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

LYNITA SUE NELSON,  
INDIVIDUALLY, AND IN HER  
CAPACITY AS INVESTMENT  
TRUSTEE OF THE LYNITA S.  
NELSON NEVADA TRUST DATED  
MAY 30, 2001,

Appellant


v.

ERIC L. NELSON, INDIVIDUALLY,  
AND IN HIS CAPACITY AS  
INVESTMENT TRUSTEE OF THE  
ERIC L. NELSON NEVADA TRUST,  
DATED MAY 30, 2001, and MATT  
KLABACKA, AS DISTRIBUTION  
TRUSTEE OF THE ERIC L.  
NELSON NEVADA TRUST, DATED  
MAY 30, 2001,

Respondents.

Supreme Court Case No.:

District Ct. Case No.: D411537

**FILED**  
MAY 08 2019  
ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY  DEPUTY CLERK

**SUPPLEMENTAL APPENDIX TO APPELLANT,**  
**LYNITA SUE NELSON'S, OPENING BRIEF**  
**VOLUME II**

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19-20212

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1 The parties' inconsistent testimony regarding the purported  
2 community or separate property characterization of the trust  
3 assets carries no weight and should not have been considered  
4 when the district court fashioned the property division.

4 Order, pg. 18.

5 We note the possible confusion between our conclusion here  
6 protecting spendthrift trust assets from the personal child- and  
7 spousal-support obligations of the beneficiary and our  
8 conclusion above requiring the court to dispose of community  
9 property within the spendthrift trust. To clarify: because the  
10 nonbeneficiary spouse retains a property interest in  
11 community property contained within the spendthrift trust,  
12 the restraints . . . would not apply.

10 Order, pg. 23, note 6.

11 In addition to the above, the ELN Trust and Eric argue that the  
12 Court's disposition of Wyoming Downs was never reversed on appeal.  
13 The Nevada Supreme Court, however, specifically ordered that the  
14 property in the ELN and LSN Trusts must be traced: "Accordingly, we  
15 conclude the district court erred by not tracing the assets contained within  
16 the trusts, either through a reliable expert or other available means." Such  
17 property included Wyoming Downs, and the Nevada Supreme Court  
18 made no indication that Wyoming Downs was excepted from its Order.  
19 Furthermore, the Nevada Supreme Court specifically vacated this Court's  
20 Decree of Divorce. The September 22, 2014 Order was entered as a result  
21 of Lynita's Motion to Amend or Alter Judgment, for Declaratory and  
22 Related Relief, to adjudicate an omitted asset. The Order amended and  
23 altered the Decree of Divorce reversed by the Supreme Court. In fact, the  
24 Decree was not final and appealable until such Order was entered.

25 Finally, it must be pointed out that Eric's and the ELN Trust's  
26 argument that the September 22, 2014 Order was not reversed by the  
27 Nevada Supreme Court's Order, and that the Orders contained therein  
28 must stand, is inapposite to the argument made in ELN Trust's Motion.

1 Specifically, in the Motion, ELN Trust requested return of the \$75,000  
2 paid to LSN Trust for the deposit on the Wyoming Downs property,  
3 stating as follows:

4       Although the Nevada Supreme Court did not vacate the  
5       September 22, 2014 Order Determining Disposition of  
6       Dynasty Development Management, Inc. *aka* Wyoming  
7       Downs, as indicated *supra*, the Nevada Supreme Court found  
8       that this Court erred by ordering the ELN Trust to transfer  
9       Banone, LLC to the LSN Trust based upon the theory of  
10       unjust enrichment. Consequently, the ELN Trust respectfully  
11       requests that this Court order the LSN Trust to return the  
12       \$75,000 paid by Banone-AZ, LLC on or around June 30,  
13       2014.

14 If the Supreme Court's Order that Banone, LLC was improperly divided  
15 necessarily vacated the portion of the September 22, 2014 Order requiring  
16 ELN Trust to pay Lynita \$75,000 for Wyoming Downs, then surely the  
17 Supreme Court's Order that the Court erred in not tracing the property  
18 in the parties' respective trusts vacated the portion of the September 22,  
19 2014 Order finding that Wyoming Downs was not community property  
20 in the absence of such a tracing.

21       For the reasons stated above, in Lynita's Countermotion, and at the  
22 August 8, 2017 hearing, this Court's tracing on remand must be of all  
23 property held by the ELN and LSN Trusts at the time of divorce, must  
24 cover the period of time from the 1993 Separate Property Agreement to  
25 the time of divorce, and must start with the presumption that all property  
26 acquired after execution of the 1993 Separate Property Agreement was  
27 community property.

28 C. The Court Must Issue The Joint Preliminary Injunction, And Take  
Appropriate Steps To Preserve Assets Subject To A Claim Of  
Community Interest, And Protect The Efficacy Of Any Final  
Judgment Entered By The Court

At the August 8, 2017 hearing, the Court indicated that it may re-  
appoint Larry Bertsch, CPA to conduct a tracing on remand. If such a

1 tracing is ordered, this Court must take steps to preserve the properties  
2 subject to a claim of a community property interest pending the tracing  
3 and final judgment of the Court. NRS 125.050 requires the Court to  
4 “make such restraining order or other order as appears necessary to  
5 prevent the act or conduct and preserve the status quo pending final  
6 determination of the cause.” EDCR 5.517 provides:

7 Rule 5.517. Joint preliminary injunction (JPI).

8 (a) Upon the request of any party at any time prior to the  
9 entry of a decree of divorce or final judgment, a preliminary  
10 injunction will be issued by the clerk against the parties to the  
11 action enjoining them and their officers, agents, servants,  
12 employees, or a person in active concert or participation with  
13 them from:

14 (1) Transferring, encumbering, concealing, selling, or  
15 otherwise disposing of any of the joint, common, or  
16 community property of the parties or any property that is the  
17 subject of a claim of community interest, except in the usual  
18 course of conduct or for the necessities of life or for retention  
19 of counsel for the case in which the JPI is obtained; or cashing,  
20 borrowing against, canceling, transferring, disposing of, or  
21 changing the beneficiaries of . . . .

22 ELN Trust and Eric argue that “EDCR 5.85 (sic) only applies to the  
23 husband and wife in a divorce proceeding, of which the ELN Trust is not.”  
24 This argument ignores the express language of EDCR 5.517, which refers  
25 to “any party,” rather than just a husband and wife. Furthermore, the  
26 ELN Trust’s interpretation of EDCR 5.517 would destroy the efficacy of  
27 such rule in any case where parties held property in trust. Certainly the  
28 Court has the ability to preserve property subject to its division in a  
divorce, whether held by the parties individually or through a trust. In  
fact, prior to entry of its Decree the Court issued a joint preliminary  
injunction in accordance with the Court’s Rules. The result must be no  
different on remand.

At the August 8, 2017 hearing, the Court made clear that it is not  
inclined to order a receiver or to freeze assets completely. If that is the

1 case, Lynita prays that the Court will issue the JPI and place enough of a  
2 restraint on property to ensure it can enforce any final division of property  
3 and award made to Lynita. Lynita's lifetime accumulation of assets are at  
4 stake here, and whether this matter is on remand or pre-divorce, has been  
5 pending for one (1) day or one (1) decade, Lynita deserves the same peace  
6 of mind and protection of any spouse in a divorce proceeding whose  
7 lifetime accumulations are at stake. It would be a travesty of justice for  
8 the Court to make a final division of property, only to have difficulty  
9 securing Lynita's share of such property. At a very minimum, the Court  
10 should issue its JPI, leave the Banone and Lindell properties in Lynita's  
11 control pending the final determination, leave the funds held at Bank of  
12 Nevada frozen, and enjoin any disposition of the Wyoming Downs and  
13 Russell Road properties. Entering such orders would ensure that if the  
14 Court finds that all property held at the time of divorce, other than the  
15 Palmyra property, was community property, it could award to Lynita one-  
16 half (1/2) of such property (as it did in the Decree) and secure from  
17 community property the payment of the alimony and attorneys' fees  
18 previously awarded (as expressly permitted by the Supreme Court's  
19 Order).

20 This Court knows all too well the difficulty in preserving assets in  
21 Eric's and the ELN Trust's control. Even with injunctions in place,  
22 property has been transferred, improved, sold, encumbered by favorable  
23 leases to family members, and acquired during the course of litigation.

24 D. All Parties, Not Just Lynita, Should Be Required To Produce  
25 Financial Information And Documents Concerning The Current  
26 Assets Of The Parties, And All Financial Records Of Transactions  
Occurring Since The Court's Entry Of Its Decree

27 The Court should re-appoint Mr. Bertsch to update the prior  
28 forensic accountings through to present date. All property held at the time

1 of divorce is subject to a claim of community property interest, and the  
2 parties are entitled to have such property disclosed and accounted for  
3 pursuant to NRCP 16.2. Without such a disclosure by the parties, the  
4 Court could be dividing property that has been sold, transferred, or  
5 encumbered, with no ability to give effect to its orders.

6 E. The Court Should Order The Immediate Sale Of The Brianhead  
7 Cabin For The Payment Of Attorneys' Fees And Costs

8 Eric and ELN Trust object to the sale of the Brianhead cabin because  
9 they do not want to sell, and the property secures monies that may be  
10 owed between the parties upon entry of a final judgment. NRS 125.040  
11 allows the Court to make any order affecting the property of the parties,  
12 including any separate property of the parties, which it deems necessary  
13 to enable a party to carry on or defend suit. This litigation has been  
14 extremely costly and Lynita is in need of additional funds to continue to  
15 defend her interests in this action. The Court made clear at the August 8,  
16 2017 hearing that it does not believe the parties should continue to be  
17 business partners or jointly hold property following the conclusion of this  
18 matter. There is plenty of security in the Lindell building – valued at  
19 \$1,145,000 at the time of divorce – to secure any amounts that may later  
20 be found to be owed between the parties. Accordingly, the Court should  
21 order the sale of the Brianhead cabin. If Eric and ELN Trust are given the  
22 opportunity to purchase Lynita's one-half (1/2) share of the cabin, the  
23 Court should appoint Mr. Bertsch to obtain a neutral appraisal of the  
24 cabin, and should ensure that any payment made to Lynita at this time is  
25 properly accounted for in the Court's final division of property (i.e., the  
26 Court must ensure that Lynita receives property equal to the full value of  
27 the cabin on her side of the ledger at the time of the final property division

28 . . .


1 if the Court finds that all property in the parties' trusts at the time of  
2 divorce were community properties).

3 III. CONCLUSION

4 For the reasons set forth at the hearing of August 8, 2017, in  
5 Lynita's Countermotion, and in this Reply, Lynita respectfully requests  
6 the Court grant the requests for relief made in her Countermotion.

7 Dated this 22 day of August, 2017.

8 THE DICKERSON KARACSONYI  
9 LAW GROUP

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1 CERTIFICATE OF SERVICE

2 Pursuant to NRCP 5(b), I certify that I am an employee of THE  
3 DICKERSON KARACSONYI LAW GROUP, and that on this 22 day  
4 of August, 2017, I caused the above and foregoing document entitled  
5 DEFENDANT'S REPLY TO OPPOSITION TO COUNTERMOTION  
6 FOR FINAL JUDGMENT CONSISTENT WITH NEVADA SUPREME  
7 COURT'S REMAND, OR IN THE ALTERNATIVE, FOR  
8 AFFIRMATION OF JOINT PRELIMINARY INJUNCTION, FOR A  
9 RECEIVER TO MANAGE PROPERTY PENDING FINAL JUDGMENT,  
10 FOR UPDATED FINANCIAL DISCLOSURES AND EXCHANGE OF  
11 FINANCIAL INFORMATION, AND FOR SALE OF PROPERTY FOR  
12 PAYMENT OF ATTORNEYS' FEES AND COSTS, to be served as  
13 follows:

- 14  pursuant to EDCR 8.05(a), EDCR 8.05(f), NRCP 5(b)(2)(D)  
15 and Administrative Order 14-2 captioned "In the  
16 Administrative Matter of Mandatory Electronic Service in the  
17 Eighth Judicial District Court," by mandatory electronic  
18 service through the Eighth Judicial District Court's electronic  
19 filing system;  
20  by placing same to be deposited for mailing in the United  
21 States Mail, in a sealed envelope upon which first class postage  
22 was prepaid in Las Vegas, Nevada;  
23  pursuant to EDCR 7.26, to be sent via **facsimile**, by duly  
24 executed consent for service by electronic means;  
25  by hand-delivery with signed Receipt of Copy.

26 To the attorney(s) listed below at the address, email address, and/or  
27 facsimile number indicated below:

28 RHONDA K. FORSBERG, ESQ.  
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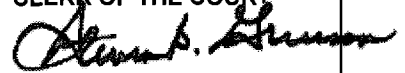


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An employee of The Dickerson Karacsonyi Law Group

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9 *TRUST dated May 30, 2001*

DISTRICT COURT

COUNTY OF CLARK, NEVADA

12 ERIC L. NELSON,

13 Plaintiff

14 vs.

15 LYNITA SUE NELSON, MATT KLABACKA,  
16 as Distribution Trustee of the ERIC L. NELSON  
17 NEVADA TRUST dated May 30, 2001,

18 Defendants.

19 MATT KLABACKA, Distribution Trustee of  
20 the ERIC L. NELSON NEVADA TRUST dated  
21 May 30, 2001,

22 Cross-claimant,

23 vs.

24 LYNITA SUE NELSON,

25 Cross-defendant.

Case No.: D411537

Dept.: O

**RESPONSE TO DEFENDANT'S**  
**REPLY TO OPPOSITION TO**  
**COUNTERMOTION FOR FINAL**  
**JUDGMENT CONSISTENT WITH THE**  
**NEVADA SUPREME COURT'S REMAND**  
**OR, IN THE ALTERNATIVE, FOR**  
**AFFIRMATION OF JOINT**  
**PRELIMINARY INJUNCTION, FOR A**  
**RECEIVER TO MANAGE THE**  
**PROPERTY PENDING FINAL**  
**JUDGMENT, FOR UPDATED**  
**FINANCIAL DISCLOSURES AND**  
**EXCHANGE OF FINANCIAL**  
**INFORMATION, AND FOR SALE OF**  
**PROPERTY FOR PAYMENT OF**  
**ATTORNEYS' FEES AND COSTS**

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28 / / /

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TRUST AND ESTATE ATTORNEYS



1 **RESPONSE TO DEFENDANT'S REPLY TO OPPOSITION TO COUNTERMOTION FOR**  
2 **FINAL JUDGMENT CONSISTENT WITH THE NEVADA SUPREME COURT'S**  
3 **REMAND OR, IN THE ALTERNATIVE, FOR AFFIRMATION OF JOINT**  
4 **PRELIMINARY INJUNCTION, FOR A RECEIVER TO MANAGE THE PROPERTY**  
5 **PENDING FINAL JUDGMENT, FOR UPDATED FINANCIAL DISCLOSURES AND**  
6 **EXCHANGE OF FINANCIAL INFORMATION, AND FOR SALE OF PROPERTY FOR**  
7 **PAYMENT OF ATTORNEYS' FEES AND COSTS**

8 Matt Klabacka, Distribution Trustee of the ERIC L. NELSON NEVADA TRUST dated  
9 May 30, 2001, hereby files his Response to Defendant's Reply to Opposition to Counter-motion for  
10 Final Judgment Consistent with Nevada Supreme Court's Remand, or in the Alternative, for  
11 Affirmation of Joint Preliminary Injunction, for a Receiver to Manage Property Pending Final  
12 Judgment, for Updated Financial Disclosures and Exchange of Financial Information of Sale of  
13 Property for Payment of Attorneys' Fees and Costs.

14 This Response is made and based upon the pleadings and papers on file herein, the Points  
15 and Authorities attached hereto, and the oral argument made at the August 8, 2017, hearing in this  
16 matter.

17 DATED this 29<sup>th</sup> day of August, 2017.

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19 By: /s/ Jeffrey P. Luszeck

20 MARK A. SOLOMON, ESQ., NSB 0418  
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24 *Attorneys for Matt Klabacka, Distribution*  
25 *Trustee of the ERIC L. NELSON NEVADA*  
26 *TRUST dated May 30, 2001*  
27  
28

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. BRIEF INTRODUCTION**

3 The ELN Trust disagrees that the Reply filed by Lynita “addresses those points raised in  
4 ELN Trust’s Opposition to Lynita’s Countermotion, and does not raise any new issues” and that her  
5 Countermotion was property noticed. Because Lynita’s Countermotion was improperly noticed and  
6 she failed to file a request for an order shortening time, said Countermotion was filed a week before  
7 the scheduled hearing. It was for this reason that Lynita was unable to file a reply. Now, after this  
8 Court made some preliminary findings at the August 8, 2017, Lynita seeks to sway this Court from  
9 its stated positions by arguing new positions. Ordinarily, the ELN Trust would have had the ability  
10 to refute said arguments in open court; however, since the issues were raised after the hearing, the  
11 ELN Trust has no choice but to make a record of its position in this Response.

12 **II. LEGAL ARGUMENT**

13 **A. THE NEVADA SUPREME COURT’S ORDER CONFIRMS THAT ERIC  
14 AND LYNITA’S COMMUNITY PROPERTY WAS TRANSMUTATED TO  
15 SEPARATE PROPERTY.**

16 Lynita’s self-serving interpretation of the “Nevada Supreme Court’s Remand” as set forth in  
17 pages 2-8 defies logic and would require this Court to ignore the law of the case.<sup>1</sup> Specifically, the  
18 Nevada Supreme Court confirmed that Lynita has the burden to show that the separate property was  
19 transmuted back to community property after 2001, because the sole purpose of the tracing is “to  
20 determine whether any community property exists within the trusts,” a fact which Lynita omitted  
21 from her Countermotion. See Supreme Court Order at 17. In other words, if all property owned by  
22 the SSSTs is community property (because it was acquired during Eric and Lynita’s marriage as  
23 Lynita contends), the Supreme Court would have ruled in Lynita’s favor and there would be no  
24 reason to conduct a tracing to “determine whether any community property exists.”

25 <sup>1</sup> See, e.g., *Hsu v. County of Clark*, 123 Nev. 625, 629-30, 173 P.3d 724, 728 (2007) (the law  
26 of the case doctrine “is designed to ensure judicial consistency and to prevent the reconsideration,  
27 during the course of a single continuous lawsuit, of those decisions which are intended to put a  
28 particular matter to rest.”); *Bd. of Gallery of History, Inc. v. Datecs Corp.*, 116 Nev. 289, 288, 994  
P.2d 1149, 1150 (2000) (where the law of the case doctrine applies “the district court [is] without  
authority to make a contrary finding.”).



1 It is undisputed that the Nevada Supreme Court repeatedly confirmed in its Order that the  
2 Separate Property Agreement was a valid agreement and transmuted Eric and Lynita's community  
3 property to separate property. See e.g., Order at p. 12 ("We conclude that the SPA is a valid  
4 agreement and transmuted the Parties community property to separate property."). Because of  
5 such transmutation, Nevada law is clear that it is Lynita/Lynita's SSST, as opposed to Eric/the ELN  
6 Trust, which has the burden to show that Eric's separate property was transmuted back to  
7 community property. Further, the mere fact that there were transfers between the SSSTs does not  
8 mean that said assets were transmuted to Eric and/or Lynita as community property because under  
9 Nevada law neither Eric nor Lynita possess a community or separate property interest in the SSSTs.  
10 See, e.g., NRS 166.020 (a spendthrift trust is defined as "a trust in which the terms thereof a valid  
11 restraint on the voluntary transfer of the interest of the beneficiary is imposed." See also NRS  
12 166.130 ("A beneficiary of a spendthrift trust has no legal estate in the capital, principal or corpus  
13 of the trust estate . . .").

14 Notwithstanding the foregoing, even if the SSSTs contain separate property, "[o]nce the  
15 separate character of property is established, a presumption arises that it remained separate property  
16 in the absence of sufficient evidence to show an intent to transmute the property from separate  
17 property to community property."<sup>2</sup> "[T]he right of the spouses in their separate property is as  
18 sacred as is the right in their community property, and when it is once made to appear that property  
19 was once of a separate character, it will be presumed that it maintains that character until some  
20 direct and positive evidence to the contrary is made to appear."<sup>3</sup> This presumption shifts the burden  
21 of proof to the party claiming the property was transmuted to community property.<sup>4</sup> The spouse

22 <sup>2</sup> *In re Estate of Borghi*, 219 P.3d 932 (Wash. 2009).

23 <sup>3</sup> *Id.*

24 <sup>4</sup> 37 Am. Jur. Proof of Facts 2d 379 (Originally published in 1984)("Ordinarily, the burden of  
25 proof to show that separate property has been transmuted into community property rests on the  
26 party alleging that such transmutation has taken place. This rule flows from the presumption that  
27 property once fixed as the separate property of one spouse has not been converted by agreement  
28 into community property merely because the other spouse acquires possession, management, or  
control of it. In such cases, the property is presumed to remain separate property, and the burden

1 claiming transmutation of separate property must produce objective evidence showing that, during  
2 the marriage, the parties themselves regarded the property as common property of the marriage;  
3 such evidence may include placing the property in joint names, transferring the property to the other  
4 spouse as a gift, using the property exclusively for marital purposes, commingling the property with  
5 marital property, using marital funds to build equity in the property, or exchanging the property for  
6 marital property.<sup>5</sup> With specific regard to real property, for it to be transmuted to community  
7 property, there generally must be an acknowledged writing proving the intent of the separate real  
8 property holder to transmute it to community property (*e.g.* community property agreement).<sup>6</sup>

9       Once again, Lynita failed to introduce any evidence, let alone clear and convincing  
10 evidence, that any separate property was ever transmuted to community property.

11       **B. LYNITA'S REQUESTED TRACING IS OVERBROAD AND RUNS**  
12       **CONTRARY TO THE NEVADA SUPREME COURT'S ORDER.**

13       Despite the fact that Lynita failed to meet her burden at trial that the Eric and Lynita's  
14 separate property was ever transmuted back to community property, Lynita demands that Larry  
15 Bertsch conduct a tracing from 1993 through present. In so doing, Lynita ignores the most  
16 important portions of the Nevada Supreme Court's Order that confirms that ELN Trust and  
17 Lynita's SSST were funded with their respective separate property:

18       Later, the parties converted those trusts into self-settled spendthrift trusts (SSSTs)  
19 and funded them with their respective separate property. P. 2.

20       In 2001, Eric and Lynita converted their separate property trusts into Eric's Trust  
21 and Lynita's Trust, respectively, and funded the SSSTs with the separate property  
22 contained within the separate property trusts. P. 4.

22 rests on the other spouse, claiming a gift or change in status of the property, to show that it has in  
23 fact been transmuted."); Kenneth W. Weber, *Washington Practice: Family and Community*  
24 *Property Law* § 10.1, at 133 (1997) ("Possibly more than in any other area of law, presumptions  
25 play an important role in determining ownership of assets and responsibility for debt in community  
26 property law.").

26 <sup>5</sup> Crossland v. Crossland, 397 S.C. 406, 725 S.E.2d 509 (Ct. App. 2012).

27 <sup>6</sup> *In re Estate of Borghi*, 219 P.3d 932 (Wash. 2009); *see also Volz v. Zang*, 113 Wash. 378,  
28 383, 194 P. 409 (1920).

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On June 3, 2013, the district court issued the decree. The district court found that the SPA was valid and the parties' SSSTs were validly established and funded with separate property. P. 6.

For the reasons set forth below, we hold the SSSTs are valid and the trusts were funded with separate property stemming from a valid separate property agreement. P. 13.

The language contained within the Nevada Supreme Court's Order is clear: the SSSTs were "funded with separate property." If the Nevada Supreme Court believed that the SSSTs was funded with community property it would have so stated, or at the very least stated that the District Court needed to make that determination. No such language was utilized by the Nevada Supreme Court in its Order.

Evidence, including, but not limited to the following was introduced by the ELN Trust in its appellate briefs to support the Nevada Supreme Court's Order: (1) the Separate Property Agreement, which as indicated *supra*, the Nevada Supreme Court found to be valid; (2) the Separate Property Trusts, which provides "[t]he property comprising the original Trust estate, during the life of the Trustor, shall retain its character as his separate property...";<sup>7</sup> (3) Shelley Newell, the bookkeeper for Eric and Lynita's Separate Property Trusts testified that the assets and liabilities owned by the Trusts were kept separate, and that all acquisitions in Eric's Separate Property Trust originated from Eric's separate funds;<sup>8</sup> (4) months before the divorce proceeding was initiated Lynita retained Jeffrey Burr, Esq. to amend and restate her Separate Property Trust to disinherit Eric and confirm that the assets contained therein was her separate property; and (5) Section 12.13 of both the ELN Trust and Lynita's SSST, which provide:

**Separate Property.** Any property held in trust and any income earned by the trust created hereunder shall be the separate property (in distinction with

<sup>7</sup> See the Eric L. Nelson Separate Property Trust at p. 1.

<sup>8</sup> See Trial Testimony of Shelley Newell dated July 17, 2012, pp. 105-144.

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1 community property, joint tenancy property, tenancy in common, marital  
2 property, quasi-community property or tenancy by the entirety) of the  
3 beneficiaries of such trusts. Additionally, any distribution to or for the benefit of  
4 the beneficiary shall be and remain the sole and separate property and estate of the  
5 beneficiaries.

6 Further, Lynita's contention that the "statements in the parties' respective trust agreements  
7 that property be held in trust is separate property of the beneficiaries could not be relied upon as  
8 competent evidence because such statements are nothing more than a party's opinions of the  
9 character of property" fails because the Separate Property Trusts and SSST's executed by Eric and  
10 Lynita are additional written agreements that confirm that the assets titled in the names of the  
11 Separate Property Trust and SSST's are separate property. *See* NRS 123.220(1).

12 Lynita's contention that the "Nevada Supreme Court made no indication that Wyoming  
13 Downs was exempt from its Order" also defies logic because the Nevada Supreme Court denied  
14 this issue on appeal<sup>9</sup> and upheld this Court's September 22, 2014 Order. Indeed, footnote 9 of the  
15 Nevada Supreme Court's Order provides: "[w]e have considered the parties' other arguments  
16 [which would have included Lynita's argument with respect to Wyoming Downs] and conclude  
17 they are without merit."<sup>10</sup>

18 Notwithstanding the foregoing, this Court has already conducted a tracing of Wyoming  
19 Downs at the May 30, 2014, Evidentiary Hearing on May 30, 2014, wherein it found:

20 THE COURT FURTHER FINDS that although Wyoming Downs was acquired by  
21 the ELN Trust during the pendency of the marriage between Eric L. Nelson and  
22 Lynita S. Nelson, the Court does not find it to be community property as it was  
23 clearly purchased through Dynasty, an entity wholly owned by the ELN Trust and  
24 the Court maintained the ELN Trust. The Court found no facts leading it to  
25 conclude Lynita S. Nelson or the LSN Trust has an interest in Wyoming Downs.  
26 The Court maintained the integrity of the ELN Trust and LSN Trust for the reasons  
27 set forth in the Divorce Decree.

28 <sup>9</sup> *See* LSN Trust's Docketing Statement at 4:10-12, a copy of which is attached hereto as  
29 **Exhibit 1.**

<sup>10</sup> The ELN Trust is requesting that the LSN Trust repay the \$75,000 paid pursuant to the  
September 22, 2014 Order because the Nevada Supreme Court found that this Court erred by  
ordering the ELN Trust to transfer Banone LLC to the LSN Trust. Now that the Nevada Supreme  
Court has found that said transfer was made in error, the LSN Trust has no right to retain the  
\$75,000.

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THE COURT FURTHER FINDS that there was no transmutation of Wyoming Downs from separate property to community property, even assuming that Wyoming Downs was separate property of Eric L. Nelson, and not the property of the ELN Trust, separate and distinct from Eric L. Nelson. See Notice of Entry of Order entered September 22, 2014.

Consequently, even if the Nevada Supreme Court intended that this Court to conduct a tracing on Wyoming Downs, this Court has already effectively done so and can rely upon its prior findings.

**C. IT IS INAPPROPRIATE TO ENTER A JOINT PRELIMINARY INJUNCTION.**

Lynita's demand that this Court impose a JPI over the ELN Trust assets is confusing and contrary to the other requests made in her Countermotion. Indeed, demand for a JPI is contrary to her request that the Brian Head cabin be sold so that she can pay her attorneys' fees and costs. Further, Lynita conveniently omits the fact that in this Court's Divorce Decree the ELN Trust already transferred over \$4,000,000 in assets to the LSN Trust. Consequently, Lynita's demand that this Court allow her to retain title to said assets AND enter a JPI against the remaining assets titled in the ELN Trust is overreaching.

Further, if Lynita wishes to pursue an injunction against the ELN Trust she will need to seek a formal injunction that complies with NRCP 65. Contrary to Lynita's unfounded contention, EDCR 5.85 only applies to the husband and wife in a divorce proceeding. Indeed, whenever the term "party" or "parties" is referenced in Part V of the Eight Judicial District Court Rules it contemplates application to a husband and wife,<sup>11</sup> and not to third-parties. Lynita's contention that the "ELN Trust's interpretation of EDCR 5.85 would destroy the efficacy of such rule in any case where parties held property in trust" is unavailing because said rule would arguably apply to instances where a husband and wife held their assets in a revocable trust, of which the ELN Trust is not.

<sup>11</sup> See, e.g., EDCR 5.02 ("...upon demand of either party..."); EDCR 5.06 ("...no minor child of the parties shall..."); EDCR 5.11 ("...or the best interest of the parties' child(ren) would not..."); EDCR 5.21 ("...if both parties to a domestic relations matter..."); EDCR 5.31 ("...In any case where custody of a minor child of the parties...").



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1           **D. THE ELN TRUST SHOULD NOT BE REQUIRED TO PRODUCE**  
2           **FINANCIAL INFORMATION AND DOCUMENTS CONCERNING ITS**  
3           **CURRENTS ASSETS AND/OR TRANSACTIONS OCCURRING SINCE THE**  
4           **COURT’S ENTRY OF ITS DECREE BECAUSE THE ELN TRUST**  
5           **ALREADY TRANSFERRED OVER \$4,000,000 IN ASSETS TO THE LSN**  
6           **TRUST PURSUANT TO THIS COURT’S DIVORCE DECREE.**

7           Lynita demands that this Court compel the ELN Trust to provide an updated financial  
8           disclosure so as to ensure that it does not award Lynita and/or the LSN Trust any additional  
9           property that has “been sold, transferred, or encumbered.” Said request should be denied for the  
10          reasons set forth in the Opposition to Lynita’s Counter-motion, namely, Lynita does not possess a  
11          community property interest in assets that the ELN Trust acquired after the entry of the Divorce  
12          Decree. Further, and perhaps more importantly, pursuant to this Court’s Divorce Decree, the ELN  
13          Trust already transferred over \$4,000,000 in assets to the LSN Trust. Consequently, in the unlikely  
14          event this Court finds that any assets contained within the ELN Trust at the time of the entry of the  
15          Divorce Decree was community property, it could merely allow the LSN Trust to retain a portion of  
16          Banone LLC, Russell Road Promissory Note, *etc.* As such, it is unnecessary for the ELN Trust to  
17          provide its current financial disclosure.

18           **E. THIS COURT SHOULD DENY LYNITA’S REQUEST TO SALE THE**  
19           **BRIAN HEAD CABIN UNTIL AFTER LYNITA’S ACCOUNTS FOR THE**  
20           **RENTS AND PROFITS THAT SHE COLLECTED FROM BANONE AND**  
21           **LINDELL FROM 2013 THROUGH PRESENT.**

22          Lynita’s request that this Court allow her to sell the Brian Head cabin and utilize said funds  
23          to pay her attorneys’ fees and costs is absurd given her request that this Court impose a JPI. Lynita  
24          cannot have it both ways. Indeed, Lynita cannot demand that this Court impose a JPI, which would  
25          inhibit the ELN Trust’s ability to conduct business on one hand, and then request that the Brian  
26          Head cabin be sold so that she can use said sole proceeds for her own personal use and benefit on  
27          the other hand. Further, if a JPI is imposed, and the ELN Trust is not allowed to sell any of its  
28          property, it is unclear how the ELN Trust would be able to purchase the LSN Trust’s interest in the  
29          Brian Head cabin.

30          Notwithstanding the foregoing, if this Court is inclined to order the Brian Head cabin be  
31          sold, the sale proceeds should be held in escrow pending the production of Lynita’s accounting to

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1 ensure that the ELN Trust has sufficient security for the hundreds of thousands, perhaps millions of  
2 dollars, that Lynita owes the ELN Trust.<sup>12</sup> While Lynita self-servingly argues that “there is plenty  
3 of security in the Lindell building,”<sup>13</sup> she has failed to produce any evidence to support her theory.  
4 Obviously, if Lynita had provided quarterly accountings as ordered by this Court from June 2013  
5 through present, this Court would be in the position to determine how much money the LSN Trust  
6 owes the ELN Trust at this juncture. However, since she failed to do so (and has requested 60 days  
7 to prepare an accounting), it would be inequitable for this Court to further deplete assets that  
8 rightfully belong to the ELN Trust without evidence supporting Lynita’s representation that the  
9 Lindell building has sufficient security to protect the ELN Trust’s interests. .

10 **III. CONCLUSION**

11 In light of the foregoing, the ELN Trust respectfully requests that this Court deny the relief  
12 sought by Lynita in her Counter-motion.

13 DATED this 29<sup>th</sup> day of August, 2017.

14 SOLOMON DWIGGINS & FREER, LTD.

15 By: /s/ Jeffrey P. Luszeck

16 MARK A. SOLOMON, ESQ.  
17 Nevada State Bar No. 0418  
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22 <sup>12</sup> Said transfers, include, but are not limited to: (1) the 50% of the rents collected by Lynita from  
23 the Lindell property from June 2013 through present; (2) 100% of the rents collected by Lynita for the  
24 Banone, LLC properties from June 2013 through present; (3) 100% of the payments received from the  
25 Farmouth Circle promissory note from June 2013 through present; (4) the \$324,000 previously paid to  
26 Lynita pursuant to this Court’s September 22, 2014, Order Regarding Transfer of Property and  
27 Injunctions; (5) the \$6,050 security deposited delivered to the LSN Trust by the Eric’s SSST in or  
28 around September 19, 2014; and (6) the \$75,000 paid by the Eric’s SSST to the LSN Trust on or around  
June 30, 2014. Further, Lynita and/or the LSN Trust have failed to pay her 50% of any expenses  
pertaining to the Brian Head cabin. The total amount of expenses the LSN Trust owes from 2013  
through July 18, 2017 is \$30,265.93.

<sup>13</sup> See Order Regarding Transfer of Property and Injunctions entered on September 22, 2014 at  
4:14-20 (THE COURT FURTHER FINDS that the provisions contained in this order are intended to  
preserve the real property described herein, and to secure with enjoined property(ies) any monetary  
amounts owed by the parties, or transferred to the parties.”).

**CERTIFICATE OF SERVICE**

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I HEREBY CERTIFY, pursuant to NRCP 5(b), that on August 29, 2017, I served a true and correct copy of the foregoing **RESPONSE TO DEFENDANT’S REPLY TO OPPOSITION TO COUNTERMOTION FOR FINAL JUDGMENT CONSISTENT WITH THE NEVADA SUPREME COURT’S REMAND OR, IN THE ALTERNATIVE, FOR AFFIRMATION OF JOINT PRELIMINARY INJUNCTION, FOR A RECEIVER TO MANAGE THE PROPERTY PENDING FINAL JUDGMENT, FOR UPDATED FINANCIAL DISCLOSURES AND EXCHANGE OF FINANCIAL INFORMATION, AND FOR SALE OF PROPERTY FOR PAYMENT OF ATTORNEYS’ FEES AND COSTS**, to the following in the manner set forth below:

- Hand Delivery
- U.S. Mail, Postage Prepaid
- Certified Mail, Receipt No.: \_\_\_\_\_
- Return Receipt Request
- E-Service through Wiznet

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FILED

JUN 15 2018

*[Signature]*  
CLERK OF COURT

EIGHTH JUDICIAL DISTRICT COURT  
FAMILY DIVISION  
CLARK COUNTY, NEVADA

ERIC D. NELSON,	)	
	)	
Plaintiff,	)	CASE NO. D-09-411537-D
	)	
vs.	)	DEPT. O
	)	
LYNITA NELSON,	)	(SEALED)
	)	
Defendant.	)	
	)	

BEFORE THE HONORABLE FRANK P. SULLIVAN  
DISTRICT COURT JUDGE

TRANSCRIPT RE: STATUS CHECK

WEDNESDAY, JANUARY 31, 2018

1 APPEARANCES:

2 The Plaintiff:  
3 For the Plaintiff:

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6 For the Defendant:

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8 The Trustee:  
9 For the Trustee:

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1 LAS VEGAS, NEVADA

WEDNESDAY, JANUARY 31, 2018

2 PROCEEDINGS

3 (THE PROCEEDINGS BEGAN AT 11:28:03)

4  
5 THE COURT: -- of the Nelson Matter, Case Number D-  
6 09-411537. This Court put on a status check to address the  
7 property issues, the Supreme Court decision, general ledger,  
8 leases, and see if there's any way of getting this matter  
9 resolved.

10 The Court did have my staff contact Mr. Bertsch to  
11 address the tracing issue that we're going to address in a  
12 second on that. So let's get everybody's appearances for the  
13 record and kind of tell you what I'm thinking and give  
14 attorneys a chance to argue it or we start --

15 MR. KARACSONYI: Oh, down here. I was --

16 THE COURT: Figured I'd just go down.

17 MR. KARACSONYI: Josef Karacsonyi, 10634, on behalf  
18 of Lynita Nelson who's present.

19 THE COURT: Good too see you again, Ms. Lynita, it's  
20 always a pleasure to see you.

21 MR. LUSZECK: Jeff LUSZECK, bar number 9619, on  
22 behalf of Matt Klabacka, Distribution Trustee of the ELN  
23 Trust.

24 THE COURT: Thank you.

1 MS. FORSBERG: Good morning, Your Honor. Rhonda  
2 Forsberg, 9557, on behalf of Mr. Nelson who's present to my  
3 left.

4 THE COURT: Good to see you as well, Mr. Nelson.  
5 And we know Mr. Bertsch, please state your appearance just --  
6 you can remain sitting -- you can remain seated throughout.

7 MR. BERTSCH: My name's Larry Bertsch. I'm a CPA.

8 THE COURT: Okay. Everybody can sit down and get  
9 comfortable. I'm going to tell you where I'm at and give you  
10 a chance to argue. I have reviewed all the requests and the  
11 motions on that and I'll tell you what I'm inclined to do and  
12 give people a chance to see if they can persuade me otherwise.

13 I have reviewed the Supreme Court decision and all  
14 the other history and all the motions, the numerous motions  
15 that are pending here on that. Basically, the Nelson Trust  
16 has requested the transfer back to 50 percent of the Lindell  
17 property this Court ordered to be transferred from the ELN  
18 Trust to the Lynita -- the LSN Trust on that, based on my  
19 order. Also, they're requesting 50 percent of those rents  
20 collected from the Lindell from the June 2013 to present.  
21 They're also requesting the LSN Trust to transfer back the  
22 quit claim deed from the Banone properties and provide copies  
23 of leases and all the paperwork that we'll address in a  
24 second.

1           Also, they're requesting 100 percent of the rents  
2 collected from the Banone properties from June 2013 to  
3 present. They're also asking for LSN Trust to pay the ELN  
4 Trust 100 percent of any rents received from the Farmouth (ph)  
5 Circle promissory note and also requesting the -- the release  
6 to the ELN Trust the \$720,000 being held in a blocked account  
7 pursuant to this Court's order from October 21st, 2013.  
8 They're requesting an order compelling Ms. Lynita to return  
9 the \$324,000 paid to her by my court order on September 22nd,  
10 2014, indicating that I could not make the Trust pay for any  
11 personal obligations of Mr. Nelson and also requesting that  
12 LSN return the \$6,050 security deposit that ELN Trust  
13 delivered on 9/19/14, and the security deposits collected from  
14 any Banone or the Lindell property tenants. And then  
15 basically requesting quarterly accountings for the Lindell and  
16 Banone properties from June 13th to present and requesting  
17 that LSN Trust be ordered to return, to reimburse or return to  
18 ELN Trust the \$76,000 paid by Banone Arizona to the LSN Trust  
19 on June 30th, 2014.

20           So that's basically all the issues I've seen that  
21 were pending. Again, of course, with any copies of leases and  
22 stuff for the different properties as addressed. So I think  
23 that's kind of the way I see the issues on that.

24           I have read the oppositions to those requests as



1 well. I'll tell you what I'm thinking on those issues, to  
2 give Counsel a chance to think about that. I'm inclined as  
3 when I made those transfers, making the LSN Trust transfer  
4 property to the -- I mean, the ELN Trust transferring property  
5 to the LSN Trust, the trusts vehemently opposed it, saying,  
6 wait a minute, Judge. We're going to appeal that. Supreme  
7 Court changed it, and that property that you transfer on that,  
8 so let's wait until it's done. I said no, I wasn't going to  
9 wait until done, I make a decision and have that transfer.  
10 Said if the Supreme Court overturned that, I could always  
11 transfer the property back.

12           So my inclination at this time is to just transfer  
13 that property back with quit claims and basically explain how  
14 that would work out on that, we'd put it back to how it was  
15 with the ELN Trust and the LSN Trust, so basically based on  
16 Supreme Court decision that the trust was the trust. So that  
17 was my inclination with the Lindell property and the Banone  
18 property.

19           I'm not inclined to order any release of funds at  
20 this time or rents on that. I want to get when we're done so  
21 we can get an accounting of everything, see where we're at,  
22 see what's going on there.

23           The \$720,000 I'm not inclined to release that as I  
24 need to have that traced to see where that money came from to

1 make sure -- I forgot where it came from. I know we did  
2 release half of that to the ELN Trust so that they could use  
3 that for their business perspectives on that and held the  
4 other half in that trust account until we figure out what's  
5 going on.

6           As far as the 324,000, I'm not inclined to release  
7 that at this time. When I came up with the numbers on that,  
8 ballpark was about \$500,000 that ELN Trust is requesting from  
9 LSN Trust. That's the 324,000 from the September 22nd, 2014,  
10 the 76,000 it's requesting from Banone Arizona to the LSN  
11 Trust on June 30th, and I think we had the \$75,000 that  
12 they're asking for the -- 75,000 that the ELN Trust paid to  
13 the LSN Trust for the fact about the TransOne -- Banone  
14 transfer to LSN Trust based on those issues, to return that  
15 paid by Banone on September 30th, 2014.

