

**In the Supreme Court of the State of Nevada**

IN THE MATTER OF THE CHRISTIAN )  
FAMILY TRUST u.a.d. 10/11/16 )  
~~~~~ )

SUSAN CHRISTIAN-PAYNE, )  
ROSEMARY KEACH AND )  
RAYMOND CHRISTIAN, JR. )

Appellants, )

-vs- )

ANTHONY L. BARNEY, LTD. and )  
JACQUELINE UTKIN, )

Respondents. )

~~~~~ )

ANTHONY L. BARNEY, LTD., )  
Cross-Appellant, )

-vs- )

SUSAN CHRISTIAN-PAYNE, )  
ROSEMARY KEACH AND )  
RAYMOND CHRISTIAN, JR. )

Cross-Respondents, )

and )

JACQUELINE UTKIN, )

Respondent. )

~~~~~ )

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Case No.: 75750

**APPELLANT/CROSS-RESPONDENTS' APPENDIX - VOLUME 13d**

*Filed by:*

*/s/ Cary Colt Payne, Esq.*

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| <i><b>DATE</b></i>               | <i><b>DOCUMENT</b></i>                                                                                                                                                          | <i><b>NUMBERED</b></i> |
|----------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------|
| <i><b>APPENDIX VOLUME 1:</b></i> |                                                                                                                                                                                 |                        |
| 7/13/17                          | Petition to Assume Jurisdiction of Trust;<br>Confirm Trustees; Instructions, etc.                                                                                               | APP-ROA--001-72        |
| 8/17/17                          | Notice of Motion and Motion to Dismiss<br>Pursuant to NRCP 12(b)(1) and NRCP 12 (b)(5)                                                                                          | APP-ROA—73-97          |
| 8/22/17                          | Errata to Notice of Motion and Motion to<br>Dismiss Pursuant to NRCP 12(b)(1) and<br>NRCP 12(b)(5)                                                                              | APP-ROA—98-101         |
| 9/15/17                          | Supplement and Addendum to Petition to Assume<br>Jurisdiction of Trust; confirm Trustees'<br>Instructions, etc. Alternatively to Reform<br>Trust Agreement                      | APP-ROA--102-105       |
| 9/15/17                          | Petitioner's Opposition to Motion to Dismiss                                                                                                                                    | APP-ROA--106-115       |
| <i><b>APPENDIX VOLUME 2:</b></i> |                                                                                                                                                                                 |                        |
| 10/4/17                          | Reply to Petitioner's Opposition to Motion<br>to Dismiss                                                                                                                        | APP-ROA--116-156       |
| 10/13/17                         | Response to Petition to Assume Jurisdiction<br>of Trust; Confirm Trustees; Instrutions, Etc.<br>and Joinder in Motion to Dismiss Pursuant<br>to NRCP 12(b)(1) and NRCP 12(b)(5) | APP-ROA--157-165       |
| 10/25/17                         | Accounting                                                                                                                                                                      | APP-ROA--166-173       |
| 10/25/17                         | Inventory and Record of Value                                                                                                                                                   | APP-ROA--174-184       |
| 10/31/17                         | Notice of Entry of Order                                                                                                                                                        | APP-ROA--185-193       |

| <i><b>DATE</b></i>                | <i><b>DOCUMENT</b></i>                                                                                                                                                                                                                                                                                                                           | <i><b>NUMBERED</b></i> |
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| <i><b>APPENDIX VOLUME 3:</b></i>  |                                                                                                                                                                                                                                                                                                                                                  |                        |
| 11/3/17                           | Joint Petition for Review of Former Trustees<br>Refusal to Provide a Proper Accounting<br>Pursuant to NRS 165.143                                                                                                                                                                                                                                | APP-ROA--194-222       |
| <i><b>APPENDIX VOLUME 4a:</b></i> |                                                                                                                                                                                                                                                                                                                                                  |                        |
| 11/13/17                          | Joint Objection to Petition Jurisdiction Etc.<br>Part 1                                                                                                                                                                                                                                                                                          | APP-ROA--223-298       |
| <i><b>APPENDIX VOLUME 4b:</b></i> |                                                                                                                                                                                                                                                                                                                                                  |                        |
| 11/13/17                          | Joint Objection to Petition Jurisdiction Etc.<br>Part 2                                                                                                                                                                                                                                                                                          | APP-ROA--299-373       |
| <i><b>APPENDIX VOLUME 5:</b></i>  |                                                                                                                                                                                                                                                                                                                                                  |                        |
| 12/4/17                           | Petitioner's Opposition to Motion for<br>Review/Proper Accounting                                                                                                                                                                                                                                                                                | APP-ROA--374-413       |
| 12/14/17                          | Petitioner's Opposition to Joint Counterpetition<br>to Confirm/Breach of Fiduciary Duty, Etc.<br>Request for Discovery                                                                                                                                                                                                                           | APP-ROA--414-428       |
| <i><b>APPENDIX VOLUME 6:</b></i>  |                                                                                                                                                                                                                                                                                                                                                  |                        |
