711
Fax 702-382-5816

Eleanor Ahern
email: eleanor@connelltrust.lawyer

Invoice 291375 - 298893
July 30, 2015

ID: 207-003 - DAH

Re: In the Matter of the Estate of Marjorie T. Connell

For Services Rendered Through July 14, 2015

Current Fees	7,408.00
Current Disbursements	281.43
Current Interest	96.26
Total Current Charges	7,785.69
Payments	-5,755.45
Balance Due	**2,030.24**

MARQUIS AURBACH COFFING

ATTORNEYS AT LAW

10001 PARK RUN DRIVE
LAS VEGAS, NEVADA 89145
Telephone 702-382-0711
Fax 702-382-5816

Eleanor Ahern
email: eleanor@connelltrust.lawyer

Invoice 293272 - 298894
July 30, 2015

ID: 207-004 - DAH

Re: David L. Mann Esq adv.

For Services Rendered Through July 14, 2015

Current Fees	21,726.00
Current Disbursements	1,806.35
Current Interest	634.27
Total Current Charges	24,166.62

Exhibit 2

PRINTED ON LINEMARK PAPER - HOLD TO LIGHT TO VIEW. FOR ADDITIONAL SECURITY FEATURES SEE BACK.

VOID VOID VOID VOID VOID

0000241 Office AU # 11-24 1210(8)

CASHIER'S CHECK

0024101632

Remitter: ELEANOR M AHERN
Operator I.D.: u351038 reno2148

November 24, 2014

PAY TO THE ORDER OF ***MARQUIS, AURBACH COFFING***

Fifteen thousand dollars and no cents **$15,000.00**

Payee Address:
Memo:

WELLS FARGO BANK, N.A.
4075 S FORT APACHE RD
LAS VEGAS, NV 89147
FOR INQUIRIES CALL (480) 394-3122

VOID IF OVER US $ 15,000.00

AUTHORIZED SIGNATURE

Security Features Included. Details on Back.

⑈0024101632⑈ Redacted ⑆4661 511988⑈

MAC 000004
11/24/2014

PRINTED ON LINEMARK PAPER - HOLD TO LIGHT TO VIEW. FOR ADDITIONAL SECURITY FEATURES SEE BACK.

VOID VOID VOID VOID VOID

0000241 / Office AU # — 11-24 / 1210(6)

CASHIER'S CHECK

0024101636

Remitter: ELEANOR M AHERN
Operator I.D.: u377679 reno0099

November 24, 2014

PAY TO THE ORDER OF ***MARQUIS, AURBACH COFFING***

****Fifteen thousand dollars and no cents****

****$15,000.00****

Payee Address:
Memo:

WELLS FARGO BANK, N.A.
4075 S FORT APACHE RD
LAS VEGAS, NV 89147
FOR INQUIRIES CALL (480) 394-3122

VOID IF OVER US $ 15,000.00

AUTHORIZED SIGNATURE

Details on Back. Security Features Included.

⑈0024101636⑈ Redacted ⑆4861 511988⑈

MAC 000005
11/25/2014

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0000241 Office AU # 11-24 1210(8)

VOID VOID VOID VOID VOID

CASHIER'S CHECK

0024101666

Remitter: ELEANOR M AHERN
Operator I.D.: u377679 reno8190

December 26, 2014

PAY TO THE ORDER OF ***MARQUIS AURBACH COFFING ***
ATTORNEY AT LAW

*****Twenty-one thousand seven hundred eighty-two dollars and 28 cents*****

******$21,782.28******

Payee Address:
Memo:

WELLS FARGO BANK, N.A.
4076 S FORT APACHE RD
LAS VEGAS, NV 89147
FOR INQUIRIES CALL (480) 394-3122

VOID IF OVER US $ 21,782.28

AUTHORIZED SIGNATURE

Details on Back. Security Features Included.

⑈0024101666⑈ Redacted ⑆861 511988⑈

MAC 000006
01/02/2015

PRINTED ON LINEMARK PAPER - HOLD TO LIGHT TO VIEW FOR ADDITIONAL SECURITY FEATURES SEE BACK

0000241 Office AU # 11-24 1210(8)

CASHIER'S CHECK

0024101720

Remitter: ELEANOR M AHERN
Operator I.D.: u351038 u237445

PAY TO THE ORDER OF ***MARQUIS AURBACH COFFING***

January 26, 2015

Thirty thousand three hundred ninety-four dollars and 22 cents **$30,394.22**

Payee Address:
Memo:

WELLS FARGO BANK, N.A.
4075 S FORT APACHE RD
LAS VEGAS, NV 89147
FOR INQUIRIES CALL (480) 394-3122

VOID IF OVER US $ 30,394.22

AUTHORIZED SIGNATURE

Security Features Included. Details on Back.

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Exhibit 4

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CLERK OF THE COURT

NEOJ
Todd L. Moody (5430)
Russel J. Geist (9030)
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Attorneys for Fredrick P. Waid Court-appointed Trustee

DISTRICT COURT

CLARK COUNTY, NEVADA

In the matter of THE W.N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST DATED May 18, 1972, an Inter Vivos Irrevocable Trust.	Case No.: P-09-066425-T Dept. 26

NOTICE OF ENTRY OF ORDER TO SHOW CAUSE

Date of Hearing: 04/22/15
Time of Hearing: 10:30 a.m.

TO: ELEANOR CONNELL HARTMAN AHERN, and her attorneys; MARQUIS AURBACH COFFING;

YOU, AND EACH OF YOU WILL PLEASE TAKE NOTICE that an ORDER TO SHOW CAUSE was entered in the above-entitled matter on April 16, 2015, a copy of which is attached hereto.

Dated this 16 day of April, 2015.

HUTCHISON & STEFFEN, LLC

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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of HUTCHISON & STEFFEN, LLC, and on this 10th day of April, 2015, I caused the above and foregoing document entitled **NOTICE OF ENTRY OF ORDER** to be served as follows:

- ☐ by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada; and/or
- ☐ to be served via facsimile; and/or
- ☒ pursuant to EDCR 8.05(a) and 8.05(f), to be electronically served through the Eighth Judicial District Court's electronic filing system, with the date and time of the electronic service submitted for the date and place of deposit in the mail; and/or
- ☐ to be hand-delivered;

to the attorneys and/or parties listed below at the address and/or facsimile number indicated below:

Whitney B. Warnick, Esq.
Albright Stoddard Warnick & Albright
801 S. Rancho Drive, Ste. D-4
Las Vegas, NV 89106
Attorneys for Kathryn A. Bouvier

Joseph J. Powell, Esq.
The Rushforth Firm
1707 Village Center Circle, Ste. 150
Las Vegas, NV 89134
Attorneys for Jacqueline M. Montoya

Dale A. Hayes, Esq.
Marquis Aurbach Coffing
10001 Park Run Drive
Las Vegas, NV 89145
Attorneys for Eleanor Connell Hartman Ahern

An employee of Hutchison & Steffen, LLC

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CLERK OF THE COURT

ORDR
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Attorneys for Fredrick P. Waid Court-appointed Trustee

DISTRICT COURT

CLARK COUNTY, NEVADA

In the matter of THE W.N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST DATED May 18, 1972, an Inter Vivos Irrevocable Trust.	Case No.: P-09-066425-T Dept. 26

ORDER TO SHOW CAUSE

Date of Hearing: 04/22/15
Time of Hearing: 10:30 a.m.