16           So about \$500,000 give or take some that they're  
17 requesting. I'm not inclined to release monies at this time,  
18 but I am inclined to order those property transfers. While  
19 it's a lot of paperwork on that, the same token, I did that to  
20 the ELN Trust, said you gotta transfer it. When they argued  
21 about it and said we can always return it back, so I'd be  
22 inclined to grant those issues about the transfers on that and  
23 then get all the accountings for the property.

24           My real goal is to get tracing. I read the Supreme

1 Court decision. I think the separate property agreement that  
2 was executed by the Supreme Court indicated that quote, on  
3 page 12 of their order, "We conclude that the separate  
4 property agreement is a valid transmutation agreement and the  
5 parties' community property was converted into separate  
6 property." So I think that's a no brainer so I don't intend  
7 to go back before the -- anything prior to the separate  
8 property agreement. The Supreme Court made it clear that was  
9 a valid agreement and any community property interests were  
10 transmuted to commu -- community property was transmuted as  
11 separate property.

12 The issue I see is tracing from the separate  
13 property agreement, which was 1993, I believe it was signed on  
14 July the -- I think it was July 13th, 1993. And so I don't  
15 intend to go beyond that period on that, because I think the  
16 Supreme Court indicated those were appropriate separate  
17 property agreements, so any compu -- any community property  
18 interest would be transmuted at that time to separate  
19 property.

20 My inclination would be to go tracing from the --  
21 after the July 13th, 1993 to see if any community property  
22 claims other people put in the trusts on that, they could put  
23 their half but they could not put the other party's half, so  
24 my plan would be to trace after the July 13th. Because when I

1 read the separate property agreement, I saw nothing for post  
2 property after that, it just said here's the property we got,  
3 this is separate property as of this time, but nothing for  
4 future property acquired during their marriage, which is  
5 presumed to be community property. So my plan would be to  
6 trace it going back to July, and maybe probably start August  
7 1st, 1993 currently, because I know when they did the trusts,  
8 those were 2001, but there could have been property from 1993  
9 August 1st, to the 2001 trust, which could have had community  
10 property claims. I don't know.

11           And then for the 2001 of course, anything that was  
12 community property that either party put in the trust, they  
13 would not have the right to put the other party's half. So  
14 that'd be my inclination is do tracing from August 1st, 1993  
15 up to basically the time of the divorce decree, to sift  
16 through it and see was there community property interest.

17           That will be very burdensome. I'm not sure if it  
18 can be done as far back as you can go. I know Mr. Gerety had  
19 testified at the trial on that the fact about going back on  
20 that, with all the issues on that, it'd be very difficult to  
21 go back to the 1993 just because of the amount of time and  
22 paperwork, but that's -- kind of be my inclination is to have  
23 the tracing going back from August 1st, 1993 through the  
24 divorce decree, to see if there's any community property that

1 was placed in either one's trust because they could place it  
2 in a trust, but they could not place the community property of  
3 the other party in trust.

4 That would be very costly, very time consuming, I  
5 realize that, but we need to get this done for everybody, so  
6 that's my inclination. The monies I can always work that out  
7 as we need that. I know Ms. Lynita's requesting the sale of  
8 the Brianhead. Is that still on the table?

9 MR. KARACSONYI: Yes.

10 THE COURT: I'd be inclined to order the sale of  
11 that Brianhead. Mr. Nelson would have the right of first  
12 refusal as we indicated in the divorce decree. They can work  
13 that out amongst themselves. If not, I would order the  
14 property be put on the market. When you get a valid offer,  
15 then the other side would have a chance to buy you out or not  
16 buy you out, but again, instead of going on the market, if you  
17 guys can have an appraisal where you agree with and you want  
18 to work that out, I'll leave that between the trusts to see if  
19 they want to work it out. If not, I would order the Brianhead  
20 to be put on the market. When they get a valid offer, when  
21 someone makes an offer on that, that -- then we'd hear that,  
22 come to court and see if the party wants to match that to buy  
23 the other party out or not.

24 I know you requested some offsets for the

1 maintenance of the property, I think 30,000. We'd look at it  
2 that way. So that's kind of where I'm leaning at this point.  
3 All the other monies, depending -- I don't know what that  
4 Brianhead was worth. I know at the time of the divorce I  
5 through the Brianhead property was very low valued and that  
6 was because of the economy. I think that prop -- I remember,  
7 I think it's a 4000 square foot, am I right? At --

8 THE DEFENDANT: It's -- it's more than that.

9 THE COURT: Yeah, I mean, it's -- I thought -- I  
10 remember and I might be wrong, it was like -- and the  
11 appraisal was like 400,000. I thought the appraisal should  
12 have been millions based on that, but I'm not a real estate  
13 person on that, but my understanding is it was a very nice  
14 cabin up there and I believe it had what, 10 or 20 acres, I  
15 believe? I forgot what it was on that.

16 THE DEFENDANT: No. More than that.

17 THE COURT: Yeah. I mean, so the issue was I  
18 thought that was worth a lot of money. I know you're  
19 requesting some money to get that. I know Mr. Nelson -- why I  
20 did it was Mr. Nelson I believe that has family up there, so  
21 he's interested in having a chance to buy that out. You  
22 cannot sell a 50 percent interest, no one's going to buy it,  
23 and have you guys work on that, it's just not probably  
24 tenable, so my plan would be to put the Brianhead on the

1 market or otherwise, give you guys a chance to see if you want  
2 to work that out between the trusts and see if you want to do  
3 that. That would give you the money that you need, depending  
4 on how much money came from those proceeds.

5 I could put some in a blocked account and if there's  
6 concerns about any money, the rents would be an issue on that,  
7 what rents came in, but I know there's a lot of cost. I know  
8 the motions indicated they felt that Ms. Lynita has spent a  
9 lot of money on these properties, kind of like a waste  
10 argument. I'm not going to entertain any waste argument.  
11 She's the manager of that property. I don't think that she  
12 would throw money away just to screw Mr. Nelson on that,  
13 thinking oh, I'll get the property for a couple years and give  
14 it back and just spend his money aimlessly. So I'm really not  
15 inclined to any waste unless you could really come and see  
16 that thing to make business decisions.

17 You've got the business judgment rule that people  
18 get to make decisions. The Court doesn't secondguess someone  
19 unless they think there's some type of fraud or funny  
20 business, so it's not inclined. My thing would be to see the  
21 proceeds that came in for that property time on that and I  
22 could put those in a trust depending on how much comes out for  
23 that sale of that Brianhead. I have no idea if it'd be  
24 millions, but I thought when I looked at that, that that

1 probably was a couple million dollars at least of property,  
2 but again, I'm not a real estate expert, but it -- Brianhead  
3 and the economy's kind of really up now and that's my plan  
4 would be to either have a real estate appraisal on that, have  
5 you guys do your own and see if you can work that out, or put  
6 it on the market and see what -- what offers you get that are  
7 legit and the party can match that offer to buy out the other  
8 side if they want.

9           So that's kind of what I'm thinking. So with that  
10 in mind, I'll be glad to hear arguments on any of those issues  
11 I said, but it's kind of where I'm at right now.

12           I had Mr. Bertsch come who's very familiar. I  
13 looked at a lot of his reports to see if I could trace it from  
14 his reports, but to be honest, there's so many documents in  
15 that, it's really probably start -- Mr. Bertsch is very  
16 respected I believe by both sides. My plan would be to have  
17 both sides split the cost of his tracing at that time on that  
18 and depending on what it comes out there, I could offset that  
19 and put money in any blocked accounts from the sale of the  
20 Brianhead if necessary to make sure everybody's protected  
21 until we get to the bottom of it, because I know you're  
22 looking at some rentals (indiscernible) lot, but that'd be my  
23 plan on that.

24           The issue, too, we also talked about mediation.



1 before we went there, this would be costly. I know there's  
2 some litigation pending as to the trustees, so there's some  
3 issues pending on those issues, but this case has been  
4 pending. I think you guys separated in 2008, I think filed in  
5 2009, and by the time of the divorce decree, I cannot imagine  
6 being there for as many years as you were and the Supreme  
7 Court held this for several years with their decision, so I  
8 would like to see if you think mediation's possible. With the  
9 history of this case, it's probably not likely and I don't  
10 want to waste anybody's time, but you're talking about a lot  
11 of cost and a lot of paperwork going back to August 1st, 1993  
12 to the divorce decree, which I think was June 2014, and it's a  
13 lot of stuff on that and so many transactions going back and  
14 forth, to see if there's any community property interest that  
15 were wrongfully placed in someone's trust.

16           You have another problem with property from one  
17 trust to another trust. I think the Supreme Court was saying  
18 that could be considered a gift from one trust to another, so  
19 treat it as community property interest with the tracing, so  
20 that's kind of where I'm thinking.

21           So with that in mind, since I think this was the  
22 trust's initial motion on that, let me hear from the trust  
23 first to address it, then I'll hear from Ms. Lynita's trust,  
24 and then I'll hear from Mr. Nelson then as far as property.

1 But I believe right now it's a trust matter I think, so.

2 MR. LUSZECK: Okay. Do you want me to just kind of  
3 go --

4 THE COURT: Anything --

5 MR. LUSZECK: -- do you want me to go point by  
6 point? What do you think, Josef, or just lay everything out?

7 MR. KARACSONYI: I'm fine with everything.

8 MR. LUSZECK: Okay. That's fine.

9 With respect to the motion to enforce, yes, I agree,  
10 I believe all the property should be transferred back  
11 immediately. I do think with respect to the accounting and  
12 the monies that need to be paid back, I think the LSN Trust  
13 should be ordered to pay those back immediately, just like the  
14 ELN Trust was required when the properties were transferred,  
15 Your Honor.

16 As you will certainly recall, the ELN Trust provided  
17 an accounting and it had to pay the LSN Trust the amounts due  
18 and owing within months of the determination.

19 THE COURT: Did you get the accounting from --

20 MR. LUSZECK: We got -- we got a binder this  
21 morning. I haven't had a chance to look at it.

22 MR. KARACSONYI: And I'll cover that.

23 MR. LUSZECK: Yeah. So I mean we'll obviously go  
24 through that, though.

1 THE COURT: So you would like -- you agree with the  
2 Court for the quit claim deeds going with that property, but  
3 you'd like to get the rental income from the property?

4 MR. LUSZECK: Exactly. We think that should be done  
5 immediately, just like the ELN Trust had to do immediately.

6 THE COURT: Okay.

7 MR. LUSZECK: I -- I'm not sure I understood what  
8 you were saying with respect to the waste argument.

9 THE COURT: Well, I think some of the stuff was  
10 saying that she mismanaged the property, look at all the money  
11 she spent in one of your motions. I -- it sounded like a  
12 waste document.

13 MR. LUSZECK: Okay. Understood.

14 THE COURT: That she was wasting money. She said  
15 she was improving the property because it was dilapidated. I  
16 said I really wasn't going to get into that because to me  
17 that's a business judgment; as a manager you make investments.

18 MR. LUSZECK: Well, that --

19 THE COURT: So I saw it as a waste argument.

20 MR. LUSZECK: That's the exact same argument that  
21 the LSN Trust made against the ELN Trust and the ELN Trust had  
22 to write a check for the monies that this Court found was  
23 improper. So I guess if this Court is inclined to kind of  
24 withhold a ruling on the monies that LSN needs to pay back to

1 ELN until, you know, we can review the accounting, I'm fine  
2 with that, but I think this Court needs to consider, you know,  
3 once we get the opportunity to look at the accounting, it  
4 needs to consider everything as opposed to kind of  
5 predetermining an issue now.

6 THE COURT: Okay.

7 MR. LUSZECK: Because I want to say out of the  
8 accounting, I think a couple hundred thousand dollars of that  
9 were for legal fees, which obviously doesn't relate to the  
10 property. So -- so if this Court is not inclined to rule on  
11 the amount that the LSN Trust needs to repay the ELN at this  
12 point, I just think that all of the argument should be  
13 reserved for a time that that can be determined.

14 THE COURT: And I know some of it was the sizable  
15 attorney fees that -- and of that Mr. -- now, I don't know how  
16 much of that was attorneys fees for the Trust. I think most  
17 of it was Mr. Nelson, I believe, that I made him pay Ms.  
18 Nelson's fees.

19 MR. LUSZECK: And I'm not sure. So -- so with  
20 respect to that, I -- I think, you know, I would just request  
21 that this Court keep that issue open and keep an open mind.

22 Moving on to the tracing issue, Your Honor, well,  
23 you know, if this Court -- I believe this Court -- if you  
24 indicated that you -- based on the information that was

1 provided, you don't have the -- enough information to conduct  
2 a tracing or -- or have a firm understanding of that pursuant  
3 to the Supreme Court's order, I understand that. But the  
4 Supreme Court in my opinion made it clear as to the time frame  
5 for the tracing, and that would be from the creation of the  
6 self settle spendthrift trust through the divorce decree. And  
7 what the Supreme Court ordered, Your Honor, is the law of the  
8 case. And by underlying pleadings I cited at least four  
9 different references by the Supreme Court with respect to the  
10 separate property and the fact that the self settle  
11 spendthrift trust were funded with separate property.

12 I mean, if you look at the separate property trust  
13 themselves, they indicate that any assets in there are  
14 separate property and they will maintain that status. And the  
15 self settle spendthrift trusts say the same thing, Your Honor,  
16 that it's being funded with separate property and it shall  
17 maintain that character.

18 With respect to the -- the specific statements made  
19 by the Supreme Court on page 2, on page 4, on page 6, on page  
20 13, I mean, one, the parties converted those trusts into self  
21 settle spendthrift trusts in --

22 THE COURT: I'm looking at page 2, it says that 10  
23 years in the marriage they signed a separate property  
24 agreement that transmuted the property into separate property

1 and placed that property into their separate property trusts.  
2 So that was your first reference?

3 MR. LUSZECK: Oh no, later. This is the quote.  
4 "Later, the parties converted those trusts into self settle  
5 spendthrift trusts and funded them with their respective  
6 separate property."

7 THE COURT: Okay.

8 MR. LUSZECK: Next one is on page 4.

9 THE COURT: Well, then you -- your position would be  
10 then that the Court should go from the 2001 and forward from  
11 when the trusts were --

12 MR. LUSZECK: Yeah, the divorce decree.

13 THE COURT: Okay.

14 MR. LUSZECK: With the exception of Wyoming Downs  
15 which I'll get to in a minute. Other -- other statement is on  
16 page 4, quote, "In 2001, Eric and Lynita converted their  
17 separate property trusts into Eric's trust and Lynita's trust  
18 respectively, and funded the separate self settle spendthrift  
19 trusts with the separate property contained within the  
20 separate property trusts."

21 Going to page 6, and these are all outlined in my  
22 underlying briefs.

23 THE COURT: And I haven't -- I haven't had a --

24 MR. LUSZECK: Do you want me to -- okay. You've got

1 it all there.

2 THE COURT: I highlighted my copy, too, but ---

3 MR. LUSZECK: Okay.

4 THE COURT: -- we looked at that, that was -- why I  
5 threw it out to see about --

6 MR. LUSZECK: Yeah. Page 6, on June 3rd, 2013, the  
7 District Court issued the decree. The District Court found  
8 the separate property agreement was valid and the parties'  
9 self settle spendthrift trusts were validly established and  
10 funded with separate property.

11 And then on page 13, for the reasons set forth  
12 below, we hold the self settle spendthrift trusts are valid  
13 and trusts were funded with separate property stemming from  
14 the valid separate property agreement.

15 So it's the ELN Trust's position that if this Court  
16 believes that a tracing is necessary, it only needs to look  
17 back from 2001 through the entry of the divorce decree, and if  
18 this Court is inclined to go back to 1993, we'll likely take  
19 that issue up with the Supreme Court on a writ, Your Honor,  
20 because it is going to be an extremely time consuming  
21 burdensome effort and we think the Supreme Court made it clear  
22 in what they ordered and its order is the law of the case and  
23 that needs to be followed by this Court.

24 THE COURT: So on page 13 where it says, we hold the

1 SSSTs are valid and trusts were funded with separate  
2 properties stemming from valid separate property agreement?

3 MR. LUSZECK: Correct. Correct.

4 THE COURT: Okay.

5 MR. LUSZECK: So based on that, Your Honor, we  
6 believe that their intent was clear that it's -- you know, if  
7 this Court finds it necessary, 2001 through the entry of the  
8 divorce decree.

9 Now, with the exception being Wyoming Downs, You  
10 know, as you certainly recall, Your Honor, Wyoming --

11 THE COURT: We had a --

12 MR. LUSZECK: -- we had a whole --

13 THE COURT: -- separate hearing, we --

14 MR. LUSZECK: Exactly. We had a whole --

15 THE COURT: We kept it outside of the divorce  
16 decree, saying we kept it as a separate issue to --

17 MR. LUSZECK: Exactly.

18 THE COURT: -- hear that after the fact because  
19 their position was that was community property because they  
20 were still married, even though they'd been separated.

21 MR. LUSZECK: Correct.

22 THE COURT: And the Court had a hearing on that and  
23 -- okay.

24 MR. LUSZECK: Yeah, and you -- and you had a whole -



1 - it was a whole separate order.

2           We had the divorce decree, we have a whole separate  
3 order, whole separate evidentiary hearing with respect to  
4 Wyoming Downs. This Court made some pointed findings in that.  
5 Let's see, in this Court's September 22nd, 2014 order, this  
6 Court find that there was no trans -- the Court finds that  
7 there was no transmutation of Wyoming Downs from separate  
8 property to community property, even assuming that Wyoming  
9 Downs was separate property of the -- of the Eric L. Nelson --  
10 of Eric L. Nelson, and not the property of the ELN Trust,  
11 separate and distinct from ELN -- Eric Nelson.

12           And then, this issue, this exact issue, was appealed  
13 to the Supreme Court by Lynita and the Supreme Court found  
14 that it lacked merit in one of the footnotes because they said  
15 all the other arguments that was raised by Lynita lacked  
16 merit. So, with respect to Wyoming Downs, even if this Court  
17 orders a tracing from 2001 through the divorce decree, Wyoming  
18 Downs is off limits because that issue -- that issue on appeal  
19 was denied by the Supreme Court.

20           With respect to Mr. Bertsch conducting a tracing,  
21 we're not opposed to that. The big rub here on the issue is  
22 going to be the payment of his fees.

23           He obviously deserves to be paid for his work and so  
24 far, the ELN Trust has paid \$139,000 and Lynita or Lynita's

1 trust has paid him zero. So if this Court's inclined to  
2 appoint him, the EL -- sorry, the LSN Trust for Lynita should  
3 bear the first \$139,000 of his fees. It shouldn't have to  
4 continue to be borne by the ELN Trust, especially since this  
5 tracing really is -- benefits her. It's discovery on her  
6 part.

7           We have the separate property agreement. Once  
8 separate prop -- or community property's transmuted to  
9 separate property, it maintains that character and it has to  
10 be proven by clear and convincing evidence that it's  
11 transmuted (sic) back.

12           THE COURT: Yeah.

13           MR. LUSZECK: So this is helping her, this isn't  
14 helping the ELN Trust. So that trust, the LSN or Lynita,  
15 should have to bear the first \$139,000 of his fees, and then  
16 after that, it can be split 50/50 or -- or however else this  
17 Court wants to address that.

18           With respect to the order of the sale of Brianhead,  
19 you know, Your Honor, I -- my understanding is a partition  
20 action has to be filed for that to even occur; one. Two,  
21 Lynita recently filed a civil case against Eric and the ELN  
22 Trust which is requesting that the property be sold. So I  
23 think that issue is really being adjudicated in another venue.  
24 Notwithstanding, even if this Court goes forward and orders

1 that that property to be sold, I believe what needs to happen  
2 is that any sale proceeds have to be held in a blocked  
3 account.

4 We've already identified at least -- or this Court  
5 recognized, at least \$500,000 that we believe the LSN Trust  
6 owes the ELN Trust. And I don't know what her financial  
7 status is to repay that \$500,000. So to the extent Brianhead  
8 is sold, then that money, at least with respect to Lynita's  
9 portion, needs to be held in abeyance pending further order of  
10 this Court to ensure that the ELN Trust is repaid all the  
11 money that it's owed.

12 THE COURT: All right. Thank you, Counsel.

13 MR. KARACSONYI: Okay. On the accounting, I'll just  
14 start with that and the general ledgers that were ordered  
15 today. We brought today a general ledger of the repairs and  
16 maintenance with the -- explaining the 229,000 in expenses.  
17 We also brought them a copy of all the leases.

18 We'll note that 4412 Baxter Place was condemned by  
19 Nevada Power and so there's no lease for that property.  
20 Lindell Suites 104 and 105 are unleased and Lindell Office  
21 Suites 200 and 201 are occupied by Mr. Nelson who's not paying  
22 rent and does not have a lease agreement.

23 Ms. -- Ms. Nelson, as they're aware, had a death in  
24 the family this month that she had to attend to and she'd

1 request an additional until next Friday to get the rest of the  
2 general ledger together. And they're aware of that situation  
3 I'm sure. And so, we would just request a little additional  
4 time since that was all supposed to happen during this month.

5 MR. LUSZECK: I -- I'm fine with that. Had you  
6 asked, I would have been with that.

7 MR. KARACSONYI: Yeah. Okay.

8 MR. LUSZECK: Yeah. That's fine.

9 MR. KARACSONYI: Okay. And I've given them hundreds  
10 of pages of leases and general ledgers so far.

11 We also brought for the -- the Trust a copy of the  
12 photographs. There was some question last time, some  
13 photographs that Ms. Nelson put together. She brought a copy  
14 for Your Honor's file as well.

15 THE COURT: Of the condition of the property; is  
16 that --

17 MR. KARACSONYI: Yeah, the con -- as to the  
18 condition of the property, especially since there's an issue  
19 about the repairs and maintenance.

20 THE DEFENDANT: Just a sample.

21 MR. KARACSONYI: And if we could give you col --  
22 color photographs for your file.

23 THE COURT: Any objection, Counsel, to that? Again,  
24 I really --

1 MR. LUSZECK: Well --

2 THE COURT: -- didn't want to get into what I  
3 consider the waste argument.

4 MS. FORSBERG: It's not going to be part of the  
5 record with it not being filed.

6 THE COURT: But I'm --

7 MR. LUSZECK: Yeah, I don't object to you having a  
8 copy, but --

9 MR. KARACSONYI: Rather than filing it.

10 MR. LUSZECK: -- to the extent that he wants to go  
11 through this line -- or --

12 MR. KARACSONYI: No, no, no, I'm --

13 MR. LUSZECK: -- photograph by --

14 MR. KARACSONYI: No.

15 MR. LUSZECK: -- photograph, then I --

16 THE COURT: All right. Again, we're not --

17 MR. LUSZECK: Oh, you go.

18 MR. KARACSONYI: It's just a --

19 MS. FORSBERG: Your Honor, one objection to that  
20 from another perspective is unless it's part -- filed part of  
21 the court, it -- when this goes up on writ or whatever  
22 happens, it needs to be part of the record. If you're -- if  
23 you're taking that into consideration, that's our problem with  
24 child interviews and stuff like that, that are not part of the

1 record, they're not going to be taken up, and that's a  
2 concern.

3 MR. KARACSONYI: For later use for the Court for the  
4 (indiscernible) issue.

5 THE COURT: I can -- certainly I would not accept  
6 this in evidence at this time. If it becomes an evidentiary  
7 issue again, my issue I was looking at it -- yeah, I was  
8 looking at that as a waste argument, you know, the saying that  
9 she wasted the money or the apartment on that, and I wasn't  
10 inclined to get that because she was the manager and I figured  
11 people have the business judgment rule where they make  
12 decisions, good or bad, and the Court's not to secondguess  
13 unless they thought there's some type of fraud or corruption  
14 in there. So I wasn't inclined to get into that. But if it's  
15 raised by the parties thinking there were, of course, I would  
16 then have to get that admitted as an evidentiary.

17 But right now, the Court will accept it, but not --  
18 I will keep it on the side in the confidential file, but won't  
19 make it part of the record unless we come up to that issue.  
20 That way we'll have it if it comes out to be disputed.

21 MR. KARACSONYI: Yeah, and you're -- you're not  
22 making any rulings on it anyhow right now, so it won't come up  
23 until that time, but we can't file color photographs so we  
24 wanted to provide Your Honor a copy.

1 MR. LUSZECK: Yeah. And we're not stipulating to  
2 the authentic -- anything like that.

3 MR. KARACSONYI: No.

4 MR. LUSZECK: We're not waiving --

5 MS. FORSBERG: Not waiving any of that.

6 MR. KARACSONYI: No.

7 MR. LUSZECK: -- any of that.

8 THE COURT: I will not admit it as an evidentiary at  
9 this point.

10 MR. KARACSONYI: It's for the file, color  
11 photographs for Your Honor.

12 MR. LUSZECK: I understand.

13 MR. KARACSONYI: So to -- as back up.

14 THE COURT: Well, no, we'll not accept it as  
15 evidence as we need a foundation and all that, so we'll just  
16 take it as a courtesy copy to the Court to see if it becomes  
17 an issue, then we can argue the evidentiary and get the  
18 foundation necessary to have it admitted.

19 MR. KARACSONYI: Yes.

20 THE DEFENDANT: And it's just a sampling as well.  
21 It's not everything.

22 THE COURT: Not inclusive, okay.

23 MR. KARACSONYI: Okay. So Friday, the 9th then,  
24 we'll have the rest of the general ledger and that's been

1 stipulated to.

2           With regard to the transfer back of Lindell and  
3 Banone, and the payment of monies. First, let me -- let me  
4 address the request for payment of funds and kind of make a  
5 dist -- a distinction between where we were in 2013 and where  
6 we are today.

7           In 2013, when you ordered the transfer of properties  
8 and you ordered the payment of funds, to Ms. Nelson, you did  
9 so because you had at that point a final judgment. We sit  
10 here today without a final judgment. So we're in a far  
11 different position today than we were in 2013 and that's why  
12 the amount of work and the amount of -- the amount of  
13 evidentiary proceedings and money that would be involved in  
14 trying to figure out because they say that she owes 500,000,  
15 we believe that they owe her 265,000, and I'll get to that in  
16 a minute.

17           That type of effort wouldn't make sense at this  
18 point because you don't have a final judgment. Now, if you  
19 ruled at final judgment in their -- in their favor, then they  
20 would be in the same position she was in in 2013 and the  
21 analysis would be different. But that is really the  
22 distinction, I think, that -- that supports Your Honor's  
23 ruling that we're not going to get into determining at this  
24 point whether or not the money should be transferred back.



1 With respect to returning the Lindell and Banone  
2 properties, obviously we're concerned. One, we're concerned  
3 because Ms. Nelson is in a very poor financial condition right  
4 now and she's going to be forced into a situation where she's  
5 going to have to start liquidating her other property and --  
6 and just further depleting her estate. She has no money to --  
7 to live off of at the present time without those properties.

8 Obviously, she's going to have to receive half the  
9 rent because Lindell is half hers, even without a tracing.  
10 And so, we would have to do that. And she's owed -- she put  
11 265,000 of her own money into the -- to the properties.

12 Here's the other issue and it -- and this is really  
13 important. We had a request to reinstate or to just reaffirm  
14 the JPI. You -- this Court and the courts sitting in divorce  
15 actions, are required to maintain some status quo during the  
16 pendency of the matter. And if you have a transfer of  
17 property back to them without any JPI in place that lock,  
18 you're not going to encumber, sell, dispose of any of this  
19 property, you're putting at risk any final judgment that you  
20 may ultimately enter.

21 I mean, it's vitally important that no matter what  
22 you do, that you put in place a JPI to protect the parties.  
23 And this protects both parties, because we don't know how it  
24 will turn out, to protect both parties to ensure that your

1 final judgment can be enforced. So we'd ask --

2 THE COURT: When I transferred that initially I put  
3 that into it to make sure to protect --

4 MR. KARACSONYI: You did.

5 THE COURT: -- her interest so they couldn't be sold  
6 or otherwise encumbered without a court order if I remember.

7 MR. KARACSONYI: That's absolutely true. You -- you  
8 actually put a freeze on -- you put a freeze on a couple  
9 things.

10 You put a freeze on everything that was transferred  
11 to her that she couldn't get rid of it without your approval  
12 and you also put a freeze on anything that was awarded to her,  
13 and I believe that included the Russell Road property that  
14 they couldn't get rid of that. So -- without your approval.

15 So that's the issue. So we need to, at least to the  
16 extent that -- I mean, at the very least, and I think is a  
17 minimum, put a -- put -- you -- put the JPI over everything  
18 that was awarded to her so you at least know that you got half  
19 if everything turns out to be community property. But I think  
20 really, putting a JPI in place for all property that's subject  
21 to a claim of community interest, and right now that's  
22 everything, putting a JPI in place, and it's not -- it's not  
23 that burdensome.

24 I mean, if they tell you well, that's really

1 burdensome. They brought that up about the receiver, but all  
2 you're saying is look, in order to sell or transfer anything  
3 at this point, you can do business as usual, but you need to  
4 come to me so that we know, so that we don't have an issue  
5 that you bought or sold or -- or did anything, without court  
6 approval or agreement of the parties. And that's really for  
7 everyone's protection. It's not that burdensome. And it  
8 makes sure that you can keep a tab on everything in existence  
9 during the pendency of the case.

10 Now, as to the tracing. We agree with -- with you  
11 that the tracing needs to start in 1993. The relevant -- the  
12 really relevant finding that -- that you quoted and that he  
13 quoted, Mr. Luszeck, was on page 6. "On June 3rd, 2013,"  
14 under -- I underlined this -- "the District Court found that  
15 the separate property agreement was valid and the parties'  
16 self settle spendthrift trusts were validly established and  
17 funded with separate property."

18 The Supreme Court, if you -- Your Honor knows that  
19 you weren't -- you obviously didn't do a tracing back to 1993.  
20 The Supreme Court was relying on your statement in the decree  
21 that the properties from the 1993 revocable trust were  
22 transferred to the 2001 trust and was just simply referring to  
23 that to find that the -- the properties from one trust were  
24 transferred to another. The District -- the Supreme Court

1 didn't perform a tracing. The Supreme Court wasn't making  
2 additional factual findings or meaning to make additional  
3 factual findings separate and distinct from what Your Honor  
4 made. And if Your Honor did not trace and find that 1993  
5 property made it all the way through to 2001 in the initial  
6 decree, the Supreme Court certainly wasn't contradicting its  
7 own order, its own holding, by doing that.

8           It's -- essentially they want you to read the  
9 Supreme Court as having made findi -- having contradicted  
10 themselves in their own decision, that you need to perform a  
11 tracing to see if community property exists, but with respect  
12 to anything before 2001, no tracing is necessary. Well, that  
13 would be contrary to exactly what the Supreme Court said that  
14 you need to determine whether or not there's any community  
15 property in these trusts, and the Supreme Court was clear on  
16 that.

17           In a divorce involving trust assets, the District  
18 Court must trust those trust -- trace those trust assets to  
19 determine whether any community property exists within the  
20 trust. And that was page 15.

21           THE COURT: Page 15 and again --

22           MR. KARACSONYI: Yeah.

23           THE COURT: -- it comes up on page 16, about without  
24 proper --

1 MR. KARACSONYI: And to -- yeah.

2 THE COURT: Without proper tracing, this Court is  
3 left with only the parties' testimony regarding the  
4 characterization of property which carries no weight.

5 MR. KARACSONYI: Yeah. The parties' inconsistent  
6 testimony, on page 18, having concluded the District Court had  
7 subject matter jurisdiction, and the written instruments at  
8 issue are valid, and the District Court must trace assets to  
9 determine whether any community property exists within the  
10 trusts.

11 So that's the argument we made the first time and  
12 that's the argument we make again. It's interesting because  
13 in their -- in their brief, the things they focus on as to why  
14 the Supreme Court all of a sudden found that there was  
15 sufficient tracing all the way back to 1993 to conclude that  
16 everything in 2001 was separate property, was that the -- that  
17 the trust agreements themselves state that they should be  
18 separate property, which the Supreme Court said statements by  
19 the parties have no value, that Shelley Newell, the bookkeeper  
20 testified. You didn't even make any findings regarding her  
21 testimony, I believe. And that -- and that -- and those were  
22 really the two reasons.

23 And then section 12.13 of the ELN Trust and LSN  
24 Trust provide that any property held in trust shall be the

1 separate property of the beneficiaries of such trust, which  
2 talks about distribution.

3           So, I don't think that the -- the arguments -- the -  
4 - the reasons that they enumerated in their -- in their brief  
5 are -- are persuasive. And so we bel -- we believe that  
6 you've made the right decision with respect to the tracing and  
7 apparently they're going to take it up to the Supreme Court  
8 and we'll go back for round, you know, the third or fourth  
9 time and writs and appeals and we'll argue about that there,  
10 if it's appropriate for writ relief, which I'm not sure it is.

11           But the other issue is you brought up gifts and the  
12 finding of a gift. I -- I -- in -- as part of this tracing  
13 and analysis, I -- I believe you have to determine if there  
14 were gifts and not or if those were gifts or not gifts, if  
15 they were intended to be gifts, just as you in any -- any --  
16 any -- any divorce case. You often have, for example, people  
17 buy a house and one of them signs a quit claim deed to it  
18 because they can't borrow and the other one needs to be the  
19 sole party on it, and you have to determine whether or not  
20 that was meant to be a transmutation of property a gift or  
21 whether or not that was just a -- a matter of convenience. I  
22 believe you have sufficient testimony from before to show that  
23 there was no gift intent certainly because of the fact that  
24 the -- the -- the testimony was that he was telling her that

1 this was all being done for the benefit of the community and  
2 she certainly wasn't giving away the property. But I believe  
3 you could do that as part of the analysis, assuming there's  
4 even a tracing possible, because if -- if you can't trace back  
5 to 1993, everything acquired after 1993 is presumed to be  
6 community property and it should all be equally divided.

7 So those are our positions on -- on those issues.

8 With regard to the sale of Brianhead, you have  
9 jurisdiction over the parties and their property, you -- the  
10 Court's already ruled you had subject matter jurisdiction.  
11 You can make -- you can make orders regarding the parties'  
12 property. We believe that the sale of Brianhead is not only  
13 the correct -- correct order, but it's also necessary.  
14 Because of the financial situation Ms. Nelson finds herself  
15 in, she absolutely needs that property sold.

16 We would ask that if there is an appraisal, that Mr.  
17 Bertsch select the appraiser and -- and select an appraiser  
18 for the parties. That way we can avoid any disputes between  
19 the parties over appraisers.

20 We'd also ask that you, you know, that any buyout be  
21 kind of without prejudice because, you know, he may be buying  
22 her out with what you determine to be community property and  
23 she shouldn't be paying herself for the property, so that if  
24 he buys her out, that that obviously doesn't mean that that

1 property he's used to buy her out is separate property, but  
2 that it'll just -- you'll -- you'll work it out in a balance  
3 sheet later.

4 I would also remind the Court that she does own half  
5 of Lindell and you have jurisdiction over that. And so,  
6 certainly, you have jurisdiction over her and the property of  
7 the LSN Trust. And certainly, if there's an issue later that  
8 requires reimbursement, you have sufficient property at issue  
9 to work it out in some kind of property division or sale.

10 THE COURT: Thank you. Counsel?

11 MS. FORSBERG: Your Honor, let's attack a couple of  
12 issues first. Let's start with the Brianhead property.

13 And what Mr. Karacsonyi -- we kind of agree with. I  
14 think maybe it's been lost on the Court that Mr. Bertsch is  
15 who ordered the appraisal to begin with on Brianhead, so it  
16 just needs to be updated. We agree that Mr. Bertsch should --  
17 we'd ask the Court to task him with doing that and that that's  
18 -- but we also do disagree with the value going in -- up,  
19 because I know the Court probably heard the fire, that the  
20 fire destroyed the whole thing, so it -- they'll determine  
21 that, but clearly, I think that's where the difference is.  
22 And then there was deferred maintenance on that property that  
23 hasn't been done since this all began that --

24 THE COURT: I think it's at thirty --



1 MS. FORSBERG: -- but the appraisal will deal with  
2 that.

3 THE COURT: I think they're asking 30-grand I think  
4 as an offset for -- if I'm remembering in someone's motion on  
5 that, about 30-grand for maintenance or a side -- again, that  
6 may be updated, but --

7 MS. FORSBERG: There's still a lot more. But we're  
8 just saying that that -- that we agree that Mr. Bertsch should  
9 be tasked with that, but we already had an appraisal. It  
10 seems like it'd be reasonable for them just to have it updated  
11 and Mr. Bertsch can order -- Mr. Bertsch is the one who  
12 ordered the appraisal to begin with for the Court. So I don't  
13 know if that's been lost on everybody, but I think having him  
14 do it, we agree with Mr. Karacsonyi that he should just have  
15 it updated and -- and go from that perspective. And then give  
16 that -- and then it would give Mr. Nelson an opportunity to  
17 buy out her interest.

18 But, you know, clearly, the problem that I think  
19 both -- that we're having -- Mr. Nelson is having with this is  
20 it sounds like what they're asking for is that the Court asked  
21 ELN Trust to do all these things and Mr. Nelson to do all  
22 these things and said no, you're going to do it now, even if  
23 things are still up in the air because you knew it was going  
24 to the Supreme Court and stuff, but they don't want to do the

1 same back. That doesn't seem amicable or fair and equitable  
2 with this Court. So I think that's where the thing is.

3           So if there's going to end up being a buyout, that  
4 also -- any money to her needs to be held. That's what you've  
5 said before; look, we need to hold the money and you're hold --  
6 making him hold -- ELN Trust hold all that 500-and-some-odd-  
7 thousand according to their numbers, if -- it needs to be  
8 equitable. It can't just be well, we give her what she wants  
9 and not -- if it's exact same issue, which this is the exact  
10 same issue, it's the same property that was -- may go one  
11 should come the other, and I think this Court recognizes that.

12           As far as the instituting a joint preliminary  
13 injunction, that's all that these trusts do is buy and sell  
14 property. So when you say they should conduct business as  
15 usual, by putting in -- that in place and not allowing them to  
16 sell things, that's what they do. So that would be -- it's a  
17 severe burden that I think when -- the fact that the Supreme  
18 Court has already ruled what needs to go back to the ELN Trust  
19 and I don't think we should be encumbering a business running  
20 and moving forward. These -- that's how both sides function.  
21 So I think that we can't lose sight of that.

22           And of course, rents issues and profits from  
23 separate property are separate property, and I'm sure that's  
24 part of what it is and so I think those are the two main

1 issues that I have from a Eric Nelson and as Eric Nelson  
2 Investment trustee to make, were the two more things. The  
3 rest I think Mr. Luszeck made on behalf of the trust, so.

4 THE COURT: Any rebuttal? I'll give it to you since  
5 it --

6 MR. LUSZECK: Yes.

7 THE COURT: -- started out as your motion to enforce  
8 the order, so.

9 MR. LUSZECK: Yeah, a quick follow-up.

10 With respect to the transfer of properties,  
11 Counsel's statement that that didn't happen until after a  
12 final judgment, that's not true. The divorce decree was  
13 entered in June of 2013, but the judgment wasn't final until  
14 the end of 2014 and the property was transferred prior to that  
15 time. So this concept that we had a final judgment and that's  
16 what distinguishes it from now is -- is not accurate.

17 You know, with respect to the JPI, you know, if this  
18 Court's inclined to do that, which the ELN Trust disagrees  
19 with, I think it would -- it has to be narrow -- narrowly  
20 tailored to the properties at issue; the Lindell, the Banone,  
21 I mean, issues that are -- clearly belong to the ELN Trust  
22 like Wyoming Downs which she has no interest in pursuant to  
23 the Supreme Court. That shouldn't be encumbered by any type  
24 of JPI, so I think if this Court's inclined to do that, it

1 needs to be specifically tailored.

2           You know, I -- I disagree with Counsel's  
3 characterization of the Supreme Court's statements. I read  
4 four statements from the order where it was clear that the  
5 Supreme Court had -- the Supreme Court had found that self  
6 settled spendthrift trusts were funded with separate property.  
7 And as such, the tracing should be limited to that specific  
8 time frame.

9           I won't go through those again. I'm in page 2, 4,  
10 and 13, irrespective of what this Court -- believe that this  
11 Court found on six page -- page 6 of the Supreme Court order.

12           And just in addition to that, I mean, the -- Section  
13 12.13, which -- which Counsel referred to in the self settled  
14 spendthrift trust, specifically says any property held in  
15 trust and any income earned by the trust created hereunder,  
16 shall be the separate property in distinction with community  
17 property, joint tenancy property, tenancy in common, marital  
18 property, quasi-community property or tenancy by the entirety  
19 of the beneficiaries of such trust.

20           So this wasn't just a statement that was made by one  
21 of the parties as to their belief as to the -- the legal  
22 nature of the property, it was a statement that was made in a  
23 trust under the advice of counsel regarding the separate  
24 property nature of the property. So for that once again, I

1 think the -- the tracing needs to be narrowly tailored for  
2 that short time frame.

3           With respect to the sale of Brianhead, once again, I  
4 mean, they filed an A case. Last time we were here we  
5 discussed, you know, if it needed to happen, it was going to  
6 be a partition action. Counsel's position now that this Court  
7 has jurisdiction over that issue is really contradictory to  
8 the fact that they filed an A case seeking a partition of the  
9 -- sorry, a partition of the Brianhead property. So we would  
10 -- we would ask that this Court, I guess, defer ruling on that  
11 and if they -- if the A case is the proper -- proper forum for  
12 that to proceed, it should proceed there as opposed to here.

13           THE COURT: Okay. Mr. Bertsch, do you have any  
14 questions or anything what I need to do, I want to look into  
15 the argument I had again, laid out what my strategy was at and  
16 everything. I want to re-look at everything to see -- the key  
17 would be the tracing period, I need to re-look at that, I've  
18 heard arguments it should go to '93 and their argument it  
19 should be from 2001, so I need to read the Supreme Court  
20 decision again because I didn't find it as clear as everyone  
21 else seemed to find it and I was kind of looking at those  
22 issues to see what they were or not, because they made it  
23 clear that the Court did not trace and Court needs to trace on  
24 that, so they made it real clear on page 15 through 16 about.

1 the tracing, and the issue is how far do we trace back I guess  
2 is the key question.

3 I want to read the -- the trust agreements again. I  
4 did read the separate property agreements, but was trying to  
5 find the trust agreements again to read that because the file  
6 was very voluminous, so I need a chance to read that so I want  
7 to see exactly what the trust documents said themselves when  
8 they were created in 2001 and give a written decision so we  
9 can get this moving or if people want to take it up on writs,  
10 at least it gives them an order to move up on that. I want to  
11 get this going.

