

TCM LAW
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*Attorneys for Paul Valer Colman and
The Colman Family Revocable Living
Trust dated June 23, 2011*

Electronically Filed
Sep 17 2018 10:50 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

DISTRICT COURT

CLARK COUNTY, NEVADA

In the Matter of the Colman Family Revocable
Living Trust date June 23, 2011,

Case No.: P-17-093518-T
Dept. No.: PC1 (Probate)

A Non-Testamentary Trust.

NOTICE OF APPEAL

Notice is hereby given that PAUL VALER COLMAN, Trustee of THE COLMAN FAMILY REVOCABLE LIVING TRUST dated June 23, 2011; THE COLMAN FAMILY REVOCABLE LIVING TRUST dated June 23, 2011, HEREBY APPEALS TO THE Supreme Court of Nevada for the order denying **ORDER DENYING PAUL COLMAN'S OBJECTION TO THE REPORT AND RECOMMENDATIONS BY THE PROBATE COMMISSIONER AND CONFIRMING THE REPORT AND RECOMMENDATION AS THE ORDER OF THE COURT**. Notice of entry of such order was filed on August 15, 2018.

Dated this __7__ day of September 2018.

TCM LAW

By: /s/ Thomas C. Michaelides_____
THOMAS C. MICHAELIDES, ESQ.
Nevada Bar No. 5425
2620 Regatta Dr., #219
Las Vegas, Nevada 89128
*Attorneys for Paul Valer Colman and
The Colman Family Revocable Living
Trust dated June 23, 2011*

CERTIFICATE OF SERVICE

I hereby certify that on the __7__ day of September 2018, I served a copy of the foregoing NOTICE OF APPEAL upon each of the parties registered with the Court's electronic filing via Odyssey E-Filing System pursuant to NRCP 5(b)(2)(D) and EDCR 8.05:

KENNETH E. LEE
RUSHFORTH LEE & KIEFER, LLP
1707 VILLAGE CENTER CIRCLE, SUITE 150
LAS VEGAS, NV 89134
E-MAIL: probate@rlklegal.com

Dated this __7__ day of August 2018.

____/s/ Thomas C. Michaelides_____
An employee of TCM Law

FAMILY DOMESTIC
CASE SUMMARY
CASE NO. P-17-093518-T

In the Matter of the Trust of:
Colman Family Revocable Living Trust

§
§
§
§
§
§

Location: **Family Domestic**
Judicial Officer: **Judge Sturman, Probate**
Filed on: **11/13/2017**
Cross-Reference Case Number: **P093518**
Supreme Court No.: **75029**

CASE INFORMATION

Case Type: **Probate - Trust/Conservatorships**
Case Flags: **Appealed to Supreme Court**

DATE

CASE ASSIGNMENT

Current Case Assignment

Case Number: P-17-093518-T
Court: Family Domestic
Date Assigned: 11/13/2017
Judicial Officer: Judge Sturman, Probate







PARTY INFORMATION

Petitioner	Collier, Tonya	<i>Lead Attorneys</i> Lee, Kennedy E. <i>Retained</i> 702-255-4552(W)
Trust	Colman Family Revocable Living Trust	Olifant, Scott B. <i>Retained</i> 702-462-6161(W)










DATE

EVENTS & ORDERS OF THE COURT





INDEX

11/13/2017	 Petition Filed by: Petitioner Collier, Tonya <i>Petition to Assume Jurisdiction of Trust, and for Confirmation of Beneficiary of Real Property</i>	
11/13/2017	 Notice of Lis Pendens Filed by: Petitioner Collier, Tonya <i>Notice of Lis Pendens</i>	
11/13/2017	 Notice of Hearing Filed by: Petitioner Collier, Tonya <i>NOTICE OF HEARING ON PETITION TO ASSUME JURISDICTION OF TRUST, AND FOR CONFIRMATION OF BENEFICIARY OF REAL PROPERTY</i>	
11/14/2017	 Certificate of Mailing Filed by: Petitioner Collier, Tonya <i>Certificate of Mailing</i>	
11/17/2017	 Opposition/Response/Objection/Reply Filed by: Trust Colman Family Revocable Living Trust <i>Objection to Petition to Assume Jurisdiction of Trust and for Confirmation of Beneficiary of Real Property, Motion to Dismiss Petition and Motion to Quash Unlawful Lis Pendens</i>	
11/29/2017	 Affidavit of Publication	