TO: ELEANOR CONNELL HARTMAN AHERN, and her attorneys; MARQUIS AURBACH COFFING:

YOU ARE HEREBY ORDERED to appear before this Court, Department 26, located at the Regional Justice Center, 200 Lewis Avenue, Las Vegas, Nevada, 89155 (Courtroom 3H) at 10:30 a.m. on April 22, 2015, then and there to show cause, if any you have, why you should not be adjudicated guilty of contempt of Court and punished accordingly for failing to comply with this Court's order from the March 20, 2015, hearing, and return to Fredrick P. Waid, Court-appointed

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LAS VEGAS, NV 89145

Trustee of The W.N. Connell and Marjorie T. Connell Living Trust Dated May 18, 1972, an Inter Vivos Irrevocable Trust ("Trust"), by the close of business (5:00 p.m. PST) on Friday, April 17, 2015, the $500,000 held by Fidelity Capital Inc., the $100,000 Cashier's Check dated March 23, 2015, made payable to Eleanor M. Ahern, and any other Trust funds held by Fidelity Capital Inc.

IT IS FURTHER ORDERED that Eleanor Connell Hartman Ahern shall make herself available for deposition on or before Wednesday, April 29, 2015, and provide the addresses, sufficient for service, for Suzanne Nounna and Ariella Holton, so they can be deposed.

Dated this 15 day of April, 2015.

District Court Judge

Submitted by:

HUTCHISON & STEFFEN, LLC

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Attorneys for Fredrick P. Waid Court-appointed Trustee

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Exhibit 5

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CLERK OF THE COURT

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DISTRICT COURT

CLARK COUNTY, NEVADA

IN THE MATTER OF THE TRUST OF: THE W.N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST DATED MAY 18, 1972	CASE NO. P-066425 DEPT. XXVI

BEFORE THE HONORABLE GLORIA STURMAN, DISTRICT COURT JUDGE

FRIDAY, JANUARY 30, 2015

TRANSCRIPT OF PROCEEDINGS:
HEARING

APPEARANCES:

For Petitioners
Jacqueline Montoya: WHITNEY B. WARNICK, ESQ
Kathryn Bouvier: JOSEPH J. POWELL, ESQ.

For Eleanor Ahern: LIANE K. WAKAYAMA, ESQ.
CANDICE E. RENKA, ESQ.

RECORDED BY: KERRY ESPARZA, COURT RECORDER

TRANSCRIBED BY: BRITTANY MANGELSON, INDEPENDENT TRANSCRIBER

it's a good one. It's good as any that are written now under the statute. I mean, it's a good No-Contest Clause. But my problem with this situation is, this got so muddled up that I can't say anybody was challenging this Will or this Trust, or Marjorie's Trust. The thing just got so messed up that I think you had to come to Court and try to figure it out, unless you could work it out and negotiate it yourselves. Amicably, you were going to have to come to Court.

And I don't see that anybody, in filing this action, filing the counterclaims, anybody on either side violated the No-Contest Clause because it is so confusing. And it's been so long that it makes it incredibly difficult to try to prove because we don't have all those records from 1979 when -- I think they called him Bill -- Bill Connell passed away, or anybody around who can testify about that; it'd be great if we did. But, all of the people who have any knowledge from way back when, are gone.

And I just think that everybody had a belief based on -- we're going to assume that Ms. Ahern had a hundred percent belief that she was entitled to hundred percent. That's fine, that's her belief. I think it was wrong but that was her belief. And that the daughters thought their grandmother knew what she had and she left it to them, and they acted in reliance on what their grandmother told them she had. I think everybody was acting in good faith. I just -- that's why I wanted to know -- I mean, are you viewing this as under the statute or under common law?

I just think that this -- there's nothing else you could do here. I mean, sad to say and I -- it's unfortunate that it has devolved into a very ditter [sic], very bitter litigation and very hard feelings on everybody's side here, but -- I mean, it was just that combination of no action taken for 34 years, meaning,

THE COURT: Oh, awesome.

MR. WARNICK: Thank you.

THE COURT: Thank you.

MR. POWELL: Thank you, Your Honor.

THE COURT: Very interesting, Ladies and Gentlemen.

MR. WARNICK: Thank you.

THE COURT: Sorry I kept you here all afternoon since you've got to be back on Monday.

MR. POWELL: No. Thank you for giving us the time to – to argue all day, appreciate it.

THE COURT: Okay. Well, we'll see you back on Monday then.

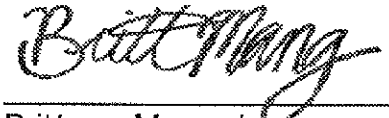
MR. POWELL: Okay.

MS. WAKAYAMA: Thank you.

THE COURT: Okay.

[Proceedings concluded at 4:27 p.m.]

ATTEST: I hereby certify that I have truly and correctly transcribed the audio/visual recording in the above-entitled case.



Brittany Mangelson
Independent Transcriber

Exhibit 6

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CLERK OF THE COURT

TRAN

DISTRICT COURT

CLARK COUNTY, NEVADA

* * * * *

In the Matter of the Trust of: The W.N. Connell and Marjorie T. Connell Living Trust, dated May 18,1972.	CASE NO. P-09-066425 DEPT. NO. XXVI **Transcript of Proceedings**

BEFORE THE HONORABLE GLORIA STURMAN, DISTRICT COURT JUDGE

BROWNSTEIN, HYATT, FARBER, AND SCHRECK'S MOTION TO WITHDRAW AS COUNSEL ON ORDER SHORTENING TIME; STATUS CHECK ON EVIDENTIARY HEARING STATUS

WEDNESDAY, OCTOBER 14, 2015

APPEARANCES:

For the Petitioner, Eleanor Ahern:	TAMARA BEATTY PETERSON, ESQ.
For Jaqueline Montoya And Kathryn Bouvier:	JOSEPH POWELL, ESQ.
For the Trustee, Frederick Waid:	TODD MOODY, ESQ. RUSSEL J. GEIST, ESQ.
RECORDED BY:	KERRY ESPARZA, COURT RECORDER
TRANSCRIBED BY:	KRISTEN LUNKWITZ

Proceedings recorded by audio-visual recording, transcript produced by transcription service.

WEDNESDAY, OCTOBER 14, 2015 AT 9:04 A.M.

THE COURT: 066425.

MR. POWELL: Good morning, Your Honor. Joey Powell appearing on behalf of Kathryn Bouvier and Jaqueline Montoya.

THE COURT: Okay.

MR. POWELL: Jaqueline Montoya is present in the courtroom today.

THE COURT: Okay.

MR. MOODY: Good morning, Your Honor. Todd Moody and Russ Geist here on behalf of Fred Waid, the trustee.

THE COURT: And everybody is present with counsel. Okay. Thank you. Ms. Peterson.

MS. PETERSON: Good morning, Your Honor. Tammy Peterson here on behalf of Ms. Ahern. Ms. Ahern is here in the courtroom. Mr. Lenhard could not attend this morning. Your Honor, he's actually in the middle of a 20-party mediation that --

THE COURT: Okay.

MS. PETERSON: -- we're crossing our fingers on. So, --

THE COURT: Good luck with that one.

So, what are -- where are you with your Motion to Withdraw then, Ms. Peterson?

MS. PETERSON: Your Honor, we have not been paid. Our change -- our motion stands submitted to you. Without payment, we cannot do this. This is a substantial burden on my firm.