12 As far as the last issue, mediation, is there any  
13 reason or chance? I know we went around the block several  
14 times before we had the case settled, prospectively a couple  
15 of times and it didn't pan out on that mediation, is -- if  
16 anybody -- if you respect that you think would do mediation on  
17 that because you know it's going to happen in this case no  
18 matter what we ultimately do, even when we get the tracings,  
19 it's probably going to back up to the Supreme Court, can sit  
20 there another year or two, and just going on ad infinitum on  
21 that, but the same token, the parties have a right to litigate  
22 this as much as they want, but I don't know if you've even  
23 thought that's worth it or if you had someone in mind you  
24 thought that --

1 MR. KARACSONYI: I sent an email to them this  
2 morning telling them that our client has decided that based on  
3 the fact that we've been to so many mediations previously, the  
4 Supreme Court settlement conference, mediations prior to that,  
5 and given her financial situation, she just thinks it will be  
6 an incredible waste of time and money and we are willing to  
7 entertain any written proposal that they -- that they want to  
8 make, but I -- we just don't see it as being fruitful and  
9 it'll just put her in a more precarious financial situation.

10 MR. LUSZECK: And obviously, I can't make them  
11 participate in mediation. We disagree. We think if we have a  
12 strong mediator who can hear this case, we could potentially  
13 reach a settlement. I mean, I -- I think if we can get in  
14 front of a mediator in the next couple months it would be a  
15 lot less time consuming and expensive than litigating this  
16 over the next, you know, I don't know how long it's going to  
17 take. And no -- none of us do.

18 THE COURT: Yes, I -- right.

19 MR. LUSZECK: I mean, it's going to take a while  
20 regardless of what this Court's order, it's going to take a  
21 while for Mr. Bertsch to do his analysis and then, you know,  
22 if issues are taking up with the Supreme Court, so obviously,  
23 our preference is mediation or settlement conference with a  
24 very strong mediator or settlement conference judge, but, you

1 know, I -- I don't think that we can make Ms. Nelson do that.

2 THE COURT: Mr. Nelson, your position on this or?

3 MS. FORSBERG: I believe -- we agree with Mr.

4 Luszeck. I mean, we can't force her to do it, but, at the  
5 same time, is it because she thinks she has access to the  
6 money that she doesn't have to give back? I don't know, maybe  
7 the Court needs to prompt a little bit. I don't know.

8 THE COURT: I think the real issues on that as I  
9 said, and when I had this case, we had a -- I think a 10-day  
10 trial and then we thought we had it settled and then started  
11 again on that, so I know it has a very -- I'm not inclined to  
12 order people to mediation unless they go there willingly,  
13 because otherwise, it's not going to get anything done. If  
14 you think it will be, I -- just let me know and if you have a  
15 specific mediator or settlement judge you want, contact my  
16 chambers, you can do a conference call and appoint one if you  
17 think it would be beneficial to get it done on that.

18 I'm going to get my order issued within the next 30  
19 days so that we get that going. I -- no matter what happens  
20 on that, any paperwork you need, Mr. Bertsch, you can start it  
21 because we know we're going from at least 2001 currently, so  
22 we can get that started while we're waiting for the decision  
23 on if we go back to '93. But anything we can get started on  
24 that, let me know if you need any documents so that you can



1 get that started on that, because I just don't see it getting  
2 resolved and tracing's going to be a key issue and that's  
3 going to take a significant amount of time and resources for  
4 the parties on that.

5           And as far as the Brianhead, I have no idea what's  
6 that worth, but I think you'd probably need a new appraisal  
7 instead of just an addendum on that, because things change and  
8 if -- if that fire did, you know, damage the surrounding  
9 things, I have no idea on that, but you might just should  
10 start with a new because I know at the time it was the real  
11 estate market was kind of down at that time, so that would be  
12 the key on that. Because what that materializes can help you  
13 out financially and if it's, you know, millions of dollars,  
14 that can help out both sides (indiscernible) on that as far as  
15 any of the costs on that, but I want to make sure everybody's  
16 protected on those interests in that.

17           So that'd be my think, we'll get a decision for you.  
18 Did you want as far as if you want to put it on for a  
19 settlement thing, just let me know and we'll set up a phone  
20 conference and settlement. I'd like to get Mr. Bertsch maybe  
21 get -- at least start going from 2001 and forward.

22           Any special documents you need, Mr. Bertsch? A way  
23 to kind of get a jumpstart? I know I went through a lot of  
24 your reports that you did and there's so many on that, I was

1 trying to see if I could use that to try to trace it, and I  
2 know some of the things you had in your court reports kind of  
3 showed where some of the property went to different things,  
4 but I don't know -- it's kind of complicated, so I don't know  
5 what you need to kind of get started because you might as well  
6 kind of get the tracing going unless the parties --

7 MR. BERTSCH: This is additions to the trusts after  
8 2001?

9 THE COURT: 1, yeah. Because what happens at this  
10 point, and that's at -- to begin. I might go back to '93  
11 depending, I need to digest the arguments of counsel today,  
12 but from when the trusts were created in 2001. I forget the  
13 date that was.

14 Do you know when the trust was in 2001?

15 MR. LUSZECK: May 3rd?

16 MR. KARACSONYI: May 30th?

17 MR. LUSZECK: Yeah.

18 THE COURT: So I would go from June 1st. If it was  
19 May, I'd go from June 1st -- June 1st, 2001 up to the divorce  
20 decree, which I think was June 2014, was it?

21 MR. KARACSONYI: June 6th, 2013.

22 MR. LUSZECK: Yeah, I believe.

23 THE COURT: So I'd go from June 1st, 2001 through  
24 June, what was it?

1 MR. KARACSONYI: 6th, 2013.

2 THE COURT: June 6th, 2013. So basically, June 2001  
3 through June 2013 essentially, at least get started whatever  
4 paperwork you need. And again, I don't know how you go about  
5 that, with all the transfers, I'm not really sure on that  
6 because --

7 MR. BERTSCH: They have an accounting of the trust  
8 during those periods of time, right?

9 THE COURT: Do we have all the accountings? I don't  
10 --

11 MS. FORSBERG: I think they're --

12 MR. KARACSONYI: We've given them everything that --  
13 that we've had since the initial case.

14 THE COURT: Okay. I don't know a whole lot of --

15 MR. BERTSCH: I'll have to go through the work  
16 papers, there's a lot of them there.

17 THE COURT: Yeah, there's a lot in the -- the  
18 problem is there's a lot in the file. The problem is, it's  
19 real tough to find it because we've got 9000 screens when you  
20 pull that up, so to try to find it unless you know the date,  
21 it's real tough to find it because there's so many entries. I  
22 mean, literally there's hundreds of screens when you pull up  
23 to just to find the separate property agreement it was  
24 difficult to find them unless you know when it was to get you

1 that time frame.

2 MR. BERTSCH: Okay.

3 THE COURT: But if they have that and if Counsel can  
4 provide that, that's great. If they have those readily  
5 available --

6 MS. FORSBERG: We'll get them --

7 THE COURT: -- to try to find them in the record is  
8 real difficult because it's so voluminous.

9 MR. KARACSONYI: We'll give him all the accounting  
10 records. Can we just stipulate that if you're going to give  
11 him something new that hasn't been part of the record --

12 MS. FORSBERG: Record?

13 MR. KARACSONYI: -- that you would let the other  
14 side know or at least send us each -- maybe we'll each send --  
15 what -- whenever I send him something, I'll put a list and --  
16 and maybe reference where it was or the bates numbers, and if  
17 they could do the same, that way we can kind of keep track of  
18 who sent them what.

19 MS. FORSBERG: So everything in the record.

20 THE COURT: Would that work out? Again, I said the  
21 record's so voluminous trying to identify what was --

22 MR. KARACSONYI: To help us both along?

23 MR. LUSZECK: Yeah, that's fine. So any -- any  
24 documents that we provide Mr. Bertsch, we just need to apprise

1 the other side and give them copies of the same.

2 MR. KARACSONYI: Yeah, if it's a new disclosure.

3 MS. FORSBERG: Well, they already have -- if it's a  
4 new disclosure.

5 MR. KARACSONYI: If it's a new disclosure.

6 MS. FORSBERG: No need to get --

7 MR. LUSZECK: Okay. Okay.

8 MS. FORSBERG: -- new copies if it's -- of those.

9 MR. KARACSONYI: If it's stuff you've already given,  
10 I think that if you just write the letter and say I'm giving  
11 you -- Mr. Bertsch, I'm sending you --

12 MR. LUSZECK: Understood. Understood.

13 MS. FORSBERG: Exhibit --

14 MR. LUSZECK: I understand.

15 MS. FORSBERG: -- 33.

16 MR. KARACSONYI: And -- yeah, Exhibit 33 bates or --

17 MR. LUSZECK: I understand.

18 MS. FORSBERG: The --

19 MR. KARACSONYI: -- whatever. For disclosure  
20 documents.

21 THE COURT: I think we're up to quadruple S at one  
22 time, so I'm not sure what the --

23 MR. KARACSONYI: Yeah, I don't know if we have to do  
24 exhibits or disclosures.

1 THE COURT: I'd --

2 MR. KARACSONYI: Just something that references that  
3 it's already in our file.

4 THE COURT: So you know where it's at so if it goes  
5 up on appeal, you've got a record on that because the Court  
6 can find it in the record then.

7 MR. KARACSONYI: I just had one question. I'm sure  
8 you're already intending on doing this, but whatever decision  
9 you make, in the decision we would appreciate certainly if --  
10 if you could clarify in there or make clear when you're  
11 tracing, what the tracing that occurred in the underlying  
12 proceedings was so the Supreme Court knows whether you did  
13 find -- if you did find that it was separate property, then  
14 fine. If you didn't, if you could just make it clear whatever  
15 you're ruling and whatever you had done before, because I know  
16 that's going to be an argument above, so --

17 THE COURT: That issue when you said the Supreme  
18 Court said I made those findings and make sure I made those  
19 findings?

20 MR. KARACSONYI: Yeah. Yeah, and if you can just  
21 put in your order, even if you rule against us or you rule in  
22 their favor or in our favor, just so that we know that we can  
23 make it clear to the Supreme Court this is what you did before  
24 and so they know exactly what you did before.

1 MS. FORSBERG: And, Your Honor, I think I -- just to  
2 clarify one quick thing so Mr. Bertsch understands. He's just  
3 trying to determine, he's not doing a forensic accounting of  
4 everything they've had done in the world, he's trying to  
5 determine whether there's community properties by clear and  
6 convincing evidence is put in there.

7 MR. KARACSONYI: He's trying to figure out the  
8 source, I think we all -- he's trying to find the source of  
9 all --

10 MS. FORSBERG: I just want to make sure he knows  
11 what --

12 MR. KARACSONYI: -- the property.

13 MS. FORSBERG: -- we're asking him to do.

14 MR. KARACSONYI: Trying to see where -- where a  
15 property initiated from and it -- whether it came from --

16 THE COURT: Community interest.

17 MR. KARACSONYI: -- this property or that property,  
18 basically just tracing back where the property came from is my  
19 understanding.

20 MR. LUSZECK: Yeah, I mean, from page 16 to 17 of  
21 the Supreme Court order it says the District Court must trace  
22 assets to determine whether any community property exists  
23 within the trusts.

24 MR. KARACSONYI: Yeah, so --

1 MS. FORSBERG: Yeah, we just want to make sure that

2 --

3 THE COURT: Yeah.

4 MS. FORSBERG: -- he understands his task.

5 MR. KARACSONYI: So my understanding is you just  
6 trace it back -- I don't think he's making legal  
7 determinations. I think he's just going to provide you a  
8 report that this property you can trace back to this, to this,  
9 to this, to this, all the way to 2001, and then you can decide  
10 at that point the -- the legal aspect of it for --

11 MR. LUSZECK: Yeah.

12 MR. KARACSONYI: -- whether it's community or  
13 separate property. Do you both agree?

14 THE COURT: I take it you're trying -- trying to see  
15 where the property came from, the Court can determine if it's  
16 a community interest or not, to see when it was, how it came,  
17 and where it came from. So I think, you know, that's all not  
18 a legal determination if it was community property or not.

19 MR. KARACSONYI: That's your determination.

20 MS. FORSBERG: Yes.

21 THE COURT: The Court to make the determination.

22 MR. LUSZECK: In that I guess when -- when you do  
23 issue your order, Your Honor, I would just request I think an  
24 order for us to seek relief from the -- the Supreme Court, we



1 need to request a stay here.

2 THE COURT: Okay.

3 MR. LUSZECK: So if -- if, you know, depending on  
4 the way that this Court rules and the way that we make -- the  
5 decision that we make in regards to that, I'd just appreciate  
6 it if you would at least address that issue on --

7 THE COURT: And I'll do it for either party that --  
8 that any request for a stay is hereby denied from both sides,  
9 that way, anybody wants to take up, they can take it up right  
10 away. Is that fair enough --

11 MR. LUSZECK: Yeah.

12 MS. FORSBERG: Correct.

13 THE COURT: -- to everybody? And then with respect  
14 to I understand that this Court needs 30 days to look at the  
15 issues regarding the -- the scope of the tracing, but I'd  
16 still request that -- that in the interim that Ms. Lynita be  
17 required to execute the quit claim deeds to get the properties  
18 at least transferred back to the ELN Trust. We can deal with  
19 the accounting issues later, but we would like those quit  
20 claim deeds executed within five business days after the  
21 hearing, which is really the time frame that you gave the ELN  
22 Trust to execute those documents, you know, years ago, Your  
23 Honor.

24 MR. BERTSCH: Are you --

1 THE COURT: My -- my inclination is to order those  
2 quit claim deeds, but I'll wait on my decision and get that,  
3 but just so you know it's coming unless --

4 MR. KARACSONYI: Okay.

5 THE COURT: -- my research changes that, that is my  
6 inclination to order those quit claim deeds be transferred  
7 back to where we start to where it was on that, then we trace  
8 all that, and do it again, because I did the same thing when I  
9 told the trust, they said oh, it's going to be a hassle doing  
10 all that and I said well, too bad, we can transfer it back  
11 depending on the Supreme Court. So that is my inclination.  
12 Again, I will want to review the argument and review the  
13 paperwork, but that is my inclination just so you know it's  
14 coming, unless I change my mind when I research everything,  
15 but --

16 MR. KARACSONYI: And you'll address the JPI then at  
17 the same time?

18 THE COURT: Absolutely. Absolutely.

19 MR. KARACSONYI: Because those go hand in hand.

20 THE COURT: Absolutely. And I would be issuing a  
21 JPI, the same thing I did before on that, making sure it's not  
22 encumbered or sold until we get it ultimately resolved, but  
23 not make it more narrow so it doesn't hinder the operation of  
24 the property that has nothing to do with this matter that's

1 clearly not community property.

2 Mr. Bertsch?

3 MR. BERTSCH: Have we determined who is paying for  
4 it and shall there be a retainer to get started?

5 THE COURT: How much would you need as a retainer?  
6 What would you normally --

7 MR. BERTSCH: I don't know. I'd like to at least  
8 have 5,000 to get started.

9 THE COURT: Okay. Okay. I'll put that in the order  
10 on that before you get going on that, we'll make sure. My  
11 inclination was to have everybody pay 50/50, but you did raise  
12 the issue that you guys had paid about 139,000 in the past, so  
13 I'll look at that on that, but I'll put that right in the  
14 order, but you'll have the guarantee that you get paid if you  
15 want to get started on that with the -- do you need any up-  
16 front money to get going for -- you know, out of pocket  
17 expenses or --

18 MR. BERTSCH: I'd like to.

19 THE COURT: Okay. Let me --

20 MR. KARACSONYI: Your Honor, he had mentioned -- Mr.  
21 Luszeck had said something about -- you had just said  
22 something about property that was clearly not. I thought all  
23 the property's at issue.

24 THE COURT: Well, I mean, separate property for --

1 MR. KARACSONYI: You haven't made a determination.

2 THE COURT: The separate property from 1993 if we  
3 decide --

4 MR. KARACSONYI: Oh, yeah.

5 THE COURT: -- yeah, and if we decide --

6 MR. KARACSONYI: Oh, yeah. If something still  
7 existed from 1993?

8 THE COURT: Yeah, and if my decision --

9 MR. KARACSONYI: That you hadn't traced?

10 THE COURT: -- says we go from 2001, then I'm going  
11 to consider everything from 2001 prior to be separate property  
12 based on the separate property agreement in the trust --

13 MR. KARACSONYI: Okay.

14 THE COURT: -- if that's where we go.

15 MR. KARACSONYI: I see what you're saying.

16 MR. LUSZECK: And it's our position of why -- I  
17 mean, that's clearly not an issue, Your Honor. That --

18 MR. KARACSONYI: Well --

19 MR. LUSZECK: -- the appeal on that issue was  
20 denied.

21 MR. KARACSONYI: No, the -- that's not true. They  
22 didn't exclude Wyoming from the tracing.

23 MR. LUSZECK: They sure did. They upheld that  
24 order.

1 MR. KARACSONYI: They --

2 THE COURT: I'd have to look at that. I know we did  
3 it as a separate order, so I need to look at my order what we  
4 did. I know I made specific findings and I don't know what  
5 the Supreme Court -- like I said, if it had merits, I don't  
6 know if that include Brianhead -- I mean the Wyoming Downs --

7 MR. LUSZECK: Of course it did.

8 MR. KARACSONYI: Well, it didn't say that the -- you  
9 can do a tracing except Wyoming Downs. It didn't say that. I  
10 mean, it just doesn't say that. You could read it.

11 THE COURT: I'll check and look at that.

12 MR. LUSZECK: Yeah, that's --

13 MR. BERTSCH: Now, did they -- I would like to have  
14 the tax returns going back to that. I suppose it was a  
15 grantor trust they put on their tax returns.

16 MR. KARACSONYI: I think we have those as part of  
17 the discovery. I think he's going to get most of that.

18 THE COURT: Okay. We'll see what we can get going  
19 to get started. I'll guarantee the decision within 30 days.  
20 I'll try to get it sooner if I can because I know it's going.  
21 My issue is I have a huge juvenile calendar and being the lead  
22 judge for that, I'm on all these statewide committees and on  
23 national committees, so trying to -- I'm always either in  
24 court or at a meeting, but I want to get this done because

1 it's important. And again, if you guys think that mediation  
2 or settlement is a -- and everybody agrees, just let me know,  
3 we'll do a joint phone conference to save you the time on that  
4 and see if there's somebody you think that might be able to  
5 help you get it resolved, because it's going to be costly and  
6 time consuming with the way we're going, no matter what the  
7 Court's decision is.

8 Mr. Bertsch?

9 MR. BERTSCH: The appraisal on the Brianhead  
10 property, should I wait until the order is signed before I do  
11 anything with that?

12 THE COURT: Do you guys want to get that started or  
13 --

14 MR. KARACSONYI: I'd prefer to get it started. We  
15 don't have any signifi -- any -- any really funds to -- until  
16 we get that sold or taken care of.

17 MR. BERTSCH: And who should I have them contact to  
18 get into the property?

19 THE DEFENDANT: The weather may not allow them in.

20 MR. KARACSONYI: Okay.

21 THE DEFENDANT: But that may be a consideration as  
22 well.

23 THE COURT: So the point of contact would be the  
24 Lynita fund could -- or both on that?

1 MR. KARACSONYI: Yeah, we're fine.

2 MR. LUSZECK: I almost think --

3 THE COURT: 50/50, so who's the --

4 MR. LUSZECK: I think it's almost part and parcel,  
5 Your Honor. I mean, we've got an issue where we have an A  
6 case that they've filed a partition action, so I think this  
7 Court needs to make a determination as to who has jurisdiction  
8 and authority to make a ruling.

9 THE COURT: Well, I would think I do under community  
10 -- another thing we had, I think I put it specifically in my  
11 divorce decree, that the other party had a right -- right of  
12 first refusal and I think I even said on the record that if we  
13 get to that point because the parties are 50/50, it's not  
14 tenable, it's not going to work out on that, with the nature  
15 of this litigation that'd be my inclination to sell it and  
16 give the other party right of first refusal and I put that I  
17 believe right in the divorce decree if I remember correctly.  
18 But I'll check that, but it'd be my inclination and then they  
19 can do an emergency motion in front of the A court and so you  
20 know it's coming to see if you want to stop me from doing it,  
21 but that would be my inclination.

22 MS. FORSBERG: We're getting an updated or new  
23 through Mr. Bertsch? I'm a little confused on what we're  
24 doing on that, on the appraisal then.

1 MR. KARACSONYI: He's getting a new appraisal he  
2 said.

3 MS. FORSBERG: Okay. I mean, I -- I mean, an  
4 updated appraisal is a new appraisal. They've got to go out  
5 and redo and start over, but whoever he chose -- Mr. Bertsch  
6 chose him before, so I assume he'll use --

7 MR. KARACSONYI: He's going to pick somebody.

8 MR. BERTSCH: See if they're still in business.

9 MS. FORSBERG: If they're still in business, right.

10 THE COURT: If they're still in business or someone  
11 else.

12 MS. FORSBERG: Right. Oh no.

13 MR. BERTSCH: They've got to be paid.

14 THE COURT: Absolutely. So we'll get all that and  
15 get some ideas on that, I'll get that order to you right away.

16 MR. KARACSONYI: We would -- we would prefer not  
17 using the same one just because you thought it was low and we  
18 just want somebody with a fresh start.

19 THE COURT: Probably get someone new that you've got  
20 experience with or so just that no one comes in with a  
21 preconceived idea. Again, I just said it was low. That was  
22 purely --

23 MS. FORSBERG: Yeah, I --

24 THE COURT: -- speculative.



1 MR. LUSZECK: I thought Mr. Bertsch was making this  
2 decision and now --

3 MS. FORSBERG: I thought he was. Now we're --

4 MR. LUSZECK: -- they're making the decision.

5 MS. FORSBERG: -- they're trying to make the  
6 decision --

7 THE COURT: Well --

8 MS. FORSBERG: -- instead of allowing Mr. Bertsch to  
9 -- if he used that guy last time --

10 THE COURT: -- I don't know like he said that --

11 MS. FORSBERG: -- they chose -- he chose them.

12 THE COURT: -- if that -- if that prior appraiser's  
13 still in business or things or other one's you've dealt with  
14 that you're comfortable with. I just want to try to avoid  
15 anyone saying that there's been any (indiscernible) to try  
16 this since it's so litigated on this point, I'm trying to  
17 avoid that. If it's a new appraiser you're comfortable with  
18 that might be preferable just simply because they can stop  
19 saying that they had a preconceived idea --

20 MS. FORSBERG: Your Honor --

21 THE COURT: -- or this or that, so it --

22 MS. FORSBERG: If I could --

23 THE COURT: -- just makes it cleaner if they can,  
24 but.

1 MS. FORSBERG: If I can bring a point up. I mean,  
2 Mr. Bertsch might be really limited. Brianhead and Duck Creek  
3 are very small communities on who would be willing to do it  
4 and I think that was what they ran into before, so --

5 THE COURT: Okay.

6 MS. FORSBERG: -- I don't think it's going to be an  
7 issue for either one.

8 THE COURT: Yeah, I'll leave it to Mr. Bertsch.

9 MS. FORSBERG: Leave it to Mr. Bertsch to --

10 THE COURT: I respect him and I think both parties  
11 respect that.

12 MS. FORSBERG: -- he can use the same guy, fine, and  
13 if he can't --

14 THE COURT: And we'll get an order to you then and  
15 see about emergency funding to get you started on that with a  
16 retainer agreement and any fees for appraisal and stuff so  
17 we'll get you some costs and a retainer.

18 MR. BERTSCH: The appraiser's going to ask who's  
19 going to pay me.

20 MS. FORSBERG: Right.

21 THE COURT: Yeah, okay.

22 MR. BERTSCH: I'll tell you that right up-front.

23 THE COURT: Okay.

24 MR. BERTSCH: On the agreement.

1 MR. KARACSONYI: The appraisal's not going to be  
2 that expensive. I think we can split that. I think it's --  
3 what is it, \$500?

4 MR. LUSZECK: Yeah, we're -- although, we -- we --  
5 there's \$139,000 disparity of what the ELN Trust has had to  
6 pay as opposed to the LSN Trust, so I think until we -- we hit  
7 that benchmark, I think everything needs to be borne by Ms.  
8 Nelson.

9 THE COURT: I need to see about the -- I don't know  
10 the financing --

11 MR. KARACSONYI: All the money that's been paid is  
12 still subject to a community claim, though.

13 THE COURT: And then I think --

14 MR. LUSZECK: Well, until that's determined --

15 THE COURT: -- just -- I think the Supreme Court  
16 still had the thing about the alimony was sustained and the  
17 back child support and those things on that. I don't know  
18 where we're at about that. Unfortunately --

19 MR. KARACSONYI: Yeah, and we're going to try that,  
20 too, now obviously.

21 THE COURT: -- I can't make -- I can't make the  
22 trust pay of course that -- the Supreme Court made it clear I  
23 can't make the Trust pay spousal support or alimony unless  
24 there was an order in place before and then they did the trust

1 to try to block it, and they said that specifically in the  
2 legislative history, and Nevada wants people to come to Nevada  
3 and put their money in expensive trusts and --

4 MR. KARACSONYI: Understand that.

5 THE COURT: So I mean, that's the issue on that, so  
6 I don't know -- you can file a motion on that to get --

7 MR. KARACSONYI: We're going to be seeking a  
8 charging order, Your Honor.

9 THE COURT: And see if they can get something like  
10 that and that might help resolve some of the funding on that.

11 Mr. Nel -- Mr. Bertsch, why don't you just put a  
12 hold on that. They can give you some of the documents, why  
13 don't you put a hold on everything until I make an order on  
14 the payment and that way you'll do it and we'll get that all  
15 done for you. That way you're not out of any pocket or  
16 expenses and -- and if we need to wait a couple weeks, I'll  
17 try to get that order in a couple weeks. I just need to look  
18 and digest because I don't remember all this stuff to make  
19 sure. While I respect all the attorneys here, it's legal  
20 argument and not facts. I need to look at that and see what's  
21 fair and just to try to get the ball rolling again, because  
22 it's going to be very costly.

23 So if you guys would start getting together the  
24 paperwork for Mr. Bertsch, but we can hold off taking any

1 action until you get your retainer in pocket and any fees out  
2 of that so you -- I don't want you spinning your wheels. Or I  
3 should say maybe spinning your wheel under the circumstances,  
4 but --

5 (Laughter)

6 THE COURT: All right. I won't pick on Mr. Bertsch.  
7 That was just silly.

8 MR. LUSZECK: Thank you, Your Honor.

9 MS. FORSBERG: Thank you.

10 MR. KARACSONYI: Thank you.

11 THE COURT: Thank you to everybody for coming today.  
12 It's good to see you, Mr. Bertsch.

13 (PROCEEDINGS CONCLUDED AT 12:28:30)

14 \* \* \* \* \*

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

18

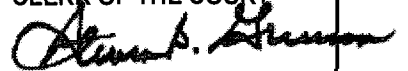
19 /s/ Kimberly C. McCright  
20 Kimberly C. McCright, CET

21

22

23

24



**DISTRICT COURT  
FAMILY DIVISION – JUVENILE  
CLARK COUNTY, NEVADA**

ERIC L. NELSON,

Plaintiff,

v.

LYNITA SUE NELSON, MATT  
KLABACKA, as Distribution Trustee of  
the ERIC L. NELSON NEVADA  
TRUST dated May 30, 2001,

Defendants.

Case No.: D-09-411537-D

Dept. No.: O

MATT KLABACKA, as Distribution  
Trustee of the ERIC L. NELSON  
NEVADA TRUST dated May 30, 2001,

Cross-claimant,

v.

LYNITA SUE NELSON,

Cross-defendant.

**DECISION**

This matter was before the Court on January 31, 2018, pursuant to Plaintiff's Motion to Enforce Supreme Court's Order Dated May 25, 2017; Motion to Hold Lynita S. Nelson in Contempt for Violation of September 22, 2014 Order; and for Attorneys' Fees and Costs. The Court, having reviewed all

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2 Motions, Oppositions, Countermotions, and Replies filed in this matter between  
3 July 10, 2017 and August 22, 2017, and having heard arguments of counsel,  
4 based thereon and good cause appearing therefor:  
5

6 **CONCLUSIONS OF LAW**

7 On May 25, 2017, the Nevada Supreme Court filed an Order which  
8 affirmed in part and vacated in part this Court's June 3, 2013 Divorce Decree, and  
9 remanded the matter back to this Court. On July 10, 2017, the Plaintiff, Eric  
10 Nelson ("Mr. Nelson") filed a Motion to compel the Defendants, Lynita Nelson  
11 ("Ms. Nelson") and Matt Klabacka ("ELN Trustee"), to follow the Supreme  
12 Court's Order. Several Oppositions, Countermotions, and Replies were filed by  
13 all parties prior to a hearing before this Court on January 31, 2018, to address all  
14 pending matters, the most important being the interpretation of the Nevada  
15 Supreme Court's Opinion with regard to the tracing of property within the trusts.  
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19 A. The Tracing of Property Contained Within the Eric L. Nelson Nevada Trust  
20 and the Lynita S. Nelson Nevada Trust

21 In its May 25 Order, the Nevada Supreme Court concluded that this Court  
22 erred by "not tracing the assets contained within the trusts, either through a  
23 reliable expert or other available means."<sup>1</sup> The Nevada Supreme Court also held  
24 that both the Eric L. Nelson Nevada Trust ("ELN Trust") and the Lynita S.  
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28 <sup>1</sup> Klabacka v. Nelson, 394 P.3d 940, 948 (Nev. 2017).

1  
2 Nelson Nevada Trust (“LSN Trust”) “are valid and the trusts were funded with  
3 separate property stemming from a valid separate property agreement.”<sup>2</sup>  
4

5 In accordance with the Nevada Supreme Court’s decision, this Court must  
6 Order the tracing of property in both the trusts. In order for an accurate  
7 accounting of the property in both the ELN and LSN Trusts to occur, this Court  
8 must determine the correct date to commence tracing of the property in the trusts.  
9  
10 The Nevada Supreme Court held that both the ELN and LSN Trusts were funded  
11 with separate property stemming from the 1993 Separate Property Agreement.<sup>3</sup>  
12 As such, the proper date to begin the tracing would be May 30, 2001, the date  
13 both the ELN and LSN Trusts were executed.  
14

15 The Nevada Supreme Court concluded that the assets in the trusts need to  
16 be traced through a reliable expert.<sup>4</sup> In order for the trusts to be properly traced,  
17 this Court shall appoint Larry L. Bertsch, CPA (“Mr. Bertsch”) to perform the  
18 tracing. In the interest of fairness in regards to payment, both parties will be  
19 required to split the cost of Mr. Bertsch’s tracing, beginning with a \$5,000  
20 payment from each party for Mr. Bertsch’s initial retainer. The initial retainer  
21 payment to Mr. Bertsch shall be paid within thirty days of the date of this Order.  
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25 B. The Lindell Property and Banone, LLC Properties  
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27 <sup>2</sup> *Klabacka*, 394 at 947.

28 <sup>3</sup> *Id.*

<sup>4</sup> *Id.* at 948



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2 In its May 25 Order, the Nevada Supreme Court vacated the Constructive  
3 Trust held over the Lindell Property.<sup>5</sup> The Nevada Supreme Court also held that  
4 “the issue of unjust enrichment was not tried by implied consent and, therefore,  
5 [this Court] erred in considering it when fashioning its remedies.”<sup>6</sup>  
6

7 As the Nevada Supreme Court vacated the Constructive Trust held over the  
8 Lindell Property, the LSN Trust must transfer its 50% interest in the Lindell  
9 Property to the ELN Trust via Quitclaim Deed. Additionally, the LSN Trust shall  
10 provide to the ELN Trust copies of any and all tenant leases for the Lindell  
11 Property for the period of June 3, 2013 to the present. The LSN Trust shall also  
12 provide to the ELN Trust quarterly accountings for the Lindell Property,  
13 including any and all supporting documentation, for the period of June 3, 2013 to  
14 the present. Supporting documentation is to include records as to gross profits  
15 and expenses related thereto, including, but not limited to; general upkeep,  
16 management fees, administrative fees/wages, and maintenance fees/wages.  
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21 As the Nevada Supreme Court held that this Court’s finding of unjust  
22 enrichment was in error, the LSN Trust must transfer its 100% interest in the  
23 Banone, LLC Properties to the ELN Trust via Quitclaim Deed. The LSN Trust  
24 shall also provide to the ELN Trust quarterly accountings for the Banone, LLC  
25 Properties, including any and all supporting documentation, for the period of  
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<sup>5</sup> *Id.* at 953

<sup>6</sup> *Id.*

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2 June 3, 2013 to the present. Supporting documentation is to include records as to  
3 gross profits and expenses related thereto, including, but not limited to; general  
4 upkeep, management fees, administrative fees/wages, and maintenance  
5 fees/wages.  
6

7 C. Sale of the Brian Head Cabin

8 The ELN and LSN Trusts each own a 50% interest in the Brian Head  
9 Cabin ("Cabin") in Utah. Upon the request of Ms. Nelson for funds to pay her  
10 litigation costs and other general expenses, this Court shall Order that the Cabin  
11 be sold. This Court previously Ordered that "both parties shall have the right of  
12 first refusal should either Trust decide to sell its interest in the Brian Head  
13 [C]abin."<sup>7</sup>  
14  
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16 In order to properly ensure that both parties are receiving the fair market  
17 value of the Cabin, Mr. Bertsch will be appointed to conduct the assessment of  
18 the property value via a property appraiser of his choosing. To avoid concerns  
19 raised as to the objectiveness of the upcoming appraisal, Mr. Bertsch shall select  
20 a property appraiser other than the previous property appraiser, if available. In the  
21 interest of fairness in regards to payment, both parties will be required to split the  
22 cost of the property assessment.  
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<sup>7</sup> Divorce Decree filed June 3, 2013, pg. 46

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2           Upon receipt of a fair market value price for the Cabin, the ELN Trust is to  
3 be given the right of first refusal and allowed to purchase the 50% interest owned  
4 by the LSN Trust. In the event that a fair market value price for the Cabin cannot  
5 be agreed upon by the parties, the Cabin is to be placed on the open market until  
6 a valid offer is received. The ELN Trust will then be allowed to match the price  
7 of the valid offer to purchase the 50% interest owned by the LSN Trust.  
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10           In the event that the ELN and LSN Trusts cannot agree on the value of a  
11 valid offer, a realtor of Mr. Bertsch's choosing shall determine the validity of the  
12 offer and conduct the sale of the property accordingly. All fees and costs  
13 associated with the sale of the Cabin shall be shared equally between the ELN  
14 and LSN Trusts.  
15

16           D. \$720,000 in Bank of Nevada Account 7502338705  
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18           In its May 25, 2017 Order, the Nevada Supreme Court found that this Court  
19 erred in Ordering the ELN Trust to pay the personal obligations of Mr. Nelson  
20 with regard to alimony payments.<sup>8</sup>  
21

22           On November 15, 2013, this Court Ordered the ELN Trust to transfer  
23 \$1,068,000 to Bank of Nevada Account 7502338705. This account, which was  
24 set up as a blocked account to assist in paying Mr. Nelson's personal obligations  
25 with regard to alimony and child support, still holds \$720,000. As the Nevada  
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<sup>8</sup> Klabacka v. Nelson, 394 P.3d 940, 952 (Nev. 2017).

1  
2 Supreme Court held that this Court erred in ordering the ELN Trust to pay Mr.  
3 Nelson's personal obligations, and as these funds are still readily available to be  
4 dispersed, this Court will Order the \$720,000 to be transferred from the Bank of  
5 Nevada blocked account to an account of the ELN Trust's choosing.  
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7 E. All Remaining Financial Issues  
8

9 Both the ELN and LSN Trusts have requested numerous financial transfers  
10 based on both this Court's June 3, 2013 Divorce Decree, as well as the Nevada  
11 Supreme Court's May 25, 2017 Order, including but not limited to: rents  
12 allocated from both the Banone, LLC and Lindell Properties; \$324,000 paid to  
13 Lynita Nelson from the Bank of Nevada blocked account; a \$6,050 security  
14 deposit paid to the LSN Trust by the ELN Trust; payments collected by the LSN  
15 Trust pursuant to the Farmouth Circle Note; and \$75,000 paid to the LSN Trust  
16 by Banone-AZ, LLC.  
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19 However, the Nevada Supreme Court concluded that the matter of tracing  
20 needs to occur to make an accurate accounting of property in both trusts.<sup>9</sup>  
21 Therefore, it is this Court's opinion that before any financial transfers are to take  
22 place, the tracing of both trusts must occur to ensure the proper transfers occur.  
23 This Court has reviewed the assets of both the ELN and LSN Trusts and has  
24 determined that there are sufficient assets in both trusts to offset any deficiency  
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<sup>9</sup> *Klabacka*, 394 P.3d at 948.

1  
2 once a final balance and distribution amount has been determined. Once the  
3 tracing is finalized and a final balance sheet is received, this Court will Order the  
4 proper funds to be transferred to each party accordingly.  
5

6 **ORDER**

7 Based thereon:

8 **IT IS HEREBY ORDERED** that Larry Bertsch, CPA is to trace the  
9 property in both the Eric L. Nelson Nevada Trust and the Lynita S. Nelson  
10 Nevada Trust beginning from the execution date of May 30, 2001 through the  
11 date of the Divorce Decree, June 3, 2013.  
12

13 **IT IS FURTHER ORDERED** that the tracing services provided by Larry  
14 Bertsch, CPA is to be paid equally by both Eric Nelson and Lynita Nelson,  
15 beginning with an initial payment of \$5,000 each. This payment shall be made  
16 within thirty days of the date of this Order.  
17

18 **IT IS FURTHER ORDERED** that the Lynita S. Nelson Nevada Trust  
19 execute Quitclaim Deeds to transfer the Lindell Rd. and Banone, LLC Properties  
20 to the Eric L. Nelson Nevada Trust. The transfer of the property shall be  
21 completed within thirty days of the date of this Order  
22

23 **IT IS FURTHER ORDERED** that Larry Bertsch, CPA is to acquire an  
24 appraisal for the Brian Head Utah Cabin from an appraiser of his choosing. Mr.  
25 Bertsch is to select an appraiser different from the original appraiser, if different  
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2 appraiser is available. Once received, the Eric L. Nelson Nevada Trust has the  
3 right of first refusal on any offer on the property with the ability to purchase the  
4 Lynita S. Nelson Nevada Trust's 50% interest.  
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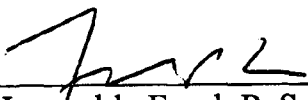
6 **IT IS FURTHER ORDERED** that in the event that the Eric L. Nelson  
7 Nevada Trust and the Lynita S. Nelson Nevada Trust cannot agree on a valid  
8 offer, Larry Bertsch, CPA, is to retain a realtor to place the property on the open  
9 market for a fair market offer. Once the realtor determines that a fair offer has  
10 been received, the Eric L. Nelson Nevada Trust has the right of first refusal on  
11 any offer on the property with the ability to purchase the Lynita S. Nelson  
12 Nevada Trust's 50% interest.  
13  
14

15 **IT IS FURTHER ORDERED** that any appraisal and realtor costs  
16 associated with the Brian Head Utah Cabin sale will be paid equally by both Eric  
17 L. Nelson Nevada Trust and the Lynita S. Nelson Nevada Trust.  
18

19 **IT IS FURTHER ORDERED** that the \$720,000.00 being held in Bank of  
20 Nevada Account 7502338705 be released to an account of the Eric L. Nelson  
21 Nevada Trust's choosing.  
22

23 **IT IS FURTHER ORDERED** that any Stay of Order is hereby **DENIED**.

24 DATED this 19<sup>th</sup> day of April, 2018.  
25

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28 Honorable Frank P. Sullivan  
District Court Judge – Dept. O



**DISTRICT COURT  
FAMILY DIVISION – JUVENILE  
CLARK COUNTY, NEVADA**

ERIC L. NELSON,

Plaintiff,

v.

LYNITA SUE NELSON, MATT  
KLABACKA, as Distribution Trustee of  
the ERIC L. NELSON NEVADA  
TRUST dated May 30, 2001,

Defendants.

MATT KLABACKA, as Distribution  
Trustee of the ERIC L. NELSON  
NEVADA TRUST dated May 30, 2001,

Cross-claimant,

v.

LYNITA SUE NELSON,

Cross-defendant.

Case No.: D-09-411537-D

Dept. No.: O

**NOTICE OF ENTRY OF ORDER**

TO:

Rhonda Forsberg, Esq.  
E-Service

Robert Dickerson, Esq.  
E-Service

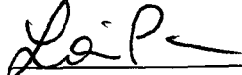
Marc Solomon, Esq.  
E-Service

SRAPP000345

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PLEASE TAKE NOTICE that the DECISION was duly entered in the above-referenced case on the 19th day of April, 2018.

DATED this 19 day of April, 2018.

  
\_\_\_\_\_  
Lori Parr  
Judicial Executive Assistant  
Dept. O





DISTRICT COURT  
FAMILY DIVISION – JUVENILE  
CLARK COUNTY, NEVADA

ERIC L. NELSON,

Plaintiff,

v.

LYNITA SUE NELSON, MATT  
KLABACKA, as Distribution Trustee of  
the ERIC L. NELSON NEVADA  
TRUST dated May 30, 2001,

Defendants.

Case No.: D-09-411537-D

Dept. No.: O

MATT KLABACKA, as Distribution  
Trustee of the ERIC L. NELSON  
NEVADA TRUST dated May 30, 2001,

Cross-claimant,

v.

LYNITA SUE NELSON,

Cross-defendant.

**DECISION**

This matter was before the Court on January 31, 2018, pursuant to Plaintiff's Motion to Enforce Supreme Court's Order Dated May 25, 2017; Motion to Hold Lynita S. Nelson in Contempt for Violation of September 22, 2014 Order; and for Attorneys' Fees and Costs. The Court, having reviewed all

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Motions, Oppositions, Countermotions, and Replies filed in this matter between July 10, 2017 and August 22, 2017, and having heard arguments of counsel, based thereon and good cause appearing therefor:

**CONCLUSIONS OF LAW**

On May 25, 2017, the Nevada Supreme Court filed an Order which affirmed in part and vacated in part this Court’s June 3, 2013 Divorce Decree, and remanded the matter back to this Court. On July 10, 2017, the Plaintiff, Eric Nelson (“Mr. Nelson”) filed a Motion to compel the Defendants, Lynita Nelson (“Ms. Nelson”) and Matt Klabacka (“ELN Trustee”), to follow the Supreme Court’s Order. Several Oppositions, Countermotions, and Replies were filed by all parties prior to a hearing before this Court on January 31, 2018, to address all pending matters, the most important being the interpretation of the Nevada Supreme Court’s Opinion with regard to the tracing of property within the trusts.

