

Case No. 76950

In the Supreme Court of Nevada

PAUL VALER COLMAN; AND THE
COLMAN FAMILY REVOCABLE
LIVING TRUST,

Appellant,

vs.

TONYA COLLIER,

Respondent

Electronically Filed
Jun 05 2019 01:32 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

APPEAL

from the Eighth Judicial District Court, Clark County
The Honorable GLORIA J. STURMAN
District Court Case No. P-17-093519-T

RESPONDENT'S APPENDIX

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INDEX

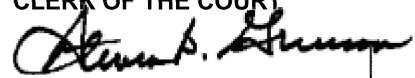
DATE	DESCRIPTION	PAGE NUMBERS
11/13/2017	Petition to Assume Jurisdiction of Trust, and for Confirmation of Beneficiary of Real Property	RAPP 1 – RAPP 43
11/17/2017	Objection to Petition to Assume Jurisdiction of Trust, and for Confirmation of Beneficiary of Real Property, Motion to Dismiss Petition and Motion to Quash Unlawful Lis Pendens	RAPP 44 – RAPP 76
12/12/2017	Reply in Support of Petition to Assume Jurisdiction of Trust, and for Confirmation of Beneficiary of Real Property	RAPP 77 – RAPP 83
12/15/2017	Transcript RE: Petition – HM Friday December 15, 2017	RAPP 84 – RAPP 91
01/19/2018	Report and Recommendations Regarding Petition to Assume Jurisdiction of Trust, and for Confirmation of Beneficiary of Real Property	RAPP 92 – RAPP 94
02/05/2018	Objection to the Report and Recommendations by the Probate Commissioner	RAPP 95 – RAPP 123
02/20/2018	Tonya Collier's Opposition to Paul Colman's Objection to the Report and Recommendations by the Probate Commissioner	RAPP 124 – RAPP 173
06/14/2018	Recorder's Transcript of Hearing: Objection to Referee's Report and Recommendation: Notice of Hearing Objection to the Report and Recommendations by the Probate Commissioner	RAPP 174 – RAPP 188
08/15/2018	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	RAPP 189 – RAPP 195

ALPHABETICAL INDEX

DATE	DESCRIPTION	PAGE NUMBERS
08/15/2018	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	RAPP 189 – RAPP 195
11/17/2017	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	RAPP 44 – RAPP 76
02/05/2018	Objection to the Report and Recommendations by the Probate Commissioner	RAPP 95 – RAPP 123
11/13/2017	Petition to Assume Jurisdiction of Trust, and for Confirmation of Beneficiary of Real Property	RAPP 1 – RAPP 43
06/14/2018	Recorder's Transcript of Hearing: Objection to Referee's Report and Recommendation: Notice of Hearing Objection to the Report and Recommendations by the Probate Commissioner	RAPP 174 – RAPP 188
12/12/2017	Reply in Support of Petition to Assume Jurisdiction of Trust, and for Confirmation of Beneficiary of Real Property	RAPP 77 – RAPP 83
01/19/2018	Report and Recommendations Regarding Petition to Assume Jurisdiction of Trust, and for Confirmation of Beneficiary of Real Property	RAPP 92 – RAPP 94
02/20/2018	Tonya Collier's Opposition to Paul Colman's Objection to the Report and Recommendations by the Probate Commissioner	RAPP 124 – RAPP 173
12/15/2017	Transcript RE: Petition – HM Friday December 15, 2017	RAPP 84 – RAPP 91

CHRONOLOGICAL INDEX

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PET
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**DISTRICT COURT
CLARK COUNTY, NEVADA**

In the Matter of the

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

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

A Non-Testamentary Trust.

**PETITION TO ASSUME JURISDICTION OF TRUST, AND FOR CONFIRMATION OF
BENEFICIARY OF REAL PROPERTY**

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

Tonya Collier (the "Petitioner"), as beneficiary of the Colman Family Revocable Living Trust, dated June 23, 2011 (the "Trust"), submits this petition requesting: (1) the Court assume jurisdiction over the Trust as a proceeding *in rem*; and (2) for confirmation that the Petitioner is the beneficiary of Trust real property located at 5988 Turtle River Avenue, Las Vegas, NV 89156, APN 140-15-317-012 (the "Real Property"). In support of this petition, the Petitioner respectfully declares:

I. INTRODUCTION

1. Chari Ann Colman ("Chari") and Paul Valer Colman ("Paul") created the Trust while they were married. Prior to her marriage to Paul, Chari owned the Real Property as her sole and separate property. After marrying Paul, Chari continued to maintain the Real Property as her sole and separate property. Chari transferred the Real Property to the Trust, but did not change its character (i.e. it remained the separate property of Chari).

2. The Trust provides that the surviving spouse is the beneficiary of the assets of the Trust, including the Real Property. Chari later divorced Paul. Pursuant to NRS 111.781, upon the divorce, all beneficial rights Paul had under the Trust of Chari's property are revoked. Accordingly, once the divorce was finalized, Paul was no longer the beneficiary of the Real Property.

3. The Trust names the Petitioner as the alternate beneficiary of the Real Property. Accordingly, the Court should confirm the Petitioner is the proper beneficiary of the Real Property, and order the Real Property be distributed to her.

II. BACKGROUND

4. Chari and Paul were married on December 15, 2009. Prior to her marriage to Paul, Chari purchased the Real Property under her former name, Chari Hayes. Chari purchased the property as a "single woman" as her sole and separate property. The Grant, Bargain, Sale Deed evidencing this transaction was recorded on August 14, 2009. A copy of the deed is attached as **Exhibit 1**. Chari purchased the Real Property with cash; she did not take out a mortgage.

5. On June 23, 2011, Chari and Paul created the Trust. A copy of the Trust agreement is attached as **Exhibit 2**. The Trust is a revocable trust. Chari transferred the Real Property to the Trust by Quitclaim Deed on June 30, 2011. A copy of the Quitclaim Deed is attached as **Exhibit 3**.

6. Pursuant to Article 4.1 of the Trust, Chari and Paul were the primary beneficiaries during their life. The survivor of Chari and Paul continued as the sole beneficiary upon the death of the first spouse to die. *See id.*

7. Article 5.2 provides the dispositive provisions to be given effect after the death of both Chari and Paul. Specifically, the Real Property is to be distributed to the Petitioner.

8. Chari died suddenly and unexpectedly on October 18, 2017. A copy of the death certificate¹ is attached as **Exhibit 4**.

9. The names and addresses of the beneficiaries of the Trust are:

¹ The death certificate indicates Chari was married at the time of her death. Despite being a party to the joint divorce, Paul misinformed the funeral home of this fact. The Petitioner and others are in the process of changing the death certificate to show Chari was divorced at the time of her death.

Tonya Collier
5998 Turtle River Ave.
Las Vegas, NV 89156

Paul V. Colman
5988 Turtle River Avenue
Las Vegas, NV 89156

Daniel Booth
Unknown

Robert Booth
Unknown

Jessica Diane Colman
Unknown

III. THE DIVORCE

10. On August 29, 2017, Chari and Paul filed a “Joint Petition for Summary Decree of Divorce” (the “Petition”). A copy of the file-stamped Petition is attached as **Exhibit 5**. Paragraph 5 of the Petition specifically states that “[t]here is no community property to divide.” Additionally, paragraph 9 of the Petition states, “Petitioners certify that they have disclosed all community assets and debts and that there are no other community assets or debts for this Court to divide.” Importantly, Paul verifies the contents of the Petition under penalties of perjury.

11. The “Decree of Divorce” (the “Decree”) was entered September 28, 2017. A copy of the file-stamped Decree is attached as **Exhibit 6**. The Decree finds that Chari and Paul “entered into an equitable agreement settling all issues regarding the division and distribution of assets” (i.e. there is no community property to divide). Importantly, the Decree orders “the bonds of matrimony now existing between the parties are hereby wholly dissolved, and an absolute Decree of Divorce is hereby granted to the parties, and each of the parties are hereby restored to the status of a single, unmarried person.”

12. On information and belief, Paul understood the Real Property was not his, and once the Decree was filed, he began the process of moving out of the Real Property. Unfortunately, Chari died before he completed his move.

IV. THE DIVORCE SEVERED ALL BENEFICIAL INTERESTS

13. NRS 111.781 revokes a former spouse’s rights to a beneficial disposition made by the ex-spouse. Specifically, NRS 111.781(1)(a)(1) states, in relevant part:

Except as otherwise provided by the express terms of a governing instrument, a court order or a contract relating to the division of the marital estate made between the divorced persons before or after the marriage, divorce or annulment, the divorce or annulment of a marriage [r]evokes any revocable [d]isposition or appointment of

property made by a divorced person **to his or her former spouse** in a governing instrument.

(emphasis added).

14. The Trust is revocable, thus all dispositions described therein are revocable. The Trust does not declare that its dispositive provisions shall remain in effect regardless of a divorce. Chari and Paul were divorced on September 28, 2017. Accordingly, NRS 111.781 provides any disposition of Chari's property to Paul is revoked.

15. The Real Property was Chari's separate property; she purchased it prior to the marriage and never transmuted it. She transferred it to the Trust as separate property. The Petition and Decree confirm the Real Property was never transmuted to community property. As the Real Property was Chari's separate property, a disposition of the same to Paul was revoked upon entry of the Decree (i.e. Paul is no longer a beneficiary of the Real Property).

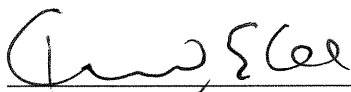
16. Because Paul's gifts from Chari are revoked, the Trust must be read as if Paul did not exist. Article 5.2 of the Trust gifts the Real Property to the Petitioner. Thus, the Court should declare the Petitioner as the beneficiary of the Real Property.

V. PRAYER

WHEREFORE, the Petitioner prays for an order:

- A. Assuming jurisdiction over the Trust as a proceeding in rem.
- B. Declaring that all gifts to Paul of Chari's property were revoked pursuant to NRS 111.781.
- C. Declaring Tonya Collier as the beneficiary of the Trust real property located at 5988 Turtle River Avenue, Las Vegas, NV 89156, APN 140-15-317-012.
- D. Directing the Real Property be distributed to Tonya Collier.
- E. Granting such other relief as the Court shall deem proper.

Respectfully submitted by:



Kennedy Lee
State Bar No. 12429

NOV 13 2017


Date

1 **VERIFICATION OF PETITION TO ASSUME JURISDICTION OF TRUST, AND FOR CONFIRMATION OF**
2 **BENEFICIARY OF REAL PROPERTY**

3 Under penalties of perjury under the laws of the state of Nevada, I declare that:

4 1. I am submitting the above "Petition to Assume Jurisdiction of Trust, and for Confirmation
5 of Beneficiary of Real Property" (the "Petition").

6 2. I know the contents of the Petition to be true of my own knowledge, except for those
7 matters stated on information and belief.

9 
10 Tonya Collier (Nov 12, 2017)

11 Tonya Collier

11/12/2017

Date

Exhibit 1

Exhibit 1

Inst #: 200908140001937

Fees: \$16.00 N/C Fee: \$0.00

RPTT: \$433.50 Ex: #

08/14/2009 09:13:03 AM

Receipt #: 15361

Requestor:

TICOR TITLE LAS VEGAS

Recorded By: RNS Pgs: 4

DEBBIE CONWAY

CLARK COUNTY RECORDER

APN No.: 140-15-317-012

WHEN RECORDED MAIL TO:

Chari Hayes

5988 Turtle River Ave.

Las Vegas, NV 89156

MAIL TAX STATEMENTS TO:

Same As Above

Escrow No. 9154183-JEH

SPACE ABOVE FOR RECORDER'S USE ONLY

R.P.T.T. \$ 433.50

GRANT, BARGAIN, SALE DEED

THIS INDENTURE WITNESSETH: That HSBC Bank USA, National Association, as Trustee for WFASC Home Equity Asset-Backed Certificates, Series 2007-1

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, do/does hereby Grant, Bargain, Sell and Convey to Chari Hayes, a single woman

all that real property situated in the County of Clark, State of Nevada, described as follows:

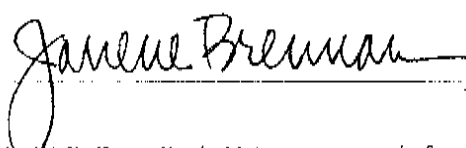
SEE EXHIBIT "A" ATTACHED HERETO AND BY REFERENCE MADE A PART HEREOF

Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining.

SEE PAGE TWO (2) FOR SIGNATURES AND NOTARY ACKNOWLEDGEMENT

SIGNATURES AND NOTARY ACKNOWLEDGEMENT FOR GRANT, BARGAIN, SALE DEED.

HSBC Bank USA, National Association, as Trustee
for WFASC Home Equity Asset-Backed
Certificates, Series 2007-1



JANENE BRENNAN
Vice President Loan Documentation

Janene Brennan
Vice President Loan
Documentation

By Wells Fargo Bank, N.A., as attorney in fact
for HSBC Bank USA, National Association, as
Trustee for WFASC Home Equity Asset-Backed
Certificates, Series 2007-1

STATE OF FLORIDA
COUNTY OF DELR

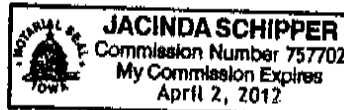
} ss:

On this 7/29/09
appeared before me, a Notary Public,

Janene Brennan

personally known or proven to me to be the person(s)
whose name(s) is/are subscribed to the _____ above
instrument, who acknowledged that he/she/they executed
the instrument for the purposes therein contained.

NOTARY PUBLIC



My commission expires: _____

Jacinda Schipper
757702
exp April 2, 2012

Escrow No. 9154183-JEH

EXHIBIT "A"

PARCEL ONE (1):

LOT 374 IN BLOCK 1 OF YORKSHIRE HEIGHTS - PHASE 3. AS SHOWN BY MAP THEREOF ON FILE IN BOOK 93 OF PLATS, PAGE 30, IN THE OFFICE OF THE COUNTY RECORDER OF CLARK COUNTY, NEVADA.

PARCEL TWO (2):

A NON-EXCLUSIVE EASEMENT FOR INGRESS/EGRESS, USE AND ENJOYMENT, OVER THOSE PORTIONS OF SAID MAP DELINEATED AS "PRIVATE STREETS/P.U.E." AS SHOWN BY MAP THEREOF ON FILE IN BOOK 93 OF PLATS, PAGE 30, OFFICIAL RECORDS OF THE COUNTY RECORDER OF CLARK COUNTY, NEVADA, AND FURTHER DESCRIBED IN THAT CERTAIN DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS RECORDED September 24, 1999 IN BOOK 990924 AS DOCUMENT NO. 01463, CLARK COUNTY, NEVADA.

Assessor's Parcel Number: 140-15-317-012

Exhibit 2

Exhibit 2

CASSADY LAW OFFICES

(702) 650-4480 • (702) 650-5561 FAX

JASEN E. CASSADY, ESQ.

HENDERSON:

2425 W. HORIZON RIDGE PKWY

HENDERSON, NEVADA 89052

SUMMERLIN:

7201 W. LAKE MEAD, SUITE 500

LAS VEGAS, NEVADA 89128

*The Colman Family
Revocable Living Trust*

dated

June 23, 2011

Prepared by:
CASSADY LAW OFFICES, P.C.
(702) 650-4480

THE COLMAN FAMILY
REVOCABLE LIVING TRUST

THIS TRUST AGREEMENT is made this June 23, 2011, by and between Paul Valer Colman and Chari Ann Colman, residents of Clark County, Nevada, as Grantors (hereinafter sometimes referred to as "Grantors"), and Paul Valer Colman and Chari Ann Colman, as Trustees (hereinafter referred to sometimes as "Original Trustees"). All prior Trusts predating this Trust are hereafter revoked absolutely.

ARTICLE I

1.1 Trust Name.

This Trust shall be known and officially referred to as "The Colman Family Revocable Living Trust of June 23, 2011."

1.2 Grantors' Intent.

It is the intent of the Grantors that the property listed in Schedule "A," which is incorporated herein by reference, be presently assigned, transferred, and conveyed to the Trustees for the purposes of establishing a Revocable Living Trust. By signing below, the Trustees acknowledge and confirm receipt of said property for the Trust. The property of Schedule "A" shall be held in Trust for the uses and purposes and on the terms and conditions set forth herein. The Grantors attest to the fact that this property is owned outright by the Grantors and not subject to any equitable or real interest by any other party and agree to indemnify the Trust if any challenges of ownership of the property are raised by any other person or entity.

ARTICLE II

2.1 Trustee Selection.

The Original Trustees named above have agreed, for consideration, to act as the Trustees of this Trust. As such, the Trustees shall have the unrestricted rights as defined in this Agreement to act with the Trust property in any manner deemed in the Trustees' sole discretion to be in the best interest of the Trust or Beneficiaries for as long as said Trustees are living, desire to act as Trustees or are competent to act as Trustees.

A. Trustee Right of Resignation. Any Original Trustee shall have the unlimited right to resign as Trustee. Any Successor Trustee may only resign after meeting the following conditions:

- (1) The Successor Trustee cannot abandon the Trust at a time in which the rights of the Trust would be significantly damaged if immediate action was not taken by a Trustee;
- (2) The Successor Trustee must give all Beneficiaries and any surviving Grantor

sixty (60) days written notice, mailed to the last known addresses of the named Beneficiaries and/or Grantor, by Certified Mail, Return Receipt Requested; and

(3) The Successor Trustee must arrange for a final accounting.

B. Annual Reporting of the Successor Trustee. The Successor Trustee agrees to make an annual written report to the Grantors and Beneficiaries detailing the state of the property in the Trust, listing the assets and investments of the Trust, describing the character of the investments made by the Trustee, and listing the expenses incurred and disbursements made by the Trust throughout the prior year. While alive, annual tax statements of the Grantor(s) will suffice for this purpose if it is based upon the appropriate records.

C. Trustees' Absolute Discretion. After conducting due diligence and making a full survey of the opportunities and circumstances of any matter affecting the Trust, the Trustees shall have full and absolute discretion to act with the Trust property and to make or not make disbursements to beneficiaries. There is no requirement that any consent be obtained from any person, entity or court prior to making a final decision as to any matter relating to the Trust. The Trustees may act in such a manner as to benefit another entity, organization or individual that might have concurring interests in the decision being made by the Trustees without breaching their duties to this Trust as long as the decision does not breach a Trustee's fiduciary duty owed to the Trust and Beneficiaries.

D. Trustee Bond. No Court shall require a bond of any Trustee or Successor Trustee and no bond shall be required of any Trustee or Successor Trustee, unless a Successor Trustee is named by the court and is not expressly identified by name in this trust, in which case the court may require a bond at its discretion.

E. Trustee's Concurrent Duties. A Trustee may serve as both Trustee of this Trust and Guardian of any of the Beneficiaries named within this Trust without creating any conflict to the Trust or any other Beneficiary.

F. Trustee Reimbursement and Compensation. A Trustee shall be entitled to just and reasonable compensation for the services performed for the Trust. The Compensation cannot exceed the reasonable amount that can be charged by bank and trust companies for performing like-services. A Trustee is also entitled to full reimbursement for all costs that he or she has incurred in managing, investing and governing the Trust.

2.2 Trustee's Confirmation of Property Receipt

The property of this trust as granted and transferred to the Trust by the Grantors is contained within Schedule "A." The Trustees confirm that they are in physical or constructive receipt of these items and agree to manage, control, govern and guide the Trust Property under the express and implied terms of this Agreement.

2.3 Successor Trustee Appointment.

Upon the death or incompetency of one of the Original Trustees, the surviving Original Trustee shall have all authority to act as Trustee. Upon the death or incompetency of both Original Trustees, a Successor Trustee shall serve as Trustee and shall serve with all authority and power as found in the Original Trustees to the extent allowed under the provisions contained within this Trust Agreement.

The Successor Trustee of this Trust shall be WELLS FARGO, N.A.

If none of these persons are willing and able to serve as Successor Trustee, any beneficiary under this Trust may petition the District Court Judge of Clark County who is responsible for probate matters to appoint a Successor Trustee. A Trustee shall serve until all of the assets of the estate are either distributed as contained herein or depleted by liabilities of the Trust.

A. Limited Liability of Successor Trustee. A Successor Trustee is not liable for the affirmative acts or omissions of a prior Trustee or Trustees and shall be indemnified by the Trust to the extent that the person or entity has been held financially responsible for any of the acts or omissions of any prior Trustees. Further, the Successor Trustee has no duty to make any accounting of any prior dealings of any prior Trustee; however, if a written request is submitted by the majority of the Beneficiaries or their representatives to conduct an audit on the Trust upon the appointment of the person or entity, or ninety (90) days thereafter, the Successor Trustee shall submit the Trust financial books to an independent Certified Public Accountant or qualified Attorney for the purposes of obtaining a certified accounting of the prior Trustee's activities. The expense of this audit shall be charged to the beneficiaries requesting such an audit, unless it can be shown to the Successor Trustee that there existed reasonable grounds upon which to base such a request. If no request is made, and no accounting is conducted, the Successor Trustee is not liable for relying upon the prior representations of the Prior Trustee and is not liable to any beneficiary or any other person having either a direct or indirect interest in the Trust.

B. Transfer and Acceptance of Trustee Duties. If the transfer of the Trustee position occurs at a time wherein the Original or prior Trustees are competent to transfer the powers and duties of the office of Trustee to another in writing, then the prior Trustee shall make a formal writing wherein he or she requests the Successor Trustee to accept the position of Trustee and wherein the Successor accepts the Trustee powers as described herein. The original of that document shall be joined with an original of this Trust Agreement which should be in a place of safekeeping, one copy shall be given to any Grantor then living, and one copy shall be given to the new Trustee. The signatures of this writing shall be notarized and witnessed by two witnesses.

2.4 Majority vote of Multiple Trustees.

If for any reason more than one Trustee is appointed, a majority of the vote of the Trustee shall be binding upon the Trust. If there are only two Trustees and a deadlock occurs, the next Successor Trustee shall cast the deciding vote. If the Successor Trustee is unable or unwilling to

assist, then the District Court Judge of Clark County, Nevada who is responsible for probate matters shall be petitioned to decide the matter after hearing all of the facts relating to the decision. If a Judge must be used to break this deadlock, then the Judge shall have the authority to appoint an Attorney of Record that shall act as a tie breaking vote for all future voting deadlocks.

ARTICLE III

3.1 Limits to Trustee Powers.

A Trustee is limited in the exercising of his or her powers in that the Trustee must protect the Trust from the demands of Beneficiaries and the Grantors and may not exchange, purchase or otherwise deal with the Trust Property in any transaction or event involving the Beneficiaries or Grantors without receiving reasonable consideration for the value of the property. Further, the Trustee is limited in that he or she may not allow any encumbrances upon the Trust Property for the benefit of the Grantors without receiving adequate and reasonable security and interest. Substituting like-kind property is prohibited unless the property is of equal value. In this regard, the Trustee is not liable to the Beneficiaries or Grantors for refusing to act against the express limitations of this Trust unless the Trustee has acted with gross negligence or malicious intent.

3.2 Trustee's Enumerated Powers.

A Trustee is authorized and empowered to manage, care for, improve, protect, control, deal with, sell and otherwise dispose of the trust estate or any part of it, in his or her absolute discretion, in any and every way in which any responsible and prudent owner could manage, care for, improve, protect, control, deal with and otherwise dispose of the same. In acting as a fiduciary capacity, the Trustee may exercise the following express and enumerated powers:

- A. To register any securities or other property held hereunder in the name of Trustee or in the name of a nominee, with or without the addition of words indicating that such securities or other property are held in a fiduciary capacity, and to hold in bearer form any securities or other property held hereunder so that title thereto will pass by delivery, but the books and records of Trustee shall show that all such investments are part of their respective funds.
- B. To hold, manage, invest and account for the separate Trusts in one or more consolidated funds, in whole or in part, as he or she may determine. As to each consolidated fund, the division into the various shares comprising such fund need be made only upon Trustee's books of account.
- 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, mortgage, pledge or lease Trust assets for whatever period of time the Trustee shall determine, even beyond the expected term of the respective Trust.

- E. To hold and retain any property, real or personal, in the form in which the same may be at the time of the receipt thereof, as long as in the exercise of their discretion it may be advisable so to do, notwithstanding same may not be of a character authorized by law for investment of Trust funds.
- F. To invest and reinvest in his or her absolute discretion, and he or she shall not be restricted in his or her choice of investments to such investments as are permissible for fiduciaries under any present or future applicable law, notwithstanding that the same may constitute an interest in a partnership.
- G. To advance funds to any of the Trusts for any Trust purpose. The interest rate imposed for such advances shall not exceed the current rates.
- H. To institute, compromise, and defend any legal actions and proceedings.
- I. To vote, in person or by proxy, at corporate meetings any shares of stock in any Trust created herein, and to participate in or consent to any voting Trust, reorganization, dissolution, liquidation, merger, or other action affecting any such shares of stock or any corporation which has issued such shares of stock.
- J. To partition, allot, and distribute, in undivided interest or in kind, or partly in money and partly in kind, and to sell such property as the Trustee may deem necessary to make division or partial or final distribution of any of the Trusts.
- K. To determine what is principal or income of the Trusts and apportion and allocate receipts and expenses as between these accounts.
- L. To make payments hereunder directly to any beneficiary under disability, to the guardian of his or her person or estate, to any other person deemed suitable by the Trustee, or by direct payment of such beneficiary's expenses.
- M. To employ agents, attorneys, brokers, and other employees, individual or corporate, and to pay them reasonable compensation, which shall be deemed part of the expenses of the Trusts and powers hereunder.
- N. To accept additions of property to the Trusts, whether made by a Grantor, a member of a Grantor's family, by any beneficiaries hereunder, or by any one interested in such beneficiaries.
- O. To hold on deposit or to deposit any funds of any Trust created herein, whether part of the original Trust fund or received thereafter, in one or more savings and loan associations, bank or other financing institution and in such form of account, whether or not interest bearing, as Trustee may determine, without regard to the amount of

any such deposit or to whether or not it would otherwise be a suitable investment for funds of a trust.

- P. To open and maintain safety deposit boxes in the name of this Trust.
- Q. To make distributions to any Trust or beneficiary hereunder in cash or in specific property, real or personal, or an undivided interest therein, or partly in cash and partly in such property, and to do so without regard to the income tax basis of specific property so distributed. The Grantor requests but does not direct, that the Trustee make distributions in a manner which will result in maximizing the aggregate increase in income tax basis of assets of the estate on account of federal and state estate, inheritance and succession taxes attributable to appreciation of such assets.
- R. The powers enumerated in NRS 163.265 to NRS 163.410, inclusive, are hereby incorporated herein to the extent they do not conflict with any other provisions of this instrument.
- S. The enumeration of certain powers of the Trustee shall not limit his or her general powers, subject always to the discharge of his fiduciary obligations, and being vested with and having all the rights, powers, and privileges which an absolute owner of the same property would have.
- T. The Trustee shall have the power to invest Trust assets in securities of every kind, including debt and equity securities, to buy and sell securities, to write covered securities options on recognized options exchanges, to buy-back covered securities options listed on such exchanges, to buy and sell listed securities options, individually and in combination, employing recognized investment techniques such as, but not limited to, spreads, straddles, and other documents, including margin and option agreements which may be required by securities brokerage firms in connection with the opening of accounts in which such option transactions will be effected.
- U. In regard to the operation of any closely held business of the Trust, the Trustee shall have the following powers:
 - 1. The power to retain and continue the business engaged in by the Trust or to recapitalize, liquidate or sell the same.
 - 2. The power to direct, control, supervise, manage, or participate in the operation of the business and to determine the manner and degree of the fiduciary's active participation in the management of the business and to that end to delegate all or any part of the power to supervise, manage or operate the business to such person or persons as the fiduciary may select, including any individual who may be a beneficiary or Trustee hereunder.

3. The power to engage, compensate and discharge, or as a stockholder owning the stock of the Corporation, to vote for the engagement, compensation and discharge of such managers, employees, agents, attorneys, accountants, consultants or other representatives, including anyone who may be a beneficiary or Trustee hereunder.
4. The power to become or continue to be an officer, director or employee of a Corporation and to be paid reasonable compensation from such Corporation as such officer, director and employee, in addition to any compensation otherwise allowed by law.
5. The power to invest or employ in such business such other assets of the Trust estate.

ARTICLE IV

4.1 Primary Beneficiaries.

The Primary Beneficiaries of this Trust shall be Paul Valer Colman and Chari Ann Colman during their lifetimes. The Primary Beneficiaries of this trust shall be entitled to all benefits of this Trust until their deaths.

ARTICLE V

5.1 Distribution of Assets During the Lifetime of the Primary Beneficiaries.

Until the deaths of the Primary Beneficiaries, the net income and principal from the Trust shall be distributed to the Primary Beneficiaries as is necessary, in the sole discretion of the Trustee or Trustees, for the support, happiness and health needs of the Primary Beneficiaries. The Trustee(s) may also make distributions to other named beneficiaries within this Trust at the sole discretion of the Trustee(s), but no distribution shall be made to any other beneficiary under this Trust if the Primary Beneficiaries are in want or need of any of the income or principal of this Trust. The Trustee has full discretion to withhold all income and principal if such is in the best interest of any of the Beneficiaries.

5.2 Distribution of Assets Upon Death of Grantors

Upon the death of the last Grantor of this Trust, the trust estate shall be distributed as follows. The Trustee shall distribute the real property located at 5988 Turtle River, Las Vegas, Nevada to TONYA COLLIER. The real property in South Dakota shall be sold to ROBERT BOOTH of Ridgview, South Dakota and DANIEL BOOTH, JR of Timber Lake, South Dakota. The rest, residue and remainder of the estate shall be distributed to JESSICA DIANE COLMAN, pursuant to Article VI herein


Initials


Initials

5.3 Fail Safe Provision.

In the event that the principal of the Trust administered under this Article is not disposed of under the foregoing provisions, the remainder of the Trust, if any, shall be distributed free of Trust to the heirs at law of Paul Valer Colman and Chari Ann Colman, their identities and shares to be determined according to the intestacy laws of the State of Nevada then in effect. The estate shall be divided in two equal halves and one-half shall be given to the lawful heirs of each Grantor. If either Grantor shall die without any heirs at law according to the laws of the State of Nevada then in effect, the entire corpus of the trust shall be distributed to the heirs at law of the other Grantor.

5.4 No Contest Provision

The Grantors specifically desire that this Trust be administered as set forth herein without litigation or dispute of any kind. To that end, if any beneficiary hereunder, any person on behalf of any beneficiary, any heir or other successor-in-interest of any beneficiary, or any other person, seeks to establish or assert any claim to the assets of this Trust, or attack, oppose or seek to set aside the administration or any distribution of this Trust, have this Trust declared null, void or diminished, or to defeat or change any part of the provisions of this Trust, such beneficiary, heir or other person shall receive, free of trust, one dollar (\$1.00) and no more lieu of any claimed interest in this Trust or its assets.

ARTICLE VI

6.1. Distribution to Minors.

If at the time of any distributions under this Trust, any of the beneficiaries or persons who are entitled to distribution under this Trust are under the age of thirty-five (35), then the Trustee shall hold the funds in trust and shall have sole and exclusive discretion to distribute the property from the Trust for the education, health, welfare and maintenance of any such beneficiary until they reach the age of thirty-five, at which time an absolute distribution shall be made to the beneficiary.

ARTICLE VII

7.1 Incompetency of Beneficiaries.

If a beneficiary is declared judicially incompetent, is a ward of any state, or is in the Trustee's determination unable to manage either the estate or his or her person, or both, the Trustee may pay to any appointed guardian, other entity or person responsible for the care of said beneficiary, the net income or any part of the principal of the Trust estate to which the beneficiary would be entitled, in such a manner as is in the best interest of the beneficiary, as the Trustee deems reasonable and appropriate under the circumstances. If said distribution would disqualify said beneficiary from public assistance, these funds may be used as necessary by the Trustee in such a way and means so as to avoid the loss of such public assistance at the Trustee's sole discretion and according to the law and rules of such public assistance. Where no funds can reasonably be distributed in such a manner as to not cause the public assistance to fail or be lost, then the funds dedicated to such beneficiary shall be directed in equal shares to the other beneficiaries for distribution.

7.2 Preferred Guardians

The name of a preferred guardians for the Grantors shall be identified in their respective Last Will and Testaments.

ARTICLE VIII

8.1 Distributions in Kind.

When distributions are required under this Trust, a Trustee is authorized to make distributions of the Trust estate in kind, or partly in cash and partly in kind, or by arranging and transferring or assigning an undivided interest. The Trustee's discretion and exercise of this authority is absolute and binding upon all beneficiaries and all other interested parties.

ARTICLE IX

9.1 Revocability of Trust.

This trust is absolutely revocable with the consent of both Grantors, and the Grantors may at their discretion make demands upon the Trustees to return all of the Grantors' former property that is now property of the estate to the Grantors. The Grantors are not entitled, however, to other property put into the Trust by other persons or entities without a written agreement from the Trustee. If such property is transferred to the Grantors, then the transfer will be deemed a gift from the Trust to the Grantors. Where such property had a prior ownership status, such as community property or joint tenancy, then the release of said property outside of the Trust shall return the property to its prior condition.

ARTICLE X

10.1 Additional Properties.

The type, kind or proportion of property of this Trust shall not be limited by the Trustee in any way. The Grantor, and any other person willing or able, may transfer, devise, bequeath, give, convey or donate any personal or real property into the Trust by an inter vivos act or by will, as long as there are no restrictions or conditions as to the use of the property placed upon the Trustee and as long as the property becomes fully subject to the terms and conditions of the Trust. Property additions to this Trust must be acknowledged and received by the Trustee by a writing or by a transfer of title of the Property into the Trustee's name.

ARTICLE XI

11.1 Modifications and Additions to the Trust.

Modifications to this trust may occur only where all surviving Grantors or their respective agents expressly agree by way of written amendment executed in a similar fashion as this Trust and signed by the Grantors, their agents and the Trustee(s). Additional property may be accepted by the Trustee(s) at a later time. Property subject to this instrument is referred to as the "Trust estate."

11.2 Calendar Year.

The Trust shall be on a calendar year, ending December 31st of each year, for trust, tax and accounting purposes.

ARTICLE XII

12.1 Applicable Law.

The validity, construction and effect of this agreement and of the trust created hereunder and its enforcement shall be determined by the laws and courts of the State of Nevada.

12.2 Perpetuities Savings Clause.

Unless sooner terminated as otherwise provided in this agreement, this trust and any other trust created directly or indirectly by this trust shall fully cease and completely terminate twenty-one (21) years after the death of the last survivor of the Grantor, and all children of the Grantor living or conceived as of the date of this agreement. Upon such termination, the entire principal of the trust estate of each said trust, together with any undistributed income therefrom, shall vest in and be distributed to the persons entitled to take under the provisions of the respective trust. If at the time of this termination the rights to income are not fixed by the terms of the Trust, distribution under this clause shall be made, by right of representation, to the persons who are then entitled or authorized, in the Trustee's discretion, to receive distributions from this Trust.