THE COURT: Right. And the sort of alternative proposal was suggested which would be to --

MS. PETERSON: We would --

THE COURT: -- advance sufficient funds to keep Ms. Connell with her fine, continued, current representation and that would be what? As a -- sort of a charge against whatever is being held right now by the -- assuming there is, I don't even know, by the trustees. We haven't been able to get a report, so I don't know what's actually being held. So, --

MS. PETERSON: Right. What we've -- what we asked as an alternative was that it would be charged against her interest.

Now, I want to be clear, I -- if the Court were inclined to do that, I don't want coming back to have to defend disgorgement of my fees. I mean, that's also a concern. And so, if that were to happen, then I -- that is an alternative --

THE COURT: That wouldn't be applicable.

MS. PETERSON: -- that would not be acceptable either.

THE COURT: I understand. All right. Okay. Since that was offered in the Reply, gentlemen, you didn't have an opportunity to comment on that. I'll hear first from Mr. Moody and then, I know, Mr. Powell, you didn't file anything, but I would naturally want to make sure you have an opportunity to be heard as well for your clients.

MR. MOODY: Thank you, Your Honor. And I appreciate this because I can kind of give the Court a little bit of a status in this. So, first of all, I think it's important to know the bottom line is Ms. Ahern owes money back to the trust.

THE COURT: Okay.

MR. MOODY: There's no question. We are in a discovery and recovery mode. We are trying to get as much money back as we can. In order to do that, we're trying to find it and we're trying to figure out where it is.

We have significant concerns about some of the tax liabilities of the trust. There were years not reported at all and there were years underreported. So, although there is some money being held, we cannot represent to the Court yet that it is available for any type of distribution. Obviously, with the Court's instruction, we would do that, but we have real concerns about that.

We're not finished and that brings up kind of a side issue and that is we will not be ready for a November

evidentiary hearing.

THE COURT: I would assume even if Ms. Peterson doesn't withdraw, it wouldn't be ready. I don't think that's disputed, Ms. Peterson. Correct?

MS. PETERSON: I think that's correct, Your Honor.

THE COURT: Okay. So we can assume that we're going to need more time.

Okay. I -- would the parties be willing to have Mr. Waid and counsel approach so that we can discuss the numbers because they have not been made public and we do not have a formal report filed. So I just don't even know if this is something that's possible to do, and Mr. Waid would be the one who might have some information to give us, but I understand it probably would be best off the record since he -- naturally this does not need to be made public since this isn't his official reporting and I don't think he's anywhere near being ready to confirm what the numbers are, but if you -- if counsel could approach, I'd be happy to talk to you off the record and see if there's even -- if this is even logistically a possibility.

[Bench conference began at 9:08 a.m. - not transcribed]

[Bench conference concluded at 9:21 a.m.]

THE COURT: All right. Having consulted with counsel and the temporary trustee, given the fact that he's not yet in a position to make a report to the Court, we

don't have any numbers or anything we can put on the record as to whether the alternative proposed by Ms. Peterson or her firm to remain on the case is a viable option. The -- counsel if you wish to state the condition upon which you would consider agreeing to a distribution that Ms. Peterson -- so Ms. Peterson can explain to us why it -- what would be necessary for her to remain in this case.

MS. MOODY: I can tell you, Your Honor, that Mr. Waid has asked for some type of collateral or security to protect the trust from any funds that are paid on Ms. Ahern's behalf for attorneys' fees.

THE COURT: Okay. Understand, Ms. Peterson, you're not authorized to agree to any such terms, but the Court would grant the alternative relief which is to direct the trustee to make a distribution to your firm as needed at this time in the event that Ms. Ahern did have collateral to secure the trust, that they could get funds returned. Not that they would be clawed back from the firm, but that Ms. Ahern would be able to provide security of some other asset that could be used to -- as security for the funds. We would -- the cash would come from the trust but there would be security for it.

MR. MOODY: And, Judge, I'm sorry to interrupt, but we do just want to have the right to examine that collateral to make sure it's acceptable.

THE COURT: I understand.

MR. MOODY: It's not encumbered, that there is value there.

THE COURT: Right. The concerns that the Court has about granting the Motion to Withdraw as it is now is that we do not have a residential address for service of process. All that we've been given is the Mailboxes, Etcetera address which is not allowed and is not appropriate. We have to know where a party can be found and reached. That's required by the Court. So if Ms. Ahern is going to continue to be self-represented, we have to have that information. An e-mail, a telephone number and a residential address are required under the rules and --

MS. PETERSON: And may I address that, Your Honor?

THE COURT: Yes.

MS. PETERSON: I -- my reading of the rule is that it's an address at which the person can be reached. We have provided that in our motion. I saw their objection. I am not authorized to release where she actually lives. There are concerns that she has about that address being released, but my reading of the rule is that it's not required. I would assume she would be happy to provide an e-mail address and a phone number to the Court if that were required.

THE COURT: Thank you. Okay. Well, the Court would require a residential address in addition to the e-mail and phone number.

Further, there is currently pending an issue with a deposition that needs to go forward in Texas and there's a specific authorization. Ms. Peterson has indicated that she believes that there's a release available and you haven't had an opportunity, Mr. Moody, it's my understanding, to look at what Ms. Peterson has on that --

MR. MOODY: Correct.

THE COURT: -- on that issue?

MR. MOODY: Correct.

THE COURT: Because we need cooperation to make sure that the discovery goes forward and that -- and, finally , the issue of her own deposition of -- you know, if she's represented by counsel, I believe the parties were willing to allow a deposition on written questions. If she's unrepresented, then that's simply not an option for the other parties.

MR. MOODY: Correct. And we're asking for that to be in the courtroom.

THE COURT: Okay. Very well.

So, I think that what we need to do is, Ms. Peterson, to allow you to talk to your client about these options and advise counsel by the end of the day, the

business day today, whether you're going to be able to remain on the case or not. So you can submit an order granting your withdrawal on the terms that I have set.

We would have an order to show cause hearing then next Wednesday for the additional information that has been requested and you can go ahead and submit your order to withdraw with the understanding that Ms. Ahern would come in next week to provide the additional information which you are not currently authorized to provide or, in the alternative, if there's collateral for payment of your fees, then the trustee would automatically be authorized. So you need to know which order to submit.

MS. PETERSON: Yes.

THE COURT: That the trustee is authorized to make the distribution based on whatever's -- collateral was offered that he finds acceptable, that's option A. Option B is: You're not going to be able to make that work, you're going to need to withdraw, and the Court will sign your order granting withdrawal, but with an understanding that there is a hearing next Wednesday at 9 a.m. on an order to show cause for the information that you're not authorized to put in your order.

Is that agreed? Is that understood? Anything else that we need, counsel?

MR. MOODY: Your Honor, we did briefly discuss the

--

THE COURT: Oh.

MR. MOODY: -- motion -- the hearing on the motion for distribution of trust --

THE COURT: Correct. We have two things. I forgot. Two future hearings that we need to discuss where we're going to put them. The evidentiary hearing on November 9th and 10th is off. When we -- when you come in next week, would you be prepared to discuss rescheduling?

MR. MOODY: We can actually do that now.

THE COURT: Okay.

MR. MOODY: We are anticipating a February -- our recommendation is a February evidentiary hearing with the possibility that if we get a few more delays, it could bump out slightly more.

THE COURT: Let's see what our week is in February.

THE CLERK: [Indiscernible].

THE COURT: Okay. In February we would have February 10th, 11th, and 12th. The 11th and 12th would be full days.

MR. MOODY: That would be great.

THE COURT: February 11th and 12th?

MR. MOODY: Yes.

THE COURT: Okay. So that's Thursday and Friday.