A. The Tracing of Property Contained Within the Eric L. Nelson Nevada Trust and the Lynita S. Nelson Nevada Trust

In its May 25 Order, the Nevada Supreme Court concluded that this Court erred by “not tracing the assets contained within the trusts, either through a reliable expert or other available means.”<sup>1</sup> The Nevada Supreme Court also held that both the Eric L. Nelson Nevada Trust (“ELN Trust”) and the Lynita S.

<sup>1</sup> Klabacka v. Nelson, 394 P.3d 940, 948 (Nev. 2017).

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Nelson Nevada Trust (“LSN Trust”) “are valid and the trusts were funded with separate property stemming from a valid separate property agreement.”<sup>2</sup>

In accordance with the Nevada Supreme Court’s decision, this Court must Order the tracing of property in both the trusts. In order for an accurate accounting of the property in both the ELN and LSN Trusts to occur, this Court must determine the correct date to commence tracing of the property in the trusts. The Nevada Supreme Court held that both the ELN and LSN Trusts were funded with separate property stemming from the 1993 Separate Property Agreement.<sup>3</sup> As such, the proper date to begin the tracing would be May 30, 2001, the date both the ELN and LSN Trusts were executed.

The Nevada Supreme Court concluded that the assets in the trusts need to be traced through a reliable expert.<sup>4</sup> In order for the trusts to be properly traced, this Court shall appoint Larry L. Bertsch, CPA (“Mr. Bertsch”) to perform the tracing. In the interest of fairness in regards to payment, both parties will be required to split the cost of Mr. Bertsch’s tracing, beginning with a \$5,000 payment from each party for Mr. Bertsch’s initial retainer. The initial retainer payment to Mr. Bertsch shall be paid within thirty days of the date of this Order.

**B. The Lindell Property and Banone, LLC Properties**

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<sup>2</sup> *Klabacka*, 394 at 947.  
<sup>3</sup> *Id.*  
<sup>4</sup> *Id.* at 948

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In its May 25 Order, the Nevada Supreme Court vacated the Constructive Trust held over the Lindell Property.<sup>5</sup> The Nevada Supreme Court also held that “the issue of unjust enrichment was not tried by implied consent and, therefore, [this Court] erred in considering it when fashioning its remedies.”<sup>6</sup>

As the Nevada Supreme Court vacated the Constructive Trust held over the Lindell Property, the LSN Trust must transfer its 50% interest in the Lindell Property to the ELN Trust via Quitclaim Deed. Additionally, the LSN Trust shall provide to the ELN Trust copies of any and all tenant leases for the Lindell Property for the period of June 3, 2013 to the present. The LSN Trust shall also provide to the ELN Trust quarterly accountings for the Lindell Property, including any and all supporting documentation, for the period of June 3, 2013 to the present. Supporting documentation is to include records as to gross profits and expenses related thereto, including, but not limited to; general upkeep, management fees, administrative fees/wages, and maintenance fees/wages.

As the Nevada Supreme Court held that this Court’s finding of unjust enrichment was in error, the LSN Trust must transfer its 100% interest in the Banone, LLC Properties to the ELN Trust via Quitclaim Deed. The LSN Trust shall also provide to the ELN Trust quarterly accountings for the Banone, LLC Properties, including any and all supporting documentation, for the period of

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<sup>5</sup> *Id.* at 953

<sup>6</sup> *Id.*

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June 3, 2013 to the present. Supporting documentation is to include records as to gross profits and expenses related thereto, including, but not limited to; general upkeep, management fees, administrative fees/wages, and maintenance fees/wages.

C. Sale of the Brian Head Cabin

The ELN and LSN Trusts each own a 50% interest in the Brian Head Cabin (“Cabin”) in Utah. Upon the request of Ms. Nelson for funds to pay her litigation costs and other general expenses, this Court shall Order that the Cabin be sold. This Court previously Ordered that “both parties shall have the right of first refusal should either Trust decide to sell its interest in the Brian Head [C]abin.”<sup>7</sup>

In order to properly ensure that both parties are receiving the fair market value of the Cabin, Mr. Bertsch will be appointed to conduct the assessment of the property value via a property appraiser of his choosing. To avoid concerns raised as to the objectiveness of the upcoming appraisal, Mr. Bertsch shall select a property appraiser other than the previous property appraiser, if available. In the interest of fairness in regards to payment, both parties will be required to split the cost of the property assessment.

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<sup>7</sup> Divorce Decree filed June 3, 2013, pg. 46

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Upon receipt of a fair market value price for the Cabin, the ELN Trust is to be given the right of first refusal and allowed to purchase the 50% interest owned by the LSN Trust. In the event that a fair market value price for the Cabin cannot be agreed upon by the parties, the Cabin is to be placed on the open market until a valid offer is received. The ELN Trust will then be allowed to match the price of the valid offer to purchase the 50% interest owned by the LSN Trust.

In the event that the ELN and LSN Trusts cannot agree on the value of a valid offer, a realtor of Mr. Bertsch's choosing shall determine the validity of the offer and conduct the sale of the property accordingly. All fees and costs associated with the sale of the Cabin shall be shared equally between the ELN and LSN Trusts.

D. \$720,000 in Bank of Nevada Account 7502338705

In its May 25, 2017 Order, the Nevada Supreme Court found that this Court erred in Ordering the ELN Trust to pay the personal obligations of Mr. Nelson with regard to alimony payments.<sup>8</sup>

On November 15, 2013, this Court Ordered the ELN Trust to transfer \$1,068,000 to Bank of Nevada Account 7502338705. This account, which was set up as a blocked account to assist in paying Mr. Nelson's personal obligations with regard to alimony and child support, still holds \$720,000. As the Nevada

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<sup>8</sup> Klabacka v. Nelson, 394 P.3d 940, 952 (Nev. 2017).

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Supreme Court held that this Court erred in ordering the ELN Trust to pay Mr. Nelson's personal obligations, and as these funds are still readily available to be dispersed, this Court will Order the \$720,000 to be transferred from the Bank of Nevada blocked account to an account of the ELN Trust's choosing.

E. All Remaining Financial Issues

Both the ELN and LSN Trusts have requested numerous financial transfers based on both this Court's June 3, 2013 Divorce Decree, as well as the Nevada Supreme Court's May 25, 2017 Order, including but not limited to: rents allocated from both the Banone, LLC and Lindell Properties; \$324,000 paid to Lynita Nelson from the Bank of Nevada blocked account; a \$6,050 security deposit paid to the LSN Trust by the ELN Trust; payments collected by the LSN Trust pursuant to the Farmouth Circle Note; and \$75,000 paid to the LSN Trust by Banone-AZ, LLC.

However, the Nevada Supreme Court concluded that the matter of tracing needs to occur to make an accurate accounting of property in both trusts.<sup>9</sup> Therefore, it is this Court's opinion that before any financial transfers are to take place, the tracing of both trusts must occur to ensure the proper transfers occur. This Court has reviewed the assets of both the ELN and LSN Trusts and has determined that there are sufficient assets in both trusts to offset any deficiency

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<sup>9</sup> *Klabacka*, 394 P.3d at 948.

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once a final balance and distribution amount has been determined. Once the tracing is finalized and a final balance sheet is received, this Court will Order the proper funds to be transferred to each party accordingly.

**ORDER**

Based thereon:

**IT IS HEREBY ORDERED** that Larry Bertsch, CPA is to trace the property in both the Eric L. Nelson Nevada Trust and the Lynita S. Nelson Nevada Trust beginning from the execution date of May 30, 2001 through the date of the Divorce Decree, June 3, 2013.

**IT IS FURTHER ORDERED** that the tracing services provided by Larry Bertsch, CPA is to be paid equally by both Eric Nelson and Lynita Nelson, beginning with an initial payment of \$5,000 each. This payment shall be made within thirty days of the date of this Order.

**IT IS FURTHER ORDERED** that the Lynita S. Nelson Nevada Trust execute Quitclaim Deeds to transfer the Lindell Rd. and Banone, LLC Properties to the Eric L. Nelson Nevada Trust. The transfer of the property shall be completed within thirty days of the date of this Order

**IT IS FURTHER ORDERED** that Larry Bertsch, CPA is to acquire an appraisal for the Brian Head Utah Cabin from an appraiser of his choosing. Mr. Bertsch is to select an appraiser different from the original appraiser, if different



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appraiser is available. Once received, the Eric L. Nelson Nevada Trust has the right of first refusal on any offer on the property with the ability to purchase the Lynita S. Nelson Nevada Trust's 50% interest.

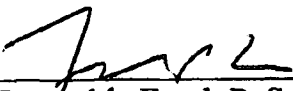
**IT IS FURTHER ORDERED** that in the event that the Eric L. Nelson Nevada Trust and the Lynita S. Nelson Nevada Trust cannot agree on a valid offer, Larry Bertsch, CPA, is to retain a realtor to place the property on the open market for a fair market offer. Once the realtor determines that a fair offer has been received, the Eric L. Nelson Nevada Trust has the right of first refusal on any offer on the property with the ability to purchase the Lynita S. Nelson Nevada Trust's 50% interest.

**IT IS FURTHER ORDERED** that any appraisal and realtor costs associated with the Brian Head Utah Cabin sale will be paid equally by both Eric L. Nelson Nevada Trust and the Lynita S. Nelson Nevada Trust.

**IT IS FURTHER ORDERED** that the \$720,000.00 being held in Bank of Nevada Account 7502338705 be released to an account of the Eric L. Nelson Nevada Trust's choosing.

**IT IS FURTHER ORDERED** that any Stay of Order is hereby **DENIED**.

DATED this 19<sup>th</sup> day of April, 2018.

  
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Honorable Frank P. Sullivan  
District Court Judge – Dept. O



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Attorneys for Lynita Sue Nelson

EIGHTH JUDICIAL DISTRICT COURT  
FAMILY DIVISION

CLARK COUNTY, NEVADA

ERIC L. NELSON,  
Plaintiff/Counterdefendant,

v.

LYNITA SUE NELSON,  
MATT KLABACKA,  
as Distribution Trustee of the  
ERIC L. NELSON NEVADA TRUST  
dated May 30, 2001,

Defendants/Counterclaimants.

CASE NO. D-09-411537-D  
DEPT NO. O

Date of Hearing: 06/05/18  
Time of Hearing: 9:30 a.m.

ORAL ARGUMENT  
REQUESTED: YES

---

MATT KLABACKA, as Distribution  
Trustee of the ERIC L. NELSON  
NEVADA TRUST dated  
May 30, 2001,

Crossclaimant,

v.

LYNITA SUE NELSON, Individually  
and as Investment Trustee of the LSN  
NEVADA TRUST, dated  
May 30, 2001, and ERIC NELSON,

Cross-Defendant.

---

SRAPP000356

1 NOTICE; YOU ARE REQUIRED TO FILE A WRITTEN RESPONSE TO THIS  
2 MOTION WITH THE CLERK OF THE COURT AND TO PROVIDE THE  
3 UNDERSIGNED WITH A COPY OF YOUR RESPONSE WITHIN TEN (10)  
4 DAYS OF YOUR RECEIPT OF THIS MOTION. FAILURE TO FILE A  
5 WRITTEN RESPONSE WITH THE CLERK OF THE COURT WITHIN TEN  
(10) DAYS OF YOUR RECEIPT OF THIS MOTION MAY RESULT IN THE  
6 REQUESTED RELIEF BEING GRANTED BY THE COURT WITHOUT  
7 HEARING PRIOR TO THE SCHEDULED HEARING DATE.

8 **LYNITA NELSON'S MOTION FOR RECONSIDERATION AND**  
9 **CLARIFICATION OF THE COURT'S DECISION ENTERED**  
10 **APRIL 19, 2018**

11 COMES NOW, Defendant and Cross-Defendant, LYNITA SUE  
12 NELSON ("Lynita"), by and through her counsel, ROBERT P.  
13 DICKERSON, ESQ., and JOSEF M. KARACSONYI, ESQ., of THE  
14 DICKERSON KARACSONYI LAW GROUP, and respectfully submits for  
15 the Court's consideration her Motion for Reconsideration, Correction, and  
16 Clarification of the Court's Decision Entered April 19, 2018 ("Motion").

17 Specifically, Lynita respectfully requests the following relief:

18 1. That the Court reconsider its Decision entered April 19, 2018,  
19 and Order that the appropriate time frame for the tracing of the parties'  
20 property is from July 13, 1993, through June 3, 2013;

21 2. That the Court reconsider its Decision entered April 19, 2018,  
22 and Order the \$720,000 to be held in a blocked account until such funds  
23 can be traced;

24 3. That the Court immediately enter a Joint Preliminary  
25 Injunction;

26 4. That the Court enter an Order that any exercise of the right  
27 of first refusal by Eric and ELN Trust to purchase the LSN Trust's  
28 interest in the Brian Head cabin is done without prejudice to the parties'  
property rights; and

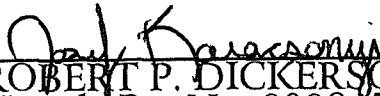
5. For such further relief as deemed appropriate in the premises.

...

1 This Motion is made and based upon the pleadings and papers on  
2 file herein, the Memorandum of Points and Authorities attached hereto,  
3 and any oral argument at the time of the hearing of this matter.

4 DATED this 3<sup>rd</sup> day of May, 2018.

5 THE DICKERSON KARACSONYI  
6 LAW GROUP

7   
8 ROBERT P. DICKERSON, ESQ.  
9 Nevada Bar No. 000945  
10 JOSEF M. KARACSONYI, ESQ.  
11 Nevada Bar No. 010634  
12 1745 Village Center Circle  
13 Las Vegas, Nevada 89134  
14 Attorneys for Lynita Sue Nelson

15 **NOTICE OF MOTION**

16 TO: ERIC L. NELSON, Plaintiff;

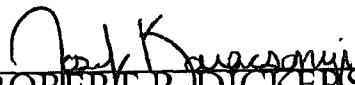
17 TO: MATT KLABACKA, Distribution Trustee of the ELN Trust;

18 TO: RHONDA K. FORSBERG, ESQ., of RHONDA K. FORSBERG,  
19 CHARTERED, Attorney for Plaintiff; and

20 TO: MARK A. SOLOMON, ESQ., and JEFFREY P. LUSZECK, ESQ. of  
21 SOLOMON DWIGGINS & FREER, LTD., Attorneys for  
22 Distribution Trustee of the ELN Trust.

23 PLEASE TAKE NOTICE that the undersigned will bring the  
24 foregoing MOTION FOR RECONSIDERATION AND CLARIFICATION  
25 OF THE COURT'S DECISION ENTERED APRIL 19, 2018, on for  
26 hearing before the above-entitled Court <sup>at</sup> 9:30 a.m. on June 5, 2018.

27 THE DICKERSON KARACSONYI  
28 LAW GROUP

29 By   
30 ROBERT P. DICKERSON, ESQ.  
31 Nevada Bar No. 000945  
32 JOSEF M. KARACSONYI, ESQ.  
33 Nevada Bar No. 010634  
34 1745 Village Center Circle  
35 Las Vegas, Nevada 89134  
36 Attorneys for Lynita Sue Nelson

1                    MEMORANDUM OF POINTS AND AUTHORITIES

2 I.    FACTUAL STATEMENT

3 A.    Introduction

4            This matter was recently before the Court on January 31, 2018, on  
5 Plaintiff, ERIC L. NELSON (“Eric’s) Motion to Enforce Supreme Court’s  
6 Order Dated May 25, 2017; Motion to Hold Lynita S. Nelson in  
7 Contempt for Violation of September 22, 2014 Order; and for Attorneys’  
8 Fees and Costs, and Lynita’s Opposition to Motion to Enforce Supreme  
9 Court’s Order Dated May 25, 2017; Motion to Hold Lynita S. Nelson in  
10 Contempt for Violation of September 22, 2014 Order; and for Attorneys’  
11 Fees and Costs, and Countermotion to Final Judgment Consistent with  
12 Nevada Supreme Court’s Remand, or in the Alternative, for Affirmation  
13 of Joint Preliminary Injunction, for a Received To Manage Property  
14 Pending Final Judgment, for Updated Financial Disclosures and Exchange  
15 of Financial Information, and for Sale of Property for Payment of  
16 Attorneys’ Fees and Costs filed July 31, 2017 (“Opposition and  
17 Countermotion”). At the conclusion of the hearing of January 31, 2018,  
18 the Court took the matter under advisement, and thereafter issued its  
19 Decision on April 19, 2018 (“Decision”).

20            Upon receipt and review of the Court’s Decision, it became clear that  
21 clarification was necessary on a number of issues, and that the Court  
22 inadvertently did not make a ruling on a number of other issues. In  
23 addition, Lynita seeks reconsideration of the Court’s Decision regarding  
24 the appropriate starting date to conduct a tracing of the parties’ assets.

25 . . .

26 . . .

27 . . .

28 . . .

1 B. The Need For Reconsideration/Clarification Of Certain Portions Of  
2 The Court's Decision

3 1. The Appropriate Time frame For Tracing

4 During the hearing of January 31, 2018, the Court made the  
5 following statements with regard to outstanding issues in this matter, and  
6 the manner in which the Court believed such issues were to be handled:

7 Court: The issue I see is tracing. From the separate property  
8 agreement, which was 1993. I believe it was signed on  
9 July 13<sup>th</sup> 1993, so I don't intend to go beyond that  
10 period on that because I think the Supreme Court  
11 indicated those were appropriate separate property  
12 agreements so any community property interest would  
13 be transmuted at that time to separate property. My  
14 inclination would be to go tracing from the, after the July  
15 13<sup>th</sup> 1993 to see if any community property claims,  
16 people put in the trust on that, they could put their half  
17 but they could not put the other party's half, so my plan  
18 would be to trace after the July 13<sup>th</sup>, because when I read  
19 the separate property agreement I saw nothing for post  
20 property after that. It just said this is the property we  
21 got, this is separate property as of this time, but nothing  
22 for future property acquired during their marriage, which  
23 is presumed to be community property. So my plan  
24 would be to trace it going back to July, or maybe  
25 probably start August 1<sup>st</sup> 1993, currently because I know  
26 when they did the trusts, those were 2001, but there  
27 could have been property from 1993 August 1<sup>st</sup> to the  
28 2001 trusts which could have had community property  
claims, I don't know. And then for the 2001, of course,  
anything that was community property that either party  
put in to the trust, they would not have the right to put  
the other party's half. So that would be my inclination  
is do tracing from August 1<sup>st</sup> 1993 up to basically the  
time of the divorce decree to sift through and see was  
there community property interest.

23 January 31, 2018 Hearing at 11:34:57 (emphasis added). Further, while  
24 the Court acknowledged that such a tracing would be extremely time-  
25 consuming and expensive, the Court emphasized that "we need to get this  
26 done for everybody." January 31, 2018 Hearing at 11:37:20.

27 Notwithstanding the above statements, the Court's Decision entered  
28 on April 19, 2018, concludes at page 3 that "the proper date to begin

1 tracing would be May 30, 2001, the date both the ELN and LSN Trusts  
2 were executed.” The Court’s stated basis for such a conclusion is that  
3 “The Nevada Supreme Court held that both the ELN and LSN Trusts  
4 were funded with separate property stemming from the 1993 Separate  
5 Property Agreement.” As will be detailed further in the Legal Analysis  
6 Section below, however, the Nevada Supreme Court’s ruling on this issue  
7 was based on the perception that this Court had itself made such a  
8 finding, and such a statement does not therefore constitute the law of the  
9 case as argued by ELN Trust in its Reply to Opposition to Motion to  
10 Enforce Supreme Court’s Order Dated May 25, 2017; Motion to Hold  
11 Lynita S. Nelson in Contempt for Violation of September 22, 2014 Order;  
12 and for Attorneys’ Fees and Costs and Opposition to Countermotion for  
13 Final Judgment Consistent with Nevada Supreme Court’s Remand, or in  
14 the Alternative, for Affirmation of Joint Preliminary Injunction, for a  
15 Receiver to Manage the Property Pending Final Judgment, for Updated  
16 Financial Disclosures and Exchange of Financial Information, and for Sale  
17 of Property for Payment of Attorneys’ Fees and Costs.

18 In addition to the above, in reaching the determination of what is  
19 the appropriate timeframe for conducting a tracing in this matter, it is  
20 extremely important for the Court to clearly establish and confirm at this  
21 time the nature and extent of the tracing that had been conducted by the  
22 Court at the time of entry of the parties’ Decree of Divorce, and to clarify  
23 the findings that were made by the Court in such Decree. The Court’s  
24 statements at the January 31, 2018 hearing, quoted above, clearly indicate  
25 that the Court did not previously trace the properties from the 1993  
26 Separate Property Agreement to the properties placed in the ELN Trust  
27 and LSN Trust in 2001. A written confirmation and clarification of this  
28 fact is absolutely vital, as Eric and ELN Trust argue that the Nevada

1 Supreme Court has expanded the Court's findings beyond those actually  
2 made when it stated that "the district court found that the SPA was valid  
3 and the parties' SSST's were validly established and funded with separate  
4 property." *Klabacka v. Nelson*, 133 Nev. Adv. Op. 24, 394 P.3d 940, 944  
5 (2017).

6 Undersigned counsel specifically requested during the hearing of  
7 January 31, 2018, that the Court include a confirmation of the prior  
8 tracing and of its prior findings in its Decision. The Court acknowledged  
9 such request, and intimated that such a statement would be included in  
10 the Decision. The exchange in question is quoted below:

11 Mr. Karacsonyi: I just had one question. I'm sure you're already  
12 intending on doing this, but, whatever decision you  
13 make, in the decision, we would appreciate  
14 certainly if you could clarify in there, make clear,  
15 when you're tracing, what the tracing that occurred  
16 in the underlying proceedings was, so the Supreme  
17 Court knows whether you did find. If you did find  
18 that it was separate property, then fine. If you  
19 didn't. If you could just make it clear whatever  
20 your ruling, whatever you had done before.  
21 Because I know that's going to be an argument  
22 above, so.

17 Court: The issue where you said the Supreme Court said  
18 I made those findings, you make sure I made  
19 them?

19 Mr. Karacsonyi: Yeah, and if you can just put in your order – even  
20 if you rule against us, or you rule in their favor or  
21 in our favor – just so that we know we can make  
22 clear to the Supreme Court that this is what you  
23 did before so that they know exactly what you did.

23 January 31, 2018 Hearing at 12:17:54. Notwithstanding the above, the  
24 Court's Decision does not include any statement regarding the nature and  
25 extent of the Court's prior tracing, nor does it include any statement

26 ...

27 ...

28 ...



1 confirming or denying that the Court ever found that the ELN Trust and  
2 the LSN Trust were funded with separate property.<sup>1</sup>

3 2. The Release of \$720,000 To ELN Trust

4 During the hearing of January 31, 2018, the Court indicated that it  
5 was not inclined to release to ELN Trust the \$720,000 held in a blocked  
6 account at Bank of Nevada, as the Court still needed to “have that traced  
7 to see where that money came from.” January 31, 2018 Hearing at  
8 11:32:48. The Court’s Decision, however, concludes that “[a]s the  
9 Supreme Court held that this Court erred in ordering the ELN Trust to  
10 pay Mr. Nelson’s personal obligations, and as these funds were still readily  
11

---

12 <sup>1</sup> The relevant findings made in the Decree of Divorce are as follow:

13 THE COURT FURTHER FINDS that, pursuant to NRS 123.080 and  
14 NRS 123.220(1), the Separate Property Agreement entered into by the  
parties on July 13, 1993, was a valid Agreement.

15 THE COURT FURTHER FINDS that Schedule A of the Separate  
16 Property Agreement contemporaneously established the Eric L. Nelson  
Separate Property Trust and named Mr. Nelson as trustor. [itemization  
of property held in trust omitted].

17 THE COURT FURTHER FINDS that Schedule B of the Separate  
18 Property Agreement contemporaneously established the Lynita S. Nelson  
Separate Property Trust and named Mrs. Nelson as trustor. [itemization  
of property held in trust omitted].

19 ...  
20

21 THE COURT FURTHER FINDS that all of the assets and interest held  
22 by the Eric L. Nelson Separate Property Trust were transferred or  
assigned to the ELN Trust.

23 ...

24 THE COURT FURTHER FINDS that all of the assets and interest held  
25 by the Lynita S. Nelson Separate Property Trust were transferred or  
assigned to the LSN Trust.

26 Decree, pgs. 3-5. None of the above-quoted findings appear to state that the property  
27 used to fund the LSN Trust and the ELN Trust was separate property, but rather that  
the assets held in the parties’ respective Separate Property Trusts – whether community  
28 property or separate property at the time of the formation of the ELN Trust and the  
LSN Trust – were transferred into the ELN Trust and the LSN Trust.

1 available to be dispersed, this Court will Order the \$720,000 to be  
2 transferred from the Bank of Nevada blocked account to an account of the  
3 ELN Trust's choosing." Accordingly, the monies in question are to be  
4 released to ELN Trust, which will then likely spend or "disappear" the  
5 monies.

6 Lynita requests that the Court reconsider this ruling and simply put  
7 in place an Order transferring the \$720,000 from the existing blocked  
8 account with Bank of Nevada to another frozen account without any  
9 designation that the funds are to assist in the payment of Eric's personal  
10 obligations. Such a ruling would not only comply with the Nevada  
11 Supreme Court's ruling that ELN Trust cannot be made to pay Eric's  
12 personal obligations, but it would simultaneously ensure that the monies  
13 in question are traced prior to being released to ELN Trust and perhaps  
14 irretrievably spent and lost by the community.

15 C. Issues Upon Which The Court Did Not Rule

16 1. Joint Preliminary Injunction

17 In Lynita's Opposition and Countermotion, Lynita requested that,  
18 in the event the Court determined it needed additional evidence regarding  
19 the character of the parties' property, the Court affirm the Joint  
20 Preliminary Injunction previously entered.

21 During the hearing of January 31, 2018, counsel for the ELN Trust  
22 requested that the Court require the LSN Trust to execute quitclaim deeds  
23 transferring to ELN Trust interests in the Lindell Property and the  
24 Banone, LLC properties. The Court indicated that it was inclined to do  
25 so, and that such order would likely be included in its Decision. In  
26 response, undersigned counsel again requested that the Court put in place  
27 a Joint Preliminary Injunction. The exchange was as follows:

28 . . .

1 Court: My inclination is to order those quitclaims deeds,  
2 but I'll wait in my decision and get that, but just so  
3 you know it's coming unless my research changes  
that is my inclination to order those quitclaim  
deeds be transferred back [. . .].

4 Mr. Karacsonyi: And you'll address the JPI then at the same time?

5 Court: Absolutely.

6 Mr. Karacsonyi: Because those go hand in hand.

7 Court: Absolutely. And I would be issuing a JPI the same  
8 thing I did before on that and making sure its not  
encumbered or sold until we get it ultimately  
resolved [...].

9  
10 January 31, 2018 Hearing at 12:20:44.

11 The Court's Decision did require the LSN Trust to transfer to the  
12 ELN Trust interests in the Banone, LLC properties and the Lindell  
13 Property. In addition, the Court's Decision permitted the \$720,000 held  
14 in the Bank of Nevada blocked account to be transferred to an account of  
15 the ELN Trust's choosing. Notwithstanding these Orders, and  
16 notwithstanding the above-quoted exchange, the Court's Decision made  
17 no mention whatsoever of a Joint Preliminary Injunction. Lynita believes  
18 that this omission was inadvertent, and now requests that such a Joint  
19 Preliminary Injunction be put in place before the assets transferred to Eric  
20 and ELN Trust are transferred or encumbered. Lynita will be submitting  
21 an ex parte request for a Joint Preliminary Injunction to the Court, but in  
22 the event the Court does not desire to issue such a Joint Preliminary  
23 Injunction on an ex parte basis, this request is included herein.

24 2. Buyout of Brian Head Cabin

25 During the course of the hearing of January 31, 2018, undersigned  
26 counsel requested that in the event the Court followed its stated  
27 inclination and ordered the Brian Head cabin to be sold – providing ELN  
28 Trust with a right of first refusal to purchase the property – the Court

1 should also make clear that ELN Trust's buyout of LSN Trust's interest  
2 be made without prejudice. In other words, in the event the monies used  
3 by ELN Trust to purchase LSN Trust's interest in the Brian Head cabin  
4 are ultimately traced and determined by the Court to constitute the  
5 community property of the parties, Lynita should be entitled to receive an  
6 additional award of property over and above her half of the remaining  
7 community property in the amount of one-half (1/2) of the purchase price  
8 of the interest in the Brian Head cabin sold by LSN Trust to ELN Trust.

9 While the Court's Decision provides that the Brian Head cabin is to  
10 be sold, and provides that ELN Trust has the right of first refusal with  
11 regard to the purchase of such cabin, the Court did not include any  
12 provision providing that the monies ELN Trust uses to purchase such  
13 interest will be without prejudice to Lynita and LSN Trust, and that  
14 Lynita will be compensated should ELN Trust utilize to purchase the  
15 Brian Head cabin monies that are ultimately determined to constitute  
16 community property of the parties.

17 **II. LEGAL ANALYSIS**

18 **A. The Court Should Reconsider/Clarify Certain Portions Of Its**  
19 **Decision of April 19, 2018**

20 Nevada Rules of Civil Procedure, Rule 60 (2018), provides in  
21 pertinent part as follows:

22 (a) Clerical Mistakes. Clerical mistakes in judgments, orders  
23 or other parts of the record and errors therein arising from  
24 oversight or omission may be corrected by the court at any  
25 time of its own initiative or on the motion of any party and  
26 after such notice, if any, as the court orders. During the  
27 pendency of an appeal, such mistakes may be so corrected  
28 before the appeal is docketed in the appellate court, and  
thereafter while the appeal is pending may be so corrected with  
leave of the appellate court.

27 In addition, Eighth Judicial District Court Rules, Rule 5.512 (2018),  
28 provides as follows:

1 (a) A party seeking reconsideration and/or rehearing of  
2 a ruling (other than any order that may be addressed by  
3 motion pursuant to NRCP 50(b), 52(b), 59 or 60), must file  
4 a motion for such relief within 14 calendar days after service  
of notice of entry of the order unless the time is shortened or  
enlarged by order. A motion for reconsideration does not toll  
the period for filing a notice of appeal.

5 (b) If a motion for reconsideration and/or rehearing is  
6 granted, the court may make a final disposition without  
7 hearing, may set it for hearing or resubmission, or may make  
such other orders as are deemed appropriate under the  
circumstance.

8 Finally, NRCP 59(e) provides the trial court the opportunity, within a  
9 limited time, to rehear a motion previously brought before it, and to  
10 correct or reconsider its order or judgment. *Chiara v. Belaustegui*, 86 Nev.  
11 856, 859, 477 P.2d 857, 858 (1970). “[A] court may, for sufficient cause  
12 shown, amend, correct, resettle, modify, or vacate, as the case may be, an  
13 order previously made and entered on motion in the progress of the cause  
14 or proceeding.” *Trail v. Faretto*, 91 Nev. 401, 403, 536 P.2d 1026, 1027  
15 (1975).

16 1. The Court Should Order That The Appropriate Time Frame  
17 For The Tracing Of The Parties' Property Is From July 13,  
1993, Through Entry Of The Parties' Decree Of Divorce

18 As stated in the Factual Statement above, the Court's ruling that the  
19 tracing of the parties' property should commence in 2001 is based  
20 exclusively on the Nevada Supreme Court's purported holding that the  
21 ELN Trust and LSN Trust were funded in 2001 with the parties' separate  
22 property. Eric and ELN Trust argued for such a ruling, and based their  
23 argument on their claim that the Nevada Supreme Court's holding on this  
24 matter constitutes “the law of the case.” Such is not an accurate reading  
25 of Nevada case law on the matter, as described below. In fact, the only  
26 reasonable analogy to “law of the case doctrine” in this matter leads to the  
27 conclusion that the Nevada Supreme Court based its holding on its  
28 ...

1 perception of “the law of the case” as established by this Court’s Decree  
2 of Divorce.

3 Pursuant to Nevada law, “where an issue has once been adjudicated  
4 by a first appeal, that adjudication is the law of that case in subsequent  
5 proceedings.” *Andolino v. State*, 99 Nev. 346, 350, 62 P.2d 631, 633  
6 (1983). In this matter, no party to this action raised on appeal the issue  
7 of whether the ELN Trust and the LSN Trust were funded with separate  
8 or community property, and the issue was not “adjudicated” by the  
9 Nevada Supreme Court. Accordingly, the law of the case doctrine is  
10 entirely inapposite.

11 It is well-established by Nevada law that “[a] district court’s findings  
12 of fact and conclusions of law, even where predicated upon conflicting  
13 evidence, must be upheld if supported by substantial evidence, and may  
14 not be set aside unless clearly erroneous.” *Pombo v. Nev. Apartment Ass’n.*,  
15 113 Nev. 559, 562, 939 P.2d 725, 727 (1997). Likewise, the Nevada  
16 Supreme Court in this very matter specifically noted that “[t]his court  
17 defers to a district court’s findings of fact and will only disturb them if  
18 they are not supported by substantial evidence.” *Klabacka v. Nelson*, 133  
19 Nev. Adv. Op. 24, 394 P.3d 940, 949 (2017) (internal citations omitted).

20 With this legal background in mind, the Nevada Supreme Court  
21 specifically noted that “the district court found that the SPA was valid  
22 and the parties’ SSST’s were validly established and funded with separate  
23 property.” *Id.*, 394 P.3d at 944. The Nevada Supreme Court did not itself  
24 perform any tracing of the parties’ property, nor did it make any factual  
25 findings regarding same. Similarly, the Nevada Supreme Court did not  
26 rule that any finding of fact by this Court regarding a tracing of the  
27 parties’ property was erroneous or that a contrary finding was being made.  
28 Accordingly, the Nevada Supreme Court relied upon this Court’s

1 purported finding that the LSN Trust and the ELN Trust were funded  
2 with the parties' separate property, and deferred to such purported finding  
3 in its own holding. In other words, the Nevada Supreme Court relied  
4 upon the "law of the case" as established by this Court's Decree of  
5 Divorce.

6 In the event this Court truly made a finding that the ELN Trust and  
7 LSN Trust were funded with the parties' separate property in 2001, then  
8 the Nevada Supreme Court's holding does, in fact, confirm the law of the  
9 case, and the Court's instant Decision regarding the necessary time frame  
10 for tracing is accurate. In the event the Court did not make such a  
11 finding, however (as indicated by the Court at the January 31, 2018  
12 hearing), then the Nevada Supreme Court's directives as to the  
13 appropriate time frame for tracing of the parties' property are clear:

14 In a divorce involving trust assets, the district court must trace  
15 those trust assets to determine whether any community  
16 property exists within the trusts – as discussed below, the  
17 parties' respective separate property in the SSST's would be  
afforded the statutory protection against court-ordered  
distribution, while any community property would be subject  
to the district court's equal distribution.

18 *Id.*, 394 P.3d at 948. In other words, this Court must conduct a tracing  
19 that covers a time period sufficient to know whether there was community  
20 property of the parties placed into any trusts. In the event this Court  
21 truly found at the time of the parties' divorce that the LSN Trust and ELN  
22 Trust were funded with the parties' separate property in 2001, then the  
23 appropriate time frame for the tracing would be from 2001 to entry of the  
24 Decree of Divorce. If, however, this Court never made such a finding, and  
25 it remains unknown to the Court whether the ELN Trust and LSN Trust  
26 were funded in 2001 with separate or community property, then the  
27 appropriate time frame for the tracing is from July 13, 1993, to entry of  
28 the Decree of Divorce. Again, during the hearing of January 31, 2018, the

1 Court specifically indicated that it did not know whether the property that  
2 funded the ELN Trust and LSN Trust in 2001 was separate or community  
3 property:

4         So my plan would be to trace it going back to July, or maybe  
5         probably start August 1<sup>st</sup> 1993, currently because I know when  
6         they did the trusts, those were 2001, but there could have been  
7         property from 1993 August 1<sup>st</sup> to the 2001 trusts which could  
8         have had community property claims. I don't know.

7 January 31, 2018 Hearing at 11:35:40.

8         Based on all the above, Lynita believes that this Court never made  
9         a finding that the property with which the LSN Trust and ELN Trust were  
10         funded in 2001 constituted the separate property of the parties.  
11         Accordingly, Lynita respectfully requests that the Court reconsider its  
12         Decision that the tracing be conducted from 2001 to the entry of the  
13         Decree of Divorce, and that the tracing instead be conducted from July 13,  
14         1993, to the entry of the Decree of Divorce. In addition, Lynita  
15         respectfully requests that this Court include in its Decision a statement  
16         confirming the nature and extent of the tracing that had been conducted  
17         at the time of the parties' divorce, and whether the Court had, in fact,  
18         made any finding that the LSN Trust and ELN Trust were funded in 2001  
19         with the parties' separate property.

20         2.         The Court Should Order The \$720,000 To Be Transferred To  
21         A New Blocked Account Pending A Tracing Of The Parties'  
22         Property

22         As detailed above, the Court's Decision allows for the amount of  
23         \$720,000 – all of which may ultimately be determined to be the  
24         community property of the parties – to be released to the ELN Trust  
25         without any restrictions being placed thereon. In keeping with the prior  
26         actions of ELN Trust and Eric throughout the course of this action, there  
27         is a significant likelihood that ELN Trust will spend or otherwise  
28         irretrievably lose/transfer such monies once they are released. Accordingly,



1 in order to comply with the Nevada Supreme Court's ruling that ELN  
2 Trust cannot be required to pay Eric's personal obligations, and to  
3 simultaneously protect the monies in question, Lynita respectfully requests  
4 that this Court reconsider its Decision and enter an Order requiring the  
5 \$720,000 to be placed in a new blocked account that is not specifically  
6 designated as being intended to assist Eric in the payment of his personal  
7 support obligations.

8 B. The Court Should Immediately Enter A Joint Preliminary Injunction  
9 In This Matter

10 EDCR 5.517 requires the issuance of a joint preliminary injunction  
11 upon the request of any party, to prohibit all parties, and "their officers,  
12 agents, servants, employees, or a person in active concert or participation  
13 with them from: (1) Transferring, encumbering, concealing, selling, or  
14 otherwise disposing of any of the joint, common, or community property  
15 of the parties or any property that is subject of a claim of community  
16 interest, except in the usual course of conduct or for the necessities of life  
17 or for retention of counsel. . . ." Emphasis added. NRS 125.050 requires  
18 the Court to "make such restraining order or other order as appears  
19 necessary to prevent the act or conduct and preserve the status quo  
20 pending final determination of the cause."

21 Based on the above, as well as the arguments and statements made  
22 during the hearing of January 31, 2018, Lynita respectfully requests that  
23 this Court enter a Joint Preliminary Injunction in this matter.

24 C. The Court Should Order That Any Exercise Of The Right Of First  
25 Refusal By Eric And ELN Trust To Purchase The LSN Trust's  
Interest In The Brian Head Cabin Is Without Prejudice

26 As detailed above, the Court should make clear that ELN Trust's  
27 right of first refusal to purchase LSN Trust's interest in the Brian Head  
28 cabin must be exercised, if at all, without prejudice to Lynita/LSN Trust.


1 In the event the monies used by ELN Trust to purchase LSN Trust's  
2 interest in the Brian Head cabin are ultimately determined by the Court  
3 to constitute the community property of the parties, Lynita should be  
4 entitled to receive an additional award of property over and above her half  
5 of the remaining community property in the amount of one-half (1/2) of  
6 the purchase price of the interest in the Brian Head cabin sold by LSN  
7 Trust to ELN Trust.

8 **III. CONCLUSION**

9 Based upon the foregoing, Lynita respectfully request the Court  
10 enter the following orders and grant her requests for relief:

11 DATED this 3<sup>rd</sup> day of May, 2018.

12 THE DICKERSON KARACSONYI  
13 LAW GROUP

14   
15 ROBERT P. DICKERSON, ESQ.  
16 Nevada Bar No. 000945  
17 JOSEF M. KARACSONYI, ESQ.  
18 Nevada Bar No. 010634  
19 1745 Village Center Circle  
20 Las Vegas, Nevada 89134  
21 Attorneys for Defendant  
22  
23  
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CERTIFICATE OF SERVICE

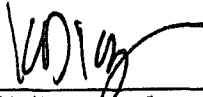
Pursuant to NRCP 5(b), I certify that I am an employee of THE DICKERSON KARACSONYI LAW GROUP, and that on this 3<sup>rd</sup> day of May, 2018, I caused the document entitled, LYNITA NELSON'S MOTION FOR RECONSIDERATION AND CLARIFICATION OF THE COURT'S DECISION ENTERED APRIL 19, 2018 to be served as follows:

- pursuant to EDCR 8.05(a), EDCR 8.05(f), NRCP 5(b)(2)(D) and Administrative Order 14-2 captioned "In the Administrative Matter of Mandatory Electronic Service in the Eighth Judicial District Court," by mandatory electronic service through the Eighth Judicial District Court's electronic filing system;
- by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada;
- pursuant to EDCR 7.26, to be sent via facsimile, by duly executed consent for service by electronic means;
- by hand-delivery with signed Receipt of Copy.

1 To the attorney(s) and/or person(s) listed below at the address, email  
2 address, and/or facsimile number indicated below:

3 RHONDA K. FORSBERG, ESQ.  
4 RHONDA K. FORSBERG, CHARTERED  
5 64 North Pecos Road, Ste. 800  
6 Henderson, Nevada 89074  
7 [rforsberg@forsberg-law.com](mailto:rforsberg@forsberg-law.com)  
8 [mweiss@forsberg-law.com](mailto:mweiss@forsberg-law.com)  
9 Attorneys for Plaintiff

10 MARK A. SOLOMON, ESQ.  
11 JEFFREY P. LUSZECK, ESQ.  
12 SOLOMON, DWIGGINS, FREER & MORSE, LTD.  
13 9060 W. Cheyenne Avenue  
14 Las Vegas, Nevada 89129  
15 [msolomon@sdfnvlaw.com](mailto:msolomon@sdfnvlaw.com)  
16 [jluszeck@sdfnvlaw.com](mailto:jluszeck@sdfnvlaw.com)  
17 [sgerace@sdfnvlaw.com](mailto:sgerace@sdfnvlaw.com)  
18 Attorneys for Distribution Trustee of the ELN Trust

19 

20 \_\_\_\_\_  
21 An employee of The Dickerson Karacsonyi Law Group

22  
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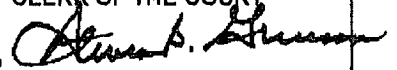
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LIS  
THE DICKERSON KARACSONYI LAW GROUP  
ROBERT P. DICKERSON, ESQ.  
Nevada Bar No. 000945  
JOSEF M. KARACSONYI, ESQ.  
Nevada Bar No. 010634  
1745 Village Center Circle  
Las Vegas, Nevada 89134  
Telephone: (702) 388-8600  
Facsimile: (702) 388-0210  
Email: info@thedklawgroup.com

Attorneys for Lynita Sue Nelson

EIGHTH JUDICIAL DISTRICT COURT  
FAMILY DIVISION

CLARK COUNTY, NEVADA

ERIC L. NELSON,  
Plaintiff/Counterdefendant,

v.