FAMILY DOMESTIC
CASE SUMMARY
CASE NO. P-17-093518-T

	 Filed by: Petitioner Collier, Tonya <i>Affidavit of Publication</i>
12/12/2017	 Reply Filed by: Petitioner Collier, Tonya <i>Reply in Support of Petition to Assume Jurisdiction of Trust, and for Confirmation of Beneficiary of Real Property</i>
12/15/2017	 Petition - HM (9:30 AM) (Hearing Master: Yamashita, Wesley) <i>Petition to Assume Jurisdiction of Trust, and for Confirmation of Beneficiary of Real Property</i>
01/19/2018	 Report and Recommendations Filed by: Petitioner Collier, Tonya <i>Report and Recommendations Regarding Petition to Assume Jurisdiction of Trust, and for Confirmation of Beneficiary of Real Property</i>
01/19/2018	 Notice Filed by: Petitioner Collier, Tonya <i>Notice of Entry of Report and Recommendations Regarding Petition to Assume Jurisdiction of Trust and For Confirmation of Beneficiary of Real Property</i>
01/22/2018	 Certificate of Mailing Filed by: Petitioner Collier, Tonya <i>Certificate of Mailing</i>
01/28/2018	 Notice of Appeal Filed by: Trust Colman Family Revocable Living Trust <i>Notice of Appeal</i>
02/05/2018	 Objection Filed by: Trust Colman Family Revocable Living Trust <i>Objection to the Report and Recommendations by the Probate Commissioner</i>
02/06/2018	 Initial Appearance Fee Disclosure Filed by: Trust Colman Family Revocable Living Trust <i>Initial Appearance Fee Disclosure</i>
02/20/2018	 Opposition Filed by: Petitioner Collier, Tonya <i>Tonya Collier's Opposition to Paul Colman's Objection to the Report and Recommendations by the Probate Commissioner</i>
04/17/2018	 Notice of Change of Address <i>Notice of Change of Address</i>
05/08/2018	 Notice of Hearing Filed by: Trust Colman Family Revocable Living Trust <i>Notice of Hearing Objection to the Report and Recommendations by the Probate Commissioner</i>
06/14/2018	 Objection to Referee's Report & Recommendation (9:30 AM) (Judicial Officer: Sturman, Gloria) <i>Notice of Hearing Objection to the Report and Recommendations by the Probate Commissioner</i>

FAMILY DOMESTIC
CASE SUMMARY
CASE NO. P-17-093518-T

08/15/2018	 Order Filed by: Petitioner Collier, Tonya <i>Order Denying Paul Colman's OPbjection to the Report and Recommendations by the Probate Commissioner and Confirming the Report and Recommendation as the Order of the Court</i>
08/15/2018	 Notice of Entry of Order Filed by: Petitioner Collier, Tonya <i>Notice of Entry of Order Denying Paul Colman's Objection to the Report and Recommendations by the Probate Comissopner and Confirming the Report and Recommendation as the Order of the Court</i>
09/06/2018	 Certificate of Service Filed by: Petitioner Collier, Tonya <i>Certificate of Service</i>
09/07/2018	 Notice of Appeal Filed by: Trust Colman Family Revocable Living Trust <i>Notice of Appeal</i>

DATE	FINANCIAL INFORMATION	
	Petitioner Collier, Tonya	
	Total Charges	537.50
	Total Payments and Credits	537.50
	Balance Due as of 9/12/2018	0.00
	Trust Colman Family Revocable Living Trust	
	Total Charges	524.00
	Total Payments and Credits	524.00
	Balance Due as of 9/12/2018	0.00

**EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY, NEVADA
FAMILY COURT COVER SHEET**

P-17-093518-T

CASE NO. _____ (To be assigned by the Clerk's Office)

Do you or any other party in this case (including any minor child) have any other current case(s) or past case(s) in the Family Court or Juvenile Court in Clark County?

☐ YES ☒ NO

If yes, complete the other side of this form

PARTY INFORMATION (Please Print)

Plaintiff/Petitioner		Defendant/Respondent/Co-Petitioner/Ward/Decedent	
Last Name: Collier		Last Name: In the Matter of the Colman Family Revocable Living Trust, dated June 23, 2011	
First Name: Tonya	Middle Name:	First Name:	Middle Name:
Home Address: 5998 Turtle River Avenue		Home Address:	
City, State, Zip: Las Vegas, Nevada 89156		City, State, Zip:	
Mailing Address:		Mailing Address:	
City, State, Zip:		City, State, Zip:	
Phone #: 702-808-5244	Date of Birth: 12/09/74	Phone #:	Date of Birth: N/A
Attorney Information		Attorney Information	
Name: Kennedy E. Lee	Bar No. 12429	Name:	Bar No:
Address: 1707 Village Center Cir Ste 150		Address:	
City, State, Zip: Las Vegas, Nevada 89134		City, State, Zip:	
Phone #: (702) 255-4552		Phone #:	

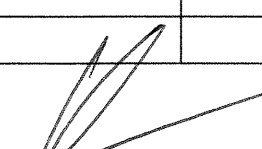
(Check one box only for the type of case being filed with this cover sheet)