| 12/12/17                          | Motion for Compliance with and Enforcement<br>of Court Order, and for Sanctions Relating<br>Thereto, for Order to show cause why Former<br>Trustees should not be held in Contempt,<br>for Order Compelling Former Trustees to<br>Account, and for Access to and Investment<br>Control of Trust Funds Belonging to the<br>Christian Family Trust | APP-ROA--429-452       |

| <b><i>DATE</i></b> | <b><i>DOCUMENT</i></b>                                                                                                                                                      | <b><i>NUMBERED</i></b> |
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| 1/4/18             | Notice of Suggestion of Death                                                                                                                                               | APP-ROA--453-454       |
| 1/11/18            | Opposition to Motion for Compliance, Enforcement Sanctions, Contempt, Etc.; Counterpetition for Distribution and Vacating all Pending Matters and Dismiss Trust Proceedings | APP-ROA--455-508       |

***APPENDIX VOLUME 7a:***

|         |                                                 |                  |
|---------|-------------------------------------------------|------------------|
| 1/26/18 | Petition to Confirm Successor Trustee<br>Part 1 | APP-ROA--509-539 |
|---------|-------------------------------------------------|------------------|

***APPENDIX VOLUME 7b:***

|         |                                                 |                  |
|---------|-------------------------------------------------|------------------|
| 1/26/18 | Petition to Confirm Successor Trustee<br>Part 2 | APP-ROA--540-569 |
|---------|-------------------------------------------------|------------------|

***APPENDIX VOLUME 8:***

|         |                                                                                                            |                  |
|---------|------------------------------------------------------------------------------------------------------------|------------------|
| 2/6/18  | Amended Notice of Entry-Omnibus Order                                                                      | APP-ROA--570-576 |
| 2/8/18  | Petition for Fees and Costs                                                                                | APP-ROA--577-659 |
| 2/23/18 | Notice of Non-Opposition and Limited Joinder to the Petition for Fees and Costs for Anthony L. Barney, LTD | APP-ROA--660-663 |
| 2/23/18 | Opposition to Petition to Confirm Successor Trustee; Counterpetition for Reinstatement of Petitioners      | APP-ROA--664-735 |
| 3/8/18  | Monte Reason's Application for Reimbursement of Administrative Expenses                                    | APP-ROA--736-741 |

| <i><b>DATE</b></i>                | <i><b>DOCUMENT</b></i>                                                                                                                    | <i><b>NUMBERED</b></i> |
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| <i><b>APPENDIX VOLUME 9:</b></i>  |                                                                                                                                           |                        |
| 3/9/18                            | Petitioners Combined Opposition to (1) Barney Firm Petition For Fees, Etc. (2) Monte Reason's Application for Reimbursement               | APP-ROA--742-840       |
| <i><b>APPENDIX VOLUME 10:</b></i> |                                                                                                                                           |                        |
| 3/12/18                           | Reply to Opposition to Petition to Confirm Successor Trustee; and Opposition to Counter-Petition for Reinstatement of Petitioners         | APP-ROA--841-848       |
| 3/13/18                           | Response to Opposition to Monte Reason's Application for Reimbursement of Administrative Expenses                                         | APP-ROA--849-863       |
| 3/13/18                           | Reply to Petitioner's Combined Opposition to (1) Barney Firm Petition for Fees, Etc., (2) Monte Reason's Application for Reimbursement    | APP-ROA--864-894       |
| 3/15/18                           | Minutes of Hearing – 4/4/18                                                                                                               | APP-ROA--895-898       |
| 3/29/18                           | Motion (1) to Expunge Lis Pendens and/or Strike Pleading; and (2) for Preliminary Injunction                                              | APP-ROA--899-921       |
| <i><b>APPENDIX VOLUME 11:</b></i> |                                                                                                                                           |                        |
| 3/30/18                           | Petitioner's Supplemental Response to Opposition to Petition for Fees (Barney Firm); Request for Evidentiary Hearing, Reopening Discovery | APP-ROA--922-960       |

| <i><b>DATE</b></i>                 | <i><b>DOCUMENT</b></i>                                                                                                                                                                                                                                                                                               | <i><b>NUMBERED</b></i> |
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| <i><b>APPENDIX VOLUME 12:</b></i>  |                                                                                                                                                                                                                                                                                                                      |                        |
| 4/2/18                             | Motion for Turnover of Assets and to Dissolve the Injunction Over Christian Family Trust Assets                                                                                                                                                                                                                      | APP-ROA--961-998       |
| 4/3/18                             | Countermotion 1) to Strike Petitioner's Supplemental Response to Opposition to Petition for Fees (Barney Firm); request for Evidentiary Hearing, and Reopening Discovery; 2) To Find the Former Trustees to be Vexatious Litigants, and 3) For sanctions Against Cary Colt Payne Pursuant to NRS 7.085 and EDCR 7.60 | APP-ROA--999-1036      |
| <i><b>APPENDIX VOLUME 13a:</b></i> |                                                                                                                                                                                                                                                                                                                      |                        |
| 4/4/18                             | Hearing Transcript Part 1                                                                                                                                                                                                                                                                                            | APP-ROA-1037-1061      |
| <i><b>APPENDIX VOLUME 13b:</b></i> |                                                                                                                                                                                                                                                                                                                      |                        |
| 4/4/18                             | Hearing Transcript Part 2                                                                                                                                                                                                                                                                                            | APP-ROA-1062-1186      |
| <i><b>APPENDIX VOLUME 13c:</b></i> |                                                                                                                                                                                                                                                                                                                      |                        |