9 a.m. start, 10 a.m. start. What's your preference?

MR. MOODY: 9 a.m., please.

THE COURT: 9 a.m. start. Okay. So two full days. We would make it to February. All right.

The next thing is there is a hearing set on October 28th. I understand that that conflicts with depositions that you have scheduled.

MR. MOODY: We'll be in Texas --

THE COURT: Okay.

MR. MOODY: -- for depositions in this case.

THE COURT: In this case. Okay. So when would you like that moved?

MR. MOODY: One week later.

THE COURT: How does that look? Let me see how that looks.

THE CLERK: We have [indiscernible].

THE COURT: Okay. All right. It's agreeable. November 4th. There is no probate the following week, just so everybody knows. We've got the Veteran's Day holiday. So there's no probate the week of the 11th. So, then it would be into -- onto the next week, which is the 18th and then there's no probate on the 25th because of Thanksgiving.

MR. MOODY: Okay.

THE COURT: So, we only have two probate hearings in November. That would be the 4th and the 18th, just in

case you need to move anything.

Okay. All right. Thank you, Ms. Peterson. We appreciate your cooperation.

MS. PETERSON: Thank you.

THE COURT: Best of luck. Thank you so much. And thank you, counsel. Appreciate it. And, Mr. Powell, is there anything else you needed to say for the record?

MR. POWELL: No.

THE COURT: Okay. Understood.

MR. POWELL: Thank you.

THE COURT: Thank you, sir.

MR. MOODY: Thank you.

PROCEEDING CONCLUDED AT 9:28 A.M.

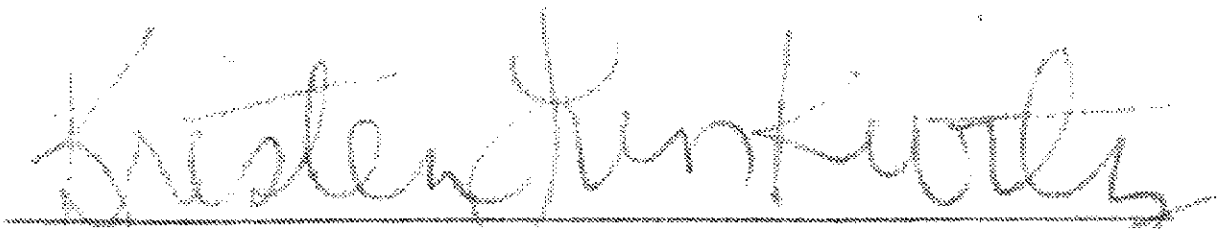
* * * * *

CERTIFICATION

I certify that the foregoing is a correct transcript from the audio-visual recording of the proceedings in the above-entitled matter.

AFFIRMATION

I affirm that this transcript does not contain the social security or tax identification number of any person or entity.



KRISTEN LUNKWITZ
INDEPENDENT TRANSCRIBER

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CLERK OF THE COURT

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DISTRICT COURT

CLARK COUNTY, NEVADA

In the Matter of THE W.N. CONNELL AND MARJORIE T. CONNELL LIVING TRUST DATED May 18, 1972, An Inter Vivos Irrevocable Trust.	Case No.: P-09-066425-T Dept. No.: 26

REPLY TO FREDRICK WAID'S RESPONSE TO MOTION TO ADJUDICATE ATTORNEY'S LIEN

The law firm of Marquis Aurbach Coffing ("MAC") hereby files this Reply Fredrick Waid's Response to Motion to Adjudicate Attorney's Lien ("Reply"). This Reply is made and based upon the attached Memorandum of Points and Authorities, all papers and pleadings on file herein, and any oral argument allowed during the hearing on said matter.

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION.

MAC devoted over 800 hours to representing Eleanor Connell Hartman Ahern ("Ahern") in complex, fast-paced litigation regarding the trust that her late father established in 1972.[1] Although Ahern had contractually agreed to "pay for all services" as well as all costs and expenses, MAC is still owed compensation for its work. Because MAC's attempts to resolve the issue privately were futile, MAC was then forced to move this Court for an Attorney's Lien.

[1] See Case No. P-09-066425, District Court, Eighth Judicial District Court, Clark County, Nevada.

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10001 Park Run Drive
Las Vegas, Nevada 89145
(702) 382-0711 FAX: (702) 382-5816

On August 18, 2016, Ahern filed a "Response" to MAC's motion in which she agreed that MAC provided quality legal services and voiced no opposition to "a lien on or payment from the corpus of the Trust." Ahern also conceded that MAC satisfied all the procedural requirements mandated by NRS 18.015 and that MAC's fees and costs are reasonable. In fact, the only issue about which Ahern expressed concern was imposing a lien on her beneficial interest in the Trust.

When MAC filed its Reply, Mr. Waid had not filed a response or opposition. Moreover, Jacqueline and Kathryn also had not filed a response or opposition. Thus, it appeared that there was little dispute regarding the merit and propriety of MAC's motion for an attorney's lien.

After MAC filed its Reply, Mr. Waid filed an untimely Response to MAC's motion that this Court should decline to consider. Nevertheless, even if this Court is inclined to consider the untimely Response, it should reject Mr. Waid's attempts to rehash old issues which have no bearing on the instant motion. Further, because the majority of MAC's arguments still remain unchallenged, this Court should accept that MAC satisfied all the procedural requirements mandated by NRS 18.015 and that the fees and costs for which MAC seeks payment are reasonable. And, while Mr. Waid raises a new argument regarding spendthrift trusts, this Court should reject his argument and grant MAC's motion.

II. LEGAL ARGUMENT.

Eighth Judicial District Court Rule ("EDCR") 2.20(e) provides, "Within 10 days after the service of the motion, . . . the opposing party must serve and file written notice of nonopposition or opposition thereto, together with a memorandum of points and authorities and supporting affidavits, if any, stating facts showing why the motion . . . should be denied." Here, Mr. Waid failed to file his Response within the 10 day time limit and, as such (A) this Court should not consider the untimely Response.

Nevertheless, even if the considers Response, it should reject Mr. Waid's arguments because: (B) Mr. Waid lacks standing to object to MAC's Motion; (C) MAC has fulfilled all its obligations to the Trustee; and (D) the Trust is not a spendthrift trust. Further, because: (E) the

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majority of MAC's arguments remain unrefuted and (F) MAC is legally and equitably entitled to its fees and costs, this Court should grant MAC's Motion to Adjudicate Attorney's Lien.

A. THIS COURT SHOULD DISREGARD THE UNTIMELY RESPONSE.

Courts have considerable discretion in determining whether to consider an untimely opposition. See, e.g., Las Vegas Fetish & Fantasy Halloween Ball, Inc. v. Ahern Rentals, Inc., 124 Nev. 272, 278, 182 P.3d 764, 768 (2008) (finding that the district court did not abuse its discretion where it applied EDCR 2.20 and disregarded an untimely opposition); Miranda v. S. Pac. Transp., 710 F.2d 516, 521 (9th Cir. 1983) (holding that district courts "have broad discretion in interpreting and applying their local rules.").

Here, the applicable local rule, EDCR 2.20(e), provides that any opposition to a motion must be filed within ten days after service of the motion. So, because MAC filed and served its motion on August 4, 2016, any opposition was due August 22, 2016.[2] Thus, the Response that Mr. Waid filed on August 31, 2016, was more than a week late. And, to make matters worse, Mr. Waid filed the untimely "Limited Objection" after MAC filed its Reply to Ahern's timely response and after MAC drafted much of its Reply to Jacqueline and Kathryn's "Limited Opposition,"[3] thereby assuring that MAC would have to prepare a third, separate, last-minute Reply to his Response.