DOMESTIC	MISC. DOMESTIC RELATIONS PETITIONS	GUARDIANSHIP	PROBATE
Marriage Dissolution <input type="checkbox"/> Annulment <input type="checkbox"/> Divorce –No minor child(ren) <input type="checkbox"/> Divorce –With minor child(ren) <input type="checkbox"/> Foreign Decree <input type="checkbox"/> Joint Petition –No minor child(ren) <input type="checkbox"/> Joint Petition – With minor child(ren) <input type="checkbox"/> Separate Maintenance	<input type="checkbox"/> Adoption –Minor <input type="checkbox"/> Adoption –Adult <input type="checkbox"/> Mental Health <input type="checkbox"/> Name Change <input type="checkbox"/> Paternity <input type="checkbox"/> Permission to Marry <input type="checkbox"/> Temporary Protective Order (TPO) <input type="checkbox"/> Termination of Parental Rights <input type="checkbox"/> Child Support/Custody <input type="checkbox"/> Other (identify) _____	Guardianship of an Adult <input type="checkbox"/> Person <input type="checkbox"/> Estate <input type="checkbox"/> Person and Estate Guardianship of a Minor <input type="checkbox"/> Person <input type="checkbox"/> Estate <input type="checkbox"/> Person and Estate <input type="checkbox"/> Guardianship Trust	<input type="checkbox"/> Summary Administration <input type="checkbox"/> General Administration <input type="checkbox"/> Special Administration <input type="checkbox"/> Set Aside Estates <input checked="" type="checkbox"/> Trust/Conservatorships <input checked="" type="checkbox"/> Individual Trustee <input type="checkbox"/> Corporate Trustee <input type="checkbox"/> Other Probate
MISC. JUVENILE PETITIONS	DA CHILD SUPPORT PETITIONS		
<input type="checkbox"/> Emancipation	<input type="checkbox"/> DA – UIFSA <input type="checkbox"/> DA - Child Support In State		

List children involved in this case (If more than 3 children, please enter the information on the reverse side)

Last Name	First Name	Middle Name	Date of Birth	Relationship
1.				
2.				
3.				

Kelly Meade
Printed Name of Preparer


Signature of Preparer

November 13, 2017
Date

Supply the following information about any other proceeding (check all that apply):☐ Divorce ☐ Temporary Protective Orders (TPO) ☐ Custody/Child Support☐ UIFSA/URES ☐ Paternity ☐ Juvenile Court ☐ Other

Please Print

List full name of all adult parties involved			Case number of other proceeding(s)	Approximate date of last order in other proceeding(s)
Last Name	First Name	Middle Name		
1.				
2.				
3.				
4.				

If children were involved (other than those listed on front page), please provide:

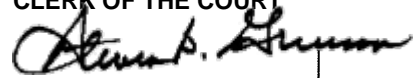
Last Name	First Name	Middle Name	Date of Birth	Relationship
1.				
2.				
3.				
4.				
5.				
6.				
7.				
8.				

Children involved in this case (continuation from front page)

Last Name	First Name	Middle Name	Date of Birth	Relationship
4.				
5.				
6.				
7.				
8.				

THIS INFORMATION IS REQUIRED BY
NRS 3.025, NRS 3.223, NRS 3.227, NRS 3.275,
NRS 125.130, NRS 125.230,

And will be kept in a confidential manner by the Clerk's Office.



1 **ORDER**

2 DANIEL P. KIEFER (State Bar No. 12419)
3 KENNEDY E. LEE (State Bar No. 12429)
4 RUSHFORTH LEE & KIEFER, LLP
5 1707 Village Center Circle, Suite 150
6 Las Vegas, NV 89134
7 Telephone: (702) 255-4552
8 Email: probate@rlklegal.com
9 *Attorneys for Tonya Collier*

DISTRICT COURT
CLARK COUNTY, NEVADA

10 In the Matter of the

11 **Colman Family Revocable Living Trust,**
12 dated June 23, 2011,

13 A Non-Testamentary Trust.

Case No. P-17-093518-T
Department PC1 (Probate)

**ORDER DENYING PAUL COLMAN'S
OBJECTION TO THE REPORT AND
RECOMMENDATIONS BY THE
PROBATE COMMISSIONER AND
CONFIRMING THE REPORT AND
RECOMMENDATION AS THE ORDER
OF THE COURT**

Hearing Date: June 14, 2018
Hearing Time: 9:30 a.m.

14
15
16 On January 19, 2018, the Honorable Probate Commissioner Wesley Yamashita entered his
17 Report and Recommendation Regarding Tonya Collier's ("Tonya") Petition to Assume Jurisdiction
18 of Trust, and for Confirmation of Beneficiary of Real Property (the "RAR"). On February 5, 2018,
19 Paul Valer Colman ("Paul") filed his Objection to the Report and Recommendations (the "Objection")
20 On February 20, 2018, Tonya filed her opposition to the Objection. A hearing on the Objection
21 occurred on June 14, 2018. Tonya was represented at the hearing by Daniel P. Kiefer, while Paul was
22 represented by Thomas C. Michaelides, Esq. Having considered the Objection and Opposition, as well
23 as the oral arguments of counsel at the hearing, and good cause appearing, the Court hereby orders the
24 following:
25
26

1
2 IT IS ORDERED that the Objection is DENIED.

3 IT IS FURTHER ORDERED that the RAR entered by the Honorable Wesley Yamashita on
4 January 19, 2018 (a true and accurate copy of which is attached to this Order as Exhibit 1) is hereby
5 APPROVED by the Court.

6 IT IS FURTHER ORDERED that the rulings, findings, orders, and decrees found in the RAR
7 are hereby ADOPTED as the ORDER of this Court.