12.3 Integration of Agreement.

This document constitutes the full understanding and agreement between the Grantor and the Trustee. If any provision of this instrument is adjudged invalid or is unenforceable for any reason, the remaining provisions of this Trust shall be carried into effect and shall survive the striking of the respective term.

12.4 Terms.

Whenever the terms "child", "children", "descendants" or "issue" are used in this Trust, the terms shall include legally adopted children. The term "issue" shall include all lineal descendants. Whenever provision is made in this Trust Indenture for payment for the "education" of a beneficiary, the term "education" shall be construed to include technical schooling, college or post-graduate study, so long as pursued to advantage by the beneficiary at an institution of the beneficiary's choice and in determining payments to be made for such college or postgraduate education, the Trustee shall take into consideration the beneficiary's related living and traveling expenses to the extent that they are reasonable.

12.5 Spendthrift Provision.

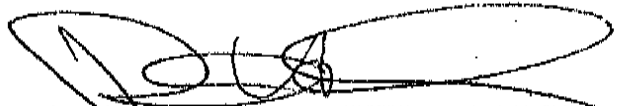
Each and every beneficiary under this Trust is hereby restrained from and shall be without right, power or authority to sell, transfer, assign, pledge, mortgage, hypothecate, alienate, anticipate, bequeath or devise or in any manner affect or impair his, or her, or their beneficial right, title, interest, claim and Estate in and to either the income or principal of any Trust created hereunder, or to any part thereof, during the entire term of said Trust; 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 be payable and deliverable to or for the benefit of only the before named and designated beneficiaries, at the time hereinbefore set out, and receipt by such beneficiaries shall relieve the Trustee from responsibility for such good faith distributions.

12.6 Court Instructions.

The Trustee may seek the assistance of the Courts in all matters affecting the administration of this Trust or its properties, including advice on the interpretation of the Trust or for settlement of any account by invoking the jurisdiction of any Nevada District Court (including quasi-in-rem jurisdiction) over the Trust, the Trustee, or the Trust res, in a non-adversarial ex parte proceeding. The decision of the Court shall be binding upon all interested parties who were given ten (10) day written notice by first class U.S. Mail of the proceedings. Notice must be given to the last known addresses of any interested party.

SIGNED AND SEALED by the Grantors and Trustees on this 23 day of June, 2011.


GRANTORS:


PAUL VALER COLMAN


CHARI ANN COLMAN

TRUSTEES:


PAUL VALER COLMAN


CHARI ANN COLMAN

SUBSCRIBED AND SWORN TO
before me this 23 day of June, 2011.


NOTARY PUBLIC

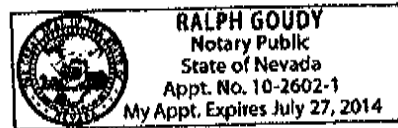


Exhibit 3

Exhibit 3

2-1

Inst #: 201106300001358

Fees: \$14.00 N/C Fee: \$0.00

RPTT: \$0.00 Ex: #007

06/30/2011 09:06:30 AM

Receipt #: 829966

Requestor:

CASSADY LAW (LEGAL WINGS)

Recorded By: DHG Pgs: 2

DEBBIE CONWAY

CLARK COUNTY RECORDER

APN: 140-15-317-012

Mail Tax Statements To:
When Recorded Mail To:

Paul Valer Colman and
Chari Ann Colman, Trustees
COLMAN FAMILY REVOCABLE
LIVING TRUST DATED JUNE 23, 2011
5988 Turtle Rive Avenue
Las Vegas, Nevada 89156

QUITCLAIM DEED

FOR A VALUABLE CONSIDERATION,²² receipt of which is acknowledged,

Chari Ann Colman, who took title as, Chari Hayes

does hereby RELEASE AND FOREVER QUITCLAIM to

**Paul Valer Colman and Chari Ann Colman, as Trustees of
The Colman Family Revocable Living Trust Dated June 23, 2011**

all the right, title and interest of the undersigned in and to real property located 5988 Turtle River Avenue, Las Vegas, in the County of Clark, State of Nevada, and legally described as follows:

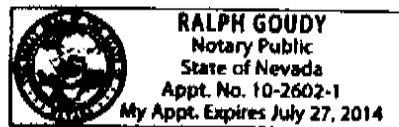
**Yorkshire Hgts-Phase 3 Plat Book 93 Page 30 Lot 374 Block 1
SEC 15 TWP 20 RNG 62**

Chari Ann Colman
Chari Ann Colman

STATE OF NEVADA

COUNTY OF CLARK

)
)ss.
)



±10-2602-1 xp 7-27-14

On the 23rd day of June, 2011, personally appeared before me, a Notary Public in and for said County and State, **Chari Ann Colman**, personally known (or proved) to me to be the person whose name is subscribed to the above instrument who acknowledged that she executed the instrument.

Ralph Goudy

NOTARY PUBLIC

Exhibit 4

Exhibit 4

STATE OF NEVADA

CERTIFICATION OF VITAL RECORD

DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF PUBLIC AND BEHAVIORAL HEALTH
VITAL STATISTICS

CASE FILE NO. 3983888

CERTIFICATE OF DEATH

2017019460

STATE FILE NUMBER

TYPE OR
PRINT IN
PERMANENT
BLACK INK

DECEDENT

IF DEATH
OCCURRED IN
INSTITUTION SEE
HANDBOOK
REGARDING
COMPLETION OF
RESIDENCE
ITEMS

PARENTS

DISPOSITION

TRADE CALL

CERTIFIER

REGISTRAR

CAUSE OF
DEATHCONDITIONS IF
ANY WHICH
GAVE RISE TO
IMMEDIATE
CAUSE
STATING THE
(IMMEDIATE
CAUSE) LAST

1a DECEASED-NAME (FIRST,MIDDLE, LAST,SUFFIX) Chari Ann COLMAN		2 DATE OF DEATH (Mo/Day/Year) October 18, 2017		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 city) 5988 Turtle River Ave		3e If Hosp. or inst. indicate DOA, OP/Emer. Rm Inpatient (Specify) Home	
4 SEX Female		5 RACE (Specify) White		6 Hispanic Origin? Specify No - Non-Hispanic	
7a AGE-Last birthday (Years) 69		7b UNDER 1 YEAR MONTHS DAYS 69		7c UNDER 1 DAY HOURS MINS 69	
8 DATE OF BIRTH (Mo/Day/Yr) November 15, 1947		9a STATE OF BIRTH (If not US/CA, name country) California			
9b CITIZEN OF WHAT COUNTRY United States		10 EDUCATION 16		11 MARITAL STATUS (Specify) Married	
12 SURVIVING SPOUSE'S NAME (Last name prior to first marriage) Paul V COLMAN		13 SOCIAL SECURITY NUMBER 1		14a USUAL OCCUPATION (Give Kind of Work Done During Most of) Supervisor	
14b KIND OF BUSINESS OR INDUSTRY Casino		14c Ever in US Armed Forces? No		15a RESIDENCE - STATE Nevada	
15b COUNTY Clark		15c CITY, TOWN OR LOCATION Las Vegas		15d STREET AND NUMBER 5988 Turtle River Ave	
15e INSIDE CITY LIMITS (Specify Yes or No) No		16 FATHER/PARENT - NAME (First Middle Last Suffix) Charles A FRAZIER			
17 MOTHER/PARENT - NAME (First Middle Last Suffix) Bertha L DEVERS				18a INFORMANT - NAME (Type or Print) Paul V COLMAN	
18b MAILING ADDRESS (Street or R.F.D. No, City or Town, State, Zip) 5988 Turtle River Ave., Las Vegas, Nevada 89156					
19a BURIAL, CREMATION, REMOVAL, OTHER (Specify) Cremation		19b CEMETERY OR CREMATORY - NAME Paradise Valley Crematory		19c LOCATION City or Town State Las Vegas Nevada 89119	
20a FUNERAL DIRECTOR - SIGNATURE (Or Person Acting as Such) ALLEN KOPP		20b FUNERAL DIRECTOR LICENSE NUMBER FD772		20c NAME AND ADDRESS OF FACILITY Davis Funeral Home and Memorial Park 6200 S Eastern Las Vegas NV 89119	
21 TRADE CALL - NAME AND ADDRESS					
21a To the best of my knowledge, death occurred at the time, date and place and due to the cause(s) stated (Signature & Title) JENNIFER N CORNEAL MD		21b DATE SIGNED (Mo/Day/Yr) October 20, 2017			
21c HOUR OF DEATH 15:00		21d NAME OF ATTENDING PHYSICIAN IF OTHER THAN CERTIFIER (Type or Print) October 18, 2017			
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) JENNIFER N CORNEAL MD		22b DATE SIGNED (Mo/Day/Yr) October 20, 2017			
22c HOUR OF DEATH 15:00		22d PRONOUNCED DEAD (Mo/Day/Yr) October 18, 2017			
22e PRONOUNCED DEAD AT (Hour) 15:00		23a NAME AND ADDRESS OF CERTIFIER (PHYSICIAN, ATTENDING PHYSICIAN, MEDICAL EXAMINER, OR CORONER) (Type or Print) Jennifer N Corneal MD 1704 Pinto Lane Las Vegas, NV 89106			
23b LICENSE NUMBER 15917		24a REGISTRAR (Signature) NANCY BARRY			
24b DATE RECEIVED BY REGISTRAR (Mo/Day/Yr) October 20, 2017		24c DEATH DUE TO COMMUNICABLE DISEASE YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>			
25 IMMEDIATE CAUSE (ENTER ONLY ONE CAUSE PER LINE FOR (a), (b), AND (c)) PART I (a) Hypertensive And Arteriosclerotic Cardiovascular Disease DUE TO, OR AS A CONSEQUENCE OF (b) DUE TO, OR AS A CONSEQUENCE OF (c) DUE TO, OR AS A CONSEQUENCE OF (d)					
PART II OTHER SIGNIFICANT CONDITIONS-Conditions contributing to death but not resulting in the underlying cause given in Part I Diabetes Mellitus, Chronic Obstructive Pulmonary Disease					
26 AUTOPSY (Specify Yes or No) No		27 WAS CASE REFERRED TO CORONER (Specify Yes or No) Yes			
28a ACC. SUICIDE, HON. UNDET. OR PENDING INVEST. (Specify) 28a		28b DATE OF INJURY (Mo/Day/Yr) 28b		28c HOUR OF INJURY 28c	
28d DESCRIBE HOW INJURY OCCURRED 28d					
28e INJURY AT WORK (Specify Yes or No) 28e		28f PLACE OF INJURY- At home, farm, street, factory, office building, etc. (Specify) 28f		28g LOCATION STREET OR R.F.D. No. CITY OR TOWN STATE 28g	

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 authorized by state Board of Health pursuant to NRS 440.175.

1/15-Rev 2012/5/23



472623

DATE ISSUED: OCT 23 2017

Registrar of Vital Statistics

By: *Jomnell*

This copy not valid unless prepared on watermarked security paper displaying date, seal and signature of Registrar.
SOUTHERN NEVADA HEALTH DISTRICT • P.O. Box 3902 • Las Vegas, NV 89127 • 702-758-1010 • Fax 702-758-0151/573

RAPP 26



Exhibit 5

Exhibit 5

Heather L. Hume
CLERK OF THE COURT

DVJ

Spouse's Name: Charli Dawn Colman
Address: 5988 Turtle River Ave
City, State, Zip: Las Vegas, NV 89156-4791
Phone: (702) 437-7075
Email: charlicolman@live.com

Spouse's Name: Rui Valsin Colman
Address: 5988 Turtle River Ave
City, State, Zip: Las Vegas, NV 89156-4791
Phone: (702) 437-7075
Email: rui.colman@live.com
Self-Represented

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Charli Dawn Colman

First Joint Petitioner (Spouse Name),

And

Rui Valsin Colman

Second Joint Petitioner (Spouse Name).

CASE N:
DEPT:

**D-17-557861-Z
DEPT: P**

JOINT PETITION FOR DIVORCE (No Children)

Petitioners, in proper person, hereby petition this Court pursuant to the terms of Chapter 125 of the Nevada Revised Statutes, to grant them a divorce. Petitioners respectfully show, and under oath, state to the Court that every condition of NRS 125.181 has been met and further state as follows:

1. **Residency.** The following spouse has been a resident of the State of Nevada for at least six weeks prior to filing this Complaint and intends to make Nevada his/her home for an indefinite period of time: (name of Nevada resident) CHARLI COLMAN.
2. **Marriage.** The parties were married on (date) 12/15/2009 in (city) LAS VEGAS, (state) NEVADA. The parties are incompatible.

3. The current addresses of the Petitioners are:

First Petitioner:

Name: Chani D. Coleman
Address: 5988 Turtle River Ave
City, State, Zip: Las Vegas, NV 89152-479

Second Petitioner:

Name: Ray V. Coleman
Address: 5988 Turtle River Ave
City, State, Zip: Las Vegas, NV 89152-479

4. **Children.** There are no minor children in common born to or adopted by the Petitioners. (☒ *check one*)

- ☒ Neither spouse is pregnant.
- ☐ The following spouse is pregnant: (*name of pregnant spouse*) _____.
The other spouse ☐ is / ☐ is not the parent of the unborn child. The child is due to be born on (*date*): _____.
- ☐ It is unknown whether either spouse is currently pregnant.

5. **Division of Community Property.** (☒ *check one*)

- ☒ There is no community property to divide.
- ☐ Any community property has already been divided.
- ☐ The community property should be divided as follows:

(*Name of spouse*) _____ shall receive:

1. _____
2. _____
3. _____
4. _____

(*Name of spouse*) _____ shall receive:

1. _____
2. _____
3. _____
4. _____

6. **Division of Community Debt.** (☒ *check one*)

- ☒ There is no community debt to divide.
- ☐ Any community debt has already been divided.
- ☐ The community debt should be divided as follows:

(*Name of spouse*) _____ shall be liable for:

1. _____
2. _____
3. _____
4. _____

(*Name of spouse*) _____ shall be liable for:

1. _____
2. _____
3. _____
4. _____

7. **Alimony.** (☒ *check one*)

- ☒ Neither petitioner should be awarded alimony.
- ☐ (*Name of spouse who will pay alimony*) _____
should pay (*amount*) \$ _____ per month in alimony for the next (*number*)
_____ years. Spousal support should begin on (*date*) _____ and
end on (*date*) _____.

8. **Name Change.** (☒ *check all that apply*)

- ☒ Neither party changed their name or neither party wishes to have a former or maiden name restored.
- ☐ The name of (*spouse's name*) _____ should be restored to his / her former or maiden name of (*write the full name the person wants to go back to*) _____.
- ☐ The name of (*spouse's name*) _____ should be restored to his / her former or maiden name of (*write the full name the person wants to go back to*) _____.

9. Petitioners certify that they have disclosed all community assets and debts and that there are no other community assets or debts for this Court to divide.
10. Petitioners hereby request that this Court enter a Decree of Divorce, incorporating into that Decree the provisions made in this Joint Petition.
11. It is understood by the Petitioners that entry of a Decree of Divorce constitutes a final adjudication of the rights and obligations of the parties with respect to the status of the marriage. Petitioners each expressly give up their respective rights to receive written notice of entry of any judgment or decree of divorce, and Petitioners give up their right to request formal findings of fact and conclusions of law. Petitioners waive their right to appeal the Decree of Divorce, and the right to move for a new trial.
12. It is further understood by the Petitioners that a final Decree of Divorce entered by this summary procedure does not prejudice or prevent the rights of either Petitioner to bring an action to set aside the final decree for fraud, duress, accident, mistake, or the grounds recognized at law or in equity.

Petitioners request:

1. That they be granted a Decree of Divorce and that each of the Petitioners be restored to the status of a single, unmarried person;
2. That the terms agreed upon in this Joint Petition be included in the Decree.

Date: August 29, 2017
Chaz A. Colman
(First Petitioner's signature)
Chaz A. Colman
(First Petitioner's printed name)

Date: August 29, 2017
Paul V. Colman
(Second Petitioner's signature)
Paul V. Colman
(Second Petitioner's printed name)

FIRST PETITIONER'S VERIFICATION

STATE OF NEVADA)
)
COUNTY OF CLARK)

(Spouse's name) Charli A. Colman being first duly sworn under penalties of perjury, deposes and says:

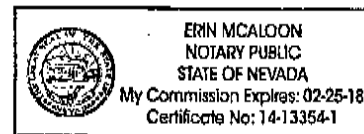
I am the Petitioner herein, and I have read the foregoing Joint Petition for Divorce and know the contents thereof; that the pleading is true to the best of my own knowledge, except as to those matters therein stated upon information and belief, and as to those matters, I believe them to be true.

Charli A. Colman
(Spouse's signature)

Signed and sworn to (or affirmed) before me on

(date) 8/29/2017 by (name) CHARLI COLMAN

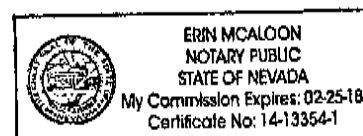
Erin McAloon
Signature of notarial officer



STATE OF NEVADA)
)
COUNTY OF CLARK)

On this 29th day of August 2017, personally appeared before me, a Notary Public, (Spouse's name) Charli Colman, known or proved to me to be the person who executed the foregoing Joint Petition for Divorce, and who acknowledged to me that he/she did so freely and voluntarily and for the uses and purposes herein stated.

Erin McAloon
Signature of notarial officer




SECOND PETITIONER'S VERIFICATION

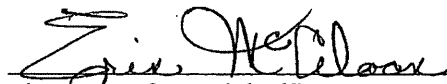
STATE OF NEVADA)
)
COUNTY OF CLARK)

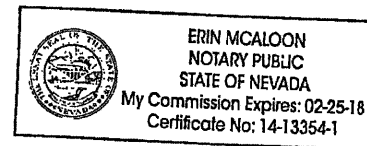
(Spouse's name) Paul V. Colman being first duly sworn under penalties of perjury, deposes and says:

I am the Petitioner herein, and I have read the foregoing Joint Petition for Divorce and know the contents thereof; that the pleading is true to the best of my own knowledge, except as to those matters therein stated upon information and belief, and as to those matters, I believe them to be true.


(Spouse's signature)

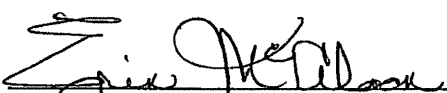
Signed and sworn to (or affirmed) before me on
(date) 8/29/2017 by (name) PAUL COLMAN


Signature of notarial officer



STATE OF NEVADA)
)
COUNTY OF CLARK)

On this 29th day of August 20 17, personally appeared before me, a Notary Public, (Spouse's name) PAUL COLMAN, known or proved to me to be the person who executed the foregoing Joint Petition for Divorce, and who acknowledged to me that he/she did so freely and voluntarily and for the uses and purposes herein stated.


Signature of notarial officer

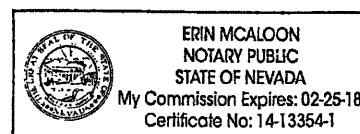


Exhibit 6

Exhibit 6

Heather Hemin
CLERK OF THE COURT

DECD

Spouse's Name: CHARI COLEMAN
Address: 5488 TURTLE RIVER AVE.
City, State, Zip: LV NV 89156
Phone: _____
Email: _____

Spouse's Name: PAUL COLEMAN
Address: 5488 TURTLE RIVER AVE.
City, State, Zip: LV NV 89156
Phone: _____
Email: _____

Self-Represented

**DISTRICT COURT
CLARK COUNTY, NEVADA**

CHARI COLEMAN
First Joint Petitioner (*Spouse Name*).

And

PAUL COLEMAN
Second Joint Petitioner (*Spouse Name*).

CASE NO.: **D-17-557861-Z**
DEPT: **P**

DECREE OF DIVORCE

The above entitled cause, having been submitted to this Court for decision pursuant to Chapter 125 of the Nevada Revised Statutes, and based upon the Joint Petition by the Petitioners, and all of the papers and pleadings on file, the Court finds as follows:

1. That all of the allegations contained in the documents on file are true;
2. That all of the requirements of NRS 125.181 and NRS 125.182 have been met;
3. That (*name of party who lives in Nevada*) CHARI COLEMAN is now and has been an actual bona fide resident of the State of Nevada and has been actually domiciled in the State of Nevada for more than six weeks immediately prior to the commencement of this action.

RECEIVED

4. That Petitioners were married on (date) Dec 15, 2009 in the city of LAS VEGAS, State of NV and have since remained married. The parties have become, and continue to be, incompatible in marriage, and no reconciliation is possible. The Petitioners are entitled to a Decree of Divorce.

5. **Pregnancy.** (☒ check one)

☒ Neither spouse is pregnant.

☐ The following spouse is pregnant: (name of pregnant spouse) _____

The other spouse ☐ is / ☐ is not the parent of the unborn child. The child is due to be born on (date): _____.

6. That the Petitioners have no minor children in common who are either biological or adopted.

7. That the Petitioners have entered into an equitable agreement settling all issues regarding the division and distribution of assets and debts which is outlined in the Joint Petition, a filed copy of which is attached as Exhibit A. The Petitioners request that this agreement be ratified, confirmed, and incorporated into this Decree as though fully set forth.

8. That the Petitioners have entered into an equitable agreement settling the issue of spousal support which is outlined in the Joint Petition, a filed copy of which is attached as Exhibit A. The Petitioners request that this agreement be ratified, confirmed, and incorporated into this Decree as though fully set forth.

9. That this Court has complete jurisdiction to enter this Decree and the orders regarding the distribution of assets and debts.

10. That the Petitioners waive their rights to a written notice of entry of decree or judgment, to request findings of fact and conclusions of law, to appeal, and to move for a new trial.

11. That any other necessary findings of fact are attached and incorporated herein.

1 **NOW THEREFORE, IT IS HEREBY ORDERED** that the bonds of matrimony now
2 existing between the parties are hereby wholly dissolved, and an absolute Decree of Divorce is
3 hereby granted to the parties, and each of the parties are hereby restored to the status of a single,
4 unmarried person.

5 **IT IS FURTHER ORDERED** that the terms, as stated in the Petitioner's Joint Petition,
6 regarding the division of assets and debts are hereby ratified, confirmed and incorporated into
7 this Decree as though fully set forth.

8 **IT IS FURTHER ORDERED** that the terms, as stated in the Petitioner's Joint Petition,
9 regarding the issue of spousal support are hereby ratified, confirmed and incorporated into this
10 Decree as though fully set forth.

11 **IT IS FURTHER ORDERED that** (☒ *check all that apply*)


12 ☒ Neither party changed their name or neither party wishes to have a former or maiden
13 name restored.

14 ☐ The name of (*spouse's name*) _____ should be
15 restored to his / her former or maiden name of (*write full name the person wants to*
16 *go back to*) _____.

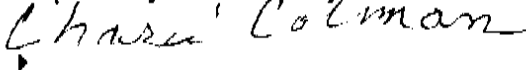
17 ☐ The name of (*spouse's name*) _____ should be
18 restored to his / her former or maiden name of (*write full name the person wants to*
19 *go back to*) _____.

20 **IT IS FURTHER ORDERED** that each party shall submit the information required in
21 NRS 125.130 on a separate form to the Court. Such information shall be maintained by the
22 Clerk in a confidential manner and not part of the public record.

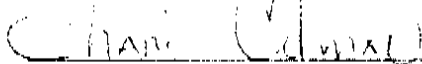
23 DATED this 27 day of September, 2017.

24 
DISTRICT COURT JUDGE *ju*

25 Respectfully Submitted By

26 

27 (*First Spouse's signature*)

28 

(*First Spouse's printed name*)

(*Second Spouse's signature*)



(*Second Spouse's printed name*)

(Attach a filed copy of the Petitioner's Joint Petition for Divorce as Exhibit A)

Heather J. Hume
CLERK OF THE COURT

DVJ

Spouse's Name: Charli Dawn Colman
Address: 5788 Turtle River Ave
City, State, Zip: Las Vegas, NV 89156-4791
Phone: 702-437-7075
Email: charlicolman@yahoo.com

Spouse's Name: Rui V. da Silva Colman
Address: 5788 Turtle River Ave
City, State, Zip: Las Vegas, NV 89156-4791
Phone: 702-437-7075
Email: randymash@hotmail.com
Self-Represented

DISTRICT COURT
CLARK COUNTY, NEVADA

Charli Dawn Colman
First Joint Petitioner (Spouse Name),

And
Rui V. da Silva Colman
Second Joint Petitioner (Spouse Name).

CASE N: D-17-557861-Z
DEPT: P

JOINT PETITION FOR DIVORCE (No Children)

Petitioners, in proper person, hereby petition this Court pursuant to the terms of Chapter 125 of the Nevada Revised Statutes, to grant them a divorce. Petitioners respectfully show, and under oath, state to the Court that every condition of NRS 125.181 has been met and further state as follows:

1. **Residency.** The following spouse has been a resident of the State of Nevada for at least six weeks prior to filing this Complaint and intends to make Nevada his/her home for an indefinite period of time: (name of Nevada resident) CHARLI COLMAN.
2. **Marriage.** The parties were married on (date) Dec 15 2009 in (city) Las Vegas, (state) Nevada. The parties are incompatible.

3. The current addresses of the Petitioners are:

First Petitioner:

Name: Chani D. Colman
Address: 5986 Turtle River Ave
City, State, Zip: Las Vegas, NV 89124

Second Petitioner:

Name: Sheryl V. Colman
Address: 5986 Turtle River Ave
City, State, Zip: Las Vegas, NV 89124

4. Children. There are no minor children in common born to or adopted by the Petitioners. (☒ check one)

☒ Neither spouse is pregnant.

☐ The following spouse is pregnant: (name of pregnant spouse) _____.

The other spouse ☐ is / ☐ is not the parent of the unborn child. The child is due to be born on (date): _____.

☐ It is unknown whether either spouse is currently pregnant.

5. Division of Community Property. (☒ check one)

☒ There is no community property to divide.

☐ Any community property has already been divided.

☐ The community property should be divided as follows:

(Name of spouse) _____ shall receive:

1. _____
2. _____
3. _____
4. _____

(Name of spouse) _____ shall receive:

1. _____
2. _____
3. _____
4. _____

6. Division of Community Debt. (☒ check one)

- ☒ There is no community debt to divide.
- ☐ Any community debt has already been divided.
- ☐ The community debt should be divided as follows:

(Name of spouse) _____ shall be liable for:

1. _____
2. _____
3. _____
4. _____

(Name of spouse) _____ shall be liable for:

1. _____
2. _____
3. _____
4. _____

7. Alimony. (☒ check one)

- ☒ Neither petitioner should be awarded alimony.
- ☐ (Name of spouse who will pay alimony) _____
should pay (amount) \$ _____ per month in alimony for the next (number)
_____ years. Spousal support should begin on (date) _____ and
end on (date) _____.

8. Name Change. (☒ check all that apply)

- ☒ Neither party changed their name or neither party wishes to have a former or maiden name restored.
- ☐ The name of (spouse's name) _____ should be restored to his / her former or maiden name of (write the full name the person wants to go back to) _____.
- ☐ The name of (spouse's name) _____ should be restored to his / her former or maiden name of (write the full name the person wants to go back to) _____.

9. Petitioners certify that they have disclosed all community assets and debts and that there are no other community assets or debts for this Court to divide.

10. Petitioners hereby request that this Court enter a Decree of Divorce, incorporating into that Decree the provisions made in this Joint Petition.

11. It is understood by the Petitioners that entry of a Decree of Divorce constitutes a final adjudication of the rights and obligations of the parties with respect to the status of the marriage. Petitioners each expressly give up their respective rights to receive written notice of entry of any judgment or decree of divorce, and Petitioners give up their right to request formal findings of fact and conclusions of law. Petitioners waive their right to appeal the Decree of Divorce, and the right to move for a new trial.

12. It is further understood by the Petitioners that a final Decree of Divorce entered by this summary procedure does not prejudice or prevent the rights of either Petitioner to bring an action to set aside the final decree for fraud, duress, accident, mistake, or the grounds recognized at law or in equity.

Petitioners request:

1. That they be granted a Decree of Divorce and that each of the Petitioners be restored to the status of a single, unmarried person;
2. That the terms agreed upon in this Joint Petition be included in the Decree.

Date: August 28, 2017
Chaz A. Coleman
(First Petitioner's signature)
Chaz A. Coleman
(First Petitioner's printed name)

Date: August 28, 2017
Paul V. Coleman
(Second Petitioner's signature)
Paul V. Coleman
(Second Petitioner's printed name)

FIRST PETITIONER'S VERIFICATION

STATE OF NEVADA)
)
COUNTY OF CLARK)

(Spouse's name) Charli A. Colman being first duly sworn under penalties of perjury, deposes and says:

I am the Petitioner herein, and I have read the foregoing Joint Petition for Divorce and know the contents thereof; that the pleading is true to the best of my own knowledge, except as to those matters therein stated upon information and belief, and as to those matters, I believe them to be true.

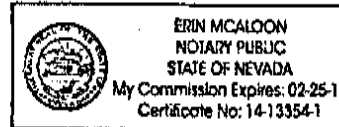
Charli A. Colman
(Spouse's signature)

Signed and sworn to (or affirmed) before me on

(date) 8/29/2017 by (name) CHARLI COLMAN

[Signature]

Signature of notarial officer

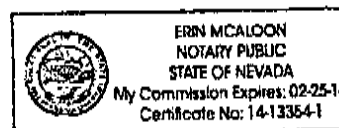


STATE OF NEVADA)
)
COUNTY OF CLARK)

On this 29th day of August 2017, personally appeared before me, a Notary Public, (Spouse's name) CHARLI COLMAN, known or proved to me to be the person who executed the foregoing Joint Petition for Divorce, and who acknowledged to me that he/she did so freely and voluntarily and for the uses and purposes herein stated.

[Signature]

Signature of notarial officer

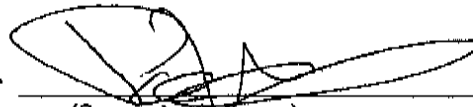


SECOND PETITIONER'S VERIFICATION

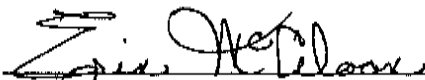
STATE OF NEVADA)
)
COUNTY OF CLARK)

(Spouse's name) Paul V. Colman being first duly sworn under penalties of perjury, deposes and says:

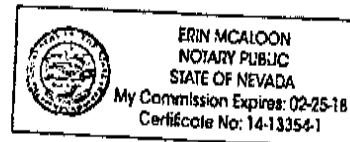
I am the Petitioner herein, and I have read the foregoing Joint Petition for Divorce and know the contents thereof; that the pleading is true to the best of my own knowledge, except as to those matters therein stated upon information and belief, and as to those matters, I believe them to be true.


(Spouse's signature)

Signed and sworn to (or affirmed) before me on
(date) 8/29/2017 by (name) PAUL COLMAN



Signature of notarial officer

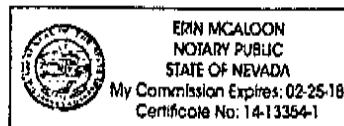


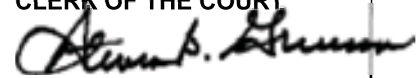
STATE OF NEVADA)
)
COUNTY OF CLARK)

On this 29th day of August 20 17, personally appeared before me, a Notary Public, (Spouse's name) PAUL COLMAN, known or proved to me to be the person who executed the foregoing Joint Petition for Divorce, and who acknowledged to me that he/she did so freely and voluntarily and for the uses and purposes herein stated.



Signature of notarial officer





OPPS

TCM LAW

SCOTT B. OLIFANT, ESQ.

Nevada Bar No. 7471

1614 S. Maryland Pkwy.

Las Vegas, NV 89104

Telephone: (702) 462-6161

Facsimile: (702) 413-6255

Email: tcm@tcmlawgroup.com

Attorneys for Paul Valer Colman and

The Colman Family Revocable Living

Trust dated June 23, 2011

DISTRICT COURT

CLARK COUNTY, NEVADA

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

A Non-Testamentary Trust.

Case No.: P-17-093518-T

Dept. No.: PC1 (Probate)

Hearing Date: 12/15/2017

Hearing Time: 9:30 a.m.

**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**

COMES NOW, Paul Valer Colman, individually and as Trustee of the The Colman Family Revocable Living Trust dated June 23, 2011 (the "Trust")(collectively referred to herein as "Paul") and hereby files this Objection to Petitioner's Petition to Assume Jurisdiction of Trust and for Confirmation of Beneficiary of Real Property. Furthermore, Colman seeks an Order dismissing the Petition and quashing the *lis pendens*. Tonya Collier is a beneficiary under the Trust only in the event that both Chari Ann Colman and Paul Valer Colman both die. In no other case can she claim to be a beneficiary. While not explaining this point with candor, Petitioner claims that she can assume the rights of Colman. Petitioner does not have standing to pursue any claim to the Trust property and therefore cannot invoke the jurisdiction of this Court. Notwithstanding, these facts and citing to NRS 111.781 (which Petitioner claims reliefs Colman of any claims but ignores that the same argument negates her own Petition), Petition has filed a *lis pendens* against property for which she has no

1 reasonable or expectant interest because Paul is still alive. For these reasons, and those more
2 specifically discussed herein, the Petition must be dismissed and *lis pendens* removed.

3 This Objection is based on the Memorandum of Points and Authorities, the Declaration of Paul
4 Valer Colman, any documents on file herein and any arguments which may be considered at the time
5 of the hearing of this matter.

6 Dated this 17th day of November 2017.

TCM LAW

By:



SCOTT B. OLIFANT, ESQ.

Nevada Bar No. 7471

1614 S. Maryland Pkwy

Las Vegas, Nevada 89104

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

MEMORANDUM OF POINTS AND AUTHORITIES

I.

BRIEF STATEMENT OF FACTS

18 Chari Colman and Paul Colman were married on December 15, 2009. At that time they
19 decided to live at Chari's house, located at 5988 Turtle River Avenue, Las Vegas, NV 89156, APN:
20 140-15-317-012 (the "property"). Declaration of Paul Valer Colman in Support of Objection, etc.
21 ("Paul Colman Declaration"), attached herein as Exhibit 1, ¶ 2. Prior to and following the marriage
22 the Colmans made payments for the house, provided general upkeep, paid bills for the property and
23 Paul generally treated the property like it was their home. There were never any discussions between
24 Chari and Paul where Chari mentioned that the property was only hers. They treated the property much
25 like any other couple would when they get married and one spouse already has a personal residence;
26 they believed it was both ours. *Id.* at ¶ 3.
27
28

1 The Colmans both continued to maintain the property and later on June 23, 2011, Chari and
2 Paul executed the Trust documents, in conjunction with our respective wills and powers of attorneys.
3 (A true and correct copy of the trust is attached herein as Exhibit 2. Paul Colman Declaration, ¶ 4.)
4 Because they treated the property as equally ours, the Colmans transferred the property into the Trust
5 by Quitclaim Deed filed on June 30, 2011. (A true and correct copy of the Quitclaim Deed is attached
6 herein as Exhibit 3. Paul Colman Declaration, ¶ 5.)