LYNITA SUE NELSON,  
MATT KLABACKA,  
as Distribution Trustee of the  
ERIC L. NELSON NEVADA TRUST  
dated May 30, 2001,

Defendants/Counterclaimants.

CASE NO. D-09-41 1537-D  
DEPT NO. O

---

MATT KLABACKA, as Distribution  
Trustee of the ERIC L. NELSON  
NEVADA TRUST dated  
May 30, 2001,

Crossclaimant,

v.

LYNITA SUE NELSON, Individually  
and as Investment Trustee of the LSN  
NEVADA TRUST, dated  
May 30, 2001, and ERIC NELSON,

Cross-Defendant.

1 NOTICE OF LIS PENDENS

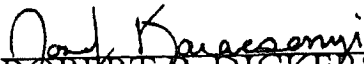
2 NOTICE is hereby given that an action affecting the title of real  
3 property is now pending in the Eighth Judicial District Court of the State  
4 of Nevada, in and for the County of Clark, concerning the above-named  
5 parties.

6 This action affects real property that is situated in the County of  
7 Clark, State of Nevada, and is more commonly known as 1301 Heather  
8 Ridge Road, North Las Vegas, Nevada 89031, APN # 124-28-814-010.  
9 Defendant/Cross-Defendant, LYNITA SUE NELSON, presently claims an  
10 unadjudicated community property interest in said property, which is  
11 particularly described as follows:

12 LOT FORTY-ONE (41), IN BLOCK FIFTEEN (15) OF  
13 ELDORADO - R1-65 NO. 2, AS SHOWN BY MAP  
14 THEREOF ON FILE IN BOOK 44 OF PLATS; PAGE 38, IN  
15 THE OFFICE OF THE COUNTY RECORDER OF CLARK  
16 COUNTY, NEVADA; AND BY CERTIFICATE OF  
17 AMENDMENT RECORDED FEBRUARY 7, 1990 IN BOOK  
18 900207 OF OFFICIAL RECORDS AS DOCUMENT NO.  
19 00491 AND AUGUST 20, 1990 IN BOOK 900820 OF  
20 OFFICIAL RECORDS AS DOCUMENT NO. 00802.

21 DATED this 11<sup>th</sup> day of May, 2018.

22 THE DICKERSON KARACSONYI  
23 LAW GROUP

24   
25 ROBERT P. DICKERSON, ESQ.  
26 Nevada Bar No. 000945  
27 JOSEF M. KARACSONYI, ESQ.  
28 Nevada Bar No. 010634  
1745 Village Center Circle  
Las Vegas, Nevada 89134  
Attorneys for Lynita Sue Nelson

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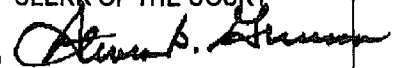
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Email: info@thedklawgroup.com

Attorneys for Lynita Sue Nelson

EIGHTH JUDICIAL DISTRICT COURT  
FAMILY DIVISION

CLARK COUNTY, NEVADA

ERIC L. NELSON,  
Plaintiff/Counterdefendant,

v.

LYNITA SUE NELSON,  
MATT KLABACKA,  
as Distribution Trustee of the  
ERIC L. NELSON NEVADA TRUST  
dated May 30, 2001,

Defendants/Counterclaimants.

CASE NO. D-09-411537-D  
DEPT NO. O

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MATT KLABACKA, as Distribution  
Trustee of the ERIC L. NELSON  
NEVADA TRUST dated  
May 30, 2001,

Crossclaimant,

v.

LYNITA SUE NELSON, Individually  
and as Investment Trustee of the LSN  
NEVADA TRUST, dated  
May 30, 2001, and ERIC NELSON,

Cross-Defendant.

1 NOTICE OF LIS PENDENS

2 NOTICE is hereby given that an action affecting the title of real  
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4 of Nevada, in and for the County of Clark, concerning the above-named  
5 parties.

6 This action affects real property that is situated in the County of  
7 Clark, State of Nevada, and is more commonly known as 5317 Clover  
8 Blossom Court, North Las Vegas, Nevada 89031, APN # 124-31-220-093.  
9 Defendant/Cross-Defendant, LYNITA SUE NELSON, presently claims an  
10 unadjudicated community property interest in said property, which is  
11 particularly described as follows:

12 PARCEL ONE (1):

13 LOT NINETY-THREE (93) OF ARBOR GATE AS SHOWN  
14 BY MAP THEREOF ON FILE IN BOOK NINETY-ONE (91)  
15 OF PLATS, PAGE SEVENTY-ONE (71) IN THE OFFICE OF  
16 THE COUNTY RECORDER OF CLARK COUNTY,  
17 NEVADA AND AS AMENDED BY THAT CERTIFICATE OF  
AMENDMENT RECORDED FEBRUARY 14, 2000, IN  
BOOK 20000214 AS INSTRUMENT NO. 01540 AND  
RECORDED JANUARY 23, 2001, IN BOOK 20010123 AS  
INSTRUMENT NO. 01729 OF OFFICIAL RECORDS.

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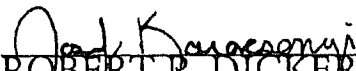
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PARCEL TWO (2):

A NON-EXCLUSIVE EASEMENT FOR INGRESS, EGRESS AND ENJOYMENT IN AND TO THE ASSOCIATION PROPERTY AS SET FORTH IN THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR COUNTY GARDEN (ARBOR GATE) A COMMON INTEREST COMMUNITY, RECORDED FEBRUARY 25, 2000, IN BOOK 20000225 AS DOCUMENT NO. 00963, OF OFFICIAL RECORDS OF CLARK COUNTY, NEVADA, AS THE SAME MAY FROM TIME TO TIME BE AMENDED AND OR SUPPLEMENTED, WHICH EASEMENT IS APPURTENANT TO PARCEL ONE (1).

DATED this 11<sup>th</sup> day of May, 2018.

THE DICKERSON KARACSONYI  
LAW GROUP

  
ROBERT P. DICKERSON, ESQ.  
Nevada Bar No. 000945  
JOSEF M. KARACSONYI, ESQ.  
Nevada Bar No. 010634  
1745 Village Center Circle  
Las Vegas, Nevada 89134  
Attorneys for Lynita Sue Nelson

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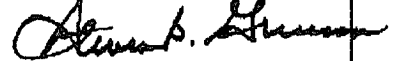
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Facsimile: (702) 388-0210  
Email: info@thedklawgroup.com

Attorneys for Lynita Sue Nelson

EIGHTH JUDICIAL DISTRICT COURT  
FAMILY DIVISION

CLARK COUNTY, NEVADA

ERIC L. NELSON,  
Plaintiff/Counterdefendant,

v.

LYNITA SUE NELSON,  
MATT KLABACKA,  
as Distribution Trustee of the  
ERIC L. NELSON NEVADA TRUST  
dated May 30, 2001,  
Defendants/Counterclaimants.

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MATT KLABACKA, as Distribution  
Trustee of the ERIC L. NELSON  
NEVADA TRUST dated  
May 30, 2001,

Crossclaimant,

v.

LYNITA SUE NELSON, Individually  
and as Investment Trustee of the LSN  
NEVADA TRUST, dated  
May 30, 2001, and ERIC NELSON,

Cross-Defendant.

CASE NO. D-09-411537-D  
DEPT NO. O

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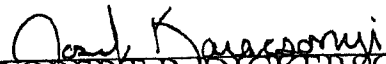
2 NOTICE is hereby given that an action affecting the title of real  
3 property is now pending in the Eighth Judicial District Court of the State  
4 of Nevada, in and for the County of Clark, concerning the above-named  
5 parties.

6 This action affects real property that is situated in the County of  
7 Clark, State of Nevada, and is more commonly known as 4133 Compass  
8 Rose Way, Las Vegas, Nevada 89108, APN # 138-03-815-002.  
9 Defendant/Cross-Defendant, LYNITA SUE NELSON, presently claims an  
10 unadjudicated community property interest in said property, which is  
11 particularly described as follows:

12 LOT SIX (6) IN BLOCK ONE (1) OF NEVADA CLASSIC  
13 NORTH, AS SHOWN BY MAP THEREOF ON FILE IN  
14 BOOK 47 OF PLATS, PAGE 70, IN THE OFFICE OF THE  
15 COUNTY RECORDER OF CLARK COUNTY, NEVADA.

16 DATED this 11<sup>th</sup> day of May, 2018.

17 THE DICKERSON KARACSONYI  
18 LAW GROUP

19   
20 ROBERT P. DICKERSON, ESQ.  
21 Nevada Bar No. 000945  
22 JOSEF M. KARACSONYI, ESQ.  
23 Nevada Bar No. 010634  
24 1745 Village Center Circle  
25 Las Vegas, Nevada 89134  
26 Attorneys for Lynita Sue Nelson  
27  
28

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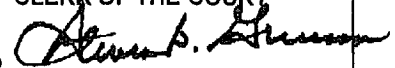
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LIS  
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JOSEF M. KARACSONYI, ESQ.  
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Las Vegas, Nevada 89134  
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Facsimile: (702) 388-0210  
Email: info@thedklawgroup.com

Attorneys for Lynita Sue Nelson

EIGHTH JUDICIAL DISTRICT COURT  
FAMILY DIVISION

CLARK COUNTY, NEVADA

ERIC L. NELSON,  
Plaintiff/Counterdefendant,

CASE NO. D-09-411537-D  
DEPT NO. 0

v.

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as Distribution Trustee of the  
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Defendants/Counterclaimants.

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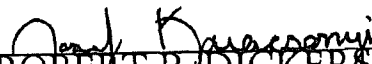
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10 unadjudicated community property interest in said property, which is  
11 particularly described as follows:

12 LOT TWENTY (20), IN BLOCK TWO (2), OF NEW  
13 CENTURY UNIT NINE (9), AS SHOWN BY MAP  
14 THEREOF ON FILE IN BOOK THIRTY-FIVE (35) OF  
15 PLATS, PAGE 36, IN THE OFFICE OF THE COUNTY  
16 RECORDER OF CLARK COUNTY, NEVADA.

17 DATED this 11<sup>th</sup> day of May, 2018.

18 THE DICKERSON KARACSONYI  
19 LAW GROUP

20   
21 ROBERT P. DICKERSON, ESQ.  
22 Nevada Bar No. 000945  
23 JOSEF M. KARACSONYI, ESQ.  
24 Nevada Bar No. 010634  
25 1745 Village Center Circle  
26 Las Vegas, Nevada 89134  
27 Attorneys for Lynita Sue Nelson  
28

Inst #: 20180514-0000802  
Fees: \$40.00  
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Receipt #: 3400971  
Requestor:  
DICKERSON KARACSONYI LAW GR  
Recorded By: MAYSM Pgs: 3  
DEBBIE CONWAY  
CLARK COUNTY RECORDER  
Src: FRONT COUNTER  
Ofc: TENAYA BRANCH

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APN# 138-14-711-033  
(11 digit Assessor's Parcel Number may be obtained at:  
<http://redrock.co.clark.nv.us/assrealprop/ownr.aspx>)

**TITLE OF DOCUMENT**  
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**RECORDING REQUESTED BY:**

The Dickerson Karacsonyi Law Group

RETURN TO: Name The Dickerson Karacsonyi Law Group

Address 1745 Village Center Circle

City/State/Zip Las Vegas, NV 89134

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

Name \_\_\_\_\_

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LIS  
THE DICKERSON KARACSONYI LAW GROUP  
ROBERT P. DICKERSON, ESQ.  
Nevada Bar No. 000945  
JOSEF M. KARACSONYI, ESQ.  
Nevada Bar No. 010634  
1745 Village Center Circle  
Las Vegas, Nevada 89134  
Telephone: (702) 388-8600  
Facsimile: (702) 388-0210  
Email: info@thedklawgroup.com

Attorneys for Lynita Sue Nelson

EIGHTH JUDICIAL DISTRICT COURT  
FAMILY DIVISION

CLARK COUNTY, NEVADA

ERIC L. NELSON,  
Plaintiff/Counterdefendant,

v.

LYNITA SUE NELSON,  
MATT KLABACKA,  
as Distribution Trustee of the  
ERIC L. NELSON NEVADA TRUST  
dated May 30, 2001,  
Defendants/Counterclaimants.

---

MATT KLABACKA, as Distribution  
Trustee of the ERIC L. NELSON  
NEVADA TRUST dated  
May 30, 2001,

Crossclaimant,

v.

LYNITA SUE NELSON, Individually  
and as Investment Trustee of the LSN  
NEVADA TRUST, dated  
May 30, 2001, and ERIC NELSON,

Cross-Defendant.

CASE NO. D-09-411537-D  
DEPT NO. 0

1 NOTICE OF LIS PENDENS

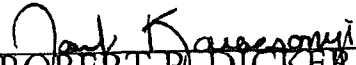
2 NOTICE is hereby given that an action affecting the title of real  
3 property is now pending in the Eighth Judicial District Court of the State  
4 of Nevada, in and for the County of Clark, concerning the above-named  
5 parties.

6 This action affects real property that is situated in the County of  
7 Clark, State of Nevada, and is more commonly known as 6213 Anaconda  
8 Street, Las Vegas, Nevada 89108, APN # 138-14-711-033.  
9 Defendant/Cross-Defendant, LYNITA SUE NELSON, presently claims an  
10 unadjudicated community property interest in said property, which is  
11 particularly described as follows:

12 LOT TWENTY-FIVE (25) IN BLOCK SEVEN (7) OF  
13 TORREY PINES PARK NO. 3A, AS SHOWN BY MAP  
14 THEREOF ON FILE IN BOOK 21 OF PLATS, PAGE 85, IN  
THE OFFICE OF THE COUNTY RECORDER OF CLARK  
COUNTY, NEVADA.

15 DATED this 11<sup>th</sup> day of May, 2018.

17 THE DICKERSON KARACSONYI  
18 LAW GROUP

19   
20 ROBERT P. DICKERSON, ESQ.  
Nevada Bar No. 000945  
21 JOSEF M. KARACSONYI, ESQ.  
Nevada Bar No. 010634  
22 1745 Village Center Circle  
Las Vegas, Nevada 89134  
23 Attorneys for Lynita Sue Nelson

Inst #: 20180514-0000805  
Fees: \$40.00  
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Requestor:  
DICKERSON KARACSONYI LAW GR  
Recorded By: MAYS M Pgs: 3  
DEBBIE CONWAY  
CLARK COUNTY RECORDER  
Src: FRONT COUNTER  
Ofc: TENAYA BRANCH

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APN# 138-23-519-014

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

**TITLE OF DOCUMENT**  
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**RECORDING REQUESTED BY:**

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Address 1745 Village Center Circle

City/State/Zip Las Vegas, NV 89134

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LIS  
THE DICKERSON KARACSONYI LAW GROUP  
ROBERT P. DICKERSON, ESQ.  
Nevada Bar No. 000945  
JOSEF M. KARACSONYI, ESQ.  
Nevada Bar No. 010634  
1745 Village Center Circle  
Las Vegas, Nevada 89134  
Telephone: (702) 388-8600  
Facsimile: (702) 388-0210  
Email: info@thedklawgroup.com

Attorneys for Lynita Sue Nelson

EIGHTH JUDICIAL DISTRICT COURT  
FAMILY DIVISION

CLARK COUNTY, NEVADA

ERIC L. NELSON,  
Plaintiff/Counterdefendant,

v.

LYNITA SUE NELSON,  
MATT KLABACKA,  
as Distribution Trustee of the  
ERIC L. NELSON NEVADA TRUST  
dated May 30, 2001,  
Defendants/Counterclaimants.

---

MATT KLABACKA, as Distribution  
Trustee of the ERIC L. NELSON  
NEVADA TRUST dated  
May 30, 2001,

Crossclaimant,

v.

LYNITA SUE NELSON, Individually  
and as Investment Trustee of the LSN  
NEVADA TRUST, dated  
May 30, 2001, and ERIC NELSON,

Cross-Defendant.

CASE NO. D-09-411537-D  
DEPT NO. O

1 NOTICE OF LIS PENDENS

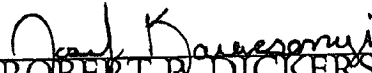
2 NOTICE is hereby given that an action affecting the title of real  
3 property is now pending in the Eighth Judicial District Court of the State  
4 of Nevada, in and for the County of Clark, concerning the above-named  
5 parties.

6 This action affects real property that is situated in the County of  
7 Clark, State of Nevada, and is more commonly known as 6304 Guadalupe  
8 Avenue, Las Vegas, Nevada 89108, APN # 138-23-519-014.  
9 Defendant/Cross-Defendant, LYNITA SUE NELSON, presently claims an  
10 unadjudicated community property interest in said property, which is  
11 particularly described as follows:

12 LOT 19 IN BLOCK 7 of CHARLESTON HEIGHTS TRACT  
13 NO. 51-C, AS SHOWN BY MAP THEREOF ON FILE IN  
14 BOOK 20 OF PLATS, PAGE 52, IN THE OFFICE OF THE  
15 COUNTY RECORDER IN CLARK COUNTY, NEVADA.

16 DATED this 11<sup>th</sup> day of May, 2018.

17 THE DICKERSON KARACSONYI  
18 LAW GROUP

19   
20 ROBERT P. DICKERSON, ESQ.  
21 Nevada Bar No. 000945  
22 JOSEF M. KARACSONYI, ESQ.  
23 Nevada Bar No. 010634  
24 1745 Village Center Circle  
25 Las Vegas, Nevada 89134  
26 Attorneys for Lynita Sue Nelson  
27  
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Inst #: 20180514-0000809  
Fees: \$40.00  
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Requestor:  
DICKERSON KARACSONYI LAW GR  
Recorded By: MAYSM Pgs: 3  
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CLARK COUNTY RECORDER  
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Ofc: TENAYA BRANCH

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APN# 138-23-519-054  
(11 digit Assessor's Parcel Number may be obtained at:  
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Address 1745 Village Center Circle

City/State/Zip Las Vegas, NV 89134

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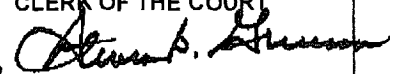
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LIS  
THE DICKERSON KARACSONYI LAW GROUP  
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Nevada Bar No. 000945  
JOSEF M. KARACSONYI, ESQ.  
Nevada Bar No. 010634  
1745 Village Center Circle  
Las Vegas, Nevada 89134  
Telephone: (702) 388-8600  
Facsimile: (702) 388-0210  
Email: info@thedklawgroup.com

Attorneys for Lynita Sue Nelson

EIGHTH JUDICIAL DISTRICT COURT  
FAMILY DIVISION

CLARK COUNTY, NEVADA

ERIC L. NELSON,  
Plaintiff/Counterdefendant,

v.

LYNITA SUE NELSON,  
MATT KLABACKA,  
as Distribution Trustee of the  
ERIC L. NELSON NEVADA TRUST  
dated May 30, 2001,  
Defendants/Counterclaimants.

---

MATT KLABACKA, as Distribution  
Trustee of the ERIC L. NELSON  
NEVADA TRUST dated  
May 30, 2001,

Crossclaimant,

v.

LYNITA SUE NELSON, Individually  
and as Investment Trustee of the LSN  
NEVADA TRUST, dated  
May 30, 2001, and ERIC NELSON,

Cross-Defendant.

CASE NO. D-09-411537-D  
DEPT NO. 0

1 NOTICE OF LIS PENDENS

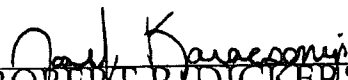
2 NOTICE is hereby given that an action affecting the title of real  
3 property is now pending in the Eighth Judicial District Court of the State  
4 of Nevada, in and for the County of Clark, concerning the above-named  
5 parties.

6 This action affects real property that is situated in the County of  
7 Clark, State of Nevada, and is more commonly known as 6301 Cambria  
8 Avenue, Las Vegas, Nevada 89108, APN # 138-23-519-054.  
9 Defendant/Cross-Defendant, LYNITA SUE NELSON, presently claims an  
10 unadjudicated community property interest in said property, which is  
11 particularly described as follows:

12 LOT SEVEN (7), IN BLOCK NINE (9), OF CHARLESTON  
13 HEIGHTS TRACT 51-C, AS SHOWN BY MAP THEREOF  
14 ON FILE IN BOOK TWENTY (20) OF PLATS, PAGE FIFTY-  
TWO (52), IN THE OFFICE OF THE COUNTY RECORDER  
OF CLARK COUNTY, NEVADA.

15 DATED this 11<sup>th</sup> day of May, 2018.

16  
17 THE DICKERSON KARACSONYI  
18 LAW GROUP

19   
20 ROBERT P. DICKERSON, ESQ.  
Nevada Bar No. 000945  
21 JOSEF M. KARACSONYI, ESQ.  
Nevada Bar No. 010634  
22 1745 Village Center Circle  
23 Las Vegas, Nevada 89134  
Attorneys for Lynita Sue Nelson

Inst #: 20180514-0000804  
Fees: \$40.00  
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Receipt #: 3400971  
Requestor:  
DICKERSON KARACSONYI LAW GR  
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Ofc: TENAYA BRANCH

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APN# 138-36-514-034  
(11 digit Assessor's Parcel Number may be obtained at:  
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City/State/Zip Las Vegas, NV 89134

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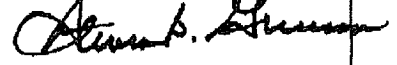
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LIS  
THE DICKERSON KARACSONYI LAW GROUP  
ROBERT P. DICKERSON, ESQ.  
Nevada Bar No. 000945  
JOSEF M. KARACSONYI, ESQ.  
Nevada Bar No. 010634  
1745 Village Center Circle  
Las Vegas, Nevada 89134  
Telephone: (702) 388-8600  
Facsimile: (702) 388-0210  
Email: info@thedklawgroup.com

Attorneys for Lynita Sue Nelson

EIGHTH JUDICIAL DISTRICT COURT  
FAMILY DIVISION

CLARK COUNTY, NEVADA

ERIC L. NELSON,  
Plaintiff/Counterdefendant,

v.

LYNITA SUE NELSON,  
MATT KLABACKA,  
as Distribution Trustee of the  
ERIC L. NELSON NEVADA TRUST  
dated May 30, 2001,  
Defendants/Counterclaimants.

---

MATT KLABACKA, as Distribution  
Trustee of the ERIC L. NELSON  
NEVADA TRUST dated  
May 30, 2001,

Crossclaimant,

v.

LYNITA SUE NELSON, Individually  
and as Investment Trustee of the LSN  
NEVADA TRUST, dated  
May 30, 2001, and ERIC NELSON,

Cross-Defendant.

CASE NO. D-09-411537-D  
DEPT NO. 0

1 NOTICE OF LIS PENDENS

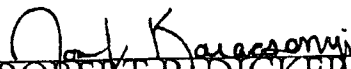
2 NOTICE is hereby given that an action affecting the title of real  
3 property is now pending in the Eighth Judicial District Court of the State  
4 of Nevada, in and for the County of Clark, concerning the above-named  
5 parties.

6 This action affects real property that is situated in the County of  
7 Clark, State of Nevada, and is more commonly known as 5113 Churchill  
8 Avenue, Las Vegas, Nevada 89107, APN # 138-36-514-034.  
9 Defendant/Cross-Defendant, LYNITA SUE NELSON, presently claims an  
10 unadjudicated community property interest in said property, which is  
11 particularly described as follows:

12 LOT NINE (9) IN BLOCK THREE (3) OF THE STELMAR  
13 SUBDIVISION TRACT I, AS SHOWN BY MAP THEREOF  
14 ON FILE IN BOOK 6, OF PLATS, PAGE 41, IN THE  
OFFICE OF THE COUNTY RECORDER OF CLARK  
COUNTY, NEVADA.

15 DATED this 11<sup>th</sup> day of May, 2018.  
16

17 THE DICKERSON KARACSONYI  
18 LAW GROUP

19   
20 ROBERT P. DICKERSON, ESQ.  
Nevada Bar No. 000945  
21 JOSEF M. KARACSONYI, ESQ.  
Nevada Bar No. 010634  
22 1745 Village Center Circle  
Las Vegas, Nevada 89134  
23 Attorneys for Lynita Sue Nelson  
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Inst #: 20180514-0000814  
Fees: \$40.00  
05/14/2018 11:32:22 AM  
Receipt #: 3400971  
Requestor:  
DICKERSON KARACSONYI LAW GR  
Recorded By: MAYSM Pgs: 3  
DEBBIE CONWAY  
CLARK COUNTY RECORDER  
Src: FRONT COUNTER  
Ofc: TENAYA BRANCH

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APN# 139-19-213-073

(11 digit Assessor's Parcel Number may be obtained at:  
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Address 1745 Village Center Circle

City/State/Zip Las Vegas, NV 89134

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

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Address \_\_\_\_\_

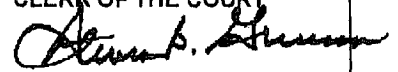
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1 LIS  
2 THE DICKERSON KARACSONYI LAW GROUP  
3 ROBERT P. DICKERSON, ESQ.  
4 Nevada Bar No. 000945  
5 JOSEF M. KARACSONYI, ESQ.  
6 Nevada Bar No. 010634  
7 1745 Village Center Circle  
8 Las Vegas, Nevada 89134  
9 Telephone: (702) 388-8600  
10 Facsimile: (702) 388-0210  
11 Email: info@thedklawgroup.com

12 Attorneys for Lynita Sue Nelson

13 EIGHTH JUDICIAL DISTRICT COURT  
14 FAMILY DIVISION

15 CLARK COUNTY, NEVADA

16 ERIC L. NELSON,  
17 Plaintiff/Counterdefendant,

18 v.

19 LYNITA SUE NELSON,  
20 MATT KLABACKA,  
21 as Distribution Trustee of the  
22 ERIC L. NELSON NEVADA TRUST  
23 dated May 30, 2001,

24 Defendants/Counterclaimants.

25 \_\_\_\_\_  
26 MATT KLABACKA, as Distribution  
27 Trustee of the ERIC L. NELSON  
28 NEVADA TRUST dated  
May 30, 2001,

29 Crossclaimant,

30 v.

31 LYNITA SUE NELSON, Individually  
32 and as Investment Trustee of the LSN  
33 NEVADA TRUST, dated  
34 May 30, 2001, and ERIC NELSON,

35 Cross-Defendant.

CASE NO. D-09-411537-D  
DEPT NO. 0

1 NOTICE OF LIS PENDENS

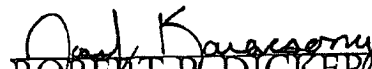
2 NOTICE is hereby given that an action affecting the title of real  
3 property is now pending in the Eighth Judicial District Court of the State  
4 of Nevada, in and for the County of Clark, concerning the above-named  
5 parties.

6 This action affects real property that is situated in the County of  
7 Clark, State of Nevada, and is more commonly known as 4612 Sawyer  
8 Avenue, Las Vegas, Nevada 89108, APN # 139-19-213-073.  
9 Defendant/Cross-Defendant, LYNITA SUE NELSON, presently claims an  
10 unadjudicated community property interest in said property, which is  
11 particularly described as follows:

12 LOT FORTY-NINE (49), IN BLOCK SIX (6), OF COLLEGE  
13 HEIGHTS #3-A, AS SHOWN BY MAP THEREOF ON FILE  
14 IN BOOK NINE (9) OF PLATS, PAGE FORTY-TWO (42),  
IN THE OFFICE OF THE COUNTY RECORDER OF  
CLARK COUNTY, NEVADA.

15 DATED this 11<sup>th</sup> day of May, 2018.

17 THE DICKERSON KARACSONYI  
18 LAW GROUP

19   
20 ROBERT P. DICKERSON, ESQ.  
Nevada Bar No. 000945  
21 JOSEF M. KARACSONYI, ESQ.  
Nevada Bar No. 010634  
22 1745 Village Center Circle  
Las Vegas, Nevada 89134  
23 Attorneys for Lynita Sue Nelson  
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Inst #: 20180514-0000813  
Fees: \$40.00  
05/14/2018 11:32:22 AM  
Receipt #: 3400971  
Requestor:  
DICKERSON KARACSONYI LAW GR  
Recorded By: MAYSM Pgs: 3  
DEBBIE CONWAY  
CLARK COUNTY RECORDER  
Src: FRONT COUNTER  
Ofc: TENAYA BRANCH

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APN# 139-19-310-032  
(11 digit Assessor's Parcel Number may be obtained at:  
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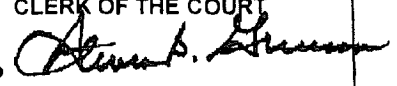
City/State/Zip \_\_\_\_\_

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THE DICKERSON KARACSONYI LAW GROUP  
ROBERT P. DICKERSON, ESQ.  
Nevada Bar No. 000945  
JOSEF M. KARACSONYI, ESQ.  
Nevada Bar No. 010634  
1745 Village Center Circle  
Las Vegas, Nevada 89134  
Telephone: (702) 388-8600  
Facsimile: (702) 388-0210  
Email: info@thedklawgroup.com

Attorneys for Lynita Sue Nelson

EIGHTH JUDICIAL DISTRICT COURT  
FAMILY DIVISION

CLARK COUNTY, NEVADA

ERIC L. NELSON,  
Plaintiff/Counterdefendant,

v.

LYNITA SUE NELSON,  
MATT KLABACKA,  
as Distribution Trustee of the  
ERIC L. NELSON NEVADA TRUST  
dated May 30, 2001,  
Defendants/Counterclaimants.

---

MATT KLABACKA, as Distribution  
Trustee of the ERIC L. NELSON  
NEVADA TRUST dated  
May 30, 2001,

Crossclaimant,

v.

LYNITA SUE NELSON, Individually  
and as Investment Trustee of the LSN  
NEVADA TRUST, dated  
May 30, 2001, and ERIC NELSON,

Cross-Defendant.

CASE NO. D-09-411537-D  
DEPT NO. 0

1 NOTICE OF LIS PENDENS

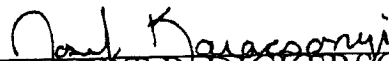
2 NOTICE is hereby given that an action affecting the title of real  
3 property is now pending in the Eighth Judicial District Court of the State  
4 of Nevada, in and for the County of Clark, concerning the above-named  
5 parties.

6 This action affects real property that is situated in the County of  
7 Clark, State of Nevada, and is more commonly known as 4601 Concord  
8 Village Drive, Las Vegas, Nevada 89108, APN # 139-19-310-032.  
9 Defendant/Cross-Defendant, LYNITA SUE NELSON, presently claims an  
10 unadjudicated community property interest in said property, which is  
11 particularly described as follows:

12 LOT 24 IN BLOCK 3 OF CONCORD VILLAGE PHASE 1,  
13 AS SHOWN BY MAP THEREOF ON FILE IN BOOK 32 OF  
14 PLATS, PAGE 33 AND AMENDED BY CERTIFICATE OF  
15 AMENDMENT RECORDED NOVEMBER 20, 1984, IN  
16 BOOK 2024, AS DOCUMENT NO. 1983879, IN THE  
17 OFFICE OF THE COUNTY RECORDER OF CLARK  
18 COUNTY, NEVADA.

19 DATED this 11<sup>th</sup> day of May, 2018.

20 THE DICKERSON KARACSONYI  
21 LAW GROUP

22   
23 ROBERT P. DICKERSON, ESQ.  
24 Nevada Bar No. 000945  
25 JOSEF M. KARACSONYI, ESQ.  
26 Nevada Bar No. 010634  
27 1745 Village Center Circle  
28 Las Vegas, Nevada 89134  
Attorneys for Lynita Sue Nelson

Inst #: 20180514-0000807  
Fees: \$40.00  
05/14/2018 11:32:22 AM  
Receipt #: 3400971  
Requestor:  
DICKERSON KARACSONYI LAW GR  
Recorded By: MAYSM Pgs: 3  
DEBBIE CONWAY  
CLARK COUNTY RECORDER  
Src: FRONT COUNTER  
Ofc: TENAYA BRANCH

**RECORDING COVER PAGE**

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APN# 139-31-411-073

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

**TITLE OF DOCUMENT**  
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Notice of Lis Pendens

Document Title on cover page must appear EXACTLY as the first page of the document  
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**RECORDING REQUESTED BY:**

The Dickerson Karacsonyi Law Group

RETURN TO: Name The Dickerson Karacsonyi Law Group

Address 1745 Village Center Circle

City/State/Zip Las Vegas, NV 89134

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

Name \_\_\_\_\_

Address \_\_\_\_\_

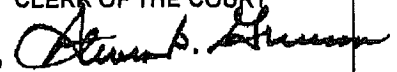
City/State/Zip \_\_\_\_\_

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

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Facsimile: (702) 388-0210  
Email: info@thedklawgroup.com

Attorneys for Lynita Sue Nelson

EIGHTH JUDICIAL DISTRICT COURT  
FAMILY DIVISION  
CLARK COUNTY, NEVADA

ERIC L. NELSON,  
Plaintiff/Counterdefendant,

CASE NO. D-09-411537-D  
DEPT NO. 0

v.

LYNITA SUE NELSON,  
MATT KLABACKA,  
as Distribution Trustee of the  
ERIC L. NELSON NEVADA TRUST  
dated May 30, 2001,  
Defendants/Counterclaimants.

---

MATT KLABACKA, as Distribution  
Trustee of the ERIC L. NELSON  
NEVADA TRUST dated  
May 30, 2001,  
Crossclaimant,

v.

LYNITA SUE NELSON, Individually  
and as Investment Trustee of the LSN  
NEVADA TRUST, dated  
May 30, 2001, and ERIC NELSON,  
Cross-Defendant.

---

1 NOTICE OF LIS PENDENS

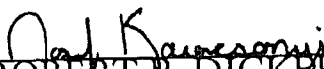
2 NOTICE is hereby given that an action affecting the title of real  
3 property is now pending in the Eighth Judicial District Court of the State  
4 of Nevada, in and for the County of Clark, concerning the above-named  
5 parties.

6 This action affects real property that is situated in the County of  
7 Clark, State of Nevada, and is more commonly known as 4412 Baxter  
8 Place, Las Vegas, Nevada 89108, APN # 139-31-411-073.  
9 Defendant/Cross-Defendant, LYNITA SUE NELSON, presently claims an  
10 unadjudicated community property interest in said property, which is  
11 particularly described as follows:

12 LOT SIXTY-FOUR (64) IN BLOCK THREE (3) OF HYDE  
13 PARK SUBDIVISION NO. ONE (1), AS SHOWN BY MAP  
14 THEREOF ON FILE IN BOOK THREE (3) OF PLATS, PAGE  
FIFTY-SIX (56), IN THE OFFICE OF THE COUNTY  
RECORDER OF CLARK COUNTY, NEVADA.

15 DATED this 11<sup>th</sup> day of May, 2018.

16  
17 THE DICKERSON KARACSONYI  
18 LAW GROUP

19   
20 ROBERT P. DICKERSON, ESQ.  
21 Nevada Bar No. 000945  
22 JOSEF M. KARACSONYI, ESQ.  
23 Nevada Bar No. 010634  
24 1745 Village Center Circle  
25 Las Vegas, Nevada 89134  
26 Attorneys for Lynita Sue Nelson  
27  
28

Inst #: 20180514-0000817  
Fees: \$40.00  
05/14/2018 11:32:22 AM  
Receipt #: 3400971  
Requestor:  
DICKERSON KARACSONYI LAW GR  
Recorded By: MAYSM Pgs: 3  
DEBBIE CONWAY  
CLARK COUNTY RECORDER  
Src: FRONT COUNTER  
Ofc: TENAYA BRANCH

**RECORDING COVER PAGE**

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

APN# 161-20-712-026  
(11 digit Assessor's Parcel Number may be obtained at:  
<http://redrock.co.clark.nv.us/assrealprop/ownr.aspx>)

**TITLE OF DOCUMENT**  
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Notice of Lis Pendens

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**RECORDING REQUESTED BY:**

The Dickerson Karacsonyi Law Group

RETURN TO: Name The Dickerson Karacsonyi Law Group

Address 1745 Village Center Circle

City/State/Zip Lao Vegas, NV 89134

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

Name \_\_\_\_\_

Address \_\_\_\_\_

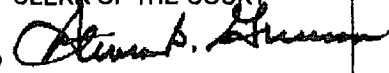
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THE DICKERSON KARACSONYI LAW GROUP  
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Nevada Bar No. 000945  
JOSEF M. KARACSONYI, ESQ.  
Nevada Bar No. 010634  
1745 Village Center Circle  
Las Vegas, Nevada 89134  
Telephone: (702) 388-8600  
Facsimile: (702) 388-0210  
Email: info@thedklawgroup.com  
  
Attorneys for Lynita Sue Nelson

EIGHTH JUDICIAL DISTRICT COURT  
FAMILY DIVISION  
  
CLARK COUNTY, NEVADA

ERIC L. NELSON,  
  
Plaintiff/Counterdefendant,

CASE NO. D-09-411537-D  
DEPT NO. O

v.

LYNITA SUE NELSON,  
MATT KLABACKA,  
as Distribution Trustee of the  
ERIC L. NELSON NEVADA TRUST  
dated May 30, 2001,  
  
Defendants/Counterclaimants.

\_\_\_\_\_  
MATT KLABACKA, as Distribution  
Trustee of the ERIC L. NELSON  
NEVADA TRUST dated  
May 30, 2001,  
  
Crossclaimant,

v.

LYNITA SUE NELSON, Individually  
and as Investment Trustee of the LSN  
NEVADA TRUST, dated  
May 30, 2001, and ERIC NELSON,  
  
Cross-Defendant.





Inst #: 20180514-0000816  
Fees: \$40.00  
05/14/2018 11:32:22 AM  
Receipt #: 3400971  
Requestor:  
DICKERSON KARACSONYI LAW GR  
Recorded By: MAYSM Pgs: 4  
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CLARK COUNTY RECORDER  
Src: FRONT COUNTER  
Ofc: TENAYA BRANCH

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APN# 161-28-401-015

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

**TITLE OF DOCUMENT**  
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**RECORDING REQUESTED BY:**

The Dickerson Karacsonyi Law Group

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Address 1745 Village Center Circle

City/State/Zip Las Vegas, NV 89134

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

Name \_\_\_\_\_

Address \_\_\_\_\_

City/State/Zip \_\_\_\_\_

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SRAPP000412

1 NOTICE OF LIS PENDENS

2 NOTICE is hereby given that an action affecting the title of real  
3 property is now pending in the Eighth Judicial District Court of the State  
4 of Nevada, in and for the County of Clark, concerning the above-named  
5 parties.

6 This action affects real property that is situated in the County of  
7 Clark, State of Nevada, and is more commonly known as 5220 E. Russell  
8 Road, Las Vegas, Nevada 89122, APN # 161-28-401-015.  
9 Defendant/Cross-Defendant, LYNITA SUE NELSON, presently claims an  
10 unadjudicated community property interest in said property, which is  
11 particularly described as follows:

12  
13 PARCEL I:

14 THE WEST HALF (W 1/2) OF THE SOUTHWEST  
15 QUARTER (SW 1/4) OF THE SOUTHEAST QUARTER (SE  
16 1/4) OF THE SOUTHWEST QUARTER (SW 1/4) OF  
SECTION 28, TOWNSHIP 21 SOUTH RANGE 62 EAST,  
M.D.M.

17 EXCEPTING THEREFROM THAT PORTION AS  
18 CONVEYED TO THE STATE OF NEVADA BY THAT  
19 CERTAIN GRANT DEED RECORDED MAY 21, 1984 IN  
BOOK 1924 AS DOCUMENT NO. 1883518, OF OFFICIAL  
RECORDS.

20 PARCEL II:

21 THE SOUTH HALF (S 1/2) OF THE NORTHEAST  
22 QUARTER (NE 1/4) OF THE SOUTHWEST QUARTER (SW  
23 1/4) OF THE SOUTHEAST QUARTER (SE 1/4) OF THE  
SOUTHWEST QUARTER (SW 1/4) OF SECTION 28,  
TOWNSHIP 21 SOUTH, RANGE 62 EAST, M.D.M.

24 AND

25 THE SOUTHWEST QUARTER (SW 1/4) OF THE  
26 SOUTHEAST QUARTER (SE 1/4) OF THE SOUTHEAST  
27 QUARTER (SE 1/4) OF THE SOUTHWEST QUARTER (SW  
28 1/4) OF SECTION 28, TOWNSHIP 21 SOUTH, RANGE 62  
EAST, M.D.M.

AND

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THE SOUTHEAST QUARTER (SE 1/4) OF THE  
SOUTHWEST QUARTER (SW 1/4) OF THE SOUTHEAST  
QUARTER (SE 1/4) OF THE SOUTHWEST QUARTER (SW  
1/4) OF SECTION 28, TOWNSHIP 21 SOUTH, RANGE 62  
EAST, M.D.M.

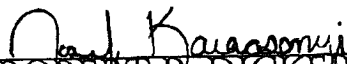
EXCEPTING THEREFROM ANY PORTION THEREOF  
LYING WITHIN U.S. HIGHWAY 95.

PARCEL III:

AN EASEMENT FOR PRIVATE ACCESS AND PUBLIC  
UTILITY PURPOSES AS SET FORTH IN RIGHT-OF-WAY  
GRANT RECORDED JULY 12, 2001 IN BOOK 20010712  
AS DOCUMENT NO. 00259, IN THE OFFICE OF THE  
COUNTY RECORDER, CLARK COUNTY, NEVADA,  
WHICH IS APPURTENANT TO PARCELS I AND II,  
SUBJECT TO THE TERMS, PROVISIONS, CONDITIONS,  
STIPULATIONS AND RESTRICTIONS CONTAINED  
THEREIN.

DATED this 11<sup>th</sup> day of May, 2018.