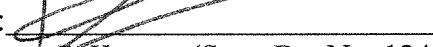
8 **IT IS SO ORDERED.**

9 DATED THIS 14th DAY OF August 2018.

10
11 
12 DISTRICT COURT JUDGE
13 

14 SUBMITTED BY:

15 **RUSHFORTH LEE & KIEFER, LLP**

16 BY: 
17 DANIEL P. KIEFER (State Bar No. 12419)
18 KENNEDY E. LEE (State Bar No. 12429)
19 1707 Village Center Circle, Suite 150
20 Las Vegas, NV 89134
21 Email: probate@rlklegal.com
22 *Attorneys for Tonya Collier*

23 APPROVED BY:

24 **TCM LAW**

25 BY: Sought but not received
26 THOMAS C. MICHAELIDES, ESQ. (State Bar No. 5425)
26 2620 Regatta Drive, Suite 219
26 Las Vegas, Nevada 89128
26 Email: tcm@tcmllawgroup.com
26 *Attorneys for Paul Colman*

Exhibit 1

Steven D. Grierson

1 **RAR**

2 KENNEDY E. LEE (STATE BAR NO. 12429)
3 DANIEL P. KIEFER (STATE BAR NO. 12419)
4 RUSHFORTH LEE & KIEFER, LLP
5 1707 Village Center Circle, Suite 150
6 Las Vegas, NV 89134
7 Telephone: (702) 255-4552
8 Email: probate@rlklegal.com
9 Attorneys for Tonya Collier

10 **DISTRICT COURT**
11 **CLARK COUNTY, NEVADA**

12 In the Matter of the

13 **Colman Family Revocable Living Trust,**
14 dated June 23, 2011,

Case No. P-17-093518-T
Department PC1 (Probate)

15 A Non-Testamentary Trust.

16 **REPORT AND RECOMMENDATIONS REGARDING PETITION TO ASSUME JURISDICTION OF TRUST,**
17 **AND FOR CONFIRMATION OF BENEFICIARY OF REAL PROPERTY**

18 Date of hearing: December 15, 2017
19 Time of hearing: 9:30 a.m.

20 On November 13, 2017, Tonya Collier ("Tonya") filed Petition to Assume Jurisdiction of Trust,
21 and for Confirmation of Beneficiary of Real Property (the "Petition"). On November 17, 2017, Paul Valer
22 Colman ("Paul") filed his Objection to Petition to Assume Jurisdiction of Trust, and for Confirmation of
23 Beneficiary of Real Property, Motion to Dismiss Petition and Motion to Quash Unlawful Lis Pendens (the
24 "Objection"). On December 12, 2017, Tonya filed her Reply in Support of Petition to Assume Jurisdiction
25 of Trust, and for Confirmation of Beneficiary of Real Property (the Reply). The Petition, Objection, and
26 Reply came on for hearing on December 15, 2017 before the Honorable Commissioner Wesley Yamashita.
27 Daniel P. Kiefer of Rushforth Lee & Kiefer, LLP was present and represented Tonya; Scott B. Olifant of
TCM Law Group was present and represented Paul. After reviewing the pleadings and papers on file, and
having heard arguments of counsel, the Probate Commissioner makes the following findings of fact,
conclusions of law, and recommendations:

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I. FINDINGS OF FACT

THE COURT FINDS THAT:

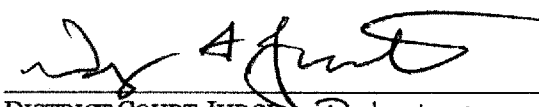
1. Notice of the hearing on the Petition was given as required by law.
2. Chari Ann Colman ("Chari") and Paul were married on December 15, 2009.
3. Prior to their marriage, Chari owned the real property located at 5988 Turtle River Avenue, Las Vegas, NV 89156, APN 140-15-317-012 (the "Real Property") as her separate property.
4. The Real Property had no purchase money mortgage. Chari paid the entire purchase price prior to marrying Paul. Neither the marital community, nor Paul individually, contributed to the purchase price of the Real Property.
5. No material improvements were made to the Real Property that increased the value of the home.
6. On June 23, 2011, Chari and Paul created the Colman Family Revocable Living Trust, dated June 23, 2011 (the "Trust"). The Trust was a revocable trust. Chari transferred the Real Property to the Trust by Quitclaim Deed on June 30, 2011.
7. A spouse must expressly declare they are transmuting their separate property. Chari never transmuted the Real Property. Chari never executed a transmutation agreement changing the character of the Real Property from separate property to community property.
8. Chari executed a deed transferring the Real Property to the Trust. The deed makes no mention of transmuting the Real Property from separate property to community property.
9. At all relevant times, the Trust was a revocable trust.
10. The Trust includes no provision transmuting contributed assets from separate property into community property.
11. The Trust (prior to the divorce) disposed of the Trust property—including the Real Property—to Chari and Mr. Colman.
12. Chari and Paul were divorced on September 28, 2017.
13. Upon their divorce, NRS 111.781 revoked any revocable dispositions from Chari to Paul. Specifically, disposition of the Real Property to Paul was revoked.