7 Mr. Colman, after the property was transferred to the Trust, approximately six months later on
8 December 19, 2011 filed for divorce with Chari. Even though there was tension between them, Chari
9 or Paul never considered transferring the property to another party. The case was eventually dismissed
10 as they chose to remain husband and wife. Docket report for Paul Valer Colman v. Chari Ann Colman,
11 Clark County District Court, Family Division, Case No. D-11-456480, attached herein as Exhibit 4.
12 Paul Colman Declaration, ¶ 6. Following this time, the Colmans continued to live together, supporting
13 each other and together maintaining the marital residence and property. *Id.* at ¶ 7.

14 Several years later on August 29, 2017, Chari and Paul filed a joint petition for divorce. (See
15 Exhibit 5 to the Petition.) ~~In that Joint Petition the Colmans did not include the property as an asset~~
16 or community property because it had already been placed in the Trust. Even though they were going
17 to be divorced they still considered it property of the trust, which we were both the primary
18 beneficiaries. Paul Colman Declaration, ¶ 8. A Decree of Divorce was later entered on September 28,
19 2017. Even after that time the Colmans continued to live in the property together that had been placed
20 in their Trust. Yet even though they were divorced, there were no discussions that they were going to
21 quitclaim deed the property back to Chari alone, to both of them individually, etc. *Id.* at ¶ 9.

22 It was the Colmans desire to have the property remain in the Trust. This was done primarily
23 because they did not want to deal with the uncertainties in transferring the property if something should
24 happen to one of them. Tragically, an event for which they had planned, but did not anticipate coming
25 so soon occurred when Chari passed away on October 18, 2017. *Id.* at ¶ 10.

26 It appears that Tonya Collier is now trying to take advantage of this unfortunate situation. Even
27 though she is not a beneficiary under the Trust she claims is of no effect, she claims that she can
28 assume the trust property. *Id.* at ¶ 11. The text of the trust provides that Ms. Collier is only a

beneficiary if and when the two conditions subsequent of both Chari'a and Paul's deaths. Ms. Collier's by filing a *lis pendens* for property in which she is not a beneficiary is premature at best. Ms. Collier must impatiently await mr. Coleman's demise for such actions. Mr. Colman has a lifelong interest in the property as stated in Section 5.2 of the Trust. It seems Ms. Collier discovered that the property was going to be sold is her motivation for filing the *lis pendens*. *Id.* at ¶ 12. Ms. Collier's claim of being a beneficiary is misplaced. As Section 5.2 of the Trust plainly reads:

5.2 **Distribution of Assets Upon Death of Grantors**

Upon the death of the last Grantor [Chari Colman and Paul Colman] of this Trust, the trust estate shall be distributed as follows. The Trustee shall distribute the real property located at 5988 Turtle River, Las Vegas, Nevada to TONYA COLLIER....

Trust; Paul Colman Declaration, ¶ 13.

Based on this Ms. Collier's attorneys have also contacted Paul and the title company and informed them that they believe Ms. Collier is the rightful beneficiary, though that is not possible because Paul is still alive, and that they are hoping that the matter can be settled without Court intervention. *Id.* at ¶ 14. Whatever Ms. Collier is seeking to accomplish, she has no standing to

pursue them because she cannot presently be a beneficiary under the trust. The trust instrument is devoid of any trustee powers for ms. Coleman. *Id.* at ¶ 15. Because Ms. Collier has no beneficiary status, or any rightful claim to the property until Mr. Colman's demise, her petition should be dismissed and the *lis pendens* removed, which is unfairly preventing the sale of the property. *Id.* at ¶ 16.

///

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///

///

II.

LEGAL ARGUMENT

A. Petitioner Lacks Standing to Bring to the Petition Before This Court Because She Does Not Have Any Interest in the Trust or the Property.

It is essential characteristic of a petitioner or plaintiff that they have an interest in the outcome, or standing, which Ms. Collier wholly lacks. “To have standing, ‘the party seeking relief [must have] a sufficient interest in the litigation,’ so as to ensure “the litigant will vigorously and effectively present his or her case against an adverse party.” *Schwartz v. Lopez*, 132 Nev. Adv. Op. 73, 382 P.3d 886, 894 (2016).” *Nationstar Mortg., LLC v. SFR Investments Pool 1, LLC*, 396 P.3d 754, 756 (Nev. 2017). To have standing the party must show a personal injury, not just a general interest. *Schwartz*, 132 Nev. Adv. Op. 73, 382 P.3d 886, 894 (2016). In this case, Collier has no standing. Collier’s interest under the trust only comes to fruition if Paul also dies, and her general interest is not enough to prove standing. *See Schwartz*, 132 Nev. Adv. Op. 73, 382 P.3d at 894 (2016). Because Collier has no standing to bring the Petition it must be dismissed.

B. Petitioner’s Lack of Standing Also Prevents this Court from Exercising Jurisdiction Over the Parties, the Trust or the Property.

It has long been held under Nevada law that a party must have standing to invoke the jurisdiction of the Court, which jurisdiction Collier cannot invoke because she has no standing. As the Nevada Supreme Court recently recognized in *Smaellie v. City of Mesquite*, 393 P.3d 660 (Nev. 2017), “standing is a jurisdiction mandate” for a court to adjudicate the case presented. “The burden of proving the jurisdictional requirement is properly placed on the plaintiff.” *Morrison v. Beach City LLC*, 116 Nev. 34, 36, 991 P.2d 982, 983 (2000).

Collier lacks standing and thus the jurisdiction of this Court cannot be invoked. *See Smaellie*, 393 P.3d 660 (Nev. 2017). As Collier cannot carry this burden, which is her own to bear as the petitioning party, the Petition must be dismissed. *See Morrison*, 116 Nev. 36.

C. NRS 111.781 Has No Application Because Even Assuming the Trust is Set Aside There is No Basis to Have Collier, a Secondary Beneficiary, Has Any Rights to Property or the Trust.

1 If Collier claims that NRS 111.781 has any effect, such contention likewise destroys any
2 credible argument that she has an interest in the property because she is only associated with the
3 property by being named as a secondary beneficiary if both Chari and Paul die. Prior to NRS 111.781
4 passage in 2011, it was held that a party had to specifically revoke a specific transfer of property within
5 the divorce decree, and general statements were not sufficient:

6 Prior to the 2011 enactment of NRS 111.781,¹ this court held that only “explicit
7 language in a divorce decree ... divest[ed] a former spouse of his or her rights as
8 designated beneficiary.” *Redd v. Brooke*, 96 Nev. 9, 12, 604 P.2d 360, 362 (1980)
9 (evaluating whether a divorce decree divested a designated beneficiary of a life
10 insurance policy). As such, “[g]eneral expressions or clauses in [the divorce decree]
[were] not to be construed as including an assignment or renunciation of
expectancies.” *Id.* at 11, 604 P.2d at 361.

11 *Stanford v. Browne*, 402 P.3d 1253 (Nev. 2017).

12 This followed Nevada Court’s well-founded rule, “[T]hat this court should require explicit language
13 in a divorce decree to divest a former spouse of his or her rights as designated beneficiary.” *Redd v.*
14 *Brooke*, 96 Nev. 9, 11–12, 604 P.2d 360, 362 (1980).
15

16 NRS 111.781 does not aid Collier’s argument that she is entitled to relief for her Petition
17 because it eliminates the trust. However even assuming that that the trust is unwound, negating the
18 implication of NRS 111.781 for both parties, Collier cannot prove that the decree of divorce
19 specifically removed the property from the trust or rightful ownership of Paul. As described above
20 Nevada has long considered that explicit language is required to remove property from the former
21 spouse, which Collier cannot cite too, and which closes her argument. *See Stanford v. Browne*, 402
22 P.3d 1253 (Nev. 2017); *Redd* 96 Nev. at 11–12. For this reason also, Collier’s petition must be
23 dismissed.
24

- 25 **1. Collier’s Fails to Consider that When the Parties Were Married and Treated the**
26 **House as if It Was Community Property, That It Would Somehow Lose That**
27 **Character Because of the Divorce.**
28

Collier erroneously assumes, and fails to consider transmutation or gift, but contends that because the property was formerly separate property, transferred to the trust, that NRS 111.781 dictates it is again separate property, and provides unrelated circumstantial facts to prove such assumption. Though NRS 123.130 presumes that all property brought into the marriage is separate property, that character can be lost. The Nevada Supreme Court has consistently held that conveying title to a spouse creates a presumption of a gift:

We have consistently held that a spouse to spouse conveyance of title to real property creates a presumption of gift that can only be overcome by clear and convincing evidence. *Graham v. Graham*, 104 Nev. 472, 760 P.2d 772 (1988); *Todkill v. Todkill*, 88 Nev. 231, 495 P.2d 629 (1972); *Peardon v. Peardon*, 65 Nev. 717, 201 P.2d 309 (1948); *Petition of Fuller*, 63 Nev. 26, 159 P.2d 579 (1945). Moreover, property acquired by gift during marriage is separate property pursuant to NRS 123.130, and therefore is not community property pursuant to NRS 123.220.

Kerley v. Kerley, 112 Nev. 36, 37, 910 P.2d 279, 280 (1996).

Transmutation may be proven by clear and convincing evidence. *Norwest Fin. v. Lawver*, 109 Nev. 242, 245, 849 P.2d 324, 326 (1993).

In this case the transfer of the property to the trust was unequivocal, and there is no evidence to support that Chari intended for the property to be withdrawn from the trust, despite two divorce proceedings. Even presuming, Collier's argument the transfer of title to the property would have been a gift to Paul, which was held by the trust. *See Kerley*, 112 Nev. at 37. The only conclusive evidence of Chari's intent are the trust documents and the quitclaim deed of the property to the trust; without any evidence that would be considered clear and convincing, Collier's claims to the property fail arguing against transmutation fail. *See Norwest Fin.*, 109 Nev. at 245. Again, Collier's Petition must be dismissed.

D. Collier's Circumstantial Statements in the Petition Fail to Carry the Burden of Proof Required Because the Statements Only Amount Conjecture and Speculation.

1 Nevada only recognizes good faith contests to wills and trusts, which Collier cannot reasonably
2 argue because she is an indirect beneficiary for a trust she claims has no effect. Public policy favors
3 recognition of good faith contests based on probable cause. *Hannam v. Brown*, 114 Nev. 350, 356–
4 57, 956 P.2d 794, 798 (1998). Collier’s claim can hardly be claimed to be presented in good faith or
5 probable cause. There are no set of facts presented in the Petition that would allow a secondary
6 beneficiary that has no standing to bring this case, the probable cause required to present a good faith
7 contest. Because the contest is not in good faith, but motivated by literally taking advantage of one’s
8 neighbor, the Petition must be dismissed. *See Hannam*, 114 Nev. at 356–57.

10 **1. Not Only Can Collier Not Prove Her Claims By Clear and Convincing Evidence,
11 She Has NO Right to a Distribution from the Trust Pursuant to NRS 163.419.**

12 Collier argument that she can gain trust property also fails by statute. NRS 163.419(1) states,
13 “A beneficiary who has a discretionary interest in a trust does not have an enforceable right to a
14 distribution from the trust, and a court may review a trustee’s exercise of discretion concerning a
15 discretionary interest only if the trustee acts dishonestly, with bad faith or willful misconduct.” Collier
16 has no interest in the trust as it is contingent on Paul’s death. Collier’s claims are statutorily barred
17 by NRS 163.419 and her Petition should be dismissed.

18 **E. The Lis Pendens Should Be Immediately Released as Collier Has NO Interest in the**
19 **Property.**

20 Collier has no basis to place a *lis pendens* on property that she has no interest, or use the *lis*
21 *pendens* and this action as a means to extort funds from Paul. The purpose of a *lis pendens* is to give
22 constructive notice to purchasers or encumbrancers that a dispute involving title or liens is ongoing.
23 NRS. § 14.010(3). Conversely, the purpose of *lis pendens* is not to obtain type of prejudgment
24 attachment which can later be used in the eventual collection of judgment. *In re Bradshaw*, 315 B.R.
25 875 (2004). Fundamental to the filing and recordation of *lis pendens* under Nevada law is that cause
26 of action must involve some legal interest in the challenged real property. *Id.* Generally, *lis pendens*
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are not appropriate instruments for use in promoting recoveries in actions for personal or money judgments; rather, their office is to prevent transfer or loss of real property which is the subject of the dispute and provides the basis for the *lis pendens*. *Evans v. Fulton Nat'l Mortgage Corp*, 168 Ga.App.600, 309 S.E.2d 884, 884-85 (1983); *Wyatt v. Wehmuller*, 163 Ariz. 12, 12-13, 785 P.2d 581, 584 (App.1989), granted in part, vacated in part, 167 Ariz. 281, 80 P.2d 870 (1991). Although doctrine of *lis pendens* may be applied to actions other than foreclosures, its use is restricted to avoid abuse. *Kaapu v. Aloha Tower Dev. Corp.*, 72 Haw.267, 814 P.2d 396, 397 (1991).

The court in *Burger v. Superior Court of Santa Clara County*, 151 Cal.App.3d 1013, 199 Cal.Rptr. 227 (1984), pointed out the difficulties which are presented where a *lis pendens* is improperly utilized:

It is one thing to say that there may be a colorable claim against real property and another to conclude that the claim is such as to affect title or right to possession of the property within the meaning of the *lis pendens* statute. [The petitioner's] contention that [the real party in interest] is seeking simply to avoid the complexities of California's attachment procedure contains the germ of a more general concern. Lis pendens is one of the few remaining provisional remedies at its inception without prior notice to the adversary. Due process is said to be provided for by subsequent notice and an expungement procedure which casts the burden upon the proponent of the *lis pendens*, but a *lis pendens* may cause substantial hardship to the property owner before relief can be obtained. A commentator has expressed reservations as to ... [a] broad endorsement of *lis pendens* in claim constructive trust actions on the ground that it tends "to create a right substantially similar to an *exparte* prejudgment attachment of the defendant's assets, a remedy disfavored in California and severely limited because of its due process problems" (Cal. Lis Pendens Practice, §.2.7, p. 32 (citations omitted)0. Overbroad definition of "an action ... affecting the title or right of possession of real property: would invite abuse of *lis pendens*.

A *lis pendens* has been wrongfully and improperly recorded against the property. The *lis pendens* must be extinguished.

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III.

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CONCLUSION

Wherefore based on the foregoing the Petition should be dismissed and the *lis pendens* should be removed immediately.

Dated this 17 day of November 2017.

TCM LAW

By:



SCOTT B. OLIFANT, ESQ.

Nevada Bar No. 7471

1614 S. Maryland Pkwy

Las Vegas, Nevada 89104

Attorneys for Paul Valer Colman and

The Colman Family Revocable Living

Trust dated June 23, 2011

TCM LAW

1614 S. Maryland Pkwy.

LAS VEGAS, NEVADA 89104

TEL.: (702) 462-6161 - FAX: (702) 413-6255

CERTIFICATE OF SERVICE

I hereby certify that on the _17___ day of November 2017, I served a copy of the foregoing 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 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:

DANIEL P. KIEFER, LLP
RUSHFORTH LEE & KIEFER
1707 Village Center Circle, Suite 150
Las Vegas, NV 89134
probate@rlklegal.com

Dated this _17___ day of November 2017.

/s/ Natasha Smith
An employee of TCM Law

1 **DECLARATION OF PAUL VALER COLMAN IN SUPPORT OF OBJECTION TO**
2 **PETITION TO ASSUME JURISDICTION OF TRUST AND FOR CONFIRMATION OF**
3 **BENEFICIARY OF REAL PROPERTY, MOTION TO DISMISS PETITION AND MOTION**
4 **TO QUASH UNLAWFUL LIS PENDENS**

5 I, Paul Valer Colman, declare as follows:

6 1. I am the Trustee of the Colman Family Revocable Living Trust dated June 23, 2011.
7 That I am familiar with the facts and circumstances referred to in the Petition filed by Tonya Collier,
8 and prepared to testify to the facts in this Declaration and the Petition if necessary.

9 2. Chari Colman and I were married on December 15, 2009. At that time we decided to
10 live at Chari's house, located at 5988 Turtle River Avenue, Las Vegas, NV 89156, APN: 140-15-317-
11 012 (the "property").

12 3. That prior to and following our marriage I made payments for the house, provided
13 general upkeep, paid bills for the property and we generally treated the property like it was our home.
14 There were never any discussions between Chari and I, where she mentioned that the property was
15 only hers, we treated the property much like any other couple would when they get married and one
16 spouse already has a personal residence; we believed it was both ours.

17 4. We continued to both maintain the property and later on June 23, 2011, my Chari and
18 I executed the Trust documents, in conjunction with our respective wills and powers of attorneys. A
19 true and correct copy of the trust is attached herein as Exhibit 2.

20 5. Because we treated the property as equally ours, we transferred the property into the
21 Trust by Quitclaim Deed filed on June 30, 2011. A true and correct copy of the Quitclaim Deed is
22 attached herein as Exhibit 3.

23 6. After the property was transferred to the Trust, approximately six months later on
24 December 19, 2011 I filed for divorce with Chari. Even though there was tension between us, Chari
25 or I never considered transferring the property to another party. The case was dismissed as we chose
26 to remain husband and wife. Docket report for Paul Valer Colman v. Chari Ann Colman, Clark County
27 District Court, Family Division, Case No. D-11-456480, attached herein as Exhibit 4.

28 7. Following this time, we continued to live together, supporting each other and together
 maintaining the marital residence and property.

1 8. Several years later on August 29, 2017, Chari and I filed a joint petition for divorce.
2 See Exhibit 5 to the Petition. In that Joint Petition we did not include the property as an asset or
3 community property because it had already been placed in our Trust. Even though we were going to
4 be divorced we still considered it property of the trust, which we were both the primary beneficiaries.
5 We obtained a divorced solely for the purposes of my wife obtaining affordable medical care.

6 9. A Decree of Divorce was later entered on September 28, 2017. Even after that time we
7 still continued to live in the property together that had been placed in our Trust. Yet even though we
8 were divorced, there were no discussions that we were going to quitclaim deed the property back to
9 Chari alone, to both of us individually, etc.

10 10. It was our desire to have the property remain in the trust. This was done primarily
11 because we did not want to deal with the uncertainties in transferring the property if something should
12 happen to one of us. Tragically, an event that we had planned for, but did not anticipate coming so
13 soon occurred when Chari passed away on October 18, 2017.

14 12. The document attached to this Objection as Exhibit 2 is a true and correct copy of the
15 Trust instrument that is the subject of this litigation

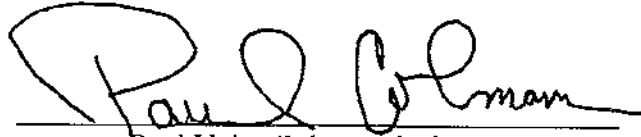
16 13. The Document attached to this Objection as Exhibit 3 is a true and correct copy of the
17 quitclaim deed the deceased, ms. Coleman executed to place the subject real property in the trust
18 established by Exhibit 2.

19 14. The document attached to this Objection as Exhibit 4 is a true and correct copy of the
20 register of actions in my divorce action from Ms. Coleman, now deceased.

21 15. I am above the age of 18 and have personal knowledge of the facts set forth in this
22 declaration, except those matters set forth on information and belief, and as to those matters, I believe
23 them to be true. If called to testify about the contents of this declaration, I could and would provide
24 competent testimony as to its contents.
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1 I declare under penalty of perjury of the laws of the State of Nevada that the foregoing is
2 true and correct.

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4 Dated this 17 day of November 2017.

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7 Paul Valer Colman, declarant

8 N.R.S. §53.045
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EXHIBIT 2

CASSADY LAW OFFICES
(702) 650-4480 • (702) 650-5561 FAX

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HENDERSON;
2425 W. HORIZON RIDGE PKWY
HENDERSON, NEVADA 89052

SUMMERLIN;
7201 W. LAKE MEAD, SUITE 500
LAS VEGAS, NEVADA 89128

*The Colman Family
Revocable Living Trust*

dated

June 23, 2011

Prepared by:
CASSADY LAW OFFICES, P.C.
(702) 650-4480

THE COLMAN FAMILY
REVOCABLE LIVING TRUST

THIS TRUST AGREEMENT is made this June 23, 2011, by and between Paul Valer Colman and Chari Ann Colman, residents of Clark County, Nevada, as Grantors (hereinafter sometimes referred to as "Grantors"), and Paul Valer Colman and Chari Ann Colman, as Trustees (hereinafter referred to sometimes as "Original Trustees"). All prior Trusts predating this Trust are hereafter revoked absolutely.

ARTICLE I

1.1 Trust Name.

This Trust shall be known and officially referred to as "The Colman Family Revocable Living Trust of June 23, 2011."

1.2 Grantors' Intent.

It is the intent of the Grantors that the property listed in Schedule "A," which is incorporated herein by reference, be presently assigned, transferred, and conveyed to the Trustees for the purposes of establishing a Revocable Living Trust. By signing below, the Trustees acknowledge and confirm receipt of said property for the Trust. The property of Schedule "A" shall be held in Trust for the uses and purposes and on the terms and conditions set forth herein. The Grantors attest to the fact that this property is owned outright by the Grantors and not subject to any equitable or real interest by any other party and agree to indemnify the Trust if any challenges of ownership of the property are raised by any other person or entity.

ARTICLE II

2.1 Trustee Selection.

The Original Trustees named above have agreed, for consideration, to act as the Trustees of this Trust. As such, the Trustees shall have the unrestricted rights as defined in this Agreement to act with the Trust property in any manner deemed in the Trustees' sole discretion to be in the best interest of the Trust or Beneficiaries for as long as said Trustees are living, desire to act as Trustees or are competent to act as Trustees.

A. Trustee Right of Resignation. Any Original Trustee shall have the unlimited right to resign as Trustee. Any Successor Trustee may only resign after meeting the following conditions:

- (1) The Successor Trustee cannot abandon the Trust at a time in which the rights of the Trust would be significantly damaged if immediate action was not taken by a Trustee;
- (2) The Successor Trustee must give all Beneficiaries and any surviving Grantor

sixty (60) days written notice, mailed to the last known addresses of the named Beneficiaries and/or Grantor, by Certified Mail, Return Receipt Requested; and

- (3) The Successor Trustee must arrange for a final accounting.

B. Annual Reporting of the Successor Trustee. The Successor Trustee agrees to make an annual written report to the Grantors and Beneficiaries detailing the state of the property in the Trust, listing the assets and investments of the Trust, describing the character of the investments made by the Trustee, and listing the expenses incurred and disbursements made by the Trust throughout the prior year. While alive, annual tax statements of the Grantor(s) will suffice for this purpose if it is based upon the appropriate records.

C. Trustees' Absolute Discretion. After conducting due diligence and making a full survey of the opportunities and circumstances of any matter affecting the Trust, the Trustees shall have full and absolute discretion to act with the Trust property and to make or not make disbursements to beneficiaries. There is no requirement that any consent be obtained from any person, entity or court prior to making a final decision as to any matter relating to the Trust. The Trustees may act in such a manner as to benefit another entity, organization or individual that might have concurring interests in the decision being made by the Trustees without breaching their duties to this Trust as long as the decision does not breach a Trustee's fiduciary duty owed to the Trust and Beneficiaries.

D. Trustee Bond. No Court shall require a bond of any Trustee or Successor Trustee and no bond shall be required of any Trustee or Successor Trustee, unless a Successor Trustee is named by the court and is not expressly identified by name in this trust, in which case the court may require a bond at its discretion.

E. Trustee's Concurrent Duties. A Trustee may serve as both Trustee of this Trust and Guardian of any of the Beneficiaries named within this Trust without creating any conflict to the Trust or any other Beneficiary.

F. Trustee Reimbursement and Compensation. A Trustee shall be entitled to just and reasonable compensation for the services performed for the Trust. The Compensation cannot exceed the reasonable amount that can be charged by bank and trust companies for performing like services. A Trustee is also entitled to full reimbursement for all costs that he or she has incurred in managing, investing and governing the Trust.

2.2 Trustee's Confirmation of Property Receipt

The property of this trust as granted and transferred to the Trust by the Grantors is contained within Schedule "A." The Trustees confirm that they are in physical or constructive receipt of these items and agree to manage, control, govern and guide the Trust Property under the express and implied terms of this Agreement.

2.3 Successor Trustee Appointment.

Upon the death or incompetency of one of the Original Trustees, the surviving Original Trustee shall have all authority to act as Trustee. Upon the death or incompetency of both Original Trustees, a Successor Trustee shall serve as Trustee and shall serve with all authority and power as found in the Original Trustees to the extent allowed under the provisions contained within this Trust Agreement.

The Successor Trustee of this Trust shall be WELLS FARGO, N.A.

If none of these persons are willing and able to serve as Successor Trustee, any beneficiary under this Trust may petition the District Court Judge of Clark County who is responsible for probate matters to appoint a Successor Trustee. A Trustee shall serve until all of the assets of the estate are either distributed as contained herein or depleted by liabilities of the Trust.

A. Limited Liability of Successor Trustee. A Successor Trustee is not liable for the affirmative acts or omissions of a prior Trustee or Trustees and shall be indemnified by the Trust to the extent that the person or entity has been held financially responsible for any of the acts or omissions of any prior Trustees. Further, the Successor Trustee has no duty to make any accounting of any prior dealings of any prior Trustee; however, if a written request is submitted by the majority of the Beneficiaries or their representatives to conduct an audit on the Trust upon the appointment of the person or entity, or ninety (90) days thereafter, the Successor Trustee shall submit the Trust financial books to an independent Certified Public Accountant or qualified Attorney for the purposes of obtaining a certified accounting of the prior Trustee's activities. The expense of this audit shall be charged to the beneficiaries requesting such an audit, unless it can be shown to the Successor Trustee that there existed reasonable grounds upon which to base such a request. If no request is made, and no accounting is conducted, the Successor Trustee is not liable for relying upon the prior representations of the Prior Trustee and is not liable to any beneficiary or any other person having either a direct or indirect interest in the Trust.

B. Transfer and Acceptance of Trustee Duties. If the transfer of the Trustee position occurs at a time wherein the Original or prior Trustees are competent to transfer the powers and duties of the office of Trustee to another in writing, then the prior Trustee shall make a formal writing wherein he or she requests the Successor Trustee to accept the position of Trustee and wherein the Successor accepts the Trustee powers as described herein. The original of that document shall be joined with an original of this Trust Agreement which should be in a place of safekeeping, one copy shall be given to any Grantor then living, and one copy shall be given to the new Trustee. The signatures of this writing shall be notarized and witnessed by two witnesses.

2.4 Majority vote of Multiple Trustees.

If for any reason more than one Trustee is appointed, a majority of the vote of the Trustee shall be binding upon the Trust. If there are only two Trustees and a deadlock occurs, the next Successor Trustee shall cast the deciding vote. If the Successor Trustee is unable or unwilling to

assist, then the District Court Judge of Clark County, Nevada who is responsible for probate matters shall be petitioned to decide the matter after hearing all of the facts relating to the decision. If a Judge must be used to break this deadlock, then the Judge shall have the authority to appoint an Attorney of Record that shall act as a tie breaking vote for all future voting deadlocks.

ARTICLE III

3.1 Limits to Trustee Powers.

A Trustee is limited in the exercising of his or her powers in that the Trustee must protect the Trust from the demands of Beneficiaries and the Grantors and may not exchange, purchase or otherwise deal with the Trust Property in any transaction or event involving the Beneficiaries or Grantors without receiving reasonable consideration for the value of the property. Further, the Trustee is limited in that he or she may not allow any encumbrances upon the Trust Property for the benefit of the Grantors without receiving adequate and reasonable security and interest. Substituting like-kind property is prohibited unless the property is of equal value. In this regard, the Trustee is not liable to the Beneficiaries or Grantors for refusing to act against the express limitations of this Trust unless the Trustee has acted with gross negligence or malicious intent.

3.2 Trustee's Enumerated Powers.

A Trustee is authorized and empowered to manage, care for, improve, protect, control, deal with, sell and otherwise dispose of the trust estate or any part of it, in his or her absolute discretion, in any and every way in which any responsible and prudent owner could manage, care for, improve, protect, control, deal with and otherwise dispose of the same. In acting as a fiduciary capacity, the Trustee may exercise the following express and enumerated powers:

- A. To register any securities or other property held hereunder in the name of Trustee or in the name of a nominee, with or without the addition of words indicating that such securities or other property are held in a fiduciary capacity, and to hold in bearer form any securities or other property held hereunder so that title thereto will pass by delivery, but the books and records of Trustee shall show that all such investments are part of their respective funds.
- B. To hold, manage, invest and account for the separate Trusts in one or more consolidated funds, in whole or in part, as he or she may determine. As to each consolidated fund, the division into the various shares comprising such fund need be made only upon Trustee's books of account.
- 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, mortgage, pledge or lease Trust assets for whatever period of time the Trustee shall determine, even beyond the expected term of the respective Trust.

- E. To hold and retain any property, real or personal, in the form in which the same may be at the time of the receipt thereof, as long as in the exercise of their discretion it may be advisable so to do, notwithstanding same may not be of a character authorized by law for investment of Trust funds.
- F. To invest and reinvest in his or her absolute discretion, and he or she shall not be restricted in his or her choice of investments to such investments as are permissible for fiduciaries under any present or future applicable law, notwithstanding that the same may constitute an interest in a partnership.
- G. To advance funds to any of the Trusts for any Trust purpose. The interest rate imposed for such advances shall not exceed the current rates.
- H. To institute, compromise, and defend any legal actions and proceedings.
- I. To vote, in person or by proxy, at corporate meetings any shares of stock in any Trust created herein, and to participate in or consent to any voting Trust, reorganization, dissolution, liquidation, merger, or other action affecting any such shares of stock or any corporation which has issued such shares of stock.
- J. To partition, allot, and distribute, in undivided interest or in kind, or partly in money and partly in kind, and to sell such property as the Trustee may deem necessary to make division or partial or final distribution of any of the Trusts.
- K. To determine what is principal or income of the Trusts and apportion and allocate receipts and expenses as between these accounts.
- L. To make payments hereunder directly to any beneficiary under disability, to the guardian of his or her person or estate, to any other person deemed suitable by the Trustee, or by direct payment of such beneficiary's expenses.
- M. To employ agents, attorneys, brokers, and other employees, individual or corporate, and to pay them reasonable compensation, which shall be deemed part of the expenses of the Trusts and powers hereunder.
- N. To accept additions of property to the Trusts, whether made by a Grantor, a member of a Grantor's family, by any beneficiaries hereunder, or by any one interested in such beneficiaries.
- O. To hold on deposit or to deposit any funds of any Trust created herein, whether part of the original Trust fund or received thereafter, in one or more savings and loan associations, bank or other financing institution and in such form of account, whether or not interest bearing, as Trustee may determine, without regard to the amount of

any such deposit or to whether or not it would otherwise be a suitable investment for funds of a trust.

- P. To open and maintain safety deposit boxes in the name of this Trust.
- Q. To make distributions to any Trust or beneficiary hereunder in cash or in specific property, real or personal, or an undivided interest therein, or partly in cash and partly in such property, and to do so without regard to the income tax basis of specific property so distributed. The Grantor requests but does not direct, that the Trustee make distributions in a manner which will result in maximizing the aggregate increase in income tax basis of assets of the estate on account of federal and state estate, inheritance and succession taxes attributable to appreciation of such assets.
- R. The powers enumerated in NRS 163.265 to NRS 163.410, inclusive, are hereby incorporated herein to the extent they do not conflict with any other provisions of this instrument.
- S. The enumeration of certain powers of the Trustee shall not limit his or her general powers, subject always to the discharge of his fiduciary obligations, and being vested with and having all the rights, powers, and privileges which an absolute owner of the same property would have.
- T. The Trustee shall have the power to invest Trust assets in securities of every kind, including debt and equity securities, to buy and sell securities, to write covered securities options on recognized options exchanges, to buy back covered securities options listed on such exchanges, to buy and sell listed securities options, individually and in combination, employing recognized investment techniques such as, but not limited to, spreads, straddles, and other documents, including margin and option agreements which may be required by securities brokerage firms in connection with the opening of accounts in which such option transactions will be effected.
- U. In regard to the operation of any closely held business of the Trust, the Trustee shall have the following powers:
 - 1. The power to retain and continue the business engaged in by the Trust or to recapitalize, liquidate or sell the same.
 - 2. The power to direct, control, supervise, manage, or participate in the operation of the business and to determine the manner and degree of the fiduciary's active participation in the management of the business and to that end to delegate all or any part of the power to supervise, manage or operate the business to such person or persons as the fiduciary may select, including any individual who may be a beneficiary or Trustee hereunder.

3. The power to engage, compensate and discharge, or as a stockholder owning the stock of the Corporation, to vote for the engagement, compensation and discharge of such managers, employees, agents, attorneys, accountants, consultants or other representatives, including anyone who may be a beneficiary or Trustee hereunder.
4. The power to become or continue to be an officer, director or employee of a Corporation and to be paid reasonable compensation from such Corporation as such officer, director and employee, in addition to any compensation otherwise allowed by law.
5. The power to invest or employ in such business such other assets of the Trust estate.

ARTICLE IV

4.1 Primary Beneficiaries

The Primary Beneficiaries of this Trust shall be Paul Vater Colman and Chari Ann Colman during their lifetimes. The Primary Beneficiaries of this trust shall be entitled to all benefits of this Trust until their deaths.

ARTICLE V

5.1 Distribution of Assets During the Lifetime of the Primary Beneficiaries

Until the deaths of the Primary Beneficiaries, the net income and principal from the Trust shall be distributed to the Primary Beneficiaries as is necessary, in the sole discretion of the Trustee or Trustees, for the support, happiness and health needs of the Primary Beneficiaries. The Trustee(s) may also make distributions to other named beneficiaries within this Trust at the sole discretion of the Trustee(s), but no distribution shall be made to any other beneficiary under this Trust if the Primary Beneficiaries are in want or need of any of the income or principal of this Trust. The Trustee has full discretion to withhold all income and principal if such is in the best interest of any of the Beneficiaries.