| 4/4/18                             | Hearing Transcript Part 3                                                                                                                                                                                                                                                                                            | APP-ROA-1087-1111      |
| <i><b>APPENDIX VOLUME 13d:</b></i> |                                                                                                                                                                                                                                                                                                                      |                        |
| 4/4/18                             | Hearing Transcript Part 4                                                                                                                                                                                                                                                                                            | APP-ROA-1112-1134      |

| <i><b>DATE</b></i>                 | <i><b>DOCUMENT</b></i>                                                                                                                                                                                                                                                                                                    | <i><b>NUMBERED</b></i> |
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| <i><b>APPENDIX VOLUME 14a:</b></i> |                                                                                                                                                                                                                                                                                                                           |                        |
| 4/10/18                            | Motion for (1) Fees Pursuant to NRS 165.148<br>(2) Compliance with and Enforcement of<br>Court Order and Sanctions; (3) for Order<br>to Show Cause Why Former Trustees<br>Should Not be Held in Contempt, and<br>(4) for Extension of Discovery<br>Part 1                                                                 | APP-ROA-1135-1279      |
| <i><b>APPENDIX VOLUME 14b:</b></i> |                                                                                                                                                                                                                                                                                                                           |                        |
| 4/10/18                            | Motion for (1) Fees Pursuant to NRS 165.148<br>(2) Compliance with and Enforcement of<br>Court Order and Sanctions; (3) for Order<br>to Show Cause Why Former Trustees<br>Should Not be Held in Contempt, and<br>(4) for Extension of Discovery<br>Part 2                                                                 | APP-ROA-1180-1224      |
| <i><b>APPENDIX VOLUME 15:</b></i>  |                                                                                                                                                                                                                                                                                                                           |                        |
| 4/12/18                            | Notice of Entry of Order (Barney Petition Fees)                                                                                                                                                                                                                                                                           | APP-ROA-1225-1232      |
| 4/19/18                            | Petitioner's Combined Opposition to (1) Motion<br>to Turnover Assets and Dissolve Injunction over<br>Trust Assets; (2) Motion to 1. Expunge Lis<br>Pendens and 2. Preliminary Injunction and<br>Counter-motion for Distribution/ Termination of Trust;<br>Alternatively for Stay/ Set Bond and Set Evidentiary<br>Hearing | APP-ROA-1233-1254      |
| 4/19/18                            | Opposition to Motion for (1) fees, (2) compliance,<br>(3) for Order to Show Cause and (4) Extension<br>of Discovery, counter-motion to Distribute Trust<br>Property (2nd request)                                                                                                                                         | APP-ROA-1255-1292      |

| <i><b>DATE</b></i>                | <i><b>DOCUMENT</b></i>                                                                                                                                                                                                                                                                                                          | <i><b>NUMBERED</b></i> |
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| <i><b>APPENDIX VOLUME 16:</b></i> |                                                                                                                                                                                                                                                                                                                                 |                        |
| 5/8/18                            | Response to Combined Opposition to (1) Motion to Turnover Assets and Dissolve Injunction Over Trust Assets; (2) Motion to 1. Expunge Lis Pendens and 2. Preliminary Injunction and Opposition to Countermotion or Distribution/Termination of Trust; Alternatively for Stay, Set Bond and Set Evidentiary Hearing               | APP-ROA-1293-1333      |
| 5/11/18                           | Supplement to response to Combined Opposition to (1) Motion to Turnover Assets and Dissolve Injunction Over Trust Assets; (2) Motion to 1. Expunge Lis Pendens and 2. Preliminary Injunction and Opposition to Countermotion for Distribution/Termination of Trust; Alternatively for Stay/Set Bond and Set Evidentiary Hearing | APP-ROA-1334-1337      |
| 5/16/18                           | Hearing Transcript                                                                                                                                                                                                                                                                                                              | APP-ROA-1338-1390      |
| <i><b>APPENDIX VOLUME 17:</b></i> |                                                                                                                                                                                                                                                                                                                                 |                        |
| 6/1/18                            | Notice of Entry of Order (Utkin suspension)                                                                                                                                                                                                                                                                                     | APP-ROA-1391-1401      |
| 10/8/18                           | Notice of Entry – Probate Commissioner R&R (Hearing re Utkin removal)                                                                                                                                                                                                                                                           | APP-ROA-1402-1408      |
| 11/13/18                          | Notice of Entry – Order Affirming Probate Commissioner R&R (Utkin removal)                                                                                                                                                                                                                                                      | APP-ROA-1409-1414      |



1 make any of those changes to the trust, Your Honor.

2 THE COURT: Okay.

3 MR. KIRSCHNER: And that's -- that's not --

4 MR. BARNEY: And nobody can --

5 MR. KIRSCHNER: -- even an --

6 MR. BARNEY: -- change the trust.

7 MR. KIRSCHNER: -- offer that's (indiscernible).

8 THE COURT: Okay.

9 MR. POWELL: And we just like to make it clear Your

10 Honor though is we're -- we're confusing two things. We're

11 confusing Nancy Christian's rights and Monte Reason's rights.