Accordingly, the Court should disregard the untimely Response. After all, Mr. Waid does not even attempt to provide an explanation for the untimely filing.

[2] This date is calculated pursuant NRCP 6(a) ("When the period of time prescribed or allowed is less than 11 days, intermediate Saturdays, Sundays, and nonjudicial days shall be excluded") and NRCP 6(e) ("Whenever a party has the right or is required to do some act or take some proceedings within a prescribed period after the service of a notice or other paper . . . and the notice or paper is served upon the party by mail or by electronic means, 3 days shall be added to the prescribed period.").

[3] MAC began writing its Reply immediately upon receipt Jacqueline and Kathryn's untimely opposition. Because Mr. Waid filed his response after MAC completed much of the Reply, it would have been inefficient to draft a single Reply to both filings.

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B. MR. WAID LACKS STANDING TO OBJECT TO MAC'S MOTION.

It is unclear why Mr. Waid objects to repayment of the debt that Ahern contractually promised and guaranteed to pay.[4] After all, "Trustees are under a duty to deal impartially with all the Beneficiaries to a Trust," see, e.g., Restatement (Second) of Trusts § 183 (1959, updated June 2016), and it would seem that Mr. Waid should be working with MAC and Ahern to pay her debts. Instead, while Mr. Waid supported the use of Ahern's distributions to pay for Jacqueline and Katherine's attorney fees and made no objection to the same for payment of Brownstein Hyatt Farber Schreck's fees, he is now objecting to the use of the same funds to pay MAC—an unexplained inconsistency. Additionally, the Trust specifically provides that the Trust Estate may be used "[t]o commence or defend such litigation with respect to the trust or any property of the trust estate."[5] And, because continued litigation regarding MAC's fees and costs increases the expenses for all parties involved, one would think that Mr. Waid would want to resolve the issue as quickly and amicably as possible, without motion practice.

C. MAC HAS FULFILLED ITS DUTIES TO THE TRUSTEE.

Under Nevada Rule of Professional Conduct ("NRPC") 1.9(c): "A lawyer who has formerly represented a client in a matter . . . shall not thereafter: (1) Use information relating to the representation to the disadvantage of the former client . . . ; or (2) Reveal information relating to the representation except as these Rules would permit or require with respect to a client." See also Upjohn Co. v. United States, 449 U.S. 383, 389, 101 S. Ct. 677, 682 (1981) ("The attorney–client privilege is the oldest of the privileges for confidential communications known to the common law. Its purpose is to encourage full and frank communication between attorneys and their clients and thereby promote broader public interests in the observance of law and administration of justice." (internal citation omitted)).

[4] In particular, Paragraph 1 of the Fee Agreement includes Ahern's agreement to "pay for all services." Further, Paragraph 5 acknowledges that MAC may "institute collection efforts" in the event of a default while Paragraph 11 includes Ahern's personal guaranty for payment of "all fees and costs to MAC."

[5] See Section Seven, Paragraph F. The Trust is attached hereto as **Exhibit 1.**

Here, MAC has complied with its ethical obligations to Ahern to protect her attorney-client privileged communications while fulfilling its obligations to the Trustee because (1) MAC produced its entire non-privileged file, and (2) no exception to the attorney-client privilege applies.

1. MAC produced its entire non-privileged file.

MAC provided counsel for Mr. Waid a "thumb drive containing [MAC's] 'entire, unprivileged electronic Trust file and the original Trust documents that MAC received from Mr. Mann.[6] In addition, MAC also submitted to Mr. Waid copies of every check and wire transfer that it received from Ahern[7] as well as itemized invoices that detail the services for which MAC received payment or is still owed payment. In fact, the only information that MAC did not provide to Mr. Waid were small portions of the aforementioned documents that were redacted to protect privileged information. And, as stated in this Court's Order Re: Motion for Order to Show Cause Re: Eleanor Ahern's Authorization, MAC had no obligation to disclose such matters because "professional services performed on behalf of Eleanor Ahern individually are protected by the attorney-client and accountant-client privileges."[8]

Nevertheless, Mr. Waid insists that "MAC has not fulfilled its duties as attorneys for the Trust."[9] In so arguing, Mr. Waid apparently concedes that MAC's services were for the benefit of the Trust. His argument otherwise fails, however, because MAC has provided all of the non-privileged information that was in the firm's possession.

Mr. Waid never responded or objected to the February 22, 2016, letter in which MAC "advised that this law firm has fully complied with the Order entered by Judge Sturman on January 27, 2016." Thus, until MAC filed its Motion, Mr. Waid had no objection to MAC's production of its file.

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[6] See Letter from Todd Moody dated Jan. 28, 2016, attached hereto as **Exhibit 2**.

[7] See Letter from MAC to Todd Moody dated July 30, 2015, attached here as **Exhibit 3**.

[8] See Order Regarding Motion for Order to Show Cause, attached here as **Exhibit 4**.

[9] See Response at pg. 2.

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There is no need for Mr. Waid to have Ahern's attorney-client privileged communications. MAC has provided Mr. Waid with Ahern's complete client file and copies of every check and wire transfer that MAC received to Ahern. The only redactions to the cashier's checks from Ahern were to protect account numbers that are already known to Mr. Waid. Similarly, the redactions to MAC's invoices redact attorney-client privileged communications. There is no need for Mr. Waid to see this privileged information. The Court's docket plainly demonstrates the significant work that MAC performed in this case for the benefit of Ahern and the Trust.

Further, Mr. Waid's argument regarding the redactions also fails because MAC had no obligation to disclose matters that are protective by the attorney-client privilege and there was simply no way to separate the services that MAC rendered to Ahern in her individual capacity from the services it rendered to Ahern in her capacity as (former) Trustee. After all, the primary point of the litigation was to construe the Trust document and determine whether Jacqueline and Kathryn were beneficiaries of the Trust – an issue that impacted Ahern as a beneficiary and as the Trustee. Further, because MAC represented Ahern before this Court decided in favor of Jacqueline and Kathryn, the whole purpose of MAC's representation was to defend not only Ahern's interest in the Trust as a beneficiary and as the Trustee, but also to assist the Court in ultimately resolving the dispute over the decedent's intent, i.e. whether Jacqueline and Kathryn were beneficiaries.

2. No exceptions to the attorney-client privilege apply.

To the extent that Mr. Waid attempts to raise the fiduciary duty exception, his argument fails because the exception only applies to confidential communications between a predecessor trustee and her attorney regarding trust administration. See, e.g., United States v. Mett, 178 F.3d 1058, 1063 (9th Cir. 1999) ("[T]he fiduciary exception is not an "exception" to the attorney-client privilege at all. Rather, it merely reflects the fact that, at least as to advice regarding plan administration, a trustee is not 'the real client' and thus never enjoyed the privilege in the first place.") (emphasis added); Moeller v Superior Court, 947 P.2d 279, 283 (Cal. 1997) ("[W]hen a successor trustee takes office it assumes all of the powers of trustee, including the power to

assert the privilege with respect to confidential communications between a predecessor trustee and an attorney on matters of trust administration") (emphasis added). Accordingly, where, as here, the parties to a Trust are adverse to one another, the exception is inapplicable. See, e.g., Mett, 178 F.3d at 1064 ("On the other hand, where a plan fiduciary retains counsel in order to defend herself against the plan beneficiaries . . . the attorney-client privilege remains intact."); Stock v. Schnader Harrison Segal & Lewis LLP, 35 N.Y.S.3d 31, 38 (N.Y. App. Div. 2016) ("[T]he fiduciary exception does not apply to the attorney-client communications of a fiduciary who seeks legal advice to protect his or her own individual interests"); Garvy v. Seyfarth Shaw LLP, 966 N.E.2d 523 (Ill. Ct. App. 2012); Strougo v. BEA Assocs., 199 F.R.D. 515 (S.D. N.Y. 2001).