5.2 Distribution of Assets Upon Death of Grantors

Upon the death of the last Grantor of this Trust, the trust estate shall be distributed as follows. The Trustee shall distribute the real property located at 5988 Turtle River, Las Vegas, Nevada to TONYA COLLIER. The real property in South Dakota shall be sold to ROBERT BOOTH of Ridgview, South Dakota and DANIEL BOOTH, JR. of Timber Lake, South Dakota. The rest, residue and remainder of the estate shall be distributed to JESSICA DIANE COLMAN, pursuant to Article VI herein


Initials


Initials

5.3 Full Safe Provision.

In the event that the principal of the Trust administered under this Article is not disposed of under the foregoing provisions, the remainder of the Trust, if any, shall be distributed free of Trust to the heirs at law of Paul Valer Colman and Chari Ann Colman, their identities and shares to be determined according to the Intestacy laws of the State of Nevada then in effect. The estate shall be divided in two equal halves and one-half shall be given to the lawful heirs of each Grantor. If either Grantor shall die without any heirs at law according to the laws of the State of Nevada then in effect, the entire corpus of the trust shall be distributed to the heirs at law of the other Grantor.

5.4 No Contest Provision

The Grantors specifically desire that this Trust be administered as set forth herein without litigation or dispute of any kind. To that end, if any beneficiary hereunder, any person on behalf of any beneficiary, any heir or other successor-in-interest of any beneficiary, or any other person, seeks to establish or assert any claim to the assets of this Trust, or attack, oppose or seek to set aside the administration or any distribution of this Trust, have this Trust declared null, void or diminished, or to defeat or change any part of the provisions of this Trust, such beneficiary, heir or other person shall receive, free of trust, one dollar (\$1.00) and no more lien of any claimed interest in this Trust or its assets.

ARTICLE VI

6.1. Distribution to Minors.

If at the time of any distributions under this Trust, any of the beneficiaries or persons who are entitled to distribution under this Trust are under the age of thirty-five (35), then the Trustee shall hold the funds in trust and shall have sole and exclusive discretion to distribute the property from the Trust for the education, health, welfare and maintenance of any such beneficiary until they reach the age of thirty-five, at which time an absolute distribution shall be made to the beneficiary.

ARTICLE VII

7.1. Incompetency of Beneficiaries.

If a beneficiary is declared judicially incompetent, is a ward of any state, or is in the Trustee's determination unable to manage either the estate or his or her person, or both, the Trustee may pay to any appointed guardian, other entity or person responsible for the care of said beneficiary, the net income or any part of the principal of the Trust estate to which the beneficiary would be entitled, in such a manner as is in the best interest of the beneficiary, as the Trustee deems reasonable and appropriate under the circumstances. If said distribution would disqualify said beneficiary from public assistance, these funds may be used as necessary by the Trustee in such a way and means so as to avoid the loss of such public assistance at the Trustee's sole discretion and according to the law and rules of such public assistance. Where no funds can reasonably be distributed in such a manner as to not cause the public assistance to fail or be lost, then the funds dedicated to such beneficiary shall be directed in equal shares to the other beneficiaries for distribution.

7.2 Preferred Guardians

The name of a preferred guardians for the Grantors shall be identified in their respective Last Will and Testaments.

ARTICLE VIII

8.1 Distributions in Kind.

When distributions are required under this Trust, a Trustee is authorized to make distributions of the Trust estate in kind, or partly in cash and partly in kind, or by arranging and transferring or assigning an undivided interest. The Trustee's discretion and exercise of this authority is absolute and binding upon all beneficiaries and all other interested parties.

ARTICLE IX

9.1 Revocability of Trust.

This trust is absolutely revocable with the consent of both Grantors, and the Grantors may at their discretion make demands upon the Trustees to return all of the Grantors' former property that is now property of the estate to the Grantors. The Grantors are not entitled, however, to other property put into the Trust by other persons or entities without a written agreement from the Trustee. If such property is transferred to the Grantors, then the transfer will be deemed a gift from the Trust to the Grantors. Where such property had a prior ownership status, such as community property or joint tenancy, then the release of said property outside of the Trust shall return the property to its prior condition.

ARTICLE X

10.1 Additional Properties.

The type, kind or proportion of property of this Trust shall not be limited by the Trustee in any way. The Grantor, and any other person willing or able, may transfer, devise, bequeath, give, convey or donate any personal or real property into the Trust by an inter vivos act or by will, as long as there are no restrictions or conditions as to the use of the property placed upon the Trustee and as long as the property becomes fully subject to the terms and conditions of the Trust. Property additions to this Trust must be acknowledged and received by the Trustee by a writing or by a transfer of title of the Property into the Trustee's name.

ARTICLE XI

11.1 Modifications and Additions to the Trust.

Modifications to this trust may occur only where all surviving Grantors or their respective agents expressly agree by way of written amendment executed in a similar fashion as this Trust and signed by the Grantors, their agents and the Trustee(s). Additional property may be accepted by the Trustee(s) at a later time. Property subject to this instrument is referred to as the "Trust estate."

11.2 Calendar Year.

The Trust shall be on a calendar year, ending December 31st of each year, for trust, tax and accounting purposes.

ARTICLE XII

12.1 Applicable Law.

The validity, construction and effect of this agreement and of the trust created hereunder and its enforcement shall be determined by the laws and courts of the State of Nevada.

12.2 Perpetuities Savings Clause.

Unless sooner terminated as otherwise provided in this agreement, this trust and any other trust created directly or indirectly by this trust shall fully cease and completely terminate twenty-one (21) years after the death of the last survivor of the Grantor, and all children of the Grantor living or conceived as of the date of this agreement. Upon such termination, the entire principal of the trust estate of each said trust, together with any undistributed income therefrom, shall vest in and be distributed to the persons entitled to take under the provisions of the respective trust. If at the time of this termination the rights to income are not fixed by the terms of the Trust, distribution under this clause shall be made, by right of representation, to the persons who are then entitled or authorized, in the Trustee's discretion, to receive distributions from this Trust.

12.3 Integration of Agreement.

This document constitutes the full understanding and agreement between the Grantor and the Trustee. If any provision of this instrument is adjudged invalid or is unenforceable for any reason, the remaining provisions of this Trust shall be carried into effect and shall survive the striking of the respective term.

12.4 Terms.

Whenever the terms "child", "children", "descendants" or "issue" are used in this Trust, the terms shall include legally adopted children. The term "Issue" shall include all lineal descendants. Whenever provision is made in this Trust Indenture for payment for the "education" of a beneficiary, the term "education" shall be construed to include technical schooling, college or post-graduate study, so long as pursued to advantage by the beneficiary at an institution of the beneficiary's choice and in determining payments to be made for such college or postgraduate education, the Trustee shall take into consideration the beneficiary's related living and traveling expenses to the extent that they are reasonable.

12.5 Spendthrift Provision.

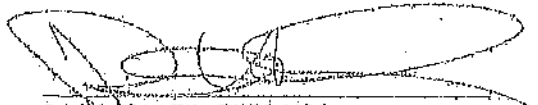
Each and every beneficiary under this Trust is hereby restrained from and shall be without right, power or authority to sell, transfer, assign, pledge, mortgage, hypothecate, alienate, anticipate, bequeath or devise or in any manner affect or impair his, or her, or their beneficial right, title, interest, claim and Estate in and to either the income or principal of any Trust created hereunder, or to any part thereof, during the entire term of said Trust; 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 be payable and deliverable to or for the benefit of only the before named and designated beneficiaries, at the time hereinbefore set out, and receipt by such beneficiaries shall relieve the Trustee from responsibility for such good faith distributions.

12.6 Court Instructions.

The Trustee may seek the assistance of the Courts in all matters affecting the administration of this Trust or its properties, including advice on the interpretation of the Trust or for settlement of any account by invoking the jurisdiction of any Nevada District Court (including quasi-in-rem jurisdiction) over the Trust, the Trustee, or the Trust res, in a non-adversarial *ex parte* proceeding. The decision of the Court shall be binding upon all interested parties who were given ten (10) day written notice by first class U.S. Mail of the proceedings. Notice must be given to the last known addresses of any interested party.

SIGNED AND SEALED by the Grantors and Trustees on this 23 day of June, 2011.

GRANTORS:


PAUL VALER COLMAN


CHARI ANN COLMAN

TRUSTEES:


PAUL VALER COLMAN


CHARI ANN COLMAN

SUBSCRIBED AND SWORN TO

before me this 23 day of June, 2011.


NOTARY PUBLIC



RALPH G. Goby
Notary Public
State of Nevada
Appt. No. 10-2602-1
My Appt. Expires July 27, 2014

2-1

Inst #: 201106300001350

Fees: \$14.00 N/C Fee: \$0.00

RPTT: \$0.00 Ex: #007

06/30/2011 09:00:30 AM

Receipt #: 829866

* Requestor:

CABBADY LAW (LEGAL WINGS)

Recorded By: DHO Pgs: 2

DEBBIE CONWAY

CLARK COUNTY RECORDER

APN: 140-15-317-012

Mail Tax Statements To:
When Recorded Mail To:

Paul Valer Colman and
Chari Ann Colman, Trustees
COLMAN FAMILY REVOCABLE
LIVING TRUST DATED JUNE 23, 2011
5988 Turtle River Avenue
Las Vegas, Nevada 89156

QUITCLAIM DEED

FOR A VALUABLE CONSIDERATION²², receipt of which is acknowledged,

Chari Ann Colman, who together with, Cheryl Hayes

does hereby RELEASE AND FOREVER QUITCLAIM to

Paul Valer Colman and Chari Ann Colman, as Trustees of
The Colman Family Revocable Living Trust Dated June 23, 2011

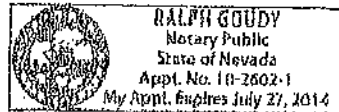
all the right, title and interest of the undersigned in and to real property located 5988 Turtle
River Avenue, Las Vegas, in the County of Clark, State of Nevada, and legally described as
follows:

Yorkshire Hgts-Phase 3 Plat Book 93 Page 30 Lot 374 Block 1
SEC 15 TWP 20 RNG 62

Chari Ann Colman
Chari Ann Colman

STATE OF NEVADA

COUNTY OF CLARK



210-2602-1 XP 7-27-14

On the 23rd day of June, 2011, personally appeared before me, a Notary Public in and for said
County and State, Chari Ann Colman, personally known (or proved) to me to be the person
whose name is subscribed to the above instrument who acknowledged that she executed the
instrument.

Ralph Goudy
NOTARY PUBLIC

2-1

Inet #: 201108300001358

Fees: \$14.00 N/C Fee: \$0.00

RPTT: \$0.00 Ex: #007

08/30/2011 09:06:30 AM

Receipt #: 820060

Requestor:

CABBADY LAW (LEGAL WINGS)

Recorded By: DHG Pgs: 2

DEBBIE CONWAY

CLARK COUNTY RECORDER

APN: 140-15-317-012

Mail Tax Statements To:
When Recorded Mail To:

Paul Vater Colman and
Chari Ann Colman, Trustees
COLMAN FAMILY REVOCABLE
LIVING TRUST DATED JUNE 23, 2011
5988 Turtle River Avenue
Las Vegas, Nevada 89156

QUITCLAIM DEED

FOR A VALUABLE CONSIDERATION²², receipt of which is acknowledged,

Chari Ann Colman, who together as, Chari Wayes

does hereby RELEASE AND FOREVER QUITCLAIM to

Paul Vater Colman and Chari Ann Colman, as Trustees of
The Colman Family Revocable Living Trust Dated June 23, 2011

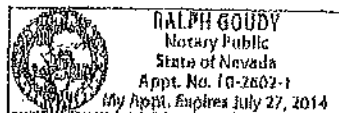
all the right, title and interest of the undersigned in and to real property located 5988 Turtle
River Avenue, Las Vegas, in the County of Clark, State of Nevada, and legally described as
follows:

Yorkshire Hgts-Phase 3 Plat Book 93 Page 38 Lot 378 Block 1
SEC 15 TWP 20 RNG 62

Chari Ann Colman
Chari Ann Colman

STATE OF NEVADA

COUNTY OF CLARK



510-2602-1 xp 7-27-14

On the 23rd day of June, 2011, personally appeared before me, a Notary Public in and for said
County and State, Chari Ann Colman, personally known (or proved) to me to be the person
whose name is subscribed to the above instrument who acknowledged that she executed the
instrument.

Ralph Goudy
NOTARY PUBLIC

EXHIBIT 3

2-1

Inst #: 201106300001350

Fees: \$14.00 N/C Fee: \$3.00

RPT: \$0.00 Ex: #007

08/30/2011 09:06:30 AM

Receipt #: 029000

Requestor:

CASBARY LAW (LEGAL WINGS)

Recorded By: DHQ Pgs: 2

DEBBIE CONWAY

CLARK COUNTY RECORDER

APN: 140-15-317-012

Mail Tax Statements To:
When Recorded Mail To:

Paul Vater Colman and
Chari Ann Colman, Trustees
COLMAN FAMILY REVOCABLE
LIVING TRUST DATED JUNE 23, 2011
5988 Turtle River Avenue
Las Vegas, Nevada 89156

QUITCLAIM DEED

FOR A VALUABLE CONSIDERATION²², receipt of which is acknowledged,

Chari Ann Colman, who took title as, Chari Hayes

does hereby RELEASE AND FOREVER QUITCLAIM to

Paul Vater Colman and Chari Ann Colman, as Trustees of
The Colman Family Revocable Living Trust Dated June 23, 2011

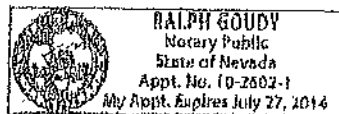
all the right, title and interest of the undersigned in and to real property located 5988 Turtle
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Yorkshire Hgts-Phase 3 Plat Book 93 Page 30 Lot 374 Block 1
SEC 15 TWP 20 RNG 62

Chari Ann Colman
Chari Ann Colman

STATE OF NEVADA

COUNTY OF CLARK

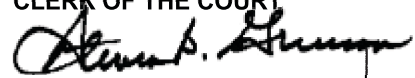


510-2602-1 exp 7-27-14

On the 23rd day of June, 2011, personally appeared before me, a Notary Public in and for said
County and State, Chari Ann Colman, personally known (or proved) to me to be the person
whose name is subscribed to the above instrument who acknowledged that she executed the
instrument.

Ralph Goudy
NOTARY PUBLIC

EXHIBIT 4



RIS
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
Phone: (702) 255-4552
Fax: (702) 255-4677
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,

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

A Non-Testamentary Trust.

**REPLY IN SUPPORT OF PETITION TO ASSUME JURISDICTION OF TRUST, AND FOR CONFIRMATION OF
BENEFICIARY OF REAL PROPERTY**

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

Tonya Collier (the "Petitioner"), as beneficiary of the Colman Family Revocable Living Trust, dated June 23, 2011 (the "Trust"), submits her reply in support of her Petition to Assume Jurisdiction of Trust, and for Confirmation of Beneficiary of Real Property (the "Petition"), and responds to Paul Colman's ("Mr. Colman") 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 (the "Objection"). The Petitioner's reply is supported by the memorandum of points and authorities provided below, as well as the papers and pleadings on file with the Court, and any oral argument the Court may entertain at the upcoming hearing.

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

1. The undisputed facts of this matter confirm Mr. Colman has no interest in the real property located at 5988 Turtle River Avenue, Las Vegas, NV 89156, APN 140-15-317-012 (the “Real Property”). As a result of his divorce from Chari Ann Colman (“Chari”), Nevada statutory law revokes any beneficial interest Mr. Colman may have previously held to the Real Property. Mr. Colman’s Objection provides no evidence to the contrary. Instead, Mr. Colman’s Objection is riddled with red herring arguments that have no real effect on the Trust or the application of NRS 111.781. Such arguments should be ignored, Nevada statutory law should be applied, and Mr. Colman should be declared to have no interest in the Real Property.

II. UNDISPUTED FACTS

2. The following facts are undisputed and pertinent to a determination of the interest to the Real Property.

3. Chari owned the Real Property as her separate property. She purchased it prior to marrying Mr. Colman and took title as a “single woman.” In his declaration, Mr. Colman acknowledges the Real Property was Chari’s alone when he declared “we decided to live at Chari’s house.” *See* Mr. Colman’s Declaration at ¶ 2. Importantly, Mr. Colman affirms the Real Property is not community property. Both the Joint Petition for Summary Decree of Divorce and the Decree of Divorce evidence Chari and Mr. Colman have no community property. The Joint Petition for Summary Decree of Divorce was verified by Mr. Colman under penalties of perjury.

4. There is no mortgage on the Real Property. Chari purchased the Real Property without financing, and owned it free and clear. No mortgage has been shown to exist, and Mr. Colman makes no claims to payment of a mortgage.

5. Chari never executed a transmutation agreement changing the character of the Real Property from separate property to community property.

6. 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.

7. At all relevant times, the Trust was a revocable trust.

8. The Trust includes no provision transmuting contributed assets from separate property into community property.

9. Chari and Mr. Colman were divorced on September 28, 2017.

III. TRANSMUTATION OF SEPARATE PROPERTY MUST BE DELIBERATE

10. NRS 123.130(1) declares separate property to be, “[a]ll property of the wife owned by her before marriage.”

11. A spouse’s action must be unequivocal to transmute separate property; a party does not slip into a transmutation by accident. *See In re Marriage of Starkman*, 129 Cal. App. 4th 659, 664 (2005), as modified on denial of reh’g (June 15, 2005).

12. A spouse must expressly declare they are transmuting their separate property. “An ‘express declaration’ is a writing signed by the adversely affected spouse ‘which expressly states that the characterization or ownership of the property is being changed.’” *In re Marriage of Lafkas*, 237 Cal. App. 4th 921, 938 (2015), reh’g denied (July 1, 2015), review denied (Sept. 9, 2015), *citing Estate of MacDonald*, supra, 51 Cal.3d at p. 272. “The express declaration must unambiguously indicate a change in character or ownership of property.” *In re Marriage of Starkman*, 129 Cal. App. 4th 659, 664 (2005), as modified on denial of reh’g (June 15, 2005). “The writing must reflect a transmutation on its face, and must eliminate the need to consider other evidence in divining this intent.” *In re Marriage of Benson*, 36 Cal. 4th 1096, 1106 (2005).

13. Without an express declaration transmuting separate property, a community may acquire an interest in one spouse’s separate property if the community contributes to the purchase price of the property. “Where a portion of the purchase price of one spouse’s separate property is paid with community funds, the community acquires a *pro tanto* interest in the property to the extent and in the proportion that the purchase price is paid with community funds.” *Robison v. Robison*, 100 Nev. 668, 671 (1984).

1 However, the Nevada Supreme Court declared that the spouse must prove: (1) there is a purchase money
2 mortgage; and (2) the community made payments on the purchase money mortgage. *See Verheyden v.*
3 *Verheyden*, 104 Nev. 342, 344 (1988). If such elements cannot be shown, the community does not acquire
4 an interest in the spouse's separate property.

5 14. Likewise, a community may acquire an interest in separate property by contributing to
6 improvements of the property. However, in order to acquire such an interest, the community must prove
7 "these improvements increased the value of the house." *Id.* at 345 (1988). Importantly, expenditures
8 "merely for routine maintenance" do not grant an interest to the community. *Id.*

9 15. Finally, it is well settled law that without specific evidence to the contrary (i.e. an express
10 declaration), whenever a husband acquires possession of the separate property of his wife, he must be
11 deemed to hold it in trust for her benefit. *See Stickney v. Stickney*, 131 U.S. 227 (1889), *see also Title Ins.*
12 *& Tr. Co. v. Ingersoll*, 153 Cal. 1, 4 (1908).

13 **IV. CHARI DID NOT TRANSMUTE THE REAL PROPERTY**

14 16. Mr. Colman's subjective perception regarding ownership of the Real Property is irrelevant.
15 The Real Property can only be transmuted if Chari acted with specific intent to accomplish the same. Chari
16 cannot slip into a transmutation on accident (or by virtue of Mr. Colman's subjective beliefs), and there is
17 no evidence she unequivocally intended a transmutation. Mr. Colman may believe he treated the Real
18 Property as community property, but Chari did not.

19 17. Chari took no action to transmute the Real Property into community property; she never
20 executed an express declaration indicating she changed the characterization of the Real Property.
21 Transferring the Real Property to the Trust during the marriage does not automatically transmute it, as a
22 trust may hold both separate property and community property of the settlors. Without an express
23 declaration, Chari cannot accidentally transmute the Real Property by transferring it to the Trust. No such
24 express declaration exists. No transmutation occurred.

25 18. The Real Property had no purchase money mortgage. Chari paid the entire purchase price
26 prior to marrying Mr. Colman. Thus, neither the community, nor Mr. Colman individually, contributed to

1 the purchase price of the Real Property. The Real Property contains no material improvements that
2 increased the value of the home. Accordingly, no portion of the Real Property was transmuted into
3 community property.

4 19. If neither Mr. Colman nor the community contributed to the purchase price or to
5 improvements, then any payments made by Mr. Colman or the community were “merely for routine
6 maintenance.” Mr. Colman admits as much in his declaration when he states he and Chari provided general
7 upkeep and paid bills. *See* Mr. Colman’s Declaration at ¶ 3. This does not result in transmutation.

8 20. Mr. Colman has failed to produce any evidence showing the Real Property was transmuted;
9 he simply assumes it was. However, transmutation cannot be inadvertent. By its very nature, Mr. Colman’s
10 assumption requires inadvertent transmutation because there is no express evidence on which to rely. Mr.
11 Colman’s assumption must fail.

12 21. Because the Real Property was not transmuted, it was Chari’s separate property as held in
13 the Trust. Any control Mr. Colman obtained over the Real Property was simply in the capacity as trustee,
14 which is a fiduciary role, not a not a beneficiary role, as declared by the US Supreme Court.

15 22. The Trust (prior to the divorce) disposed of the Trust property—including the Real
16 Property—to Chari and Mr. Colman. The Trust was revocable, thus making such disposition revocable.
17 Upon their divorce on September 28, 2017, NRS 111.781 revoked any revocable disposition of Chari’s
18 property to Mr. Colman. Specifically, disposition of the Real Property to Mr. Colman was revoked.

19 23. To be clear, revocation of dispositions to Mr. Colman does not invalidate the entire Trust;
20 the Trust is still valid and in effect. But, Chari’s separate property in the Trust must be disposed of as if
21 Mr. Colman predeceased Chari. Thus, regarding the Real Property, Article 5.1 is completely fulfilled upon
22 Chari’s death; there is no continuing interest for Mr. Colman (such disposition is revoked).

23 24. Chari’s death triggers application of Article 5.2, which specifically states, “The Trustee
24 shall distribute the real property located at 5988 Turtle River, Las Vegas, Nevada to TONY A COLLIER.”
25 Thus, the Petitioner, and not Mr. Colman, is the rightful beneficiary of the Real Property.

26 ///

V. THE PETITIONER HAS STANDING

25. NRS 132.390(1)(a) states an individual is an interested person “if the person has or claims to have an enforceable right or interest that may be materially affected by the outcome of that proceeding.” Additionally, NRS 132.390(1)(c)(5) clarifies “a current beneficiary or a remainder beneficiary” are interested persons. The Petitioner claims an enforceable interest in the Trust (i.e. distribution of the Real Property to her). Additionally, the Petitioner is at least a remainder beneficiary¹. Accordingly, the Petitioner has standing to bring her claim. Thus, the Petitioner’s standing is not an impediment for this Court to take jurisdiction of the Trust.

VI. NRS 111.781 IS APPLICABLE

26. Mr. Colman has not been candid, and misleads the Court by citing *Redd v. Brooke*, 96 Nev. 9, 604 P.2d 360 (1980) and arguing a divorce decree requires explicit language to divest a former spouse of his interests as a designated beneficiary.

27. NRS 111.781 was passed in 2011 and specifically superseded *Redd v. Brooke*. In fact, *John Hancock Life Ins. Co. (U.S.A.) v. Jacobs*, No. 2:13-CV-00557-APG, 2015 WL 3903598, at *2 (D. Nev. June 25, 2015) explicitly addresses *Redd v. Brooke* and declares that NRS 111.781 reverses its holding.

VII. THE TRUST IS VALID; MR. COLMAN’S INTEREST IS NOT

28. Mr. Colman misunderstands the effect of NRS 111.781. The divorce does not invalidate the Trust, it simply revokes Mr. Colman’s interest in Chari’s separate property of the Trust. The Trust is valid. When disposing of Chari’s separate property of the Trust, it must be read as if Mr. Colman predeceased Chari. Thus, the Petitioner’s interest, as a beneficiary of the Trust, does not fail.

29. Assuming the Real Property was transmuted into community property (which it was not), Mr. Colman can, at best, only hold a 50% interest in the Real Property. NRS 123.250(b)(1) states that upon the death of a spouse, one-half of the interest in the community property is “subject to the testamentary disposition of the decedent.” Thus, Chari’s one-half interest in the community property

¹ The Petitioner claims her interest as a remainder beneficiary is now a present interest because Chari has died, and Mr. Colman’s interest has been revoked.

1 would be subject to the terms of Article 5.2 (i.e. distribution to the Petitioner) because NRS 111.781 still
2 revokes the disposition of Chari's interest in the Real Property to Mr. Colman. Thus, the Petitioner would
3 be entitled to a 50/50 split of the Real Property with Mr. Colman.

4 **VIII. THE PETITIONER IS NOT CONTESTING THE TRUST**

5 30. The Petitioner has not contested the validity of the Trust. Thus, Mr. Colman's arguments
6 regarding contests and the necessity of a good faith basis is a red herring.

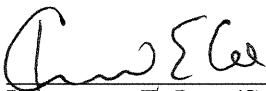
7 **IX. THE PETITIONER IS NOT A DISCRETIONARY BENEFICIARY**

8 31. The Petitioner does not possess discretionary rights in the Trust. Thus, Mr. Colman's
9 arguments regarding the Petitioner as a discretionary beneficiary is a red herring.

10 **X. CONCLUSION**

11 32. Based on the above, the Petitioner respectfully requests the Court enter an order: (1)
12 assuming jurisdiction over the Trust as a proceeding *in rem*; (2) declaring that all gifts to Mr. Colman of
13 Chari's property were revoked pursuant to NRS 111.781; (3) declaring Tonya Collier as the beneficiary
14 of the Trust real property located at 5988 Turtle River Avenue, Las Vegas, NV 89156, APN 140-15-317-
15 012; and (4) directing the Real Property be distributed to Tonya Collier.

16
17 Respectfully submitted by:

18 

19 KENNEDY E. LEE (State Bar No. 12429)
20 DANIEL P. KIEFER (State Bar No. 12419)
21 Attorneys for Tonya Collier

DEC 12 2017

Date

FILED

MAR 22 2019

Alison L. Quinn
CLERK OF COURT

1 TRANS

2
3
4 ORIGINAL

5 EIGHTH JUDICIAL DISTRICT COURT

6 FAMILY DIVISION

7 CLARK COUNTY, NEVADA

8
9 In the Matter of) CASE NO. P-17-093518-T
10 the Trust of:) DEPT. PROBATE
11 COLMAN FAMILY) APPEAL NO. 76950
12 REVOCABLE LIVING TRUST.)
_____)

13 BEFORE WESLEY YAMASHITA, PROBATE COMMISSIONER

14 TRANSCRIPT RE: PETITION - HM

15 FRIDAY, DECEMBER 15, 2017

16
17
18 APPEARANCES:

19 Petitioner: TONYA COLLIER
20 For the Petitioner: DANIEL P. KIEFER, ESQ.
21 1707 village Center Circle
Suite 150
Las Vegas, Nevada 89134
22 The Trust: COLMAN FAMILY
REVOCABLE LIVING TRUST
23 The Real Party in Interest: Paul Colman
For the Trust and
24 The Real Party in Interest: SCOTT B. OLIFANT, ESQ.
1614 S. Maryland Pkwy.
25 Las Vegas, Nevada 89104

1 LAS VEGAS, NEVADA

FRIDAY, DECEMBER 15, 2017

2 P R O C E E D I N G S

3 (THE PROCEEDING BEGAN AT 10:39:31.)

4 THE COURT: Let's make appearances, please.

5 MR. KIEFER: Good morning, Your Honor. Daniel Kiefer,
6 Bar Number 12419, on behalf of petitioner, Tonya Collier.

7 MR. OLIFANT: Good morning, Your Honor. Scott Olifant on
8 behalf of the estate and Mr. Colman, who's the real party...

9 THE COURT: Okay.

10 MR. OLIFANT: ...in interest.

11 THE COURT: Now we have a petition here with regard to
12 the application of NRS 111, which was put into play to mirror
13 that which was been in -- in effect with regard to estates,
14 which says that if someone has designated a spouse under their
15 will, then a divorce evokes any said provisions in favor of
16 that person. Okay? We made this effective to cover the same
17 scenario and circumstances the -- because of the same
18 reasoning to apply to trusts under 111.781. I think we did
19 that in like 2009.

20 MR. KIEFER: I think it was '11, Your Honor.

21 THE COURT: '11. Okay.

22 MR. OLIFANT: It became effective October of 2011, Your
23 Honor.

24 THE COURT: Right. And -- and -- and that one has been
25 in effect since that point in time. And the point in fact is

1 it was essentially treated that way. So it codified the way
2 things have always been treated anyway.

3 And -- and so what we have here is property that was
4 separate property placed in the trust. And I do not see
5 anywhere within the trust or any kind of transferring thing
6 that says -- well, in fact, the trust says that, that which is
7 put into -- property which is put into the said trust retains
8 its character throughout the term of the trust. So that it is
9 effectively and has been the separate property of -- is it
10 Chari or Chari? How do you pronounce it?

11 MR. KIEFER: I believe it's Chari.

12 THE COURT: Chari.

13 MR. KIEFER: But I could be mistaken.

14 MR. OLIFANT: Chari.

15 THE COURT: Chari.

16 MR. KIEFER: I apologize.

17 THE COURT: Okay. It was her separate property. And as
18 such, placed within the trust, it still retained it's
19 character and nature as separate property.

20 MR. KIEFER: And, Your Honor, and if I may add, there's
21 also a court order on the divorce decree which adopts the
22 petition, which was verified, saying there's no community
23 property. So we have another court de- declaring that there's
24 no community property.

25 THE COURT: I mean, we don't need to go that far.

1 Because in order to change anything from said separate
2 property, there must be an active transmutation. It doesn't
3 say just because we treat it this way, just because we thought
4 it was this way. There must be something, usually by way of a
5 postnuptial, prenuptial, antenuptial, some kind of a
6 definitive statement. And I've seen nothing that shows
7 anywhere where it could ever have been shown or has never been
8 shown to be transmuted in any way, shape or form into
9 community property.

10 MR. OLIFANT: May I be heard?

11 THE COURT: I mean, well, my question is, do you have
12 anything?

13 MR. OLIFANT: Well, Your Honor -- Your Honor, we have --
14 we have course of conduct. We have the fact that...

15 THE COURT: Again, conduct doesn't do it. Conduct does
16 not do it.

17 MR. OLIFANT: Even if it is -- even if it is so- separate
18 property, Your Honor, it is still separate property within the
19 trust.

20 THE COURT: But again, the trust provisions now say, he
21 does not retain and cannot receive any beneficial interest
22 under that trust...

23 MR. OLIFANT: But...

24 THE COURT: ...for that property.

25 MR. OLIFANT: But he is still the -- he's still the

1 trustor of the property. And he has...

2 THE COURT: No. No, no. He wasn't trustor of that
3 property. He was trustor of property he may have put in. He
4 may be trustee. But he was not trustor of that property.

5 MR. OLIFANT: Your Honor, under -- under -- he's the
6 trustee...

7 THE COURT: Trustor is that one who puts their
8 property...

9 MR. OLIFANT: Right. He...

10 THE COURT: ...into the trust.

11 MR. OLIFANT: I -- I apologize. He's the trustee.

12 THE COURT: He's trustee, yes. But that doesn't...

13 MR. OLIFANT: And he has the -- and -- and as the
14 trustee, regardless of -- of whether he's also beneficiary, he
15 has plenary power to dispose of the property as he deems under
16 the provisions of the trust.

17 THE COURT: No. No, no. I'm not buying that.

18 MR. OLIFANT: That's what the trust document says.

19 THE COURT: It -- it doesn't work. It doesn't work. He
20 now loses any and all beneficiary interest under that separate
21 property from the date of the separate -- of the -- of the --
22 of the divorce on.

23 MR. OLIFANT: He may lose his beneficiary status. But he
24 doesn't lose his status as the trustee.

25 THE COURT: Well, then he cannot give it to anybody else

1 but her. Because he (indiscernible) take it to himself. No.
2 I -- I cannot find that to -- that's -- does not work. It
3 doesn't work.

4 Under the divorce rules and the interplay between
5 111, as soon as that divorce was finalized and entered, any
6 beneficial right under revocable transfers were re- revoked,
7 period. He cannot and will not retain the right to use
8 anything that he received under revocable-type document, which
9 includes wills and trusts.

10 Therefore, the only thing I can rule is that there
11 was no transmutation. That Tonya is designated as such. That
12 he cannot now retain those benefits because he cannot receive
13 them, that -- that she is deemed and is to be the remainder
14 interest -- remainder of that pro- of that -- a beneficiary
15 interest of that real property.

16 MR. OLIFANT: And that's all she has is a remainder
17 interest.

18 THE COURT: No. She is -- well, since he can't do
19 anything else with it because he can't -- the only other was
20 his lifetime interest was there before her death, but once she
21 died, he no longer has any kind of right, respon- abil-
22 ability to enjoy it whatsoever.

23 So I can put this in front of report and
24 recommendation. Mr. Kiefer can put it before report and
25 recommendation. And you can see if the judge would agree with

1 your -- with your take. But I've got to rule on that matter
2 this way, that -- that 2011 is perfectly clear. And that's
3 the way it applies.

4 MR. OLIFANT: We'd like to have it deferred to the...

5 THE COURT: Thank you.

6 Let's go to report and recommendation, Mr. Kiefer.

7 MR. KIEFER: Yes, Your Honor. And can that report and
8 recommendation include a declaration that the trustee is to
9 transfer the property to the remainder beneficiary?

10 THE COURT: If -- if confirmed, then, yes.

11 MR. KIEFER: Thank you, Your Honor.

12 MR. OLIFANT: Petitioner is to -- well, the Court will
13 draft the recommendation; right?

14 THE COURT: He re- he prepares it. He will run it past
15 you. If you have any objections, he will tell you when he
16 sends it in, you have five days to object to send it to me...

17 MR. OLIFANT: Thank you.

18 THE COURT: ...any objections to it before I sign it.

19 MR. OLIFANT: Thank you.

20 THE COURT: Once I sign it, you have ten days in which to
21 take the objection before the judge.

22 MR. KIEFER: Thank you, Your Honor.

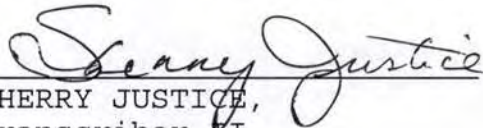
23 (THE PROCEEDING ENDED AT 10:46:45.)

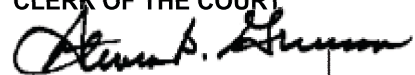
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ATTEST: I do hereby certify that I have truly and
correctly transcribed the digital proceedings in the above-
entitled case to the best of my ability.