THE DICKERSON KARACSONYI  
LAW GROUP

  
ROBERT P. DICKERSON, ESQ.  
Nevada Bar No. 000945  
JOSEF M. KARACSONYI, ESQ.  
Nevada Bar No. 010634  
1745 Village Center Circle  
Las Vegas, Nevada 89134  
Attorneys for Lynita Sue Nelson

Inst #: 20180514-0000812  
Fees: \$40.00  
05/14/2018 11:32:22 AM  
Receipt #: 3400971  
Requestor:  
DICKERSON KARACSONYI LAW GR  
Recorded By: MAYSM Pgs: 3  
DEBBIE CONWAY  
CLARK COUNTY RECORDER  
Src: FRONT COUNTER  
Ofc: TENAYA BRANCH

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APN# 163-10-311-010  
(11 digit Assessor's Parcel Number may be obtained at:  
<http://redrock.co.clark.nv.us/assrrealprop/ownr.aspx>)

**TITLE OF DOCUMENT**  
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The Dickerson Karacsonyi Law Group

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Address 1745 Village Center Circle  
City/State/Zip Las Vegas, NV 89134

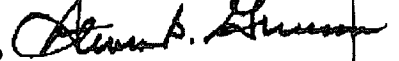
**MAIL TAX STATEMENT TO: (Applicable to documents transferring real property)**

Name \_\_\_\_\_  
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2 THE DICKERSON KARACSONYI LAW GROUP  
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4 Nevada Bar No. 000945  
5 JOSEF M. KARACSONYI, ESQ.  
6 Nevada Bar No. 010634  
7 1745 Village Center Circle  
8 Las Vegas, Nevada 89134  
9 Telephone: (702) 388-8600  
10 Facsimile: (702) 388-0210  
11 Email: info@thedklawgroup.com  
12 Attorneys for Lynita Sue Nelson

13 EIGHTH JUDICIAL DISTRICT COURT  
14 FAMILY DIVISION

15 CLARK COUNTY, NEVADA

16 ERIC L. NELSON,  
17 Plaintiff/Counterdefendant,

18 v.

19 LYNITA SUE NELSON,  
20 MATT KLABACKA,  
21 as Distribution Trustee of the  
22 ERIC L. NELSON NEVADA TRUST  
23 dated May 30, 2001,

24 Defendants/Counterclaimants.

25 \_\_\_\_\_  
26 MATT KLABACKA, as Distribution  
27 Trustee of the ERIC L. NELSON  
28 NEVADA TRUST dated  
May 30, 2001,

Crossclaimant,

v.

LYNITA SUE NELSON, Individually  
and as Investment Trustee of the LSN  
NEVADA TRUST, dated  
May 30, 2001, and ERIC NELSON,

Cross-Defendant.

CASE NO. D-09-411537-D  
DEPT NO. O

SRAPP000416

1 NOTICE OF LIS PENDENS

2 NOTICE is hereby given that an action affecting the title of real  
3 property is now pending in the Eighth Judicial District Court of the State  
4 of Nevada, in and for the County of Clark, concerning the above-named  
5 parties.

6 This action affects real property that is situated in the County of  
7 Clark, State of Nevada, and is more commonly known as 2911 Bella  
8 Kathryn Circle, Las Vegas, Nevada 89117, APN # 163-10-311-010.  
9 Defendant/Cross-Defendant, LYNITA SUE NELSON, presently claims an  
10 unadjudicated community property interest in said property, which is  
11 particularly described as follows:

12 PARCEL I:

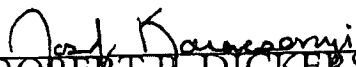
13 LOTS TWO (2) AND THREE (3) OF KATHRYN ESTATES  
14 SUBDIVISION, AS SHOWN BY MAP THEREOF ON FILE  
15 IN BOOK 123 OF PLATS, PAGE 4, IN THE OFFICE OF  
16 THE COUNTY RECORDER OF CLARK COUNTY,  
17 NEVADA.

18 PARCEL II:

19 A NON-EXCLUSIVE EASEMENT FOR INGRESS, EGRESS  
20 AND PUBLIC UTILITIES AND INCIDENTAL PURPOSES  
21 OVER THAT PORTION OF SAID LAND LYING WITHIN  
22 THE PRIVATE STREET AND U.E. AS DELINEATED ON  
23 SAID PLAT.

24 DATED this 11<sup>th</sup> day of May, 2018.

25 THE DICKERSON KARACSONYI  
26 LAW GROUP

27   
28 ROBERT P. DICKERSON, ESQ.  
Nevada Bar No. 000945  
JOSEF M. KARACSONYI, ESQ.  
Nevada Bar No. 010634  
1745 Village Center Circle  
Las Vegas, Nevada 89134  
Attorneys for Lynita Sue Nelson

Inst #: 20180514-0000803  
Fees: \$40.00  
05/14/2018 11:32:22 AM  
Receipt #: 3400971  
Requestor:  
DICKERSON KARACSONYI LAW GR  
Recorded By: MAYSM Pgs: 3  
DEBBIE CONWAY  
CLARK COUNTY RECORDER  
Src: FRONT COUNTER  
Ofc: TENAYA BRANCH

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APN# 163-13-205-001

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

**TITLE OF DOCUMENT**

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**RECORDING REQUESTED BY:**

The Dickerson Karacsonyi Law Group

RETURN TO: Name The Dickerson Karacsonyi Law Group

Address 1745 Village Center Circle

City/State/Zip Las Vegas, NV 89134

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

Name \_\_\_\_\_

Address \_\_\_\_\_

City/State/Zip \_\_\_\_\_

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SRAPP000418





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Facsimile: (702) 388-0210  
Email: info@thedklawgroup.com

Attorneys for Lynita Sue Nelson

EIGHTH JUDICIAL DISTRICT COURT  
FAMILY DIVISION

CLARK COUNTY, NEVADA

ERIC L. NELSON,  
Plaintiff/Counterdefendant,

v.

LYNITA SUE NELSON,  
MATT KLABACKA,  
as Distribution Trustee of the  
ERIC L. NELSON NEVADA TRUST  
dated May 30, 2001,  
Defendants/Counterclaimants.

---

MATT KLABACKA, as Distribution  
Trustee of the ERIC L. NELSON  
NEVADA TRUST dated  
May 30, 2001,

Crossclaimant,

v.

LYNITA SUE NELSON, Individually  
and as Investment Trustee of the LSN  
NEVADA TRUST, dated  
May 30, 2001, and ERIC NELSON,

Cross-Defendant.

CASE NO. D-09-411537-D  
DEPT NO. O

1 NOTICE OF LIS PENDENS

2 NOTICE is hereby given that an action affecting the title of real  
3 property is now pending in the Eighth Judicial District Court of the State  
4 of Nevada, in and for the County of Clark, concerning the above-named  
5 parties.

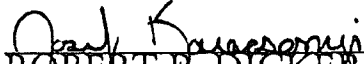
6 This action affects real property that is situated in the County of  
7 Clark, State of Nevada, and is more commonly known as 3611 S. Lindell  
8 Road, Las Vegas, Nevada 89103, APN # 163-13-205-001.  
9 Defendant/Cross-Defendant, LYNITA SUE NELSON, presently claims an  
10 unadjudicated community property interest in said property, which is  
11 particularly described as follows:

12 THAT PORTION OF THE SOUTHEAST QUARTER (SE 1/4)  
13 OF THE NORTHWEST QUARTER (NW 1/4) OF SECTION  
14 13, TOWNSHIP 21 SOUTH, RANGE 60 EAST, M.D.M.,  
DESCRIBED AS FOLLOWS:

15 LOT ONE (1) OF THAT CERTAIN PARCEL MAP ON FILE  
16 IN FILE 86 OF PARCEL MAPS, PAGE 73, IN THE OFFICE  
17 OF THE COUNTY RECORDER, CLARK COUNTY,  
NEVADA RECORDED SEPTEMBER 6, 1996 IN BOOK  
960906 AS DOCUMENT NO. 01660, OFFICIAL RECORDS.

18 DATED this 11<sup>th</sup> day of May, 2018.

19 THE DICKERSON KARACSONYI  
20 LAW GROUP

21   
22 ROBERT F. DICKERSON, ESQ.  
23 Nevada Bar No. 000945  
24 JOSEF M. KARACSONYI, ESQ.  
25 Nevada Bar No. 010634  
26 1745 Village Center Circle  
27 Las Vegas, Nevada 89134  
28 Attorneys for Lynita Sue Nelson

Inst #: 20180514-0000806  
Fees: \$40.00  
05/14/2018 11:32:22 AM  
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Requestor:  
DICKERSON KARACSONYI LAW GR  
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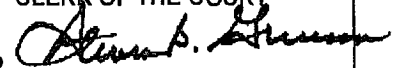
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SRAPP000421



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LIS  
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Attorneys for Lynita Sue Nelson

EIGHTH JUDICIAL DISTRICT COURT  
FAMILY DIVISION

CLARK COUNTY, NEVADA

ERIC L. NELSON,  
Plaintiff/Counterdefendant,

v.

LYNITA SUE NELSON,  
MATT KLABACKA,  
as Distribution Trustee of the  
ERIC L. NELSON NEVADA TRUST  
dated May 30, 2001,  
Defendants/Counterclaimants.

---

MATT KLABACKA, as Distribution  
Trustee of the ERIC L. NELSON  
NEVADA TRUST dated  
May 30, 2001,  
Crossclaimant,

v.

LYNITA SUE NELSON, Individually  
and as Investment Trustee of the LSN  
NEVADA TRUST, dated  
May 30, 2001, and ERIC NELSON,  
Cross-Defendant.

---

CASE NO. D-09-411537-D  
DEPT NO. O

1 NOTICE OF LIS PENDENS

2 NOTICE is hereby given that an action affecting the title of real  
3 property is now pending in the Eighth Judicial District Court of the State  
4 of Nevada, in and for the County of Clark, concerning the above-named  
5 parties.

6 This action affects real property that is situated in the County of  
7 Clark, State of Nevada, and is more commonly known as 1608 Rusty  
8 Ridge Lane, Henderson, Nevada 89002, APN # 179-34-614-071.  
9 Defendant/Cross-Defendant, LYNITA SUE NELSON, presently claims an  
10 unadjudicated community property interest in said property, which is  
11 particularly described as follows:

12  
13 PARCEL I:

14 LOT TWO (2) IN BLOCK TWENTY-FOUR (24) OF OLD  
15 VEGAS RANCH UNIT 1 (HIGH NOON), A COMMON  
16 INTEREST COMMUNITY, AS SHOWN BY MAP  
17 THEREOF ON FILE IN BOOK 106 OF PLATS, PAGE 61, IN  
18 THE OFFICE OF THE COUNTY RECORDER OF CLARK  
19 COUNTY, NEVADA.

20 TOGETHER WITH ASSOCIATED GARAGE UNIT, AS SET  
21 FORTH IN THE DECLARATION OF COVENANTS,  
22 CONDITIONS, RESTRICTIONS AND RESERVATIONS OF  
23 EASEMENTS OF HIGH NOON AT OLD VEGAS RANCH,  
24 RECORDED OCTOBER 9, 2002 IN BOOK 20021009 AS  
25 DOCUMENT NO. 00581.

26 ...  
27 ...  
28 ...

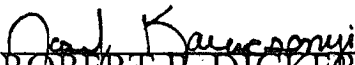
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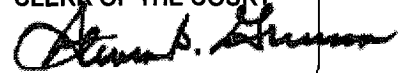
PARCEL II:

A NON-EXCLUSIVE EASEMENT OF REASONABLE INGRESS, EGRESS AND USE IN, TO AND OVER THE COMMON ELEMENTS AS SET FORTH AND SUBJECT TO THE DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND RESERVATION OF EASEMENTS FOR OLD VEGAS RANCH RECORDED OCTOBER 3, 2002 IN BOOK 20021003 AS DOCUMENT NO. 01559 OF OFFICIAL RECORDS.

DATED this 11<sup>th</sup> day of May, 2018.

THE DICKERSON KARACSONYI  
LAW GROUP

  
ROBERT P. DICKERSON, ESQ.  
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7 *Attorneys for Matt Klabacka, Distribution*  
8 *Trustee of the ERIC L. NELSON NEVADA*  
9 *TRUST dated May 30, 2001*

**DISTRICT COURT**  
**COUNTY OF CLARK, NEVADA**

10  
11  
12 ERIC L. NELSON,  
13 Plaintiff

14 vs.

15 LYNITA SUE NELSON, MATT  
16 KLABACKA, as Distribution Trustee of the  
ERIC L. NELSON NEVADA TRUST dated  
May 30, 2001,

17 Defendants.

18 MATT KLABACKA, Distribution Trustee of  
19 the ERIC L. NELSON NEVADA TRUST  
dated May 30, 2001,

20 Cross-claimant,

21 vs.

22 LYNITA SUE NELSON,

23 Cross-defendant.  
24

Case No.: D-09-411537-D  
Dept. No.: 0

**INITIAL OPPOSITION TO LYNITA  
NELSON'S MOTION FOR  
RECONSIDERATION AND  
CLARIFICATION OF THE COURT'S  
DECISION ENTERED APRIL 19, 2018;  
COUNTERPETITION TO REMOVE LIS  
PENDENS INAPPROPRIATELY FILED  
BY THE LSN TRUST; AND FOR  
ATTORNEYS' FEES AND COSTS**

25 Matt Klabacka, Distribution Trustee of the ERIC L. NELSON NEVADA TRUST dated  
26 May 30, 2001, hereby files his Initial Opposition to Lynita Nelson's Motion for Reconsideration  
27 and Clarification of the Court's Decision Entered April 19, 2018; and his Counterpetition to  
28 Remove Lis Pendens Inappropriately Filed by the LSN Trust; and for Attorneys' Fees and Costs.

SRAPP000425

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1 Lynita's Counsel has graciously extended the ELN Trust an extension to file its Opposition  
2 to Thursday, May 24, 2018. Consequently, the ELN Trust intends to file a Supplement to the  
3 Opposition on or before Thursday, May 24, 2018.

4 DATED this 21<sup>st</sup> day of May, 2018.

5 SOLOMON DWIGGINS & FREER, LTD.

6  
7 By:   
8 MARK A. SOLOMON, ESQ., NSB 0418  
9 JEFFREY P. LUSZECK, ESQ., NSB 9619  
10 9060 West Cheyenne Avenue  
11 Las Vegas, Nevada 89129

12 *Attorneys for Matt Klabacka, Distribution  
13 Trustee of the ERIC L. NELSON NEVADA  
14 TRUST dated May 30, 2001*

15 **MEMORANDUM OF POINTS AND AUTHORITIES**

16 **I. BRIEF INTRODUCTION AND LEGAL STANDARD**

17 In an attempt to re-litigate issues previously heard and decided by this Court, Lynita S.  
18 Nelson requests that this Court "reconsider" and/or "clarify" its Decision entered on April 19, 2018  
19 (hereinafter referred to as "Order") because she disagrees with this Court's ruling. Despite filing a  
20 14-page Motion (which merely regurgitates the same arguments that this Court previously rejected  
21 in entering its Order), Lynita fails to identify how the Court's Order is clearly erroneous and or  
22 how new facts would support a reversal of this Court's decision. *See, Moore v. City of Las Vegas*,  
23 92 Nev. 402, 405, 551 P.2d 244, 246 (1976) ("Only in very rare instances in which new issues of  
24 fact or law are raised supporting a ruling contrary to the ruling already reached should a motion for  
25 reconsideration be granted.") (Emphasis Added); *Masonry and Tile Constrs. v. Jolley, Urga &*  
26 *Wirth, Ltd.*, 113 Nev. 737, 741, 941 P.2d 486, 489 (1997) (motions for reconsideration must be  
27 based on "substantially different evidence [that] is subsequently introduced" showing that "the  
28 decision is clearly erroneous."). Reconsideration motions cannot not be used merely to reargue the  
arguments the movant already made to the Court, to "be used to ask the Court to rethink what it  
has already thought, "*Motorola, Inc. v. J.B. Rodgers Mechanical Contractors*, 215 F.R.D. 581, 582  
(D. Ariz. 2003), or "to dress up arguments that previously failed." *Waddell & Reed Fin., Inc. v.*

SRAPP000426





1 *Torchmark Corp.*, 338 F. Supp. 2d 1248, 1250 (D. Kan. 2004) (citations omitted).

2       Indeed, in her Motion, Lynita advances the identical arguments that she previously raised,  
3 and/or could have raised, in her Opposition to Motion to Enforce Supreme Court's Order dated  
4 May 25, 2017; Motion to Hold Lynita S. Nelson in Contempt for Violation of September 22, 2014;  
5 and for Attorneys' Fees and Costs; and Countermotion for Final Judgment Consistent with Nevada  
6 Supreme Court's Remand previously filed on July 31, 2017 (hereinafter referred to as  
7 "Opposition") and Reply to Countermotion for Final Judgment Consistent with Nevada Supreme  
8 Court's Remand previously filed on August 22, 2017 (hereinafter referred to as "Reply to  
9 Countermotion"). Indeed, this is not one of those "rare circumstances" in which reconsideration is  
10 appropriate, and to do so would be an abuse of discretion.

11       As indicated *supra*, Lynita's Counsel has granted an extension to the ELN Trust until  
12 Thursday, May 24, 2018, to file its Opposition; however, in the interim (and in light of the fact that  
13 an Ex Parte Application to have the Motion for Reconsideration heard on OST is currently pending  
14 before this Court), the ELN Trust hereby briefly responds to Lynita's arguments as follows.

15 **II. LEGAL ARGUMENT**

16       A.     THIS COURT FOLLOWED THE SUPREME COURT'S DIRECTIVE BY  
17             ORDERING THAT THE TRACING BEGIN ON MAY 30, 2001.

18       As indicated *supra*, Lynita's request that the tracing begin on July 13, 1993 is identical to  
19 the arguments raised in her Opposition and Reply to Countermotion, and as such, Nevada law  
20 requires that the Motion for Reconsideration be denied. As this Court recognized in its Decision  
21 entered on April 19, 2018:

22             The Nevada Supreme Court held that both the ELN and LST Trusts  
23 were funded with separate property stemming from the Separate  
24 Property Agreement. As such, the proper date to begin the tracing  
25 would be May 30, 2001, the date both the ELN and LSN Trusts were  
executed. *See Order at 3:10-14.*<sup>1</sup>

26 <sup>1</sup> While the ELN Trust concedes that the tracing should begin on May 30, 2001, it adamantly  
27 objects to a tracing being conducted on Wyoming Downs for the reasons set forth in its Reply to  
28 Opposition to Motion to Enforce Supreme Court's Order dated May 25, 2017; Motion to Hold  
Lynita in Contempt for Violation of September 22, 2014 Order; and for Attorneys' Fees and Costs  
previously filed on August 4, 2017, at 8:24-10:2.

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1 Upon information and belief, this Court's ruling was based upon the following statements  
2 made by the Nevada Supreme Court in its Order:

3 Later, the parties converted those trusts into self-settled spendthrift  
4 trusts (SSSTs) and funded them with their respective separate  
5 property. P. 2.

6 In 2001, Eric and Lynita converted their separate property trusts into  
7 Eric's Trust and Lynita's Trust, respectively, and funded the SSSTs  
8 with the separate property contained within the separate property  
9 trusts. P. 4.

10 On June 3, 2013, the district court issued the decree. The district  
11 court found that the SPA was valid and the parties' SSSTs were  
12 validly established and funded with separate property. P. 6.

13 For the reasons set forth below, we hold the SSSTs are valid and the  
14 trusts were funded with separate property stemming from a valid  
15 separate property agreement. P. 13.

16 Although unclear, in addition to re-making the exact same arguments previously rejected  
17 by this Court, it also appears that Lynita is requesting that this Court essentially "second guess" the  
18 Nevada Supreme Court's Order, which is inappropriate and inconsistent with Nevada law because  
19 the Nevada Supreme Court's Order became the law of the case. *See e.g., Bd. Of Gallery of*  
20 *History, Inc. v. Datecs Corp.*, 116 Nev. 289, 994 P.2d 1149, 1150 (2000) (when the law of the case  
21 doctrine applies, "the district court [is] without authority to make a contrary finding."). Indeed, if  
22 there was any confusion regarding the Supreme Court's directives then Lynita had a duty to file a  
23 petition for rehearing pursuant to NRAP 40, yet she failed to do so.

24 Because Lynita failed to raise any new issues of fact or law regarding this issue (and/or  
25 Lynita is trying to "dress-up" its other arguments that failed), this is not one of the "rare  
26 circumstances" identified by the Nevada Supreme Court where a rehearing and/or reconsideration  
27 should be granted.

28 B. LYNITA HAS FAILED TO RAISE NEW ISSUES OF FACT OR LAW AS TO  
WHY IT IS NECESSARY FOR THE \$720,000 TO BE TRANSFERRED TO A  
NEW BLOCKED ACCOUNT.

It is unnecessary for the \$720,000 to be placed in a blocked account because this Court  
found in its decision that both the ELN Trust and the LSN Trusts possess "sufficient assets...to

SRAPP000428

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1 offset any deficiency once a final balance and distribution amount has been determined.” See  
2 Order at 7:26-8:2. Lynita has failed to raise any new issues of fact or law regarding this issue. As  
3 such, the requested relief should be denied.

4 Because Lynita failed to raise any new issues of fact or law regarding this issue, this is not  
5 one of the “rare circumstances” identified by the Nevada Supreme Court where a rehearing and/or  
6 reconsideration should be granted.

7 C. LYNITA HAS FAILED TO RAISE NEW ISSUES OF FACT OR LAW  
8 REGARDING THE IMPOSITION OF A JPI.

9 Contrary to Lynita’s contention, the ELN Trust believes that this Court implicitly dealt with  
10 the JPI issue by finding that both the ELN Trust and the LSN Trusts possess “sufficient assets...to  
11 offset any deficiency once a final balance and distribution amount has been determined.” See  
12 Order at 7:26-8:2. Since there are sufficient assets to offset any deficiency, it would be manifestly  
13 unjust to enter a JPI.

14 Notwithstanding, if this Court believes that it inadvertently failed to rule on Lynita’s  
15 request for a JPI, said request should be denied because EDCR 5.85 only applies to the husband  
16 and wife in a divorce proceeding,<sup>2</sup> of which the ELN Trust is not. Consequently, if Lynita wishes  
17 to pursue an injunction against the ELN Trust she will need to seek a formal injunction that  
18 complies with NRCP 65.

19 Further, if the Court is inclined to enter a JPI over property which either party deems  
20 “community property,” said JPI cannot and should not apply to Wyoming Downs because: (1) this  
21 Court previously found that Wyoming Downs was not community property; and (2) the Supreme  
22 Court upheld the September 22, 2014 Order that disposed of said asset. Specifically, as this Court  
23 will certainly recall, the Divorce Decree disposed of all of the assets owned by the ELN Trust and  
24 the LSN Trust, with the exception of Wyoming Downs. After a separate evidentiary hearing on  
25 Wyoming Downs on May 30, 2014, this Court entered the following findings and orders:

26 THE COURT FURTHER FINDS that although Wyoming Downs

27  
28 <sup>2</sup> Indeed, whenever the term “party” or “parties” is referenced in Part V of the Eighth Judicial  
Court Rules it contemplates application to a husband and wife, and not to third parties.



1 was acquired by the ELN Trust during the pendency of the marriage  
2 between Eric L. Nelson and Lynita S. Nelson, the Court does not  
3 find it to be community property as it was clearly purchased through  
4 Dynasty, an entity wholly owned by the ELN Trust and the Court  
5 maintained the ELN Trust. The Court found no facts leading it to  
6 conclude Lynita S. Nelson or the LSN Trust has an interest in  
7 Wyoming Downs. The Court maintained the integrity of the ELN  
8 Trust and LSN Trust for the reasons set forth in the Divorce Decree.

6 THE COURT FURTHER FINDS that there was no transmutation of  
7 Wyoming Downs from separate property to community property,  
8 even assuming that Wyoming Downs was separate property of Eric  
9 L. Nelson, and not the property of the ELN Trust, separate and  
10 distinct from Eric L. Nelson. *See* Notice of Entry of Order entered  
11 September 22, 2014.

10 Lynita appealed the September 22, 2014 Order. Indeed, one of the “Issues on Appeal” that Lynita  
11 identified in her Docketing Statement was the following:

12 Whether the district court erred in denying Lynita a one-half (1/2)  
13 interest in Wyoming Downs, which was purchased during the  
14 pendency of Eric’s and Lynita’s divorce proceedings. *See* LSN  
15 Trust’s Docketing Statement at 4:10-12.<sup>3</sup>

15 In its Opinion, the Nevada Supreme Court upheld, as opposed to overturned, the September 22,  
16 2014 Order:

17 Accordingly, we affirm in part and vacate in part the district court’s  
18 decree of divorce, affirm in part and vacate in part the district court’s  
19 June 8, 2015, order modifying and implementing the divorce decree,  
20 and remand this matter for further proceedings consistent with this  
21 opinion. *See* Nevada Supreme Court Order at p. 30.

20 Further, and perhaps most importantly, footnote 9 provides: “[w]e have considered the parties’  
21 other arguments [which would have included Lynita’s argument with respect to Wyoming Downs]  
22 and conclude they are without merit.” In light of the foregoing, it would be an error to enter a JPI  
23 and/or litigate any issue, which would include conducting a tracing on Wyoming Downs.

24 D. BRIAN HEAD CABIN.

25 Lynita’s requested relief regarding the Brian Head Cabin stems from an oral request made  
26 by her Counsel at the January 31, 2018, which admittedly was not briefed in the underlying  
27 pleadings. It is inappropriate for this Court to tailor its Order to further Lynita’s best interest

28 <sup>3</sup> *See also* Lynita’s Answering Brief and Opening Brief on Cross-Appeal at pp. 52-53.

1 without giving the Parties the opportunity to respond to the same. For this reason, Lynita's  
2 requested relief should be denied.

3 **III. CONCLUSION**

4 As indicated *supra*, this is not one of the "rare circumstances" where a rehearing and/or  
5 reconsideration should be granted. To the contrary, the majority (if not all) of the arguments made  
6 in Lynita's Motion for Reconsideration were identical to the arguments that she made at the prior  
7 hearings and considered by this Court when it entered its Order.

8 As stated above, Lynita's Counsel has granted an extension to the ELN Trust until  
9 Thursday, May 24, 2018, to file its Opposition, and as such, the ELN Trust intends to supplement  
10 its Opposition if necessary.

11 DATED this 21<sup>st</sup> day of May, 2018.

12 SOLOMON DWIGGINS & FREER, LTD.

13  
14 By: 

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21 *Attorneys for Matt Klabacka, Distribution*  
22 *Trustee of the ERIC L. NELSON NEVADA*  
23 *TRUST dated May 30, 2001*  
24  
25  
26  
27  
28

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SRAPP000431

1 **CERTIFICATE OF SERVICE**

2 I HEREBY CERTIFY, pursuant to NRCP 5(b), that on May 21, 2018, I served a true and  
3 correct copy of the foregoing **INITIAL OPPOSITION TO LYNITA NELSON'S MOTION**  
4 **FOR RECONSIDERATION AND CLARIFICATION OF THE COURT'S DECISION**  
5 **ENTERED APRIL 19, 2018; COUNTERPETITION TO REMOVE LIS PENDENS**  
6 **INAPPROPRIATELY FILED BY THE LSN TRUST; AND FOR ATTORNEYS' FEES AND**  
7 **COSTS**, to the following in the manner set forth below:

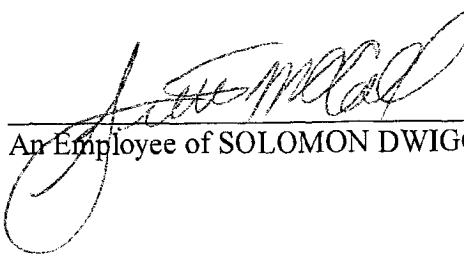
- 8  Hand Delivery  
9  U.S. Mail, Postage Prepaid  
10  Certified Mail, Receipt No.: \_\_\_\_\_  
11  Return Receipt Request  
12  E-Service through Wiznet

13 DICKERSON LAW GROUP  
14 Robert P. Dickerson, Esq.  
15 1745 Village Center Circle  
16 Las Vegas, NV 89134

17 *Attorneys for Defendant*

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*Attorneys for Plaintiff*

18   
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28 SRAPP000432

MOFI

DISTRICT COURT  
FAMILY DIVISION  
CLARK COUNTY, NEVADA

ERIC L. NELSON

Plaintiff/Petitioner

v.

LYNITA SUE NELSON

Defendant/Respondent

Case No. D-09-411537-D

Dept. O

**MOTION/OPPOSITION  
FEE INFORMATION SHEET**

**Notice:** Motions and Oppositions filed after entry of a final order issued pursuant to NRS 125, 125B or 125C are subject to the reopen filing fee of \$25, unless specifically excluded by NRS 19.0312. Additionally, Motions and Oppositions filed in cases initiated by joint petition may be subject to an additional filing fee of \$129 or \$57 in accordance with Senate Bill 388 of the 2015 Legislative Session.

**Step 1.** Select either the \$25 or \$0 filing fee in the box below.

<input checked="" type="checkbox"/> <b>\$25</b> The Motion/Opposition being filed with this form is subject to the \$25 reopen fee. -OR- <input type="checkbox"/> <b>\$0</b> The Motion/Opposition being filed with this form is not subject to the \$25 reopen fee because: <input type="checkbox"/> The Motion/Opposition is being filed before a Divorce/Custody Decree has been entered. <input type="checkbox"/> The Motion/Opposition is being filed solely to adjust the amount of child support established in a final order. <input type="checkbox"/> The Motion/Opposition is for reconsideration or for a new trial, and is being filed within 10 days after a final judgment or decree was entered. The final order was entered on _____. <input type="checkbox"/> Other Excluded Motion (must specify) _____
---

**Step 2.** Select the \$0, \$129 or \$57 filing fee in the box below.

<input checked="" type="checkbox"/> <b>\$0</b> The Motion/Opposition being filed with this form is not subject to the \$129 or the \$57 fee because: <input checked="" type="checkbox"/> The Motion/Opposition is being filed in a case that was not initiated by joint petition. <input type="checkbox"/> The party filing the Motion/Opposition previously paid a fee of \$129 or \$57. -OR- <input type="checkbox"/> <b>\$129</b> The Motion being filed with this form is subject to the \$129 fee because it is a motion to modify, adjust or enforce a final order. -OR- <input type="checkbox"/> <b>\$57</b> The Motion/Opposition being filing with this form is subject to the \$57 fee because it is an opposition to a motion to modify, adjust or enforce a final order, or it is a motion and the opposing party has already paid a fee of \$129.
--

**Step 3.** Add the filing fees from Step 1 and Step 2.

The total filing fee for the motion/opposition I am filing with this form is: <input type="checkbox"/> \$0 <input checked="" type="checkbox"/> \$25 <input type="checkbox"/> \$57 <input type="checkbox"/> \$82 <input type="checkbox"/> \$129 <input type="checkbox"/> \$154
--

Party filing Motion/Opposition: Matthew Klabacka Date 05/21/18

Signature of Party or Preparer /s/ Gretta G. McCall

SRAPP000433



DISTRICT COURT  
FAMILY DIVISION – JUVENILE  
CLARK COUNTY, NEVADA

ERIC L. NELSON,

Plaintiff,

v.

LYNITA SUE NELSON, MATT  
KLABACKA, as Distribution Trustee of  
the ERIC L. NELSON NEVADA  
TRUST dated May 30, 2001,

Defendants.

MATT KLABACKA, as Distribution  
Trustee of the ERIC L. NELSON  
NEVADA TRUST dated May 30, 2001,

Cross-claimant,

v.

LYNITA SUE NELSON,

Cross-defendant.

Case No.: D-09-411537-D  
Dept. No.: O

**DECISION AFFIRMING THE DATE OF TRACING; DENYING A  
SEPARATE BLOCKED ACCOUNT FOR \$720,000; AND GRANTING A  
JOINT PRELIMINARY INJUNCTION FOR THE BANONE, LLC. AND  
LINDELL PROPERTIES**

This matter was before the Court, pursuant to Lynita Nelson's Motion for Reconsideration and Clarification of the Court's Decision Entered April 19, 2018, and Lynita Nelson's Ex Parte Motion for Issuance of Joint Preliminary



1  
2 Injunction. The Court, having reviewed all Motions, based thereon and good  
3 cause appearing therefor:

4  
5 CONCLUSIONS OF LAW

6 A. May 30, 2001 is the Proper Date To Begin the Tracing Because the Nevada  
7 Supreme Court Found and Held That the ELN and LSN Trusts Were  
8 Funded With Separate Property

9 In its May 25, 2017 Order, the Nevada Supreme Court concluded that this  
10 Court erred by “not tracing the assets contained within the trusts, either through a  
11 reliable expert or other available means.”<sup>1</sup> The Nevada Supreme Court also held  
12 that both the Eric L. Nelson Nevada Trust (“ELN Trust”) and the Lynita S.  
13 Nelson Nevada Trust (“LSN Trust”) “are valid and the trusts were funded with  
14 separate property stemming from a valid separate property agreement.”<sup>2</sup>

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16 In its April 19, 2018 Order, this Court did not address the tracing  
17 performed in the underlying divorce proceeding. During the divorce proceeding,  
18 this Court did not perform a tracing of assets contained within either the Eric L.  
19 Nelson Nevada Trust (“ELN Trust”) or the Lynita S. Nelson Nevada Trust (“LSN  
20 Trust”). In its May 25, 2017 Order, the Nevada Supreme Court found that “[i]n  
21 2001, Eric and Lynita converted their separate property trusts into Eric’s Trust  
22 and Lynita’s Trust, respectively, and funded the SSST’s with the separate  
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28 <sup>1</sup> *Klabacka v. Nelson*, 394 P.3d 940, 948 (Nev. 2017).

<sup>2</sup> *Klabacka*, 394 at 947.

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2 property contained within the separate property trusts.”<sup>3</sup> The Nevada Supreme  
3 Court then held that both the ELN and LSN Trusts were funded with separate  
4 property based on their findings.<sup>4</sup>  
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6 While this Court never performed a tracing of assets in the trusts in the  
7 underlying divorce proceedings, the Nevada Supreme Court held that “the SSSTs  
8 are valid and the trusts were funded with separate property stemming from a  
9 valid separate property agreement.”<sup>5</sup> Therefore, based upon the Nevada Supreme  
10 Court’s finding and holding, this Court interprets the proper date to begin tracing  
11 as May 30, 2001, the date on which both the ELN and LSN Trusts were executed.  
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14 B. The \$720,000 Released to the ELN Trust Is A Valid Disbursement As the  
15 Funds Were Allocated In Error

16 In its May 25, 2017 Order, the Nevada Supreme Court found that this  
17 Court erred in Ordering the ELN Trust to pay the personal obligations of Mr.  
18 Nelson with regard to a lump-sum alimony payment.<sup>6</sup> In response to the Nevada  
19 Supreme Court’s holding, this Court Ordered the return of the \$720,000 which  
20 was paid by the ELN Trust and being held in a blocked account.  
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23 The sole purpose of the disbursement of the \$720,000 was for the payment  
24 of Mr. Nelson’s personal obligations. Otherwise, the funds would have remained  
25 within the ELN Trust and be afforded all the protections of a Nevada Trust. As  
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27 <sup>3</sup> *Id.* at 943.

<sup>4</sup> *Id.* at 947.

<sup>5</sup> *Id.*

<sup>6</sup> *Klabacka v. Nelson*, 394 P.3d 940, 952 (Nev. 2017).

1  
2 this Court erred when Ordering the distribution of funds from the ELN Trust to  
3 pay for Mr. Nelson's personal obligations, the Court is obligated to return the  
4 funds from the source of the distribution, the ELN Trust. Therefore, transferring  
5 the funds from one blocked account to a separate frozen account is improper at  
6 this time.  
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9 C. A Joint Preliminary Injunction for the Banone, LLC. and Lindell  
10 Properties is Appropriate Because Both Properties Are Involved In A  
11 Claim of Community Property

12 In its April 19, 2018 Order, this Court did not address the request for a  
13 Joint Preliminary Injunction for the Banone, LLC. and Lindell Properties. Eighth  
14 Judicial District Court Rule 5.517 states that "[u]pon the request of any party at  
15 any time prior to the entry of...final judgment, a preliminary injunction will be  
16 issued by the clerk against the parties to the action enjoining them and their  
17 officers, agents, servant, employees, or a person in active concert or participation  
18 with them from: transferring, encumbering, concealing, selling, or otherwise  
19 disposing of...any property that is the subject of a claim of community  
20 interest..."  
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22  
23 Both the Banone, LLC. and Lindell Properties are subject to a claim of  
24 community interest. As such, both properties are entitled to a Joint Preliminary  
25 Injunction to ensure that the properties remain intact prior to the completion of  
26 tracing and the final judgment of this Court. However, while this Court is aware  
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that multiple Notices of Lis Pendens regarding both properties have been filed, a Joint Preliminary Injunction on the properties is appropriate and will be granted. Furthermore, considering the extensive litigation costs incurred to date, this Court is issuing this decision prior to any Opposition being filed by Mr. Nelson or the ELN Trust and any Reply by Ms. Nelson. Therefore, any potential Oppositions and Reply will be reviewed and addressed accordingly as they are filed.

D. Any Funds Used to Purchase the Brian Head Property That Are Considered Community Property Will Be Reimbursed Following the Tracing of Assets in the ELN and LSN Trusts

In its April 19, 2018 Order, this Court stated any financial transfers or inequities found as a result of the tracing of assets would be settled after tracing has been completed and the Court issues a final judgment. This Court also stated that both the ELN and LSN Trusts have sufficient assets to offset any deficiencies ultimately found once a final balance and distribution amount has been determined. Therefore, in the event that the tracing finds that a share of LSN's property held within the ELN Trust was used to purchase the 50% interest in the Brian Head Cabin, the LSN Trust will be entitled to a reimbursement of said property.

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E. The June 5, 2018 Hearing Shall Be Vacated Based On This Court's Decision

As a result of Motions filed in this case, a Motion Hearing was set on this Court's calendar for June 5, 2018. As a result of this Decision, the June 5, 2018 Motion Hearing is hereby Vacated.

**ORDER**

Based thereon:

**IT IS HEREBY ORDERED** the this Court's decision to start the tracing of assets within the Eric L. Nelson Nevada Trust and the Lynita S. Nelson Nevada Trust on May 30, 2001 is hereby **AFFIRMED**.

**IT IS FURTHER ORDERED** that the release of the \$720,000 from Bank of Nevada Blocked Account #7502338705 to the ELN Trust is hereby **AFFIRMED**.

**IT IS FURTHER ORDERED** that the request to transfer the \$720,000 from the Blocked Account into a separate frozen account is hereby **DENIED**.

**IT IS FURTHER ORDERED** that the request for a Joint Preliminary Injunction on the Banone, LLC. and Lindell Properties to prevent the transfer, encumbrance, concealment, sale, or otherwise disposition of the properties is hereby **GRANTED**.


**IT IS FURTHER ORDERED** that in the event that a complete tracing of assets finds that the Eric L. Nelson Nevada Trust's purchase of the 50% interest

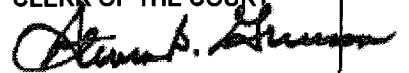
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in the Brian Head Utah Cabin is made with community property, the Lynita S. Nelson Nevada Trust is entitled to a reimbursement in the amount of the proceeds determined to be Lynita Nelson's portion of the community property used for purchase.

**IT IS FURTHER ORDERED** that any Stay of Order is hereby **DENIED**.

DATED this 22<sup>nd</sup> day of May, 2018.

  
\_\_\_\_\_  
Honorable Frank P. Sullivan  
District Court Judge – Dept. O



DISTRICT COURT  
FAMILY DIVISION – JUVENILE  
CLARK COUNTY, NEVADA

ERIC L. NELSON,

Plaintiff,

v.

LYNITA SUE NELSON, MATT  
KLABACKA, as Distribution Trustee of  
the ERIC L. NELSON NEVADA  
TRUST dated May 30, 2001,

Defendants.

MATT KLABACKA, as Distribution  
Trustee of the ERIC L. NELSON  
NEVADA TRUST dated May 30, 2001,

Cross-claimant,

v.

LYNITA SUE NELSON,

Cross-defendant.

Case No.: D-09-411537-D

Dept. No.: O

NOTICE OF ENTRY OF ORDER

TO:

Rhonda Forsberg, Esq.  
E-Service

Robert Dickerson, Esq.  
E-Service

Marc Solomon, Esq.  
E-Service

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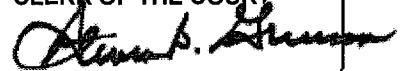
PLEASE TAKE NOTICE that the DECISION AFFIRMING THE DATE OF TRACING; DENYING A SEPARATE BLOCKED ACCOUNT FOR \$720,000; AND GRANTING A JOINT PRELIMINARY INJUNCTION FOR THE BANONE, LLC. AND LINDELL PROPERTIES was duly entered in the above-referenced case on the 22nd day of May, 2018.

DATED this 22 day of May, 2018.



\_\_\_\_\_  
Lori Parr  
Judicial Executive Assistant  
Dept. O





DISTRICT COURT  
FAMILY DIVISION – JUVENILE  
CLARK COUNTY, NEVADA

ERIC L. NELSON,

Plaintiff,

v.

LYNITA SUE NELSON, MATT  
KLABACKA, as Distribution Trustee of  
the ERIC L. NELSON NEVADA  
TRUST dated May 30, 2001,

Defendants.

MATT KLABACKA, as Distribution  
Trustee of the ERIC L. NELSON  
NEVADA TRUST dated May 30, 2001,

Cross-claimant,

v.

LYNITA SUE NELSON,

Cross-defendant.

Case No.: D-09-411537-D  
Dept. No.: O

**DECISION AFFIRMING THE DATE OF TRACING; DENYING A  
SEPARATE BLOCKED ACCOUNT FOR \$720,000; AND GRANTING A  
JOINT PRELIMINARY INJUNCTION FOR THE BANONE, LLC. AND  
LINDELL PROPERTIES**

This matter was before the Court, pursuant to Lynita Nelson's Motion for Reconsideration and Clarification of the Court's Decision Entered April 19, 2018, and Lynita Nelson's Ex Parte Motion for Issuance of Joint Preliminary

SRAPP000443

1  
2 Injunction. The Court, having reviewed all Motions, based thereon and good  
3 cause appearing therefor:

4  
5 CONCLUSIONS OF LAW

6 A. May 30, 2001 is the Proper Date To Begin the Tracing Because the Nevada  
7 Supreme Court Found and Held That the ELN and LSN Trusts Were  
8 Funded With Separate Property

9 In its May 25, 2017 Order, the Nevada Supreme Court concluded that this  
10 Court erred by “not tracing the assets contained within the trusts, either through a  
11 reliable expert or other available means.”<sup>1</sup> The Nevada Supreme Court also held  
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21 2001, Eric and Lynita converted their separate property trusts into Eric’s Trust  
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14 B. The \$720,000 Released to the ELN Trust Is A Valid Disbursement As the  
15 Funds Were Allocated In Error

16 In its May 25, 2017 Order, the Nevada Supreme Court found that this  
17 Court erred in Ordering the ELN Trust to pay the personal obligations of Mr.  
18 Nelson with regard to a lump-sum alimony payment.<sup>6</sup> In response to the Nevada  
19 Supreme Court’s holding, this Court Ordered the return of the \$720,000 which  
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23 The sole purpose of the disbursement of the \$720,000 was for the payment  
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25 within the ELN Trust and be afforded all the protections of a Nevada Trust. As  
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27 <sup>3</sup> *Id.* at 943.

<sup>4</sup> *Id.* at 947.