In this case, Ahern as the Trustee and as a beneficiary was embroiled in litigation adverse to Jacqueline and Katherine as beneficiaries. Therefore, Ahern's communications with MAC were to defend claims against her as both a Trustee and a beneficiary in active contentious litigation. These communications were not primarily for the purpose of trust administration, in which case there may be an exception to the attorney-client privilege. Rather, the communications were regarding active litigation. Thus, no exception to the attorney client privilege applies here, and the Trustee is not entitled to Ahern's privileged communications. Moreover, MAC has no right to waive that privilege and has not been instructed by Ahern or her new counsel to do so.

Overall, MAC has provided its complete file to the Trustee with only the privileged communications redacted and therefore, MAC has fulfilled its duties to the Trustee and Ahern. Moreover, this issue is irrelevant as to whether MAC is entitled to adjudication of its attorney's lien, and the Trustee has no stake in whether MAC is paid its earned fees. In fact, taking a position that favors payment of Jacqueline and Katherine's attorney fees over payment of Ahern's attorney fees violates the Trustee's duty of impartiality.

D. THE TRUST IS NOT A SPENDTHRIFT TRUST.

A "spendthrift trust" is defined as "a trust in which by the terms thereof a valid restraint on the voluntary and involuntary transfer of the interest of the beneficiary is imposed." NRS

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166.020; Restatement (Second) of Trusts § 152 (1959, updated June 2016). Because spendthrift trusts are a special type of trust, they are subject to several limitations. First and foremost, the trust agreement must contain terms that prove that the creator intended to establish a spendthrift trust. NRS 166.050. Second, "a trust which does not provide for the support and maintenance of the beneficiary may not qualify as a spendthrift trust under ch. 166." Ambrose v. First Nat. Bank of Nev., 87 Nev. 114, 118, 482 P.2d 828, 830 (1971); see also NRS 166.090(1) ("Provision for the beneficiary will be for the support, education, maintenance and benefit of the beneficiary alone"). Third, because spendthrift trusts alienate property the trust must also comply with Nevada's rule against perpetuity. NRS 166.120 (citing to NRS 111.103 through 111.1039)).

Here, the Trust is not qualify as a spendthrift trust.[10] Indeed, while Paragraph Six of the Trust includes a "spendthrift provision," the creators did not "manifest[ ] an intention" to create an actual spendthrift trust. For example, the powers of the Trustee are not defined in accordance with NRS Chapter 166, but rather, Paragraph Seven specifies that the Trustee is vested with "[a]ll of the trust powers set forth in Nevada Revised Statutes 163.265 to 163.410 inclusive," *i.e.*, the statutory provisions that apply to ordinary trusts. Further, while the Trust assets certain benefit the Beneficiaries, the primary stated purpose of the Trust is to "to make provision for the care and management of certain of their [the Trustors] present properties and for the ultimate disposition of the trust properties." And, conspicuously absent from the Trust is any mention of using Trust funds "for the support and maintenance of the beneficiar[ies]." Ambrose, 87 Nev. at 118, 482 P.2d at 830.

Ahern, just like Jacqueline and Katherine, has an immediate right to her distributions. The distributions to the beneficiaries have never been treated as though they were subject to a spendthrift provision, and no one in this litigation has argued this to date. This simply is not a spendthrift trust.

Nevertheless, even if the Trust could be construed as a spendthrift trust, the provision to which Mr. Waid cites is inapplicable because payment of MAC's fees and costs is not "contrary

[10] See Exhibit 1 hereto, a copy of the Trust.

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to the provisions of this chapter [NRS Chapter 166]." Indeed, NRS 166.120(4) is wholly inapplicable MAC's services were also for Ahern's benefit and "the interest of the beneficiary can be reached in satisfaction of an enforceable claim against the beneficiary." Restatement (Second) of Trusts § 157 (1959, updated June 2016); see also NRS 166.090 (stating that spendthrift trusts are for "the support, education, maintenance and benefit of the beneficiary"). Moreover, because MAC's services were also for the benefit of the Trust, payment of its fees is also permissible under the terms of the Trust[11] and NRS 166.100 (stating that all income from the trust estate is for the support of the beneficiary except for taxes and "[c]osts or fees regularly earned, paid or incurred by the trustee for administration of or protection of the trust estate").

Finally, while Mr. Waid argues in a single sentence that "Nevada's spendthrift law . . . prohibits the creditor of a beneficiary from obtaining a lien or judgment against the beneficiary's interest in a spendthrift trust," his argument is wholly unsupported by legal authorities or cogent argument. See EDCR 2.20 (e) (providing that an opposition must include a memorandum of points and authorities that that "stat[es] facts showing why the motion . . . should be denied."); see also Berkson v. LePome, 126 Nev. 492, 501, 245 P.3d 560, 566 (2010) ("It is well established that this court need not consider issues not supported by cogent argument and citation to relevant authority").

E. THE MAJORITY OF MAC'S ARGUMENTS REMAIN UNREFUTED.

As MAC explained in its reply to Ahern's Response, the majority of the arguments in MAC's motion remain unrefuted. Though MAC will not rehash those points here, it is important to note that Mr. Waid's untimely Response does not challenge MAC's compliance with the NRS 18.015 factors or the reasonableness of MAC's fees and costs.

F. MAC IS LEGALLY AND EQUITABLY ENTITLED TO ITS FEES AND COSTS.

It is suspect that Mr. Waid's untimely Response is the first time that he mentioned any concerns regarding spendthrift trusts, because, if the intent of the Trustors was to establish a spendthrift trust, then the issue should have been addressed much sooner. But, even if Mr. Waid

[11] See Exhibit 1, copy of the Trust at Subsection Seven, Paragraph F.

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only recently discovered that the Trust is a spendthrift trust, it would still be inequitable to deny MAC its fees when it had no way of knowing that the Trust could not be made liable to its payment. Nichols v. Eaton, 91 U.S. 716, 726, 23 L. Ed. 254 (1875) (explaining that spendthrift trusts are permissible because a creditor knows, "when he parts with the consideration of his debt, that the property so exempt can never be made liable to its payment").

On a similar note, it is also odd that Mr. Waid opposes payment of MAC's fees and costs from the corpus of the Trust – even as an advance on Ahern's beneficial interest – given that he did not oppose using an advance to pay for Brownstein Hyatt Farber Schreck's attorney's fees.[12] After all, Brownstein "advocated for and defended Ms. Ahern on a wide front,"[13] by essentially providing the same types of services as those for which MAC seeks payment. So, if Mr. Waid were "required to disregard and defeat every assignment or other act, voluntary or involuntary," NRS 166.120, one would think that Mr. Waid would have voiced such concerns.

Likewise, Mr. Waid did not object to the payment of Jacqueline and Katherine's attorney fees.

There is no explanation for why the Trustee, instead of acting impartially, is favoring payment of Jacqueline and Katherine's attorney fees and Ahern's new counsel's attorney fees over MAC's attorney fees. Overall, it would be unfair and inequitable to deny MAC the fees, costs, and interests that it earned when Mr. Waid had no qualms about doing the same for Brownstein.