SHERRY JUSTICE,
Transcriber II



1 **RAR**

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8 Email: probate@rlklegal.com
9 Attorneys for Tonya Collier

DISTRICT COURT
CLARK COUNTY, NEVADA

In the Matter of the

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

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

A Non-Testamentary Trust.

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

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

On November 13, 2017, Tonya Collier ("Tonya") filed Petition to Assume Jurisdiction of Trust, and for Confirmation of Beneficiary of Real Property (the "Petition"). On November 17, 2017, Paul Valer Colman ("Paul") filed his 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 (the "Objection"). On December 12, 2017, Tonya filed her Reply in Support of Petition to Assume Jurisdiction of Trust, and for Confirmation of Beneficiary of Real Property (the Reply). The Petition, Objection, and Reply came on for hearing on December 15, 2017 before the Honorable Commissioner Wesley Yamashita. 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:

///

///

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.

RUSHFORTH
LEE & KIEFER, LLP
TRUST AND ESTATE ATTORNEYS

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.


~~DISTRICT COURT JUDGE~~ Probate Commissioner

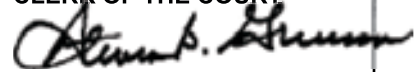
1/18/18
DATE

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



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Email: tcm@tcmllawgroup.com
*Attorneys for Paul Valer Colman and
The Colman Family Revocable Living
Trust dated June 23, 2011*

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.

OBJECTION TO THE REPORT AND RECOMMENDATIONS
BY THE PROBATE COMMISSIONER

COMES NOW, Paul Valer Colman, individually and as Trustee of the The Colman Family
Revocable Living Trust dated June 23, 2011 (the "Trust") (collectively referred to herein as "Paul")
and hereby files this Objection to the Report and Recommendations by the Probate Commissioner.

///

///

1 This Objection is based on the Memorandum of Points and Authorities, the Declaration of Paul
2 Valer Colman, any documents on file herein and any arguments which may be considered at the time
3 of the hearing of this matter.

4 Dated this 5th day of February 2018.

TCM LAW

By: 

SCOTT B. OLIFANT, ESQ.

Nevada Bar No. 7471

1614 S. Maryland Pkwy

Las Vegas, Nevada 89104

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

MEMORANDUM OF POINTS AND AUTHORITIES

I.

BRIEF STATEMENT OF FACTS

16 Chari Colman and Paul Colman were married on December 15, 2009. At that time they
17 decided to live at Chari's house, located at 5988 Turtle River Avenue, Las Vegas, NV 89156, APN:
18 140-15-317-012 (the "property"). Prior to and following the marriage the Colmans made payments for
19 the house, provided general upkeep, paid bills for the property and Paul generally treated the property
20 like it was their home. There were never any discussions between Chari and Paul where Chari
21 mentioned that the property was only hers. They treated the property much like any other couple would
22 when they get married and one spouse already has a personal residence; they believed it was both ours.
23 *Id.* at ¶ 3.

25 The Colmans both continued to maintain the property and later on June 23, 2011, Chari and
26 Paul executed the Trust documents, in conjunction with our respective wills and powers of attorneys.
27 (A true and correct copy of the trust is attached herein as Exhibit 2. Paul Colman Declaration, ¶ 4.)
28 Because they treated the property as equally ours, the Colmans transferred the property into the Trust

1 by Quitclaim Deed filed on June 30, 2011. (A true and correct copy of the Quitclaim Deed is attached
2 herein as Exhibit 3. Paul Colman Declaration, ¶ 5.)

3 Mr. Colman after the property was transferred to the Trust, approximately six months later on
4 December 19, 2011 filed for divorce with Chari. Even though there was tension between them, Chari
5 or Paul never considered transferring the property to another party. The case was eventually dismissed
6 as they chose to remain husband and wife. Docket report for Paul Valer Colman v. Chari Ann Colman,
7 Clark County District Court, Family Division, Case No. D-11-456480, attached herein as Exhibit 4.
8 Paul Colman Declaration, ¶ 6. Following this time, the Colmans continued to live together, supporting
9 each other and together maintaining the marital residence and property. *Id.* at ¶ 7.

10 Several years later on August 29, 2017, Chari and Paul filed a joint petition for divorce. (See
11 Exhibit 5 to the Petition.) In that Joint Petition the Colmans did not include the property as an asset
12 or community property because it had already been placed in the Trust. Even though they were going
13 to be divorced they still considered it property of the trust, which we were both the primary
14 beneficiaries. Paul Colman Declaration, ¶ 8. A Decree of Divorce was later entered on September 28,
15 2017. Even after that time the Colmans continued to live in the property together that had been placed
16 in their Trust. Yet even though they were divorced, there were no discussions that they were going to
17 quitclaim deed the property back to Chari alone, to both of them individually, etc. *Id.* at ¶ 9.

18 It was the Colmans desire to have the property remain in the Trust. This was done primarily
19 because they did not want to deal with the uncertainties in transferring the property if something should
20 happen to one of them. Tragically, an event that they had planned for, but did not anticipate coming
21 so soon occurred when Chari passed away on October 18, 2017. *Id.* at ¶ 10.

22 Tonya Collier is now trying to take advantage of this unfortunate situation. Even though she
23 is not a beneficiary under the Trust she claims is of no effect, but only if Chari and Paul both die, she
24 claims that she can assume the trust property. *Id.* at ¶ 11. Ms. Collier's motives are self-evident by
25 filing a *lis pendens* for property in which she is not a beneficiary to until Mr. Colmans demise. Mr.
26 Colman has a lifelong interest in the property as stated in Section 5.2 of the Trust. Ms. Collier
27 discovered that the property was going to sold and filed the *lis pendens*. *Id.* at ¶ 12. Ms. Collier's
28 claim of being a beneficiary is misplaced. As Section 5.2 of the Trust plainly reads:

1 5.2 **Distribution of Assets Upon Death of Grantors**

2 Upon the death of the last Grantor [Chari Colman and Paul Colman] of this Trust, the trust
3 estate shall be distributed as follows. The Trustee shall distribute the real property located at
4 5988 Turtle River, Las Vegas, Nevada to TONYA COLLIER....

5 Trust; Paul Colman Declaration, ¶ 13.

6 Based on this Ms. Collier's attorneys have also contacted Paul and the title company and
7 informed them that they believe Ms. Collier is the rightful beneficiary, though that is not possible
8 because Paul is still alive, and that they are hoping that the matter can be settled without Court
9 intervention. *Id.* at ¶ 14. It is obvious that Ms. Collier is using these trying circumstances to receive
10 sale proceeds from the property though she cannot be a beneficiary under the trust. Nor was she
11 provided with any trustee powers outlined in the trust documents. *Id.* at ¶ 15. Because Ms. Collier
12 has no beneficiary status, or any rightful claim to the property until Mr. Colman's demise, her petition
13 should be dismissed. Mr. Colman no longer wants to sell his home. He wants to remain in his home
14 that him and his wife lived for many years. This whole ordeal has made him realize he does not want
15 to sell the property.

16
17 **II.**

18 **LEGAL ARGUMENT**

19 **A. Paul Colman hereby objects to the finding and recommendations of the probate**
20 **commissioner.**

21 Paul Colman hereby objects to the findings and recommendations of the probate
22 commissioner as follows:

- 23
24 1) The Commissioner failed to consider that in the interim time from the date of the divorce to
25 the date of death, Mr. Coleman remained in the residence that is the subject of this litigation.
26
27
28

- 1 2) The Commissioner failed to draw the appropriate inferences from the undisputed fact that
2 Mr. Coleman was the decedent's full-time care taker without interruption from the time of
3 the divorce until the time of her death from the terminal cancer that was the cause of death.
- 4 3) The Commissioner failed to infer that although the divorce was legal, the parties conduct
5 thereafter did not demonstrate a division of interests, financial or personal.
- 6 4) The probate commissioner's conclusions are erroneous because the statute is designed to
7 protect those whose interests are both legally and factually divided after the divorce yet
8 overlook the effect of failing to address before the death of one of the parties.
- 9 5) The Commissioner misapplied the statute N.R.S. §163.565 so as to protect the oversights of
10 the individuals whose post-divorce conduct interests are demonstrably divergent, while
11 denying the oversights of parties whose post-divorce conduct reflects a convergence of
12 interest couples with an inverse oversight of failing to include the matter in their Pro per joint
13 decree of divorce.
14
15

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III.

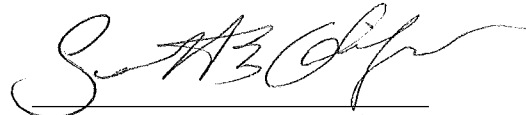
CONCLUSION

Wherefore, based upon the court to order that the trust is valid, and Mr. Colman should retain ownership of the residence.

Dated this 5th day of February 2018.

TCM LAW

By:



SCOTT B. OLIFANT, ESQ.

Nevada Bar No. 7471

1614 S. Maryland Pkwy

Las Vegas, Nevada 89104

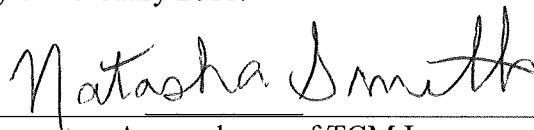
*Attorneys for Paul Valer Colman and**The Colman Family Revocable Living**Trust dated June 23, 2011*

CERTIFICATE OF SERVICE

I hereby certify that on the 5 day of February 2017, I served a copy of the foregoing
OBJECTION TO THE REPORT AND RECOMMENDATIONS BY THE PROBATE
COMMISSIONER 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:

Rushforth Lee & Kiefer LLP
Kenneth E. Lee, Esq.
kenny@rlklegal.com
1707 Village Center Circle, Suite 150
Las Vegas, NV 89134

Dated this 5 day of February 2018.



An employee of TCM Law

1 **DECLARATION OF PAUL VALER COLMAN IN SUPPORT OF OBJECTION TO**
2 **PETITION TO ASSUME JURISDICTION OF TRUST AND FOR CONFIRMATION OF**
3 **BENEFICIARY OF REAL PROPERTY, MOTION TO DISMISS PETITION AND MOTION**
4 **TO QUASH UNLAWFUL LIS PENDENS**

5 I, Paul Valer Colman, declare as follows:

6 1. I am the Trustee of the Colman Family Revocable Living Trust dated June 23, 2011.
7 That I am familiar with the facts and circumstances referred to in the Petition filed by Tonya Collier,
8 and prepared to testify to the facts in this Declaration and the Petition if necessary.

9 2. Chari Colman and I were married on December 15, 2009. At that time we decided to
10 live at Chari's house, located at 5988 Turtle River Avenue, Las Vegas, NV 89156, APN: 140-15-317-
11 012 (the "property").

12 3. That prior to and following our marriage I made payments for the house, provided
13 general upkeep, paid bills for the property and we generally treated the property like it was our home.
14 There were never any discussions between Chari and I, where she mentioned that the property was
15 only hers, we treated the property much like any other couple would when they get married and one
16 spouse already has a personal residence; we believed it was both ours.

17 4. We continued to both maintain the property and later on June 23, 2011, my Chari and
18 I executed the Trust documents, in conjunction with our respective wills and powers of attorneys. A
19 true and correct copy of the trust is attached herein as Exhibit 2.

20 5. Because we treated the property as equally ours, we transferred the property into the
21 Trust by Quitclaim Deed filed on June 30, 2011. A true and correct copy of the Quitclaim Deed is
22 attached herein as Exhibit 3.

23 6. After the property was transferred to the Trust, approximately six months later on
24 December 19, 2011 I filed for divorce with Chari. Even though there was tension between us, Chari
25 or I never considered transferring the property to another party. The case was dismissed as we chose
26 to remain husband and wife. Docket report for Paul Valer Colman v. Chari Ann Colman, Clark County
27 District Court, Family Division, Case No. D-11-456480, attached herein as Exhibit 4.

28 7. Following this time, we continued to live together, supporting each other and together
 maintaining the marital residence and property.

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14 S. Maryland Pkwy.
LAS VEGAS, NEVADA 89104
TEL.: (702) 462-6161 - FAX: (702) 413-6255

1 8. Several years later on August 29, 2017, Chari and I filed a joint petition for divorce.
2 See Exhibit 5 to the Petition. In that Joint Petition we did not include the property as an asset or
3 community property because it had already been placed in our Trust. Even though we were going to
4 be divorced we still considered it property of the trust, which we were both the primary beneficiaries.
5 We obtained a divorced solely for the purposes of my wife obtaining affordable medical care.

6 9. A Decree of Divorce was later entered on September 28, 2017. Even after that time we
7 still continued to live in the property together that had been placed in our Trust. Yet even though we
8 were divorced, there were no discussions that we were going to quitclaim deed the property back to
9 Chari alone, to both of us individually, etc.

10 10. It was our desire to have the property remain in the trust. This was done primarily
11 because we did not want to deal with the uncertainties in transferring the property if something should
12 happen to one of us. Tragically, an event that we had planned for, but did not anticipate coming so
13 soon occurred when Chari passed away on October 18, 2017.

14 12. The document attached to this Objection as Exhibit 2 is a true and correct copy of the
15 Trust instrument that is the subject of this litigation

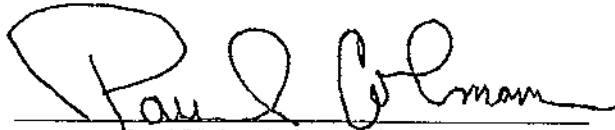
16 13. The Document attached to this Objection as Exhibit 3 is a true and correct copy of the
17 quitclaim deed the deceased, ms. Coleman executed to place the subject real property in the trust
18 established by Exhibit 2.

19 14. The document attached to this Objection as Exhibit 4 is a true and correct copy of the
20 register of actions in my divorce action from Ms. Coleman, now deceased.

21 15. I am above the age of 18 and have personal knowledge of the facts set forth in this
22 declaration, except those matters set forth on information and belief, and as to those matters, I believe
23 them to be true. If called to testify about the contents of this declaration, I could and would provide
24 competent testimony as to its contents.
25
26
27
28

1 I declare under penalty of perjury of the laws of the State of Nevada that the foregoing is
2 true and correct.

3
4 Dated this 17 day of November 2017.

5
6 

7 Paul Valer Colman, declarant

8 N.R.S. §53.045
9
10
11
12
13
14
15

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EXHIBIT 2

CASSADY LAW OFFICES
(702) 650-4480 • (702) 650-5581 FAX

JASON E. CASSADY, ESQ.

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2425 W. HORIZON RIDGE PKWY
HENDERSON, NEVADA 89052

SUMMITTIN;
7201 W. LAKE MEAD, SUITE 500
LAS VEGAS, NEVADA 89128

*The Colman Family
Revocable Living Trust*

dated

June 23, 2011

Prepared by
CASSADY LAW OFFICES, P.C.
(702) 650-4480

THE COLMAN FAMILY
REVOCAABLE LIVING TRUST

THIS TRUST AGREEMENT is made this June 23, 2011, by and between Paul Valer Colman and Chari Ann Colman, residents of Clark County, Nevada, as Grantors (hereinafter sometimes referred to as "Grantors"), and Paul Valer Colman and Chari Ann Colman, as Trustees (hereinafter referred to sometimes as "Original Trustees"). All prior Trusts predating this Trust are hereafter revoked absolutely.

ARTICLE I

1.1 Trust Name.

This Trust shall be known and officially referred to as "The Colman Family Revocable Living Trust of June 23, 2011."

1.2 Grantors' Intent.

It is the intent of the Grantors that the property listed in Schedule "A," which is incorporated herein by reference, be presently assigned, transferred, and conveyed to the Trustees for the purposes of establishing a Revocable Living Trust. By signing below, the Trustees acknowledge and confirm receipt of said property for the Trust. The property of Schedule "A" shall be held in Trust for the uses and purposes and on the terms and conditions set forth herein. The Grantors attest to the fact that this property is owned outright by the Grantors and not subject to any equitable or real interest by any other party and agree to indemnify the Trust if any challenges of ownership of the property are raised by any other person or entity.

ARTICLE II

2.1 Trustee Selection.

The Original Trustees named above have agreed, for consideration, to act as the Trustees of this Trust. As such, the Trustees shall have the unrestricted rights as defined in this Agreement to act with the Trust property in any manner deemed in the Trustees' sole discretion to be in the best interest of the Trust or Beneficiaries for as long as said Trustees are living, desire to act as Trustees or are competent to act as Trustees.

A. Trustee Right of Resignation. Any Original Trustee shall have the unlimited right to resign as Trustee. Any Successor Trustee may only resign after meeting the following conditions:

- (1) The Successor Trustee cannot abandon the Trust at a time in which the rights of the Trust would be significantly damaged if immediate action was not taken by a Trustee;
- (2) The Successor Trustee must give all Beneficiaries and any surviving Grantor

sixty (60) days written notice, mailed to the last known addresses of the named Beneficiaries and/or Grantor, by Certified Mail, Return Receipt Requested; and

(3) The Successor Trustee must arrange for a final accounting.

B. Annual Reporting of the Successor Trustee. The Successor Trustee agrees to make an annual written report to the Grantors and Beneficiaries detailing the state of the property in the Trust, listing the assets and investments of the Trust, describing the character of the investments made by the Trustee, and listing the expenses incurred and disbursements made by the Trust throughout the prior year. While alive, annual tax statements of the Grantor(s) will suffice for this purpose if it is based upon the appropriate records.

C. Trustee's Absolute Discretion. After conducting due diligence and making a full survey of the opportunities and circumstances of any matter affecting the Trust, the Trustees shall have full and absolute discretion to act with the Trust property and to make or not make disbursements to beneficiaries. There is no requirement that any consent be obtained from any person, entity or court prior to making a final decision as to any matter relating to the Trust. The Trustees may act in such a manner as to benefit another entity, organization or individual that might have conflicting interests in the decision being made by the Trustees without breaching their duties to this Trust as long as the decision does not breach a Trustee's fiduciary duty owed to the Trust and Beneficiaries.

D. Trustee Bond. No Court shall require a bond of any Trustee or Successor Trustee and no bond shall be required of any Trustee or Successor Trustee, unless a Successor Trustee is named by the court and is not expressly identified by name in this trust, in which case the court may require a bond at its discretion.

E. Trustee's Concurrent Duties. A Trustee may serve as both Trustee of this Trust and Guardian of any of the Beneficiaries named within this Trust without creating any conflict to the Trust or any other Beneficiary.

F. Trustee Reimbursement and Compensation. A Trustee shall be entitled to just and reasonable compensation for the services performed for the Trust. The Compensation cannot exceed the reasonable amount that can be charged by bank and trust companies for performing like services. A Trustee is also entitled to full reimbursement for all costs that he or she has incurred in managing, investing and governing the Trust.

2.2 Trustee's Confirmation of Property Receipt

The property of this trust as granted and transferred to the Trust by the Grantors is contained within Schedule "A." The Trustees confirm that they are in physical or constructive receipt of these items and agree to manage, control, govern and guide the Trust Property under the express and implied terms of this Agreement.

2.3 Successor Trustee Appointment.

Upon the death or incompetency of one of the Original Trustees, the surviving Original Trustee shall have all authority to act as Trustee. Upon the death or incompetency of both Original Trustees, a Successor Trustee shall serve as Trustee and shall serve with all authority and power as found in the Original Trustees to the extent allowed under the provisions contained within this Trust Agreement.

The Successor Trustee of this Trust shall be WELLS FARGO, N.A.

If none of these persons are willing and able to serve as Successor Trustee, any beneficiary under this Trust may petition the District Court Judge of Clark County who is responsible for probate matters to appoint a Successor Trustee. A Trustee shall serve until all of the assets of the estate are either distributed as contained herein or depleted by liabilities of the Trust.

A. Limited Liability of Successor Trustee. A Successor Trustee is not liable for the affirmative acts or omissions of a prior Trustee or Trustees and shall be indemnified by the Trust to the extent that the person or entity has been held financially responsible for any of the acts or omissions of any prior Trustees. Further, the Successor Trustee has no duty to make any accounting of any prior dealings of any prior Trustee; however, if a written request is submitted by the majority of the Beneficiaries or their representatives to conduct an audit on the Trust upon the appointment of the person or entity, or ninety (90) days thereafter, the Successor Trustee shall submit the Trust financial books to an independent Certified Public Accountant or qualified Attorney for the purposes of obtaining a certified accounting of the prior Trustee's activities. The expense of this audit shall be charged to the beneficiaries requesting such an audit, unless it can be shown to the Successor Trustee that there existed reasonable grounds upon which to base such a request. If no request is made, and no accounting is conducted, the Successor Trustee is not liable for relying upon the prior representations of the Prior Trustee and is not liable to any beneficiary or any other person having either a direct or indirect interest in the Trust.

B. Transfer and Acceptance of Trustee Duties. If the transfer of the Trustee position occurs at a time wherein the Original or prior Trustees are competent to transfer the powers and duties of the office of Trustee to another in writing, then the prior Trustee shall make a formal writing wherein he or she requests the Successor Trustee to accept the position of Trustee and wherein the Successor accepts the Trustee powers as described herein. The original of that document shall be joined with an original of this Trust Agreement which should be in a place of safekeeping, one copy shall be given to any Grantor then living, and one copy shall be given to the new Trustee. The signatures of this writing shall be notarized and witnessed by two witnesses.

2.4 Majority vote of Multiple Trustees.

If for any reason more than one Trustee is appointed, a majority of the vote of the Trustee shall be binding upon the Trust. If there are only two Trustees and a deadlock occurs, the next Successor Trustee shall cast the deciding vote. If the Successor Trustee is unable or unwilling to

assist, then the District Court Judge of Clark County, Nevada who is responsible for probate matters shall be petitioned to decide the matter after hearing all of the facts relating to the decision. If a Judge must be used to break this deadlock, then the Judge shall have the authority to appoint an Attorney of Record that shall act as a tie breaking vote for all future voting deadlocks.

ARTICLE III

3.1 Limits to Trustee Powers.

A Trustee is limited in the exercising of his or her powers in that the Trustee must protect the Trust from the demands of Beneficiaries and the Grantors and may not exchange, purchase or otherwise deal with the Trust Property in any transaction or event involving the Beneficiaries or Grantors without receiving reasonable consideration for the value of the property. Further, the Trustee is limited in that he or she may not allow any encumbrances upon the Trust Property for the benefit of the Grantors without receiving adequate and reasonable security and interest. Substituting like-kind property is prohibited unless the property is of equal value. In this regard, the Trustee is not liable to the Beneficiaries or Grantors for refusing to act against the express limitations of this Trust unless the Trustee has acted with gross negligence or malicious intent.

3.2 Trustee's Enumerated Powers.

A Trustee is authorized and empowered to manage, care for, improve, protect, control, deal with, sell and otherwise dispose of the trust estate or any part of it, in his or her absolute discretion, in any and every way in which any responsible and prudent owner could manage, care for, improve, protect, control, deal with and otherwise dispose of the same. In acting as a fiduciary capacity, the Trustee may exercise the following express and enumerated powers:

- A. To register any securities or other property held hereunder in the name of Trustee or in the name of a nominee, with or without the addition of words indicating that such securities or other property are held in a fiduciary capacity, and to hold in bearer form any securities or other property held hereunder so that title thereto will pass by delivery, but the books and records of Trustee shall show that all such investments are part of their respective funds.
- B. To hold, manage, invest and account for the separate Trusts in one or more consolidated funds, in whole or in part, as he or she may determine. As to each consolidated fund, the division into the various shares comprising such fund need be made only upon Trustee's books of account.
- 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, mortgage, pledge or lease Trust assets for whatever period of time the Trustee shall determine, even beyond the expected term of the respective Trust.

- E. To hold and retain any property, real or personal, in the form in which the same may be at the time of the receipt thereof, as long as in the exercise of their discretion it may be advisable so to do, notwithstanding same may not be of a character authorized by law for investment of Trust funds.
- F. To invest and reinvest in his or her absolute discretion, and he or she shall not be restricted in his or her choice of investments to such investments as are permissible for fiduciaries under any present or future applicable law, notwithstanding that the same may constitute an interest in a partnership.
- G. To advance funds to any of the Trusts for any Trust purpose. The interest rate imposed for such advances shall not exceed the current rates.
- H. To institute, compromise, and defend any legal actions and proceedings.
- I. To vote, in person or by proxy, at corporate meetings any shares of stock in any Trust created herein, and to participate in or consent to any voting Trust, reorganization, dissolution, liquidation, merger, or other action affecting any such shares of stock or any corporation which has issued such shares of stock.
- J. To partition, allot, and distribute, in undivided interest or in kind, or partly in money and partly in kind, and to sell such property as the Trustees may deem necessary to make division or partial or final distribution of any of the Trusts.
- K. To determine what is principal or income of the Trusts and apportion and allocate receipts and expenses as between these accounts.
- L. To make payments hereunder directly to any beneficiary under disability, to the guardian of his or her person or estate, to any other person deemed suitable by the Trustee, or by direct payment of such beneficiary's expenses.
- ML. To employ agents, attorneys, brokers, and other employees, individual or corporate, and to pay them reasonable compensation, which shall be deemed part of the expenses of the Trusts and powers hereunder.
- N. To accept additions of property to the Trusts, whether made by a Grantor, a member of a Grantor's family, by any beneficiaries hereunder, or by any one interested in such beneficiaries.
- O. To hold on deposit or to deposit any funds of any Trust created herein, whether part of the original Trust fund or received thereafter, in one or more savings and loan associations, bank or other financing institution and in such form of account, whether or not interest bearing, as Trustee may determine, without regard to the amount of

any such deposit or to whether or not it would otherwise be a suitable investment for funds of a trust.

P. To open and maintain safety deposit boxes in the name of this Trust.

Q. To make distributions to any Trust or beneficiary hereunder in cash or in specific property, real or personal, or an undivided interest therein, or partly in cash and partly in such property, and to do so without regard to the income tax basis of specific property so distributed. The Grantor requests but does not direct, that the Trustee make distributions in a manner which will result in maximizing the aggregate increase in income tax basis of assets of the estate on account of federal and state estate, inheritance and succession taxes attributable to appreciation of such assets.

R. The powers enumerated in NRS 163.263 to NRS 163.410, inclusive, are hereby incorporated herein to the extent they do not conflict with any other provisions of this instrument.

S. The enumeration of certain powers of the Trustee shall not limit his or her general powers, subject always to the discharge of his fiduciary obligations, and being vested with and having all the rights, powers, and privileges which an absolute owner of the same property would have.

T. The Trustee shall have the power to invest Trust assets in securities of every kind, including debt and equity securities, to buy and sell securities, to write covered securities options on recognized options exchanges, to buy back covered securities options listed on such exchanges, to buy and sell listed securities options, individually and in combination, employing recognized investment techniques such as, but not limited to, spreads, straddles, and other documents, including margin and option agreements which may be required by securities brokerage firms in connection with the opening of accounts in which such option transactions will be effected.

U. In regard to the operation of any closely held business of the Trust, the Trustee shall have the following powers:

1. The power to retain and continue the business engaged in by the Trust or to recapitalize, liquidate or sell the same.
2. The power to direct, control, supervise, manage, or participate in the operation of the business and to determine the manner and degree of the fiduciary's active participation in the management of the business and to that end to delegate all or any part of the power to supervise, manage or operate the business to such person or persons as the fiduciary may select, including any individual who may be a beneficiary or Trustee hereunder.

3. The power to engage, compensate and discharge, or as a stockholder owning the stock of the Corporation, to vote for the engagement, compensation and discharge of such managers, employees, agents, attorneys, accountants, consultants or other representatives, including anyone who may be a beneficiary or Trustee hereunder.
4. The power to become or continue to be an officer, director or employee of a Corporation and to be paid reasonable compensation from such Corporation as such officer, director and employee, in addition to any compensation otherwise allowed by law.
5. The power to invest or employ in such business such other assets of the Trust estate.

ARTICLE IV

4.1 Primary Beneficiaries.

The Primary Beneficiaries of this Trust shall be Paul Valer Colman and Chari Ann Colman during their lifetimes. The Primary Beneficiaries of this trust shall be entitled to all benefits of this Trust until their deaths.

ARTICLE V

5.1 Distribution of Assets During the Lifetime of the Primary Beneficiaries.
 Until the death of the Primary Beneficiaries, the net income and principal from the Trust shall be distributed to the Primary Beneficiaries as is necessary, in the sole discretion of the Trustee or Trustees, for the support, happiness and health needs of the Primary Beneficiaries. The Trustee(s) may also make distributions to other named beneficiaries within this Trust at the sole discretion of the Trustee(s), but no distribution shall be made to any other beneficiary under this Trust if the Primary Beneficiaries are in want or need of any of the income or principal of this Trust. The Trustee has full discretion to withhold all income and principal if such is in the best interest of any of the Beneficiaries.

5.2 Distribution of Assets Upon Death of Grantors

Upon the death of the last Grantor of this Trust, the trust estate shall be distributed as follows. The Trustee shall distribute the real property located at 5988 Turtle River, Las Vegas, Nevada to TONYA COLLIER. The real property in South Dakota shall be sold to ROBERT BOOTH of Ridgview, South Dakota and DANIEL BOOTH, JR of Timber Lake, South Dakota. The rest, residue and remainder of the estate shall be distributed to JESSICA DIANE COLMAN, pursuant to Article VI herein.

Paul Valer Colman
 Paul Valer Colman

Chari Ann Colman
 Chari Ann Colman

5.3 Full Safe Provision.

In the event that the principal of the Trust administered under this Article is not disposed of under the foregoing provisions, the remainder of the Trust, if any, shall be distributed free of Trust to the heirs at law of Paul Valer Colman and Charl Ann Colman, their identities and shares to be determined according to the Intestacy laws of the State of Nevada then in effect. The estate shall be divided in two equal halves and one-half shall be given to the lawful heirs of each Grantor. If either Grantor shall die without any heirs at law according to the laws of the State of Nevada then in effect, the entire corpus of the trust shall be distributed to the heirs at law of the other Grantor.

5.4 No Contest Provision

The Grantors specifically desire that this Trust be administered as set forth herein without litigation or dispute of any kind. To that end, if any beneficiary hereunder, any person on behalf of any beneficiary, any heir or other successor-in-interest of any beneficiary, or any other person, seeks to establish or assert any claim to the assets of this Trust, or attack, oppose or seek to set aside the administration or any distribution of this Trust, have this Trust declared null, void or diminished, or to defeat or change any part of the provisions of this Trust, such beneficiary, heir or other person shall receive, free of trust, one dollar (\$1.00) and no more lien of any claimed interest in this Trust or its assets.

ARTICLE VI

6.1 Distribution to Minors.

If at the time of any distributions under this Trust, any of the beneficiaries or persons who are entitled to distribution under this Trust are under the age of thirty-five (35), then the Trustee shall hold the funds in trust and shall have sole and exclusive discretion to distribute the property from the Trust for the education, health, welfare and maintenance of any such beneficiary until they reach the age of thirty-five, at which time an absolute distribution shall be made to the beneficiary.

ARTICLE VII

7.1 Incompetency of Beneficiaries.

If a beneficiary is declared judicially incompetent, is a ward of any state, or is in the Trustee's determination unable to manage either the estate or his or her person, or both, the Trustee may pay to any appointed guardian, other entity or person responsible for the care of said beneficiary, the net income or any part of the principal of the Trust estate to which the beneficiary would be entitled, in such a manner as is in the best interest of the beneficiary, as the Trustee deems reasonable and appropriate under the circumstances. If said distribution would disqualify said beneficiary from public assistance, these funds may be used as necessary by the Trustee in such a way and means so as to avoid the loss of such public assistance at the Trustee's sole discretion and according to the law and rules of such public assistance. Where no funds can reasonably be distributed in such a manner as to not cause the public assistance to fall or be lost, then the funds dedicated to such beneficiary shall be directed in equal shares to the other beneficiaries for distribution.

7.2 Preferred Guardians

The name of a preferred guardians for the Grantors shall be identified in their respective Last Will and Testaments.

ARTICLE VIII

8.1 Distributions in Kind.

When distributions are required under this Trust, a Trustee is authorized to make distributions of the Trust estate in kind, or partly in cash and partly in kind, or by arranging and transferring or assigning an undivided interest. The Trustee's discretion and exercise of this authority is absolute and binding upon all beneficiaries and all other interested parties.

ARTICLE IX

9.1 Revocability of Trust.

This trust is absolutely revocable with the consent of both Grantors, and the Grantors may at their discretion make demands upon the Trustees to return all of the Grantors' former property that is now property of the estate to the Grantors. The Grantors are not entitled, however, to other property put into the Trust by other persons or entities without a written agreement from the Trustee. If such property is transferred to the Grantors, then the transfer will be deemed a gift from the Trust to the Grantors. Where such property had a prior ownership status, such as community property or joint tenancy, then the release of said property outside of the Trust shall return the property to its prior condition.

ARTICLE X

10.1 Additional Properties.

The type, kind or proportion of property of this Trust shall not be limited by the Trustee in any way. The Grantor, and any other person willing or able, may transfer, devise, bequeath, give, convey or donate any personal or real property into the Trust by an inter vivos act or by will, as long as there are no restrictions or conditions as to the use of the property placed upon the Trustee and as long as the property becomes fully subject to the terms and conditions of the Trust. Property additions to this Trust must be acknowledged and received by the Trustee by a writing or by a transfer of title of the property into the Trustee's name.

ARTICLE XI

11.1 Modifications and Additions to the Trust.

Modifications to this trust may occur only where all surviving Grantors or their respective agents expressly agree by way of written amendment executed in a similar fashion as this Trust and signed by the Grantors, their agents and the Trustee(s). Additional property may be accepted by the Trustee(s) at a later time. Property subject to this instrument is referred to as the "Trust estate."

11.2 Calendar Year.

The Trust shall be on a calendar year, ending December 31st of each year, for trust, tax and accounting purposes.

ARTICLE XII

12.1 Applicable Law.

The validity, construction and effect of this agreement and of the trust created hereunder and its enforcement shall be determined by the laws and courts of the State of Nevada.

12.2 Perpetuities Savings Clause.

Unless sooner terminated as otherwise provided in this agreement, this trust and any other trust created directly or indirectly by this trust shall fully cease and completely terminate twenty-one (21) years after the death of the last survivor of the Grantor, and all children of the Grantor living or conceived as of the date of this agreement. Upon such termination, the entire principal of the trust estate of each said trust, together with any undistributed income therefrom, shall vest in and be distributed to the persons entitled to take under the provisions of the respective trust. If at the time of this termination the rights to income are not fixed by the terms of the Trust, distribution under this clause shall be made, by right of representation, to the persons who are then entitled or authorized, in the Trustee's discretion, to receive distributions from this Trust.

12.3 Integration of Agreement.

This document constitutes the full understanding and agreement between the Grantor and the Trustee. If any provision of this instrument is adjudged invalid or is unenforceable for any reason, the remaining provisions of this Trust shall be carried into effect and shall survive the striking of the respective term.