<sup>5</sup> *Id.*

<sup>6</sup> *Klabacka v. Nelson*, 394 P.3d 940, 952 (Nev. 2017).

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9 C. A Joint Preliminary Injunction for the Banone, LLC. and Lindell  
10 Properties is Appropriate Because Both Properties Are Involved In A  
11 Claim of Community Property

12 In its April 19, 2018 Order, this Court did not address the request for a  
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14 Judicial District Court Rule 5.517 states that “[u]pon the request of any party at  
15 any time prior to the entry of...final judgment, a preliminary injunction will be  
16 issued by the clerk against the parties to the action enjoining them and their  
17 officers, agents, servant, employees, or a person in active concert or participation  
18 with them from: transferring, encumbering, concealing, selling, or otherwise  
19 disposing of...any property that is the subject of a claim of community  
20 interest...”  
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22 Both the Banone, LLC. and Lindell Properties are subject to a claim of  
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24 Injunction to ensure that the properties remain intact prior to the completion of  
25 tracing and the final judgment of this Court. However, while this Court is aware  
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that multiple Notices of Lis Pendens regarding both properties have been filed, a Joint Preliminary Injunction on the properties is appropriate and will be granted. Furthermore, considering the extensive litigation costs incurred to date, this Court is issuing this decision prior to any Opposition being filed by Mr. Nelson or the ELN Trust and any Reply by Ms. Nelson. Therefore, any potential Oppositions and Reply will be reviewed and addressed accordingly as they are filed.

D. Any Funds Used to Purchase the Brian Head Property That Are Considered Community Property Will Be Reimbursed Following the Tracing of Assets in the ELN and LSN Trusts

In its April 19, 2018 Order, this Court stated any financial transfers or inequities found as a result of the tracing of assets would be settled after tracing has been completed and the Court issues a final judgment. This Court also stated that both the ELN and LSN Trusts have sufficient assets to offset any deficiencies ultimately found once a final balance and distribution amount has been determined. Therefore, in the event that the tracing finds that a share of LSN's property held within the ELN Trust was used to purchase the 50% interest in the Brian Head Cabin, the LSN Trust will be entitled to a reimbursement of said property.

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E. The June 5, 2018 Hearing Shall Be Vacated Based On This Court's Decision

As a result of Motions filed in this case, a Motion Hearing was set on this Court's calendar for June 5, 2018. As a result of this Decision, the June 5, 2018 Motion Hearing is hereby Vacated.

**ORDER**

Based thereon:

**IT IS HEREBY ORDERED** the this Court's decision to start the tracing of assets within the Eric L. Nelson Nevada Trust and the Lynita S. Nelson Nevada Trust on May 30, 2001 is hereby **AFFIRMED**.

**IT IS FURTHER ORDERED** that the release of the \$720,000 from Bank of Nevada Blocked Account #7502338705 to the ELN Trust is hereby **AFFIRMED**.

**IT IS FURTHER ORDERED** that the request to transfer the \$720,000 from the Blocked Account into a separate frozen account is hereby **DENIED**.

**IT IS FURTHER ORDERED** that the request for a Joint Preliminary Injunction on the Banone, LLC. and Lindell Properties to prevent the transfer, encumbrance, concealment, sale, or otherwise disposition of the properties is hereby **GRANTED**.

**IT IS FURTHER ORDERED** that in the event that a complete tracing of assets finds that the Eric L. Nelson Nevada Trust's purchase of the 50% interest

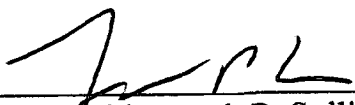
SRAPP000448

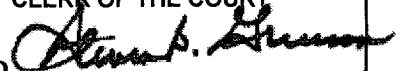
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in the Brian Head Utah Cabin is made with community property, the Lynita S. Nelson Nevada Trust is entitled to a reimbursement in the amount of the proceeds determined to be Lynita Nelson's portion of the community property used for purchase.

**IT IS FURTHER ORDERED** that any Stay of Order is hereby **DENIED**.

DATED this 22<sup>nd</sup> day of May, 2018.

  
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Honorable Frank P. Sullivan  
District Court Judge – Dept. O



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MRCN  
THE DICKERSON KARACSONYI LAW GROUP  
ROBERT P. DICKERSON, ESQ.  
Nevada Bar No. 000945  
JOSEF M. KARACSONYI, ESQ.  
Nevada Bar No. 010634  
1745 Village Center Circle  
Las Vegas, Nevada 89134  
Telephone: (702) 388-8600  
Facsimile: (702) 388-0210  
Email: info@thedklawgroup.com

Attorneys for Lynita Sue Nelson

EIGHTH JUDICIAL DISTRICT COURT  
FAMILY DIVISION

CLARK COUNTY, NEVADA

ERIC L. NELSON,  
Plaintiff/Counterdefendant,

v.

LYNITA SUE NELSON,  
MATT KLABACKA,  
as Distribution Trustee of the  
ERIC L. NELSON NEVADA TRUST  
dated May 30, 2001,

Defendants/Counterclaimants.

CASE NO. D-09-411537-D  
DEPT NO. O

Date of Hearing:  
Time of Hearing:

ORAL ARGUMENT  
REQUESTED: NO

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MATT KLABACKA, as Distribution  
Trustee of the ERIC L. NELSON  
NEVADA TRUST dated  
May 30, 2001,

Crossclaimant,

v.

LYNITA SUE NELSON, Individually  
and as Investment Trustee of the LSN  
NEVADA TRUST, dated  
May 30, 2001, and ERIC NELSON,

Cross-Defendant.

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SRAPP000450



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NOTICE: YOU ARE REQUIRED TO FILE A WRITTEN RESPONSE TO THIS MOTION WITH THE CLERK OF THE COURT AND TO PROVIDE THE UNDERSIGNED WITH A COPY OF YOUR RESPONSE WITHIN TEN (10) DAYS OF YOUR RECEIPT OF THIS MOTION. FAILURE TO FILE A WRITTEN RESPONSE WITH THE CLERK OF THE COURT WITHIN TEN (10) DAYS OF YOUR RECEIPT OF THIS MOTION MAY RESULT IN THE REQUESTED RELIEF BEING GRANTED BY THE COURT WITHOUT HEARING PRIOR TO THE SCHEDULED HEARING DATE.

**LYNITA NELSON'S MOTION FOR RECONSIDERATION AND CLARIFICATION OF THE COURT'S DECISION ENTERED MAY 22, 2018**

COMES NOW, Defendant and Cross-Defendant, LYNITA SUE NELSON ("Lynita"), by and through her counsel, ROBERT P. DICKERSON, ESQ., and JOSEF M. KARACSONYI, ESQ., of THE DICKERSON KARACSONYI LAW GROUP, and respectfully submits for the Court's consideration her Motion for Reconsideration and Clarification of the Court's Decision Entered May 22, 2018 ("Motion").


Specifically, Lynita respectfully requests the following relief:

1. That the Court reconsider its Decision entered May 22, 2018, and Order that the Joint Preliminary Injunction issued is not limited to the Banone, LLC and Lindell Properties; and
2. For such further relief as deemed appropriate in the premises.

This Motion is made and based upon the pleadings and papers on file herein, and the Memorandum of Points and Authorities attached hereto.

DATED this 5<sup>th</sup> day of June, 2018.

THE DICKERSON KARACSONYI  
LAW GROUP

  
 \_\_\_\_\_  
 ROBERT P. DICKERSON, ESQ.  
 Nevada Bar No. 000945  
 JOSEF M. KARACSONYI, ESQ.  
 Nevada Bar No. 010634  
 1745 Village Center Circle  
 Las Vegas, Nevada 89134  
 Attorneys for Lynita Sue Nelson

1 MEMORANDUM OF POINTS AND AUTHORITIES

2 I. FACTUAL STATEMENT

3 This matter was recently before the Court pursuant to Lynita's  
4 Motion for Reconsideration and Clarification of the Court's Decision  
5 Entered April 19, 2018 ("Motion"), and Lynita's Ex Parte Motion for  
6 Issuance of Joint Preliminary Injunction. Having reviewed all such  
7 documents, and based thereon and good cause appearing therefor, on May  
8 22, 2018, the Court issued its Decision Affirming the Date of Tracing;  
9 Denying A Separate Blocked Account for \$720,000; and Granting a Joint  
10 Preliminary Injunction for the Banone, LLC and Lindell Properties  
11 ("Decision").

12 As part of the Court's Decision, the Court noted that in its prior  
13 April 19, 2018 Order, "this Court did not address the request for a Joint  
14 Preliminary Injunction for the Banone, LLC. and Lindell properties." In  
15 reality, however, Lynita's request that was before the Court during the  
16 prior hearing of January 31, 2018, and which was the subject of the April  
17 19, 2018 Order, was that a general Joint Preliminary Injunction be issued,  
18 and not one related only to the Banone, LLC, and Lindell Properties.

19 The legal justification provided by the Court for the issuance of the  
20 limited Joint Preliminary Injunction is as follows:

21 Both the Banone, LLC. and Lindell Properties are subject to a  
22 claim of community interest. As such, both properties are  
23 entitled to a Joint Preliminary Injunction to ensure that the  
properties remain intact prior to the completion of tracing and  
the final judgment of this Court.

24 Decision, page 4.

25 As this Court is aware, however, there are numerous other properties  
26 at issue in the parties' divorce action which are similarly the subject of a  
27 claim of community interest. Lynita requests – as she did in her prior  
28 Motions – that a general Joint Preliminary Injunction be issued in this

1 matter. Lynita asks that the Court make clear that none of the assets  
2 subject to a claim of community property can be transferred, encumbered,  
3 concealed, sold, or other disposed of by the parties pending the  
4 finalization of the Court's tracing and entry of the Court's final Order. As  
5 the Court will recall, in making an equal division of the parties' property  
6 in the Decree of Divorce entered June 3, 2013, Lynita was also awarded  
7 one-third (1/3) of Russell Road from the ELN Trust at a value of  
8 \$2,265,113.50. An injunction over just the Banone, LLC and Lindell  
9 Properties does not protect sufficient property to ensure the Court can  
10 accomplish an appropriate division of property if it is determined that the  
11 properties held in ELN Trust and LSN Trust are community property.

12 **II. LEGAL ANALYSIS**

13 A. The Court Should Reconsider/Clarify The Scope Of The Joint  
14 Preliminary Injunction Issued As Part Of Its Decision of May 22,  
2018

15 Nevada Rules of Civil Procedure, Rule 60 (2018), provides in  
16 pertinent part as follows:

17 (a) Clerical Mistakes. Clerical mistakes in judgments, orders  
18 or other parts of the record and errors therein arising from  
19 oversight or omission may be corrected by the court at any  
20 time of its own initiative or on the motion of any party and  
21 after such notice, if any, as the court orders. During the  
pendency of an appeal, such mistakes may be so corrected  
before the appeal is docketed in the appellate court, and  
thereafter while the appeal is pending may be so corrected with  
leave of the appellate court.

22 In addition, Eighth Judicial District Court Rules, Rule 5.512 (2018),  
23 provides as follows:

24 (a) A party seeking reconsideration and/or rehearing of  
25 a ruling (other than any order that may be addressed by  
26 motion pursuant to NRCP 50(b), 52(b), 59 or 60), must file  
27 a motion for such relief within 14 calendar days after service  
of notice of entry of the order unless the time is shortened or  
enlarged by order. A motion for reconsideration does not toll  
the period for filing a notice of appeal.

28 ...

1 (b) If a motion for reconsideration and/or rehearing is  
2 granted, the court may make a final disposition without  
3 hearing, may set it for hearing or resubmission, or may make  
such other orders as are deemed appropriate under the  
circumstance.

4 Finally, NRCP 59(e) provides the trial court the opportunity, within a  
5 limited time, to rehear a motion previously brought before it, and to  
6 correct or reconsider its order or judgment. *Chiara v. Belaustegui*, 86 Nev.  
7 856, 859, 477 P.2d 857, 858 (1970). “[A] court may, for sufficient cause  
8 shown, amend, correct, resettle, modify, or vacate, as the case may be, an  
9 order previously made and entered on motion in the progress of the cause  
10 or proceeding.” *Trail v. Faretto*, 91 Nev. 401, 403, 536 P.2d 1026, 1027  
11 (1975).

12 B. The Court Should Immediately Enter A Joint Preliminary Injunction  
13 In This Matter Over All Property Listed In The Decree Of Divorce

14 EDCR 5.517 requires the issuance of a joint preliminary injunction  
15 upon the request of any party, to prohibit all parties, and “their officers,  
16 agents, servants, employees, or a person in active concert or participation  
17 with them from: (1) Transferring, encumbering, concealing, selling, or  
18 otherwise disposing of any of the joint, common, or community property  
19 of the parties or any property that is subject of a claim of community  
20 interest, except in the usual course of conduct or for the necessities of life  
21 or for retention of counsel. . . .” Emphasis added. NRS 125.050 requires  
22 the Court to “make such restraining order or other order as appears  
23 necessary to prevent the act or conduct and preserve the status quo  
24 pending final determination of the cause.”

25 Based on the above, as well as the arguments and statements made  
26 during the hearing of January 31, 2018, Lynita respectfully requests that  
27 this Court enter a Joint Preliminary Injunction in this matter providing:  
28 . . .

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IT IS HEREBY ORDERED that no property listed in the Decree of Divorce entered June 3, 2013, is to be transferred, encumbered, concealed, sold, or otherwise disposed of without a written agreement between the parties or further Order of the Court to ensure that the properties remain intact prior to the completion of the tracing and the final judgment of this Court.

If the Court is not willing to enjoin all potential community property at issue in this matter, it should, at the very least, issue an Order to Eric and the ELN Trust providing:

IT IS HEREBY ORDERED that no property held by Eric or the ELN Trust which was awarded to Lynita in the Decree of Divorce entered June 3, 2013, is to be transferred, encumbered, concealed, sold, or otherwise disposed of without a written agreement between the parties or further Order of the Court to ensure that the properties remain intact prior to the completion of the tracing and the final judgment of this Court.


Based on the above, as well as the arguments and statements made during the hearing of January 31, 2018, Lynita respectfully requests that this Court enter a Joint Preliminary Injunction in this matter as set forth herein.

**III. CONCLUSION**

Based upon the foregoing, Lynita respectfully requests that the Court reconsider its Decision entered May 22, 2018, and Order that the Joint Preliminary Injunction issued is not limited to the Banone, LLC and Lindell Properties.

DATED this 5<sup>th</sup> day of June, 2018.

THE DICKERSON KARACSONYI  
LAW GROUP

  
ROBERT P. DICKERSON, ESQ.  
Nevada Bar No. 000945  
JOSEF M. KARACSONYI, ESQ.  
Nevada Bar No. 010634  
1745 Village Center Circle  
Las Vegas, Nevada 89134  
Attorneys for Defendant

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of THE DICKERSON KARACSONYI LAW GROUP, and that on this 5<sup>th</sup> day of June, 2018, I caused the document entitled, LYNITA NELSON'S MOTION FOR RECONSIDERATION AND CLARIFICATION OF THE COURT'S DECISION ENTERED MAY 22, 2018 to be served as follows:

- pursuant to EDCR 8.05(a), EDCR 8.05(f), NRCP 5(b)(2)(D) and Administrative Order 14-2 captioned "In the Administrative Matter of Mandatory Electronic Service in the Eighth Judicial District Court," by mandatory electronic service through the Eighth Judicial District Court's electronic filing system;
- by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada;
- pursuant to EDCR 7.26, to be sent via facsimile, by duly executed consent for service by electronic means;
- by hand-delivery with signed Receipt of Copy.

To the attorney(s) and/or person(s) listed below at the address, email address, and/or facsimile number indicated below:

RHONDA K. FORSBERG, ESQ .  
RHONDA K. FORSBERG, CHARTERED  
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Attorneys for Plaintiff

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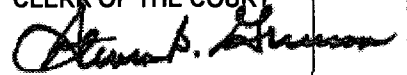
1 MARK A. SOLOMON, ESQ.  
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Attorneys for Distribution Trustee of the ELN Trust



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An employee of The Dickerson Karacsonyi Law Group

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**OPPS**

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7

8 *Attorneys for Matt Klabacka, Distribution*  
*Trustee of the ERIC L. NELSON NEVADA*  
*TRUST dated May 30, 2001*  
9

**DISTRICT COURT**  
**COUNTY OF CLARK, NEVADA**

10  
11  
12 ERIC L. NELSON,  
Plaintiff

Case No.: D-09-411537-D  
Dept. No.: O

13  
14 vs.

15 LYNITA SUE NELSON, MATT  
KLABACKA, as Distribution Trustee of  
the ERIC L. NELSON NEVADA  
16 TRUST dated May 30, 2001,

17 Defendants.

18 MATT KLABACKA, Distribution  
Trustee of the ERIC L. NELSON  
19 NEVADA TRUST dated May 30, 2001,

20 Cross-claimant,

21 vs.

22 LYNITA SUE NELSON,

23 Cross-defendant.  
24

**OPPOSITION TO LYNITA  
NELSON'S MOTION FOR  
RECONSIDERATION AND  
CLARIFICATION OF THE  
COURT'S DECISION ENTERED  
MAY 22, 2018; AND  
COUNTERMOTION TO: (1)  
TERMINATE THE JPI; (2) IMPOSE  
A BOND ON ANY PROPERTY  
SUBJECT TO THE JPI; (3)  
EXPUNGE THE  
INAPPROPRIATELY RECORDED  
LIS PENDENS; (4) ALLOW THE  
ELN TRUST TO MANAGE  
LINDELL; AND (5) ATTORNEYS'  
FEES AND COSTS**

**HEARING DATE: July 10, 2018**  
**HEARING TIME: 9:30 a.m.**

25 Matt Klabacka, Distribution Trustee of the ERIC L. NELSON NEVADA  
26 TRUST dated May 30, 2001, hereby files his Opposition to Lynita Nelson's Motion  
27 for Reconsideration and Clarification of the Court's Decision Entered May 22, 2018;  
28

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1 and his Countermotion: (1) to Terminate the JPI; (2) Impose a Bond on any Property  
2 Subject to the JPI; (3) Expunge the Inappropriately Recorded Lis Pendens; (4) Allow  
3 the ELN Trust to Manage Lindell; and (5) for Attorneys' Fees and Costs.  
4

5 DATED this 22<sup>nd</sup> day of June, 2018.

6 SOLOMON DWIGGINS & FREER, LTD.

7  
8 By: 

9 MARK A. SOLOMON, ESQ.  
10 Nevada State Bar No. 0418  
11 JEFFREY P. LUSZECK, ESQ.  
12 Nevada State Bar No. 9619  
13 9060 West Cheyenne Avenue  
14 Las Vegas, Nevada 89129

15 *Attorneys for Matt Klabacka, Distribution*  
16 *Trustee of the ERIC L. NELSON NEVADA*  
17 *TRUST dated May 30, 2001*

18 **MEMORANDUM OF POINTS AND AUTHORITIES**

19 **I. INTRODUCTION AND STATEMENT OF FACTS**

20 "If at first you don't succeed try, try again."

21 Lynita S. Nelson has taken the aforementioned proverb to heart as this is the  
22 **third** time that she has requested the exact same relief: a joint preliminary injunction  
23 over all assets owned by the ELN Trust. Indeed, in her Motion (which merely  
24 regurgitates the same arguments that this Court previously rejected in entering its  
25 April 19, 2018 Order), Lynita fails to identify how the Court's Order entered on May  
26 22, 2018 ("May 22 Order") is clearly erroneous and or how new facts would support  
27 a reversal of this Court's decision. What makes Lynita's self-serving actions even  
28 worse is that after this Court denied her requested relief, she filed lis pendens over

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1 the majority, if not all, of the ELN Trust's real property (even property that was not  
2 awarded to Lynita in Divorce Decree like Bella Kathryn). In light of the foregoing,  
3 Lynita's Motion should be denied in its entirety and the ELN Trust should be  
4  
5 awarded its attorneys' fees and costs responding to the frivolous Motion.

6 Additionally, the ELN Trust countermoves this Court for an order: (1)  
7 terminating the JPI; (2) compelling Lynita to post a bond on any property subject to  
8  
9 the JPI; (3) expunging the lis pendens; and (4) allowing the ELN Trust to manage  
10 Lindell.

## 11 **II. LEGAL STANDARD**

12  
13 A motion for reconsideration must be based on "substantially different  
14 evidence [that] is subsequently introduced" showing that "the decision is clearly  
15 erroneous." *Masonry and Tile Constrs. v. Jolley, Urga & Wirth, Ltd.*, 113 Nev. 737,  
16 741, 941 P.2d 486, 489 (1997). "Only in very rare instances in which new issues of  
17 fact or law are raised supporting a ruling contrary to the ruling already reached  
18 should a motion for reconsideration be granted." *Moore v. City of Las Vegas*, 92  
19 Nev. 402, 405, 551 P.2d 244, 246 (1976). Reconsideration motions cannot not be  
20 used merely to reargue the arguments the movant already made to the Court, to "be  
21 used to ask the Court to rethink what it has already thought," *Motorola, Inc. v. J.B.*  
22 *Rodgers Mechanical Contractors*, 215 F.R.D. 581, 582 (D. Ariz. 2003), or "to dress  
23 up arguments that previously failed." *Waddell & Reed Fin., Inc. v. Torchmark*  
24 *Corp.*, 338 F. Supp. 2d 1248, 1250 (D. Kan. 2004) (citations omitted).  
25  
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1 Notwithstanding the aforementioned black letter law, in her Motion, Lynita  
2 advances the identical arguments that she previously raised, and/or could have  
3 raised, in her: (1) Opposition to Motion to Enforce Supreme Court's Order dated  
4 May 25, 2017; Motion to Hold Lynita S. Nelson in Contempt for Violation of  
5 September 22, 2014; and for Attorneys' Fees and Costs; and Countermotion for  
6 Final Judgment Consistent with Nevada Supreme Court's Remand previously filed  
7 on July 31, 2017 (hereinafter referred to as "Opposition"); (2) Reply to  
8 Countermotion for Final Judgment Consistent with Nevada Supreme Court's  
9 Remand previously filed on August 22, 2017 (hereinafter referred to as "Reply to  
10 Countermotion"); and (3) Lynita Nelson's Motion for Reconsideration and  
11 Clarification of the Court's Decision entered April 19, 2018 ("April 19 Order").  
12 Indeed, this is not one of those "rare circumstances" in which reconsideration is  
13 appropriate, and to do so would be an abuse of discretion.

14 **III. LEGAL ARGUMENT**

15 **A. THIS COURT ERRED BY IMPOSING A JOINT PRELIMINARY**  
16 **INJUNCTION ON THE BANONE, LLC AND LINDELL**  
17 **PROPERTIES.**

18 As an initial matter, this Court erred by imposing a JPI over Banone, LLC and  
19 Lindell because EDCR 5.517 only applies to the husband and wife in a divorce  
20 proceeding,<sup>1</sup> of which the ELN Trust is not. Consequently, if Lynita wishes to  
21

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27 <sup>1</sup> Indeed, whenever the term "party" or "parties" is referenced in Part V of the Eighth Judicial  
28 Court Rules it contemplates application to a husband and wife, and not to third parties.

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1 pursue an injunction against the ELN Trust she must seek a formal injunction that  
2 complies with NRCP 65, including, but not limited to, posting security pursuant to  
3 subsection (c). Requiring Lynita to post a security “for the payment of such costs  
4 and damages as may be incurred or suffered by any party who is found to have been  
5 wrongfully enjoined or restrained” is mandatory under NRCP 65, and is fair and  
6 equitable as the ELN Trust has previously been required to post bond. Further, the  
7 imposition of a JPI over Banone, LLC and Lindell does not make sense in light of  
8 this Court’s finding that both the ELN Trust and the LSN Trust possess “sufficient  
9 assets in both trusts to offset any deficiency once a final balance and distribution  
10 amount has been determined.”<sup>2</sup> See April 19 Order at 7:26-8:2.

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14 In light of the foregoing, the ELN Trust respectfully requests that this Court  
15 reconsider the imposition of its JPI against Banone, LLC and Lindell without the  
16 imposition of a bond.  
17

18 B. THIS COURT SHOULD DENY LYNITA’S SELF-SERVING  
19 ATTEMPT TO INCREASE THE SCOPE OF THE JPI.

20 Notwithstanding the foregoing, Lynita demands that this Court increase the  
21 scope of the JPI to encompass “any property listed in the Decree of Divorce entered  
22 June 3, 2013,” or at the very least, to include any property “held by Eric or, the ELN  
23

24  
25 <sup>2</sup> The ELN Trust disagrees that the LSN Trust has sufficient assets to “offset any deficiency  
26 once a final balance” has been determined because she has squandered the assets in the LSN Trust  
27 and owes the ELN Trust hundreds of thousands of dollars for the following: (1) rents allocated from  
28 both the Banone, LLC and Lindell Properties; (2) \$324,000 paid to Lynita from the Bank of Nevada  
blocked account; (3) a \$6,050 security deposit paid to the LSN Trust from the ELN Trust; (4)  
payments collected by the LSN Trust pursuant to the Farmouth Circle Note; and (5) \$75,000 paid to  
the LSN Trust by Banone-AZ, LLC. See, e.g., April 19 Order at 7:11-18.

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1 Trust which was awarded to Lynita in the Decree of Divorce entered June 3, 2013.”  
2 Motion at 4:1-12. Once again, Lynita’s request ignores this Court’s finding that both  
3 the ELN Trust and the LSN Trusts possess “sufficient assets in both trusts to offset  
4 any deficiency once a final balance and distribution amount has been determined.”  
5  
6 See April 19 Order at 7:26-8:2.

7  
8 1. THIS COURT SHOULD DENY LYNITA’S REQUEST TO INCREASE THE SCOPE OF THE JPI TO ANY PROPERTY IDENTIFIED IN THE DIVORCE DECREE.  
9

10 Lynita’s request that this Court increase the scope of the JPI to any property  
11 identified in the Divorce Decree would constitute gross error. Specifically, said JPI  
12 cannot and should not encompass Wyoming Downs because: (1) this Court  
13 previously found that Wyoming Downs was not community property; and (2) the  
14 Nevada Supreme Court upheld the September 22, 2014 Order that disposed of said  
15 asset. As this Court will certainly recall, the Divorce Decree disposed of all of the  
16 assets owned by the ELN Trust and the LSN Trust, with the exception of Wyoming  
17 Downs.  
18  
19  
20

21 After a separate evidentiary hearing on Wyoming Downs on May 30, 2014,  
22 this Court entered the following findings and orders:

23 THE COURT FURTHER FINDS that although Wyoming  
24 Downs was acquired by the ELN Trust during the  
25 pendency of the marriage between Eric L. Nelson and  
26 Lynita S. Nelson, the Court does not find it to be  
27 community property as it was clearly purchased through  
28 Dynasty, an entity wholly owned by the ELN Trust and the  
Court maintained the ELN Trust. The Court found no

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1 facts leading it to conclude Lynita S. Nelson or the LSN  
2 Trust has an interest in Wyoming Downs. The Court  
3 maintained the integrity of the ELN Trust and LSN Trust  
4 for the reasons set forth in the Divorce Decree.

4 THE COURT FURTHER FINDS that there was no  
5 transmutation of Wyoming Downs from separate property  
6 to community property, even assuming that Wyoming  
7 Downs was separate property of Eric L. Nelson, and not  
8 the property of the ELN Trust, separate and distinct from  
9 Eric L. Nelson. See Notice of Entry of Order entered  
10 September 22, 2014.

9 Lynita appealed the September 22, 2014 Order. Indeed, one of the “Issues on  
10 Appeal” that Lynita identified in her Docketing Statement was the following:

12 Whether the district court erred in denying Lynita a one-  
13 half (1/2) interest in Wyoming Downs, which was  
14 purchased during the pendency of Eric’s and Lynita’s  
15 divorce proceedings. See LSN Trust’s Docketing  
16 Statement at 4:10-12.<sup>3</sup>

16 In its Opinion, the Nevada Supreme Court upheld, as opposed to overturned, the  
17 September 22, 2014 Order:

19 Accordingly, we affirm in part and vacate in part the  
20 district court’s decree of divorce, affirm in part and vacate  
21 in part the district court’s June 8, 2015, order modifying  
22 and implementing the divorce decree, and remand this  
23 matter for further proceedings consistent with this opinion.  
24 See Nevada Supreme Court Order at p. 30.

24 Further, footnote 9 of the Opinion provides: “[w]e have considered the parties’ other  
25 arguments [which would have included Lynita’s argument with respect to Wyoming  
26 Downs] and conclude they are without merit.” In light of the foregoing, it would be

27 <sup>3</sup> See also Lynita’s Answering Brief and Opening Brief on Cross-Appeal at pp. 52-53.  
28

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1 an error to enter a JPI and/or litigate any issue relating to Wyoming Downs.

2 2. THIS COURT SHOULD DENY LYNITA'S REQUEST TO  
3 INCREASE THE SCOPE OF THE JPI TO ANY PROPERTY  
4 PURPORTEDLY AWARDED TO HER IN THE DIVORCE  
5 DECREE AND OVERTURNED BY THE NEVADA  
6 SUPREME COURT.

7 Alternatively, Lynita requests that this Court increase the scope of the JPI to  
8 include assets that were purportedly awarded to her in the Divorce Decree, despite  
9 the fact that said award was overturned by the Nevada Supreme Court. Although she  
10 does not come out and say it, upon information and belief the assets that Lynita is  
11 referring to are the \$720,000 that was released to the ELN Trust and Russel Road.  
12 Lynita's request to have a JPI imposed over the \$720,000 was already addressed by  
13 this Court in its May 22 Order at 3:14-4:7, and as such, should be denied by this  
14 Court.  
15

16  
17 Lynita's request to have a JPI imposed over Russel Road should also be denied  
18 because said asset was purchased 100% by the ELN Trust. Indeed, on November 11,  
19 1999, the LSN Trust purchased the Russell Road Property for \$855,945.<sup>4</sup> Eric's  
20 brother, Cal Nelson, made a down payment of \$20,000.00 and became a 50% owner  
21 of the Russell Road Property. *See id.* Lynita and Cal later formed C J E & L, LLC,  
22 which rented the Russell Road Property to Cal's Blue Water Marine. *See id.* Shortly  
23 thereafter, C J E & L, LLC obtained a \$3,100,000 loan for the purpose of  
24 constructing a building for Cal's Blue Water Marine. *See id.* In 2004, Lynita  
25  
26

27  
28 <sup>4</sup> *See* Notice of Filing Asset Schedule and Notes to Asset Schedule filed on or around July 4,  
2011, a copy of which is attached hereto as **Exhibit 1**.

1 executed a guarantee on the flooring contract for Cal's Blue Water Marine, and  
2 shortly thereafter, the LSN Trust forfeited its interest in C J E & L, LLC and the  
3 Russell Road Property to be released as a guarantor. *See id.*

4  
5 The ELN Trust purchased a 66.67% interest in the Russell Road Property in  
6 February 2010, over 5 years after the LSN Trust forfeited its interest. The court-  
7 appointed Special Master, Larry Bertsch, found that the ELN Trust paid nearly  
8 \$4,000,000.00 for its 65% interest in the Russell Road Property, which is comprised  
9 of the following amounts:  
10

- 11 1) In 2009, the ELN Trust purchased an FDIC note on a property in  
12 Phoenix commonly known as "Sugar Daddy's" for approximately  
13 \$520,000. The source of these funds came from the Line of  
14 Credit. The property was sold with proceeds amounting to  
15 \$1,520,597.88. Since this was designated as a 1031 exchange, the  
16 proceeds were used in 2010 to purchase Eric's interest in the  
17 Russell Road Property.
- 18 2) As indicated above, the ELN Trust had previously paid \$300,000  
19 to pay down the Bank Loan which was secured by property in  
20 Utah. In addition, the ELN Trust paid off the mortgage on Cal's  
21 house amounting to \$400,000. Both amounts were paid from a  
22 Line of Credit. These two amounts aggregating \$700,000 were  
23 then used as a credit towards the purchase price for ELN Trust's  
24 interest.
- 25 3) The ELN Trust gave a credit amounting to \$522,138.47 which  
26 represented future agreements with Cal and the termination of any  
27 present verbal partnership agreements. This also included money  
28 on rental payments given to Cal.
- 4) The remaining amount to fulfill the obligation of the purchase  
price was to borrow \$1,257,263.67 from the Line of Credit in  
2010.

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1 Therefore the purchase of ELN Trust's interest is comprised of the  
2 following:

3 Pay down of Bank Loan	\$300,000.00
4 Pay off of personal residence of Cal Nelson	400,000.00
5 Credit to Cal Nelson for prior payments	522,138.45
6 Amount to pay Bank Note from Sugar Daddy's	1,520,597.88
7 Amount to pay Bank Loan from Line of Credit	<u>1,257,263.67</u>
	\$4,000,000.00 <sup>5</sup>

8 Since the ELN Trust's interest in the Russell Road Property was paid for with its own  
9 assets and proceeds, as opposed to assets belonging to Lynita or the LSN Trust, it  
10 would be inappropriate to impose a JPI over the same (especially without requiring  
11 Lynita to post a bond).

12  
13 C. THIS COURT SHOULD REMOVE THE INAPPROPRIATELY  
14 FILED LIS PENDENS RECORDED BY LYNITA ON OR AROUND  
15 APRIL 11, 2018.

16 NRS 14.010 permits a plaintiff to file a lis pendens only "[i]n an action for the  
17 foreclosure of a mortgage upon real property, or affecting title or possession of real  
18 property." "As a general proposition, lis pendens are not appropriate instruments for  
19 use in promoting recoveries in actions for personal or money judgments; rather, their  
20 office is to prevent the transfer or loss of real property which is the subject of dispute  
21 in the action that provides the basis for the lis pendens." *Levinson v. Eighth Judicial*  
22 *Dist. Ct.*, 109 Nev. 747, 750 (Nev. 1993). Accordingly, NRS 14.015(1) and (2)  
23 provide that a defendant may request a hearing upon 15 days' notice, whereupon the  
24 plaintiff must:  
25

26 ...establish to the satisfaction of the court that:

27  
28 <sup>5</sup> See id.



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- (a) The action is for the foreclosure of a mortgage upon the real property described in the notice or affects the title or possession of the real property described in the notice;
- (b) The action was not brought in bad faith or for an improper motive;
- (c) The party who recorded the notice will be able to perform any conditions precedent to the relief sought in the action insofar as it affects the title or possession of the real property; and
- (d) The party who recorded the notice would be injured by any transfer of an interest in the property before the action is concluded.

3. In addition to the matters enumerated in subsection 2, the party who recorded the notice must establish to the satisfaction of the court either:

- (a) That the party who recorded the notice is likely to prevail in the action; or
- (b) That the party who recorded the notice has a fair chance of success on the merits in the action and the injury described in paragraph (d) of subsection 2 would be sufficiently serious that the hardship on him or her in the event of a transfer would be greater than the hardship on the defendant resulting from the notice of pendency, - and that if the party who recorded the notice prevails he or she will be entitled to relief affecting the title or possession of the real property.

If plaintiff fails to meet the foregoing burden, the lis pendens must be expunged.  
NRS 14.015(5).

Here, Lynita has not only recorded lis pendens on real property currently subject to the JPI (*i.e.* Banone LLC and Lindell), but also on Bella Kathryn (a property that was not awarded to her in the Divorce Decree and which has never been subject to a JPI following the entry of the Divorce Decree) and Russell Road. Said actions confirm Lynita's bad faith.



1 Lynita cannot demonstrate that she is likely to “prevail in the action” or “have  
2 a fair chance of success on the merits... and [her alleged injury] would be sufficiently  
3 serious that the hardship on [the LSN Trust] in the event of a transfer would be  
4 greater than the hardship on [ELN Trust] resulting from the notice of pendency” for  
5 the reasons set forth in the ELN Trust’s Reply to Opposition to Motion to Enforce  
6 Supreme Court’s Order filed on August 4, 2017 at 5:9-7:13, the portion of which is  
7 attached hereto as **Exhibit 2**. Specifically, the Nevada Supreme Court found that  
8 Eric and Lynita’s community property was transmuted to separate property and  
9 Lynita failed to introduce any evidence, let alone clear and convincing evidence, that  
10 the Parties separate property was transmuted back to community property. In light  
11 of the foregoing, the ELN Trust respectfully requests that the lis pendens be  
12 expunged and that it be awarded its attorneys’ fees and costs stemming relating to the  
13 same.

14 D. THE ELN TRUST’S REQUEST FOR IMPOSITION OF A BOND.

15 The ELN Trust also requests that this Court impose a reasonable bond and/or  
16 other security stemming from the imposition of the JPI for the reasons set forth in  
17 Section III(A) *supra*.

18 E. THE ELN TRUST RESPECTFULLY REQUESTS THAT THE ELN  
19 TRUST BE ALLOWED TO MANAGE THE LINDELL PROPERTY.

20 Although Lynita provided the Quitclaim Deed for the Lindell Property to the  
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TRUST AND ESTATE ATTORNEYS



1 ELN Trust on May 22, 2018,<sup>6</sup> she continues to manage said property despite the fact  
2 that she possesses a 50% interest in said property. As evidenced by the Accountings  
3 provided by Lynita and/or the LSN Trust, Lynita has mismanaged the Lindell  
4 Property, and in so doing, has charged an unreasonable management fee. The ELN  
5 Trust is willing to manage the Lindell Property for free pending resolution of the  
6 Divorce Proceeding, which will include the preparation of a monthly accounting and  
7 payment to the LSN Trust for 50% of rents collected. Alternatively, the ELN Trust  
8 respectfully requests that this Court appoint a disinterested management company to  
9 manage the same as it would be inequitable to allow Lynita to continue to manage  
10 the same.  
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14 F. THE ELN TRUST IS ENTITLED TO ITS ATTORNEYS' FEES AND  
15 COSTS.

16 NRS 18.010 explains:

17 "... the court may make an allowance of attorney's fees to  
18 a prevailing party: (b) Without regard to the recovery  
19 sought, when the court finds that the claim... of the  
20 opposing party was brought or maintained **without**  
21 **reasonable ground** or to harass the prevailing party. The  
22 court shall liberally construe the provisions of this  
23 paragraph in favor of awarding attorney's fees in all  
24 appropriate situations. It is the intent of the Legislature that  
25 the court award attorney's fees pursuant to this paragraph  
26 and impose sanctions pursuant to Rule 11 of the Nevada  
27 Rules of Civil Procedure in all appropriate situations to  
28 punish for and deter frivolous or vexatious claims and  
defenses because such claims and defenses overburden

<sup>6</sup> Lynita violated this Court's April 19 Order because she failed to transfer the Banone LLC and Lindell Property to the ELN Trust within "thirty days of the date of this Order." Indeed, although Lynita executed the quitclaim deeds on May 10, 2018, she tactically withheld turning over the same until May 22, 2018, in violation of said order.

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limited judicial resources, hinder the timely resolution of meritorious claims and increase the costs of engaging in business and providing professional services to the public.

EDCR 7.60 allows the Court to award attorneys' fees and costs when "a party without just cause...(1) Presents to the court a motion or an opposition to a motion which is obviously frivolous, unnecessary or unwarranted... (3) So multiplies the proceedings in a case as to increase costs unreasonable and vexatiously."

Here, the Motion was brought without reasonable grounds for the reasons set forth above. Consequently, Eric request that he be awarded his attorney's fees and costs for having to oppose the frivolous Motion and seeking to have the improperly recorded lis pendens expunged.

**IV. CONCLUSION**

As indicated *supra*, this is not one of the "rare circumstances" where a rehearing and/or reconsideration should be granted. To the contrary, the majority (if not all) of the arguments made in Lynita's Motion for Reconsideration were identical to the arguments that she made at the prior hearings and considered by this Court when it entered its Orders on April 19 and May 15. Consequently, Lynita's Motion should be denied in its entirety.

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1 The ELN Trust also moves this Court for an order: (1) terminating the JPI; (2)  
2 imposing a bond on any property subject to the JPI; (3) expunging the lis pendens;  
3 (4) allowing the ELN Trust to manage Lindell; and (5) for Attorneys' Fees and  
4  
5 Costs.

6 DATED this 22<sup>nd</sup> day of June, 2018.

7 SOLOMON DWIGGINS & FREER, LTD.

8  
9  
10 By: 

11 MARK A. SOLOMON, ESQ.  
12 Nevada State Bar No. 0418  
13 JEFFREY P. LUSZECK, ESQ.  
14 Nevada State Bar No. 9619  
15 9060 West Cheyenne Avenue  
16 Las Vegas, Nevada 89129

17 *Attorneys for Matt Klabacka, Distribution*  
18 *Trustee of the ERIC L. NELSON NEVADA*  
19 *TRUST dated May 30, 2001*  
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TRUST AND ESTATE ATTORNEYS



**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY, pursuant to NRCP 5(b), that on June 22, 2018, I served a true and correct copy of the foregoing **OPPOSITION TO LYNITA NELSON'S MOTION FOR RECONSIDERATION AND CLARIFICATION OF THE COURT'S DECISION ENTERED MAY 22, 2018; AND COUNTERMOTION TO: (1) TERMINATE THE JPI; (2) IMPOSE A BOND ON ANY PROPERTY SUBJECT TO THE JPI; (3) EXPUNGE THE INAPPROPRIATELY RECORDED LIS PENDENS; (4) ALLOW THE ELN TRUST TO MANAGE LINDELL; AND (5) ATTORNEYS' FEES AND COSTS**, to the following in the manner set forth below:

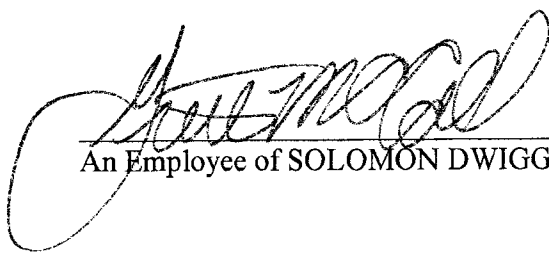
- Hand Delivery
- U.S. Mail, Postage Prepaid
- Certified Mail, Receipt No.: \_\_\_\_\_
- Return Receipt Request
- E-Service through Wiznet

DICKERSON LAW GROUP  
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**EXHIBIT "1"**

**EXHIBIT "1"**



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**NOTC**  
Larry L. Bertsch, CPA, CFF  
Nicholas S. Miller, CFE  
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*Forensic Accountants*

**DISTRICT COURT  
FAMILY DIVISION  
CLARK COUNTY, NEVADA**

ERIC L. NELSON,  
  
Plaintiff,  
  
v.  
  
LYNITA SUE NELSON,  
  
Defendant.