12 They're two different parties in this.

13 THE COURT: Well --

14 MR. POWELL: This is not about --

15 THE COURT: -- only Monte --

16 MR. POWELL: -- what Monte Reason --

17 THE COURT: Monte -- Monte is alive right now.

18 MR. POWELL: Sorry?

19 THE COURT: Monte is the only one alive. Who's

20 speaking for Nancy?

21 MR. POWELL: Monte.

22 THE COURT: Monte is.

23 MR. POWELL: Monte.

24 THE COURT: Okay.

1 MR. POWELL: And -- and if -- if I can put it on the  
2 record because I know this will come up --

3 THE COURT: That's why I'm asking Monte to be  
4 reasonable.

5 MR. POWELL: I understand. You -- I -- I think  
6 again as you -- you -- we -- we have to go with the -- the  
7 presumption too though is who wasn't allowed to do his job  
8 that Nancy asked him to do when the -- the monies were taken  
9 out of the account in -- after they were notified. So I  
10 realize it -- I get the impression, and I'm not trying to put  
11 words in your mouth, that you'll look at this as though  
12 somehow it's Monte's fault or something that he created this  
13 mess which can be further from the truth. The initiating  
14 petition on this Your Honor was from Mr. Payne's clients.  
15 They didn't like the fact that they were removed.

16 We never asked -- we never came to Court because we  
17 didn't have to ask you for permission to have Nancy appoint  
18 Mr. Reason.

19 THE COURT: Well, I -- I think -- I mean, there's a  
20 lot of blame to go around. I think number one whoever did the  
21 trust maybe should have been a little bit more clear as to why  
22 they have so much discretion and then they can be removed if  
23 they use their discretion.

24 MR. POWELL: That -- that's -- that's trust 101,

1 Your Honor. That -- that's -- like I -- like I tried to  
2 analogize with you. If it's your ball and your bat, you're --  
3 you're going to dictate the rules of the game. You're going  
4 to tell me when you're going to go home and we're not playing  
5 anymore.

6 THE COURT: Okay.

7 MR. POWELL: Because it's your stuff. And -- and  
8 that's --

9 THE COURT: All I've asked just -- well, before we  
10 -- when we started this conversation is --

11 MR. POWELL: Yeah.

12 THE COURT: -- to let us know what the demand is so  
13 these people can try to work with that and try to resolve the  
14 case without more expenses.

15 MR. POWELL: I -- I understand, Your Honor, but it  
16 -- it's one --

17 THE COURT: In light of what -- what Mr. Reason was  
18 going to get under the estate, under the trust, I'm sorry.

19 MR. POWELL: Well, again -- again --

20 THE COURT: And then there -- there might --

21 MR. POWELL: -- these are Nancy's --

22 THE COURT: -- be some -- there might be some  
23 damages to Nancy, maybe, but that's subject for negotiations.

24 MR. POWELL: Correct. And we tried yesterday and

1 unfortunately we didn't resolve anything. So I -- what I  
2 would suggest is that I think we need more time to pass, quite  
3 frankly. There -- there needs to be -- we need to be --  
4 THE COURT: It's going to get better?  
5 MR. POWELL: -- further down the --  
6 THE COURT: It's going to get better with time?  
7 MR. POWELL: I don't know, Your Honor. But you know  
8 negotiations how they work.  
9 THE COURT: Well, I'm going to  
10 MR. POWELL: I mean, there's --  
11 THE COURT: I'm going to set a -- a hearing date, a  
12 trial date. So you --  
13 MR. PAYNE: Just --  
14 THE COURT: -- you want it --  
15 MR. POWELL: Just to be clear, as to what though?  
16 And because --  
17 THE COURT: But he wanted a 155 challenge.  
18 MR. BARNEY: Your Honor --  
19 MR. POWELL: No, Your Honor. I -- I have not  
20 formally launched anything. I -- I just want to be  
21 exceedingly clear. I haven't take -- I'm -- I'm not sure.  
22 And no, I'm not going to tell you right now, is well, I'm  
23 going to do this, this, and this. I -- we're -- we're putting  
24 the cart before the horse here.