III. CONCLUSION.

The action for which MAC represented Ahern was complex, fast-paced, and time-intensive. In advocating for Ahern, both in her capacity as Trustee and as a Beneficiary, MAC expended significant resources, and for all of its efforts, MAC should be compensated, be it from

[12] See generally Transcript of Proceedings on October 14, 2015, attached here as **Exhibit 5.**

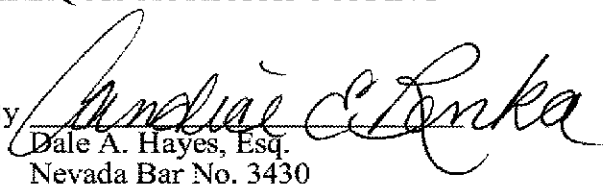
[13] See Motion to Withdraw as Counsel on Order Shorting Time, dated October 6, 2015, at 5; see also Response to Motion to Withdraw as Counsel on Order Shortening time, dated October 9, 2015, (stating "BHFS has served Ms. Ahern well by protecting her interests when needed").

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the corpus of the Trust or Ahern's beneficial interest in the Trust. Accordingly, MAC respectfully requests that this Court grant its Motion to Adjudicate Attorney's Lien.

Dated this 2nd day of September, 2016.

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing **REPLY TO FREDRICK WAID'S RESPONSE TO MOTION TO ADJUDICATE ATTORNEY'S LIEN** was submitted electronically for filing and/or service with the Eighth Judicial District Court on the 2nd day of September, 2016. Electronic service of the foregoing document shall be made in accordance with the E-Service List as follows:[14]

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[14] Pursuant to EDCR 8.05(a), each party who submits an E-Filed document through the E-Filing System consents to electronic service in accordance with NRCP 5(b)(2)(D).

Exhibit 1

1972

TRUST AGREEMENT

("The W. N. Connell and Marjorie T. Connell Living Trust")

THIS TRUST AGREEMENT, made this 18th day of May, 1972, by W. N. CONNELL and MARJORIE T. CONNELL, husband and wife, (hereinafter sometimes referred to as the "Grantors", when reference is made to them in their capacity as creators of this Trust and the transferrors of the principal properties thereof), and W. N. CONNELL and MARJORIE T. CONNELL, of Las Vegas, Nevada, (hereinafter sometimes referred to as the "Trustee" when reference is made to them in their capacity as the Trustee or fiduciary hereunder), and by this instrument revoke the previous revocable living trust made by us on the 1st day of Dec., 1971:

W I T N E S S E T H :

WHEREAS, the Grantors desire by this Trust Agreement to establish a revocable trust for the uses and purposes hereinafter set forth, to make provision for the care and management of certain of their present properties and for the ultimate disposition of the trust properties;

NOW, THEREFORE, the Grantors hereby give, grant, transfer, set over and deliver as the original trust estate, IN TRUST, unto the Trustee, who hereby declare that they have received from the Grantors all of the property listed on Schedule "A" (which schedule is attached hereto and made a part of this Trust Agreement), TO HAVE AND TO HOLD THE SAME IN TRUST, and to manage, invest and reinvest the same and any additions that may from time to time be made thereto, subject to the hereinafter provided trusts and the terms and conditions, powers and agreements, relating thereto.

Additional property may be added to the trust estate, at any time and from time to time, by the Grantors, or either of them, or by any person or persons, by inter vivos act or testamentary transfer, or by insurance contract or trust designation.

The property comprising the original trust estate during the joint lives of the Grantors shall retain its character as their community property or separate property, as designated on the attached Schedule "A". Property subsequently received by the Trustee during the joint lives of the Grantors shall be listed on an appropriate schedule annexed hereto and shall have the separate or community character ascribed thereto on such schedule.

FIRST: NAME AND BENEFICIARIES OF TRUST. The trusts created hereby shall be for the use and benefit of the Grantors and for ELEANOR MARGUERITE CONNELL HARTMAN, the daughter of W. N. CONNELL by a prior marriage, and for her issue as hereinafter provided. ELEANOR MARGUERITE CONNELL HARTMAN shall hereinafter be designated as the "Residual Beneficiary".

This trust shall be known and identified as the "W. N. Connell and Marjorie T. Connell Living Trust", and, for purposes of convenience, shall hereinafter be referred to as Trust No. 1.

SECOND: TRUST NO. 1. The Trustee shall hold, manage, invest and reinvest the trust estate and shall collect the income thereof and dispose of the net income and principal as follows:

A. Income. The Trustee shall pay equally to the Grantors, during their joint lives, all community net income of the trust estate and shall pay to each Grantor all separate net income from his or her respective share of the trust estate. Such income shall be paid to the Grantors unless the Trustee receives written notice from the Grantors that all income shall not be distributed but shall be accumulated by the Trustee and invested and reinvested as herein provided.

B. Principal. During the joint lives of the Grantors, the Trustee shall pay over and distribute to a Grantor such part or all of the principal of his or her separate property and his or her share of the community property placed in this initial trust by that Grantor as he or she shall demand in a writing directed to the Trustee.

C. Death of Either Grantor. Upon the death of the Grantor whose death shall first occur, the Trustee shall divide the trust estate, including all property received as a result of the decedent's death, as follows:

1. The trust estate and all property received as a result of the decedent's death shall be divided into two parts, each part to be administered as a separate trust to be known respectively as "Trust No. 2" and "Trust No. 3". Reference hereafter to the "Decedent" shall refer to either of the Grantors whose death shall first occur and reference to the "Survivor" shall refer to the other Grantor.

2. The Trustee shall allocate to Trust No. 3 (a) the Survivor's separate property interest in the trust estate; (b) the Survivor's one-half (1/2) interest in the community property of the trust estate, less a proportionate part of all amounts properly chargeable against all community property; and (c) the Survivor's community property interest in any policy of insurance on the life of the Decedent owned by the Grantors as community property and made payable to Trust No. 1.

3. The Trustee shall allocate to Trust No. 3 from the Decedent's separate property an amount as determined in Article THIRD hereof.

4. The Trustee shall allocate to Trust No. 2 all the remaining protion of the trust estate not allocated to Trust No. 3, including, but not limited to, the Decedent's community property interest, if any, in any life insurance policy on the life of the Decedent payable to Trust No. 1.

5. In the event that property is received by the Trustee, by inter vivos or testamentary transfer and directions are contained in the instrument of transfer for allocation to or between Trust No. 2 or Trust No. 3, then the Trustee shall make allocation in accordance with such directions, anything to the contrary herein, notwithstanding.

6. It is the intention of the parties, that ELEANOR MARGUERITE CONNELL HARTMAN shall be a Co-trustee of the Decedent's separate property in trust in this Trust to the extent the term "Trustee", as hereinafter used, shall apply to her.

THIRD: MARITAL DEDUCTION. The Trustee shall allocate to Trust No. 3 from the Decedent's separate property the fractional share of the said assets which is equal to the maximum marital deduction allowed for federal estate tax purposes, reduced by the total of any other amounts allowed under the Internal Revenue Code as a Marital Deduction which are not a part of this trust estate. In making the computations and allocations of the said property to Trust No. 3 as herein required, the determination of the character and ownership of the said property and the value thereof shall be as finally established for federal estate tax

purposes. This distribution is being made without regard to death taxes payable by reason of the Decedent's death, which taxes shall be paid from Trust No. 2 only.