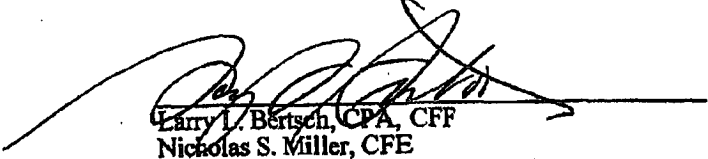
Case No. D-09-411637-D  
Dept. O

**NOTICE OF FILING ASSET SCHEDULE  
AND NOTES TO ASSET SCHEDULE**

Larry L. Bertsch, CPA, CFF, and Nicholas S. Miller, CFE, of the accounting firm of LARRY L. BERTSCH, CPA & ASSOCIATES, hereby file as Exhibit "A" their Asset Schedule and Notes to Asset Schedule pursuant to Judge Sullivan's Order in this matter.

DATED this 5<sup>th</sup> day of July, 2011.

**LARRY L. BERTSCH CPA & ASSOCIATES**



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Nicholas S. Miller, CFE  
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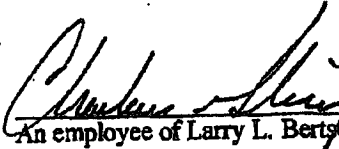
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**CERTIFICATE OF SERVICE**

I hereby certify that on the 5th day of July, 2011, I mailed a copy of the Notice of Filing Asset Schedule and Notes to Asset Schedule to the following at the last known address, by depositing the same in the United States mail in Las Vegas, Nevada, first class postage prepaid and addressed as follows:

David A. Stephens, Esq.  
STEPHENS, GOURLEY & BYWATER  
3636 N. Rancho Drive  
Las Vegas, NV 89130  
*Attorneys for Plaintiff Eric L. Nelson*

Robert P. Dickerson, Esq.  
THE DICKERSON LAW GROUP  
1745 Village Center Circle  
Las Vegas, NV 89134  
*Attorneys for Defendant Lynita Sue Nelson*

  
An employee of Larry L. Bertsch, CPA & Associates

**Exhibit "A"**

**Exhibit "A"**

SRAPP000477

**Nelson v. Nelson**

**Asset Schedule**

**July 5, 2011**

**Larry L. Bertsch, CPA & Associates**

**Larry L. Bertsch, CPA, CFF**

**Nicholas S. Miller, CFE, CSAR, MBA**

SRAPP000478

Nelson v. Nelson Asset Schedule					
	NOTE	Lynita Value	Eric Value	Asset Titled	Income Producing
<b>Real Estate</b>					
7065 Palmyra - Las Vegas, Nevada	1	650,000	910,000	Lynita - Trust	NO
2911 Bella Kathryn Circle - Las Vegas	2	TBD	900,000	Eric Trust - Banone	NO
2911 Bella Kathryn Circle - Las Vegas	2	TBD	175,000	Eric Trust - Banone	NO
AZ-31 Gateway Lots	24	139,500	139,500	Lynita Trust	NO
AZ-29 Gateway Lots	17	139,500	139,500	Eric - Trust	NO
<b>Russell Road Property (65%)</b>					
Owned by Eric Nelson Auctioneering (50%)	3a	TBD	2,000,000	Eric - Trust	YES
Owned by Eric Nelson Trust (15%)	3b	TBD	2,000,000	Eric - Trust	YES
Receivable from CJE & L, LLC	3c	742,368	TBD	Eric - Trust	Unknown
Brianhead, Utah	4	2,000,000	2,000,000	Each Trust - 50%	NO
3611 Lindell - Las Vegas	5	TBD	1,400,000	Each Trust - 50%	YES
5913 Pebble Beach	6	75,000	75,000	Lynita - Trust	NO
Wyoming - 200 acres (40%)	7	TBD	800,000	Lynita - Trust	NO
<b>Mississippi Properties</b>					
830 Arnold Ave. (Clay House) - Greenville, Miss.	8	40,000	40,000	Lynita - Trust	YES
<b>MS Bay 200 Acres - allocated</b>					
<b><u>Emerald Bay, LLC</u> (Holding Company)</b>					
Bal Harbour, LLC	9a	45,500	None	Each Trust - 50%	NO
Bay Beach Resorts, LLC	9b	TBD		Each Trust - 50%	NO
Bay Resorts, LLC	9c	TBD		Each Trust - 50%	NO
Bay Resorts, LLC	9d	TBD		Each Trust - 50%	NO
<b>MS Bay allocated acreage- Lynita Trust</b>					
Lynita Trust - not used	9e	TBD		Lynita - Trust	NO
RV Park	9f	TBD		Lynita - Trust	YES
<b><u>Dynasty</u></b>					
Silver Slipper	10a	TBD		Eric Trust - Dynasty	YES
MS Bay allocated acreage Titled to Dynasty	10b	TBD	937,500	Eric Trust - Dynasty	NO
MS Bay allocated acreage Titled Frank Soris Trust	10c	TBD	312,500	Eric Trust - Dynasty	NO
<b><u>Grotta, LLC -- 16.67% interest</u></b>					
Dynasty profit sharing agreement	11a	TBD		Lynita - Trust	NO
MS Bay allocated interest - titled to Grotta, LLC	11b	TBD	16,667	Lynita - Trust	NO
<b><u>Grotta Financial Partnership</u></b>					
	11c				NO
<b><u>Riverwalk Ent. (Holding Company for Hideaway Casino)</u></b>	12	Unknown	None	Eric - Trust	NO

TBD = To Be Determined

Notes to Asset Schedule are an integral part of this schedule

SRAPP000479

<u>Other Investments</u>						
<u>Banone, LLC</u>						
4412 Baxter - Las Vegas	13,13a	62,522	82,522	Eric Trust - Banone	YES	
5314 Clover Blossom Court - North Las Vegas, Nevada	13	108,705	108,750	Eric Trust - Banone	YES	
1301 Heather Ridge - North Las Vegas	13	118,459	118,459	Eric Trust - Banone	YES	
6213 Anaconda - Las Vegas	13	81,411	81,411	Eric Trust - Banone	YES	
1608 Rusty Ridge Lane - Henderson (Daughters House)	13	77,526	77,526	Eric Trust - Banone	NO	
Mesa Vista (5 acres)	13	100,000	100,000	Eric Trust - Banone	NO	
Mesa Vista - Lot 68	13	21,229	21,229	Eric Trust - Banone	NO	
2209 Farnouth Circle - Nevada	13	88,166	88,166	Eric Trust - Banone	YES	
3301 Terra Bella Drive - Nevada	13	65,013	65,013	Eric Trust - Banone	YES	
4133 Compass Rose Way - Nevada	13	67,820	67,820	Eric Trust - Banone	YES	
4601 Concord Village Drive - Nevada	13	61,070	61,070	Eric Trust - Banone	YES	
4612 Sawyer Ave - Nevada	13	49,304	49,304	Eric Trust - Banone	YES	
4820 Marnell Drive - Nevada	13	23,643	23,643	Eric Trust - Banone	YES	
5113 Churchill Ave. - Nevada	13	58,070	58,070	Eric Trust - Banone	YES	
5704 Roseridge Ave. - Nevada	13	61,510	61,510	Eric Trust - Banone	YES	
6301 Cambria Ave. - Nevada	13	68,244	68,244	Eric Trust - Banone	YES	
6304 Guadalupe Ave. - Nevada	13	41,599	51,499	Eric Trust - Banone	YES	
Mesa Vista - Lot 67 - Arizona (Decded Back)	14	21,263	21,263	Eric Trust - Banone	NO	
1628 W. Darrel Road - Arizona	14	37,882	37,882	Eric Trust - Banone	YES	
1830 N. 66th Drive - Arizona	14	24,791	24,791	Eric Trust - Banone	YES	
1837 N. 59th Street - Arizona	14	29,050	29,050	Eric Trust - Banone	YES	
2220 W. Tonto Street - Arizona	14	30,906	30,906	Eric Trust - Banone	YES	
3225 W. Roma Ave. - Arizona	14	31,299	31,299	Eric Trust - Banone	YES	
3307 W. Thomas Road - Arizona	14	35,383	35,383	Eric Trust - Banone	YES	
3332 N. 80th Lane - Arizona	14	29,924	29,924	Eric Trust - Banone	YES	
3415 N. 84th Lane - Arizona	14	35,368	35,368	Eric Trust - Banone	YES	
3424 W. Bloomfield Road - Arizona	14	43,084	43,084	Eric Trust - Banone	YES	
3631 N. 81st Ave. - Arizona	14	30,063	30,063	Eric Trust - Banone	YES	
4141 N. 34th Ave. - Arizona	14	21,804	21,804	Eric Trust - Banone	YES	
4541 N 76th Ave. - Arizona	14	32,540	32,540	Eric Trust - Banone	YES	
4816 S. 17th Street - Arizona	14	19,633	19,633	Eric Trust - Banone	YES	
5014 W. Cypress Street - Arizona	14	30,324	30,324	Eric Trust - Banone	YES	
5518 N. 34th Drive - Arizona	14	27,641	27,641	Eric Trust - Banone	YES	
6172 W. Fillmore Street - Arizona	14	39,871	39,871	Eric Trust - Banone	YES	
6202 S. 43rd Street - Arizona	14	27,772	27,772	Eric Trust - Banone	YES	
6720 W. Cambridge Ave. - Arizona	14	32,563	32,563	Eric Trust - Banone	YES	
6822 W. Wilshire Drive - Arizona	14	40,477	40,477	Eric Trust - Banone	YES	
6901 W. Coolidge Street - Arizona	14	32,583	32,583	Eric Trust - Banone	YES	
<u>Banone, LLC - AZ</u>						
14838 W Berkeley Rd. - Arizona	15	TBD	32,622	Eric Trust - Banone	YES	
8 Homes - Arizona	15	TBD	251,000	Eric Trust - Banone	NO	
<u>Banone Nevada Notes Receivable</u>						
R & D Custom Builders - DMV Lot 16-17 (secured)	16a	46,463		Eric Trust - Banone	YES	
Advantage Construction - MV Lot 37 (secured)		20,081		Eric Trust - Banone	YES	
Gerald & Linda Fixsen - MV Lot 52 (secured)		22,838		Eric Trust - Banone	YES	
Gerald & Linda Fixsen - MV Lot 53 (secured)		22,838		Eric Trust - Banone	YES	
Joe Williams & Sherry Fixsen - MV Lot 54 (secured)		22,838		Eric Trust - Banone	YES	
Bidco, Inc. - MV Lot 61 (secured)		21,263		Eric Trust - Banone	YES	
Cary & Troy Fixsen - MV Lot 98 (secured)		22,838		Eric Trust - Banone	YES	
Amada & Chris Stromberg (secured by Condo in PA)	16b	133,357		Eric Trust - Banone	YES	
JB Ramos Trust (secured by 436 Europa Way)	16c	78,000		Eric Trust - Banone	YES	
Katherine Stephens (secured by 1601 Knoll Heights)	16d	83,000	63,000	Eric Trust - Banone	YES	
Chad Ramos (secured 7933 Dover Shores)	16e	60,000		Eric Trust - Banone	YES	
Alfola Harrison (secured by 1025 Academy)		68,620		Eric Trust - Banone	YES	
Eric T. Nelson (secured by 8619 W. Mohave - AZ)	16f	95,000		Eric Trust - Banone	YES	
Michael & Lyndia Asquith - MV Lot 50 (secured)	16g	23,625		Eric Trust - Banone	NO	

TBD = To Be Determined

Notes to Asset Schedule are an integral part of this schedule

SRAPP000480

<b>Other Receivables</b>						
Frank Soris (Contingent)	17	TBD	1,000,000	Eric - Trust		YES
Nikki Cvintavich	18	200,000	200,000	Eric Nelson		YES
<b>Family Loans</b>						
Chad Ramos	19	261,675	-	Eric - Trust		Unknown
Jesse Harber	20	47,000	25,000	Eric - Trust		Unknown
Brock Nelson		10,000	10,000	Eric - Trust		Unknown
<b>Autos/Vehicles</b>						
2008 Escalade EXT SUV (Owned) (Eric's)	21	40,475	38,840	Eric - Trust		NO
2007 Mercedes SL 550 (Owned) (Eric's)	21	50,115	42,845	Eric - Trust		NO
2011 Audi (Leased) (Lynita's)		Lease	Lease	Lynita		NO
ATV's and Snowmobiles	21a	TBD	TBD	Unknown		NO
<b>Tax Situation</b>						
2006 Tax Refund (Held by Dave Stephens, Esq.)	22	110,125	110,128	Eric Nelson		NO
<b>Cash &amp; Investment Accounts</b>						
<b>Lynita's Accounts</b>						
Schwab Capstone Capital- 2834 (3/31/2011)	23	1,016,969		Lynita - Trust		
Credit Union 1 37214-01 (3/31/2011)	23	5		Lynita - Trust		
Credit Union 1 37214-22 (3/31/2011)	23	48,274		Lynita - Trust		
Silver State 3736-01 (3/31/2011)	23	2,020		Lynita Nelson		
Silver State 3736-80 (3/31/2011)	23	3,767		Lynita Nelson		
<b>Eric Accounts</b>						
Bank of America 5010-0976-5829 (3/31/2011)	23		82,781	Eric - Trust		
Bank of America 5010-0716-2754 (3/31/2011)	23		13,685	Eric Trust - Banone		
Bank of America 0050-1157-7064 (3/31/2011)	23		3,533	Eric Trust - Banone		
Bank of America 5010-1100-6958 (3/31/2011)	23		7,439	Eric Trust - EN Auct		
Citi National Bank 363201539 (3/31/2011)	23		84,919	Eric Trust - Banone		
Citi National Bank 363005152 (3/31/2011)	23		4,304	Eric Trust - Dynasty		
Citi National Bank 363250807 (3/31/2011)	23		13,316	Eric Trust - Banone		
Mellon - 10594001700 (3/31/2011)	23		2,757,160	Eric - Trust		
<b>Liabilities</b>						
Frank Soris Contingent Liability	17		(562,981)	Eric - Trust		
Due on Line of Credit (3/31/2011)	23		(1,807,369)	Eric - Trust		

TBD = To Be Determined

Notes to Asset Schedule are an integral part of this schedule

SRAPP000481

Nelson v. Nelson  
Notes to Asset Schedule

July 5, 2011

Larry L. Bertsch, CPA & Associates

Larry L. Bertsch, CPA, CFF

Nicholas S. Miller, CFE, CSAR, MBA

SRAPP000482



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Larry L. Bertsch, CPA & Associates reserves the right to update this report upon the production of additional documents. The information contained within this report is for use only in the conjunction with the surrounding Clark County District Court case Nelson v Nelson.

Note 1 - 7065 Palmyra

This is the current residence of Lynita Nelson. It has been alleged that improvements have been made to the property in the last two years. The parties do not agree on the value of the Property.

**Since there is no agreement on the value of the property, it is recommended an appraisal be made on the property directed by an independent third party.**

Note 2 - 2911 Bella Kathryn

This is the current residence of Eric Nelson which includes an adjacent vacant lot for which Eric is conducting improvements. Eric has valued the property as \$900,000 for the residence and \$175,000 for the adjoining lot. Lynita does not agree and her issue is stated below.

According to the detailed records of Eric Nelson, a total amount of \$1,362,612.57 has been spent towards the property which contains the house. The house was initially purchased for \$381,984.00 on 12/28/2009 and improvements have been made to the property as of 06/11/2011 amounting to \$980,628.57.

In reviewing the details of the house improvements on the general ledger kept by Eric Nelson, there was only one payment recorded to a relative, Paul Nelson, in the amount of \$25,000 and designated as contract labor in building the Residence. There were other payments recorded to relatives for reimbursement of materials and supplies used on the building of the residence. None of the reimbursed amount appeared material or not related to the residence. Those reimbursed payments were made to Paul Nelson, Cal Nelson, and to Big Fish, LLC, a company owned by Cal Nelson.

The adjoining lot was purchased on 08/11/2010 for a cost of \$175,000. As of 06/11/2011, improvements have been made towards the lot in the amount of \$64,558.68. In total, the purchase price and additional improvements towards this property amount to \$239,558.68.

Therefore the aggregate costs of the residence and adjoining lot at 06/11/2011 amounts to \$1,602,171.25.

**Since there is no agreement on the value it is recommended an appraisal be made of the property directed by an independent third party or a decision that funds expended for the property be the criteria of value.**

*At issue - Lynita claims Eric has used community funds to build this residence and feels regardless of an appraisal, she should receive 50% on the costs to buy and build the property.*

### Note 3 - Russell Road Property

#### **History**

Property consisting of 3.3 acres at 5220 E. Russell Road was purchased on November 11, 1999 for \$855,945 by the Lynita Nelson Trust and the down payment from Cal Nelson amounting to \$20,000. Lynita then became a 50% partner with Cal Nelson in a partnership named CJE&L, LLC which was formed for the purpose of renting the property to Cal's Blue Water Marine.

Shortly thereafter, CJE&L, LLC obtained a loan from Business Bank of Nevada in the amount of \$3,100,000. The purpose of this loan was to build a building for the operations of Cal's Blue Water Marine, Inc. The loan was to be guaranteed by Clarence and Jeanette, individually as well as their Trust dated May 31, 2001 and also Cal's Blue Water Marine, Inc.

Sometime in 2004, Lynita signed a guarantee on the flooring contract for the inventory of Cal's Blue Water Marine, Inc. On 01/01/2005, Lynita withdrew her guarantee of the flooring contract and in return, Lynita signed an assignment or forfeit of her interest in the partnership to remove her from the property records. (The Examiner has not seen the flooring agreement that was signed by Lynita, although requested - Each of the parties claims the other has the contract). According to the records, the forfeiture of partnership interest was transferred to the capital account of Cal Nelson there being no cash attached to the transaction.

The boat business failed in 2008. At that time, the Bank demanded a \$300,000 pay down to keep the loan in performing status. Eric paid the \$300,000 which was secured by property owned by Cal Nelson and located in Utah.

#### **Eric's purchase of the interest in property**

On or about 02/10/2010, Eric Nelson decided to purchase a 65% interest in the property. Eric's 65% interest is said to have cost \$4,000,000; which is comprised of the following amounts:

- 1) In 2009, Eric purchased an FDIC note on a property in Phoenix commonly known as "Sugar Daddy's" for approximately \$520,000. The source of these funds came from the Line of Credit. The property was sold with proceeds amounting to \$1,520,597.88. Since this was designed as a 1031 exchange, the proceeds were used in 2010 to purchase Eric's interest in the Russell Road Property.
- 2) As indicated above, Eric had previously paid \$300,000 to pay down the Bank Loan which was secured by property in Utah. In addition, Eric paid off the mortgage on Cal's house amounting to \$400,000. Both amounts were paid from Eric's Line of Credit. These two amounts aggregating \$700,000 were then used as a credit towards the purchase price for Eric's interest.

3) Eric gave a credit amounting to \$522,138.47 which represented future agreements with Cal and the termination of any present verbal partnership agreements. This also included money on rental payments given to Cal.

4) The remaining amount to fulfill the obligation of the purchase price was to borrow \$1,257,263.67 from the Line of Credit in 2010.

Therefore the purchase of Eric's interest is comprised of the following:

Pay down of Bank Loan	\$ 300,000.00
Pay off of personal residence of Cal Nelson	400,000.00
Credit to Cal Nelson for prior payments	522,138.45
Amount to pay Bank Note from Sugar Daddy's	1,520,597.88
Amount to pay Bank Loan from Line of Credit	<u>1,257,263.67</u>
	<u>\$ 4,000,000.00</u>

Therefore the amount of cash contributed directly to the interest in the property by Eric in 2010, amounts to \$2,777,861.55 (1,520,597.88 + 1,257,263.67). The cash reportedly paid off the original loan held by Business Bank of Nevada.

According to CJE&L's tax returns and representations made by Cal Nelson, Cal Nelson's capital account includes \$855,000; which represents the purchase price of the land originally purchased on November 11, 1999 by the Lynita Nelson Trust as well as \$501,529 in leasehold improvements made by Cal's Blue Water Marine. The summary document supporting the leasehold improvements contribution was believed to be at cost and not the net depreciated value. As prior indicated Cal's Blue Water Marine eventually failed in 2008. Since the Business failure in 2008, Cal Nelson has taken distributions from CJE&L of \$11,096 in 2009 and \$73,978 in 2010, aggregating to \$85,074.

The current ownership of the 5220 E. Russell Road property is 50% by Eric Nelson Auctioneering (an asset of the Eric Nelson Trust), 15% by the Eric Nelson Trust and 35% by CJE&L, LLC. (See below).

**Note 3a - 50% in Russell Road owned by Eric Nelson Auctioneering**

In the purchase of the Russell Road Property, the ownership of 65% of the property purchase from CJE & L, LLC was described above to be \$4,000,000. Eric Nelson says that 50% of the interest was designated to be owned by Eric Nelson Auctioneering and the other 15% by the Eric Nelson Trust.

**Note 3b - 15% sale back to Cal Nelson for 15% interest by Eric Trust**

The 15% interest is evidenced by a note in the amount of \$2,000,000 the principal amount is due in seven years from 2/3/2010 from Cal Nelson to Eric Nelson Trust. The note is secured by 15% of the real property owned by CJE & L, LLC and 15% of all rents collected from the property will be recognized as interest on the note.

**Note 3c - Receivable from CJE & L, LLC amounting to \$742,368.**

According to the 2010 tax return of CJE&L, LLC (owned 99% by Nelson Nevada Trust (Cal's Trust) and 1% by Cal Nelson), the company reports a liability in the amount of \$742,368 is due to Eric Nelson Auctioneering (Reported under Eric Trust - Eric Nelson Auctioneering). We have not received information as to the nature of this note.

**Because of the controversy on this property, it is recommended that an appraisal of the property be made directed by an independent third party.**

*At issue, Lynita believes that Cal Nelson has not put any capital into the investment and therefore the amount of this asset is 100% owned solely by Lynita and Eric Nelson.*

*Also at issue is that Lynita bought the land for \$855,000 and was forced to forfeit her interest through an assignment to Cal Nelson. This issue is over a guarantee made by Lynita on a flooring arrangement on boats for a company owned by Cal Nelson, named Cal's Blue Water Marine.*

**Subsequent Transaction**

The property was sold to the Oasis Baptist Church on 05/27/2011, prior to this transaction, the church held an option to purchase for \$6,500,000. The payments on the note were to begin on 09/01/2011. Until this date, the Oasis Baptist Church was to pay \$17,500 each month for the months of June, July, and August. Then starting on 09/01/2011 the Oasis Baptist Church will pay interest only at 6% on \$6,000,000 for 5 years and then will have a balloon payment due of \$6,500,000.

This contract was amended on 06/15/2011 because the Church could not get an exemption from property taxes unless they own the property. Therefore the original financial arrangement has been amended.

The Oasis Baptist Church needs additional improvements in order to bring their school over to the Russell Road property. In order to do this, they need an additional \$300,000 in funds for improvements to the property. Currently, they are paying \$20,000 per month space rental for them to conduct their school.

As of 06/15/2011, Julie Brown loaned \$300,000 to the Oasis Baptist Church and has a 1st Note/Deed on the property.

A 2nd Note/Deed is placed on the property to recapture all back rents and taxes in the amount of \$295,000. The 2nd Note/Deed is shared 1/3rd to Eric Nelson Auctioneering, 1/3rd to the Eric Nelson Trust and 1/3rd to CJE&L, LLC.

Therefore the remaining amount of \$6,500,000 through subordination has become a 3rd Note/Deed in the favor of shared 1/3rd to Eric Nelson Auctioneering, 1/3rd to the Eric Nelson Trust and 1/3rd to CJE&L, LLC.

The current terms are to pay \$17,500 per month until 09/01/2011 and \$30,000 thereafter. However they may ask that the payments be extended to 12/01/2011 before they begin to pay \$30,000 per month for their purchase of the property.

We understand there is a servicing agreement to collect the mortgage payments. We do not know the entity that the servicing arrangement is contracted.

*The servicing agency is an issue with Lynita.*

#### Note 4 - Brianhead, Utah

The property located in Brianhead, Utah includes a cabin on 150 acres. In addition to the property and building, the ownership includes water rights.

Eric originally valued the asset at \$3,000,000 but now believes the property has a value of approximately \$2,000,000. Lynita states the property should bring \$2,000,000 at sale, which is her preference.

**It appears there is an agreement on the value of this property. However, there is no agreement on the disposition of the asset. As a result, a third-party appraisal may be required to determine the value either party should pay to buy the other one out.**

#### Note 5 - 3611 Lindell

This property is an office complex. The complex has 13,040 square feet and is the location of Eric Nelson offices. Eric collects the monthly rents as well as pays for the monthly maintenance.

Both income and expenses will be listed in the Sources of Income and Expenses report.

**Since there is a disagreement about the value of the office building, it is recommended an appraisal by made of the property by an independent third party.**

#### Note 6 - 5913 Pebble Beach

This property is owned by the LSN Nevada Trust and is occupied by Lynita's sister, Thelma. The mortgage of \$69,000 has been paid off and the property is currently unencumbered. It appears that neither party is interested in the property and may become a non-issue.

Note 7 - Wyoming (200 acres)

This property consists of 200 acres located in Evanston, Wyoming and owned 40% by Lynita's Trust, 50% by Paul Nelson (relative) and 10% by Aleda Nelson (relative). This property could be developed into 84 Lots and are in the name of Equestrian Estates, LLC.

Eric has given a value for Lynita's 40% interest in the property of \$800,000. Lynita has not determined a value,

**It is recommended an appraisal be made by an independent third party to obtain a value of the 40% interest.**

Note 8 - 830 Arnold Ave.

This is a 1,300 sq. ft. house located in Greenville Mississippi. The house is being rented at \$500 per month and the rent is being collected and deposited into Banone's Bank Account. Eric has valued the property at \$40,000, which is believed to be the initial purchase price of the property.

**Because there are so many other issues, it is recommended the purchase price be considered the value based upon the current economic conditions.**

Note 9 - MS Bay (200 acres)

This is 200 acres located in Mississippi. The ownership and titles to the property are not clear and need to be addressed. Currently the property is titled as follows:

	<u>Acres</u>
Bal Harbour, LLC (Note 9b)	4.7790560
Bay Harbour Beach Resort, LLC (Note 9c)	2.7996560
Emerald Bay, LLC (note 9a)	0.2217080
Grotta (Note 11)	25.3773880
Lynita Trust - RV Park (Note 9e)	20.6856080
Lynita Trust (Note 9f)	<u>41.0152290</u>
	<u>94.8786450</u>
Dynasty (Note 10b)	91.0927580
Frank Soris Family Trust (Note 10c)	<u>30.1382120</u>
	<u>121.2309700</u>
Total Acres	<u>216.1096150</u>

Note 9a - Emerald Bay, LLC has .221708 acres titled in its name, which was purchased for \$55,000. Emerald Bay, LLC (formally Paradise Bay Mississippi, LLC was formed in 2005 and changed name in 2007) is a holding Company whose purpose was to assemble property of 120

acres about 2 miles from the current Silver Slipper Casino to develop a resort type project. The subsidiaries of the Company were Bal Harbour, LLC, Bay Harbour Beach Resort, Montgage Resort, LLC, Bay Resorts, LLC, and Paradise landing, LLC. This project is not currently operating and is at a standstill.

In 2008 the ownership in this property went from 100% ownership by Eric Trust to an ownership of 50% to Lynita Trust and 50% to Eric Trust.

*At issue, Emerald Bay owes Nelson & Associates \$45,500.*

The amount due from Emerald Bay, LLC were funds advanced to pay for expenses in the assembling process. Emerald Bay does not have funds and therefore doubtful to repay Nelson & Associates back.

Note 9b - Bal Harbour, LLC has 4.779056 acres titled in its name.

Note 9c - Bay Harbour Beach Resort, LLC has 2.799656 acres titled in its name.

Note 9d - Bay Resorts, LLC currently does not have any ownership in land. This entity operated the RV Resort, had its own Bank Account until the law suit was filed. The Bank Account was closed and the rental income from Silver Slipper was the deposited into Banone.

Note 9e - Lynita Trust has 41.0152290 titled in its name. This property is not being used.

Note 9f - RV Park is owned by Lynita's Trust. The property designated for its use is 20.6856080 acres. The Silver Slipper is leasing this property and pays an amount of approximately \$4,000.00 per month.

Since there are different owners and the property is being used differently, it is recommended either an appraisal for the separate parcels be made or that the entire 200+ acres be appraised altogether, then the value could be allocated to the individual owners. In either case, the appraisal should be directed by an independent party.

#### Note 10 - Dynasty

Dynasty is an entity that is included in the Eric Nelson Trust consisting of various types of investments as described below.

#### Note 10a - Silver Slipper (Owned by Dynasty)

Dynasty has a 34% interest in the Silver Slipper Casino. If options were to be exercised, then the interest could increase to 43%.

There is currently a dispute between Eric Nelson and the other partners of the Silver Slipper Casino. In the operating agreement of Silver Slipper is a buyout provision. The other partners are attempting to exercise that provision and have offered \$1,586,000 and are pushing Eric Nelson to accept.



The other partners have filed a law suit in Los Angeles to force Eric Nelson to accept their offer. Eric Nelson is unwilling to accept the current position of the other partners. In order to oppose the other partners, Eric Nelson did put Dynasty into Bankruptcy, filing in Mississippi.

The other partners filed a motion to have the Bankruptcy dismissed as a bad faith filing. It is understood that hearing has taken place and the Bankruptcy has been dismissed. Therefore it is back to defending the law suit filed in Los Angeles.

There are other issues affecting the ownership interest in the Silver Slipper, one of which being that Lynita is not currently licensed by the Mississippi Gaming Authorities and therefore not qualified to own an interest in a gaming property.

**It is recommended that a Business Valuation be directed by an independent third party to determine the value of the Silver Slipper and also to determine the value of the percent interest owned by Dynasty.**

**Note 10b** - Dynasty owns 91.092758 acres. There has been a lien of \$1,000,000 placed against the property by BBJ, a lender to Silver Slipper.

**Note 10c** - This land consisting of 30.1382120 acres was deeded to Frank Soris Family to collateralize the \$1,300,000 owed from the 2002 transaction between Soris and Lynita Trust. (See Note 17 for the Soris transactions). It has been stated that this acreage has been quitclaimed back to Dynasty when the property in Banone was substituted as collateral for the \$1,300,000 note to Soris. The quitclaim has not been recorded.

Eric Nelson stated the value of the property, both what Dynasty owns and the Frank Soris property totaling 121.230970 acres is valued at \$1,250,000.

**It is recommended that an appraisal be made of the property owned by Dynasty and the property currently owned by Frank Soris. Such an appraisal should be conducted as recommended in Note 9.**

### Note 11 - Grotta, LLC

Lynita's Trust owns a 1/6<sup>th</sup> interest or 16.67% with Eric Nelson's relatives owning the remaining 5/6<sup>th</sup> interest. Grotta, LLC controls various investments as described below:

#### Note 11a - Dynasty Profit Sharing Agreement

Eric Nelson states that this Company has an interest in a Profit Sharing agreement whereby Grotta, LLC is to receive 10% of Dynasty's Profits. (No determination has been made to ascertain if that is an investment and/or operating profits). There have been no profits to-date; therefore no payments from Dynasty have ever been made to Grotta, LLC.

#### Note 11b - Mississippi Land

The Grotta, LLC owns 25.377388 acres of the 200 acres described in Note 9 as MS Bay 200 acres. Eric states the value of that land is approximately \$100,000.

Eric values Lynita's trust ownership in this land at \$16,667. Lynita does not have a separate value for the property owned by Grotta, LLC.

#### Note 11c - Grotta Financial Partnership

The Grotta Financial Partnership owned land on Flamingo Road in Las Vegas, Nevada, which was condemned for the purpose of using the land to construct the "Beltway". The condemnation was used as an IRS Section 1033 exchange. Cash amounting to \$3,025,000 which was in the Grotta Financial Partnership, was transferred to the Eric Nelson Trust for future investing purposes in order to comply with the IRS Section 1033 exchange provisions. Therefore, the cash on the books of Grotta Financial Partnership was replaced with a Note Receivable to the Eric Nelson Trust. The investments made by Eric Nelson through the Eric Nelson Trust would at this time be included in the current asset schedule.

If the Eric Nelson Trust were to pay Grotta Financial Partnership the amount of \$3,025,000 or any part thereof, it would then create the situation that the amount would become taxable because the transaction would be treated as a loan which does not qualify under the IRS Section 1033 exchange rules.

*At issue, there is a Note Receivable in the amount of \$3,025,000 booked on Grotta Financial Partnership financial statements from the Eric Nelson Trust. The transaction contains various issues relating to taxable consequences if paid back.*

#### Note 12 - Hideaway Casino

This was an investment between Eric Nelson and Steve Bieri. Eric Nelson has not spent community funds in his effort to develop a casino. The investment was not viable and thus failed. Eric states that there may be a law suit against Eric Nelson to the extent of the loss suffered by Mr. Bieri amounting to approximately \$3,000,000.

#### Note 13 - Banone, LLC (Nevada)

These properties are located in Nevada and titled in the name of Banone, LLC, which is in Eric Nelson Trust. The value indicated on the schedule is the purchase price of the property including repairs thereto. In discussion with Lynita, she appeared to have a willingness to accept those values, with the exception of 4412 Baxter as described below:

Note 13a - 4412 Baxter - According to Lynita, the amount booked for 4412 Baxter is \$20,000 greater than it should be. Lynita claims the proper amount should be \$62,522; instead of \$82,522.

#### Note 14 - Banone, LLC (Arizona)

These properties are located in Arizona and titled in the name of Banone, LLC which is in Eric Nelson Trust. The value indicated on the schedule is the purchase price of the property including repairs thereto. In discussion with Lynita, she appeared to have a willingness to accept those values.

#### Note 15 - Banone AZ, LLC

There is one property in Banone AZ, LLC that is income producing. During 2010, 8 additional homes were purchased at a cost of \$251,000; at which time we have not received indication that they are income producing.

#### Note 16 - Notes Receivable

To date, we have not received copies of the documents relating to the various notes receivable. Eric represented that the notes were secured by property but we have not examined appropriate evidence to determine the validity of the collateral.

a. This note is in default. Roger Nelson is owner of RD Builders. Roger Nelson is not a relative.

b. Amada & Chris Stromberg are the daughter and son-in-law of Eric and Lynita Nelson.

c. JB Ramos Trust is related to an employee of Eric Nelson

d. Niece - At issue by Lynita, Purchased by Banone on 03/02/2010 and questions the down payment of \$20,000 and if that money came from Community Funds.

- e. Chad Ramos is a Nephew to Eric
- f. Eric T. Nelson is a Nephew to Eric
- g. Have received deed in lieu of foreclosure.

## Note 17 - Soris Transaction

### History

This first transaction commenced in 2002 when Frank Soris made an investment as mortgage holder in the Wyoming operations. Mr. Soris loaned \$2,300,000 to the Lynita Trust on a building that was to be used for Off Track Betting to support a Race Track owned at that time by the Nelson's. The operations in the building were outlawed and the operations had to cease.

The \$2,300,000 was an amount needed by Frank Soris to complete a 1031 exchange (Tax Code provision to defer taxes). The amount actually loaned is \$1,300,000 and a note payable to Lynita's Trust for \$1,000,000. Sometime between the date of the 1031 and 2010, the promissory note was transferred to the Eric L Nelson Nevada Trust. We have not received indication as to why the note was transferred out of Lynita's Trust or if any consideration was given in return for the transfer. Information has been received that interest of \$75,000 was received in 2009 relating to the \$1,000,000 note which is being serviced by U. S. Loan Servicing.

When the Off Track Betting business failed, Mr. Soris insisted on collateral to replace the building in Evanston, Wyoming. Eric Nelson then collateralized the note with property in Phoenix, Arizona. Upon failure of that collateral, Eric Nelson then collateralized the note with property in Mississippi. Since there was ongoing litigation in Mississippi, Mr. Soris again sought collateral for the amount due him. It was then, in early 2010, when Eric made a decision to take the better of the Banone properties in Arizona and transfer those rental properties to the Frank Soris Family Trust.

It was understood from Eric Nelson that there was a deal with Frank Soris that if the properties were to sell in excess of the \$1,300,000, Eric would be entitled to monies from such sales. In documents received there was a written agreement that upon the transfer of the Banone properties, the \$1,000,000.00 note made payable to the Eric L. Nelson Nevada Trust is cancelled and considered satisfied. We have not received further documentation as to why the note was cancelled or satisfied. We have yet to determine which position is current. Of course, if the properties sell for less than \$1,300,000, the concerns of the \$1,000,000 will be dispelled.

### Current Situation

The cost of the current twenty properties transferred to Soris has a book value of \$737,018.67. Therefore the aggregate amount of collateral against a debt of \$1,300,000 leaves a contingent liability of \$562,981.33. In addition, Eric has pledged to use 8 lots from his investment in AZ-29 Gateway Lots, but actual lots are to be determined at a later date according to the February 19, 2010 agreement between Soris and Eric Nelson.

The contingent asset may or may not have value if the properties sell for more than \$1,300,000, depending on the outcome of the agreement to share or if the note has been cancelled.

The interest on the \$1,300,000 note is being paid by the rents collected on the properties.

*At issue, Lynita believes Eric gave Soris the best properties from Banone. Eric agrees with that statement.*

#### Note 18 - Nikki Cvintavich Note Receivable

This is a loan made by Eric Nelson to Nikki Cvintavich, an employee in Mississippi. This loan has no direct connection to the Mississippi investments. We have not received documentation evidencing if this note is collateralized by any type of property.

#### Note 19 - Family Loan (Chad Ramos)

This was money given to start several businesses. The businesses have all failed. This money was given to him prior to 01/01/2009 and should be considered as community participation and be eliminated as an issue.

**It is recommended that this item be eliminated from any settlement.**

#### Note 20 - Family Loan (Jesse Harber)

We have not received documentation relating to the terms and conditions of this receivable. As a result, we cannot determine a value of the outstanding amounts due or if there was or is any collateral against the receivable.

#### Note 21 - Autos/Vehicles

The values given by each party was from Kelly Blue Book. It has not been determined what was used as mileage, accessories, or wholesale or retail suggested prices.

Note 21a – Both parties have indicated the presence of several ATVs and snowmobiles.

**It is recommended a determination by an independent third party at a selected date determined by the Court.**

#### Note 22 - Tax Situation

It has been understood that the 2006 taxes were filed jointly. Thereafter the Federal Income Tax Returns have been filed as Married filing Separate. It has been stated that a 2006 refund in the approximate amount of \$110,125 is currently held by Eric Nelson's attorney in a separate bank account.

Note 23 – Bank Accounts

It is recommended that all of the Banking Accounts be brought up to a date determined by the Court and that all transactions be reviewed for subsequent transactions.

Note 24 - AZ-31 Gateway Lots

The property in this account consists of the following:

1. 29 parcels that are titled to the Lynita Trust.
2. 8 parcels where the Lynita Trust has a 25% interest, Harber Investments has a 25% interest, Louis Walter has a 25% interest, and Gary & Margaret Zahlen have a 25% interest.
3. 2 lots that were in foreclosure. As of the date of this report, we have not received documentation relating to the disposition of the foreclosure proceedings.
4. 7 lots from Joan Ramos. Joan Ramos filed bankruptcy and all lots were to be deeded back to Lynita's Trust. As of the date of this report, all seven lots are currently in the name of "Ramos Joan B Trustee".

Client Name	Description	File	Field
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Search Text: "JOY COLE"  
Total finds for JOY COLE: 0

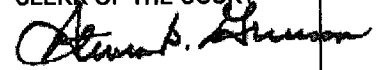
Search Text: "AUTUMN COLE"  
Total finds for AUTUMN COLE: 0

Search Text: "KATHERINE COLE"  
Total finds for KATHERINE COLE: 0

EXHIBIT "2"

EXHIBIT "2"





**RPLY**

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9 *TRUST dated May 30, 2001*

**DISTRICT COURT**

**COUNTY OF CLARK, NEVADA**

12 ERIC L. NELSON,

13 Plaintiff

14 vs.

15  
16 LYNITA SUE NELSON, MATT  
17 KLABACKA, as Distribution Trustee of the  
ERIC L. NELSON NEVADA TRUST dated  
18 May 30, 2001,

19 Defendants.

20 MATT KLABACKA, Distribution Trustee of  
21 the ERIC L. NELSON NEVADA TRUST  
dated May 30, 2001,

22 Cross-claimant,

23 vs.

24 LYNITA SUE NELSON,

25 Cross-defendant.  
26  
27 / / /  
28

Case No.: D411537  
Dept.: O

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**SOLOMON**  
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TRUST AND ESTATE ATTORNEYS  


1 **REPLY TO OPPOSITION TO MOTION TO ENFORCE SUPREME COURT'S ORDER**  
2 **DATED MAY 25, 2017; MOTION TO HOLD LYNITA S. NELSON IN CONTEMPT FOR**  
3 **VIOLATION OF SEPTEMBER 22, 2014 ORDER; AND FOR ATTORNEYS' FEES AND**  
4 **COSTS**

5 AND

6 **OPPOSITION TO COUNTERMOTION FOR FINAL JUDGMENT CONSISTENT WITH**  
7 **THE NEVADA SUPREME COURT'S REMAND OR, IN THE ALTERNATIVE, FOR**  
8 **AFFIRMATION OF JOINT PRELIMINARY INJUNCTION, FOR A RECEIVER TO**  
9 **MANAGE THE PROPERTY PENDING FINAL JUDGMENT, FOR UPDATED**  
10 **FINANCIAL DISCLOSURES AND EXCHANGE OF FINANCIAL INFORMATION, AND**  
11 **FOR SALE OF PROPERTY FOR PAYMENT OF ATTORNEYS' FEES AND COSTS**

12 Matt Klabacka, Distribution Trustee of the ERIC L. NELSON NEVADA TRUST dated  
13 May 30, 2001, hereby files his Reply to Opposition to Motion to Enforce Supreme Court's Order  
14 dated May 25, 2017; Motion to Hold Lynita S. Nelson in Contempt for Violation of September 22,  
15 2014 Order; and for Attorneys' Fees and Costs and Opposition to Countermotion for Final  
16 Judgment Consistent with the Nevada Supreme Court's Remand or, in the Alternative, for  
17 Affirmation of Joint Preliminary Injunction, for a Receiver to Manage the Property Pending Final  
18 Judgment, for Updated Financial Disclosures and Exchange of Financial Information, and for Sale  
19 of Property for Payment of Attorneys' Fees and Costs.

20 This Reply and Opposition to Countermotion is made and based upon the pleadings and  
21 papers on file herein, the Points and Authorities attached hereto, and any other evidence the Court  
22 may adduce at the hearing on this matter.

23 DATED this 4<sup>th</sup> day of August, 2017.

24 SOLOMON DWIGGINS & FREER, LTD.

25 By: /s/ Jeffrey P. Luszeck

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