- 1 14. Chari died on October 18, 2017.
2 15. Upon Chari's death, Tonya became the vested beneficiary of the Real Property.

3 **II. RECOMMENDATIONS**

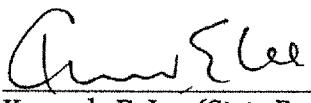
4 **IT IS THEREFORE RECOMMENDED THAT:**

- 5 A. This Court assume jurisdiction over the Trust as a proceeding *in rem*.
6 B. All gifts to Paul of Chari's property were revoked pursuant to NRS 111.781.
7 C. Tonya Collier is the beneficiary of the Trust real property located at 5988 Turtle River
8 Avenue, Las Vegas, NV 89156, APN 140-15-317-012.
9 D. The Real Property be distributed to Tonya Collier.
10 E. The trustee be required to execute a deed transferring the Real Property to Tonya Collier.

11
12 
13 ~~District Court Judge~~ Probate Commissioner

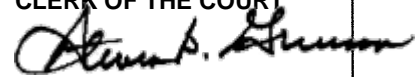
1/18/18
DATE

14 Respectfully submitted by:

15 
16 Kennedy E. Lee (State Bar No. 12429)
17 Attorneys for Tonya Collier

18 Approved as to form and content by:
19 **TCM Law Group**

20 By: _____
21 Scott B. Olifant (State Bar No. 7471)
22 TCM Law Group
23 1614 S. Maryland Pkwy.
24 Las Vegas, NV 89104
25 Attorneys for Paul Valer Colman
26
27



NOTC

KENNEDY E. LEE (STATE BAR NO. 12429)
DANIEL P. KIEFER (STATE BAR NO. 12419)
RUSHFORTH LEE & KIEFER, LLP
1707 Village Center Circle, Suite 150
Las Vegas, NV 89134
Telephone: (702) 255-4552
Email: probate@rlklegal.com
Attorneys for Tonya Collier

**DISTRICT COURT
CLARK COUNTY, NEVADA**

In the Matter of the

Colman Family Revocable Living Trust,
dated June 23, 2011,

A Non-Testamentary Trust.

Case No. P-17-093518-T
Department PC1 (Probate)

**NOTICE OF ENTRY OF ORDER DENYING PAUL COLMAN'S OBJECTION TO THE
REPORT AND RECOMMENDATIONS BY THE PROBATE COMMISSIONER AND
CONFIRMING THE REPORT AND RECOMMENDATION AS THE ORDER OF THE COURT**

NOTICE IS HEREBY GIVEN THAT:

The Order Denying Paul Colman's Objection to the Report and Recommendations by the Probate Commissioner and Confirming the Report and Recommendations as the Order of the Court was filed in the above entitled matter on August 15, 2018, a copy of which is attached hereto.

Respectfully submitted by:




Daniel Kiefer
State Bar No. 12419

AUG 15 2018

DATE

**RUSHFORTH
LEE & KIEFER, LLP**
TRUST AND ESTATE ATTORNEYS



1 **ORDR**

2 DANIEL P. KIEFER (State Bar No. 12419)
3 KENNEDY E. LEE (State Bar No. 12429)
4 RUSHFORTH LEE & KIEFER, LLP
5 1707 Village Center Circle, Suite 150
6 Las Vegas, NV 89134
7 Telephone: (702) 255-4552
8 Email: probate@rlklegal.com
9 *Attorneys for Tonya Collier*

DISTRICT COURT
CLARK COUNTY, NEVADA

10 In the Matter of the

Case No. P-17-093518-T
Department PC1 (Probate)

11 **Colman Family Revocable Living Trust,**
12 **dated June 23, 2011,**

13 A Non-Testamentary Trust.

**ORDER DENYING PAUL COLMAN'S
OBJECTION TO THE REPORT AND
RECOMMENDATIONS BY THE
PROBATE COMMISSIONER AND
CONFIRMING THE REPORT AND
RECOMMENDATION AS THE ORDER
OF THE COURT**

Hearing Date: June 14, 2018
Hearing Time: 9:30 a.m.

14
15
16 On January 19, 2018, the Honorable Probate Commissioner Wesley Yamashita entered his
17 Report and Recommendation Regarding Tonya Collier's ("Tonya") Petition to Assume Jurisdiction
18 of Trust, and for Confirmation of Beneficiary of Real Property (the "RAR"). On February 5, 2018,
19 Paul Valer Colman ("Paul") filed his Objection to the Report and Recommendations (the "Objection")
20 On February 20, 2018, Tonya filed her opposition to the Objection. A hearing on the Objection
21 occurred on June 14, 2018. Tonya was represented at the hearing by Daniel P, Kiefer, while Paul was
22 represented by Thomas C. Michaelides, Esq. Having considered the Objection and Opposition, as well
23 as the oral arguments of counsel at the hearing, and good cause appearing, the Court hereby orders the
24 following:
25
26

RUSHFORTH
LEE & KIEFER, LLP
TRUST AND ESTATE ATTORNEYS

1
2 IT IS ORDERED that the Objection is DENIED.