FOURTH: TRUST NO. 2. The Trustee shall hold, manage, invest and reinvest the estate of Trust No. 2 and shall collect the income thereof and dispose of the net income and principal as follows:

A. Death of Decedent. Upon the death of the Decedent, the Trustee shall pay from the income or principal of this trust, the death taxes, probate and legal expenses, and the expenses of the last illness and funeral of the Decedent, provided, however, that no funds received by the Trustee as proceeds from a retirement plan qualified under the Internal Revenue Code shall be available for these purposes unless there are no other assets in the Survivor's estate, in which event funds from a qualified plan can be used, but only to the extent of these actual expenses.

B. Income. All income received by this Trust from the separate property of the Decedent shall be paid to the Residual Beneficiary. In the event any of the real property located in Upton County, Texas, as listed on the original Schedule "A" attached hereto, forms a part of the corpus of this Trust, the Residual Beneficiary shall be paid an additional payment from the income received from the Decedent's half of the community property, which forms a part of the corpus of this Trust, equal to all of the income received by this Trust from the real property located in Upton County, Texas. However, the provisions relating to the additional payment, shall be noncumulative, and in any calendar year in which the income received from the said community property is not sufficient to make full payment hereunder, the Trustee is directed to pay only the income which has been received by this Trust during that year, and not to carry forward any deficiency in payment to the next calendar year's income.

In the event the Residual Beneficiary predeceases the Survivor, the Residual Beneficiary's rights to receive income hereunder shall be paid to or for the benefit of her living children and the issue of any deceased child by right of representation; or in the event she dies without living issue, her income rights hereunder shall become those of the Survivor.

All other income received by this Trust shall be distributed to the Survivor.

All payments as provided in this Section shall be made at frequent intervals, but at least semi-annually.

C. Principal. The Trustee shall pay over and distribute the principal of the estate of Trust No. 2 as follows:

1. Power to make gifts. The Survivor shall have the discretionary power during his or her lifetime to direct the Trustee to pay over and distribute trust principal of the separate property in trust from the Decedent's Trust to or for the benefit of the Residual Beneficiary or any of her living issue; such power may be exercised by delivering to the Trustee a writing duly executed and acknowledged, wherein he or she specifies the amount of principal that should be paid over and distributed to the particular issue and in what proportions such principal shall be paid over and distributed. It is the Grantors' intent hereby to convey upon the Survivor a sprinkling power; said power is limited, however, to appointments made to and among the Residual Beneficiary or her living issue.

2. Power of invasion. If, in the opinion of the Trustee, the income from all sources of which the Trustee has knowledge shall not be sufficient to support, maintain, educate and provide for the Survivor or Residual Beneficiary or any issue of the Residual Beneficiary in their accustomed manner of living, or in the event of any emergency befalling these said parties, such as illness, accident or other distress, the Trustee is authorized to use and expend such part of the trust principal of Decedent's separate property in trust, as the Trustee may deem necessary or desirable to meet such needs or emergencies. The decision of the Trustee as to what shall constitute an emergency or the necessity or desirability of encroachment upon principal shall be conclusive upon all parties and the Trustee shall be relieved and exonerated hereunder if the Trustee acts in good faith in making such determination.

3. Sale of real property from Decedent's separate property. The Survivor is directed that in the event any additional money is needed for payment of funeral, last illness or other costs to settle any claims made against Decedent's estate, or in the event that the sale of Decedent's separate property is contemplated at any time, only the separate property of Decedent situated in Las Vegas, Clark County, Nevada, shall be sold to satisfy this obligation.

4. Sale of real property. In the event that any real property which is listed on Schedule "A" attached hereto as the Decedent's separate property, and, is a part of the corpus of Trust No. 2 is sold, the Grantors direct the Trustee to distribute the net proceeds from such sale, less any applicable income tax due because of such sale, to the Residual Beneficiary, free of trust. In the event the Residual Beneficiary is not living at the time of the said sale, the proceeds therefrom shall remain in this Trust, and shall be subject to all of the provisions as herein contained.

D. Definition of real property. The term "real property" as used in this Article FOURTH shall not include the mineral, oil and gas interests in Upton County, Texas, if the same are separately listed on Schedule "A" hereto.

FIFTH: TRUST NO. 3. The Trustee shall hold, manage, invest and reinvest the estate of Trust No. 3 and shall collect the income thereof and dispose of the net income and principal as follows:

A. Income. The Trustee shall pay to the Survivor during his or her lifetime all of the net income of the Survivor's trust estate in convenient, regular installments, but not less frequently than quarter-annually.

B. Powers of appointment over income and principal.

1. During his or her lifetime, the Survivor shall have the power to appoint all or any part of the principal and undistributed income, if any, of the estate of Trust No. 3 to himself or herself, or to any person or persons. Such power of appointment shall be exercisable in all events, but only by the Survivor's submitting to the Trustee written instructions expressly exercising such power.

2. Upon the death of the Survivor, he or she shall have the absolute power to appoint the entire principal and the undistributed income, if any, of the estate of Trust No. 3, or any part thereof, to his or her estate or to any person or persons. Such power of appointment shall be exercised only by a provision in the Last Will of the Survivor expressly exercising such power. Unless within ninety (90) days after the death of the Survivor the Trustee has actual notice of the existence of a Will exercising such power, it shall be deemed for all purposes hereunder that such power was not exercised.

C. Revocation and Amendments. The Survivor shall have the power to revoke, amend or terminate Trust No. 3 herein provided by delivering such amendments or revocation in writing to the Trustee provided that the Trustee's duties and liabilities cannot be increased without the Trustee's consent.

D. Death of Survivor. Upon the death of the Survivor, the Trustee shall distribute the trust estate in accordance with and to the extent provided by the Survivor's exercise of his or her power of appointment.

If and to the extent that the Survivor shall fail to effectively exercise the foregoing power of appointment, the principal and undistributed income of Trust No. 3 shall, upon his or her death, be distributed to the Residual Beneficiary, or to the heirs of her body if she is not then living.

SIXTH: SPENDTHRIFT PROVISION. Each and every beneficiary under the Living Trust and the various estates created hereunder is hereby restrained from and shall be without right, power or authority to sell, transfer, assign, pledge, mortgage, hypothecate, alienate, anticipate, bequeath or devise, or in any manner affect or impair his, her or their beneficial right, title, interest, claim and estate in and to either the income or principal of any claim created hereunder, or to any part thereof, during the entire term of said trusts; nor shall the right, title, interest, or estate of any beneficiary be subject to any right, claim, demand, lien or judgment of any creditor of any such beneficiary, nor be subject nor liable to any process of law or equity, but all of the income and principal, except as otherwise provided in this Trust Agreement shall by the Trustee be payable and deliverable to or for the benefit of only the before named and designated beneficiaries, at the times hereinbefore set out, and receipt by such beneficiaries shall relieve the Trustee from responsibility for such good faith distributions.

SEVENTH: POWERS OF TRUSTEE. To carry out the purposes of any trust created under this instrument and subject to any limitations stated elsewhere in this Trust Agreement, the Trustee is vested with the following powers with respect to the trust estate and any part of it, in addition to those powers now or hereafter conferred by law:

A. To continue to hold any property, including any shares of the Trustee's own stock and to operate at the risk of the trust estate any business that the Trustee receives or acquires under the trust as long as the Trustee deems advisable.

B. To manage, control, grant options on, sell, (for cash or on deferred payments), convey, exchange, partition, divide, improve and repair trust property.

C. To lease trust property for terms within or beyond the term of the trust and for any purpose, including

PLEADING CONTINUES IN NEXT VOLUME