12.4 Terms.

Whenever the terms "child", "children", "descendants" or "issue" are used in this Trust, the terms shall include legally adopted children. The term "issue" shall include all lineal descendants. Whenever provision is made in this Trust indenture for payment for the "education" of a beneficiary, the term "education" shall be construed to include technical schooling, college or post-graduate study, so long as pursued to advantage by the beneficiary at an institution of the beneficiary's choice and in determining payments to be made for such college or postgraduate education, the Trustee shall take into consideration the beneficiary's related living and traveling expenses to the extent that they are reasonable.

12.5 Spendthrift Provision.

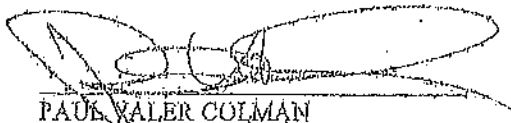
Each and every beneficiary under this Trust is hereby restrained from and shall be without right, power or authority to sell, transfer, assign, pledge, mortgage, hypothecate, alienate, anticipate, bequeath or devise or in any manner affect or impair his, or her, or their beneficial right, title, interest, claim and Estate in and to either the income or principal of any Trust created hereunder, or to any part thereof, during the entire term of said Trust; 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 be payable and deliverable to or for the benefit of only the before named and designated beneficiaries, at the time hereinbefore set out, and receipt by such beneficiaries shall relieve the Trustee from responsibility for such good faith distributions.

12.6 Court Instructions.

The Trustee may seek the assistance of the Courts in all matters affecting the administration of this Trust or its properties, including advice on the interpretation of the Trust or for settlement of any account by invoking the jurisdiction of any Nevada District Court (including quasi-in-rem jurisdiction) over the Trust, the Trustee, or the Trust res, in a non-adversarial ~~ex parte~~ proceeding. The decision of the Court shall be binding upon all interested parties who were given ten (10) day written notice by first class U.S. Mail of the proceedings. Notice must be given to the last known addresses of any interested party.

SIGNED AND SEALED by the Grantors and Trustees on this 22nd day of June, 2011.

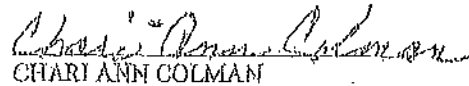
GRANTORS:


PAUL VALER COLMAN

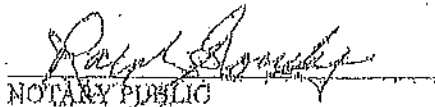

CHARI ANN COLMAN

TRUSTEES:


PAUL VALER COLMAN


CHARI ANN COLMAN

SUBSCRIBED AND SWORN TO
before me this 22nd day of June, 2011.


NOTARY PUBLIC



RAUL GOODY
Notary Public
State of Nevada
Appt. No. 10-2602-1
My Appt. Expires July 27, 2014

21

Inet #: 201106300001358

Fees: \$14.00 M/C Fee: \$3.00

RPTT: \$0.00 Ex: \$807

08/30/2011 09:00:30 AM

Receipt #: 020000

* Requestor:

GABBADY LAW (LEGAL WIN00)

Recorded By: DHO Pgs: 2

DEBBIE CONWAY

CLARK COUNTY RECORDER

APN: 140-15-317-012

Mall Tax Statements To:
When Recorded Mail To:

Paul Valer Colman and
Charl Ann Colman, Trustees
COLMAN FAMILY REVOCABLE
LIVING TRUST DATED JUNE 23, 2011
5988 Turtle River Avenue
Las Vegas, Nevada 89156

QUITCLAIM DEED

FOR A VALUABLE CONSIDERATION²², receipt of which is acknowledged,

Charl Ann Colman, who took title as, Charl Hayes

does hereby RELEASE AND FOREVER QUITCLAIM to

Paul Valer Colman and Charl Ann Colman, as Trustees of
The Colman Family Revocable Living Trust Dated June 23, 2011

all the right, title and interest of the undersigned in and to real property located 5988 Turtle
River Avenue, Las Vegas, in the County of Clark, State of Nevada, and legally described as
follows:

Yorkshire Hgts-Phase 3 Plat Book 93 Page 30 Lot 37 Block 1
SEC 15 TWP 20 RNC 62

Charl Ann Colman
Charl Ann Colman

STATE OF NEVADA

COUNTY OF CLARK



RALPH GADDY
Notary Public
State of Nevada
Appt. No. 10-2602-1
My Appt. Expires July 27, 2014

510-2602-1 xp 7-27-14

On the 23rd day of June, 2011, personally appeared before me, a Notary Public in and for said
County and State, Charl Ann Colman, personally known (or proved) to me to be the person
whose name is subscribed to the above instrument who acknowledged that she executed the
instrument.

Ralph Gaddy
NOTARY PUBLIC

221

Inet #: 201106300001350

Fees: \$14.00 N/C Fee: \$0.00

RPTT: \$0.00 Ex: \$007

06/30/2011 09:06:30 AM

Receipt #: 628888

* Requestor:

CABRADA LAW (LEGAL WINGS)

Recorded By: DHO Page: 2

DEBBIE CONWAY

CLARK COUNTY RECORDER

APN: 140-15-317-012

Mail Tax Statements To:
When Recorded Mail To:

Paul Vater Colman and
Chari Ann Colman, Trustees
COLMAN FAMILY REVOCABLE
LIVING TRUST DATED JUNE 23, 2011
3988 Turtle River Avenue
Las Vegas, Nevada 89156

QUITCLAIM DEED

FOR A VALUABLE CONSIDERATION, receipt of which is acknowledged,

Chari Ann Colman, who took title as, Chari Hayes

does hereby RELEASE AND FOREVER QUITCLAIM to

Paul Vater Colman and Chari Ann Colman, as Trustees of
The Colman Family Revocable Living Trust Dated June 23, 2011

all the right, title and interest of the undersigned in and to real property located 3988 Turtle
River Avenue, Las Vegas, in the County of Clark, State of Nevada, and legally described as
follows:

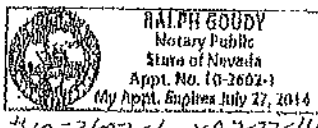
Verdehls Hgts-Phase 3 Plat Book 93 Page 30 Lot 37 Block 1
SEC 15 TWP 20 RNG 62

Chari Ann Colman
Chari Ann Colman

STATE OF NEVADA

COUNTY OF CLARK

)
) ad.
)



10-2602-1 XP 7-27-14

On the 23rd day of June, 2011, personally appeared before me, a Notary Public in and for said
County and State, Chari Ann Colman, personally known (or proved) to me to be the person
whose name is subscribed to the above instrument who acknowledged that she executed the
instrument.

Ralph Goody
NOTARY PUBLIC

EXHIBIT 3

221

Inst #: 201106300001358

Fees: \$14.00 N/C Fee: \$0.00

RPTT: \$0.00 Ex: \$0.00

06/30/2011 00:00:30 AM

Receipt #: 820000

Requestor:

CASBADA LAW (LEGAL WIN00)

Recorded By: DHE Page: 2

DEBBIE CONWAY

CLARK COUNTY RECORDER

APN: 140-15-317-012

Mall Tax Statements To:

When Recorded Mall To:

Paul Valer Colman and
Chari Ann Colman, Trustees
COLMAN FAMILY REVOCABLE
LIVING TRUST DATED JUNE 23, 2011
5988 Turtle Rive Avenue
Las Vegas, Nevada 89156

QUITCLAIM DEED

FOR A VALUABLE CONSIDERATION, receipt of which is acknowledged,

Chari Ann Colman, who took title as, Chari Mayes

does hereby RELEASE AND FOREVER QUITCLAIM to

Paul Valer Colman and Chari Ann Colman, as Trustees of
The Colman Family Revocable Living Trust Dated June 23, 2011

all the right, title and interest of the undersigned in and to real property located 5988 Turtle
River Avenue, Las Vegas, in the County of Clark, State of Nevada, and legally described as
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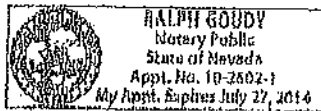
Yorkshire Hgts-Phase 3 Plat Book 93 Page 30 Lot 37 Block 1
SEC 13 TWP 20 RNG 62

Chari Ann Colman
Chari Ann Colman

STATE OF NEVADA

COUNTY OF CLARK

} ss.



510-2602-1 xp 7-27-14

On the 23rd day of June, 2011, personally appeared before me, a Notary Public in and for said
County and State, Chari Ann Colman, personally known (or proved) to me to be the person
whose name is subscribed to the above instrument who acknowledged that she executed the
instrument.

Ralph Goudy
NOTARY PUBLIC

EXHIBIT 4

11/16/2017

<https://www.clarkcountycourts.us/Anonymous/CaseDetail.aspx?CaseID=9134188>

Skip to Main Content Log in My Account Search Home News Family Resources Search & Find Forms Books

Location: Family - 1046

REGISTER OF ACTIONS

CASE No. D-11-456480-D

Paul Valer Colman, Plaintiff vs. Charl Ann Colman, Defendant.

§
§
§
§
§
§

Case Type: Divorce - Complaint

Date Filed: 12/20/2011

Location: Department P

Cross-Reference Case Number: D456480

RELATED CASE INFORMATION**Related Cases**

D-17-567861-Z (1J1F Related - Rule 5.103)

PARTY INFORMATION

Defendant Colman, Charl Ann

Lead Attorneys

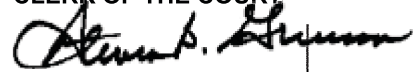
Plaintiff Colman, Paul Valer

EVENTS & ORDERS OF THE COURT

	OTHER EVENTS AND HEARINGS	
12/19/2011	Complaint for Divorce <i>Complaint for Divorce</i>	
12/20/2011	Affidavit of Resident Witness <i>Affidavit of Resident Witness</i>	
01/06/2012	Summons	
	Coleman, Charl Ann	Unserved
03/26/2012	Affidavit of Plaintiff <i>Affidavit of Paul Valer Colman, Plaintiff</i>	
03/26/2012	Child Support and Welfare Party Identification Sheet	
04/02/2013	Order of Dismissal Without Prejudice <i>Order of Dismissal Without Prejudice</i>	
04/03/2013	Notice of Entry of Dismissal without Prejudice <i>Notice of Entry of Order of Dismissal Without Prejudice</i>	

FINANCIAL INFORMATION

	Plaintiff Colman, Paul Valer		
	Total Financial Assessment		289.00
	Total Payments and Credits		289.00
	Balance Due as of 11/16/2017		0.00
12/20/2011	Transaction Assessment		289.00
12/20/2011	File Payment	Receipt # 2011-144521-CCCLK	Colman, Paul Valer (289.00)



1 **OPPS**

2 DANIEL P. KIEFFER (State Bar No. 12419)

3 KENNEDY E. LEE (State Bar No. 12429)

4 RUSHFORTH LEE & KIEFFER, 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

Case No. P-17-093518-T

Department PC1 (Probate)

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

15 A Non-Testamentary Trust.

16 **TONYA COLLIER'S OPPOSITION TO**
17 **PAUL COLMAN'S OBJECTION**
18 **TO THE REPORT AND**
19 **RECOMMENDATIONS BY THE**
20 **PROBATE COMMISSIONER**

21 Tonya Collier ("Tonya"), as beneficiary of the Colman Family Revocable Living Trust, dated
22 June 23, 2011 (the "Trust"), by and through her attorneys at RUSHFORTH LEE & KIEFFER, LLP, hereby
23 submits her opposition to Paul Valer Colman's ("Paul") Objection to the Report and
24 Recommendations ("RAR") by Probate Commissioner (the "Objection"). This opposition is based on
25 the attached memorandum of points and authorities, the filings presented below, the evidence and
26 argument presented at the December 15, 2017 hearing on Tonya's Petition to Assume Jurisdiction of
Trust and for confirmation of Beneficiary of Real Property (the "Petition"), and any oral argument the
Court may entertain at a potential hearing.

Dated this 20th day of February 2018.

RUSHFORTH LEE & KIEFFER, LLP

BY :

DANIEL P. KIEFFER (State Bar No. 12419)

KENNEDY E. LEE (State Bar No. 12429)

Attorneys for Tonya Collier

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

NRS 111.781 serves an essential and important purpose. It ensures that a surviving ex-spouse does not obtain monetary benefit from his deceased ex-spouse merely because she failed to update her estate plan after divorce.

In the court below, Tonya—a remainder beneficiary under the Trust—successfully demonstrated the following key facts: (1) Paul’s ex-wife deeded her house to a revocable trust (the Trust) created during the marriage; (2) the house was the ex-wife’s separate property prior to marriage; (3) the house was never transmuted into community property during the marriage; (4) the Trust provides Paul a beneficial interest in the house; (5) the couple divorced; and (6) the ex-wife later died. Based on these unrefuted facts, the Probate Commissioner properly applied NRS 111.781 and voided Paul’s beneficial interest in the house.

On appeal, Paul cries foul and seeks to undue the RAR. Despite his contentions of error, Paul’s Objection fails to provide any shred of evidence which contradicts the Probate Commissioner’s findings of fact; nor does it identify a single misapplication of law. Instead, the entire Objection rests on Paul’s unrelenting desire to pursue and keep his ex-wife’s property. Although Paul’s motives are not unexpected, they are legally insufficient—especially in light of the exacting clearly erroneous standard.

II. THE EVIDENCE PRESENTED TO THE PROBATE COMMISSIONER

The House

On July 29, 2009, Chari Ann Colman (“Chari,” and together with Paul, the “Couple”)—known at the time as Chari Hayes, purchased the real property located at 5988 Turtle River Avenue, Las Vegas, Nevada 89156 (the “House”).¹ The deed evidencing this transaction explains that Chari purchased the House as a “single woman” as her sole and separate property.² The House was

¹ See **Exhibit A** attached hereto (also attached to the underlying Petition as Exhibit 1).

² See *id.*

1 purchased with cash. This is evidenced by the absence of any deeds of trust recorded after the purchase
2 date.³

3 ***The Marriage and Trust***

4 Subsequent to Chari purchasing the House, the Couple married on December 15, 2009.⁴ On
5 June 23, 2011, the Couple created the Trust.⁵ At all relevant times, the Trust was revocable.⁶ Pursuant
6 to Article 4.1 of the Trust, the Couple were the Trust's primary beneficiaries during their lives.⁷ The
7 longer living spouse continues as the sole beneficiary upon the death of the first spouse.⁸ Article 5.2
8 provides the dispositive provisions to be given effect upon the death of both Chari and Paul.⁹
9 Specifically, upon the death of Chari and Paul, the House is to be distributed to Tonya.¹⁰ On June 11,
10 2011, Chari transferred the House to the Trust by Quitclaim Deed (the "Quitclaim Deed").¹¹ The
11 Quitclaim Deed makes no mention of community property, nor does it provide for any transmutation
12 of the House.¹²

13 ***The Divorce***

14 On August 29, 2017, the Couple filed their Joint Petition for Summary Decree of Divorce (the
15 "Divorce Petition").¹³ Paragraph 5 of the Divorce Petition specifically states that "[t]here is no
16 community property to divide."¹⁴ Additionally, paragraph 9 of the Divorce Petition states that both

17 ³ See Printout from the Clark County Recorder's Office, a true and accurate of which is attached hereto
18 as **Exhibit B**.

19 ⁴ See Exhibit 1, ¶ 2 of Paul's Objection to Petition filed on November 17, 2017.

20 ⁵ See Exhibit 2 of the Objection (also attached to the underlying Petition as Exhibit 2).

21 ⁶ See *id.*

22 ⁷ See *id.*

23 ⁸ See *id.*

24 ⁹ See *id.*

25 ¹⁰ See *id.*

26 ¹¹ See Exhibit 3 of the Objection (also attached to the underlying Petition as Exhibit 3).

¹² See *id.*

¹³ See **Exhibit C** attached hereto (also attached to the underlying Petition as Exhibit 5).

¹⁴ See *id.*

Paul and Chari “certify that they have disclosed all community assets and debts and that there are no other community assets or debts for [the family court] to divide.”¹⁵ The Divorce Petition is verified by Paul and Chari under penalties of perjury.¹⁶ On September 28, 2017, the family court entered its Decree of Divorce (the “Decree”).¹⁷ The Decree declares that the Couple “entered into an equitable agreement settling all issues regarding the division and distribution of [marital] assets” (i.e. there was no community property to divide).¹⁸ The Decree also orders that “the bonds of matrimony now existing between the [Couple] are hereby wholly dissolved, and an absolute Decree of Divorce is hereby granted to the [Couple], and each of the parties are hereby restored to the status of a single, unmarried person.”¹⁹

Chari Passes

Chari died suddenly and unexpectedly on October 18, 2017.²⁰ Chari’s death certificate wrongfully states that Chari was married at the time of her death.²¹ Paul is identified as the “INFORMANT” on the death certificate.²² On November 17, 2017, Paul caused an Affidavit – Death of Trustee (the “Death Affidavit”) to be recorded with the Clark County Recorder’s Office in relation to the House.²³ The Death Affidavit attaches a copy of Chari’s death certificate which inappropriately identifies her as married at the time of her death.²⁴

///

¹⁵ *See id.*

¹⁶ *See id.*

¹⁷ *See Exhibit D* attached hereto (also attached to the underlying Petition as Exhibit 6).

¹⁸ *See id.*

¹⁹ *See id.*

²⁰ *See* copy of Chari’s death certificate attached hereto as **Exhibit E** (also attached to the underlying Petition as Exhibit 4).

²¹ *See id.* (appropriate parties are in the process of changing the death certificate to show Chari was divorced at the time of her death).

²² *See id.*

²³ *See* Death Affidavit, a true and accurate of which is attached hereto **Exhibit F**.

²⁴ *See id.*

III. THE PROBATE COMMISSIONER’S FINDINGS AND RECOMMENDATIONS

Based on the unrefuted evidence presented by Tonya, the Probate Commissioner appropriately found that: (1) the House was Chari’s separate property prior to marriage, (2) the Trust created by the Couple was revocable, (3) the House was never transmuted to community property (4) the transfer of the House to the Trust did not affect its status as Chari’s personal property, and (5) the Couple was legally divorced at the time of Chari’s death.²⁵ Based on these findings, the Probate Commissioner properly recommended that: (1) pursuant to NRS 111.781, all gifts from Chari to Paul—including the beneficial provision contained in the Trust which gifts the House to Paul upon Chari’s death—were revoked upon entry of the Decree, and (2) Tonya, as the remainder beneficiary of the Trust (regarding the House), is the appropriate recipient of the House.²⁶

IV. LEGAL ARGUMENT

A. The Probate Commissioner’s Findings of Fact Are Without Error.

1. Paul Cannot Meet the Clearly Erroneous Standard.

NRCP 53(e)(2) requires that the Court “shall accept the master’s findings of fact unless clearly erroneous.” The Nevada Supreme Court has long instructed that “the scope of [the clearly erroneous] review is [] limited.” *Russell v. Thompson*, 96 Nev. 830, 834, 619 P.2d 537, 539 (1980). In fact, a master’s report should only be discarded when “the findings are based upon material errors in the proceedings or a mistake in law; or are unsupported by any substantial evidence; or are against the clear weight of the evidence.” *Id.* at 539, 834, n. 2 (citing 9 Wright and Miller, FEDERAL PRACTICE AND PROCEDURE: CIVIL § 2605).

Because of this, courts often refer to a clearly erroneous review as a “difficult hurdle.” *Clark v. Golden Rule Ins. Co.*, 887 F.2d 1276, 1278 (5th Cir. 1989); *Burgess Const. Co. v. M. Morrin & Son Co., Inc.*, 526 F.2d 108, 116 (10th Cir. 1975). Importantly, this means that “mere doubts or disagreement about the wisdom of a prior decision of [] a lower court will not suffice. To be clearly erroneous, a decision must strike [a court] as more than just maybe or probably wrong; *it must be dead*

²⁵ See RAR at p. 2-3, a true and accurate copy of which is attached hereto as **Exhibit G**.

²⁶ See *Id.*

wrong.” Teamsters Local 617 Pension and Welfare Funds v. Apollo Group, Inc., 282 F.R.D. 216, 231 (D. Ariz. 2012) (internal citations and quotations omitted) (emphasis added).

Paul has not, and cannot, meet this exacting standard.

2. Paul Does Cannot Refute Any of the Material Facts.

Paul cannot refute any of the facts which require application of NRS 111.781. In fact, Paul has admitted, under oath, that such facts are true. In his sworn declaration that accompanies his Objection, Paul confirms that: (1) the House was Chari’s before the marriage,²⁷ (2) the Couple formed the revocable Trust during their marriage,²⁸ and (3) the Couple was divorced at the time of Chari’s death.²⁹ In his sworn verification of the Divorce Petition, Paul admits that the transfer of the House to the Trust did not result in a transmutation to community property.³⁰ As Paul’s own testimony proves the very findings upon which the Probate Commissioner relied, he cannot claim any error.

B. The Probate Commissioner’s Application of the Law Is Without Error.

Paul’ Objection makes no mention of NRS 111.781. Unfortunately for Paul, his failure to address a controlling Nevada statute does not relieve him of its effect.

1. NRS 111.781 Applies to the Beneficiary Designation in the Trust.

NRS 111.781 revokes a former spouse’s rights to a beneficial disposition made by the ex-spouse. Specifically, NRS 111.781(1)(a)(1) states, in relevant part:

Except as otherwise provided by the express terms of a governing instrument, a court order or a contract relating to the division of the marital estate made between the divorced persons before or after the marriage, divorce or annulment, the divorce or annulment of a marriage: (a) *Revokes any revocable: (1) Disposition* or appointment of property made by a divorced person *to his or her former spouse* in a governing instrument.

(emphasis added)

²⁷ See Exhibit 1, ¶ 2 of the Objection (“At that time we decided to live at *Chari’s house*”) (emphasis added).

²⁸ See *id.*, ¶ 4.

²⁹ See *id.*, ¶ 9 (“Yet even though we were divorced. . .”).

³⁰ See Exhibit C at p. 2 and 6.

For purposes of NRS 111.781, the Trust is a “governing instrument.” *See* NRS 111.781(11)(d) (defining a “governing instrument” as any document “*executed* by a divorced person *before the divorce*”) (emphasis added). The Trust was also revocable; thus, all dispositions described therein—including the provision giving the House to Paul upon Chari’s death—were revocable by the settlors. *See* NRS 111.781(11)(f).³¹ Critically, the Trust does not declare that its dispositive provisions shall remain in effect regardless of any divorce. *See* NRS 111.781 (explaining that the provisions of the statute apply “except as otherwise provided by the express terms of the governing instrument”). The Couple was legally divorced upon the entry of the Decree (September 28, 2017). Upon their divorce, all gift from Chari and Paul became void. Accordingly, the Trust provision giving the House to Paul upon Chari’s death was void prior to Chari’s passing. *See* NRS 111.781(1)(a).

2. Transmutation Cannot Be Shown.

Paul hopes his alleged interest in the House may be preserved based on his tortured theory of transmutation. Transmutation requires intent and/or community contribution. Paul has shown neither.

a. Transmutation Must Be Deliberate.

NRS 123.130(1) declares separate property to be, “[a]ll property of the wife owned by her before marriage.” A spouse’s action must be unequivocal to transmute separate property; a party does not slip into a transmutation by accident. *See In re Marriage of Starkman*, 129 Cal. App. 4th 659, 664 (2005) (*as modified on denial of reh’g* (June 15, 2005)). This means that spouses must expressly declare their intention to transmute their separate property. “An ‘express declaration’ is a writing signed by the adversely affected spouse ‘which expressly states that the characterization or ownership of the property is being changed.’” *In re Marriage of Lafkas*, 237 Cal. App. 4th 921, 938 (2015), reh’g denied (July 1, 2015), review denied (Sept. 9, 2015), *citing Estate of MacDonald*, supra, 51 Cal.3d at

³¹ “‘Revocable,’ with respect to a disposition, appointment, provision or nomination, means one under which the divorced person, at the time of the divorce or annulment, was alone empowered, by law or under the governing instrument, to cancel the designation in favor of the person’s former spouse or former spouse’s relative, whether or not the divorced person was then empowered to designate himself or herself in place of his or her former spouse or in place of his or her former spouse’s relative and whether or not the divorced person then had the capacity to exercise the power.”

p. 272. Importantly, such “express declaration *must unambiguously* indicate a change in character or ownership of property.” *In re Marriage of Starkman*, 129 Cal. App. 4th at 664 (emphasis added); *see also In re Marriage of Benson*, 36 Cal. 4th 1096, 1106 (2005) (“The writing must reflect a transmutation on its face, and must eliminate the need to consider other evidence in divining this intent.”)

Without an express declaration transmuting separate property, a community may only acquire an interest in one spouse’s separate property if the community contributes to the purchase price of the property. *Robison v. Robison*, 100 Nev. 668, 671 (1984) (“Where a portion of the purchase price of one spouse’s separate property is paid with community funds, the community acquires a *pro tanto* interest in the property to the extent and in the proportion that the purchase price is paid with community funds.”). To meet this standard a spouse must prove: (1) there is a purchase money mortgage, and (2) the community made payments on the purchase money mortgage. *See Verheyden v. Verheyden*, 104 Nev. 342, 344 (1988). If such elements cannot be shown, the community does not acquire any interest in the spouse’s separate property.

Likewise, a community may acquire an interest in separate property by contributing to improvements of the property. However, in order to acquire such an interest, the community must prove “these improvements increased the value of the house.” *Id.* at 345 (1988). Importantly, expenditures “merely for routine maintenance” do not grant an interest to the community. *Id.* Finally, it is well settled that without specific evidence to the contrary (i.e. an express declaration), whenever a husband acquires possession of the separate property of his wife, he must be deemed to hold it in trust for her benefit. *See Stickney v. Stickney*, 131 U.S. 227 (1889), *see also Title Ins. & Tr. Co. v. Ingersoll*, 153 Cal. 1, 4 (1908).

b. Chari Did Not Transmute the House.

Paul’s subjective perception regarding ownership of the House is irrelevant. To be clear, the House could only have been transmuted to community property if Chari acted with specific intent to accomplish the same. In other words, the House was not (and could not be) transmuted by accident (nor by virtue of Paul’s convenient belief); and there is no evidence Chari unequivocally intended a

1 transmutation. Although Paul may now state that he believed the House had been transmuted to
2 community property, Paul's subjective believe is belied by his own testimony (the Divorce Petition,
3 which was verified by Chari and Paul, states that the Couple had no community property).

4 Although Paul's Objection indirectly asserts that Chari's transfer of the House to the Trust
5 created a community asset, Paul cannot reference a single legal authority which supports his theory.
6 This is not surprising considering Paul's argument flies in the face of clear legal precedent which
7 requires that transmutation be intentional and deliberate. Furthermore, had Chari intended her transfer
8 of the House to the Trust to cause a transmutation, one of the written documents (either the Quitclaim
9 Deed or the Trust agreement) would say something regarding the same. Both are silent.

10 Additionally, Paul cannot argue transmutation by contribution for several important reasons.
11 First, the House had no purchase money mortgage to which the community could have contributed—
12 Chari paid cash for the house before the Couple's marriage. Second, Paul has provided no evidence of
13 any "marital improvement" ever made to the House during the marriage. In fact, in his sworn
14 declaration, Paul admits that while the Couple resided in the House, they merely paid for "general
15 upkeep" and "bills."³² Such minimal community contributions for routine maintenance did not create
16 a community interest in the House.

17 3. Paul's Allegations of Error Are Wholly Irrelevant.

18 The Objection claims that the Probate Commissioner erred by failing: (1) "to consider that in
19 the interim time from the date of divorce to the date of [Chari's] death, [Paul] remained in the
20 [House],"³³ and (2) "to draw the appropriate inferences from the undisputed fact that [Paul] was
21 [Chari's] full-time care taker without interruption from the time of the divorce until the time of her
22 death."³⁴ The Objection also asserts that the conclusions stated in the RAR are erroneous "because
23 the statute is designed to protect those whose interests are both legally and factually divided after the
24

25 ³² See Exhibit 1 of the Objection at ¶ 3

26 ³³ Objection at p. 4

³⁴ *Id.* at p. 5

divorce yet overlook the effect of failing to address before the death of one of the parties.”³⁵ Not only do these claims make little logical sense, they also fail to address the application of NRS 111.781. In fact, although the Objection references “the statute,” it is unclear whether “the statute” is NRS 111.781. Regardless, the only exception to enforcement found in NRS 111.781 relates to contrary provisions set forth in a “governing instrument.” As none of Paul’s claims of error relate to a contrary provision in the Trust, they must be disregarded as irrelevant.

4. Any Application of NRS 163.565 Fully Aligns with the Probate Commissioner’s Application of NRS 111.781.

The RAR makes no mention of NRS 163.565. Despite this, Paul claims that the Probate Commissioner “misapplied [this statute] so as to protect the oversights of the individuals whose post-divorce conduct interests are demonstrably divergent, while denying the oversights of parties whose post-divorce conduct reflects convergence of interest couples with an inverse oversight of failing to include the matter in their Pro per joint decree of divorce.”³⁶ Fully unpacking this argument without the assistance of a cryptologist would be a daunting task. Nevertheless, at its most basic level, Paul’s argument appears to assert that proper application of NRS 163.565 would lead to a result contrary to that of the Probate Commissioner. Any such argument is misplaced.

NRS 163.565 is the “revocable trust” precursor to the all-encompassing version found at NRS 111.781.³⁷ A similar provision exists for wills in Title 12. *See* NRS 133.115. Had the Probate Commissioner also applied NRS 163.565 (instead of, or in addition to, NRS 111.781), the result would remain the same. This is best demonstrated by the plain language contained in NRS 163.565:

Divorce or annulment of the marriage of a settlor ***revokes every*** devise, ***beneficial interest*** or designation to serve as trustee given by the settlor ***to the former spouse of the settlor in a revocable inter vivos trust*** executed before the entry of the decree of divorce or annulment unless otherwise:

1. Provided in a property or separation agreement that is approved by the court in the divorce or annulment proceedings; or

³⁵ *Id.*

³⁶ *Id.*

³⁷ NRS 111.781 became law in 2011. NRS 163.565 became law in 2003.

2. Ordered by the court in the divorce or annulment proceedings,

and the revocable inter vivos trust provisions take effect in the same manner as if the spouse had predeceased the trustor.


(emphasis added). In other words, just like NRS 111.781, NRS 163.565 works to sever Paul's claim to the House because his "beneficial interest" was automatically "revoked" because the Trust was executed by "his former spouse" prior "to the entry of the decree of divorce."

V. CONCLUSION

For the reasons stated above, Tonya respectfully requests that this Court approve and adopt the RAR issued by the Probate Commissioner.

Dated this 20th day of February 2018.

RUSHFORTH LEE & KIEFER, LLP

BY : 
 DANIEL P. KIEFER (State Bar No. 12419)
 KENNEDY E. LEE (State Bar No. 12429)
Attorneys for Tonya Collier

<i>Exhibit</i>	<i>Description</i>
A	2009 Deed
B	Clark County Recorder's Office Printout
C	Divorce Petition
D	Decree
E	Death Certificate
F	Death Affidavit
G	RAR

Exhibit A

Exhibit A

Inst #: 200908140001937

Fees: \$16.00 N/C Fee: \$0.00

RPTT: \$433.50 Ex: #

08/14/2009 09:13:03 AM

Receipt #: 15361

Requestor:

TICOR TITLE LAS VEGAS

Recorded By: RNS Pgs: 4

DEBBIE CONWAY

CLARK COUNTY RECORDER

APN No.: 140-15-317-012

WHEN RECORDED MAIL TO:

Chari Hayes

5988 Turtle River Ave.

Las Vegas, NV 89156

MAIL TAX STATEMENTS TO:

Same As Above

Escrow No. 9154183-JEH

SPACE ABOVE FOR RECORDER'S USE ONLY

R.P.T.T. \$ 433.50

GRANT, BARGAIN, SALE DEED

THIS INDENTURE WITNESSETH: That HSBC Bank USA, National Association, as Trustee for WFASC Home Equity Asset-Backed Certificates, Series 2007-1

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, do/does hereby Grant, Bargain, Sell and Convey to Chari Hayes, a single woman

all that real property situated in the County of Clark, State of Nevada, described as follows:

SEE EXHIBIT "A" ATTACHED HERETO AND BY REFERENCE MADE A PART HEREOF

Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining.

SEE PAGE TWO (2) FOR SIGNATURES AND NOTARY ACKNOWLEDGEMENT

SIGNATURES AND NOTARY ACKNOWLEDGEMENT FOR GRANT, BARGAIN, SALE DEED.

HSBC Bank USA, National Association, as Trustee
for WFASC Home Equity Asset-Backed
Certificates, Series 2007-1

Janene Brennan

JANENE BRENNAN
Vice President Loan Documentation

Janene Brennan
Vice President Loan
Documentation

By Wells Fargo Bank, N.A., as attorney in fact
for HSBC Bank USA, National Association, as
Trustee for WFASC Home Equity Asset-Backed
Certificates, Series 2007-1

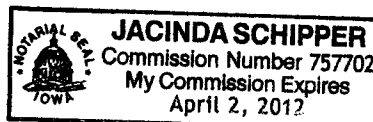
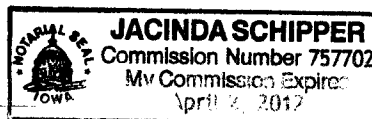
STATE OF ILLINOIS } ss:
COUNTY OF DELAWARE

On this 7/29/09
appeared before me, a Notary Public,

Janene Brennan

personally known or proven to me to be the person(s)
whose name(s) is/are subscribed to the above
instrument, who acknowledged that he/she/they executed
the instrument for the purposes therein contained.

Jacinda Schipper
NOTARY PUBLIC



My commission expires: _____

Jacinda Schipper
757702
exp April 2, 2012

Escrow No. 9154183-JEH

EXHIBIT "A"

PARCEL ONE (1):

LOT 374 IN BLOCK 1 OF YORKSHIRE HEIGHTS - PHASE 3, AS SHOWN BY MAP THEREOF ON FILE IN BOOK 93 OF PLATS, PAGE 30, IN THE OFFICE OF THE COUNTY RECORDER OF CLARK COUNTY, NEVADA.

PARCEL TWO (2):

A NON-EXCLUSIVE EASEMENT FOR INGRESS/EGRESS, USE AND ENJOYMENT, OVER THOSE PORTIONS OF SAID MAP DELINEATED AS "PRIVATE STREETS/P.U.E." AS SHOWN BY MAP THEREOF ON FILE IN BOOK 93 OF PLATS, PAGE 30, OFFICIAL RECORDS OF THE COUNTY RECORDER OF CLARK COUNTY, NEVADA, AND FURTHER DESCRIBED IN THAT CERTAIN DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS RECORDED September 24, 1999 IN BOOK 990924 AS DOCUMENT NO. 01463, CLARK COUNTY, NEVADA.