3 IT IS FURTHER ORDERED that the RAR entered by the Honorable Wesley Yamashita on
4 January 19, 2018 (a true and accurate copy of which is attached to this Order as Exhibit 1) is hereby
5 APPROVED by the Court.

6 IT IS FURTHER ORDERED that the rulings, findings, orders, and decrees found in the RAR
7 are hereby ADOPTED as the ORDER of this Court.

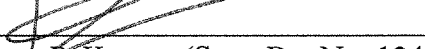
8 IT IS SO ORDERED.

9 DATED THIS 14th DAY OF August 2018.

10
11 
12 DISTRICT COURT JUDGE
13 

14 SUBMITTED BY:

15 **RUSHFORTH LEE & KIEFER, LLP**

16 BY: 
17 DANIEL P. KIEFER (State Bar No. 12419)
18 KENNEDY E. LEE (State Bar No. 12429)
19 1707 Village Center Circle, Suite 150
20 Las Vegas, NV 89134
21 Email: probate@rlklegal.com
22 *Attorneys for Tonya Collier*

23 APPROVED BY:

24 **TCM LAW**

25 BY: Sought but not received
26 THOMAS C. MICHAELIDES, ESQ. (State Bar No. 5425)
26 2620 Regatta Drive, Suite 219
Las Vegas, Nevada 89128
Email: tcmlawgroup.com
Attorneys for Paul Colman

Exhibit 1

Steven D. Grierson

1 **RAR**

2 KENNEDY E. LEE (STATE BAR NO. 12429)
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9 Attorneys for Tonya Collier

10 **DISTRICT COURT**
11 **CLARK COUNTY, NEVADA**

12 In the Matter of the

13 **Colman Family Revocable Living Trust,**
14 dated June 23, 2011,

Case No. P-17-093518-T
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15 A Non-Testamentary Trust.

16 **REPORT AND RECOMMENDATIONS REGARDING PETITION TO ASSUME JURISDICTION OF TRUST,**
17 **AND FOR CONFIRMATION OF BENEFICIARY OF REAL PROPERTY**

18 Date of hearing: December 15, 2017
19 Time of hearing: 9:30 a.m.

20 On November 13, 2017, Tonya Collier ("Tonya") filed Petition to Assume Jurisdiction of Trust,
21 and for Confirmation of Beneficiary of Real Property (the "Petition"). On November 17, 2017, Paul Valer
22 Colman ("Paul") filed his Objection to Petition to Assume Jurisdiction of Trust, and for Confirmation of
23 Beneficiary of Real Property, Motion to Dismiss Petition and Motion to Quash Unlawful Lis Pendens (the
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26 Reply came on for hearing on December 15, 2017 before the Honorable Commissioner Wesley Yamashita.
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TCM Law Group was present and represented Paul. After reviewing the pleadings and papers on file, and
having heard arguments of counsel, the Probate Commissioner makes the following findings of fact,
conclusions of law, and recommendations:

///

///

I. FINDINGS OF FACT

THE COURT FINDS THAT:

1. Notice of the hearing on the Petition was given as required by law.
2. Chari Ann Colman ("Chari") and Paul were married on December 15, 2009.
3. Prior to their marriage, Chari owned the real property located at 5988 Turtle River Avenue, Las Vegas, NV 89156, APN 140-15-317-012 (the "Real Property") as her separate property.
4. The Real Property had no purchase money mortgage. Chari paid the entire purchase price prior to marrying Paul. Neither the marital community, nor Paul individually, contributed to the purchase price of the Real Property.
5. No material improvements were made to the Real Property that increased the value of the home.
6. On June 23, 2011, Chari and Paul created the Colman Family Revocable Living Trust, dated June 23, 2011 (the "Trust"). The Trust was a revocable trust. Chari transferred the Real Property to the Trust by Quitclaim Deed on June 30, 2011.
7. A spouse must expressly declare they are transmuting their separate property. Chari never transmuted the Real Property. Chari never executed a transmutation agreement changing the character of the Real Property from separate property to community property.
8. Chari executed a deed transferring the Real Property to the Trust. The deed makes no mention of transmuting the Real Property from separate property to community property.
9. At all relevant times, the Trust was a revocable trust.
10. The Trust includes no provision transmuting contributed assets from separate property into community property.
11. The Trust (prior to the divorce) disposed of the Trust property—including the Real Property—to Chari and Mr. Colman.
12. Chari and Paul were divorced on September 28, 2017.
13. Upon their divorce, NRS 111.781 revoked any revocable dispositions from Chari to Paul. Specifically, disposition of the Real Property to Paul was revoked.

14. Chari died on October 18, 2017.

15. Upon Chari's death, Tonya became the vested beneficiary of the Real Property.

II. RECOMMENDATIONS

IT IS THEREFORE RECOMMENDED THAT:

A. This Court assume jurisdiction over the Trust as a proceeding *in rem*.

B. All gifts to Paul of Chari's property were revoked pursuant to NRS 111.781.

C. Tonya Collier is the beneficiary of the Trust real property located at 5988 Turtle River Avenue, Las Vegas, NV 89156, APN 140-15-317-012.