1           The issue -- the -- the only issue that you have  
2 before you, and -- and please don't -- I'm not trying to yell  
3 at you. What I'm saying is Mr. Payne's clients have said they  
4 want their day in court to claim that Nancy Christian never  
5 had any right to remove them and that they should have never  
6 removed from day one. That's --

7           THE COURT: Well --

8           MR. POWELL: -- the only litigated issue --

9           THE COURT: Right.

10          MR. POWELL: -- Your Honor that's before this Court.

11          THE COURT: Right.

12          MR. POWELL: The rest of it would have to obviously  
13 come from Monte on behalf of Nancy to go forward. So that's  
14 why I just want to be clear. I know your -- your mindset  
15 is --

16          THE COURT: Well --

17          MR. POWELL: -- resolve --

18          THE COURT: -- they're going to --

19          MR. POWELL: -- everything.

20          THE COURT: But that's their claim. You're right.

21 That's --

22          MR. POWELL: Yeah.

23          THE COURT: -- their claim.

24          MR. POWELL: Yeah.

1 THE COURT: Who's defending that claim?  
2 MR. POWELL: Who's defending --  
3 THE COURT: Who --  
4 MR. POWELL: -- that claim?  
5 THE COURT: Yes, who's opposing that claim?  
6 MR. POWELL: Well, that would be Mrs. Utkin. She's  
7 the current --  
8 MR. KIRSCHNER: We would be (indiscernible).  
9 MR. POWELL: -- trustee.  
10 THE COURT: Okay.  
11 MR. BARNEY: Your Honor, just -- just for my order,  
12 because I know there's going to probably be another order with  
13 the other parties, that you're releasing \$50,000 from -- from  
14 the blocked account --  
15 THE COURT: Plus your cost.  
16 MR. BARNEY: Plus a hundred percent of the cost from  
17 the blocked account --  
18 THE COURT: Right.  
19 MR. BARNEY: And there's --  
20 THE COURT: Which the hundred percent that you  
21 listed in your pleading.  
22 MR. BARNEY: Correct. And that you are striking the  
23 addition of the -- the recusal order that --  
24 THE COURT: Regarding --

1 MR. BARNEY: -- he attached --  
2 THE COURT: -- Judge Potter's --  
3 MR. BARNEY: Yeah, that -- that he attached to his  
4 pleading.  
5 THE COURT: Yes.  
6 MR. BARNEY: Okay. Thank you.  
7 THE CLERK: Do you know when that was filed?  
8 MR. BARNEY: He -- he filed it I think on --  
9 MR. HOLYOAK: It was March --  
10 MR. BARNEY: I got it on Mon --  
11 MR. HOLYOAK: March 30th.  
12 MR. BARNEY: I got it this Monday, but I -- I think  
13 he must have filed it --  
14 MR. PAYNE: You're talking about Judge Potter's  
15 order or the --  
16 MR. BARNEY: Yes, Judge Potter's order that you  
17 appended to the --  
18 MR. PAYNE: Well, but that -- that's what I think  
19 the Clerk is asking.  
20 MR. HOLYOAK: The -- the pleading that it's  
21 contained in was filed March 30th. I don't know the date of  
22 Judge Potter's order.  
23 THE COURT: And you're just striking Judge Potter's  
24 order.

1 MR. HOLYOAK: Yes.

2 THE COURT: Okay. So just that part of the pleading

3 which --

4 MR. BARNEY: It's already been sealed by one of the

5 judges. It'll come back before you again --

6 MR. HOLYOAK: In a different case.

7 MR. BARNEY: Yeah, and Betsy Gonzalez is going to --

8 going to look at it. He -- he's got this habit of --

9 MR. PAYNE: Your Honor --

10 MR. BARNEY: -- pushing this order --

11 MR. PAYNE: -- you know what --

12 MR. BARNEY: -- all over the --

13 MR. PAYNE: -- Your Honor --

14 MR. BARNEY: -- place whenever he sees me.

15 MR. PAYNE: Your Honor -- Your Honor --

16 THE COURT: I -- I don't -- I don't like Judge

17 Potter's order because it didn't include me in it, but here I

18 am.

19 MR. POWELL: But Your Honor, if we can just go back

20 to the point is if you -- if you would love to set that

21 evidentiary hearing on that specific issue --

22 THE COURT: Well, that's --

23 MR. POWELL: -- right now, I'm --

24 THE COURT: -- the only issue that I have.



1 MR. POWELL: I know. And -- and that's the whole  
2 thing is let's get rid of that issue because that's going to  
3 -- that -- that -- that's going to filter out some of this --

4 THE COURT: Well, once that issue is --

5 MR. POWELL: -- stuff.

6 THE COURT: -- resolved for them, they'll -- they'll  
7 take control and if it's against them, then he'll take control  
8 and then we'll go forward, right?

9 MR. POWELL: Sure. So let's -- let's get going with  
10 that, I guess. Let's put that --

11 THE COURT: But we need -- we -- he wants to take a  
12 depo of the person who wrote the trust and we're going to have  
13 some pleadings on that and then we're going to make a  
14 decision.

15 MR. PAYNE: For the record, there's two --

16 THE COURT: Whether you call it motion in limine or  
17 you call it motion -- notice to depo.