Assessor's Parcel Number: 140-15-317-012

**STATE OF NEVADA
DECLARATION OF VALUE FORM**

1. Assessor Parcel Number(s)

- a) 140-15-317-012
b) _____
c) _____
d) _____

2. Type of Property:

- a) ☐ Vacant Land b) ☒ Single Fam. Res
c) ☐ Condo/Twnhse d) ☐ 2-4 Plex
e) ☐ Apt. Bldg f) ☐ Comm'l/Ind'l
g) ☐ Agricultural h) ☐ Mobile Home
☐ Other _____

FOR RECORDER'S OPTIONAL USE ONLY

Book: _____ Page: _____
Date of Recording: _____
Notes: _____

3. a. Total Value/Sales Price of Property: _____

\$85,000.00

b. Deed in Lieu of Foreclosure Only (value of property) (_____)

c. Transfer Tax Value: _____

\$85,000.00

d. Real Property Tax Due: _____

\$ 433.50

4. If Exemption Claimed:

a. Transfer Tax Exemption per NRS 375.090, Section _____

b. Explain Reason for Exemption: _____

5. Partial Interest: Percentage being transferred: 100 %

The undersigned declares and acknowledges, under penalty of perjury, pursuant to NRS 375.060 and NRS 375.110, that the information provided is correct to the best of their information and belief, and can be supported by documentation if called upon to substantiate the information provided herein. Furthermore, the parties agree that disallowance of any claimed exemption, or other determination of additional tax due, may result in a penalty of 10% of the tax due plus interest at 1% per month. Pursuant to NRS 375.030, the Buyer and Seller shall be jointly and severally liable for any additional amount owed.

Signature Janene Brennan

Capacity grantor

Signature JANENE BRENNAN

Capacity _____

Vice President Loan Documentation

SELLER (GRANTOR) INFORMATION
(REQUIRED)

Print Name: HSBC Bank USA, National Association, as
Trustee for WFASC Home Equity Asset-Backed

Certificates, Series 2007-1

Address: 8480 Stagecoach Circle

City: Frederick

State: MD Zip: 21701

BUYER (GRANTEE) INFORMATION
(REQUIRED)

Print Name: Chari Hayes

Address: 5988 Turtle River Avenue

City: Las Vegas

State: NV Zip: 89156

COMPANY/PERSON REQUESTING RECORDING (required if not seller or buy)

Print Name Ticor Title of Nevada, Inc.

Escrow # 09154183JEH

Address 3100 W. Sahara Avenue, #115

City: Las Vegas

State: NV

Zip: 89120

AS A PUBLIC RECORD THIS FORM MAY BE RECORDED/MICROFILMED

Exhibit B

Exhibit B

Search Results Print

You searched under: **Parcel Number** for: **140-15-317-012** with the document types of: **ALL DOCUMENTS** between: **1/1/1900** and **2/20/2018**

Records found: 53

Refresh								
First Party Name	First Cross Party Name	Instrument #	Document Type	Modifier	Record Date	Parcel #	Remarks	Total Value
PLASTER DEVELOPMENT COMPANY INC	NICHOLSON, RENN A	200010310002746	DEED		10/31/2000 3:12:15 PM	140-15-317-012		123240.0000
NICHOLSON, RENN A	NATIONAL CITY MORTGAGE CO	200010310002747	DEED OF TRUST		10/31/2000 3:12:15 PM	140-15-317-012		
RICHARDSON, RENN A	NATIONAL CITY MORTGAGE CO	200104200000413	BREACH		4/20/2001 8:49:45 AM	140-15-317-012		
RICHARDSON, RENN A	NONE SHOWN	200105220001562	DEFAULT	Recision	5/22/2001 2:06:14 PM	140-15-317-012		
NICHOLSON, RENN A	NATIONAL CITY MORTGAGE CO	200105220001563	BREACH		5/22/2001 2:06:14 PM	140-15-317-012		
NATIONAL CITY MORTGAGE CO	LAND TITLE	200108150001676	SUBSTITUTION	Trustee	8/15/2001 2:09:07 PM	140-15-317-012		
CLARK COUNTY SANITATION DISTRICT	NICHOLSON, RENN A	200109210000275	LIEN		9/21/2001 8:18:42 AM	140-15-317-012		
NICHOLSON, RENN A	BROWN, TIM E	200111010001647	DEED		11/1/2001 10:02:06 AM	140-15-317-012		120000.0000
BROWN, TIM E	PHH MORTGAGE SERVICES	200111010001648	DEED OF TRUST		11/1/2001 10:02:06 AM	140-15-317-012		
CLARK COUNTY SANITATION DISTRICT	NICHOLSON, RENN A	200111080000046	LIEN	Release	11/8/2001 8:09:04 AM	140-15-317-012		
NICHOLSON, RENN A	NONE SHOWN	200111280000451	DEFAULT	Recision	11/28/2001 8:03:23 AM	140-15-317-012		
BROWN, TINA M	TO WHOM IT MAY CONCERN	200203290003543	HOMESTEAD		3/29/2002 2:18:39 PM	140-15-317-012		
BROWN, TIM E	TD SERVICE COMPANY	200304230003288	SUBSTITUTION	Trustee	4/23/2003 5:00:00 PM	140-15-317-012		
TD SERVICE COMPANY	BROWN, TIM E	200304230003289	RECONVEYANCE		4/23/2003 5:00:00 PM	140-15-317-012		

First Party Name	First Cross Party Name	Instrument #	Document Type	Modifier	Record Date	Parcel #	Remarks	Total Value
NATIONAL CITY MORTGAGE CO	NICHOLSON, RENN A	200401020002316	SUBSTITUTION/RECONVEYANCE		1/2/2004 4:58:16 PM	140-15-317-012		
BROWN, TIM E	PARIZE, KARL	200403080002368	DEED		3/8/2004 2:50:11 PM	140-15-317-012		174000.0000
PARIZE, VALERIE	PARIZE, KARL	200403080002369	DEED		3/8/2004 2:50:11 PM	140-15-317-012		0.0000
PARIZE, KARL	WMC MORTGAGE CORP	200403080002370	DEED OF TRUST		3/8/2004 2:50:11 PM	140-15-317-012		
PARIZE, KARL	WMC MORTGAGE CORP	200403080002371	TRUST DEED/REQUEST NOTICE		3/8/2004 2:50:11 PM	140-15-317-012		
NATIONAL CITY MORTGAGE CO	BROWN, TIM E	200403310002786	SUBSTITUTION/RECONVEYANCE		3/31/2004 1:13:33 PM	140-15-317-012		
PARIZE, KARL	PREMIUM REALTY & INVESTMENT LLC	200407140003480	DEED		7/14/2004 1:31:11 PM	140-15-317-012		
PARIZE, KARL	WASHINGTON MUTUAL BANK FA	200505240002834	DEED OF TRUST		5/24/2005 1:30:10 PM	140-15-317-012		
PREMIUM REALTY & INVESTMENT LLC	PARIZE, KARL M	200511020003924	DEED		11/2/2005 1:48:59 PM	140-15-317-012		
PARIZE, KARL M	CORZO, CARLOS ANDRES	200511020003925	DEED		11/2/2005 1:48:59 PM	140-15-317-012		240000.0000
CORZO, CARLOS ANDRES	STAR FUNDING INC	200511020003926	DEED OF TRUST		11/2/2005 1:48:59 PM	140-15-317-012		
CORZO, CARLOS ANDRES	STAR FUNDING INC	200511020003927	DEED OF TRUST		11/2/2005 1:48:59 PM	140-15-317-012		
CALIFORNIA RECONVEYANCE COMPANY	PARIZE, KARL	200512200001890	SUBSTITUTION/RECONVEYANCE		12/20/2005 11:05:54 AM	140-15-317-012		
MORTGAGE ELECTRONIC REGISTRATION SYSTEMS INC	PRINCETON RECONVEYANCE SERVICES INC	200512270000825	SUBSTITUTION	TRUSTEE	12/27/2005 9:24:14 AM	140-15-317-012		
PRINCETON RECONVEYANCE SERVICES INC	PARIZE, KARL	200512270000826	RECONVEYANCE		12/27/2005 9:24:14 AM	140-15-317-012		
MORTGAGE ELECTRONIC REGISTRATION SYSTEMS INC	PRINCETON RECONVEYANCE SERVICES INC	200601030003538	SUBSTITUTION	TRUSTEE	1/3/2006 1:59:33 PM	140-15-317-012		

First Party Name	First Cross Party Name	Instrument #	Document Type	Modifier	Record Date	Parcel #	Remarks	Total Value
PRINCETON RECONVEYANCE SERVICES INC	PARIZE, KARL	200601030003539	RECONVEYANCE		1/3/2006 1:59:33 PM	140-15-317-012		
CORZO, CARLOS ANDRES		200610310003246	HOMESTEAD		10/31/2006 11:42:14 AM	140-15-317-012		
CORZO, CARLOS ANDRES	HERITAGE ESTATES HOMEOWNERS ASSOCIATION	200611270002142	LIEN		11/27/2006 1:25:35 PM	140-15-317-012	NOTICE OF CLAIM OF LIEN HOMEOWNERS ASSESSMENT	
CORZO, CARLOS	CORZO, CARLOS	200612270003838	DEED		12/27/2006 2:06:34 PM	140-15-317-012		
CORZO, CARLOS	WELLS FARGO BANK NA	200612270003839	DEED OF TRUST		12/27/2006 2:06:34 PM	140-15-317-012		
STAR FUNDING INC	LONG BEACH MORTGAGE COMPANY	200701310000369	ASSIGNMENT		1/31/2007 8:25:43 AM	140-15-317-012	CORPORATE ASSIGNMENT OF DEED OF TRUST	
CALIFORNIA RECONVEYANCE COMPANY	CORZO, CARLOS ANDRES	200701310000370	SUBSTITUTION/RECONVEYANCE		1/31/2007 8:25:43 AM	140-15-317-012		
DYSON, NEIL	CORZO, CARLOS A	200702060000303	SUBSTITUTION/RECONVEYANCE		2/6/2007 8:01:39 AM	140-15-317-012		
PREMIUM REALTY & INVESTMENT LLC	PARIZE, KARL M	200702140004183	RPTT CORRECTION		2/14/2007 3:35:31 PM	140-15-317-012		174000.0000
HERITAGE ESTATES HOMEOWNERS ASSOCIATION	CORZO, CARLOS ANDRES	200702150003403	LIEN	Release(RL)	2/15/2007 1:35:39 PM	140-15-317-012		
CORZO, CARLOS	NATIONAL DEFAULT SERVICING CORPORATION	200806240004326	DEFAULT		6/24/2008 2:06:36 PM	140-15-317-012		
WELLS FARGO BANK NA	HSBC BANK USA NATIONAL ASSOCIATION EE	200810100003584	ASSIGNMENT		10/10/2008 1:52:21 PM	140-15-317-012	CORPORATION ASSIGNMENT OF DEED OF TRUST	
HSBC BANK USA NATIONAL ASSOCIATION EE	NATIONAL DEFAULT SERVICING CORPORATION	200810100003585	SUBSTITUTION	TRUSTEE	10/10/2008 1:52:21 PM	140-15-317-012		
CORZO, CARLOS	NATIONAL DEFAULT SERVICING CORPORATION	200810100003586	NOTICE OF TRUSTEE SALE		10/10/2008 1:52:21 PM	140-15-317-012		
NATIONAL DEFAULT SERVICING CORPORATION	HSBC BANK USA NATIONAL ASSOCIATION EE	200811130000735	TRUSTEE DEED		11/13/2008 8:47:47 AM	140-15-317-012		133000.0000
BANK HSBC USA NATL ASSN EE	CLARK COUNTY WATER RECLAMATION DISTRICT	200812020003427	LIEN		12/2/2008 12:10:24 PM	140-15-317-012		

First Party Name	First Cross Party Name	Instrument #	Document Type	Modifier	Record Date	Parcel #	Remarks	Total Value
CLARK COUNTY WATER RECLAMATION DISTRICT	BANK HSBC USA NATL ASSN EE	200902120003686	LIEN	Release(RL)	2/12/2009 11:28:44 AM	140-15-317-012		
HSBC BANK USA NATIONAL ASSOCIATION EE	HAYES CHARI	200908140001937	DEED		8/14/2009 9:13:03 AM	140-15-317-012		85000.0000
HAYES, CHARI		200909220004014	HOMESTEAD		9/22/2009 4:38:03 PM	140-15-317-012		0.0000
NONE SHOWN	NORTH LAS VEGAS CITY	201101310000557	LIEN		1/31/2011 8:02:20 AM	140-15-317-012		0.0000
NONE SHOWN	NORTH LAS VEGAS CITY	201102110000815	LIEN		2/11/2011 9:22:17 AM	140-15-317-012		0.0000
COLMAN, PAUL VALER	COLLIER, TONYA	201711130002267	LIS PENDENS		11/13/2017 1:33:34 PM	140-15-317-012		0.0000
COLMAN, PAUL VALER	COLMAN, PAUL VALER	201711170000908	AFFIDAVIT	TRUSTEE	11/17/2017 9:14:16 AM	140-15-317-012		0.0000

Exhibit C

Exhibit C

Heather L. Hume
CLERK OF THE COURT

DVJ

Spouse's Name: Charli Dawn Colman
Address: 5988 Turtle River Ave
City, State, Zip: Las Vegas, NV 89156-4791
Phone: (702) 437-7075
Email: charlicolman@live.com

Spouse's Name: Rui Valsin Colman
Address: 5988 Turtle River Ave
City, State, Zip: Las Vegas, NV 89156-4791
Phone: (702) 437-7075
Email: rui.colman@live.com
Self-Represented

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Charli Dawn Colman

First Joint Petitioner (Spouse Name),

And

Rui Valsin Colman

Second Joint Petitioner (Spouse Name).

CASE N:
DEPT:

**D-17-557861-Z
DEPT: P**

JOINT PETITION FOR DIVORCE (No Children)

Petitioners, in proper person, hereby petition this Court pursuant to the terms of Chapter 125 of the Nevada Revised Statutes, to grant them a divorce. Petitioners respectfully show, and under oath, state to the Court that every condition of NRS 125.181 has been met and further state as follows:

1. **Residency.** The following spouse has been a resident of the State of Nevada for at least six weeks prior to filing this Complaint and intends to make Nevada his/her home for an indefinite period of time: (name of Nevada resident) CHARLI COLMAN.
2. **Marriage.** The parties were married on (date) 12/15/2009 in (city) Las Vegas, (state) Nevada. The parties are incompatible.

3. The current addresses of the Petitioners are:

First Petitioner:

Name: Chani D. Coleman
Address: 5988 Turtle River Ave
City, State, Zip: Las Vegas, NV 89152-479

Second Petitioner:

Name: Ray V. Coleman
Address: 5988 Turtle River Ave
City, State, Zip: Las Vegas, NV 89152-479

4. **Children.** There are no minor children in common born to or adopted by the Petitioners. (☒ *check one*)

- ☒ Neither spouse is pregnant.
- ☐ The following spouse is pregnant: (*name of pregnant spouse*) _____.
The other spouse ☐ is / ☐ is not the parent of the unborn child. The child is due to be born on (*date*): _____.
- ☐ It is unknown whether either spouse is currently pregnant.

5. **Division of Community Property.** (☒ *check one*)

- ☒ There is no community property to divide.
- ☐ Any community property has already been divided.
- ☐ The community property should be divided as follows:

(*Name of spouse*) _____ shall receive:

1. _____
2. _____
3. _____
4. _____

(*Name of spouse*) _____ shall receive:

1. _____
2. _____
3. _____
4. _____

6. **Division of Community Debt.** (☒ *check one*)

- ☒ There is no community debt to divide.
- ☐ Any community debt has already been divided.
- ☐ The community debt should be divided as follows:

(*Name of spouse*) _____ shall be liable for:

1. _____
2. _____
3. _____
4. _____

(*Name of spouse*) _____ shall be liable for:

1. _____
2. _____
3. _____
4. _____

7. **Alimony.** (☒ *check one*)

- ☒ Neither petitioner should be awarded alimony.
- ☐ (*Name of spouse who will pay alimony*) _____
should pay (*amount*) \$ _____ per month in alimony for the next (*number*)
_____ years. Spousal support should begin on (*date*) _____ and
end on (*date*) _____.

8. **Name Change.** (☒ *check all that apply*)

- ☒ Neither party changed their name or neither party wishes to have a former or maiden name restored.
- ☐ The name of (*spouse's name*) _____ should be restored to his / her former or maiden name of (*write the full name the person wants to go back to*) _____.
- ☐ The name of (*spouse's name*) _____ should be restored to his / her former or maiden name of (*write the full name the person wants to go back to*) _____.

9. Petitioners certify that they have disclosed all community assets and debts and that there are no other community assets or debts for this Court to divide.
10. Petitioners hereby request that this Court enter a Decree of Divorce, incorporating into that Decree the provisions made in this Joint Petition.
11. It is understood by the Petitioners that entry of a Decree of Divorce constitutes a final adjudication of the rights and obligations of the parties with respect to the status of the marriage. Petitioners each expressly give up their respective rights to receive written notice of entry of any judgment or decree of divorce, and Petitioners give up their right to request formal findings of fact and conclusions of law. Petitioners waive their right to appeal the Decree of Divorce, and the right to move for a new trial.
12. It is further understood by the Petitioners that a final Decree of Divorce entered by this summary procedure does not prejudice or prevent the rights of either Petitioner to bring an action to set aside the final decree for fraud, duress, accident, mistake, or the grounds recognized at law or in equity.

Petitioners request:

1. That they be granted a Decree of Divorce and that each of the Petitioners be restored to the status of a single, unmarried person;
2. That the terms agreed upon in this Joint Petition be included in the Decree.

Date: August 29, 2017
Charli A. Colman
(First Petitioner's signature)
Charli A. Colman
(First Petitioner's printed name)

Date: August 29, 2017
Paul V. Colman
(Second Petitioner's signature)
Paul V. Colman
(Second Petitioner's printed name)

FIRST PETITIONER'S VERIFICATION

STATE OF NEVADA)
)
COUNTY OF CLARK)

(Spouse's name) Charli A. Colman being first duly sworn under penalties of perjury, deposes and says:

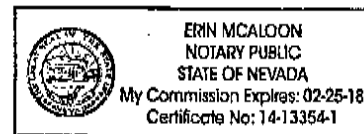
I am the Petitioner herein, and I have read the foregoing Joint Petition for Divorce and know the contents thereof; that the pleading is true to the best of my own knowledge, except as to those matters therein stated upon information and belief, and as to those matters, I believe them to be true.

Charli A. Colman
(Spouse's signature)

Signed and sworn to (or affirmed) before me on

(date) 8/29/2017 by (name) CHARLI COLMAN

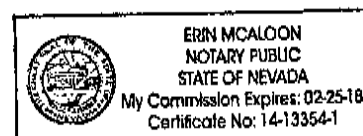
Erin McAloon
Signature of notarial officer



STATE OF NEVADA)
)
COUNTY OF CLARK)

On this 29th day of August 2017, personally appeared before me, a Notary Public, (Spouse's name) Charli Colman, known or proved to me to be the person who executed the foregoing Joint Petition for Divorce, and who acknowledged to me that he/she did so freely and voluntarily and for the uses and purposes herein stated.

Erin McAloon
Signature of notarial officer




SECOND PETITIONER'S VERIFICATION

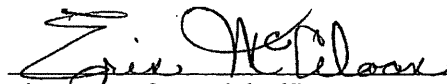
STATE OF NEVADA)
)
COUNTY OF CLARK)

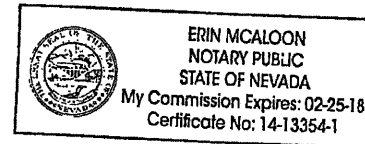
(Spouse's name) Paul V. Colman being first duly sworn under penalties of perjury, deposes and says:

I am the Petitioner herein, and I have read the foregoing Joint Petition for Divorce and know the contents thereof; that the pleading is true to the best of my own knowledge, except as to those matters therein stated upon information and belief, and as to those matters, I believe them to be true.


(Spouse's signature)

Signed and sworn to (or affirmed) before me on
(date) 8/29/2017 by (name) PAUL COLMAN


Signature of notarial officer



STATE OF NEVADA)
)
COUNTY OF CLARK)

On this 29th day of August 20 17, personally appeared before me, a Notary Public, (Spouse's name) PAUL COLMAN, known or proved to me to be the person who executed the foregoing Joint Petition for Divorce, and who acknowledged to me that he/she did so freely and voluntarily and for the uses and purposes herein stated.


Signature of notarial officer

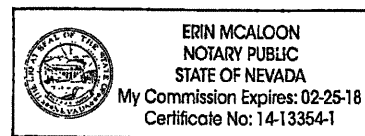


Exhibit D

Exhibit D

Heather Hemin
CLERK OF THE COURT

DECD

Spouse's Name: CHARI COLEMAN
Address: 5488 TURTLE RIVER AVE.
City, State, Zip: LV NV 89156
Phone: _____
Email: _____

Spouse's Name: PAUL COLEMAN
Address: 5488 TURTLE RIVER AVE.
City, State, Zip: LV NV 89156
Phone: _____
Email: _____

Self-Represented

**DISTRICT COURT
CLARK COUNTY, NEVADA**

CHARI COLEMAN
First Joint Petitioner (*Spouse Name*).

And

PAUL COLEMAN
Second Joint Petitioner (*Spouse Name*).

CASE NO.: **D-17-557861-Z**
DEPT: **P**

DECREE OF DIVORCE

The above entitled cause, having been submitted to this Court for decision pursuant to Chapter 125 of the Nevada Revised Statutes, and based upon the Joint Petition by the Petitioners, and all of the papers and pleadings on file, the Court finds as follows:

1. That all of the allegations contained in the documents on file are true;
2. That all of the requirements of NRS 125.181 and NRS 125.182 have been met;
3. That (*name of party who lives in Nevada*) CHARI COLEMAN is now and has been an actual bona fide resident of the State of Nevada and has been actually domiciled in the State of Nevada for more than six weeks immediately prior to the commencement of this action.

RECEIVED

1 4. That Petitioners were married on (date) Dec 15, 2009 in the city of
2 LAS VEGAS, State of NV and have since
3 remained married. The parties have become, and continue to be, incompatible in
4 marriage, and no reconciliation is possible. The Petitioners are entitled to a Decree of
5 Divorce.

6 5. **Pregnancy.** (☒ check one)

7 ☒ Neither spouse is pregnant.

8 ☐ The following spouse is pregnant: (name of pregnant spouse) _____

9 The other spouse ☐ is / ☐ is not the parent of the unborn child. The child is due to be
10 born on (date): _____.

11 6. That the Petitioners have no minor children in common who are either biological or
12 adopted.

13 7. That the Petitioners have entered into an equitable agreement settling all issues
14 regarding the division and distribution of assets and debts which is outlined in the Joint
15 Petition, a filed copy of which is attached as Exhibit A. The Petitioners request that this
16 agreement be ratified, confirmed, and incorporated into this Decree as though fully set
17 forth.

18 8. That the Petitioners have entered into an equitable agreement settling the issue of
19 spousal support which is outlined in the Joint Petition, a filed copy of which is attached
20 as Exhibit A. The Petitioners request that this agreement be ratified, confirmed, and
21 incorporated into this Decree as though fully set forth.

22 9. That this Court has complete jurisdiction to enter this Decree and the orders regarding
23 the distribution of assets and debts.

24 10. That the Petitioners waive their rights to a written notice of entry of decree or judgment,
25 to request findings of fact and conclusions of law, to appeal, and to move for a new trial.

26 11. That any other necessary findings of fact are attached and incorporated herein.
27
28

1 **NOW THEREFORE, IT IS HEREBY ORDERED** that the bonds of matrimony now
2 existing between the parties are hereby wholly dissolved, and an absolute Decree of Divorce is
3 hereby granted to the parties, and each of the parties are hereby restored to the status of a single,
4 unmarried person.

5 **IT IS FURTHER ORDERED** that the terms, as stated in the Petitioner's Joint Petition,
6 regarding the division of assets and debts are hereby ratified, confirmed and incorporated into
7 this Decree as though fully set forth.

8 **IT IS FURTHER ORDERED** that the terms, as stated in the Petitioner's Joint Petition,
9 regarding the issue of spousal support are hereby ratified, confirmed and incorporated into this
10 Decree as though fully set forth.

11 **IT IS FURTHER ORDERED that** (☒ *check all that apply*)

12 ☒ Neither party changed their name or neither party wishes to have a former or maiden
13 name restored.

14 ☐ The name of (*spouse's name*) _____ should be
15 restored to his / her former or maiden name of (*write full name the person wants to*
16 *go back to*) _____.

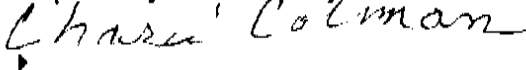
17 ☐ The name of (*spouse's name*) _____ should be
18 restored to his / her former or maiden name of (*write full name the person wants to*
19 *go back to*) _____.

20 **IT IS FURTHER ORDERED** that each party shall submit the information required in
21 NRS 125.130 on a separate form to the Court. Such information shall be maintained by the
22 Clerk in a confidential manner and not part of the public record.

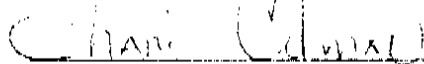
23 DATED this 27 day of September, 2017.

24 
DISTRICT COURT JUDGE *ju*

25 Respectfully Submitted By

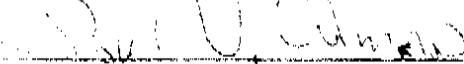
26 

27 (*First Spouse's signature*)

28 

(*First Spouse's printed name*)

(*Second Spouse's signature*)



(*Second Spouse's printed name*)

(Attach a filed copy of the Petitioner's Joint Petition for Divorce as Exhibit A)

Heather J. Hume
CLERK OF THE COURT

DVJ

Spouse's Name: Charli Dawn Colman
Address: 5788 Turtle River Ave
City, State, Zip: Las Vegas, NV 89156-4791
Phone: 702-437-7075
Email: charlicolman@yahoo.com

Spouse's Name: Rui V. da Silva Colman
Address: 5788 Turtle River Ave
City, State, Zip: Las Vegas, NV 89156-4791
Phone: 702-437-7075
Email: randymash@hotmail.com
Self-Represented

DISTRICT COURT
CLARK COUNTY, NEVADA

Charli Dawn Colman
First Joint Petitioner (Spouse Name),

And
Rui V. da Silva Colman
Second Joint Petitioner (Spouse Name).

CASE N:
DEPT:

D-17-557861-Z
DEPT: P

JOINT PETITION FOR DIVORCE (No Children)

Petitioners, in proper person, hereby petition this Court pursuant to the terms of Chapter 125 of the Nevada Revised Statutes, to grant them a divorce. Petitioners respectfully show, and under oath, state to the Court that every condition of NRS 125.181 has been met and further state as follows:

1. **Residency.** The following spouse has been a resident of the State of Nevada for at least six weeks prior to filing this Complaint and intends to make Nevada his/her home for an indefinite period of time: (name of Nevada resident) CHARLI COLMAN.
2. **Marriage.** The parties were married on (date) Dec 15 2009 in (city) LAS VEGAS, (state) NEVADA. The parties are incompatible.

3. The current addresses of the Petitioners are:

First Petitioner:

Name: Chani D. Colman
Address: 5986 Turtle River Ave
City, State, Zip: Las Vegas, NV 89124

Second Petitioner:

Name: Sheryl V. Colman
Address: 5986 Turtle River Ave
City, State, Zip: Las Vegas, NV 89124

4. Children. There are no minor children in common born to or adopted by the Petitioners. (☒ check one)

☒ Neither spouse is pregnant.

☐ The following spouse is pregnant: (name of pregnant spouse) _____

The other spouse ☐ is / ☐ is not the parent of the unborn child. The child is due to be born on (date): _____

☐ It is unknown whether either spouse is currently pregnant.

5. Division of Community Property. (☒ check one)

☒ There is no community property to divide.

☐ Any community property has already been divided.

☐ The community property should be divided as follows:

(Name of spouse) _____ shall receive:

1. _____
2. _____
3. _____
4. _____

(Name of spouse) _____ shall receive:

1. _____
2. _____
3. _____
4. _____

6. Division of Community Debt. (☒ check one)

- ☒ There is no community debt to divide.
- ☐ Any community debt has already been divided.
- ☐ The community debt should be divided as follows:

(Name of spouse) _____ shall be liable for:

1. _____
2. _____
3. _____
4. _____

(Name of spouse) _____ shall be liable for:

1. _____
2. _____
3. _____
4. _____

7. Alimony. (☒ check one)

- ☒ Neither petitioner should be awarded alimony.
- ☐ (Name of spouse who will pay alimony) _____
should pay (amount) \$ _____ per month in alimony for the next (number)
_____ years. Spousal support should begin on (date) _____ and
end on (date) _____.

8. Name Change. (☒ check all that apply)

- ☒ Neither party changed their name or neither party wishes to have a former or maiden name restored.
- ☐ The name of (spouse's name) _____ should be restored to his / her former or maiden name of (write the full name the person wants to go back to) _____.
- ☐ The name of (spouse's name) _____ should be restored to his / her former or maiden name of (write the full name the person wants to go back to) _____.

9. Petitioners certify that they have disclosed all community assets and debts and that there are no other community assets or debts for this Court to divide.
10. Petitioners hereby request that this Court enter a Decree of Divorce, incorporating into that Decree the provisions made in this Joint Petition.
11. It is understood by the Petitioners that entry of a Decree of Divorce constitutes a final adjudication of the rights and obligations of the parties with respect to the status of the marriage. Petitioners each expressly give up their respective rights to receive written notice of entry of any judgment or decree of divorce, and Petitioners give up their right to request formal findings of fact and conclusions of law. Petitioners waive their right to appeal the Decree of Divorce, and the right to move for a new trial.
12. It is further understood by the Petitioners that a final Decree of Divorce entered by this summary procedure does not prejudice or prevent the rights of either Petitioner to bring an action to set aside the final decree for fraud, duress, accident, mistake, or the grounds recognized at law or in equity.

Petitioners request:

1. That they be granted a Decree of Divorce and that each of the Petitioners be restored to the status of a single, unmarried person;
2. That the terms agreed upon in this Joint Petition be included in the Decree.

Date: August 28, 2017
Chaz A. Coleman
(First Petitioner's signature)
Chaz A. Coleman
(First Petitioner's printed name)

Date: August 28, 2017
Paul V. Coleman
(Second Petitioner's signature)
Paul V. Coleman
(Second Petitioner's printed name)

FIRST PETITIONER'S VERIFICATION

STATE OF NEVADA)
)
COUNTY OF CLARK)

(Spouse's name) Charli A. Colman being first duly sworn under penalties of perjury, deposes and says:

I am the Petitioner herein, and I have read the foregoing Joint Petition for Divorce and know the contents thereof; that the pleading is true to the best of my own knowledge, except as to those matters therein stated upon information and belief, and as to those matters, I believe them to be true.

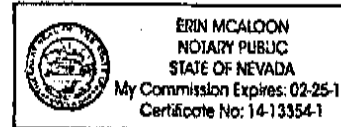
Charli A. Colman
(Spouse's signature)

Signed and sworn to (or affirmed) before me on

(date) 8/29/2017 by (name) CHARLI COLMAN

[Signature]

Signature of notarial officer

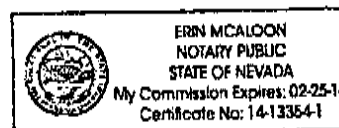


STATE OF NEVADA)
)
COUNTY OF CLARK)

On this 29th day of August 2017, personally appeared before me, a Notary Public, (Spouse's name) CHARLI COLMAN, known or proved to me to be the person who executed the foregoing Joint Petition for Divorce, and who acknowledged to me that he/she did so freely and voluntarily and for the uses and purposes herein stated.

[Signature]

Signature of notarial officer

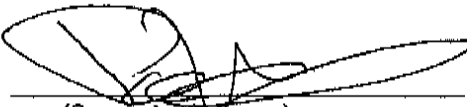


SECOND PETITIONER'S VERIFICATION

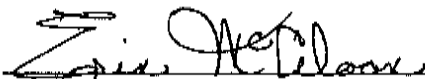
STATE OF NEVADA)
)
COUNTY OF CLARK)

(Spouse's name) Paul V. Colman being first duly sworn under penalties of perjury, deposes and says:

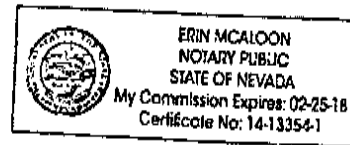
I am the Petitioner herein, and I have read the foregoing Joint Petition for Divorce and know the contents thereof; that the pleading is true to the best of my own knowledge, except as to those matters therein stated upon information and belief, and as to those matters, I believe them to be true.


(Spouse's signature)

Signed and sworn to (or affirmed) before me on
(date) 8/29/2017 by (name) PAUL COLMAN

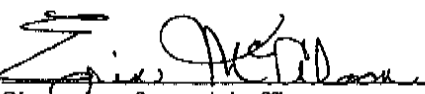


Signature of notarial officer



STATE OF NEVADA)
)
COUNTY OF CLARK)

On this 29th day of August 20 17, personally appeared before me, a Notary Public, (Spouse's name) PAUL COLMAN, known or proved to me to be the person who executed the foregoing Joint Petition for Divorce, and who acknowledged to me that he/she did so freely and voluntarily and for the uses and purposes herein stated.