D. The Real Property be distributed to Tonya Collier.

E. The trustee be required to execute a deed transferring the Real Property to Tonya Collier.


RUSHFORTH
LEE & KIEFER LLP
TRUST AND ESTATE ATTORNEYS


~~District Court Judge~~ Probate Commissioner

1/18/18

DATE

Respectfully submitted by:



Kennedy E. Lee (State Bar No. 12429)
Attorneys for Tonya Collier

Approved as to form and content by:
TCM Law Group

By: _____
Scott B. Olifant (State Bar No. 7471)
TCM Law Group
1614 S. Maryland Pkwy.
Las Vegas, NV 89104
Attorneys for Paul Valer Colman

**DISTRICT COURT
CLARK COUNTY, NEVADA**

**Probate -
Trust/Conservatorships**

COURT MINUTES

December 15, 2017

P-17-093518-T In the Matter of the Trust of:
 Colman Family Revocable Living Trust

December 15, 2017 9:30 AM Petition - HM

HEARD BY: Yamashita, Wesley **COURTROOM:** RJC Courtroom 15C

COURT CLERK: Sharon Chun; Natalie Ortega

PARTIES:

Colman Family Revocable Living Trust, Trust, Scott Olifant, Attorney, present
not present
Tonya Collier, Petitioner, not present Kennedy Lee, Attorney, not present

JOURNAL ENTRIES

- Petition to Assume Jurisdiction of Trust and for Confirmation of Beneficiary of Real Property

ALSO PRESENT: Paul Colman, Real Party In Interest per Mr. Olifant.

COMMISSIONER STATED that we have a petition re application of NRS 111. We have made this effective to cover the same scenario and circumstances because the same reasoning to applies to Trusts under 111.781, which became effective on October 2011. We have here property which was separate property placed in the Trust. I do not see anywhere in the Trust or via transfer that property, that has been put into a trust, retains its character throughout the term of the trust. It has been the separate property of Chari and as such, placed within the Trust, it still retained its character and nature as separate property. COMMISSIONER ADVISED there must be an active transmutation into community property and he sees nowhere that has been done.

Mr. Oliphant argued there is the "conduct". COMMISSIONER NOTED, conduct does not do it. He cannot receive any beneficial interest under that Trust for that property. He may have been the trustee of only the property he put in, not the Trustor. Mr. Oliphant argued that as the Trustee he has the power to dispose of the property as he deems . COMMISSIONER REITERATED that he loses all beneficial interest of the separate property from the date of the divorce on. Mr. Oliphant then

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argued he does not lose his status as the Trustee. COMMISSIONER STATED that then he cannot take it to himself and can only give it to her. Under the divorce rules and interplay of 111, as soon as the divorce was finalized and entered, any beneficial rights under revocable transfers were revoked. He cannot and will not retain the right to use anything he received under a revocable type document, which includes wills and trusts.

COMMISSIONER STATED that the only thing he can rule is:

- 1) There was no transmutation.
- 2) Tonya is designated as such and he cannot now retain benefits because he cannot receive them. She is deemed to be the beneficial interest of that real property. Once she died, he no longer had any kind of rights or ability to enjoy, whatsoever.

Mr. Kiefer requested a Report and Recommendation. COMMISSIONER AGREED and requested Mr. Kiefer to prepare it, STATING that NRS 111 is perfectly clear and that is the way it applies.

Mr. Kiefer inquired if the Report and Recommendation could include a declaration that the Trustee is to transfer the property to the remainder beneficiary. COMMISSIONER RESPONDED, "If confirmed, then yes".

/sc

INTERIM CONDITIONS:

FUTURE HEARINGS:

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**DISTRICT COURT
CLARK COUNTY, NEVADA**

**Probate -
Trust/Conservatorships**

COURT MINUTES

June 14, 2018

P-17-093518-T In the Matter of the Trust of:
Colman Family Revocable Living Trust

**June 14, 2018 9:30 AM Objection to Referee's
Report &
Recommendation**

HEARD BY: Sturman, Gloria

COURTROOM: RJC Courtroom 10D

COURT CLERK: Lorna Shell

PARTIES:

Colman Family Revocable Living Trust, Trust, Scott Olifant, Attorney, not present
not present
Tonya Collier, Petitioner, not present Kennedy Lee, Attorney, not present

JOURNAL ENTRIES

- Also present was Tom Michaelides, Esq. representing Paul Colman, Trustee of the Colman Family Trust.

Mr. Michaelides argued this was an injustice as these were two people who were married, her property was placed in her trust at that time, and they later divorced; however they lived together after the divorce. Mr. Michaelides argued nothing changed following the divorce as they divorced for medical reasons, the marriage continued, the husband remained in the home, and that NRS 111.781, was not intended for this purpose.