18 MR. PAYNE: For the record, Your Honor, there's two  
19 motions that -- that Jerimy Kirschner has out there in front  
20 of you. It's -- one is a motion to turn over the assets and  
21 the second motion is to expunge --

22 THE COURT: I already denied the first one, so --

23 MR. PAYNE: Okay. And then the second one is a  
24 motion to -- it --

1 MR. KIRSCHNER: That -- that's not before the Court  
2 today --

3 MR. PAYNE: No, I know.

4 MR. KIRSCHNER: -- and I would -- I would highly  
5 object to --

6 THE COURT: Okay.

7 MR. KIRSCHNER: -- before we had --

8 MR. PAYNE: I'm just letting the Court --

9 MR. KIRSCHNER: -- an opportunity --

10 MR. PAYNE: -- Your Honor --

11 MR. KIRSCHNER: -- for it to be briefed for this to  
12 be done orally --

13 THE COURT: Okay.

14 MR. KIRSCHNER: -- today.

15 THE COURT: Okay. I -- I agree with you.

16 MR. PAYNE: I'm just letting Your Honor know that  
17 there are two motions now pending in --

18 THE COURT: Okay.

19 MR. PAYNE: -- May -- or what's the date of them?

20 MR. KIRSCHNER: There's two pending in May, yes.

21 MR. PAYNE: Two in May. One again relates to  
22 turning over the assets and the other one is to expunge a lis  
23 pendens that was -- was filed to protect the -- the --

24 THE COURT: Right.

1 MR. PAYNE: -- interest in that. And so I'm just  
2 letting Your Honor know that those are coming down the road.

3 THE COURT: I saw them, yeah.

4 MR. PAYNE: Oh, okay. All right. So are we have a  
5 return date?

6 MR. BARNEY: Your Honor, I -- I --

7 THE COURT: That will be the return date.

8 MR. KIRSCHNER: We can set that up, consolidate the  
9 hearings, and have that as a status update at that point.  
10 Will that work, Your Honor?

11 THE COURT: What other hearing do we have to have?

12 MR. HOLYOAK: They're two separate weeks.

13 MR. KIRSCHNER: They're -- they're on two separate  
14 weeks, so we're going to need to consolidate those --

15 THE COURT: Okay.

16 MR. KIRSCHNER: -- two hearings.

17 THE COURT: Well, we'll move them to the -- the  
18 latter date and we'll put them both on the same date.

19 MR. KIRSCHNER: Thank you, Your Honor.

20 MR. PAYNE: As a -- as a status?

21 MR. BARNEY: For purposes of my --

22 THE COURT: No, for the hearing the motions, his --

23 MR. PAYNE: Okay.

24 THE COURT: -- motions.

1 MR. BARNEY: For purposes of my order --  
2 MR. PAYNE: Will you --  
3 MR. BARNEY: -- where -- where are the funds right  
4 now? Like where are the trust funds that are going to be --  
5 MR. PAYNE: They're at Chase.  
6 THE COURT: Well, I -- the Plaintiff's Counsel is  
7 going to have to release the money. I don't know --  
8 MR. BARNEY: No, I know, but -- but what I'm saying  
9 is is Chase is typically going to want an order that actually  
10 names the account. Can you -- can you provide that --  
11 THE COURT: Well, the order --  
12 MR. BARNEY: -- to me?  
13 THE COURT: -- the order is Plaintiff's Counsel is  
14 going to give you a check for that amount.  
15 MR. BARNEY: Oh.  
16 MR. PAYNE: Oh, no, no, no, no, no, no. Your Honor,  
17 that is --  
18 MR. BARNEY: Well, but --  
19 MR. PAYNE: -- a nightmare --  
20 THE COURT: No?  
21 MR. PAYNE: -- of things to do. He -- if he'll  
22 prepare the order, Jerimy knows all the information. Give it  
23 to him, he can go down --  
24 MR. BARNEY: Do you --

1 MR. PAYNE: -- to the bank --  
2 MR. BARNEY: Do you have the Chase account number?  
3 MR. PAYNE: Of course he does.  
4 MR. KIRSCHNER: I have the Chase account. Your  
5 Honor, this is the question that I asked which is that their  
6 names on the account. My client is trustee. If I -- my client  
7 can go down with the order as the trustee, became the trustee  
8 of the account. I'll cut them a check to them for the  
9 \$50,000. But for right now because those three are over the  
10 account, my client doesn't have --  
11 MR. BARNEY: But that's --  
12 MR. KIRSCHNER: -- the authority --  
13 MR. BARNEY: -- that's normally --  
14 MR. KIRSCHNER: -- to write off on --  
15 MR. BARNEY: -- how it's done, Your Honor. So the  
16 acting trustee is going to cut me a check for -- on behalf of  
17 the trustee because that keeps liability clean and doesn't  
18 create more problems for the trustee. So if I --  
19 THE COURT: And how do we get the money to the  
20 trustee to give to you?  
21 MR. HOLYOAK: Put it in the name of the trustee.  
22 MR. BARNEY: Well, yeah. It -- it needs to be put  
23 in the name of the trust. That -- that's the whole -- that's  
24 the whole --

1 THE COURT: Who does that?  
2 MR. BARNEY: You -- you. You do that.  
3 MR. KIRSCHNER: Wait, can you --  
4 MR. BARNEY: You.  
5 MR. KIRSCHNER: -- do that by order, Your Honor, put  
6 that -- the asset in the name of the trust?  
7 MR. BARNEY: That's why I'm kind of asking like this  
8 is kind of unorthodox. Normally what happens, the trustee  
9 writes me a check.  
10 MR. POWELL: His client is going to have to  
11 account --  
12 MR. BARNEY: Yes.  
13 MR. POWELL: -- because you've already appointed his  
14 client.  
15 MR. BARNEY: Correct.  
16 MR. POWELL: So from the date of -- date of the  
17 control, I mean, you already said before, you -- you wanted an  
18 accounting from Monte of all the time he served as trustee  
19 which I'm happy to provide and I can already tell you orally  
20 is zero because he never got access to -- to be able to  
21 control anything. But I can put that in writing for Your  
22 Honor, but Mr. Kirschner's client has a same obligation as  
23 they're -- she's appointed. She's got every duty to account  
24 to the Court.

1 THE COURT: Isn't that part of the motion that's  
2 coming up?

3 MR. KIRSCHNER: The part of the motion that's coming  
4 up is the ability for us to be able to get access over the  
5 account so that we can administer and follow this Court's  
6 orders. I contacted Mr. Payne out in the hallway to see if we  
7 can stipulate or work this out. I understand that we're going  
8 to take this through traditional briefing methods.

9 But for right now cutting this check for \$50,000, my  
10 client can only do it if I have access to the account. The  
11 account's in her name as the trustee of the trust. So that's  
12 what I was asking for when I was asking for clarification,  
13 Your Honor.

14 THE COURT: And how much is in this Chase account?

15 MR. KIRSCHNER: I believe approximately \$428,000.

16 THE COURT: Okay.

17 MR. BARNEY: And -- and Your Honor, I have no  
18 problem with the order saying that it's released to the  
19 trustee, but I think that's the proper way to do it and -- and  
20 then the --

21 THE COURT: Well --

22 MR. BARNEY: -- trustee turns around and --

23 THE COURT: -- write the order that way then.

24 MR. BARNEY: Okay.

1 THE COURT: The -- the --

2 MR. PAYNE: Yeah, just directing Chase to -- to  
3 release 50,000 to --

4 THE COURT: Plus --

5 MR. PAYNE: -- Ms. Utkin --

6 THE COURT: Plus his --

7 MR. PAYNE: -- as trustee.

8 THE COURT: Plus his costs.

9 MR. BARNEY: To -- to --

10 MR. PAYNE: Plus cost.

11 MR. BARNEY: To Mrs. -- yeah, plus cost to Mrs. --

12 MR. PAYNE: Plus cost.

13 MR. BARNEY: -- Utkin as trustee of the trust.

14 Perfect.

15 MR. KIRSCHNER: All right. My client's opening up a  
16 bank account. We'll deposit the \$50,000 check and then we'll  
17 pass it over to Mr. Barney.

18 THE COURT: Okay.

19 MR. KIRSCHNER: I don't know why it wouldn't be  
20 easier for just if they're going to be writing a check from  
21 the account anyway it's for the exact amount, not to play  
22 telephone with my client and involve me and attorney's fees,  
23 instead just have the check written directly to Mr. Barney's.  
24 This is -- this is a bizarre game of telephone where it --



1 THE COURT: Well, the --

2 MR. KIRSCHNER: -- simply mailed a check --

3 THE COURT: -- he wanted it to come from the trustee  
4 to be safe.

5 MR. KIRSCHNER: Okay.

6 THE COURT: That's the only reason.

7 MR. BARNEY: I -- I do.

8 THE COURT: I -- my -- my issue is this. When you  
9 write -- he writes a check, he's going to -- you're going to  
10 open an account.

11 MR. KIRSCHNER: My client is going to open up an  
12 account in the name --

13 THE COURT: And then it's going to be closed?

14 MR. KIRSCHNER: -- of the trust.

15 MR. BARNEY: No.

16 MR. KIRSCHNER: And she also has -- because we just  
17 got the court order, we previously haven't been able to  
18 deposit the \$5,000 check. So now that I have a court order  
19 stating that she's the trustee, she's going to walk that into  
20 the bank and we can open --

21 THE COURT: Okay.

22 MR. KIRSCHNER: -- up a bank account. So there is  
23 going to be an active bank account --

24 THE COURT: Okay.

1 MR. KIRSCHNER: -- for the trust.  
2 THE COURT: Okay.  
3 THE MARSHAL: And the continuance to -- on two  
4 motions and a status check is going to be May 14th at 3:00  
5 o'clock.  
6 MR. BARNEY: Thank you, Your Honor.  
7 THE COURT: Thank you.  
8 MR. PAYNE: And that's a --  
9 THE COURT: So you're out, right?  
10 MR. HOLYOAK: At 3:00 o'clock.  
11 THE COURT: Yeah. So thank you very much.  
12 MR. HOLYOAK: Yeah.  
13 MR. POWELL: So Your Honor, too that -- just to  
14 clarify, we -- we also as you know we submitted our  
15 application while we represented Monte Reason and as trustee.  
16 But --  
17 THE COURT: Is that today?  
18 MR. POWELL: That already the last --  
19 MR. BARNEY: Yeah, that --  
20 MR. POWELL: -- time we were in here.  
21 MR. BARNEY: I -- that's true.  
22 MR. POWELL: I --  
23 MR. BARNEY: They -- they are --  
24 MR. POWELL: We haven't been paid --

1 MR. BARNEY: -- they are on --  
2 MR. POWELL: -- a red cent --  
3 MR. BARNEY: -- for their petition.  
4 MR. POWELL: -- for representing a gentleman who was  
5 the trustee of the trust that we decided to contract with.  
6 THE COURT: And what was --  
7 MR. POWELL: And --  
8 THE COURT: -- what was that amount?  
9 MR. POWELL: 37,000 and change, 38,000, somewhere in  
10 that range.  
11 THE COURT: Did you address that as -- was that part  
12 of your --  
13 MR. PAYNE: Yes, Your Honor.  
14 THE COURT: Okay. Let me review that.  
15 MR. POWELL: Okay.  
16 MR. PAYNE: Your Honor said previously that I'm not  
17 going to decide that issue under first base is decided  
18 repeatedly.  
19 MR. POWELL: I would disagree.  
20 MR. BARNEY: But Your Honor, if -- if you're paying  
21 me, you almost have to pay --  
22 MR. PAYNE: Your Honor, he's out.  
23 MR. BARNEY: -- the guy before me. I mean --  
24 MR. PAYNE: Why are you talking?

1 MR. BARNEY: -- I -- it's -- it doesn't make sense  
2 from a -- from a legalistic --

3 THE COURT: Well, I like him. I like him in the  
4 case.

5 MR. BARNEY: Okay.

6 THE COURT: It was you I was worried about. No.

7 MR. BARNEY: Do I sense favoritism here?

8 THE COURT: I'll review your motion, but I did say  
9 what he just said, that, you know, we're kind of --

10 MR. POWELL: Well, I -- I understand.

11 THE COURT: -- approving that, but I -- I -- and  
12 you're going to stay in the case anyway, right? In this  
13 case --

14 MR. POWELL: Yeah, but in a different capacity, Your  
15 Honor.

16 THE COURT: In a different capacity.

17 MR. POWELL: Different capacity. We're -- we --  
18 we --

19 THE COURT: So are you going to keep that fee  
20 separate and your new capacity is going to be a new fee?

21 MR. POWELL: Absolutely.

22 MR. BARNEY: He has to.

23 MR. POWELL: It -- it is.

24 MR. BARNEY: By trust --

1 MR. POWELL: It's completely different.

2 MR. BARNEY: Yeah, under the --

3 THE COURT: And --

4 MR. BARNEY: -- county trust.

5 THE COURT: -- who -- what's your capacity going to  
6 be?

7 MR. POWELL: Well, we represent Monte as trustee of  
8 the Nancy Christian Trust and then also as well as -- as the  
9 representative of un -- under her will as --

10 THE COURT: Oh, okay.

11 MR. POWELL: -- the estate. But just to be clear is  
12 we're bringing these claims because we feel we can as trustee  
13 of Nancy Christian's trust that says that she has the ability  
14 to -- the -- the trustee has the ability to -- to pur --  
15 pursue claims on her behalf. So --

16 THE COURT: Okay.

17 MR. POWELL: And if --

18 THE COURT: And --

19 MR. POWELL: -- there's no need, and -- and I'm not  
20 sure where Mr. Payne would want --

21 THE COURT: You're the trustee of the Christian --  
22 her -- her fam -- Nancy's --

23 MR. POWELL: Personal.

24 THE COURT: -- trust.

1 MR. POWELL: Yes.  
2 THE COURT: Yeah.  
3 MR. POWELL: Her person --  
4 MR. PAYNE: But Your Honor --  
5 MR. POWELL: Nancy -- Nancy Christian Trust.  
6 MR. PAYNE: -- first of all, there's no estate open,  
7 so he -- he can't represent the estate. And -- and number  
8 two, I don't know what this trust says.  
9 THE COURT: He's not in the case yet -- yet. So I  
10 -- you know --  
11 MR. PAYNE: Right.  
12 THE COURT: -- I -- I don't --  
13 MR. PAYNE: So he's got some --  
14 THE COURT: You don't need to argue.  
15 MR. PAYNE: All right. I got it.  
16 THE COURT: Thank you.  
17 THE MARSHAL: Thank you, guys.  
18 MR. KIRSCHNER: Thank you, Your Honor.  
19 MR. BARNEY: Thank you.  
20 MR. HOLYOAK: Thank you, Your Honor.  
21 THE MARSHAL: May 14th, 3:00 o'clock, guys. We'll  
22 see you back.  
23 MR. POWELL: Thank you.  
24 THE COURT: You're always welcome -- you're always

1 welcome to come back and sit in the back if you want.

2 MR. BARNEY: I wasn't I -- I wasn't sure if you're  
3 -- if you wanted to be included in Judge Potter's order to get  
4 rid of us.

5 (PROCEEDINGS CONCLUDED AT 03:19:58)

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7 ATTEST: I do hereby certify that I have truly and  
8 correctly transcribed the digital proceedings in the above-  
9 entitled case to the best of my ability.

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*Adrian Medrano*

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Adrian N. Medrano