Signature of notarial officer

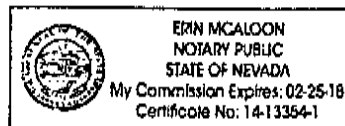


Exhibit E

Exhibit E

STATE OF NEVADA

CERTIFICATION OF VITAL RECORD

DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF PUBLIC AND BEHAVIORAL HEALTH
VITAL STATISTICS

CASE FILE NO. 3983888

CERTIFICATE OF DEATH

2017019460

STATE FILE NUMBER

TYPE OR
PRINT IN
PERMANENT
BLACK INK

DECEDENT

IF DEATH
OCCURRED IN
INSTITUTION SEE
HANDBOOK
REGARDING
COMPLETION OF
RESIDENCE
ITEMS

PARENTS

DISPOSITION

TRADE CALL

CERTIFIER

REGISTRAR

CAUSE OF
DEATHCONDITIONS IF
ANY WHICH
GAVE RISE TO
IMMEDIATE
CAUSE
STATING THE
UNDERLYING
CAUSE LAST

1a. DECEASED-NAME (FIRST,MIDDLE,LAST,SUFFIX) Chari Ann COLMAN		2. DATE OF DEATH (Mo/Day/Year) October 18, 2017		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 5988 Turtle River Ave		3e. If Hosp. or Inst. indicate DOA,OP/Emer. Rm. Inpatient(Specify) Home	
5. RACE (Specify) White		6. Hispanic Origin? Specify No - Non-Hispanic		7a. AGE-Last birthday (Years) 69	
9a. STATE OF BIRTH (If not US/CA, name country) California		9b. CITIZEN OF WHAT COUNTRY United States		10. EDUCATION 16	
13. SOCIAL SECURITY NUMBER [REDACTED]		14a. USUAL OCCUPATION (Give Kind of Work Done During Most of Supervisor		14b. KIND OF BUSINESS OR INDUSTRY Casino	
15a. RESIDENCE - STATE Nevada		15b. COUNTY Clark		15c. CITY, TOWN OR LOCATION Las Vegas	
15d. STREET AND NUMBER 5988 Turtle River Ave		15e. INSIDE CITY LIMITS (Specify Yes or No) No		15f. Ever in US Armed Forces? No	
16. FATHER/PARENT - NAME (First Middle Last Suffix) Charles A FRAZIER		17. MOTHER/PARENT - NAME (First Middle Last Suffix) Bertha L DEVERS			
18a. INFORMANT - NAME (Type or Print) Paul V COLMAN		18b. MAILING ADDRESS (Street or R.F.D. No. City or Town, State, Zip) 5988 Turtle River Ave., Las Vegas, Nevada 89156			
19a. BURIAL, CREMATION, REMOVAL, OTHER (Specify) Cremation		19b. CEMETERY OR CREMATORY - NAME Paradise Valley Crematory		19c. LOCATION City or Town State Las Vegas Nevada 89119	
20a. FUNERAL DIRECTOR - SIGNATURE (Or Person Acting as Such) ALLEN KOPP		20b. FUNERAL DIRECTOR LICENSE NUMBER FD772		20c. NAME AND ADDRESS OF FACILITY Davis Funeral Home and Memorial Park 6200 S Eastern Las Vegas NV 89119	
TRADE CALL - NAME AND ADDRESS					
21a. To the best of my knowledge, death occurred at the time, date and place and due to the cause(s) stated.(Signature & Title) JENNIFER N CORNEAL MD		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) JENNIFER N CORNEAL MD			
21b. DATE SIGNED (Mo/Day/Yr) October 20, 2017		21c. HOUR OF DEATH 15:00		22b. DATE SIGNED (Mo/Day/Yr) October 20, 2017	
21d. NAME OF ATTENDING PHYSICIAN IF OTHER THAN CERTIFIER (Type or Print) October 18, 2017		21e. PRONOUNCED DEAD (Mo/Day/Yr) October 18, 2017		22c. PRONOUNCED DEAD AT (Hour) 15:00	
23a. NAME AND ADDRESS OF CERTIFIER (PHYSICIAN, ATTENDING PHYSICIAN, MEDICAL EXAMINER, OR CORONER) (Type or Print) Jennifer N Corneal MD 1704 Pinto Lane Las Vegas, NV 89106				23b. LICENSE NUMBER 15917	
24a. REGISTRAR (Signature) NANCY BARRY		24b. DATE RECEIVED BY REGISTRAR (Mo/Day/Yr) October 20, 2017		24c. DEATH DUE TO COMMUNICABLE DISEASE YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	
25. IMMEDIATE CAUSE (ENTER ONLY ONE CAUSE PER LINE FOR (a), (b), AND (c).) PART I (a) Hypertensive And Arteriosclerotic Cardiovascular Disease DUE TO, OR AS A CONSEQUENCE OF: (b) DUE TO, OR AS A CONSEQUENCE OF: (c) DUE TO, OR AS A CONSEQUENCE OF: (d) DUE TO, OR AS A CONSEQUENCE OF:				Interval between onset and death Interval between onset and death Interval between onset and death Interval between onset and death	
PART II OTHER SIGNIFICANT CONDITIONS-Conditions contributing to death but not resulting in the underlying cause given in Part 1. Diabetes Mellitus, Chronic Obstructive Pulmonary Disease				26. AUTOPSY (Speci Yes or No) No	
28a. ACC., SUICIDE, HON., 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.		28h. 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 authorized by state Board of Health pursuant to NRS 440.175.

VRS-Rev-20120523a



472623

DATE ISSUED: OCT 23 2017

This copy not valid unless prepared on watermarked security paper displaying date, seal and signature of Registrar.
SOUTHERN NEVADA HEALTH DISTRICT • P.O. Box 3902 • Las Vegas, NV 89127 • 702-759-1010 • Fax 702-759-1177

Registrar of Vital Statistics

By: *formanell*

RAPP 163



Exhibit F

Exhibit F

Inst #: 20171117-0000908

Fees: \$40.00

11/17/2017 09:14:16 AM

Receipt #: 3251465

Requestor:

LEGAL WINGS

Recorded By: TAH Pgs: 5

DEBBIE CONWAY

CLARK COUNTY RECORDER

Src: FRONT COUNTER

Ofc: MAIN OFFICE

RECORDING COVER PAGE

(Must be typed or printed clearly in BLACK ink only
and avoid printing in the 1" margins of document)

APN# 140-15-317-012

(11 digit Assessor's Parcel Number may be obtained at:
<http://redrock.co.clark.nv.us/assrrealprop/ownr.aspx>)

TITLE OF DOCUMENT

(DO NOT Abbreviate)

AFFIDAVIT – DEATH OF TRUSTEE

Document Title on cover page must appear EXACTLY as the first page of the document
to be recorded.

RECORDING REQUESTED BY:

Paul Valer Colman

RETURN TO: Name

Paul Valer Colman

Address

5988 Turtle River Avenue

City/State/Zip

Las Vegas, NV 89156

MAIL TAX STATEMENT TO: (Applicable to documents transferring real property)

Name

Address

City/State/Zip

This page provides additional information required by NRS 111.312 Sections 1-2.

To print this document properly, do not use page scaling.

P:\Common\Forms & Notices\Cover Page Template Oct2017

Assessor's Parcel No.: 140-15-317-012

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:

Paul Valer Colman
COLMAN FAMILY REVOCABLE LIVING
TRUST DATED JUNE 23, 2011
5988 Turtle River Avenue
Las Vegas, NV 89156

NOTICE OF TAXES SHOULD BE
SENT TO:

Paul Valer Colman
COLMAN FAMILY REVOCABLE LIVING
TRUST DATED JUNE 23, 2011
5988 Turtle River Avenue
Las Vegas, NV 89156

AFFIDAVIT – DEATH OF TRUSTEE

Paul Valer Colman, of legal age, being first duly sworn, deposes and says:

1. Chari Ann Colman, the decedent mentioned in the attached certified copy of Certificate of Death, is the same person as a Trustee of the Colman Family Revocable Living Trust dated June 23, 2011 in the Certificate of Trust dated June 16, 2011 and executed by Paul Valer Colman and Chari Ann Colman as Trustees.

2. At the time of the decedent's death, decedent was the record owner, as Co-Trustee, of certain real property commonly known as 5988 Turtle River Avenue Las Vegas, NV 89156, Assessor's Parcel No.: 140-15-317-012, which property is described in the Quitclaim Deed filed on June 30, 2011 as:

Yorkshire Hgts-Phase 3 Plat Book 93 Page 30 Lot 374 Block 1 SEC 15
TWP 20 RNG 62

3. I am one of the named "Original Trustees" and in the event of death of Chari Ann Colman I became the lone Original Trustee having all authority to act as Trustee.

4. As the sole trustee under the above-referenced Trust, which was in effect at the

time of the death of the decedent mentioned in Paragraph 1, above, and which has not been revoked, and I hereby consent to act as such.

5. There is no federal estate tax as the result of the death of the decedent mentioned in Paragraph 1, above.

I declare under penalty of perjury, under the laws of the State of Nevada, that the foregoing is true and correct.

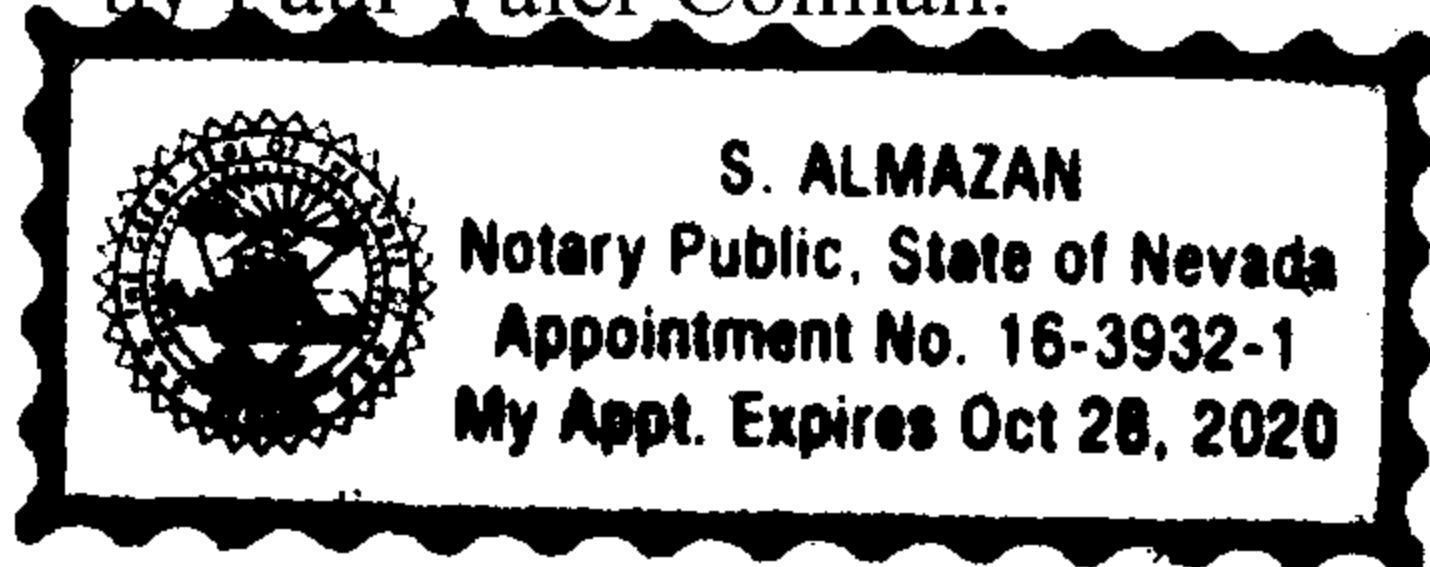
Dated this 16th day of November 2017.

COLMAN FAMILY REVOCABLE LIVING
TRUST DATED JUNE 23, 2011

By: Paul Valer Colman
Paul Valer Colman, Trustee

STATE OF NEVADA)
)
COUNTY OF CLARK) ss:

This instrument was acknowledged before me on the 16th day of November, 2017,
by Paul Valer Colman.



[NOTARY SEAL]

[Signature]
NOTARY PUBLIC

STATE OF NEVADA

CERTIFICATION OF VITAL RECORD

DEPARTMENT OF HEALTH AND HUMAN SERVICES

DIVISION OF PUBLIC AND BEHAVIORAL HEALTH

VITAL STATISTICS

CERTIFICATE OF DEATH

CASE FILE NO. 3983888

2017019460

STATE FILE NUMBER

TYPE OR
PRINT IN
PERMANENT
BLACK INK

1a. DECEASED-NAME (FIRST,MIDDLE,LAST,SUFFIX)

Chari Ann

COLMAN

2. DATE OF DEATH (Mo/Day/Year)

October 18, 2017

3a. COUNTY OF DEATH

Clark

DECEDENT

IF DEATH
OCCURRED IN
INSTITUTION SEE
HANDBOOK
REGARDING
COMPLETION OF
RESIDENCE
ITEMS

PARENTS

DISPOSITION

TRADE CALL

CERTIFIER

REGISTRAR

CAUSE OF DEATH

CONDITIONS IF
ANY WHICH
GAVE RISE TO
IMMEDIATE
CAUSE
STATING THE
UNDERLYING
CAUSE LAST

ASSESSOR'S COPY

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 authorized by state Board of Health pursuant to NRS 440.175.

VRS-Rev-20120523a



472622

DATE ISSUED:

OCT 23 2017

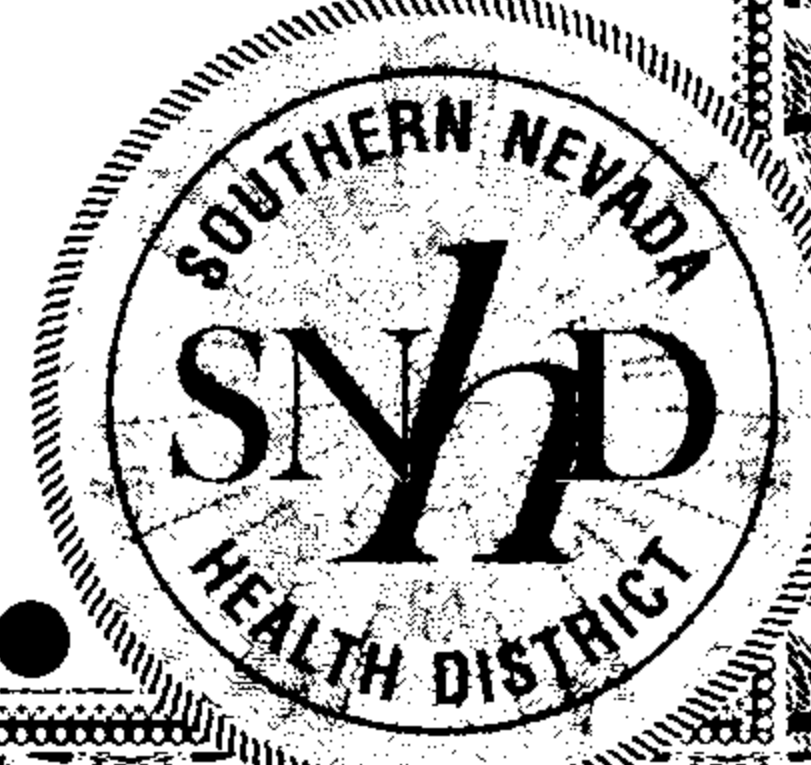
Registrar of Vital Statistics

By:

Don RAPP 168

This copy not valid unless prepared on watermarked security paper displaying date, seal and signature of Registrar.
SOUTHERN NEVADA HEALTH DISTRICT • P.O. Box 3902 • Las Vegas, NV 89127 • 702-759-1010 • Tax ID # 88-0151573

ANY ALTERATION OR ERASURE VOIDS THIS CERTIFICATE





ASSESSOR'S COPY



RAPP 169

Exhibit G

Exhibit G

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*

DISTRICT COURT
CLARK COUNTY, NEVADA

10 In the Matter of the

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

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

13 A Non-Testamentary Trust.

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

16 Date of hearing: December 15, 2017
17 Time of hearing: 9:30 a.m.

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

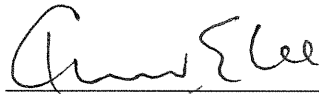
E. The trustee be required to execute a deed transferring the Real Property to Tonya Collier.


~~DISTRICT COURT JUDGE~~ Probate Commissioner

1/18/18

DATE

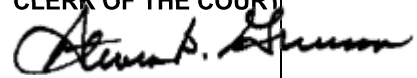
Respectfully submitted by:


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



1 RTRAN

2
3
4
5 DISTRICT COURT
6 CLARK COUNTY, NEVADA

7
8 In the Matter of the Trust of:

CASE#: P-17-093518-T

9
10 Colman Family
11 Revocable Living Trust

DEPT. XXVI

12
13
14 BEFORE THE HONORABLE GLORIA J. STURMAN,
15 DISTRICT COURT JUDGE
16 THURSDAY, JUNE 14, 2018

17 **RECORDER'S TRANSCRIPT OF HEARING:**
18 **OBJECTION TO REFEREE'S REPORT & RECOMMENDATION:**
19 **NOTICE OF HEARING OBJECTION TO THE REPORT AND**
20 **RECOMMENDATIONS BY THE PROBATE COMMISSIONER**

21 APPEARANCES:

22 For Trustee:
23 Paul Colman

TOM C. MICHAELIDES, ESQ.

24 For Beneficiary:
25 Tonya Collier

DANIEL P. KIEFER, ESQ.

RECORDED BY: KERRY ESPARZA, COURT RECORDER

1 Las Vegas, Nevada, Thursday, June 14, 2018

2
3 [Hearing commenced at 9:47 a.m.]

4 THE COURT: We'll take appearances.

5 MR. MICHAELIDES: Good morning, Your Honor, Tom
6 Michaelides, Bar Number 5425 for Paul Colman, Trustee of the Colman
7 Family Trust.

8 MR. KIEFER: Good morning, Your Honor, Dan Kiefer on
9 behalf of Beneficiary Tonya Collier.

10 THE COURT: Okay. All right. This is an Objection to the
11 Report & Recommendation of the Commissioner. And the issue being
12 this -- the fact that the folks put this home -- were married, put the home
13 in her separate property in the Trust, they then get divorced, she dies
14 shortly thereafter. And what's the effect of the divorce on the Revocable
15 Trust?

16 MR. MICHAELIDES: Correct, Judge. Our objection is based
17 on the fact that that factual scenario occurred in NRS 111. I think it's
18 clear, was intended to play a part when someone makes a mistake after
19 divorce and forgets to take their divorce spouse off of insurance, or in
20 this case, a trust. But in this case, against that set of facts, it's working
21 in a just -- as it was not intended to -- for a situation like this, where you
22 have two people who were married.

23 They put the property in the trust for the benefit of both of their
24 lives and they had a life estate in it. They got a divorce, but they still, for
25 all intent and purpose, lived as husband and wife. I understand the

1 divorce was obtained by Ms. Colman for some purposes of Medicaid,
2 but nothing else changed. They lived in the residence together. Mr.
3 Colman continued to do work in the residence, put his community
4 property funds that he earned, in the residence; nothing changed.

5 THE COURT: Okay. Now that's --

6 MR. MICHAELIDES: It was her --

7 THE COURT: -- something I wasn't clear it was in the record,
8 that there was any evidence that what, if anything, he had invested in
9 either improvements or -- it seemed the house was owned outright.

10 MR. MICHAELIDES: It was minor, Judge. I don't want to
11 suggest he paid the, the mortgage. But he did do ordinary things around
12 the house in terms of buying things that were needed. So the marriage
13 continued. Mrs. Colman, I would assume that her husband would get to
14 remain in this house, and then the neighbor could get the benefit after
15 they both passed away --

16 THE COURT: Uh-huh.

17 MR. MICHAELIDES: -- because then they were no -- there
18 were no children. But in this case, the statute is being used -- and was
19 being used to deprive the husband of remaining in the marital estate, the
20 house --

21 THE COURT: Uh-huh.

22 MR. MICHAELIDES: -- avoid the trust -- clear intent of the
23 trust that Paul, my husband gets to remain here. And now he's going to
24 be forced to move out of a house that he lived in with his wife and it's
25 going to go to the neighbor. So I think when you apply the facts of this

1 case to NRS 111.781, it's not what that statute was intended to, to
2 correct, in this case. And that's where the basis of our objection, Your
3 Honor.

4 THE COURT: Okay. Thank you.

5 MR. KIEFER: I'll be brief, Your Honor. There's just one
6 important thing we have to address. The entire time, what I heard
7 opposing Counsel say was, "Her husband." He wasn't her husband.
8 They got divorced. They signed a Joint Petition for Divorce, both of
9 them, and they verified it.

10 THE COURT: Uh-huh.

11 MR. KIEFER: And they verified they had no community
12 property in that same petition. So the house was, was the sole and
13 separate property of the wife. She placed it into the trust and then they
14 got divorced.

15 It doesn't matter if that divorce took place two seconds before
16 her death or two years before her death. They were divorced. And the
17 moment that they were divorced, NRS 111.781 requires that any
18 beneficial – any beneficial interest that the ex-spouse – not the spouse,
19 the ex-spouse had, is dissolved.

20 And the only way to overcome that – the intention of the
21 statute is actually the opposite of what's been argued. If you as an ex-
22 spouse want to make sure that your ex-spouse continues to get a benefit
23 from your estate and your property, then you have to take a deliberate
24 act after the divorce to do so. It can't – they can't just fall into it by
25 accident.

1 THE COURT: Wait. Well no, the trust itself doesn't talk about
2 spouses. The trust itself talks about grantors and it specifically says:

3 "Upon the death of the last grantor of this trust, the trust
4 estate shall be distributed as follows:"

5 So it doesn't talk about spouses. It's -- that's not the interest
6 of the trust. The trust is simply -- these are the two grantors. Upon the
7 death of the last of the grantors, then she gets the house. So how does
8 that make any difference?

9 MR. KIEFER: It doesn't matter how it's titled in the trust, Your
10 Honor --

11 THE COURT: Uh-huh.

12 MR. KIEFER: -- because the statute's very clear. And, in fact,
13 it's got a -- it's got a duplicate in the trust section under NRS 163 --

14 THE COURT: Uh-huh.

15 MR. KIEFER: -- 565. And it says:

16 "Divorce or annulment of the marriage of a settlor --
17 That's exactly what we have here.

18 THE COURT: Uh-huh.

19 MR. KIEFER: -- revokes every devise, beneficial interest or
20 designation to serve as trustee given by the settlor to the
21 former spouse of the settlor and a revocable inter vivos trust
22 executed before the entry of the decree of divorce or
23 annulment."

24 That's how you get rid of a trustee. And then you go to 111
25 and it's -- again, the whole point is, it doesn't matter how you define

1 them. The fact is, everyone agrees that they were married. And the
2 moment you get divorced, any beneficial interest you've given in a Will, a
3 trust, a life insurance policy, it is dissolved by operation of this statute.

4 THE COURT: Huh.

5 MR. KIEFER: And that's the whole point of the statute, Your
6 Honor is, because what we had happening was, people would get
7 divorced, they wouldn't take their ex-spouse off the beneficiary
8 designation of their life insurance policy, their trust or under their Will --

9 THE COURT: Uh-huh.

10 MR. KIEFER: -- and you had ex-spouses getting things they
11 were [sic] entitled to. That's -- this is the exact scenario it's designed for.
12 The language of the trust is irrelevant to the fact that they were married.

13 THE COURT: And Counsel has argued that because they --
14 this was done for Medicaid purposes, the divorce was for Medicaid
15 purposes. That he continued to be her caregiver and lived in the house
16 with her until she did die. So that somehow is some evidence that the --
17 this divorce was -- I'm not going to say a sham. It was a legal divorce.

18 They got divorced, but there was a different motive. That they
19 did not intend to separate. They did not intend to change anything about
20 the way they were living, or their intent with respect to their property. I
21 think she passed a little faster than anybody expected. Well be a short
22 period of time between the divorce and when she died.

23 MR. KIEFER: Your Honor, we didn't get into these
24 evidentiaries --

25 THE COURT: Uh-huh.

1 MR. KIEFER: -- issues below.

2 THE COURT: That's why I was asking. Was like -- was there
3 any -- and that's why I ask --

4 MR. KIEFER: There was no evidence, whatsoever,
5 presented, just allegations.

6 THE COURT: Okay.

7 MR. KIEFER: And then, second, if we had gotten into this, we
8 would have presented evidence if it was relevant --

9 THE COURT: Uh-huh.

10 MR. KIEFER: -- which it's not, because the statute's clear on
11 its face.

12 THE COURT: Right. Uh-huh.

13 MR. KIEFER: If we had gotten into this, we would have
14 presented evidence of his abusive nature towards her and the reason
15 that she wanted to get divorced.

16 THE COURT: Uh-huh.

17 MR. KIEFER: I don't know how he can -- how opposing
18 Counsel can stand here and say, "Your Honor, that was a fraudulent
19 divorce and that's our -- that's our stance, as a defense, against this."

20 THE COURT: Uh-huh.

21 MR. KIEFER: Well, I don't know how you can use fraud
22 against another court as a defense in this Court? Either it was a
23 legitimate divorce --

24 THE COURT: Yeah.

25 MR. KIEFER: -- and you signed that verified petition under

1 oath, or you didn't.

2 THE COURT: And the other thing I asked was that if – and I
3 think Counsel admits, it wasn't a substantial amount. But to the extent
4 that this property was, if not, transmuted, that he somehow invested in
5 this property and is entitled – her separate property, with the belief that
6 he was going to be able to continue to live in that property.

7 And now, because of her death, the property goes to
8 somebody else. Does he have some sort of a claim? That was my
9 question to him and he admits it wasn't like he was making house
10 payments or, or things like that.

11 So there's, again, no evidence of anything that he may have –

12 MR. KIEFER: Absolutely no evidence regarding any –

13 THE COURT: -- a claim for.

14 MR. KIEFER: -- expenditures.

15 THE COURT: Okay.

16 MR. KIEFER: And, in fact, as we – as we briefed, Your
17 Honor, transmutation, regardless of whether or not it's a transmutation
18 by document where you deed something --

19 THE COURT: Uh-huh.

20 MR. KIEFER: -- or a transmutation by actions, it has to be
21 deliberate. There has to be some deliberate act that took this separate
22 property and made it community property.

23 THE COURT: But my question was: There's no evidence or
24 testimony about any of that now?

25 MR. KIEFER: All he – all he stated below was: I paid for stuff,

1 and that was the extent of the entire evidence on – in that regard.

2 THE COURT: Okay.

3 MR. KIEFER: No dollar amounts. No receipts, nothing.

4 THE COURT: Okay. All right. Great. Thanks. Counsel.

5 MR. MICHAELIDES: Just Reply, Judge. In the divorce
6 proceeding where they said they had no community property.

7 THE COURT: Yeah, that was –

8 MR. MICHAELIDES: With respect to the Trust, the house –
9 well the house was in the Trust at the time, so it was technically property
10 of the Trust. So I don't think that that statement necessarily covers the
11 asset of the house at the time.

12 THE COURT: So the allegation in -- in the Complaint?
13 Because they did this – a joint petition --

14 MR. MICHAELIDES: Yes, Ma'am.

15 THE COURT: -- that they have no community property --

16 MR. MICHAELIDES: Correct.

17 THE COURT: -- which is a little different --

18 MR. MICHAELIDES: It is.

19 THE COURT: -- than what we're addressing here. That this
20 is this question of her sole and separate property. Did she do anything
21 to transmute it? And it doesn't – so I'm just trying to figure out what
22 there is or would be --

23 MR. MICHAELIDES: For?

24 THE COURT: -- as far as evidence. I mean, what was –

25 MR. MICHAELIDES: For – not necessarily for transmutation,

1 Your Honor --

2 THE COURT: Uh-huh.

3 MR. MICHAELIDES: -- but her evidence on her intent was
4 clear when she put the property in trust. And the Trust specifically says
5 that: Upon the death of Chari and Paul, the house is to be distributed to
6 Tom -- something. Her intent is clear that --

7 THE COURT: I think it said --

8 MR. MICHAELIDES: -- Paul is to --

9 THE COURT: -- on the death of the grantors.

10 MR. MICHAELIDES: Correct, which would be Chari and Paul.

11 THE COURT: Uh-huh.

12 MR. MICHAELIDES: That Paul was to remain in the house
13 during his life and then it would go to the neighbor. So the statute -- and
14 as I said, "I think it was intended to fix a mistake." As Counsel said: If
15 someone gets divorced and forgets to take their ex-spouse off a
16 insurance policy or something, but this isn't the case.

17 And the statute is, is destroying the intent of, of Chari Cohen,
18 which was to allow her husband to remain in the house during his life.

19 THE COURT: Okay. It's -- unfortunately the statute says what
20 it said. So the question is: What defense, if any, was there? And that's
21 this whole idea that, maybe it had been transmuted in some way. But
22 the problem I have is, the Complaint said: We don't have any
23 community property. And I, I -- the idea that it was in a trust, so
24 therefore, it wasn't -- it was a trust property, not their property; it doesn't
25 work that way.

1 So the problem that we have here -- and I haven't heard
2 anything else that's -- that the Commissioner applied either the incorrect
3 statute or interpreted it incorrectly, other than just, it works an unfairness
4 to her intent. And that's -- I, I just -- you know, I don't know that that's
5 anywhere in the law as a defense. This is --

6 I appreciate the fact that this is the *Rivers* case and it's a
7 different result than the problem that we were more accustomed to,
8 which is, forgetting to retitle assets after the divorce and/or retitle
9 beneficiaries on your bank account -- those kinds of things. Those are
10 all passed by operation of law and here -- I mean, I don't know if she had
11 a Will, but I didn't hear anything about a Will.

12 There's nothing that indicates to the contrary. And so, it's her
13 sole and separate property. And I know it says somewhere in here it
14 says, "We." I think it was in his affidavit, "We retitled the house." Well,
15 no, you didn't, she did. And it's very clear on the deed, she was
16 transferring this as a sole and separate property.

17 I mean, if she'd quit claimed it to him first and then together
18 they quit claimed it to the Trust, we wouldn't have this problem.

19 MR. MICHAELIDES: Yeah.

20 THE COURT: But this is what people do when they do these
21 things for themselves. They don't think about the long term outcome.
22 And it's not just because they made the representation in their divorce
23 petition, that I don't think we can look at this as something they felt they
24 held jointly.

25 Very clearly, this was her sole and separate property, and yes,

1 she intended that her husband would live in that property, but then they
2 got divorced. And because they didn't have anybody explain it to them,
3 they did it themselves, bless them, they didn't have anybody explain
4 what the – what the outcome was going to be.

5 And it's unfortunate, and it may very well be an unfairness to
6 him. But the only other – the only thing I could say is I – I just don't – I
7 just don't think it was enough to truly transmute the property.

8 MR. MICHAELIDES: Understand.

9 THE COURT: That he – because I'm not hearing that he – he
10 made all the payments once they put the property in the Trust. That he
11 took some sort of improvement – put in a pool. I mean it was something
12 that – where he would be entitled to at least get the beneficial interest of
13 what he put in. That's the only thing that was missing for me, was a
14 question of whether there was any evidence that would have shown
15 some sort of substantial act on his part.

16 Because as was mentioned, we don't have any – didn't have
17 an evidentiary hearing on it, so. But I'm just not sure what we'd have an
18 evidentiary hearing on. It was – that was going to be my only question
19 was: Was there anything like that? Some substantial investment --

20 MR. MICHAELIDES: Not beyond –

21 THE COURT: -- in –

22 MR. MICHAELIDES: -- just the general upkeep, Your Honor.

23 THE COURT: Just. Yeah. Supplying the light bulbs and the,
24 and the –

25 MR. MICHAELIDES: Yeah.

1 THE COURT: -- and the air filters? Yeah. Okay. I don't -- I
2 don't think that's sufficient to go back to the Commissioner on. We don't
3 have anything substantial like: Here's his checking account where it
4 shows every month he made a, you know, paid the taxes, because I --
5 something that would be some sort of substantial investment in the
6 property that he may have a claim for that, but I'm not hearing it.

7 So unfortunately this, this is a statute. This is the statute that
8 applies. It's -- we have the reverse facts that we're used to seeing in this
9 case and I -- if she had done anything to show that after the divorce she
10 intended it to operate -- some sort of a life estate for her husband.

11 Because as -- I don't think it was a fraudulent. Many, many,
12 many people -- there are easier ways to do it than the way that they
13 chose, but many, many people change their assets in order to qualify for
14 Medicaid.

15 MR. MICHAELIDES: That's right.

16 THE COURT: There's a statute that lets you do it. So they
17 had a different way to do this, but they chose to get divorced.

18 MR. MICHAELIDES: I understand. And she wasn't aware of
19 NRS 111, she might have acted differently. I understand Your Honor.

20 THE COURT: Exactly. I mean --

21 MR. MICHAELIDES: I understand.

22 THE COURT: -- and I appreciate that they were doing this pro
23 se and that they probably did need to do it; because how else were they
24 going to get her the care that she needed? It's unfortunate that it was
25 such a short period of time. But when they took that desperate action

1 and when she finally passed away. It's – it's an unfortunate result. But I
2 don't see that the Commissioner made any mistake of either law or fact.

3 The only thing I would say is I – there was no examination of
4 whether he has any kind of a claim, because he didn't have any
5 evidence of that. So he may have some sort of a claim that's not
6 necessarily for the house but for what he – what he invested in this trust
7 asset, thinking he was going to benefit from it.

8 But that's not us – before the Commissioner, so it's not
9 enough to overturn this report. There may be something else. I'm not
10 ruling on it. It's not before me. So all I can rule on is what's – what was
11 before the Commissioner --

12 MR. MICHAELIDES: Understood Judge.

13 THE COURT: -- and the work that he had. So, for those
14 reasons, Counsel, if you will prepare an order, show it to Counsel and
15 we'll sign it. And I just want to make it really clear, I'm not ruling on any
16 other kind of a claim he may have. Nothing else was before him, so
17 that's all he ruled on was the statute, and I think he applied the statute
18 correctly. That's all I'll say on that.

19 MR. MICHAELIDES: Thank you for your consideration,
20 Judge.

21 THE COURT: Thanks for coming in. It was interesting. I
22 hadn't read those statutes in the longest time. Thanks very much. We'll
23 see you guys.

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MR. KIEFER: Thank you, Your Honor.

MR. MICHAELIDES: Thanks.

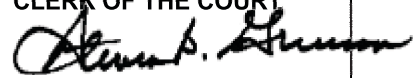
[Hearing concluded at 10:03 a.m.]

* * * * *

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



Kerry Esparza
Court Recorder/Transcriber



1 **NOTC**

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3 DANIEL P. KIEFER (STATE BAR NO. 12419)
4 RUSHFORTH LEE & KIEFER, LLP
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7 Telephone: (702) 255-4552
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9 Attorneys for Tonya Collier

6 **DISTRICT COURT**
7 **CLARK COUNTY, NEVADA**

8 In the Matter of the

9 **Colman Family Revocable Living Trust,**
10 dated June 23, 2011,

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

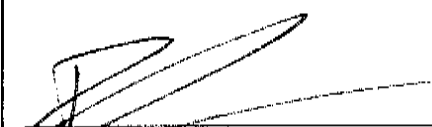
11 A Non-Testamentary Trust.

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

15 NOTICE IS HEREBY GIVEN THAT:

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

19 Respectfully submitted by:

20 
21 Daniel Kiefer
22 State Bar No. 12419

23 **AUG 15 2018**
24 **DATE**



1 **ORDR**

2 DANIEL P. KIEFER (State Bar No. 12419)
3 KENNEDY E. LEE (State Bar No. 12429)
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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.

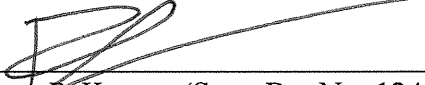
8 **IT IS SO ORDERED.**

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
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:

///

///

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:

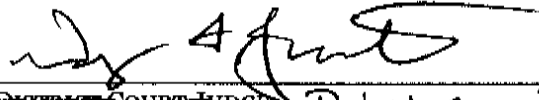
A. This Court assume jurisdiction over the Trust as a proceeding *in rem*.

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.


~~Respectfully submitted by:~~ 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)
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Las Vegas, NV 89104
Attorneys for Paul Valer Colman