Mr. Keefer argued they divorced and he was no longer her husband, that they had no community property, the house was placed in the wife's trust, NRS 111.781 required dissolution of any benefit the ex-spouse had, and there must be a deliberate act to prove the ex-spouse benefited. Mr. Keefer argued it doesn't matter how it was stated in the trust and that everyone agreed that upon divorce everything was dissolved to prevent a ex-spouse from getting things they weren't supposed to.

Court stated it appeared they had a different motive as it had to do with Medicaid and further noted

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they completed to documents without the assistance of counsel.

Mr. Keefer stated there was no evidence regarding that and had they gotten into this he would have addressed the ex-husband's abusive nature and either way it was a divorce or it wasn't.

Court inquired if there was any documentation indicating the ex-husband made mortgage payments or any other contributions while residing in the home, Mr. Keefer argued all he stated was he paid for things, there were no amounts or receipts, and for there to have been a transmutation it must be deliberate.

Mr. Michaelides argued in the divorce proceedings they said they had no property, as the house was in the trust.

Court inquired if there was any evidence that there was no community property. Mr. Michaelides stated the evidence of intent was when she put in the trust the language that states "at death of grantors".

COURT FINDS there was a question as to what defenses were there, that there was a possible transmutation, that the complaint states they had no community property, and that the problem was nothing indicated it was community property as the deed states the home was her sole and separate property. There were no mortgage payments or improvements evidenced and nothing substantial enough to send this back to the Discovery Commissioner. If Ms. Collier had indicated she had a plan for this to be a life estate it would be different; however it does not appear the Discovery Commissioner made a mistake of law or fact AND THEREFORE ORDERED, Objection DENIED, Mr. Keefer to prepare the order.

INTERIM CONDITIONS:

FUTURE HEARINGS:

PRINT DATE:	09/12/2018	Page 4 of 4	Minutes Date:	December 15, 2017
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EIGHTH JUDICIAL DISTRICT COURT CLERK'S OFFICE
NOTICE OF DEFICIENCY
ON APPEAL TO NEVADA SUPREME COURT

THOMAS C. MICHAELIDES, ESQ.
2620 REGATTA DR., #219
LAS VEGAS, NV 89128

DATE: September 12, 2018
CASE: P-17-093518-T

RE CASE: In the Matter of the COLMAN FAMILY REVOCABLE LIVING TRUST, dated June 23, 2011

NOTICE OF APPEAL FILED: September 7, 2018

YOUR APPEAL HAS BEEN SENT TO THE SUPREME COURT.

PLEASE NOTE: DOCUMENTS **NOT TRANSMITTED HAVE BEEN MARKED:**

- ☒ \$250 – Supreme Court Filing Fee (Make Check Payable to the Supreme Court)**
 - If the \$250 Supreme Court Filing Fee was not submitted along with the original Notice of Appeal, it must be mailed directly to the Supreme Court. The Supreme Court Filing Fee will not be forwarded by this office if submitted after the Notice of Appeal has been filed.
- ☐ \$24 – District Court Filing Fee (Make Check Payable to the District Court)**
- ☒ \$500 – Cost Bond on Appeal (Make Check Payable to the District Court)**
 - NRAP 7: Bond For Costs On Appeal in Civil Cases
- ☒ Case Appeal Statement
 - NRAP 3 (a)(1), Form 2
- ☐ Order
- ☐ Notice of Entry of Order

NEVADA RULES OF APPELLATE PROCEDURE 3 (a) (3) states:

"The district court clerk must file appellant's notice of appeal despite perceived deficiencies in the notice, including the failure to pay the district court or Supreme Court filing fee. The district court clerk shall apprise appellant of the deficiencies in writing, and shall transmit the notice of appeal to the Supreme Court in accordance with subdivision (e) of this Rule with a notation to the clerk of the Supreme Court setting forth the deficiencies. Despite any deficiencies in the notice of appeal, the clerk of the Supreme Court shall docket the appeal in accordance with Rule 12."

Please refer to Rule 3 for an explanation of any possible deficiencies.

*****Per District Court Administrative Order 2012-01, in regards to civil litigants, "...all Orders to Appear in Forma Pauperis expire one year from the date of issuance." You must reapply for in Forma Pauperis status.***

Certification of Copy

State of Nevada }
County of Clark } SS:

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

NOTICE OF APPEAL; DISTRICT COURT DOCKET ENTRIES; CIVIL COVER SHEET; ORDER DENYING PAUL COLMAN'S OBJECTION TO THE REPORT AND RECOMMENDATIONS BY THE PROBATE COMMISSIONER AND CONFIRMING THE REPORT AND RECOMMENDATION AS THE ORDER OF THE COURT; NOTICE OF ENTRY OF ORDER DENYING PAUL COLMAN'S OBJECTION TO THE REPORT AND RECOMMENDATIONS BY THE PROBATE COMMISSIONER AND CONFIRMING THE REPORT AND RECOMMENDATION AS THE ORDER OF THE COURT; DISTRICT COURT MINUTES; NOTICE OF DEFICIENCY

In the Matter of the COLMAN FAMILY
REVOCABLE LIVING TRUST, dated June 23,
2011,

A Non-Testamentary Trust.

Case No: P-17-093518-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 12 day of September 2018.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk